

**THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION. IF YOU ARE IN ANY DOUBT ABOUT THE OFFER, THE CONTENTS OF THIS DOCUMENT OR THE ACTION YOU SHOULD TAKE, YOU ARE RECOMMENDED TO SEEK YOUR OWN INDEPENDENT FINANCIAL ADVICE FROM A STOCKBROKER, BANK MANAGER, SOLICITOR, ACCOUNTANT OR OTHER INDEPENDENT FINANCIAL ADVISER AUTHORISED UNDER THE FINANCIAL SERVICES AND MARKETS ACT 2000. IF YOU ARE OUTSIDE THE UNITED KINGDOM YOU SHOULD IMMEDIATELY CONSULT AN APPROPRIATELY AUTHORISED INDEPENDENT FINANCIAL ADVISER.**

If you have sold or otherwise transferred all your hVIVO Shares, please send this document and the accompanying documents (but not the accompanying Form of Acceptance), as soon as possible, to the purchaser or transferee or to the stockbroker, bank or other agent through whom the sale or transfer was effected for delivery to the purchaser or transferee. If you have sold or transferred only part of your holding of hVIVO Shares, you should retain these documents and consult the stockbroker, bank manager or other agent through whom the sale or transfer was effected. However, neither this document nor the Form of Acceptance should be distributed, forwarded or transmitted in or into any jurisdiction in which such an act would constitute a violation of the relevant laws in such jurisdiction.

The distribution of this document or the Form of Acceptance in or into jurisdictions other than the United Kingdom may be restricted by the laws of those jurisdictions and therefore persons into whose possession this document comes should inform themselves about, and observe, any such restrictions. Failure to comply with any such restrictions may constitute a violation of the securities laws of any such jurisdiction.

Application will be made for the Enlarged Open Orphan Share Capital to be admitted to trading on AIM. It is expected that, subject to the satisfaction of certain conditions, Admission will become effective and trading in the New Open Orphan Shares will commence at 8.00 a.m. on 17 January 2020. The issue of the New Open Orphan Shares is subject, *inter alia*, to the passing of the Merger Resolutions to be proposed at the Open Orphan General Meeting.

This document should be read in conjunction with the accompanying Admission Document dated 9 December 2019 relating to Open Orphan and the New Open Orphan Shares.

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## **Recommended All-Equity Offer**

for

### **Open Orphan plc**

to merge with

### **hVIVO plc**

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**hVIVO Shareholders should carefully read the whole of this document and the information incorporated by reference. In particular, your attention is drawn to the letter from the Senior Independent hVIVO Director which is set out in Part I of this document and which contains, *inter alia*, the recommendation of the Independent hVIVO Directors to accept the Offer.**

**THE PROCEDURE FOR ACCEPTANCE OF THE OFFER IS SET OUT ON PAGES 54 TO 57 OF THIS DOCUMENT AND, IN RESPECT OF hVIVO SHARES IN CERTIFICATED FORM, IN THE ACCOMPANYING FORM OF ACCEPTANCE. IF YOU HOLD hVIVO SHARES IN CERTIFICATED FORM THEN, TO ACCEPT THE OFFER, THE FORM OF ACCEPTANCE MUST BE COMPLETED AND RETURNED AS SOON AS POSSIBLE AND, IN ANY EVENT, SO AS TO BE RECEIVED BY EQUINITI BY POST AT CORPORATE ACTIONS, ASPECT HOUSE, SPENCER ROAD, LANCING, WEST SUSSEX, BN99 6DA NO LATER THAN 1.00 P.M. (LONDON TIME) ON 30 DECEMBER 2019.**

**IF YOU HOLD hVIVO SHARES IN UNCERTIFICATED FORM THEN, TO ACCEPT THE OFFER, YOU SHOULD COMPLY WITH THE PROCEDURE FOR ACCEPTANCE SET OUT ON PAGES 16 TO 17 OF THIS DOCUMENT AND ENSURE THAT ACCEPTANCE IS MADE ELECTRONICALLY THROUGH CREST SO THAT THE TTE INSTRUCTION SETTLES NO LATER THAN 1.00 P.M. (LONDON TIME) ON 30 DECEMBER 2019. IF YOU ARE A CREST SPONSORED MEMBER, YOU MUST REFER TO YOUR CREST SPONSOR BEFORE TAKING ANY ACTION AS ONLY YOUR CREST SPONSOR WILL BE ABLE TO SEND THE NECESSARY TTE INSTRUCTIONS TO EUROCLEAR.**

Arden Partners plc, which, in the United Kingdom, is authorised and regulated by the Financial Conduct Authority, is acting exclusively for Open Orphan and no one else in connection with the Offer and will not be responsible to anyone other than Open Orphan for providing the protections afforded to clients of Arden nor for providing advice in relation to the Offer or any other matter or arrangement referred to in this document.

MCF Ltd, which, in the United Kingdom, is authorised and regulated by the Financial Conduct Authority, is acting exclusively for hVIVO and no one else in connection with the Offer and will not be responsible to anyone other than hVIVO for providing the protections afforded to clients of MCF nor for providing advice in relation to the Offer or any other matter or arrangement referred to in this document.

Numis Securities plc which, in the United Kingdom, is authorised and regulated by the Financial Conduct Authority, is acting exclusively for hVIVO and no one else in connection with this document and the matters referred to herein and will not be responsible to anyone other than hVIVO for providing the protections afforded to clients of Numis Securities plc nor for providing advice in relation to the contents of this document and the matters referred to herein.

## **IMPORTANT NOTICE**

The release, publication or distribution of this document in jurisdictions other than the United Kingdom may be restricted by law and therefore persons into whose possession this document comes should inform themselves about, and observe, any applicable restrictions or requirements. Any failure to comply with such restrictions may constitute a violation of the securities laws of any such jurisdiction. To the fullest extent possible, the companies involved in the Offer disclaim any responsibility or liability for the violation of such requirements by any person.

This document has been prepared for the purposes of complying with English law, the Code, the Rules of the London Stock Exchange and the AIM Rules and the information disclosed may not be the same as that which would have been disclosed if this document had been prepared in accordance with the laws and regulations of any jurisdiction outside England and Wales.

This document and the accompanying documents do not constitute an offer or form part of any offer or an invitation to purchase, subscribe for, sell or issue, any securities or a solicitation of any offer to purchase, subscribe for, sell or issue any securities pursuant to this document or otherwise in any jurisdiction in which such offer or solicitation is unlawful. This document does not comprise a prospectus or a prospectus equivalent document.

The statements contained herein are made as at the date of this document, unless some other time is specified in relation to them, and service of this document shall not give rise to any implication that there has been no change in the facts set forth herein since such date.

## **CAUTIONARY NOTE REGARDING FORWARD LOOKING STATEMENTS**

This document, including certain information incorporated by reference, contains certain forward-looking statements with respect to the financial condition, results of operations and business of Open Orphan or the Open Orphan Group and hVIVO or the hVIVO Group and certain plans and objectives of the hVIVO Board and the Open Orphan Board. These forward-looking statements can be identified by the fact that they do not relate to historical or current facts. Forward-looking statements often use words such as “anticipate”, “target”, “expect”, “estimate”, “intend”, “plan”, “goal”, “believe”, “will”, “may”, “should”, “would”, “could” or other words of similar meaning. These statements are based on assumptions and assessments made by the hVIVO Board and the Open Orphan Board in the light of their experience and their perception of historical trends, current conditions, expected future developments and other factors they believe appropriate. By their nature, forward-looking statements involve risk and uncertainty and the factors described in the context of such forward-looking statements in this document could cause actual results and developments to differ materially from those expressed in or implied by such forward-looking statements.

Should one or more of these risks or uncertainties materialise, or should underlying assumptions prove incorrect, actual results may vary materially from those described in this document. Except as required by the FCA, the London Stock Exchange, the AIM Rules, the Code or any other applicable law, hVIVO and Open Orphan assume no obligation to update or correct the information contained in this document.

## **INFORMATION FOR OVERSEAS SHAREHOLDERS**

The release, publication or distribution of this document in certain jurisdictions may be restricted by law. Persons who are not resident in the United Kingdom or who are subject to other jurisdictions should inform themselves of, and should observe, any applicable requirements. Any failure to comply with these requirements may constitute a violation of the securities laws of any such jurisdiction. To the fullest extent permitted by applicable law, the companies and persons involved in the Offer disclaim any responsibility or liability for the violation of such requirements by any person.

Unless otherwise determined by Open Orphan or required by the Code, and permitted by applicable law and regulation, the Offer will not be made, directly or indirectly, in, into or from a jurisdiction where to do so would violate the laws in that jurisdiction and no person may accept the Offer by any such use, means, instrumentality or form within any jurisdiction if to do so would constitute a violation of the laws of that jurisdiction. Accordingly, copies of this document and all documents relating to the Offer are not being, and must not be, directly or indirectly, mailed or otherwise forwarded, distributed or sent in, into or from a jurisdiction where to do so would violate the laws in that jurisdiction, and persons receiving

this document and all documents relating to the Offer (including custodians, nominees and trustees) must not mail or otherwise distribute or send them in, into or from such jurisdictions where to do so would violate the laws in that jurisdiction.

The availability of the New Open Orphan Shares to hVIVO Shareholders who are not resident in the United Kingdom may be affected by the laws of the relevant jurisdictions in which they are located. Persons who are not resident in the United Kingdom should inform themselves of, and observe, any applicable requirements.

### **NO PROFIT FORECASTS OR ESTIMATES OR QUANTIFIED FINANCIAL BENEFITS STATEMENTS**

No statement in this document is intended as a profit forecast or estimate for any period or a quantified financial benefit statement and no statement in this document should be interpreted to mean that earnings or earnings per share for Open Orphan or hVIVO, as appropriate, for the current or future financial years would necessarily match or exceed the historical published earnings or earnings per share for Open Orphan or hVIVO, as appropriate.

### **DISCLOSURE REQUIREMENTS OF THE CODE**

Under Rule 8.3(a) of the Code, any person who is interested in 1 per cent. or more of any class of relevant securities of an offeree company or of any securities exchange offeror (being any offeror other than an offeror in respect of which it has been announced that its offer is, or is likely to be, solely in cash) must make an Opening Position Disclosure following the commencement of the offer period and, if later, following the announcement in which any securities exchange offeror is first identified. An Opening Position Disclosure must contain details of the person's interests and short positions in, and rights to subscribe for, any relevant securities of each of (i) the offeree company and (ii) any securities exchange offeror(s). An Opening Position Disclosure by a person to whom Rule 8.3(a) applies must be made by no later than 3.30 p.m. (London time) on the 10th business day following the commencement of the offer period and, if appropriate, by no later than 3.30 p.m. (London time) on the 10th business day following the announcement in which any securities exchange offeror is first identified. Relevant persons who deal in the relevant securities of the offeree company or of a securities exchange offeror prior to the deadline for making an Opening Position Disclosure must instead make a Dealing Disclosure.

Under Rule 8.3(b) of the Code, any person who is, or becomes, interested in 1 per cent. or more of any class of relevant securities of the offeree company or of any securities exchange offeror must make a Dealing Disclosure if the person deals in any relevant securities of the offeree company or of any securities exchange offeror. A Dealing Disclosure must contain details of the dealing concerned and of the person's interests and short positions in, and rights to subscribe for, any relevant securities of each of (i) the offeree company and (ii) any securities exchange offeror, save to the extent that these details have previously been disclosed under Rule 8. A Dealing Disclosure by a person to whom Rule 8.3(b) applies must be made by no later than 3.30 p.m. (London time) on the business day following the date of the relevant dealing.

If two or more persons act together pursuant to an agreement or understanding, whether formal or informal, to acquire or control an interest in relevant securities of an offeree company or a securities exchange offeror, they will be deemed to be a single person for the purpose of Rule 8.3.

Opening Position Disclosures must also be made by the offeree company and by any offeror and Dealing Disclosures must also be made by the offeree company, by any offeror and by any persons acting in concert with any of them (see Rules 8.1, 8.2 and 8.4).

Details of the offeree and offeror companies in respect of whose relevant securities Opening Position Disclosures and Dealing Disclosures must be made can be found in the Disclosure Table on the Takeover Panel's website at [www.thetakeoverpanel.org.uk](http://www.thetakeoverpanel.org.uk), including details of the number of relevant securities in issue, when the offer period commenced and when any offeror was first identified. You should contact the Panel's Market Surveillance Unit on +44 (0)20 7638 0129 if you are in any doubt as to whether you are required to make an Opening Position Disclosure or a Dealing Disclosure.

