UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Joseph J. Simons, Chairman**
Noah Joshua Phillips
Rohit Chopra
Rebecca Kelly Slaughter
Christine S. Wilson

In the Matter of	)	
Agnaten, SE, **a corporation,**	)	
Veterinary Specialists of North America, LLC **a limited liability company,**	)	
and	)	**Docket No. C-4707**
NVA Parent, Inc., **a corporation.**	)	

DECISION

The Federal Trade Commission ("Commission") initiated an investigation of the proposed acquisition by Respondent Agnaten, SE, ("Agnaten"), the owner of Veterinary Specialists of North America and Compassion-First Pet Hospitals, of Respondent NVA Parent, Inc. ("NVA"), collectively "Respondents." The Commission's Bureau of Competition prepared and furnished to Respondents the Draft Complaint, which it proposed to present to the Commission for its consideration. If issued by the Commission, the Draft Complaint would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

Respondents and the Bureau of Competition executed an Agreement Containing Consent Orders ("Consent Agreement") containing (1) an admission by Respondents of all the jurisdictional facts set forth in the Draft Complaint, (2) a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in the Draft Complaint, or that the facts as alleged in the Draft Complaint, other than jurisdictional

facts, are true, (3) waivers and other provisions as required by the Commission's Rules, and (4) a proposed Decision and Order and Order to Maintain Assets.

The Commission considered the matter and determined that it had reason to believe that Respondents have violated the said Acts, and that a Complaint should issue stating its charges in that respect. The Commission accepted the Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments; at the same time, it issued and served its Complaint and Order to Maintain Assets. Now, in further conformity with the procedure described in Rule 2.34, the Commission makes the following jurisdictional findings and issues the following Decision and Order ("Order"):

1. Respondent Agnaten is a corporation organized, existing, and doing business under and by virtue of the laws of Austria, with its office and principal place of business located at Rooseveltplaz 4-5/Top 10, A-1090 Vienna, Austria, with its United States office for service of process located at 1701 Pennsylvania Ave., NW, Suite 801, Washington, DC 20006.

2. Respondent Veterinary Specialists of North America is a limited liability company organized, existing, and doing business under and by virtue of the laws of the state of Delaware, with its office and principal place of business located at 106 Apple St, Tinton Falls, NJ 07724.

3. Respondent NVA is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Delaware, with its office and principal place of business located at 2000 Avenue of the Stars, 12th Floor, Los Angeles, CA 90067.

4. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and of Respondents, and this proceeding is in the public interest.

ORDER

I. Definitions

IT IS ORDERED that, as used in this Order, the following definitions shall apply and all other definitions used in the Order to Maintain Assets, shall apply:

A. "Agnaten" means Agnaten, SE, its directors, officers, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by Agnaten SE, including, but not limited to, Veterinary Specialists of North America, Compassion-First Pet Hospitals, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

B. "NVA" means NVA Parent, Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries,

partnerships, divisions, groups, and affiliates controlled by NVA Parent, Inc., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

C. "MedVet" means MedVet Associates, LLC, a limited liability company organized, existing, and doing business under, and by virtue of, the laws of the State of Ohio, with its executive offices and principal place of business located at 350 East Wilson Bridge Road, Worthington, OH 43085.

D. "Acquirer" means: means:

1. MedVet; or

2. Any other Person the Commission approves to acquire the Divestiture Clinics pursuant to this Decision and Order.

E. "Acquisition" means the proposed acquisition by Agnaten of NVA, described in the Stock Purchase Agreement by and among NVA Group, L.P., NVA Parent, Inc., Dino Grandparent, Inc., Petcare Acquisition Co., and JAB Holdings, B.V., dated June 3, 2019.

F. "Acquisition Date" means the date Respondents consummate the Acquisition.

G. "Business Records" means all information, books and records, documents, files, correspondence, manuals, computer printouts, databases, and other documents, including all hard copies and electronic records wherever stored, including without limitation, client and customer lists, patient and payor information, referral sources, research and development reports, production reports, service and warranty records, maintenance logs, equipment logs, operating guides and manuals, documents relating to policies and procedures, financial and accounting records and documents, creative materials, advertising materials, promotional materials, studies, reports, correspondence, financial statements, financial plans and forecasts, operating plans, price lists, cost information, supplier and vendor contracts, marketing analyses, customer lists, customer contracts, employee lists and contracts, salaries and benefits information, physician lists and contracts, supplier lists and contracts, and, subject to legal requirements, copies of all personnel files.

