

**ACQUISITION BY UNIVERSAL HEALTH SERVICES, INC. (THROUGH
CYGNET HEALTH CARE LIMITED) OF THE CAMBIAN ADULT
SERVICES BUSINESS**

**Interim Order made by the
Competition and Markets Authority pursuant to
section 81 of the Enterprise Act 2002 (the Act)**

Whereas:

- A. On 28 December 2016 Universal Health Services, Inc. (UHS) through Cygnet Health Care Limited (Cygnet) acquired from Cambian Group and its subsidiary Cambian Educational Services, the entire issued share capital of Care Aspirations Developments Limited, Cambian Healthcare Limited and Cambian Care Services Limited and their respective subsidiaries (together known as Cambian Adult Services (CAS)) (the Merger).
- B. On 3 May 2017 the Merger was referred by the Competition and Markets Authority (CMA) for a phase 2 investigation pursuant to section 22 of the Act (the Reference) to determine pursuant to section 35 of the Act:
 - a) whether a relevant merger situation has been created; and
 - b) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition in any market or markets in the United Kingdom (UK) for goods or services.
- C. On 17 May 2017 the CMA made an Interim Order (the Interim Order) pursuant to Section 81 of the Enterprise Act for the purposes of preventing pre-emptive action prior to the Reference being finally determined and issued a direction for the appointment of a Monitoring Trustee to monitor compliance with the Interim Order.
- D. On 16 October 2017 the CMA published a report (the Final Report) concluding that:

- (i) the completed acquisition by UHS of CAS has resulted in the creation of a relevant merger situation;
 - (ii) the creation of that situation may be expected to give rise to a substantial lessening of competition (SLC) within the market for the provision of hospital-based inpatient rehabilitation services (rehabilitation services) for male long term mental health(LTMH) patients in the East Midlands which may be expected to lead to adverse effects for customers and patients in terms of prices being higher than they would otherwise be and quality being lower than it would otherwise be;
 - (iii) the CMA should take action to remedy the SLC and the adverse effects likely to arise from it; and
 - (iv) undertakings should be given to the CMA or where undertakings are not agreed an order made to give effect to the remedy identified by the CMA in chapter 14 of the Final Report (the Remedies).
- E. The CMA wishes to ensure that no action is taken pending final determination of the Reference which might prejudice the Reference or impede the giving effect to the Remedies and also wishes to release Cygnet and UHS from the Interim Order in so far as it applies to the CAS business and the Cygnet business which are not subject to the Remedies.
- F. The Reference has not been finally determined.

Now for the purposes of preventing pre-emptive action in accordance with section 81 of the Act the CMA makes the following order addressed to Cygnet and UHS (Order).

Commencement, application and scope

1. This Order commences on 17 October 2017.
2. This Order applies to Cygnet and UHS in respect of the CAS business and Cygnet business located in the East Midlands (the East Midlands Sites), namely:
 - (i) CAS: Storthfield House, Sherwood House, The Limes, The Oaks, St Augustine's (the CAS East Midlands Sites');

- (ii) Cygnet: Derby, Lodge Brighthouse (the Cygnet East Midlands Sites’).
3. Notwithstanding any other provision of this Order, no act or omission shall constitute a breach of this Order, and nothing in this Order shall oblige UHS, or Cygnet to reverse any act or omission, in each case to the extent that it occurred or was completed prior to the commencement date and the derogations previously given by the CMA continue in force.

Management of the East Midlands Sites until determination of proceedings

4. Except with the prior written consent of the CMA, Cygnet and UHS shall not, during the specified period, take any action which might prejudice the Reference or impede the taking of any action under the Act by the CMA which may be justified by the CMA’s decisions on the Reference, including any action which might:
- (a) lead to the integration of the CAS East Midlands Sites with the Cygnet East Midlands Sites;
 - (b) lead to the integration of the CAS East Midlands Sites with the Cygnet business in the UK;
 - (c) lead to the integration of the Cygnet East Midlands Sites with the CAS business in the UK;
 - (d) transfer the ownership or control of the Cygnet East Midlands Sites or the CAS East Midlands Sites; or
 - (e) otherwise impair the ability of the CAS East Midlands Sites or the Cygnet East Midlands Sites to compete independently in any of the markets affected by the Merger.
5. Further and without prejudice to the generality of paragraph 4 and subject to paragraph 3, Cygnet and UHS shall at all times during the specified period procure that, except with the prior written consent of the CMA:
- (a) the CAS business at the CAS East Midlands Sites is carried on separately from the Cygnet business at the Cygnet East Midlands Sites and the separate sales or brand identity of the CAS business at the CAS East Midlands Sites is maintained;
 - (b) both the CAS business at the CAS East Midlands Sites and the Cygnet business at the Cygnet East Midlands Sites are maintained as going concerns and sufficient resources are made available for the development of the CAS business at the CAS East Midlands Sites and the Cygnet