## **ELECTRONIC COMMUNICATIONS**

hVIVO Shareholders should note that addresses, electronic addresses and certain other information provided by them, persons with information rights and other relevant persons for the receipt of communications from hVIVO may be provided to Open Orphan during the Offer Period as required under section 4 of appendix 4 to the Code to comply with Rule 2.11(c) of the Code.

## **PUBLICATION ON WEBSITES AND AVAILABILITY OF HARD COPIES**

In accordance with Rule 26.1 of the Code, a copy of this document and the information incorporated by reference in this document, subject to certain restrictions relating to Restricted Overseas Shareholders, will be published on the websites of hVIVO and Open Orphan respectively in each case promptly following the publication of this document and in any event by no later than 12 noon on the business day following the publication of this document until the end of the Offer Period (or, if later, the end of any competition reference period).

For the avoidance of doubt, the content of the websites referred to above is not incorporated into and does not form part of this document.

Copies of this document, the information incorporated by reference in this document, and all future documents, announcements and information required to be sent to persons in relation to the Offer may be requested to be received by such persons in hard copy form by writing to Equiniti Limited at Corporate Actions, Aspect House, Spencer Road, Lancing BN99 6DA or by calling telephone number 0371 384 2050 (from within the UK) or +44 121 415 0259 (from outside the UK) between 8.30 a.m. and 5.30 p.m., Monday to Friday (excluding public holidays in England and Wales).

## **INCORPORATION OF INFORMATION BY REFERENCE INTO THIS DOCUMENT**

The following information in the following documents is incorporated by reference into this document:

<b>Information incorporated by reference</b>	<b>Page number(s) in the reference document (if not whole document)</b>
hVIVO interim statements for the 6 months ended 30 June 2019.	
hVIVO financial statements for the year ended 31 December 2018.	42-76
hVIVO financial statements for the year ended 31 December 2017.	32-62
Open Orphan interim statements for the 6 months ended 30 June 2019.	
Open Orphan financial statements for the year ended 31 December 2018.	17-54
Open Orphan financial statements for the year ended 31 December 2017.	17-53

This information is available on [www.hVIVO.com](http://www.hVIVO.com) and [www.openorphan.com/](http://www.openorphan.com/). To obtain a hard copy of any of the information listed above as having been incorporated by reference into this document contact the Open Orphan offices on +353 1 644 0007. You will not receive a hard copy of this information unless you so request. You may also inform Open Orphan that you wish all future documents, announcements and information in relation to the Offer be sent to you in hard copy.

## **ROUNDING**

Certain figures included in this document have been subjected to rounding adjustments. Accordingly, figures shown for the same category presented in different tables may vary slightly and figures shown as totals in certain tables may not be an arithmetic aggregation of the figures that precede them.

## **DOCUMENT DATE**

This document is dated 9 December 2019.

## **ACTION TO BE TAKEN TO ACCEPT THE OFFER**

The procedure for acceptance of the Offer is set out in paragraph 18 of the letter in Part II of this document.

1. If you hold hVIVO Shares in certificated form (i.e. not in CREST) to accept the Offer you must:
  - (A) complete, sign and return the Form of Acceptance in accordance with paragraph 9(a) of the letter in Part II of this document and the instructions printed thereon; and
  - (B) return the completed Form of Acceptance (with relevant share certificate(s) and/or other document(s) of title) by post to Equiniti Limited at Corporate Actions, Aspect House, Spencer Road, Lancing BN99 6DA, as soon as possible, and in any event so as to be received no later than 1.00 p.m. (London time) on 30 December 2019. A reply paid envelope has been enclosed for your convenience.
2. If you hold hVIVO Shares in uncertificated form (i.e. in CREST), to accept the Offer you must take (or procure the taking of the action) set out in paragraph 16 of the letter in Part I of this document to transfer the hVIVO Shares in respect of which you wish to accept the Offer to the appropriate escrow balance(s) as soon as possible and in any event so that the TTE Instruction settles not later than 1.00 p.m. (London time) on 30 December 2019. If you are a CREST sponsored member, you should refer to your CREST sponsor before taking any action.

**If you have any questions about the Offer, or are in any doubt as to how to complete the accompanying Form of Acceptance or make an Electronic Acceptance, please call Equiniti Limited on telephone number 0371 384 2050 (or +44 121 415 0259 from outside of the UK) on Monday to Friday (excluding public holidays in England and Wales). This helpline is available from 8.30 a.m. to 5.30 p.m.**

**For legal reasons, the helpline will not be able to provide advice on the merits of the Offer or to provide financial, legal or tax advice.**

**Copies of this document (and any information incorporated into it by reference to another source) sent to persons in electronic form or by means of being published on Open Orphan's and/or hVIVO's websites and all future documents, announcements and information required to be sent to persons in relation to the Offer may be requested to be received by such persons in hard copy form by writing to Equiniti Limited, Corporate Actions, Aspect House, Spencer Road, Lancing BN99 6DA or by calling Equiniti Limited on telephone number 0371 384 2050 (or +44 121 415 0250 from outside of the UK) on Monday to Friday (excluding public holidays in England and Wales). A hard copy of this document will not otherwise be sent unless so requested.**

**Calls are charged at the standard geographic rate and will vary by provider. Calls to the helpline from outside the United Kingdom will be charged at the applicable international rate. The helpline is open between 8.30 a.m. and 5.30 p.m. (London time) Monday to Friday, excluding public holidays in England and Wales. Different charges may apply to calls from mobile telephones and calls may be recorded and randomly monitored for security and training purposes. Please note that, for legal reasons, the Receiving Agent will only be able to provide you with information contained in this document and will be unable to give advice on the merits of the Offer nor give any financial, legal or tax advice on the contents of this document.**

**THE FIRST CLOSING DATE OF THE OFFER IS 30 DECEMBER 2019**

**ACCEPTANCE OF THE OFFER SHOULD BE RECEIVED BY NO LATER THAN 1.00 PM.  
(LONDON TIME) on 30 DECEMBER 2019**

You should carefully read the whole of this document, including any documents incorporated into it by reference, and the accompanying Form of Acceptance, the terms of which are deemed to form part of the Offer. Your attention is drawn to the letter from the Senior Independent Director set out in Part I of this document, which contains the unanimous recommendation of the Independent hVIVO Directors to accept the Offer.

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## EXPECTED TIMETABLE OF PRINCIPAL EVENTS

Announcement of the Offer	9 December 2019
Posting to hVIVO Shareholders of this document, the Admission Document and the Form of Acceptance	9 December 2019
Posting of the Circular, the Form of Proxy and the Admission Document to Open Orphan Shareholders	9 December 2019
First closing time and date of the Offer	1.00 p.m. on 30 December 2019
Time and date of the Open Orphan General Meeting	11.00 a.m. on 6 January 2020
Earliest date on which the Offer is expected to become or be declared unconditional in all respects	17 January 2020
Admission of the Enlarged Open Orphan Share Capital to trading on AIM expected to become effective and dealings expected to commence in the Enlarged Open Orphan Share Capital on AIM*	8.00 a.m. on 17 January 2020
CREST accounts expected to be credited in respect of New Ordinary Shares (where applicable)*	8.00 a.m. on 31 January 2020
Date by which certificates in respect of New Ordinary Shares are expected to be despatched (where applicable)*	By the week commencing 3 February 2020

\* assuming that the Offer becomes unconditional as to acceptances on the First Closing Date

## PART I

### LETTER OF RECOMMENDATION FROM THE SENIOR INDEPENDENT DIRECTOR OF hVIVO

*(Incorporated in England and Wales under the Companies Act 2006 with registered number 08008725)*

*Independent Directors:*

Trevor Nicholls  
James Winschel

*Registered office:*

Queen Mary BioEnterprises Innovation Centre  
42 New Road  
London  
E1 2AX

9 December 2019

*To hVIVO Shareholders and, for information only, to holders of options under the hVIVO Share Schemes and persons with information rights*

Dear hVIVO Shareholder,

#### **Recommended offer for hVIVO by Open Orphan**

##### **1. Introduction**

On 9 December 2019, it was announced that the Open Orphan Board and the hVIVO Board had reached agreement on the terms of a recommended offer to be made by Open Orphan for the entire issued and to be issued share capital of hVIVO plc (the “Offer”).

The Offer is classified as a reverse takeover for Open Orphan under the AIM Rules and will therefore require the approval of the Open Orphan Shareholders at the Open Orphan General Meeting.

This document explains the background to the Offer and the reasons why the Independent hVIVO Directors, following advice from MCF as to the financial terms of the Offer, consider the Offer to be fair and reasonable and unanimously recommend that you accept the Offer in respect of all your hVIVO Shares. In providing advice to the hVIVO Board, MCF has taken into account the commercial assessments of the Independent hVIVO Directors. MCF is providing independent financial advice to the Independent hVIVO Directors for the purposes of Rule 3 of the Code.

Details of the actions you should take and the recommendation of the Independent hVIVO Directors are set out in paragraphs 16 and 18 respectively of this Part I.

##### **2. Responsibility for considering the Offer**

In view of the proposed incentive arrangements outlined in paragraph 7 of this letter, Trevor Phillips has taken no part in the decision to recommend the Offer and, in view of his interest in the share capital of Open Orphan as outlined in paragraph 3.6 of Part VII of this document, Mark Warne has taken no part in the decision to recommend the Offer. The Independent hVIVO Directors, who have taken responsibility for considering the terms of the Offer, have no interest in Open Orphan and are not connected with Open Orphan. The Independent hVIVO Directors will resign as directors of hVIVO upon the Offer becoming or being declared unconditional in all respects.

##### **3. Summary terms of the Offer**

Under the terms of the Offer, which is subject to the satisfaction (or where applicable, waiver) of the conditions and further terms set out in Part III of this document and the accompanying Form of Acceptance, hVIVO Shareholders will be entitled to receive:

#### **2.47 new Open Orphan Shares for every 1 hVIVO Share**

- The exchange ratio of New Open Orphan Shares to hVIVO Shares has been determined by reference to the average daily volume weighted average price over the 90 days to 3 December 2019 for each of hVIVO and Open Orphan.



- The Offer represents a value of approximately 15.56 pence per Share representing:
  - a premium of 33.8 per cent. to the hVIVO Closing Price on 6 December 2019, being the latest practicable date prior to the Announcement, and
  - a premium of 15.6 per cent. to the 30 day volume weighted average price per hVIVO Share as at close of business on 6 December 2019, being the latest practicable date prior to the Announcement.

The Offer values each hVIVO Share at approximately 15.56 pence and hVIVO's existing issued and to be issued share capital at approximately £12.96 million.

Fractions of New Open Orphan Shares will not be allotted and issued to hVIVO Shareholders pursuant to the Offer and shall be disregarded.

Assuming that a maximum number of 205,489,715 New Open Orphan Shares are issued pursuant to the Offer, hVIVO Shareholders will hold New Open Orphan Shares representing approximately 44.67 per cent. of the Enlarged Open Orphan Share Capital.

If any dividend or other distribution or return of value is proposed, declared, made, paid or becomes payable by hVIVO in respect of the hVIVO Shares on or after the date of the Announcement, Open Orphan will have the right to reduce the value of the consideration payable for each hVIVO Share by up to the amount per hVIVO Share of such dividend, distribution or return of value.

#### **4. Background to and reasons for the Offer**

Open Orphan and hVIVO are AIM-quoted groups that share a similar vision for the future of European Clinical Research Organisations (“CRO”) and an entrepreneurial approach to further developing their business through a focus on operational efficiency, organic growth and targeted acquisitions to expand geographic and service capabilities.

The Open Orphan Directors believe that the European CRO sector is fragmented and following the re-admission of Open Orphan in June 2019, have been reviewing the market for opportunities to expand the Open Orphan Group's service suite and unlock cross-selling opportunities to drive revenue, EBITDA and EBITDA margin growth. The merger of Open Orphan and Venn Life Sciences positioned the Open Orphan Group as a specialist CRO with a focus on the orphan drug sector and supporting product development for global customers. The Open Orphan Directors believe that the hVIVO human challenge study and laboratory services expertise complements the Open Orphan services and enhances the Enlarged Group's service offering while maintaining a specialist capability in discrete competencies where the Enlarged Group's expertise can offer a competitive advantage with potential for cross-selling of complementary services.

#### ***Offer Synergies***

The Open Orphan Directors and the hVIVO Directors believe that the combination of the businesses will result in synergies across the Enlarged Group with each business providing complementary services with limited overlap in existing capabilities and customers. It is anticipated that the benefits to both hVIVO and Open Orphan of the merger will include:

##### ***i. Complementary broader in-house clinical service offering***

Both hVIVO and Open Orphan supplement their primary service offerings through the use of external third party subcontractors. On completion of the Offer, it is expected that a significant proportion of these subcontracted services could be fulfilled by resource and expertise within the Enlarged Group.