H. "Clinic Assets" means all of Respondents' rights, title, and interest in all property and assets, tangible or intangible, of whatever nature and wherever located, relating to or used in connection with the Divestiture Clinics, including, without limitation, all:

1. Real property interests (including fee simple interests and real property leasehold interests, whether as lessor or lessee), wherever located, including all easements, appurtenances, licenses, and permits, together

with all buildings and other structures, facilities, and improvements located thereon, owned, leased, or otherwise held;

2. Tangible Personal Property, including, without limitation, any Tangible Personal Property removed from and not replaced at the Divestiture Clinics, if such property was used by or in connection with the provision of veterinarian services at the Divestiture Clinics on or after June 3, 2019;

3. Rights under any and all contracts and agreements (e.g., leases, service agreements such as supply agreements, procurement contracts), including, but not limited to, contracts and agreements with physicians and other veterinary health care providers and support staff, suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consigners, and consignees;

4. Rights and title in and to use the name or part of the name of the Divestiture Clinic on a permanent and exclusive basis (even as to Respondents), including, but not limited to, the name "Veterinary Care Center," the name "REACH Veterinary Specialists," and the name "The Veterinary Referral Center;"

5. Approvals, consents, licenses, certificates, registrations, permits, waivers, or other authorizations issued, granted, given, or otherwise made available by or under the authority of any governmental body or pursuant to any legal requirement, and all pending applications therefore or renewals thereof, to the extent assignable;

6. All consumable or disposable inventory kept in the normal course of business, including, but not limited to, janitorial, office, and medical supplies, and pharmaceuticals;

7. Accounts receivable;

8. Rights under warranties and guarantees, express or implied; and

9. Business Records.

PROVIDED, HOWEVER, that Clinic Assets do not include Excluded Assets.

PROVIDED FURTHER, HOWEVER, that Respondents may retain a copy of Business Records to the extent necessary to comply with applicable law, regulations, and other legal requirements.

I. "Commission" means the Federal Trade Commission.

J. "Confidential Business Information" means information not in the public domain

that is related to or used in connection with the Divestiture Clinics, except for any information that was or becomes generally available to the public other than as a result of disclosure by Respondents, and includes, but is not limited to, pricing information, marketing methods, market intelligence, competitor information, commercial information, management system information, business processes and practices, bidding practices and information, procurement practices and information, supplier qualification and approval practices and information, and training practices.

K. "Direct Cost" means cost not to exceed the cost of labor, material, travel, and other expenditures to the extent the costs are directly incurred to provide Transitional Services. "Direct Cost" to an Acquirer for its use of any of Respondents' employees' labor shall not exceed the then-current average wage rate for such employee, including benefits.

L. "Divestiture Agreement(s)" means:

1. Divestiture Agreement by and among Respondents and MedVet, dated October 25, 2019, and all amendments, exhibits, attachments, agreements, and schedules thereto, attached to this Decision and Order as Non-Public Appendix E;

2. Divestiture Agreement by and among Veterinary Specialists of North America and MedVet, dated November 22, 2019, and all amendments, exhibits, attachments, agreements, and schedules thereto, attached to this Decision and Order as Non-Public Appendix E; or

3. Any agreement between Respondents (or a Divestiture Trustee appointed pursuant to this Order) and an Acquirer to purchase the Divestiture Clinics, and all amendments, exhibits, attachments, agreements, and schedules thereto.

M. "Divestiture Clinics" means the following veterinary clinics owned and operated by Respondents:

1. REACH Veterinary Specialists, located at 677 Brevard Road, Asheville, NC 28806;

2. The Veterinary Care Center, located at 129 Glover Avenue, Norwalk, CT 06850; and

3. The Veterinary Referral Center, 8614 Centreville Road, Manassas, VA 20110.

N. "Divestiture Date" means the date on which Respondents (or a Divestiture Trustee appointed pursuant to this Order) consummate the divestiture of the

Divestiture Clinics as required by Paragraph II of this Order.

O. "Divestiture Trustee" means the person appointed pursuant to Paragraph VII of this Order.

P. "Emergency Veterinary Clinic" means a veterinary clinic that offers 24-hour or overnight service with the primary function of receiving, treating, and monitoring emergency patients during its specified hours of operation. A veterinarian is in attendance at all hours of operation and sufficient staff is available to provide timely and appropriate care. Veterinarians, support staff, instrumentation, medications, and supplies must be sufficient to provide an appropriate level of emergency care.

Q. "Excluded Assets" means:

1. Tax and medical records related to the Divestiture Clinics to the extent they are nontransferable by law;

2. Cash generated by the Divestiture Clinics prior to the Divestiture Date;

3. Intellectual Property;

4. Software, including, any third-party practice management software (to the extent not assignable);

5. Employee benefit plans;

6. Employee records (a) for any Relevant Employee that is not transferred to Acquirer, or (b) prohibited to be transferred by law; and

7. Compassion-First's Strontium-90 probe and the related Radioactive Materials License No. 6-35037-01 held by CF PC.

R. "Government Approvals" means any permissions or sanctions issued by any government or governmental organization, including, but not limited to, licenses, permits, accreditations, authorizations, registrations, certifications, certificates of occupancy, and certificates of need.

