

## **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 (the 'Act') to certain actions for the purposes of the Initial Enforcement Orders made by the Competition and Markets Authority ('CMA') on 21 December 2022**

#### **COMPLETED ACQUISITIONS BY MEDIVET GROUP LIMITED**

Dear [redacted]

We refer to your email and accompanying note dated 6 November 2022, and further submissions on 16 November, 5 December, 14 December and 16 December 2022, requesting that the CMA consents to derogations to the Initial Enforcement Orders of 21 December 2022 (the 'Initial Orders'). 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 Target Entities businesses 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 derogations from the Initial Orders, based on the information received from you and in the particular circumstances of this case, the Acquirer Group may carry out the following actions, in respect of the specific paragraphs:

#### **1. Paragraphs 4(a), 5(c) and 5(l) of the Initial Orders**

Medivet submits that upon completion of each of the acquisitions of the Target Entities Businesses over the last approximately 12 months, a number of back-office functions relating to each business were integrated into and provided by Medivet (together, the **Back-office Functions**). Medivet further submits that the Target Entities' Businesses do not have the existing capability or expertise to provide the Back-office Functions, and Medivet considers that provision of these Back-office Functions to the Target Entities Businesses would be required to maintain the viability and proper functioning of each of the Target Entities Businesses.

Medivet has therefore requested a derogation from paragraphs 4(a), 5(c) and 5(l) of the Initial Orders to enable it to continue to provide the Back-office Functions to the Target Entities Businesses.

Medivet further submits that the Back-office Functions are non-commercial in nature and the provision of such Back-office Functions would not result in any pre-emptive action which might prejudice the outcome of a reference or otherwise impede the ability of the CMA to take or impose remedial action.

Medivet submits that the derogation is required to provide the Target Entities Businesses with the following services:

- (a) Human resources (currently approx. [redacted] individuals): to provide end-to-end HR support to the target practices and across the portfolio, including handling a range of employee-related functions, including employee benefits and compensation, employee relations, HR compliance matters, on-boarding processes and visa management. The team comprises of a number of different aspects, including a field HR team and a support centre HR team.
- (b) Payroll (currently approx. [redacted] individuals): to ensure employees and staff (including locums) are paid correctly and on time, including checking time entries of personnel and processing salary/wage details.
- (c) Fleet management (currently approx. [redacted] individual): to continue to manage vehicle arrangements for patient transportation and for personnel with a requirement for a vehicle, including liaising with practices to discuss transportation arrangements, liaising with drivers, and dispatching vehicles for use.
- (d) Health and safety (currently approx. [redacted] individuals): the health and safety team provide regular support, audit and compliance reviews which includes fire safety, radiation safety and delivery of planned works to ensure practices are compliant with the law.
- (e) Maintenance (currently approx. [redacted] individuals): the maintenance team provide services that keep practices running to serve patients including planned preventative maintenance, reactive works of programme works to ensure the clinics are able to comply with health and safety requirements and RCVS guidelines. Medivet cannot predict emergency work that will be required in each location and the target practices

will require the ability to have the continued support of Medivet's maintenance function.

- (f) Legal and compliance / data protection (currently approx. [x] individuals): to provide a range of legal, compliance and data protection support to the target practices, including advice on legal and data protection matters.
- (g) IT support / help-desk (currently approx. [x] individuals): to offer front line support for IT systems, such as assistance with log-ons, troubleshooting etc.
- (h) Property real estate (currently approx. [x] individuals): Property and real estate provide services that relate to rents, leases rates etc and ensure the best commercial or contractual terms are delivered to the clinics.

## **2. Paragraphs 4(a), 5(a), 5(g) and 5(l) of the Initial Orders**

Medivet submits that upon completion of each of the acquisitions of the Target Entities Businesses over the last approximately 12 months, a number of finance back-office functions relating to each business were integrated into and provided by Medivet (together, the **Finance Functions**). Medivet further submits that the Target Entities Businesses do not have existing capability or expertise to provide the Finance Functions, and Medivet considers that provision of these Finance Functions to the Target Entities Businesses would be required to maintain the viability and proper functioning of each of the Target Entities Businesses.

Medivet submits that the derogation is required to provide the Target Entities Businesses with the following financial services:

- (a) Accounts payable and accounts receivable, including debt collection: specific services relate to the financial, administrative, and clerical support of making payments to suppliers and creditors, recording and chasing customers/debtors for payment.
- (b) Payment processing from customers: automated provision of payment processing.
- (c) Processing payments for suppliers: approval of invoices and payments mechanics and automated provision of payments.

