

**DEROGATION LETTER
IN RESPECT OF INITIAL ENFORCEMENT ORDERS ISSUED
PURSUANT TO SECTION 72(2) ENTERPRISE ACT 2002**

**Consent under section 72(3C) of the Enterprise Act 2002 to certain actions for
the purposes of the Initial Enforcement Orders made by the Competition and
Markets Authority ('CMA') on 17 November 2022**

**COMPLETED ACQUISITIONS BY INDEPENDENT VETCARE LIMITED OF
MULTIPLE INDEPENDENT VETERINARY PRACTICES**

Dear Bertrand Louveaux,

We refer to your submissions requesting that the CMA consents to a derogation to the Initial Enforcement Orders (the '**Initial Orders**') dated 17 November 2022. The terms defined in the Initial Orders have the same meaning in this letter.

Under the Initial Orders, save for written consent by the CMA, the Acquirer Group is required to hold separate the Acquirer Group business from the businesses of Penrose Veterinary Group Limited, Kevin Castle (Pet Care) Ltd, Swayne & Partners Topco Limited (including Swayne & Partners Ltd), Treforest Vets (Holdings) Limited (including Treforest Veterinary Clinic Ltd¹), Mercer & Hughes Limited, Swaffham Veterinary Centre Limited, Anglesey Pet Clinic Ltd, Chiltern Equine Clinic (including Chiltern Veterinary Services Limited & Chiltern Bury Farm Limited) (together, the '**Target Entities**') and refrain from taking any action which might prejudice a reference under section 22 of the Act or impede the taking of any remedial action following such a reference.

After due consideration of your request for a derogation from the Initial Orders, based on the information received from you and in the particular circumstances of this case, IVC and the Target Entities may carry out the following actions, in respect of the specific paragraphs:

Paragraphs 5(a), 5(c) and 5(l) of the Initial Orders

IVC submits that it wishes to exercise oversight of certain commercial and operational actions undertaken by the Target Entities to ensure that each is maintained as a going concern whilst the Initial Order is in force. IVC proposes to achieve this by way of a delegation of authority which provides that Target Entities' management teams shall have full power and authority to operate the Target Entities' businesses, save in a limited

¹ Including Treforest and Tonypandy Veterinary Clinics.

number of specified circumstances described in Annex 1 where approval by an identified individual within IVC will be required (the '**Exceptional Actions**'). The frequency with which approval under the delegation of authority is required is expected to be low, and IVC therefore submits that this process would not significantly restrict the ability of the Target Entities' businesses to operate independently of IVC.

IVC has therefore sought the CMA's consent for a delegation of authority which provides that the approval of a designated individual (the '**Designated Individual**') is required in relation to the Exceptional Actions.

The CMA consents to a derogation from paragraphs 5(a), 5(c) and 5(l) of the Initial Orders to permit IVC to exercise limited oversight of the Target Entities in respect of the Exceptional Actions, strictly on the basis that:

- (a) Exceptional Actions will be raised by Target Entities with, and related information provided only to, [X] (the Designated Individual);
- (b) [X] shall remain the only Designated Individual for the purposes of this derogation. No addition or change to the Designated Individual providing oversight of the Exceptional Actions of the Target Entities businesses shall be made under this derogation without the prior written consent of the CMA (which may be given via email);
- (c) The Designated Individual will not, for the duration of the Initial Order, hold any responsibility for the commercial or strategic operations of IVC, and shall not use any information provided by the Target Entities in any way to intervene in the management or operation of the Target Entities' businesses or the IVC business;
- (d) The Designated Individual must not consult with any other individual in the IVC business in taking decisions on the Exceptional Actions. The Designated Individual may discuss such matters with IVC's external legal counsel as required, who shall keep such information confidential and use it only for this purpose;
- (e) The Designated Individual will not seek to change the proposal made by the Target Entities businesses in connection with the Exceptional Action, or seek to substitute their judgment with that of the relevant Target Entity business;
- (f) The information to which the Designated Individual will be given access will be limited to that which is strictly necessary (as described in Annex 1) to allow the Designated Individual to reach an informed decision on the specific matter at hand on behalf of IVC, and will not include any other information beyond that described in Annex 1;

- (g) The CMA will be notified of any requests made by the Target Entity businesses to the Designated Individual in relation to this derogation and, at its request, the CMA will be provided with a summary of the information shared by the Target Entities with the Designated Individual for the purposes of the escalation;
- (h) The CMA will be notified in advance of any proposed veto by the Designated Individual of any proposed Exceptional Actions by the Target Entities, and the reasons for this in advance of any such veto being exercised;
- (i) The Designated Individual shall enter into a Non-Disclosure Agreement in a form approved by the CMA prior to exercising their functions under the delegation of authority;
- (j) IT firewalls and/or other ring-fencing measures, including password protection, will be put in place to prevent any unauthorized individuals within the IVC business accessing the information shared with the Designated Individual for the purpose of this derogation.
- (k) The limits of the Exceptional Actions set out in Annex 1 of this derogation will be subject to CMA review and the CMA may revise the limits in writing (including via email) if it deems this necessary for the Target Entities to conduct their day-to-day business independently of IVC;
- (l) Should remedial action be required by the CMA in relation to any or all of the Relevant Transactions, any records or copies (electronic or otherwise) of business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature, wherever they may be held, that were received from the relevant Target Entities for the purposes of this derogation will be returned to such Target Entities and any copies destroyed, except to the extent that record retention is required by law or regulation; and
- (m) The granting of this derogation will not prejudice a CMA reference or impede the taking of any action which may be justified by the CMA's decision on a reference in relation to any or all of the Relevant Transactions.

Sincerely,

[✕]

Faye Fullalove
Assistant Director, Mergers

24 November 2022

Annex 1 – Exceptional Actions

- [X]
- [X]
 - [X]
 - [X]
 - [X]
 - [X]
 - [X]
- [X]
- [X]
- [X]
- [X]
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