S. "Intellectual Property" means intellectual property of any kind including, but not limited to, patents, patent applications, mask works, trademarks, service marks, copyrights, trade dress, commercial names, internet web sites, internet domain names, inventions, discoveries, written and unwritten know-how, trade secrets, and proprietary information.

T. "Monitor" means the person appointed as Monitor in this Order.

U. "Person" means any individual, partnership, firm, corporation, association, trust, unincorporated organization, or other entity or governmental body.

V. "Relevant Notice Area" means the areas and veterinary clinics identified in Non-Public Appendix B to this Order.

W. "Relevant Employees" means any and all full-time employees, part-time employees, or contract employees, including but not limited to veterinarians, who work or worked at the Divestiture Clinics at any time during the 90 days preceding the date the Acquisition is completed or at any time after the date the Acquisition is completed, and whose duties relate or related to the Divestiture Clinic.

X. "Respondents" means Agnaten and NVA, collectively or individually.

Y. "Specialty Veterinarian" means a veterinarian who (i) legally holds himself or herself out as a specialist in veterinary medicine, and (ii) has board certification, in one, or more, of the following specialties: internal medicine, neurology, oncology, ophthalmology, radiation oncology, or surgery.

Z. "Specialty Veterinary Clinic" means a clinic where a Specialty Veterinarian practices.

AA. "Tangible Personal Property" means all machinery, equipment, spare parts, tools and tooling, fixtures, vehicles, furniture, inventories, office equipment, computer hardware, supplies and materials, and all other items of tangible personal property of every kind owned or leased by Respondents, wherever located, together with any express or implied warranty by the manufacturers, sellers, or lessors of any item or component part thereof and all maintenance records and other documents relating thereto.

BB. "Transitional Services" means support services regarding the transfer and operation of the Divestiture Clinics, including, but not limited to, administrative assistance, assistance relating to billing, accounting, governmental regulation, human resources management, information systems, clinical assistance, and purchasing, as well as providing assistance in acquiring and obtaining access to all software used in the provision of such services.

II. Divestiture

IT IS FURTHER ORDERED that:

A. Respondents shall, within 10 days after the Acquisition Date, absolutely and in good faith, divest the Divestiture Clinics to MedVet, including all Clinic Assets related to those clinics, pursuant to and in accordance with the Divestiture Agreements, as ongoing businesses.

PROVIDED, HOWEVER, if, at the time the Commission determines to make this Order final, the Commission notifies Respondents that MedVet is not an acceptable Acquirer then, after receipt of such written notification: (1) Respondents shall immediately notify the unacceptable Acquirer of the notice received from the Commission and shall as soon as practicable, but no later than 5 business days, effect the rescission of the relevant Divestiture Agreement; and (2) Respondents shall, within 6 months of the date Respondents receive notice of such determination from the Commission, divest the Divestiture Clinics and Clinic Assets, as applicable, absolutely and in good faith, at no minimum price, as ongoing businesses to an Acquirer or Acquirers that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission.

PROVIDED FURTHER, HOWEVER, that if, at the time the Commission determines to make this Order final, the Commission notifies Respondents that the manner in which any of the divestitures accomplished is not acceptable, the Commission may direct Respondents, or appoint a Divestiture Trustee, to effect such modifications to the manner of divestiture including, but not limited to, entering into additional agreements or arrangements, as the Commission may determine are necessary to satisfy the requirements of this Order.

B. Respondent Agnaten shall not acquire Respondent NVA until it has obtained for all the Divestiture Clinics:

1. All approvals for the assignment to the Acquirer of the rights, title, and interest to each lease for real property of each Divestiture Clinic; and

2. Any and all Governmental Approvals necessary for the Acquirer to operate each Divestiture Clinic, as of the Divestiture Date, in substantially the same manner as the applicable Respondent operated such Divestiture Clinic.

C. At the option of the Acquirer, Respondents shall grant the Acquirer a royalty-free, worldwide, non-exclusive license for the use, without any limitation, of any Intellectual Property necessary to operate the Divestiture Clinics, including but not limited to, any hospital management software, to use for a period of 1 year following the Divestiture Date.

D. Respondents:

1. Shall not disclose Confidential Business Information relating exclusively to any of the Divestiture Clinics to any Person other than the Acquirer of the Divestiture Clinics; and

2. After the Divestiture Date:

a. Shall not use Confidential Business Information relating exclusively to any of the Divestiture Clinics for any purpose other than for complying with the terms of this Order, for complying with any law, or for the purposes of billing and collections; and

b. Shall destroy all records of Confidential Business Information relating exclusively to any of the Divestiture Clinics, except to the extent that: (i) Respondents are required by law to retain such information, and (ii) Respondents' inside or outside attorneys may keep one copy solely for archival purposes, but may not disclose such copy to the rest of Agnaten or NVA, respectively.

E. The purpose of the divestiture is to ensure the continuation of the Divestiture Clinics as ongoing viable businesses engaged in the same business in which the assets were engaged at the time of the announcement of the Acquisition, and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's Complaint in this matter.