The Directors of Open Orphan and hVIVO have identified a number of areas where enhanced co-operation can support each group's market position and service proposition. Complementary broader in-house clinical trial service offerings include:

- data management, statistics, medical writing, regulatory and project management, which are sub-contracted either in part, or in full, by hVIVO and where Open Orphan has significant expertise; and

- a proportion of the Phase I studies, including laboratory services, currently sub-contacted by Open Orphan but that are capable of being run at the hVIVO facility in London.

In addition to complementary services, the Directors also believe that the Enlarged Group will benefit from an enlarged sales and marketing team and a broader services base to market to both new and existing customers.

**ii. *Opportunity to increase margins and service revenues***

The broader service offerings are expected to increase the overall utilisation of resources across the Enlarged Group. Both Open Orphan and hVIVO outsource certain services to third parties. Certain of these outsourced services are capable of being provided from within the Enlarged Group thereby increasing the overall operational efficiency. This could result in revenues retained by the Enlarged Group and not disbursed to subcontractors. The use of integrated resources is also expected to enhance the service proposition to be offered to customers through one-stop-shop clinical trial service solutions.

**iii. *Expanded capability offering***

In addition to the complementary broader in-house service offerings provided by each group, the Directors believe that there is an opportunity for the Enlarged Group to strengthen customer relationships and cross-sell an expanded capability offering. Phase two field studies are currently beyond the hVIVO capability, the commissioning of phase two field studies for vaccines and antiviral products could be undertaken by the Enlarged Group, using Open Orphan's project management and monitoring capabilities and hVIVO's laboratory services, following the successful completion of human challenge studies. Laboratory services, typically required to support Phase two clinical trials managed by Open Orphan, could also be undertaken at hVIVO's laboratory facilities.

**iv. *Commercialisation of hVIVO database through the Open Orphan platform***

Open Orphan has invested significant resources in developing its health data platform to facilitate drug research and patient access to specialist drugs. The Open Orphan Directors believe the viral induced disease development data and genomic data, created and owned by hVIVO can be further utilised to accelerate the commercialisation of its viral challenge models and supplement existing orphan disease genomic data being developed by Open Orphan.

**v. *Operating synergies***

The Open Orphan Directors believe that the Enlarged Group will benefit from cost savings as duplicative functions and systems are rationalised and the Enlarged Group realises benefits of increased scale. Cost synergies are expected to include:

- consolidation of the central support functions into the London headquarters of hVIVO;
- consolidation of IT and enterprise systems across the two businesses;
- removal of duplicative public company and advisor costs; and
- reorganisation of management functions and roles.

**5. *Information on hVIVO***

hVIVO was established in 1989 as a spin-out from Queen Mary University, London, and is a clinical development services business pioneering human disease models based upon viral challenge. Using human challenge studies to establish early proof-of-concept, hVIVO's clinical trial platform can accelerate drug and vaccine development in respiratory and infectious diseases. hVIVO has leveraged its insights in established human disease challenge models in influenza ("Flu"), respiratory syncytial virus ("RSV") and human rhinovirus ("HRV") to expand the use of viral challenge in additional respiratory indications including asthma, chronic obstructive pulmonary disease ("COPD") and cough and in special populations. hVIVO currently employs around 112 people.

hVIVO has over 15 years' experience conducting and analysing human models of disease, challenging both healthy volunteers and patients with Flu, RSV or HRV. As a result, hVIVO has established extensive expertise in:

- virology; and
- virus production, viral challenge and host response related to viral insult in particular.

The hVIVO human challenge models and expertise provide disease insights enabling early indications of efficacy of new products; and identification of key biological traits of patients who respond to a novel therapy.

In addition to the full-service human challenge models in infectious and respiratory diseases, hVIVO is able to provide complementary laboratory services.

The hVIVO Group's depth of insight into the design, execution and analysis of viral challenge models has created a wealth of expertise that is invaluable to companies seeking to develop new products targeting Flu, RSV, HRV, cough, asthma and COPD.

### **Challenge Models**

#### *Infectious Diseases*

Within infectious diseases hVIVO has established challenge models for Flu, HRV and RSV. hVIVO's human challenge studies support the development of new-generation vaccines and treatments including antivirals and immunomodulators. Challenge models can provide early evidence of proof-of-principle in humans for new products, enabling companies to proceed with confidence into larger Phase II and Phase III field trials.

hVIVO has been studying influenza for over 20 years and conducting influenza human challenge studies with its Flu disease models for more than 15 years. The company has conducted numerous Flu challenge studies for a range of industry, governmental and academic customers, making the hVIVO models among the most well-used commercial Flu disease models available on the market.

hVIVO has also established one of the only validated RSV challenge models commercially available to customers and it has also been heavily utilised by companies seeking to understand if their therapy is effective against RSV.

#### *Respiratory Diseases*

The hVIVO Directors believe that the challenge model is not only helpful as a proof-of-concept for the effectiveness of agents directed at the viruses, but also as proof-of-mechanism for novel products in diseases where respiratory viruses are known to induce exacerbations. hVIVO has expanded its offering into airways diseases such as asthma, cough and COPD and has created a viral model using HRV to induce exacerbations and acute cough. These expanded services offerings have the potential to provide hVIVO with additional revenue streams.

### **Laboratory Services**

During the clinical trials, conducted at hVIVO's 24 bed clinical facility, many of the samples taken from volunteers, including blood and nasal swabs, will be processed in their dedicated laboratory facilities. Consolidating biomarker analysis to a single source lab can reduce time and costs throughout development programmes and is an opportunity for the expansion of services to support samples generated from field studies.

Reliable laboratory analysis underpinned by scientific expertise is essential when processing and analysing clinical samples. Robust quality processes support the team of scientists in the delivery of submission-ready data. The specialist virology laboratory services are also utilised by customers for analysis of samples generated independently of challenge studies undertaken with the hVIVO Group.

### **Development Assets**

#### *Imutex Limited ("Imutex")*

hVIVO is a minority partner in Imutex, a joint venture with SEEK Group to support the development of new vaccine candidates. The joint venture was formed in 2016 under the previous management of hVIVO and represented a departure from the historical and now current strategy of services provision

for third party client product development. These vaccines remain in clinical development and accordingly there is no guarantee of future revenue. The potential total costs and time to commercialisation remains unknown at this stage.

The lead candidate FLU-v has achieved positive Phase II data and is regarded as a licensable asset. Imutex continues to explore options for the FLU-v vaccine programme and has engaged in multiple business development discussions, some of which are still active. Imutex is also establishing schedules for meetings with key regulatory authorities, FDA and EMEA, where it hopes to gain further insight into some of the key areas of interest expressed by potential partners.

The historical cost of investment in Imutex is held on the balance sheet however it is not utilised in the hVIVO Group's operations. hVIVO contributes management oversight over the future direction of the development of the vaccine candidates, but makes no capital investment to the ongoing development work undertaken by the joint venture.

#### *PrEP Biopharm Limited ("PrEP Biopharm")*

hVIVO has an equity investment in PrEP Biopharm which holds the PrEP-001 asset, a novel pan-viral prophylactic in development. The management of PrEP Biopharm continue to plan for the future development of PrEP-001. However, in 2018 hVIVO performed an impairment assessment and determined that a full impairment of the carrying amount of the investment in PrEP Biopharm was required due to consideration of the economic performance of this asset. The impairment of hVIVO's investment in PrEP Biopharm was not an indication or an opinion on the utility of PrEP-001 but recognising that further development will need additional investment and this was no longer part of the hVIVO's re-focussed business model.

#### **Current Strategy and Restructuring**

During the year ended 31 December 2018, there were a number of senior management changes at hVIVO following which the current senior management instigated a review of the business and strategy. This resulted in a refocussed business model centred on the provision of human challenge study services and reset strategic priorities to the provision of clinical development services. As part of the review, hVIVO undertook measures to ensure the business is better placed to operate efficiently, maximise revenue growth opportunities and begin a transition to cash-generation and sustainable profitability. This resulted in a significant reduction in administrative expenses driven by headcount reductions and process improvements, and R&D expenses primarily due to discontinuing its discovery activities and instead focussing resources on the enhancement of the hVIVO challenge services including new virus manufacture and biomarker assay development. This process continued during 2019 with the implementation of the hVIVO management's strategy expected to continue into 2020. Up to 30 June 2019, this has resulted in annualised cost savings of approximately £11 million compared to 2017.

#### **Broadened Service Offerings**

In addition to reducing the cost base, the new management has implemented a number of key actions to enhance the breadth of revenue opportunities through the addition of new services:

- Phase I studies
- Extended leading position in RSV
- Respiratory models
- Laboratory services extended

These actions are expected to increase the long term sustainability of the hVIVO Group and its growth potential.

**Your attention is drawn to the financial information in respect of hVIVO contained in Part V of this document.**

#### **6. Information on Open Orphan**

Open Orphan DAC was founded in July 2017, and acquired AIM-listed Venn Life Sciences on 28 June 2019 in a reverse takeover. Following completion of the reverse takeover, Venn Life Sciences changed

its name to Open Orphan plc and has pursued a strategy to develop a market-leading European services platform for pharmaceutical and biotech companies with a focus upon orphan drugs. The Open Orphan Directors believe that the market in Europe is fragmented with half of the European pharma services sector made up of large CRO consultancies, but the remainder consisting of a dispersed group of smaller consultancies and that there is an opportunity to pursue a consolidator-based strategy utilising the Open Orphan Group's publicly quoted equity.

The pharmaceutical services being provided by Open Orphan to its large pharma customers include initial pre-clinical consultancy services through to pre-clinical trials and Phase I and Phase II clinical trials where Venn Life Sciences has particular expertise. In addition, Open Orphan also facilitates the obtaining of EMA approval and reimbursement for orphan and rare disease products for clients in Europe. Alongside its consulting services, Open Orphan is also developing a rare disease digital platform, aiming to become a leading broker of rare disease patient data and developing a remote pharmaceutical sales service.

Open Orphan plc is organised into three divisions: Open Orphan Services, Open Orphan Virtual Rep and Open Orphan Health Data.

### ***Open Orphan Services***

Venn Life Sciences is a Contract Research Organisation offering drug development services and clinical trial design and management to pharmaceutical, biotechnology and medical device organisations. Venn previously acquired Cardinal Systems in France and Kinesis Pharma in the Netherlands, both of which had been operating for a combined total of 26 years and have relationships with many of Europe's leading pharmaceutical companies and a number of orphan drug companies.

Venn Life Sciences' consultants, scientists and operational teams are organised into Early Development Services and Clinical Research Services, and offer a broad range of services. Services range from drug candidate selection over CMC (chemistry, manufacturing, controls) and data management, statistics and medical writing, all the way through to post-market quality assurance. This enables Venn Life Sciences to create, plan and execute drug development for its clients providing consulting and clinical trial services to pharmaceutical and biotechnology organisations. It specialises in supporting European-wide pre-clinical trial and Phase I to IV clinical trials. Venn Life Sciences has a customer base of major European, Japanese and North American pharmaceutical and biotech companies, including a significant number of orphan drug companies. Venn Life Sciences has a team of 120 employees, supplemented by contractors across 14 territories with dedicated operations in Ireland, France, Germany, the Netherlands and the UK. As such Open Orphan, through Venn, has a relationship with over 100 pharmaceutical and biotech companies throughout the world.

One of Venn's successful programmes in recent months has been a large US FDA and European EMA Phase II trial for a North American biotech company which Venn managed from start to finish. Following the successful completion of this trial, the biotech client was acquired for \$1.4 billion in November 2019.

Since the reverse takeover of Venn Life Sciences Holdings plc by Open Orphan DAC on 28 June 2019, the Open Orphan Directors have undertaken a review of the existing Venn Life Sciences operations. The Open Orphan Directors have focussed on reducing the overall cost base and securing additional contracts to both generate revenue and increase staff utilisation. As part of this process, total office space has been reduced through sub-letting unused space to third parties.

### ***Open Orphan Health Data***

Open Orphan Health Data is targeting becoming one of the largest databases of rare disease patients in Europe and a leading broker of rare disease patient data. The Open Orphan Directors' plan is to build the database using a low-cost data collection model for already existing data and making extensive use of AI tools in constructing the database. Researchers at large pharma companies are looking for specific anonymised data for their drug discovery programmes and are prepared to pay to access it, to speed up their work. In return, patient advocacy groups will gain revenue that can be used to improve services for patients; this should incentivise patients to participate.