business at the Cygnet East Midlands Sites, on the basis of their respective pre-merger business plans;

- (c) except in the ordinary course of business, no substantive changes are made to the organisational structure of, or the management responsibilities within, the CAS business at the CAS East Midlands Sites or the Cygnet business at the Cygnet East Midlands Sites;
- (d) the nature, description, range and quality of services supplied in the UK by each of the two businesses are maintained and preserved;
- (e) except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the assets of the CAS business at the CAS East Midlands Sites and the Cygnet business at the Cygnet East Midlands Sites are maintained and preserved, including facilities and goodwill;
 - (ii) none of the assets of the CAS business at the CAS East Midlands Sites or the Cygnet business at the Cygnet East Midlands Sites are disposed of; and
 - (iii) no interest in the assets of the CAS business at the CAS East Midlands Sites or the Cygnet business at the Cygnet East Midlands Sites is created or disposed of;
- (f) there is no integration of the information technology of the CAS business at the CAS East Midlands Sites and Cygnet business, and the software and hardware platforms of the CAS business at the CAS East Midlands Sites shall remain essentially unchanged, except for routine changes and maintenance;
- (g) the customer and supplier lists of the two businesses shall be operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the CAS business at the CAS East Midlands Sites will be carried out by the CAS business alone and for the avoidance of doubt the Cygnet business will not negotiate on behalf of the CAS business at the CAS East Midlands Sites (and vice versa) or enter into any joint agreements with the CAS business at the CAS East Midlands Sites (and vice versa);
- (h) all existing contracts of the CAS business at the CAS East Midlands Sites and the Cygnet business at the Cygnet East Midlands Sites continue to be serviced by the business to which they were awarded;

- (i) no changes are made to key staff of the CAS business at the CAS East Midlands Sites or Cygnet business at the Cygnet East Midlands Sites;
- (j) no key staff are transferred between the CAS business at the CAS East Midlands Sites and the Cygnet business at the Cygnet East Midlands Sites;
- (k) all reasonable steps are taken to encourage all key staff to remain with the CAS business at the CAS East Midlands Sites and the Cygnet business at the Cygnet East Midlands Sites; and
- (l) no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses shall pass, directly or indirectly,
 - (i) from the CAS business at the CAS East Midlands Sites (or any of its employees, directors, agents or affiliates) to the Cygnet business (or any of its employees, directors, agents or affiliates), or
 - (ii) from the Cygnet business at the Cygnet East Midlands Sites (or any of its employees, directors, agents or affiliates) to the CAS business at the CAS East Midlands Sites (or any of its employees, directors, agents or affiliates),

except where strictly necessary in the ordinary course of business (for example, where required for compliance with external regulatory and/or accounting obligations) and on the basis that, should the transaction be prohibited, any records or copies (electronic or otherwise) of such information that have passed, wherever they may be held, will be returned to the business to which they relate and any copies destroyed.

Compliance

6. Cygnet and UHS shall procure that each of their subsidiaries complies with this Order as if the Order had been issued to each of them.
7. Cygnet and UHS shall provide to the CMA such information or statement of compliance as it may from time to time require for the purposes of monitoring compliance by Cygnet and UHS and their subsidiaries with this Order. In particular, on 1 November 2017 and subsequently every two weeks (or, where this does not fall on a working day, the first working day thereafter) the Chief Executive Officer of Cygnet and UHS or other persons of each company as agreed with the CMA shall, on behalf of Cygnet and UHS, provide a statement

to the CMA in the form set out in the Annex to this Order confirming compliance with this Order.