III. Divestiture Agreements

IT IS FURTHER ORDERED that**:**

A. The Divestiture Agreements shall be incorporated by reference into this Order and made a part hereof, and any failure by Respondents to comply with the terms of the Divestiture Agreements shall constitute a violation of this Order; provided, however, that the Divestiture Agreements shall not limit, or be construed to limit, the terms of this Order. To the extent any provision in the Divestiture Agreements varies from or conflicts with any provision in the Order such that Respondents cannot fully comply with both, Respondents shall comply with the Order.

B. Respondents shall not modify or amend the terms of the Divestiture Agreements after the Commission issues the Order without the prior approval of the Commission, except as otherwise provided in Commission Rule 2.41(f)(5), 16 C.F.R. § 2.41(f)(5).

IV. Asset Maintenance

IT IS FURTHER ORDERED that, until the Divestiture Date, Respondents shall:

A. Maintain each of the Divestiture Clinics and all Clinic Assets in substantially the same condition (except for normal wear and tear) as they existed at the time Respondents sign the Consent Agreement;

B. Take such actions that are consistent with the past practices of Respondents in connection with each Divestiture Clinic and all the Clinic Assets, and that are

taken in the ordinary course of business and in the normal day-to-day operations of the Divestiture Clinics;

C. Keep available the services of the current officers, employees, and agents of Respondents; and maintain the relations and goodwill with suppliers, veterinarians, landlords, patients, employees, agents, and others having business relations with the Divestiture Clinics and the Clinic Assets; and

D. Preserve the Divestiture Clinics and Clinic Assets as ongoing businesses and not take any affirmative action, or fail to take any action within Respondents' control, as a result of which the viability, competitiveness, and marketability of the Divestiture Clinics and Clinic Assets would be diminished.

V. Employees

IT IS FURTHER ORDERED that, Respondents:

A. Shall, no later than 10 days after a request from an Acquirer, provide the Acquirer with the following information for each Relevant Employee, and, to the extent known and applicable, each independent contractor who has worked at a Divestiture Clinic since June 3, 2019, as and to the extent permitted by law (unless such information has already been provided):

1. Name, job title or position, date of hire, and effective service date;

2. Specific description of the employee's responsibilities;

3. The base salary or current wages;

4. Most recent bonus paid, aggregate annual compensation for Respondents' last fiscal year, and current target or guaranteed bonus, if any;

5. Employment status (*i.e.*, active or on leave or disability; full-time or part-time);

6. Any other material terms and conditions of employment in regard to such employee that are not otherwise generally available to similarly situated employees; and

7. At the Acquirer's option, copies of all employee benefit plans and summary plan descriptions (if any) applicable to the Relevant Employee.

B. Shall, within a reasonable time after a request from an Acquirer, provide to the Acquirer an opportunity to meet personally and outside the presence or hearing of any employee or agent of any Respondent, with any one or more of the Relevant Employees, and to make offers of employment to any one or more of the Relevant Employees.

C. Shall not interfere, directly or indirectly, with the hiring or employing by the

Acquirer of any Relevant Employees, not offer any incentive to such employees to decline employment with the Acquirer, and not otherwise interfere with the recruitment of any Relevant Employee by the Acquirer; *PROVIDED, HOWEVER,* that Respondents may:

1. Advertise for employees in newspapers, trade publications, or other media, or engage recruiters to conduct general employee search activities, in either case not targeted specifically at Relevant Employees; or

2. Hire Relevant Employees who apply for employment with Respondents, as long as such employees were not solicited by Respondents in violation of this Paragraph V; *PROVIDED FURTHER, HOWEVER,* that this Paragraph V shall not prohibit Respondents from making offers of employment to or employing any Relevant Employee if the Acquirer has notified Respondents in writing that the Acquirer does not intend to make an offer of employment to that employee, or where such an offer has been made and the employee has declined the offer, or where the employee's employment has been terminated by the Acquirer.

D. Shall remove any impediments within the control of Respondents that may deter Relevant Employees from accepting employment with an Acquirer, including, but not limited to, removal of any non-compete or confidentiality provisions of employment or other contracts with Respondents that may affect the ability or incentive of those individuals to be employed by an Acquirer, and shall not make any counteroffer to a Relevant Employee who receives a written offer of employment from an Acquirer; *PROVIDED, HOWEVER*, that nothing in this Order shall be construed to require Respondents to terminate the employment of any employee or to prevent Respondents from continuing the employment of any employee.

E. Shall provide reasonable financial incentives for Relevant Employees, as identified by Respondents and any Acquirer, to continue in their positions. Such incentives may include, but are not limited to, guaranteeing a retention bonus for the veterinarians at the Divestiture Clinics to assure their continued employment at such clinic, a continuation of all employee benefits, including the funding of regularly scheduled raises and bonuses, and the vesting of pension benefits (as permitted by law and for those Relevant Employees covered by a pension plan), offered by Respondents.