Under the EU's GDPR regulations, patients have a right to request a portable copy of their clinical and other healthcare data, collected by investigators and other data processors. Open Orphan Health Data is approaching more than 800 patient advocacy groups for rare diseases in Europe with an offer to host

patient data and broker access to that data for pharma companies. The advocacy group will be offered, in return, receive a share of the revenues generated from selling access.

The digital platforms will be leveraging Open Orphan's expertise within the sector. The Health Data Platform is supporting the discovery and development of new drugs and treatments, with a particular focus on orphan diseases. Ahead of its expected launch during 2020, Open Orphan has signed agreements with several pharmaceutical and biotechnology companies to test the database and ensure that it meets their needs.

### ***Open Orphan Virtual Rep***

Open Orphan Virtual Rep, which is expected to launch during 2020, will offer drug companies a cost-effective sales solution, rather than an in-house sales force. The Virtual Rep platform is expected to benefit from a growth in digital marketing in place of maintaining a large physical marketing network to engage key opinion leaders and physicians remotely. The platform can be implemented at any stage of the lifecycle of a rare/orphan drug product post regulatory approval, either as a tool to support the launch of a new product, or to promote mature brands without incurring the expense of additional field representatives. Instead of having expensive sales reps setting up their own appointments, lower-cost call centre staff are scheduling appointments, mailing information packs and speaking with physicians by telephone or video call, according to the doctor's preference. Specialist orphan drug sales staff are contracted as needed for tailored services. Open Orphan Virtual Rep has built a database of over 4,000 physicians prescribing orphan drugs, and is using staff based in Dublin to contact doctors throughout Europe.

**Your attention is drawn to the financial information in respect of Open Orphan contained in Part VI of this document.**

## **7. Arrangements with Management**

Open Orphan recognises the need to incentivise key management and has proposed the implementation of an option plan to align management incentives to shareholder returns. Dr Trevor Phillips, the proposed Chief Executive Officer of the Enlarged Group, is proposed to receive 18,402,491 options, and Tim Sharpington, the proposed Chief Operating Officer of the Enlarged Group, is proposed to receive 9,201,246 options. The options will vest over a three year period and subject to various performance obligations.

Dr Phillips will enter into an agreement with Open Orphan and hVIVO amending his current service agreement, conditional upon the Offer becoming unconditional in all respects, so that references to hVIVO are treated as references to Open Orphan. However, the other principal terms of Dr Phillips' service agreement will remain the same.

It is intended that, on and from the Offer becoming unconditional in all respects, Dr Warne will continue to serve as a non-executive director. Accordingly, Dr Warne will enter into an agreement reflecting the terms of his appointment as a non-executive director of Open Orphan, conditional upon the Offer becoming unconditional in all respects.

MCF, which has advised the Independent hVIVO Directors, considers the terms of the arrangements between management and Open Orphan described above to be fair and reasonable so far as hVIVO Shareholders are concerned.

## **8. Effects of implementation of the Offer and Open Orphan's strategic plans for management, employees and locations**

Your attention is drawn to the statement of Open Orphan's plans for hVIVO if the Offer becomes or is declared wholly unconditional, as set out in paragraph 10 of the letter from the Board of Open Orphan in Part II of this document.

## **9. Background to and reasons for the recommendation**

In considering the recommendation of the Offer to the hVIVO Shareholders, the Independent hVIVO Directors have given due consideration to Open Orphan's intentions for the business, directors, management, employees, research and development and locations of business of hVIVO, as described in paragraph 10 of Part II of this document.

Furthermore, the Independent hVIVO Directors welcome Open Orphan's intention that, following completion of the Offer, the existing contractual and statutory employment rights, including in relation to pensions, of all of the Group management and employees will be fully safeguarded in accordance with applicable law.

#### **10. hVIVO Share Schemes**

Under the Code, by virtue of its making an offer for the voting equity share capital of hVIVO, Open Orphan must make an appropriate offer or proposal to the participants in the hVIVO Share Schemes to ensure that their interests are safeguarded. Equality of treatment is required.

Given the financial terms of the Offer, neither the option granted to Dr Nicholls by hVIVO on 2 April 2014 nor the options granted under the hVIVO Company Share Option Plan 2015 have any value on a "see-through" basis and accordingly the Panel has agreed that Open Orphan need not make any offer or proposal to participants in those two hVIVO Share Schemes. Accordingly, it is expected that these options will lapse, following the Offer becoming unconditional in all respects, and that consequently no new Ordinary Shares will be issued to participants in those two hVIVO Share Schemes.

Based on the financial terms of the Offer, the options granted under the hVIVO Long Term Incentive Plan 2017 will have a value on a "see-through" basis and therefore Open Orphan intends to publish, separately in due course and in accordance with the Code, an appropriate offer or proposal to the participants in the hVIVO Long Term Incentive Plan 2017.

#### **11. hVIVO current trading and prospects**

In the period following the results for the six months ended 30 June 2019, the hVIVO Directors have continued to implement cost savings in line with its stated intention to result in annualised savings of £11 million compared to 2017. However, hVIVO has continued to manage the impact from a high level of cancelled contracts earlier in the current financial year. The level of cancellations was unprecedented for hVIVO as a result of some clients reprioritising their pipelines. These cancellations, which occurred post expenditure to prepare the hVIVO facility for significant levels occupancy, have had a negative impact on hVIVO's cash position with the hVIVO Directors expecting hVIVO to continue consuming cash through to the year-end.

The hVIVO Directors believe that hVIVO has a strong pipeline of demand into 2020 and expect that this pipeline can be converted into contracted work, and following the ongoing restructuring, to move hVIVO towards profitability. However, the hVIVO Directors consider the conversion of the hVIVO pipeline is linked to hVIVO being able to demonstrate long term balance sheet strength. However, until contracts are signed, there can be no certainty that the pipeline will convert to revenue producing contracts.

Over the past two months there has been a slight worsening in hVIVO's trading. hVIVO will report a modest cash balance as at the end of its financial year ending 31 December 2019. hVIVO still expects to have a level of cash headroom through its projected cash low-point in Q1 2020. However that is dependent on management signing certain contracts in the first quarter of 2020, based on the existing pipeline.

#### **12. Open Orphan current trading and prospects**

Since its readmission in June 2019, the Open Orphan Directors have focussed on restructuring the historic Venn Life Sciences business. Open Orphan has continued to carefully manage its cash reserves to realise the full potential of the group with the cash burn rate significantly reduced through a strategic focus on operational efficiencies to resolve staff under-utilisation and reduce overheads, including excessive office space and office facilities. The action taken to make Open Orphan more efficient is expected to result in growth and return to profitability. The Open Orphan Group recently signed a number of preferred partner agreements, such as that announced with Ipsen, that the Directors expect to deliver revenues over an extended period, with initial revenue under these contracts expected to be recognised in the current period with further revenue to be recognised into 2020. The Open Orphan Group has also focused on cross-selling its services to existing clients and has made progress as evidenced by the recently announced contract with Carna Bioscience for First In Human Clinical pharmacology trial following on from several years of existing work between the Company and Carna during which both parties closely collaborated on drug development planning and pre-clinical activities services contracts.

The Open Orphan Directors believe that Open Orphan has a strong pipeline for 2020 and this pipeline will be converted into contracted work. Currently, Open Orphan has an order book of contracted work in excess of €10 million. This pipeline of work will deliver revenue growth and support the Open Orphan groups cash position and following the ongoing restructuring, enable it to move towards profitability. However, until contracts are signed, there can be no certainty that the pipeline will convert to revenue-producing contracts.

### **13. Open Orphan shareholder approval and Admission Document**

The Offer will constitute a reverse takeover for Open Orphan for the purposes of the AIM Rules; accordingly, Open Orphan is required to seek the approval of its shareholders for the Offer at the Open Orphan General Meeting. Application will be made for the admission of the Enlarged Open Orphan Share Capital (and consequently the Enlarged Group) to trading on AIM. It is expected that, subject to the satisfaction of certain conditions, Admission will become effective and trading in the Enlarged Open Orphan Share Capital will commence at 8:00 a.m. on 17 January 2020.

The Open Orphan Directors do not currently have authority to issue and allot the New Open Orphan Shares in accordance with section 551 of the Act and, accordingly, the approval of Open Orphan Shareholders is required. The Offer is therefore conditional upon, amongst other things, the Merger Resolutions being passed by the Open Orphan Shareholders at the Open Orphan General Meeting which has been convened for 11.00 a.m. on 6 January 2020. Open Orphan has today sent to Open Orphan Shareholders a circular containing, amongst other things, notice of the Open Orphan General Meeting.

Open Orphan has also received irrevocable undertakings in respect of a total of 48,892,841 Open Orphan Shares, representing, in aggregate, approximately 19.2 per cent. of the Open Orphan Shares in issue on 6 December 2019 (being the latest practicable date prior to the date of this document), to vote in favour of the Merger Resolutions at the Open Orphan General Meeting.

### **14. Taxation**

Your attention is drawn to Paragraph 13 of Part II of this document which contains a summary of certain UK tax consequences arising out of the Offer. The summary set out in Paragraph 13 of Part 11 of this document is intended to be a general guide only. **Shareholders who are in any doubt about their tax position or are subject to taxation in any jurisdiction other than the UK are strongly advised to consult an appropriate professional independent tax adviser.**

### **15. Overseas Shareholders**

Persons resident in, or citizens of, jurisdictions outside the United Kingdom should refer to paragraph 21 of Part B of Part III of this document which contains important information for such shareholders.

### **16. Action to be taken**

*To accept the Offer in respect of your hVIVO Shares*

If you hold your hVIVO Shares in certificated form (that is, not in CREST), then to accept the Offer you should ensure that you return your completed Form of Acceptance in the reply-paid envelope as soon as possible and, in any event, so as to be received by no later than 1.00 pm (London time) on 30 December 2019.

To accept the Offer in respect of hVIVO Shares held in uncertified form, you should send (or, if you are a CREST sponsor member, procure that your CREST sponsor sends) to Equiniti a TTE instruction in relation to such shares. A TTE instruction to Euroclear must be properly authenticated in accordance with Equiniti's specifications for transfers to escrow and must contain the following details:

- (i) the ISIN number for hVIVO Shares. This is GB00B6ZMOX53;
- (ii) the number of hVIVO Shares in respect of which you wish to accept the Offer (i.e. the number of hVIVO Shares to be transferred to escrow);
- (iii) your participant ID;
- (iv) your member account ID;



- (v) the participant ID of the Escrow Account. This is 2RA70;
- (vi) the member account ID of the Escrow Agent for the Offer, which is OPEHVI01;
- (vii) the intended settlement date. This should be as soon as possible and, in any event, not later than 1.00 p.m. (London time) on 30 December 2019;
- (viii) the corporate action number of the Offer. This is allocated by Equiniti and will be available on screen from Equiniti;
- (ix) input with a standard delivery instruction priority of 80; and
- (x) a contact name and telephone number in the shared note field.

Further details relating to settlement are set out in paragraph 14 of Part II of this document.

#### **17. Further information**

Your attention is drawn to the letter from Open Orphan set out in Part II of this document and to Parts III to IX of this document, and, for those hVIVO Shareholders holding hVIVO Shares in certificated form, to the accompanying Form of Acceptance. You should also read the accompanying Admission Document in relation to Open Orphan and the New Open Orphan Shares being issued in connection with the Offer.

hVIVO Shareholders and persons with information rights should note that Open Orphan may request details of addresses, electronic addresses and other information provided to hVIVO for the receipt of documents, announcements and other information in hard copy form or electronic form (as the case may be).

#### **18. Recommendation**

The Independent hVIVO Directors, who have been so advised by MCF as to the financial terms of the Offer, consider the terms of the Offer to be fair and reasonable. Accordingly the Independent hVIVO Directors recommend unanimously that hVIVO Shareholders accept the Offer, as they intend to do in respect of their own beneficial holdings. In providing advice to the Independent hVIVO Directors, MCF has taken into account the commercial assessments of the Independent hVIVO Directors. MCF is providing independent financial advice to the Independent hVIVO Directors for the purposes of Rule 3 of the Takeover Code.

Each of the hVIVO Directors has given irrevocable undertakings to accept the Offer in respect of their registered holdings in hVIVO Shares amounting in aggregate to 205,001 hVIVO Shares, representing, in aggregate, approximately 0.25 per cent. of the hVIVO Shares in issue on 6 December 2019 (being the latest practicable date prior to the date of this document).

Open Orphan has therefore received irrevocable undertakings in respect of a total of 205,001 hVIVO Shares, representing, in aggregate approximately 0.25 per cent. of the hVIVO Shares in issue on 6 December 2019 (being the latest practicable date prior to the date of this document), to accept the Offer.