8. At all times, Cygnet and UHS shall, or shall procure that CAS shall, actively keep the CMA informed of any material developments relating to the CAS business at the CAS East Midlands Sites or the Cygnet business at the Cygnet East Midlands Sites, which includes but is not limited to:
 - (a) details of key staff who leave or join the CAS business at the CAS East Midlands Sites or the Cygnet business at the Cygnet East Midlands Sites;
 - (b) any interruption of the CAS business at the CAS East Midlands Sites or the Cygnet business at the Cygnet East Midlands Sites (including without limitation its procurement, production, logistics, sales and employee relations arrangements) that has prevented it from operating in the ordinary course of business for more than 24 hours;
 - (c) all substantial customer volumes won or lost or substantial changes to the customer contracts for the CAS business at the CAS East Midlands Sites or the Cygnet business at the Cygnet East Midlands Sites including any substantial changes in customers' demand; and
 - (d) substantial changes in the of the CAS business's or Cygnet business's contractual arrangements or relationships with key suppliers.
9. If Cygnet or UHS has any reason to suspect that this Order might have been breached it shall immediately notify the CMA and any monitoring trustee that Cygnet or UHS may be directed to appoint under paragraph 10.
10. The CMA may give directions to a specified person or to a holder of a specified office in any body of persons (corporate or unincorporated) to take specified steps for the purpose of carrying out, or ensuring compliance with, this Order, or do or refrain from doing any specified action in order to ensure compliance with the Order. The CMA may vary or revoke any directions so given.
11. Cygnet and UHS shall comply in so far as they are able with such directions as the CMA may from time to time give to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with this Order.

Interpretation

12. The Interpretation Act 1978 shall apply to this Order as it does to Acts of Parliament.

13. For the purposes of this Order:

'the Act' means the Enterprise Act 2002;

'an affiliate' of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on from time to time and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act;

'business' has the meaning given by section 129(1) and (3) of the Act;

'Cambian Adult Services' means the Cambian Adult Services division of Cambian Group plc (registered number 08929371), being held and operated by Care Aspirations Developments Limited (registered number 07047184), Cambian Healthcare Limited (registered number 03977299) and Cambian Care Services Limited (registered number 02683377);

'CAS' means Cambian Adult Services.

'the CAS business' means the business of Cambian Adult Services and its subsidiaries carried on as at the commencement date;

'commencement date' means 17 May 2017;

'Cygnet' means Cygnet Health Care Limited (registered number 02141256);

'the Cygnet business' means the business of Cygnet Health Care Limited and its subsidiaries carried on as at the commencement date;

'control' includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise;

'the decisions' means the decisions of the CMA on the questions which it is required to answer by virtue of section 35 of the Act;

'key staff' means staff in positions of executive or managerial responsibility and/or whose performance affects the viability of the business;

'the merger' means the transaction by which Cygnet and CAS have ceased to be distinct within the meaning of section 23 of the Act;

'the ordinary course of business' means matters connected to the day-to-day supply of services by CAS or Cygnet and does not include matters

involving significant changes to the organisational structure or related to the post-merger integration of CAS and Cygnet;

'the two businesses' means the CAS business at the CAS East Midlands Sites and the Cygnet business at the Cygnet East Midlands Sites;

'specified period' means the period beginning on the commencement date and terminating in accordance with section 81(8) of the Act;

'subsidiary', unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006;

'UHS' means Universal Health Services, Inc. (a company incorporated in Delaware, USA, whose principal business address is at 367 S Gulph Road, King of Prussia, Pennsylvania 19406);

'UK' means the United Kingdom;

and unless the context requires otherwise, the singular shall include the plural and vice versa.