F. Shall not, for a period of one (1) year following the Divestiture Date of the particular Divestiture Clinic, hire a Relevant Employee that is a doctor of veterinary medicine to work at any of Respondents' veterinary clinics in the areas identified in Appendix A, related to that particular Divestiture Clinic.

PROVIDED HOWEVER, Respondent Agnaten may offer part-time contract hours to a doctor of veterinary medicine at a particular Divestiture Clinic, who has been

working as a part-time contract veterinarian for Respondent Agnaten or NVA in the areas identified in Appendix A related to that particular Divestiture Clinic, if the part-time contract hours offered by Respondent Agnaten would not, in any way, interfere with the veterinarian's ability to fulfill his or her employment responsibilities to the Acquirer.

PROVIDED FURTHER, HOWEVER, that this Paragraph V shall not prohibit Respondents from making offers of employment to or employing any Relevant Employee that is a doctor of veterinary medicine if an Acquirer has notified Respondents in writing that the Acquirer does not intend to make an offer of employment to that employee, or where the employee's employment has been terminated by the Acquirer.

G. Shall not, for a period of 2 years following the Divestiture Date of any Divestiture Clinic, directly or indirectly, solicit or otherwise attempt to induce any of the Relevant Employees who have accepted offers of employment with an Acquirer to terminate his or her employment with the Acquirer; *PROVIDED, HOWEVER,* that Respondents may:

1. Advertise for employees in newspapers, trade publications, or other media, or engage recruiters to conduct general employee search activities, in either case not targeted specifically at Relevant Employees; or

2. Subject to Paragraph V.F, above, hire Relevant Employees who apply for employment with Respondents, as long as such employees were not solicited by Respondents in violation of this Paragraph V; *PROVIDED FURTHER, HOWEVER,* that this Paragraph V shall not prohibit Respondents from making offers of employment to or employing any Relevant Employee if an Acquirer has notified Respondents in writing that the Acquirer does not intend to make an offer of employment to that employee, or where such an offer has been made and the employee has declined the offer, or where the employee's employment has been terminated by the Acquirer.

VI. Transition Assistance

IT IS FURTHER ORDERED that, at the request of an Acquirer, for a period not to exceed one (1) year, or as otherwise approved by the Commission, and in a manner (including pursuant to an agreement) that receives the prior approval of the Commission:

A. Respondents shall provide Transitional Services to the Acquirer sufficient to enable the Acquirer to operate the Divestiture Clinics, and to provide veterinary services at the Divestiture Clinics in substantially the same manner that Respondents have operated the Divestiture Clinics; and

B. Respondents shall provide the Transitional Services required by this Paragraph VI

at substantially the same level and quality as such services are provided by Respondents at the Divestiture Clinics.

PROVIDED, HOWEVER, that Respondents shall not (i) require any Acquirer to pay compensation for Transitional Services that exceeds the Direct Cost of providing such goods and services, or (ii) terminate their obligation to provide Transitional Services because of a breach by the Acquirer of any agreement to provide such assistance unless Respondents are unable to provide such services due to such breach.

VII. Monitor

IT IS FURTHER ORDERED that:

A. Thomas Carpenter shall be appointed Monitor to ensure that Respondents expeditiously comply with all of their obligations and perform all of their responsibilities as required by the Order.

B. No later than one (1) day after the Acquisition Date, Respondents shall, pursuant to the Monitor Agreement, attached as Appendix C and Non-Public Appendix D (Compensation) to this Order, transfer to the Monitor all the rights, powers, and authorities necessary to permit the Monitor to perform his duties and responsibilities in a manner consistent with the purposes of this Order.

C. In the event a substitute Monitor is required, the Commission shall select the Monitor, subject to the consent of Agnaten, which consent shall not be unreasonably withheld. If Agnaten has not opposed, in writing, including the reasons for opposing, the selection of a proposed Monitor within 10 days after notice by the staff of the Commission to Agnaten of the identity of any proposed Monitor, Agnaten shall be deemed to have consented to the selection of the proposed Monitor. Not later than ten 10 days after appointment of a substitute Monitor, Agnaten shall execute an agreement that, subject to the prior approval of the Commission, confers on the Monitor all the rights and powers necessary to permit the Monitor to monitor Respondent's compliance with the terms of this Order and the Divestiture Agreements in a manner consistent with the purposes of this Order.

D. Respondents shall consent to the following terms and conditions regarding the powers, duties, authorities, and responsibilities of the Monitor:

1. The Monitor shall have the power and authority to monitor Respondents' compliance with the terms of this Order and the Divestiture Agreements, and shall exercise such power and authority and carry out the duties and responsibilities of the Monitor in a manner consistent with the purposes of this Order and in consultation with the Commission, including, but not limited to:

a. Ensuring that Respondents expeditiously comply with all obligations and perform all responsibilities as required by this Order, and the Divestiture Agreements;

b. Monitoring any transition services agreements; and

c. Ensuring that Confidential Business Information is not received or used by Respondents, except as allowed in this Order.