Yours faithfully,



Dr Trevor Nicholls  
*Senior Independent Director*  
for and on behalf of  
**hVIVO plc**

## PART II

### LETTER FROM THE DIRECTORS OF OPEN ORPHAN

(Incorporated in England and Wales under the Companies Act 1985 with registered number 07514939)

Directors:

Brendan Buckley  
Cathal Friel  
Maurice Treacy  
Christian Milla  
Michael Ryan  
David Kelly

Registered office:

PO Box W1J 6BD  
Berkeley Square House  
2nd Floor  
Mayfair  
London  
W1J 6BD

9 December 2019

To hVIVO Shareholders and, for information only, to holders of options under the hVIVO Share Schemes and persons with information rights

Dear hVIVO Shareholder,

#### Recommended offer for hVIVO by Open Orphan

##### 1. Introduction

On 9 December 2019, it was announced that the Open Orphan Board and the hVIVO Board had reached agreement on the terms of a recommended offer to be made by Open Orphan for the entire issued and to be issued share capital of hVIVO plc (the "Offer").

The Offer is classified as a reverse takeover for Open Orphan under the AIM Rules and will therefore require the approval of the Open Orphan Shareholders at the Open Orphan General Meeting.

This letter contains the formal Offer by Open Orphan and is accompanied by, and should be read in conjunction with, the Form of Acceptance.

**Your attention is drawn to the letter from Dr Trevor Nicholls, the Senior Independent Director of hVIVO, set out in Part I on pages 8 to 17 of this document, which sets out the reasons why the Independent hVIVO Directors, who have been advised by MCF Ltd as to the financial terms of the Offer, consider the terms of the Offer to be fair and reasonable and are therefore unanimously recommending all hVIVO Shareholders accept the Offer.**

##### 2. Summary terms of the Offer

Under the terms of the Offer, which is subject to the satisfaction (or where applicable, waiver) of the conditions and further terms set out in Part III of this document and the accompanying Form of Acceptance, hVIVO Shareholders will be entitled to receive:

#### 2.47 new Open Orphan Shares for every 1 hVIVO Share

- The exchange ratio of New Open Orphan Shares to hVIVO Shares has been determined by reference to the average daily volume weighted average price over the 90 days to 3 December 2019 for each of hVIVO and Open Orphan.
- The Offer represents a value of approximately 15.56 pence per Share representing:
  - a premium of 33.8 per cent. to the hVIVO Closing Price on 6 December 2019, being the latest practicable date prior to the Announcement, and
  - a premium of 15.6 per cent. to the 30 day volume weighted average price per hVIVO Share as at close of business on 6 December 2019 (being the latest practicable date prior to the Announcement).

The Offer values each hVIVO Share at approximately 15.56 pence and hVIVO's existing issued and to be issued share capital at approximately £12.96 million.

The Offer is conditional upon, amongst other things, Open Orphan receiving valid acceptances (which have not been withdrawn) in respect of and/or having otherwise acquired or agreed to acquire hVIVO Shares which constitute more than 90 per cent. of the voting rights attached to the hVIVO Shares. Immediately upon the Offer becoming unconditional as to acceptances, subject to Open Orphan having not invoked or sought to invoke any Condition prior to that time, Open Orphan shall declare the Offer wholly unconditional.

Assuming that a maximum number of 205,489,715 New Open Orphan Shares are issued pursuant to the Offer, hVIVO Shareholders will hold New Open Orphan Shares representing approximately 44.67 per cent. of the Enlarged Open Orphan Share Capital.

Forms of Acceptance (in respect of certificated hVIVO Shares) in relation to the Offer should be received as soon as possible but in any event by not later than 1.00 p.m. on 30 December 2019. Electronic Acceptances (in respect of uncertificated hVIVO Shares) through CREST should be received as soon as possible but in any event should be made so that the TTE Instruction settles by no later than 1.00 p.m. on 30 December 2019. The procedure for acceptance of the Offer is set out in paragraph 18 of this letter and in Parts C and D of Appendix 1 to this document.

Details of the further terms and conditions of the Offer are set out below and in Part III of this document.

### **3. Further details of the Offer**

The Offer will extend to all hVIVO Shares unconditionally allotted or issued and fully paid on the date of the Offer, and any further hVIVO Shares unconditionally allotted or issued and fully paid pursuant to the exercise of options and awards under the hVIVO LTIP, before the date on which the Offer closes or such earlier date as Open Orphan may, subject to the Code, decide.

The hVIVO Shares will be acquired under the Offer fully paid and free from all liens, equitable interests, charges, encumbrances, options, rights of pre-emption and any other third party rights or interests of any nature whatsoever and together with all rights attaching thereto, including the right to receive and retain all dividends and other distributions and returns of value declared, paid or made after the Offer becomes or is declared unconditional in all respects.

The New Open Orphan Shares will be allotted and issued credited as fully paid and will rank *pari passu* in all respects with the existing Open Orphan Shares in issue at the time the New Open Orphan Shares are allotted and issued pursuant to the Offer, including the right to receive and retain dividends and other distributions declared, made or paid after the date of this document.

If any dividend or other distribution or return of value is proposed, declared, made, paid or becomes payable by hVIVO in respect of the hVIVO Shares on or after the date of the Announcement, Open Orphan will have the right to reduce the value of the consideration payable for each hVIVO Share by up to the amount per hVIVO Share of such dividend, distribution or return of value.

Fractions of New Open Orphan Shares will not be allotted and issued to hVIVO Shareholders pursuant to the Offer and shall be disregarded.

Open Orphan has also today published an Admission Document in connection with the issue of the New Open Orphan Shares and which contains information on the Enlarged Group and the New Open Orphan Shares. A copy of the Admission Document is enclosed with this document

The Existing Open Orphan Shares are admitted to trading on AIM. The Offer will constitute a reverse takeover for Open Orphan for the purposes of the AIM Rules; accordingly, Open Orphan is required to seek the approval of its shareholders for the Offer at the Open Orphan General Meeting. Application will be made for the admission of the share capital of the Enlarged Group to trading on AIM.

### **4. Background to and reasons for the Offer**

Open Orphan and hVIVO are AIM-quoted groups that share a similar vision for the future of European Clinical Research Organisations and an entrepreneurial approach to further developing their business through a focus on operational efficiency, organic growth and targeted acquisitions to expand geographic and service capabilities.

The Open Orphan Directors believe that the European CRO sector is fragmented and following the re-admission of Open Orphan in June 2019, have been reviewing the market for opportunities to expand

the Open Orphan Group's service suite and unlock cross-selling opportunities to drive revenue, EBITDA and EBITDA margin growth. The merger of Open Orphan and Venn Life Sciences positioned the Open Orphan Group as a specialist CRO with a focus on the orphan drug sector and supporting product development for global customers. The Open Orphan Directors believe that the hVIVO human challenge study and laboratory services expertise complements the Open Orphan services and enhances the Enlarged Group's service offering while maintaining a specialist capability in discrete competencies where the Enlarged Group's expertise can offer a competitive advantage with potential for cross-selling of complementary services.

### ***Offer synergies***

The Open Orphan and hVIVO Directors believe that the combination of the businesses will result in synergies across the Enlarged Group with each business providing complementary services with limited overlap in existing capabilities and customers. It is anticipated that the benefits to both hVIVO and Open Orphan of the merger will include:

#### ***i. Complementary broader in-house clinical service offering***

Both hVIVO and Open Orphan supplement their primary service offering through the use of external third party subcontractors. On completion of the Offer it is expected that a significant proportion of these subcontracted services could be fulfilled by resource and expertise within the Enlarged Group. This represents services central to each Group's existing product that is currently passed over to third parties but could be undertaken in house.

The Directors of Open Orphan and hVIVO have identified a number of areas where enhanced co-operation can support each group's market position and service proposition. Complementary broader in-house clinical trial service offerings include:

- Data management, statistics, medical writing, regulatory and project management, which are sub-contracted either in part, or in full, by hVIVO and where Open Orphan has significant expertise; and
- A proportion of the Phase I studies, including laboratory services, currently sub-contracted by Open Orphan but that are capable of being run at the hVIVO facility in London.

In addition to complementary services, the Directors also believe that the Enlarged Group will benefit from an enlarged sales and marketing team and a broader services base to market to both new and existing customers.

#### ***ii. Opportunity to increase operational utilisation***

The broader service offerings are expected to increase the overall utilisation of resources across the Enlarged Group. Both Open Orphan and hVIVO outsource certain services to third parties. Certain of these outsourced services are capable of being provided from within the Enlarged Group thereby increasing the overall operational efficiency and maximising existing resources. This could result in revenues retained by the Enlarged Group and not disbursed to subcontractors. The use of integrated resource is also expected to enhance the service proposition to be offered to customers through one-stop-shop clinical trial service solutions.

#### ***iii. Expanded capability offering***

In addition to the complementary broader in-house service offerings provided by each group, the Directors believe that there is an opportunity for the Enlarged Group to strengthen customer relationships and cross-sell an expanded capability offering. Phase two field studies are currently beyond the hVIVO capability. The commissioning of phase two field studies for vaccines and antiviral products could be undertaken by the Enlarged Group, using Open Orphan's project management and monitoring capabilities and hVIVO's laboratory services, following the successful completion of human challenge studies. Laboratory services, typically required to support Phase two clinical trials managed by Open Orphan, could also be undertaken at hVIVO's laboratory facilities. An expanded capability offering could allow the Enlarged Group to tender for further contracts from existing clients.

#### **iv. Commercialisation of hVIVO database through the Open Orphan platform**

Open Orphan has invested significant resources in developing its health data platform to facilitate drug research and patient access to specialist drugs. The Open Orphan Directors believe the viral induced disease development data and genomic data created, and owned by hVIVO can be further utilised to accelerate the commercialisation of its viral challenge models and supplement existing genomic data being developed by Open Orphan.

#### **v. Operating Synergies**

The Open Orphan Directors believe that the Enlarged Group will benefit from cost savings as duplicative functions and systems are rationalised and the Enlarged Group realises benefits of increased scale. Cost synergies are expected to include:

- consolidation of the central support functions into the London headquarters of hVIVO;
- consolidation of IT and enterprise systems across the two businesses;
- removal of duplicative public company and advisor costs; and
- reorganisation of management functions and roles.

### **5. Information on hVIVO**

hVIVO was established in 1989 as a spin out from Queen Mary University, London, and is a clinical development services business pioneering human disease models based upon viral challenge. Using human challenge studies to establish early proof-of-concept, hVIVO's clinical trial platform can accelerate drug and vaccine development in respiratory and infectious diseases, hVIVO has leveraged its insights in established human disease challenge models in influenza ("Flu"), respiratory syncytial virus ("RSV") and human rhinovirus ("HRV") to expand the use of viral challenge in additional respiratory indications including asthma, chronic obstructive pulmonary disease ("COPD") and cough and in special populations. hVIVO currently employs around 140 people.

hVIVO has over 15 years' experience conducting and analysing human models of disease, challenging both healthy volunteers and patients its current models include Flu, RSV and HRV. As a result, hVIVO has established extensive expertise in:

- virology; and
- virus production, viral challenge and host response related to viral insult in particular.

The hVIVO human challenge models and expertise provide disease insights enabling early indications of efficacy of new products in disease models; and identification of key biological traits of patients who respond to a novel therapy.

In addition to the full-service human challenge models in infectious and respiratory diseases, hVIVO is able to provide complementary laboratory services.

The hVIVO Group's depth of insight into the design, execution and analysis of viral challenge models has created a wealth of expertise that is invaluable to companies seeking to develop new products targeting Flu, RSV, HRV, cough, asthma and COPD.

#### **Challenge models**

##### *Infectious Diseases*

Within infectious diseases hVIVO has established challenge models for Flu, HRV and RSV. hVIVO's human challenge studies support the development of new-generation vaccines and treatments including antivirals and immunomodulators. Challenge models can provide early evidence of proof-of-principle in humans for new products, enabling companies to proceed with confidence into larger Phase II and Phase III field trials.

hVIVO has been studying influenza for over 20 years and conducting influenza human challenge studies with its Flu disease models for more than 15 years. The company has conducted numerous Flu challenge studies for a range of industry, governmental and academic customers, making the hVIVO models among the most well-used commercial Flu disease models available on the market.

hVIVO has also established one of the only validated RSV challenge models commercially available to customers and it has also been heavily utilised by companies seeking to understand if their therapy is effective against RSV.