Compliance statement for [Cygnet and UHS]

I [insert name] confirm on behalf of [Cygnet/UHS][delete as appropriate] that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) [Cygnet][UHS] has complied with the Order made by the CMA in relation to the transaction on 17 October 2017 (the Order).
 - (b) [Cygnet][UHS]'s subsidiaries have also complied with this Order.
2. Subject to paragraph 3 of the Order, and except with the prior written consent of the CMA:
 - (a) No action has been taken by [Cygnet][UHS] [delete as appropriate] that might prejudice a reference of the transaction under section 22 of the Act or impede the taking of any action by the CMA which may be justified by its decision on such a reference, including any action which might:
 - (i) lead to the integration of the CAS business at the CAS East Midlands Sites with the UHS or Cygnet business;
 - (ii) transfer the ownership or control of the UHS or Cygnet business at the Cygnet East Midlands Sites or the CAS business at the CAS East Midlands Sites or any of their subsidiaries; or
 - (iii) otherwise impair the ability of the CAS business at the CAS East Midlands Sites or the UHS or the Cygnet business at the Cygnet East Midlands Sites to compete independently in any of the markets affected by the transaction.
 - (b) The CAS business at the CAS East Midlands Sites has been carried on separately from the Cygnet business including maintenance of separate sales or brand identity of the CAS business at the CAS East Midlands Sites.
 - (c) The CAS business at the CAS East Midlands Sites and the Cygnet business at the Cygnet East Midlands Sites have been maintained as going concerns and sufficient resources have been made available for the development of the CAS business at the CAS East Midlands Sites and

the Cygnet business at the Cygnet East Midlands Sites, on the basis of their respective pre-merger business plans.

- (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within, the CAS business at the CAS East Midlands Sites or the Cygnet business at the Cygnet East Midlands Sites, except in the ordinary course of business.
- (e) The nature, description, range and quality of services supplied in the UK by the CAS business at the CAS East Midlands Sites and the Cygnet business at the Cygnet East Midlands Sites have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the assets of the CAS business at the CAS East Midlands Sites and the Cygnet business at the Cygnet East Midlands Sites, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
 - (ii) none of the assets of the CAS business at the CAS East Midlands Sites or the Cygnet business at the Cygnet East Midlands Sites have been disposed of; and
 - (iii) no interest in the assets of the CAS business at the CAS East Midlands Sites or the Cygnet business at the Cygnet East Midlands Sites has been created or disposed of.
- (g) There has been no integration of the information technology of the CAS business at the CAS East Midlands Sites and the Cygnet businesses, and the software and hardware platforms of the CAS business at the CAS East Midlands Sites have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the CAS business at the CAS East Midlands Sites have been carried out by the CAS business at the CAS East Midlands Sites alone and, for the avoidance of doubt, the Cygnet business has not negotiated on behalf of the CAS business at the CAS East Midlands Sites (and vice versa) or entered into any joint agreements with the CAS business at the CAS East Midlands Sites (and vice versa).

- (i) All existing contracts of the CAS business at the CAS East Midlands Sites and the Cygnet business at the Cygnet East Midlands Sites have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to key staff of the CAS business at the CAS East Midlands Sites or the Cygnet business at the Cygnet East Midlands Sites
- (k) No key staff have been transferred between the CAS business at the CAS East Midlands Sites and the Cygnet business at the Cygnet East Midlands Sites.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the CAS business at the CAS East Midlands Sites and the Cygnet business at the Cygnet East Midlands Sites.
- (m) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses, has passed, directly or indirectly, from the CAS business at the CAS East Midlands Sites (or any of its employees, directors, agents or affiliates) to the Cygnet business including at the Cygnet East Midlands Sites (or any of its employees, directors, agents or affiliates), or vice versa.
- (n) Except as listed in paragraph (o) below, there have been no:
 - (i) key staff that have left or joined the CAS business at the CAS East Midlands Sites or the Cygnet business at the Cygnet East Midlands Sites;
 - (ii) interruptions of the CAS business at the CAS East Midlands Sites or the Cygnet business at the Cygnet East Midlands Sites (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
 - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the CAS business at the CAS East Midlands Sites or the Cygnet business at the Cygnet East Midlands Sites; or

(iv) substantial changes in the CAS business at the CAS East Midlands Sites or Cygnet business at the Cygnet East Midlands Sites contractual arrangements or relationships with key suppliers.

(o) *[list of material developments]*

3. [Cygnet][UHS] and its subsidiaries remain in full compliance with the Order and will, or will procure that CAS, continue actively to keep the CMA informed of any material developments relating to the CAS business or the Cygnet business in accordance with paragraph 8 of the Order.

Interpretation

4. Terms defined in the Order have the same meaning in this compliance statement.

FOR AND ON BEHALF OF [UHS][Cygnet]

Signature

Name

Title

Date