2. The Monitor shall serve as an independent third party and not as an employee or agent of any Respondent or of the Commission.

3. The Monitor shall serve for such time as is necessary to monitor Respondents' compliance with the provisions of this Order and the Divestiture Agreements.

4. Subject to any demonstrated legally recognized privilege, the Monitor shall have full and complete access to Respondents' personnel, books, documents, records kept in the ordinary course of business, facilities and technical information, and such other relevant information as the Monitor may reasonably request, related to Respondents' compliance with their obligations under this Order and the Divestiture Agreements. Respondents shall cooperate with any reasonable request of the Monitor and shall take no action to interfere with or impede the Monitor's ability to monitor Respondents' compliance with this Order and the Divestiture Agreements.

5. The Monitor shall serve, without bond or other security, at the expense of Respondents, on such reasonable and customary terms and conditions as the Commission may set. The Monitor shall have authority to employ, at the expense of Respondent Agnaten, such consultants, accountants, attorneys and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities. The Monitor shall account for all expenses incurred, including fees for services rendered, subject to the approval of the Commission.

6. Respondent Agnaten shall indemnify the Monitor and hold the Monitor harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Monitor's duties, including all reasonable fees of counsel and other reasonable expenses incurred in connection with the preparations for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from gross negligence, willful or wanton acts, or bad faith by the Monitor.

7. Respondent Agnaten shall report to the Monitor in accordance with the requirements of this Order and/or as otherwise provided in any agreement approved by the Commission. The Monitor shall evaluate the reports submitted to the Monitor by Respondent Agnaten, and any reports submitted by the Acquirer with respect to the performance of Respondent's obligations under this Order and the Divestiture Agreements.

8. Within one (1) month from the date the Monitor is appointed pursuant to this Paragraph VII, every 60 days thereafter, and otherwise as requested by the Commission, the Monitor shall report in writing to the Commission concerning performance by Respondents of their obligations under this Order, and the Divestiture Agreements.

9. Respondents may require the Monitor and each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement; *PROVIDED, HOWEVER*, such agreement shall not restrict the Monitor from providing any information to the Commission.

E. The Commission may, among other things, require the Monitor and each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants, to sign an appropriate confidentiality agreement relating to Commission materials and information received in connection with the performance of the Monitor's duties.

F. If the Commission determines that the Monitor has ceased to act or failed to act diligently, the Commission may appoint a substitute Monitor in the same manner as provided in this Paragraph VII.

G. The Commission may on its own initiative, or at the request of the Monitor, issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of this Order and the Divestiture Agreements.

H. A Monitor appointed pursuant to this Order may be the same Person appointed as a Divestiture Trustee pursuant to this Order.

VIII. Divestiture Trustee

IT IS FURTHER ORDERED that:

A. If Respondents have not fully complied with the obligations imposed by Paragraph II of this Order, the Commission may appoint a Divestiture Trustee to divest any remaining Divestiture Clinics, and perform Respondents' other obligations in a manner that satisfies the requirements of this Order. In the event that the Commission or the Attorney General brings an action pursuant to Section

5(*l*) of the Federal Trade Commission Act, 15 U.S.C. § 45(*l*), or any other statute enforced by the Commission, Respondents shall consent to the appointment of a Divestiture Trustee in such action to divest the required assets. Neither the appointment of a Divestiture Trustee nor a decision not to appoint a Divestiture Trustee under this Paragraph VIII shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed Divestiture Trustee, pursuant to Section 5(*l*) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Respondents to comply with this Order.

B. The Commission shall select the Divestiture Trustee, subject to the consent of Respondents, which consent shall not be unreasonably withheld. The Divestiture Trustee shall be a person with experience and expertise in acquisitions and divestitures. If Respondents have not opposed, in writing, and stated in writing their reasons for opposing, the selection of any proposed Divestiture Trustee within ten 10 days after notice by the staff of the Commission to Respondents of the identity of any proposed Divestiture Trustee, Respondents shall be deemed to have consented to the selection of the proposed Divestiture Trustee.

C. Not later than ten 10 days after the appointment of a Divestiture Trustee, Respondents shall execute a trust agreement that, subject to the prior approval of the Commission, transfers to the Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to effectuate the divestitures required by, and satisfy the additional obligations imposed by, this Order.

D. If a Divestiture Trustee is appointed by the Commission or a court pursuant to this Paragraph VIII, Respondents shall consent to the following terms and conditions regarding the Divestiture Trustee's powers, duties, authority, and responsibilities:

1. Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to effectuate the divestitures required by, and satisfy the additional obligations imposed by, this Order.