### *Respiratory Diseases*

The hVIVO Directors believe that the challenge model is not only helpful as a proof-of-concept for the effectiveness of agents directed at the viruses, but also as proof-of-mechanism for novel products in diseases where respiratory viruses are known to induce exacerbations. hVIVO has expanded its offering into airways diseases such as asthma, cough and COPD and has created a viral model using HRV to induce exacerbations and acute cough. These expanded services offerings have the potential to provide hVIVO with additional revenue streams.

### **Laboratory Services**

During the clinical trials, conducted at hVIVO's 24 bed clinical facility, many of the samples taken from volunteers, including blood or nasal swabs, will be processed in their dedicated laboratory facilities. Consolidating biomarker analysis to a single source lab can reduce time and costs throughout development programmes and is an opportunity for the expansion of services to support samples generated from field studies.

Reliable laboratory analysis underpinned by scientific expertise is essential when processing and analysing clinical samples. Robust quality processes support the team of scientists in the delivery of submission-ready data. The specialist virology laboratory services are also utilised by customers for analysis of samples generated independently of challenge studies undertaken with the hVIVO Group.

### **Development Assets**

#### *Imutex Limited ("Imutex")*

hVIVO is a minority partner in Imutex, a joint venture with SEEK Group to support the development of new vaccine candidates. The joint venture was formed in 2016 under the previous management of hVIVO and represented a departure from the historical and now current strategy of services provision for third party client product development. These vaccines remain in clinical development and accordingly there is no guarantee of future revenue. The potential total costs and time to commercialisation remains unknown at this stage. The lead candidate FLU-v has achieved positive Phase II data and is regarded as a licensable asset. Imutex continues to explore options for the FLU-v vaccine programme and have engaged in multiple business development discussions, some of which are still active. Imutex is also establishing schedules for meetings with key regulatory authorities, FDA and EMEA, where it hopes to gain further insight into some of the key areas of interest expressed by potential partners.

The historical cost of investment in Imutex is held on the balance sheet however it is not utilised in the Group's operations. hVIVO contributes management oversight over the future direction of the development of the vaccine candidates, but makes no capital investment to the ongoing development work undertaken by the joint venture.

#### *PrEP Biopharm Limited ("PrEP Biopharm")*

hVIVO has an equity investment in PrEP Biopharm which holds the PrEP-001 asset, a novel pan-viral prophylactic in development. The management of PrEP Biopharm continue to plan for the future development of PrEP-001. However, in 2018 hVIVO performed an impairment assessment and determined that a full impairment of the carrying amount of the investment in PrEP Biopharm was required due to consideration of the economic performance of this asset. The impairment of hVIVO's investment in PrEP Biopharm was not an indication or an opinion on the utility of PrEP-001 but recognising that further development will need additional investment and this was no longer part of the hVIVO's re-focused business model.

### **Current Strategy and Restructuring**

During the year ended 31 December 2018, there were a number of senior management changes at hVIVO following which the current senior management instigated a review of the business and strategy. This resulted in a refocused business model centred on the provision of human challenge study services and to reset strategic priorities to the provision of clinical development services. As part of the

review, hVIVO undertook measures to ensure the business is better placed to operate efficiently, maximise revenue growth opportunities and begin a transition to cash-generation and sustainable profitability. This resulted in a significant reduction in administrative expenses driven by headcount reductions and process improvements, and R&D expenses primarily due to discontinuing its discovery activities and instead focussing resources on the enhancement of the hVIVO challenge services including new virus manufacture and biomarker assay development. This process continued during 2019 with the implementation of the hVIVO management's strategy expected to continue into 2020. Up to 30 June 2019, this has resulted in annualised cost savings of approximately £11 million, compared to 2017.

### ***Broadened Service Offerings***

In addition to reducing the cost base, the new management have implemented a number of key actions to enhance the breadth of revenue opportunities through the addition of new services:

- Phase I studies
- Extended leading position in RSV
- Respiratory models
- Laboratory services extended

These actions are expected to increase the long term sustainability of the hVIVO Group and its growth potential.

**Your attention is drawn to the financial information in respect of hVIVO contained in Part V of this document.**

## **6. Information on Open Orphan**

Open Orphan DAC was founded in July 2017, and acquired AIM-listed Venn Life Sciences on 28 June 2019 in a reverse takeover. Following completion of the reverse takeover, Venn Life Sciences changed its name to Open Orphan plc and has pursued a strategy to develop a market-leading European services platform for pharmaceutical and biotech companies with a focus upon orphan drugs. The Open Orphan Directors believe that the market in Europe is fragmented with half of the European pharma services sector made up of large CRO consultancies, but the remainder consisting of a dispersed group of smaller consultancies and that there is an opportunity to pursue a consolidator based strategy utilising the Open Orphan Group's publicly quoted equity.

The pharmaceutical services being provided by Open Orphan to its large pharma customers include initial pre-clinical consultancy services through to pre-clinical trials and Phase 1 and Phase 2 clinical trials where Venn Life Sciences has particular expertise. In addition, Open Orphan also facilitates the obtaining of EMA approval and reimbursement for orphan and rare disease products for clients in Europe. Alongside its consulting services, Open Orphan is also developing a rare disease digital platform, aiming to become a leading broker of rare disease patient data and developing a remote pharmaceutical sales service.

Open Orphan plc is organised into three divisions: Open Orphan Services, Open Orphan Virtual Rep and Open Orphan Health Data.

### ***Open Orphan Services***

Venn Life Sciences is a Contract Research Organisation (CRO) offering drug development services and clinical trial design and management to pharmaceutical, biotechnology and medical device organisations. Venn previously acquired Cardinal Systems in France and Kinesis Pharma in the Netherlands, both of which had been operating for a combined total of 26 years and have relationships with many of Europe's leading pharmaceutical companies and a number of orphan drug companies.

Venn Life Sciences' consultants, scientists and operational teams are organised into Early Development Services and Clinical Research Services, and offer a broad range of services. Services range from drug candidate selection over CMC (chemistry, manufacturing, controls) and data management, statistics and medical writing, all the way through to post-market quality assurance. This enables Venn Life Sciences to create, plan and execute drug development for its clients providing

consulting and clinical trial services to pharmaceutical and biotechnology organisations. It specialises in supporting European-wide pre-clinical trial and Phase I to IV clinical trials. Venn Life Sciences has a customer base of major European, Japanese and North American pharmaceutical and biotech companies, including a significant number of orphan drug companies. Venn Life Sciences has a team of 120 employees, supplemented by contractors across 14 territories with dedicated operations in Ireland, France, Germany, the Netherlands and the UK. As such Open Orphan, through Venn, has a relationship with over 100 pharmaceutical and biotech companies throughout the world.

One of Venn's successful programmes in recent months has been a large US FDA and European EMA Phase II trial for a North American biotech company which Venn managed from start to finish. Following the successful completion of this trial, the biotech client was acquired for \$1.4 billion in November 2019.

Since the reverse takeover of Venn Life Sciences Holdings plc by Open Orphan DAC on 28 June 2019, the Open Orphan Directors have undertaken a review of the existing Venn Life Sciences operations. The Open Orphan Directors have focussed on reducing the overall cost base and securing additional contracts to both generate revenue and increase staff utilisation. As part of this process, total office space has been reduced through sub-letting unused space to third parties.

### ***Open Orphan Health Data***

Open Orphan Health Data is targeting becoming one of the largest databases of rare disease patients in Europe and a leading broker of rare disease patient data. The Open Orphan Directors' plan is to build the database using a low-cost data collection model for already existing data and making extensive use of AI tools in constructing the database. Researchers at large pharma companies are looking for specific anonymised data for their drug discovery programmes and are prepared to pay to access it, to speed up their work. In return, patient advocacy groups will gain revenue that can be used to improve services for patients; this should incentivise patients to participate.

Under the EU's GDPR regulations, patients have a right to request a portable copy of their clinical and other healthcare data, collected by investigators and other data processors. Open Orphan Health Data is approaching more than 800 patient advocacy groups for rare diseases in Europe with an offer to host patient data and broker access to that data for pharma companies. The advocacy group will be offered, in return, receive a share of the revenues generated from selling access.

The digital platforms are leveraging Open Orphan's expertise within the sector. The Health Data Platform is supporting the discovery and development of new drugs and treatments, with a particular focus on orphan diseases. Ahead of its expected launch during 2020, Open Orphan has signed agreements with several pharmaceutical and biotechnology companies to test the database and ensure that it meets their needs.

### ***Open Orphan Virtual Rep***

Open Orphan Virtual Rep, which is expected to launch during 2020, will offer drug companies a cost-effective sales solution, rather than an in-house sales force. The Virtual Rep platform is expected to benefit from a growth in digital marketing in place of maintaining a large physical marketing network to engage key opinion leaders and physicians remotely. The platform can be implemented at any stage of the lifecycle of a rare/orphan drug product post regulatory approval, either as a tool to support the launch of a new product, or to promote mature brands without incurring the expense of additional field representatives. Instead of having expensive sales reps setting up their own appointments, lower-cost call centre staff are scheduling appointments, mailing information packs and speaking with physicians by telephone or video call, according to the doctor's preference. Specialist orphan drug sales staff are contracted as needed for tailored services. Open Orphan Virtual Rep has built a database of over 4,000 physicians prescribing orphan drugs, and is using staff based in Dublin to contact doctors throughout Europe.

**Your attention is drawn to the financial information in respect of Open Orphan contained in Part VI of this document.**

## **7. Financial effects on acceptance of the Offer**

Under the terms of the Offer, hVIVO Shareholders will receive 2.47 New Open Orphan Shares for every 1 hVIVO Share held.



The following table shows, for illustrative purposes only and on the bases and assumptions set out in the notes below, the financial effects on capital value for a holder of 0.41 hVIVO Shares if the Offer is accepted. The table below compares the value of the Offer on:

- a) 6 December 2019 (being the last business day prior to the commencement of the Offer Period) using the market value of hVIVO Shares and Open Orphan Shares; and
- b) the Latest Practicable Date.

	<i>Note</i>	<i>pence</i>
Increase in capital value		
Market value of 1 New Open Orphan Share	(1)	5.775
Market value of 0.41 hVIVO Shares	(2)	4.712
Increase/(decrease) in capital value	(3)	1.06
Representing an increase/(decrease) in capital value of approximately	(4)	22.6 per cent.

**Notes:**

1. The market value of the New Open Orphan Shares is based on the Closing Price of 5.775 pence per Open Orphan Share on 6 December 2019 (being the last business day prior to the commencement of the Offer Period).
2. The market value of 0.41 hVIVO Shares implied by the Merger Ratio is based on the Closing Price of a hVIVO Share on 6 December 2019 (being the last business day prior to the commencement of the Offer Period).
3. The increase/(decrease) in capital value compares the values shown in (1) and (2). No account has been taken any costs associated with the Offer or other potential effects on the Offer. In assessing the financial effects on the capital position of the hVIVO Shareholders, no account has been taken of any potential liability to taxation of a hVIVO Shareholder, or a beneficial owner of hVIVO Shares. The attention of beneficial owners of hVIVO Shares and hVIVO Shareholders is drawn to Paragraph 13 of this Part II (Taxation) of this document. The tax implications of the financial effects of the Offer will depend on the individual circumstances of each beneficial owner of hVIVO Shares and hVIVO Shareholders. Beneficial owners of the hVIVO Shares and hVIVO Shareholders should consult their own tax advisers.
4. Presents the increase/(decrease) in capital value as a proportion of (2) in percentage terms.

The table above takes no account of taxation, which may vary depending on each hVIVO Shareholder's personal circumstances.

Following completion of the Offer, the earnings, assets and liabilities of hVIVO shall be consolidated into the earnings, assets and liabilities of the Open Orphan Group. On a *pro forma* basis and assuming that the Offer had become unconditional on 31 December 2018, the Enlarged Group would have had net assets of £21.3 million (based on the net assets of hVIVO at 31 December 2018 and Open Orphan as at 31 December 2018).

As at the close of business on the Latest Practicable Date, the Enlarged Group would have had a combined market capitalisation of approximately £35.8 million, based on the share capital of the Enlarged Group of 620,062,282 multiplied by the Closing Price of an Open Orphan Share on the Latest Practicable Date of 6 December 2019.

## **8. Arrangements with Management**

Open Orphan recognises the need to incentivise key management and has proposed the implementation of an option plan to align management incentives to shareholder returns. Dr Trevor Phillips, the proposed Chief Executive Officer of the Enlarged Group, is proposed to receive 18,402,491 options, and Tim Sharpington, the proposed Chief Operating Officer of the Enlarged Group, is proposed to receive 9,201,246 options. The options will vest over a three year period, subject to meeting various performance conditions.

