

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 made on 16 November 2022 and 30 November 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(a), 5(g), 5(h) and 5(l) of the Initial Orders

Medivet submits that each of the Target Entities benefit from central purchasing and central contracting within Medivet, under which a central team carries out negotiations with suppliers to ensure continuity of supply and breadth of required products, such as medicines, consumables, equipment and other items including uniforms.

Under these arrangements, local practices will then order medicines, equipment and other items under these terms according to their own needs on terms negotiated by the central

team.¹ [§<]. Medivet also submits that [§<]. Therefore, Medivet requests a derogation to allow this central contracting to continue. The above activities are referred to as "**Central Purchasing and Contracting**".

Medivet considers that central purchasing and central contracting is beneficial to local practices as those practices benefit from central terms and pricing and do not themselves need to dedicate their own resources to the negotiation and sourcing of the relevant products, or to the contracting arrangements required with customers and suppliers. Further, Medivet submits that the Target Entities' businesses are staffed by medical professionals and administrative staff who lack the commercial expertise to negotiate contract terms.

Medivet has therefore requested a derogation from paragraphs 4(a), 5(a), 5(g), 5(h) and 5(l) of the Initial Orders to enable it to enable the Target Entities' businesses to order and benefit from Medivet's central purchasing and central contracting arrangements.

On the basis of Medivet's representations, the CMA consents to a derogation from paragraphs 4(a), 5(a), 5(g), 5(h) and 5(l) of the Initial Orders in respect of Central Purchasing and Contracting, strictly on the basis that:

- (i) Medivet continuing to supply the Target Entities the Central Purchasing and Contracting is strictly necessary in order to preserve the viability and competitive capability of the Target Entities.
- (ii) Any information exchanged between the Target Entities and Medivet is limited to what is strictly necessary for the purposes of this derogation.
- (iii) Target Entities may freely procure items not on Medivet's centrally negotiated lists according to their own assessment of business need, without requiring approval from Medivet.
- (iv) To the extent that it is strictly necessary for Medivet to receive commercially sensitive information of the Target Entities under this derogation, receipt of such information will be limited to the '**Authorised Central Purchasing and Contracting Individuals**' listed at Annex 1.

¹ The principal items typically negotiated centrally within Medivet include [§<].

- (v) Each of the Authorised Central Purchasing and Contracting Individuals will sign Non-Disclosure Agreements, in a form approved by the CMA, in respect of any commercially sensitive information they receive under this derogation.
- (vi) Adequate IT fire-walls and ring-fencing measures, including password protection, are implemented to prevent the flow of commercially sensitive information relating to the Target Entities or Medivet to any individuals other than the Authorised Central Purchasing and Contracting Individuals.
- (vii) No changes to the individuals listed in Annex 1 are permitted without the prior written consent of the CMA (including via email).
- (viii) 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.
- (ix) This derogation 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,

[<]

Faye Fullalove

Assistant Director

Mergers

21 December 2022

ANNEX 1

Authorised Central Purchasing and Contracting Individuals

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