2. The Divestiture Trustee shall have one (1) year after the date the Commission approves the trust agreement described herein to effectuate the required divestitures, which shall be subject to the prior approval of the Commission. If, however, at the end of the one (1) year period, the Divestiture Trustee has submitted a plan to divest, or believes the divestitures can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed Divestiture Trustee, by the court; *PROVIDED, HOWEVER,* the Commission may extend the divestiture period only 2 times.

3. Subject to any demonstrated legally recognized privilege, the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities related to the relevant assets that are required to be

divested by this Order and to any other relevant information, as the Divestiture Trustee may request. Respondents shall develop such financial or other information as the Divestiture Trustee may request and shall cooperate with the Divestiture Trustee. Respondents shall take no action to interfere with or impede the Divestiture Trustee's accomplishment of the divestiture. Any delays caused by Respondents shall extend the time for divestiture under this Paragraph VIII for a time period equal to the delay, as determined by the Commission or, for a court-appointed Divestiture Trustee, by the court.

4. The Divestiture Trustee shall use commercially reasonable efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondents' absolute and unconditional obligation to divest expeditiously and at no minimum price. Each divestiture shall be made in the manner and to an Acquirer as required by this Order; *PROVIDED, HOWEVER,* if the Divestiture Trustee receives bona fide offers from more than one acquiring Person, and if the Commission determines to approve more than one such acquiring Person, the Divestiture Trustee shall divest to the acquiring Person selected by Respondents from among those approved by the Commission; *PROVIDED FURTHER, HOWEVER,* that Respondents shall select such Person within 5 days after receiving notification of the Commission's approval.

5. The Divestiture Trustee shall serve, without bond or other security, at the cost and expense of Respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. The Divestiture Trustee shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the Divestiture Trustee's duties and responsibilities. The Divestiture Trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission of the account of the Divestiture Trustee, including fees for the Divestiture Trustee's services, all remaining monies shall be paid at the direction of Respondents, and the Divestiture Trustee's power shall be terminated. The compensation of the Divestiture Trustee shall be based at least in significant part on a commission arrangement contingent on the divestiture of all of the relevant assets that are required to be divested by this Order.

6. Respondents shall indemnify the Divestiture Trustee and hold the Divestiture Trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Divestiture Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the

preparation for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from gross negligence, willful or wanton acts, or bad faith by the Divestiture Trustee.

7. The Divestiture Trustee shall have no obligation or authority to operate or maintain the relevant assets required to be divested by this Order.

8. The Divestiture Trustee shall report in writing to Respondents and to the Commission every 30 days concerning the Divestiture Trustee's efforts to accomplish the divestiture.

9. Respondents may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement; *PROVIDED, HOWEVER,* such agreement shall not restrict the Divestiture Trustee from providing any information to the Commission.

10. The Commission may, among other things, require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, representatives, and assistants to sign an appropriate confidentiality agreement relating to Commission materials and information received in connection with the performance of the Divestiture Trustee's duties and responsibilities.

E. If the Commission determines that the Divestiture Trustee has ceased to act or failed to act diligently, the Commission may appoint a substitute Divestiture Trustee in the same manner as provided in this Paragraph VIII.

F. The Commission or, in the case of a court-appointed Divestiture Trustee, the court, may on its own initiative or at the request of the Divestiture Trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestitures required by this Order.

IX. Prior Notice

IT IS FURTHER ORDERED that:

A. For a period of 10 years from the date this Order is issued, Respondent Agnaten shall not, without providing advance written notification to the Commission in the manner described in this Paragraph IX:

1. Acquire any assets of, or financial interest in, any veterinary clinic identified, or located in, the Relevant Notice Areas; or

2. Enter into any contract to participate in the management, operation, or

control of any veterinary clinic identified, or located in, the Relevant Notice Areas.

B. Said notification shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (herein referred to as "the Notification"), 16 C.F.R. § 803 App., and shall be prepared and transmitted in accordance with the requirements of that Part, except that no filing fee will be required for any such notification, notification shall be filed with the Secretary of the Commission, notification need not be made to the United States Department of Justice, and notification is required only of Respondents and not of any other party to the transaction. Respondents shall provide the Notification to the Commission at least 30 days prior to consummating the transaction (hereinafter referred to as the "first waiting period"). If, within the first waiting period, representatives of the Commission make a written request for additional information or documentary material (within the meaning of 16 C.F.R. § 803.20), Respondents shall not consummate the transaction until 30 days after submitting such additional information or documentary material. Early termination of the waiting periods in this Paragraph IX may be requested and, where appropriate, granted by letter from the Bureau of Competition. *PROVIDED, HOWEVER*, that prior notification shall not be required by this Paragraph IX for a transaction for which Notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. § 18a.

X. Compliance

IT IS FURTHER ORDERED that:

A. Respondents shall:

1. Notify Commission staff via email at bccompliance@ftc.gov of the Acquisition Date and of the Divestiture Date no later than 5 days after the occurrence of each; and

2. Submit the complete Divestiture Agreement to the Commission at ElectronicFilings@ftc.gov and bccompliance@ftc.gov no later than 30 days after the Divestiture Date.