Dr Phillips will enter into an agreement with Open Orphan and hVIVO amending his current service agreement, conditional upon the Offer becoming unconditional in all respects, so that references to hVIVO are treated as references to Open Orphan. However, the other terms of Dr Phillips' service agreement will remain the same.

It is intended that, on and from the Offer becoming unconditional in all respects, Dr Warne will continue to serve as a non-executive director. Accordingly, Dr Warne will enter into an agreement reflecting the terms of his appointment as a non-executive director of Open Orphan, conditional upon the Offer becoming unconditional in all respects as outlined in paragraph 3.6 of Part VII of this document, Mark Warne has taken no part in the decision to recommend the Offer.

MCF, which has advised the Independent hVIVO Directors, consider the terms of the arrangements between management and Open Orphan described above to be fair and reasonable so far as hVIVO shareholders are concerned.

## **9. Irrevocable undertakings in relation to the Offer**

### ***Irrevocable undertakings from hVIVO Directors and hVIVO Shareholders***

The hVIVO Directors have irrevocably undertaken to accept the Offer in respect of their own entire legal and beneficial holdings of hVIVO Shares (and those of connected persons) amounting to, in aggregate, 205,001 hVIVO Shares, representing approximately 0.25 per cent. of the hVIVO Shares in issue on 6 December 2019 (being the latest practicable date prior to the date of this document).

**Open Orphan has therefore received irrevocable undertakings in respect of a total of 205,001 hVIVO Shares, representing, in aggregate, approximately 0.25 per cent. of the hVIVO Shares in issue on 6 December 2019 (being the latest practicable date prior to the date of this document), to accept the Offer.**

### ***Irrevocable undertakings from Open Orphan Shareholders***

Open Orphan has also received irrevocable undertakings in respect of a total of 48,892,841 Open Orphan Shares, representing, in aggregate approximately 19.2 per cent. of the Open Orphan Shares in issue on 6 December 2019 (being the latest practicable date prior to the date of this document), to vote in favour of the Merger Resolutions at the Open Orphan General Meeting.

## **10. Employees and management**

Other than set out in the paragraph 'staff terms and conditions', Open Orphan's strategic plans for hVIVO is to continue with the headcount and overhead reduction initiated by the existing management led by Trevor Philips and Tim Sharpington as described in paragraph 5 of Part 1. The Open Orphan Board anticipates that in order to achieve some of the expected benefits of the Offer, it will be necessary to generate cost-savings, including additional headcount and overhead reductions, and managerial changes. Open Orphan understands that some of these changes may have a modest impact on the employee base in administrative functions of hVIVO where there may be overlap with Open Orphan functions beyond the headcount reduction resulting from the current restructuring plan that is substantially complete. Open Orphan's plans are described in the 'staff terms and conditions' paragraph below.

Open Orphan has no plans that that will result in changes to the location of the hVIVO places of business (including on the location of hVIVO's headquarters and headquarter functions) and Open Orphan has no plans to make any changes in relation to (i) the conditions of employment; (ii) the balance of the skills and functions of the hVIVO employees and management; (iii) the pension contributions made by hVIVO into the hVIVO pension scheme(s) and the admission of new members to such pension schemes; (iv) the deployment of hVIVO's fixed assets; or (v) the research and development functions of hVIVO. No statements in this paragraph 10 are "post-offer undertakings" for the purposes of Rule 19.5 of the Code.

No statements in this paragraph 10 are "post-offer undertakings" for the purposes of Rule 19.5 of the Code.

### ***Locations***

Open Orphan envisages that operations will continue from hVIVO's sites outlined above for the next 12 months. Open Orphan anticipates that it will continue to rationalise the Open Orphan office space as part of an ongoing review of requirements being undertaken by Open Orphan as part of previously announced restructuring plans put in place by Open Orphan. This has included the sub-letting of excess office space at its Paris office and will extend to subletting up to one third of the current office space in Breda, Holland. This process is continuing and may lead to a further reduction in Open Orphan's office space, overheads and number of offices as part of a relocation of certain operations of the Enlarged Group into existing Open Orphan and hVIVO sites.

### ***Staff terms and conditions***

Open Orphan confirms that, save for those changes as outlined above and specified to the executive management and Enlarged Group Board, as detailed below, it has no intention to make material changes to the conditions of employment of the remaining Open Orphan or hVIVO employees and

intends to safeguard fully the existing employment and pension rights of hVIVO local management and employees in accordance with applicable law and to comply with hVIVO's pension obligations for existing employees and members of hVIVO's pension schemes.

The Open Orphan Board envisages revenue synergies from the offer. In addition, it believes that some cost savings will be available from an operational and administrative review of the Enlarged Group, which is likely to be required following the offer to reduce costs arising from duplicated administrative functions. Open Orphan anticipates that could result in the relocation of its central administrative function in order that it is located alongside complementary hVIVO functions. It is anticipated that such relocation may lead to a reduction in headcount of administrative employees across the Enlarged Group in these areas given the overlap in expertise between the Open Orphan Group and hVIVO Group.

Whilst any review is subject to detailed planning, the overall impact of the finalisation of any such plans would be subject to appropriate engagement with stakeholders, including employee representative bodies.

Further, following completion of the offer, the Enlarged Group will undertake a review of the business to ensure that all its businesses and operations are operating at the required level to help grow the Enlarged Group in the future. Open Orphan has not yet developed any specific proposals as to how this review would be implemented and Open Orphan will have regard to ensuring that an appropriate balance of skills and functions across the Enlarged Group is maintained. However, there is no intention to make any changes in this regard.

hVIVO and Open Orphan attach great importance to the skills and experience of the existing management and employees of both businesses and believe that they will benefit from enhanced business opportunities within the combined business. Both Open Orphan and hVIVO are cognisant that in order to incentivise management, appropriate arrangements for the Enlarged Group will be required. Consequently, the board of the Enlarged Group will review suitable structures, which may include share-based awards, and performance criteria with the view of implementing new executive and senior management arrangements following the Offer being declared unconditional. Save as set out below, no detailed discussions have taken place or will take place prior to the completion of the offer. Open Orphan has separately proposed an incentive plan for Trevor Phillips and Tim Sharpington. This is proposed to be options over 4 per cent. and 2 per cent. of the Enlarged Open Orphan Share Capital for each of Trevor Phillips and Tim Sharpington respectively, vesting over 3 years and subject to annual performance conditions.

### ***Operations***

Following completion of the offer, it is intended that the hVIVO and Open Orphan company names will continue to be employed with respect to the services offered by each group respectively under the ultimate holding company Open Orphan with the hVIVO name used in respect for the hVIVO operations alongside the Open Orphan and Venn Life Sciences names.

The Enlarged Group's focus will be to build the group profitably both organically and by acquisition. Both groups have recently been undertaking cost and overhead restructuring to improve operational efficiency and best position themselves for future profitability.

Open Orphan does not intend to redeploy fixed assets of hVIVO following completion of the offer.

### ***Management***

Following completion of the offer, it is intended that Trevor Phillips, the current Executive Chairman of hVIVO, will become Chief Executive Officer of the Enlarged Group. Cathal Friel, the current Chief Executive Officer of Open Orphan, will become Executive Chairman of the Enlarged Group. They will be joined on the Enlarged Group's Board by Brendan Buckley, Mark Warne and Michael Meade as non-executive Directors.

Following Admission, the board of the Enlarged Group is expected to be composed of five directors of whom three will be non-executive Directors. Of the non-executive Directors, Mark Warne and Michael Meade are considered by the Board to be independent.

Notwithstanding the above (and save in respect of Trevor Phillips and Tim Sharpington) no proposals have been made on the terms of any incentive arrangements for relevant managers or the continuing hVIVO Directors and there have been no discussions in respect of the terms of these arrangements.

## **Research and Development functions of hVIVO**

Open Orphan intends to maintain the existing research and development activities of hVIVO, relative to supporting hVIVO's clinical development services offering, subject to the completion of the ongoing operational restructuring instigated, and substantially completed, by the existing hVIVO management to the extent described in paragraph 5 of Part I.

### **11. hVIVO Share Schemes**

Under the Code, by virtue of its making an offer for the voting equity share capital of hVIVO, Open Orphan must make an appropriate offer or proposal to the participants in the hVIVO Share Schemes to ensure that their interests are safeguarded. Equality of treatment is required.

Given the financial terms of the Offer, neither the option granted to Dr Nicholls by hVIVO on 2 April 2014 nor the options granted under the hVIVO Company Share Option Plan 2015 have any value on a "see-through" basis and accordingly the Panel has agreed that Open Orphan need not make any offer or proposal to participants in those two hVIVO Share Schemes. Accordingly, it is expected that these options will lapse, following the Offer becoming unconditional in all respects, and that consequently no new Ordinary Shares will be issued to participants in those two hVIVO Share Schemes.

Based on the financial terms of the Offer, the options granted under the hVIVO Long Term Incentive Plan 2017 will have a value on a "see-through" basis and therefore Open Orphan intends to publish, separately in due course and in accordance with the Code, an appropriate offer or proposal to the participants in the hVIVO Long Term Incentive Plan 2017.

### **12. Permitted Offer-related arrangements**

Open Orphan have proposed an incentive plan for Dr Trevor Phillips and Tim Sharpington. This is proposed to be options over 4 per cent. and 2 per cent. of the Enlarged Share Capital for each of Dr Trevor Phillips and Tim Sharpington. The options will vest over a three-year period, subject to meeting various performance conditions.

### **13. United Kingdom Taxation**

**Any person who is in any doubt as to his or her tax position, or who is subject to taxation in any jurisdiction other than that of the UK, should consult his or her professional advisers.**

**The comments set out below refer to certain limited aspects of the United Kingdom taxation treatment of hVIVO Shareholders resident in the United Kingdom and do not purport to be either (i) a complete analysis of all tax considerations relating to the Offer and their holding of New Open Orphan Shares or (ii) an analysis of the tax position of hVIVO or Open Orphan. The following statements do not constitute tax advice and are intended only as a general guide to current UK tax law and published practice of HMRC, both of which are subject to change at any time, possibly with retrospective effect.**

**The comments are intended as a general guide and apply only to hVIVO Shareholders who are resident for tax purposes in the UK, who hold their hVIVO Shares and will hold their New Open Orphan Shares as an investment and who are the absolute beneficial owners of their hVIVO Shares and will be the absolute beneficial owners of their New Open Orphan Shares (other than under a Self-Invested Personal Pension or through an Individual Savings Account). These comments may not apply to certain classes of hVIVO Shareholders who are subject to different tax rules, such as charities, dealers in securities, persons holding or acquiring shares in the course of a trade, persons who have or could be treated for tax purposes as having acquired their hVIVO Shares or New Open Orphan Shares by reason of their employment, collective investment schemes, persons subject to UK tax on the remittance basis and insurance companies. hVIVO Shareholders are encouraged to consult an appropriate independent professional tax adviser in respect of their personal tax position.**

#### **(A) Taxation of Chargeable Gains**

##### **(i) The Offer**

The hVIVO Shareholders will receive New Open Orphan Shares as consideration for the transfer of their hVIVO Shares.

(ii) *New Open Orphan Shares*

Subject to the comments made below, the receipt of New Open Orphan Shares by hVIVO Shareholders pursuant to the Offer should be treated as an exchange of securities for the purposes of section 135 of the Taxation of Chargeable Gains Act 1992 ("TCGA"). This means that the hVIVO Shareholders should not be treated as disposing of the proportion of their hVIVO Shares which are exchanged for New Open Orphan Shares and, instead, the New Open Orphan Shares received by them should be treated for UK tax purposes as the same asset, acquired at the same time as the hVIVO Shares in respect of which they are issued as consideration.

In the case of hVIVO Shareholders who alone, or together with persons connected with them, hold 5 per cent. or more of the hVIVO Shares, such "rollover" treatment will only apply if the provisions of section 137(1) of the TCGA do not prevent it (exchange must be for bona fide commercial purposes and not as part of a scheme for the avoidance of UK tax). No clearance has been sought from HMRC confirming that section 137(1) of the TCGA should not prevent the rollover treatment. If the Offer is not treated as an exchange of securities, UK resident hVIVO Shareholders who alone, or together with persons connected with them, hold 5 per cent. or more of the hVIVO Shares would be treated for the purposes of taxation on chargeable gains as having disposed of their holding of hVIVO Shares in consideration of the issue to them of the New Open Orphan Shares pursuant to the Offer.

