

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 18 November, 28 November and 14 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 Order, 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 5(a), 5(g), 5(h) and 5(l) of the Initial Orders in respect of the actions described below in relation to the Active Target Entities

Referrals

Medivet submits that as part of the ordinary course of business, clinical referrals are made by Target Entities to a range of referral clinics and hospitals, including Medivet sites. This would be the case, for example, where a local site does not have the particular capability (eg in relation to specialist procedures) or capacity to provide particular treatments.

Unless a customer requests referral to a particular alternative facility, any referrals of this nature would be made by the referring vet on the basis of the vet's interpretation of the most

clinically appropriate option. Medivet further submits that the standards set by the Royal College of Veterinary Surgeons (RCVS) require that vets have a free choice to direct patients to the most appropriate clinic, regardless of the operator, based on factors such as patient need, qualifications of clinicians, availability of required equipment, and cost and feasibility (including transport) for the owner. Further, Medivet has established a protocol on referrals (or 'case transfers') to establish the protocol that should be followed for both internal and external case transfers. [3<].¹

Medivet requests a derogation from paragraphs 5(a), 5(g), 5(h) and 5(l) of the Initial Orders so that the Active Target Entities² continue to make referrals, in the ordinary course to Medivet sites (**Referrals**). Medivet submits that Referrals will be provided in the ordinary course where that referral is deemed appropriate by the referring vet and for Medivet clinical support to continue in order to ensure that practices are in compliance with the required clinical standards.

Out-of-hours care (OOH Service)

Medivet additionally submits that the Royal College of Veterinary Surgeons (RCVS) requires all veterinary practices to ensure the provision of 24-hour emergency cover. Where an individual practice is unable to provide that service, it is obligated by the RCVS to have appropriate mechanisms in place to refer to customers/patients to alternative appropriate 24 hour care (**OOH Referrals**). Medivet submits that decisions on the appropriate OOH Referrals to offer are made by each practice individually.

OOH Referrals may be made in a number of different ways, depending on the existing arrangements in place at the Target Entities practices. This can be done by signage and answer phone messaging at the relevant practice, directing customers to the appropriate site (which can be a Medivet or third party site). It can also be done through diverting calls to the mobile phone of the vet on call to determine the appropriate course of action, or by to diverting calls from the individual practice directly to the nearest 24-hour Medivet site.

[3<].

Medivet requests a derogation from paragraphs 5(a), 5(g), 5(h) and 5(l) of the Initial Orders in order for Medivet and the Active Target Entities to continue to operate their existing

¹ The Parties here reference Medivet's internal protocol in relation to case transfers

² Active Target Entities are defined as All Creatures Clinic Limited, Canine Healthcare Limited (t/a Vet Value), the veterinary practice under the name 'Iffley Vets', The Oxford Cat Clinic Limited, The Vet Station Limited, Barton Companion Animal Services Limited, Stanhope Park Veterinary Hospital Limited, I T Kalogera Holdings Ltd (including its subsidiary I T Kalogera Limited), Monument Vets Ltd, Fitzalan House Veterinary Practice Ltd, Ferring Street Vets Limited, The Hackney Vet Limited, E Street Limited (t/a Elizabeth Street Veterinary Clinic), the veterinary practices under the names 'The Vet on Richmond Hill' and 'The Vet in St Margaret's', and Withy Grove Veterinary Clinic Limited.

arrangements for OOH Referrals, which may include referring to Medivet's OOH service if Medivet already provides these services and is deemed clinically appropriate by the referring practice.

Conditions and safeguards for Referrals and OOH Referrals

On the basis of Medivet's representations, the CMA consents to derogations from paragraphs 5(a), 5(g), 5(h) and 5(l) of the Initial Orders regarding the Active Target Entities in respect of Referrals and OOH Referrals, strictly on the basis that:

- (i) These derogations are strictly necessary for Medivet and the Active Target Entities to safeguard patient safety and welfare.
- (ii) All Referrals supplied between Medivet and the Active Target Entities will be reported to the CMA as part of fortnightly compliance statements in a form agreed in writing with the CMA.
- (iii) Where Referrals or OOH Referrals occur, the information which will be exchanged between Medivet and the relevant Active Target Entities will be limited to what is strictly necessary to enable the Referrals or OOH Referrals to take place, and will be limited to client, patient and/or treatment details. Any client/ patient/ treatment details exchanged will be treated confidentially under existing safeguards for such information.
- (iv) The referring site's employees will only contact a referred site for the purpose of clinically appropriate Referrals or OOH Referrals in the ordinary course of business and for no other reason, and the referring site's employees are not encouraged to make Referrals or OOH Referrals to Medivet's referred sites.
- (v) No incentives, financial or otherwise, including the [§<], are currently in place or will be put in place in respect of Referrals or OOH Referrals which relate to the Active Target Entities. For the avoidance of any doubt this includes any payments under the [§<], to the extent they amount to incentives.
- (vi) All decisions on the appropriate way to provide OOH Services will be made by the relevant Active Target Entity individually and independently of Medivet. For the avoidance of doubt, this derogation allows the Target Entities to continue with the existing arrangements listed above. For those Target Entities that do not currently

use Medivet for OOH Referrals, a further derogation would be required for Medivet to start providing OOH Referrals.

- (vii) 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,

[✂]

Faye Fullalove

Assistant Director

Mergers

21 December 2022