- (d) Processing expenses for individual practices: receiving and handling expense requests including holding monies.
- (e) Receiving payments from customers and third parties in respect of the activities of the acquired businesses into Medivet's bank account
- (f) Quarterly VAT compliance: preparation and submission of the Medivet group and partnership VAT returns including VAT compliance checks to ensure VAT return submissions are in line with UK tax legislation and calculation of VAT payable to HMRC.
- (g) Treasury functions: monitoring and accounting for the Medivet Group branch and corporate bank accounts including Freedom banking support, cash management and payments.

### **Conditions and safeguards for granting derogations**

On the basis of Medivet's representations, the CMA consents to derogations from paragraphs 4(a), 5(a), 5(c), 5(g) and 5(l) of the Initial Orders (as applicable) in respect of Back-office and Finance Functions (together, the **Relevant Functions**), strictly on the basis that:

- (i) Medivet continuing to supply the Target Entities with each of Back-office and Finance Functions is strictly necessary in order to preserve the viability and competitive capability of the Target Entities.
- (ii) Medivet continuing to supply the Target Entities with each of Back-office and Finance Functions will not confer any influence upon Medivet in respect of the commercial policy of the Target Entities.
- (iii) The Target Entities' information provided to Medivet will be limited to what is strictly necessary to ensure that Medivet can continue providing the Back-office and Finance Functions.
- (iv) With respect to the provision of HR services, Medivet's support is of an administrative nature and recruitment decisions will be made by the relevant Target Entities, with any exception to be agreed with the CMA.

- (v) With respect to the provision of Property real estate services, Medivet's support is of an administrative nature and decisions relating to property or real estate will be made by the relevant Target Entities, with any exception to be agreed with the CMA.
- (vi) The Target Entities' information provided to Medivet will be provided only to the individuals identified in Annex 1 (together, the '**Relevant Functions Authorised Individuals**') in order to provide that function. For example, information necessary for Back-office Function (A) will be provided only to those individuals in the Back-office Function (A) section of Annex 1, for whom access to this information is strictly necessary for Medivet to continue providing Back-office Function (A).
- (vii) Each of the Relevant Functions Authorised Individuals will sign Non-Disclosure Agreements, in a form approved by the CMA, in respect of any commercially sensitive, confidential or proprietary information they receive in order to provide the Relevant Functions to the Target Entities.
- (viii) Medivet will provide each of the Relevant Functions Authorised Individuals with training, in a form approved by the CMA, in respect of handling any commercially sensitive information they receive in order to provide the Relevant Functions to the Target Entities.
- (ix) No changes to the individuals listed in Annex 1 are permitted without the prior written consent of the CMA (including via email).
- (x) Should the Acquirer Group be required to, or offer to, divest any of the Target Entities, the Acquirer Group will ensure that 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 any of the Target Entities for the purposes of this derogation will be returned to the Target Entities and any copies destroyed, except to the extent that record retention is required by law or regulation. Similarly, the Target Entities will ensure that 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 Medivet for the purposes of this derogation will be returned to Medivet and any copies destroyed, except to the extent that record retention is required by law or regulation.

- (xi) These derogations will not result in any pre-emptive action which might prejudice the outcome of a reference or impede the taking of any action which may be justified by the CMA's decisions on a reference.

Sincerely,

[&lt;]

Jenny Sugiarto

Director

Mergers

21 December 2022

## Annex 1 – Relevant Functions Authorised Individuals

### Back-office Function

**(A) Human resources (currently approx. [REDACTED] individuals):**

- [REDACTED]

**(B) Payroll (currently approx. [REDACTED] individuals):**

- [REDACTED]

**(C) Fleet management (currently approx. [REDACTED] individuals):**

- [REDACTED]

**(D) Health and safety (currently approx. [REDACTED] individuals):**

- [REDACTED]

**(E) Maintenance (currently approx. [REDACTED] individuals):**

- [REDACTED]

**(F) Legal and compliance / data protection (currently approx. [REDACTED] individuals):**

- [REDACTED]

**(G) IT support / help-desk (currently approx. [REDACTED] individuals):**

- [REDACTED]

**(H) Property real estate (currently approx. [REDACTED] individuals):**

- [REDACTED]

### Finance Function

**(I) Finance team (currently approx. [REDACTED] individuals):**

- [REDACTED]