B. Respondent Agnaten shall file verified written reports ("compliance reports") in accordance with the following:

1. Respondents shall submit interim compliance reports 30 days after the Order is issued, and every 60 days thereafter until Respondents have fully complied with the provisions of Paragraph II and Paragraph V (where applicable); annual compliance reports one year after the date this Order is issued, and annually for the next 5 years on the anniversary of that date;

and additional compliance reports as the Commission or its staff may request;

2. Each compliance report shall contain sufficient information and documentation to enable the Commission to determine independently whether Respondents are in compliance with the Order. Conclusory statements that Respondents have complied with their obligations under the Order are insufficient. Respondents shall include in their reports, among other information or documentation that may be necessary to demonstrate compliance:

   a. a full description of the measures Respondents have implemented or plan to implement to ensure that they have complied or will comply with each paragraph of the Order; and

   b. an identification of any and every Relevant Employee hired by Respondents, including a detailed explanation as to why hiring that Relevant Employee does not violate this Order.

3. Respondent Agnaten shall retain all material written communications with each party identified in the compliance report and all non-privileged internal memoranda, reports, and recommendations concerning fulfilling Respondent's obligations under the Order and provide copies of these documents to Commission staff upon request.

4. Respondent Agnaten shall verify each compliance report in the manner set forth in 28 U.S.C. § 1746 by the Chief Executive Officer or another officer or employee specifically authorized to perform this function. Respondent shall submit an original and 2 copies of each compliance report as required by Commission Rule 2.41(a), 16 C.F.R. § 2.41(a), including a paper original submitted to the Secretary of the Commission and electronic copies to the Secretary at ElectronicFilings@ftc.gov and to the Compliance Division at bccompliance@ftc.gov. In addition, Respondent shall provide a copy of each compliance report to the Monitor if the Commission has appointed one in this matter.

XI. Change in Respondents

IT IS FURTHER ORDERED that Respondent Agnaten shall notify the Commission at least 30 days prior to:

A. Any proposed dissolution of Agnaten SE;

B. Any proposed acquisition, merger, or consolidation of Agnaten SE; and

C. Any other change in Respondent Agnaten including, but not limited to,

assignment and the creation or dissolution of subsidiaries, if such change may affect compliance obligations arising out of this Order.

XII. Access

IT IS FURTHER ORDERED that, for purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request and upon 5 days' notice to the applicable Respondent made to its principal United States offices, registered office of their United States subsidiaries, or headquarters addresses, such Respondent shall, without restraint or interference, permit any duly authorized representative of the Commission:

A. Access, during business office hours of such Respondent and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and all other records and documents in the possession or under the control of such Respondent related to compliance with this Order, which copying services shall be provided by such Respondent at the request of the authorized representative(s) of the Commission and at the expense of such Respondent; and

B. The opportunity to interview officers, directors, or employees of such Respondent, who may have counsel present, related to compliance with this Order.

XIII. Term

IT IS FURTHER ORDERED that this Order shall terminate on April 9, 2030.

By the Commission.

April J. Tabor
Acting Secretary

SEAL

ISSUED : April 9, 2020

APPENDIX A
No-Hire Areas

- REACH Veterinary Specialists area:
  - Buncombe, North Carolina
  - Greenville, South Carolina
  - Haywood, North Carolina
  - Henderson, North Carolina
  - Jackson, North Carolina
  - Madison, North Carolina
  - Mcdowell, North Carolina
  - Polk, North Carolina
  - Rutherford, North Carolina
  - Transylvania, North Carolina
  - Yancey, North Carolina

- The Veterinary Referral Center area:
  - Alexandria City, Virginia
  - Arlington County, Virginia
  - Fairfax County, Virginia
  - Fairfax City, Virginia
  - Falls Church City, Virginia
  - Fauquier County, Virginia
  - Loudoun County, Virginia
  - Manassas City, Virginia
  - Manassas Park City, Virginia
  - Prince William County, Virginia
  - Spotsylvania County, Virginia
  - Stafford County, Virginia

- The Veterinary Care Center area:
  - Bergen County, New Jersey
  - Bronx County, New York
  - Dutchess County, New York
  - Essex County, New Jersey
  - Fairfield County, Connecticut
  - Hartford County, Connecticut
  - Hudson County, New Jersey
  - Litchfield County, Connecticut
  - Middlesex County, Connecticut
  - Nassau County, New York
  - New Haven County, Connecticut
  - New York County, New York

- Orange County, New York
- Passaic County, New Jersey
- Putnam County, New York
- Rockland County, New York
- Suffolk County, New York
- Westchester County, New York

NON-PUBLIC APPENDIX B
Relevant Notice Areas

APPENDIX C
Monitor Agreement

NON-PUBLIC APPENDIX D
Monitor Compensation

NON-PUBLIC APPENDIX E
Divestiture Agreements