

ACQUISITION BY CARETECH HOLDINGS PLC OF CAMBIAN GROUP PLC

Initial Enforcement Order made by the Competition and Markets Authority pursuant to section 72(2) of the Enterprise Act 2002 (the Act)

Whereas:

- (a) the Competition and Markets Authority (CMA) has reasonable grounds for suspecting that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in CareTech Holdings plc and Cambian Group plc ceasing to be distinct;
- (b) the CMA is considering whether to make a reference under section 22 or 33 of the Act;
- (c) the CMA wishes to ensure that no action is taken pending final determination of any reference under sections 22 or 33 of the Act which might prejudice that reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decisions on the reference; and
- (d) the circumstances set out in section 72(6) of the Act do not apply and the reference has not been finally determined in accordance with section 79(1) of the Act.

Now for the purposes of preventing pre-emptive action in accordance with section 72(2) of the Act the CMA makes the following order addressed to CareTech Holdings plc (CareTech) and Cambian Group plc (Cambian) (Order).

Commencement, application and scope

1. This Order commences on the commencement date: 16 October 2018.
2. This Order applies to CareTech and Cambian.
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 CareTech or Cambian to reverse any act or omission, in each case to the extent that it occurred or was completed prior to the commencement date.

4. This Order does not prohibit the completion of the transaction provided that CareTech and Cambian observe the restrictions set out below.

Management of the CareTech and Cambian businesses until determination of proceedings

5. Except with the prior written consent of the CMA, CareTech and Cambian shall not, during the specified period, take any action which might prejudice a reference of the transaction under section 22 or 33 of the Act or impede the taking of any action under the Act by the CMA which may be justified by the CMA's decisions on such a reference, including any action which might:
 - (a) lead to the integration of the Cambian business with the CareTech business;
 - (b) transfer the ownership or control of the CareTech business or the Cambian business or any of their subsidiaries; or
 - (c) otherwise impair the ability of the Cambian business or the CareTech business to compete independently in any of the markets affected by the transaction.
6. For the avoidance of doubt, this IEO does not prevent new CareTech shares from being admitted pursuant to the scheme of arrangement (Cambian shares may be converted into CareTech shares).
7. Further and without prejudice to the generality of paragraph 5 and subject to paragraph 3 and 4, CareTech and Cambian shall at all times during the specified period procure that, except with the prior written consent of the CMA:
 - (a) the Cambian business is carried on separately from the CareTech business and the Cambian business's separate sales or brand identity is maintained;
 - (b) the Cambian business and the CareTech business are maintained as a going concern and sufficient resources are made available for the development of the Cambian business and the CareTech business, 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 Cambian business or the CareTech business;

- (d) the nature, description, range and quality of goods and/or 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 Cambian business and the CareTech business are maintained and preserved, including facilities and goodwill;
 - (ii) none of the assets of the Cambian business or the CareTech business are disposed of; and
 - (iii) no interest in the assets of the Cambian business or the CareTech business is created or disposed of;
- (f) there is no integration of the information technology of the Cambian or CareTech businesses, and the software and hardware platforms of the Cambian business 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 Cambian business will be carried out by the Cambian business alone and for the avoidance of doubt the CareTech business will not negotiate on behalf of the Cambian business (and vice versa) or enter into any joint agreements with the Cambian business (and vice versa);
- (h) all existing contracts of the Cambian business and the CareTech business continue to be serviced by the business to which they were awarded;
- (i) no changes are made to key staff of the Cambian business or CareTech business;
- (j) no key staff are transferred between the Cambian business and the CareTech business;
- (k) all reasonable steps are taken to encourage all key staff to remain with the Cambian business and the CareTech business; 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, from the Cambian business (or any of its employees, directors, agents or affiliates) to the CareTech business (or any of its

employees, directors, agents or affiliates), or vice versa, except where strictly necessary in the ordinary course of business (including for example, where required for compliance with external regulatory and/or accounting obligations or for due diligence, integration planning or the completion of any merger control proceedings relating to the transaction) 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

8. CareTech and Cambian shall procure that each of their subsidiaries complies with this Order as if the Order had been issued to each of them.
9. CareTech and Cambian 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 CareTech and Cambian and their subsidiaries with this Order. In particular, on 30 October 2018 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 CareTech and the Chief Executive Officer of Cambian or other persons of CareTech and Cambian as agreed with the CMA shall, on behalf of each of CareTech and Cambian, provide a statement to the CMA in the form set out in the Annexes to this Order confirming compliance with this Order.
10. At all times, CareTech and Cambian shall each actively keep the CMA informed of any material developments relating to the Cambian business or the CareTech business, which includes but is not limited to:
 - (a) details of key staff who leave or join the Cambian business or the CareTech business;
 - (b) any interruption of the Cambian or CareTech business (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 Cambian or CareTech business including any substantial changes in customers' demand; and
 - (d) substantial changes in the Cambian or CareTech business's contractual arrangements or relationships with key suppliers.

11. If CareTech or Cambian has any reason to suspect that this Order might have been breached it shall immediately notify the CMA and any monitoring trustee that CareTech or Cambian may be directed to appoint under paragraph 12.
12. 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.
13. CareTech and Cambian 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

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

15. 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' means Cambian Group plc, a public limited company with company number 08929371;

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

'CareTech' means CareTech Holdings plc, a public limited company with company number 04457287;

'the CareTech business' means the business of CareTech and its subsidiaries carried on as at the commencement date;

'commencement date' means 16 October 2018;

'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 sections 35 or 36 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 ordinary course of business' means matters connected to the day-to-day supply of goods and/or services by Cambian or CareTech and does not include matters involving significant changes to the organisational structure or related to the post-merger integration of Cambian and CareTech;

'scheme of arrangement' means a scheme of arrangement of Cambian under Part 26 of the Companies Act 2006;

'specified period' means the period beginning on the commencement date and terminating in accordance with section 72(6) of the Act;

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

'the transaction' means the transaction by which CareTech and Cambian will cease to be distinct within the meaning of section 23 of the Act;

'the two businesses' means the CareTech business and the Cambian business;

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



Alba Ziso
Assistant Director, Mergers

Compliance statement for CareTech

I [insert name] confirm on behalf of CareTech that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) CareTech has complied with the Order made by the CMA in relation to the transaction on 16 October 2018 (the Order).
 - (b) CareTech's subsidiaries have also complied with this Order.
2. Subject to paragraph 3 and 4 of the Order, and except with the prior written consent of the CMA:
 - (a) No action has been taken by CareTech that might prejudice a reference of the transaction under section 22 or 33 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 Cambian business with the CareTech business;
 - (ii) transfer the ownership or control of the CareTech business or the Cambian business or any of their subsidiaries;¹ or
 - (iii) otherwise impair the ability of the Cambian business or the CareTech business to compete independently in any of the markets affected by the transaction.
 - (b) The Cambian business has been carried on separately from the CareTech business and the Cambian business's separate sales or brand identity has been maintained.
 - (c) The Cambian business and the CareTech business have been maintained as a going concern and sufficient resources have been made

¹ For the avoidance of doubt, this IEO does not prevent new CareTech shares from being admitted pursuant to the scheme of arrangement (Cambian shares may be converted into CareTech shares).

available for the development of the Cambian business and the CareTech business, 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 Cambian business or the CareTech business, except in the ordinary course of business.
- (e) The nature, description, range and quality of goods and/or services supplied in the UK by the Cambian business and the CareTech business 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 Cambian business and the CareTech business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
 - (ii) none of the assets of the Cambian business or the CareTech business have been disposed of; and
 - (iii) no interest in the assets of the Cambian business or the CareTech business has been created or disposed of.
- (g) There has been no integration of the information technology of the Cambian or CareTech businesses, and the software and hardware platforms of the Cambian business 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 Cambian business have been carried out by the Cambian business alone and, for the avoidance of doubt, the CareTech business has not negotiated on behalf of the Cambian business (and vice versa) or entered into any joint agreements with the Cambian business (and vice versa).
- (i) All existing contracts of the Cambian business and the CareTech business 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 Cambian business or the CareTech business.

- (k) No key staff have been transferred between the Cambian business and the CareTech business.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the Cambian business and the CareTech business.
- (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 Cambian business (or any of its employees, directors, agents or affiliates) to the CareTech business (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 Cambian business or the CareTech business;
 - (ii) interruptions of the Cambian business or the CareTech business (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 Cambian business or the CareTech business; or
 - (iv) substantial changes in the Cambian or CareTech business's contractual arrangements or relationships with key suppliers.
- (o) *[list of material developments]*

3. CareTech and its subsidiaries remain in full compliance with the Order and will continue actively to keep the CMA informed of any material developments relating to the Cambian or the CareTech business in accordance with paragraph 9 of the Order.

Interpretation

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

FOR AND ON BEHALF OF CARETECH

Signature

Name

Title

Date

Compliance statement for Cambian

I [insert name] confirm on behalf of Cambian that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) Cambian has complied with the Order made by the CMA in relation to the transaction on 16 October 2018 (the Order).
 - (b) Cambian's subsidiaries have also complied with this Order.
2. Subject to paragraph 3 and 4 of the Order, and except with the prior written consent of the CMA:
 - (a) No action has been taken by Cambian that might prejudice a reference of the transaction under section 22 or 33 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 Cambian business with the CareTech business;
 - (ii) transfer the ownership or control of the CareTech business or the Cambian business or any of their subsidiaries;² or
 - (iii) otherwise impair the ability of the Cambian business or the CareTech business to compete independently in any of the markets affected by the transaction.
 - (b) The Cambian business has been carried on separately from the CareTech business and the Cambian business's separate sales or brand identity has been maintained.
 - (c) The Cambian business and the CareTech business have been maintained as a going concern and sufficient resources have been made available for

² For the avoidance of doubt, this IEO does not prevent new CareTech shares from being admitted pursuant to the scheme of arrangement (Cambian shares may be converted into CareTech shares).

the development of the Cambian business and the CareTech business, 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 Cambian business, except in the ordinary course of business.
- (e) The nature, description, range and quality of goods and/or services supplied in the UK by the Cambian business 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 Cambian business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
 - (ii) none of the assets of the Cambian business have been disposed of; and
 - (iii) no interest in the assets of the Cambian business has been created or disposed of.
- (g) There has been no integration of the information technology of the Cambian or CareTech businesses, and the software and hardware platforms of the Cambian business 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 Cambian business have been carried out by the Cambian business alone and, for the avoidance of doubt, the CareTech business has not negotiated on behalf of the Cambian business (and vice versa) or entered into any joint agreements with the Cambian business (and vice versa).
- (i) All existing contracts of the Cambian business and the CareTech business 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 Cambian business.

- (k) No key staff have been transferred between the Cambian business and the CareTech business.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the Cambian business.
- (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 Cambian business (or any of its employees, directors, agents or affiliates) to the CareTech business (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 Cambian business;
 - (ii) interruptions of the Cambian business (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 Cambian business; or
 - (iv) substantial changes in the Cambian business's contractual arrangements or relationships with key suppliers.
- (o) *[list of material developments]*

3. Cambian and its subsidiaries remain in full compliance with the Order and will continue actively to keep the CMA informed of any material developments relating to the Cambian or the CareTech business in accordance with paragraph 9 of the Order.

Interpretation

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

FOR AND ON BEHALF OF CAMBIAN

Signature

Name

Title

Date