(iii) *Future disposals*

A disposal or deemed disposal of New Open Orphan Shares by a hVIVO Shareholder, who is (at any time in the relevant tax year in the UK) resident in the UK for tax purposes, may give rise to a chargeable gain or an allowable loss for the purposes of taxation of chargeable gains in the UK, depending on the hVIVO Shareholder's circumstances and subject to any available exemption or relief and certain anti-avoidance rules. The gain will be calculated as the difference between the sale proceeds and any allowable costs and expenses, including the base cost of the New Open Orphan Shares (which would equal the original base cost in the hVIVO Shares where rollover treatment applies).

hVIVO Shareholders who are not resident in the UK for tax purposes but who carry on a trade, profession or vocation in the UK through a branch, agency or fixed place of business in the UK may be liable to UK taxation on chargeable gains on any gain on a disposal or deemed disposal of their New Open Orphan Shares, if those New Open Orphan Shares are or have been held, used or acquired for the purposes of that trade, profession or vocation or for the purposes of that branch, agency or fixed place of business.

(iv) *Individuals*

The amount of capital gains tax, if any, payable by a hVIVO Shareholder who is an individual resident in the United Kingdom for tax purposes will depend on his or her own personal tax position. No tax should be payable on any gain realised on the disposal if the amount of the net chargeable gains realised by a hVIVO Shareholder, when aggregated with other net gains realised by that hVIVO Shareholder in the year of assessment (and after taking account of allowable losses), does not exceed the annual exemption (the annual exemption for the tax year ending 5 April 2020 is £12,000). Broadly, at current rates (and subject to the availability of any applicable reliefs), any gains in excess of this amount will be taxed at a rate of 10 per cent. for a taxpayer paying tax at the basic rate and 20 per cent. for higher and additional rate taxpayers. Where the gains of a basic rate taxpayer subject to capital gains tax exceed the unused part of their basic rate band, that excess will be subject to tax at the higher (currently 20 per cent.) rate.

A hVIVO Shareholder who is an individual and who acquires New Open Orphan Shares whilst a resident of the UK but who subsequently ceases to be resident for tax purposes in the UK for a period of five years or less and who disposes of the New Open Orphan Shares during that period may be liable, on his or her return to the UK, to capital gains tax (subject to any available exemption or relief).

(v) *Corporation tax payers*

A gain on the disposal or deemed disposal of New Open Orphan Shares by a hVIVO Shareholder within the charge to UK corporation tax will form part of the hVIVO Shareholder's profits chargeable to corporation tax (the rate of which is currently 19 per cent.).

(B) **Taxation of Dividends on New Open Orphan Shares**

(i) *Individuals*

UK resident individuals are granted an annual tax-free dividend allowance, which is currently £2,000. References to "£2,000" below are to the current dividend allowance, which is subject to change. Accordingly, a hVIVO Shareholder who is an individual resident in the UK for tax purposes and who receives a dividend from Open Orphan will not pay any income tax on the first £2,000 of dividend income they receive (whether from Open Orphan or elsewhere). Any dividend income received (including the first £2,000) will be treated as the top slice of the hVIVO Shareholder's income.

A hVIVO Shareholder who (taking account of dividend receipts) is liable to UK income tax at the basic rate will be subject to UK income tax on any dividend income in excess of £2,000 at the rate of 7.5 per cent.

A hVIVO Shareholder who is liable to UK income tax at the higher rate will be subject to UK income tax on any dividend income in excess of £2,000 at the rate of 32.5 per cent. to the extent that the dividend income in excess of £2,000 falls above the threshold for the higher rate of UK income tax but below the threshold for the additional rate of UK income tax.

A hVIVO Shareholder who is liable to UK income tax at the additional rate will be subject to UK income tax on any dividend income in excess of £2,000, at the rate of 38.1 per cent. to the extent that the dividend income in excess of £2,000 falls above the threshold for the additional rate of UK income tax.

(ii) *Companies*

hVIVO Shareholders within the charge to UK corporation tax which are "small companies" (for the purposes of UK taxation of dividends) will not generally be subject to tax on dividends paid on the New Open Orphan Shares, provided certain conditions are met.

Other hVIVO Shareholders within the charge to UK corporation tax will not be subject to tax on dividends on the New Open Orphan Shares so long as (i) the dividends fall within an exempt class and (ii) do not fall within certain specified anti-avoidance provisions and (iii) the hVIVO Shareholder has not elected for the dividends not to be exempt. Each hVIVO Shareholder's position will depend on its own individual circumstances, although it would normally be expected that dividends paid on the New Open Orphan Shares would fall within an exempt class. Examples of dividends that are within an exempt class include dividends paid on shares that are non-redeemable ordinary shares and dividends in respect of portfolio holdings where the recipient owns less than 10 per cent. of the issued share capital of the payer (or any class of that share capital) and is entitled to less than 10 per cent. of the profits available for distribution and less than 10 per cent. of assets available for distribution on a winding up in either case to holders of the issued share capital of the payer (or of any class of that share capital). The exemptions are not comprehensive and are subject to anti-avoidance rules. If the conditions for exemption are not, or cease to be, satisfied, or such a hVIVO Shareholder elects for an otherwise exempt dividend to be taxable, the hVIVO Shareholder will be subject to corporation tax in the UK on dividends received from the Company. Corporation tax is charged on dividends at the rate applicable to that company. hVIVO Shareholders will need to ensure that they satisfy the requirements of an exempt class before treating any dividend as exempt, and seek appropriate professional advice where necessary.

(iii) *Other Shareholders*

UK registered pension schemes and charities are generally exempt from tax on dividends.

Trustees who are liable to income tax at the rate applicable to trusts (currently 45 per cent.) will pay tax on the dividend at the dividend trust rate (38.1 per cent. for the tax year ending 5 April 2020). The annual tax-free dividend allowance applies to individuals only, and there is no equivalent allowance for trusts.

**(C) Stamp Duty and Stamp Duty Reserve Tax (“SDRT”)**

hVIVO Shareholders should not be required to pay UK stamp duty or stamp duty reserve tax as a result of a transfer of their hVIVO Shares under the Offer.

The issue of the New Open Orphan Shares will not give rise to a liability to UK stamp duty or SDRT.

On subsequent transfers of New Open Orphan Shares, UK stamp duty will generally be payable (at the rate of 0.5 per cent. of the value of the consideration paid, rounded up where necessary to the next £5) if an instrument of transfer is executed in the UK or, in certain cases, is brought into the UK. Transfers of shares for less than £1,000 are not generally subject to UK stamp duty, provided that they are not part of a wider transaction or series of transactions.

However, exemption is available if the New Open Orphan Shares qualify as being issued on a Recognised Growth Market. AIM currently qualifies as a Recognised Growth Market,

**14. Settlement**

Subject to the Offer becoming or being declared unconditional in all respects, settlement of the consideration to which any hVIVO Shareholder is entitled under the Offer (except as provided in paragraph 21 of Part B of Part III of this document in the case of an Overseas Shareholder) will be effected (i) in the case of acceptances received, complete in all respects, by the date on which the Offer becomes or is declared unconditional in all respects, within 14 days of such date; or (ii) in the case of acceptances received, complete in all respects, after the date on which the Offer becomes or is declared unconditional in all respects but while it remains open for acceptance, within 14 days of such receipt, in the following manner:

**(a) Shares held in certificated form (that is, not in CREST)**

Where an acceptance relates to hVIVO Shares held in certificated form, the New Open Orphan Shares to which the accepting hVIVO Shareholder is entitled will be issued in certificated form.

Definitive certificates for the New Open Orphan Shares will be despatched by first class post (or by such other method as may be approved by the Panel) at the risk of the person(s) entitled thereto to validly accepting hVIVO Shareholders or their appointed agents (but not in or into a Restricted Jurisdiction).

**(b) Shares held in uncertificated form (that is, in CREST)**

Where an acceptance relates to hVIVO Shares held in uncertificated form, the New Open Orphan Shares to which the accepting hVIVO Shareholder is entitled will be issued to such hVIVO Shareholder in uncertificated form. Open Orphan will procure that Euroclear is instructed to credit the appropriate stock account in CREST of the accepting hVIVO Shareholder concerned with such hVIVO Shareholder’s entitlement to New Open Orphan Shares pursuant to the Offer. The stock account concerned will be an account under the same participant ID and member account ID as appeared in the TTE Instruction(s) concerned.

Open Orphan reserves the right to settle all or any part of the consideration referred to above, for all or any accepting hVIVO Shareholder(s), in the manner referred to in paragraph (a) above, if, for any reason, it wishes to do so.

**15. Admission and dealings in the New Open Orphan Shares**

Application will be made to the London Stock Exchange for the New Open Orphan Shares to be admitted to trading on AIM. It is expected that, subject to the satisfaction of certain conditions, Admission will become effective and trading in the Enlarged Open Orphan Share Capital will commence at 8:00 a.m. on 17 January 2020.

In relation to New Open Orphan Shares issued in certificated form, temporary documents of title will not be issued pending the despatch by post of definitive certificates for such New Open Orphan Shares in accordance with the terms of the Offer.

#### **16. Compulsory acquisition and cancellation of admission to trading on AIM of hVIVO Shares**

If Open Orphan acquires, whether through acceptances under the Offer or otherwise, 90 per cent. or more of the hVIVO Shares to which the Offer relates and the Offer becomes or is declared unconditional in all respects, Open Orphan will exercise its rights pursuant to the provisions of sections 974-991 of the Companies Act to acquire compulsorily the remaining hVIVO Shares. In exercising such rights in respect of hVIVO Shares held by hVIVO Shareholders in, or with a registered address in, a Restricted Jurisdiction, Open Orphan may elect to arrange for such hVIVO Shares to be sold on behalf of the relevant hVIVO Shareholder and the proceeds (less the costs and expenses of such sale) remitted to such hVIVO Shareholder.

If the Offer becomes or is declared unconditional in all respects and Open Orphan has acquired or agreed to acquire hVIVO Shares which represent 75 per cent. or more of the voting rights attaching to the hVIVO Shares then Open Orphan intends to procure the making of an application by hVIVO to the London Stock Exchange for the cancellation of the admission to trading of hVIVO Shares on AIM and to re-register hVIVO as a private company as soon as it is appropriate to do so under the provisions of the Companies Act.

It is anticipated that any cancellation of admission to trading on AIM would take effect no earlier than twenty Business Days after hVIVO has acquired or agreed to acquire 75 per cent. of the voting rights attaching to the hVIVO Shares. Cancellation of admission to trading on AIM would significantly reduce the liquidity and marketability of all hVIVO Shares not assented to the Offer at that time.

#### **17. Further information**

Your attention is drawn to the further information contained in this document and to the Admission Document relating to Open Orphan and the New Open Orphan Shares which accompanies this document.

#### **18. Action to be taken**

If you hold your hVIVO Shares in certificated form (that is, not in CREST), then to accept the Offer you should ensure that you return your completed Form of Acceptance in the reply-paid envelope as soon as possible and, in any event, so as to be received by Equiniti Limited no later than 1.00 p.m. (London time) on 30 December 2019.

If you hold your hVIVO Shares in uncertificated form (that is, in CREST), then to accept the Offer you should ensure that you send (or, if you are a CREST sponsored member, procure that your CREST sponsor sends) a TTE Instruction in accordance with the procedure set out in paragraph 16 of Part I, as soon as possible, and in any event so that the TTE Instruction settles not later than 1.00 p.m. (London time) on 30 December 2019.

Further details relating to settlement of the consideration due under the Offer are set out in paragraph 14 of the letter from Open Orphan set out in this Part II of this document.

Yours faithfully,

Brendan Buckley

*Chairman*  
for and on behalf of  
**Open Orphan plc**



## PART III

### CONDITIONS AND FURTHER TERMS OF THE OFFER

#### PART A: CONDITIONS OF THE OFFER

##### 1. Conditions

The Offer will be subject to the conditions and terms set out below, in this document and (in respect of certificated hVIVO Shares) in the Form of Acceptance and to the applicable rules and regulations of the London Stock Exchange and the Code and will be governed by English law and subject to the jurisdiction of the courts of England:

##### 1.1 *Acceptance condition*

valid acceptances of the Offer being received (and not, where permitted, withdrawn) by not later than 1.00 pm (London time) on the First Closing Date (or such later time(s) and/or date(s) as Open Orphan may, subject to the rules of the Code or with the consent of the Panel, decide) in respect of hVIVO Shares which, together with all other hVIVO Shares acquired by Open Orphan (whether pursuant to the Offer or otherwise will result in Open Orphan, and any other person acting in concert with Open Orphan, holding in aggregate) carry not less than 90 per cent. (or such lower percentage as Open Orphan may decide) in nominal value of the hVIVO Shares to which the Offer relates and of the voting rights attached to those shares, provided that this Condition will not be satisfied unless Open Orphan and/or any of its associates shall have acquired or agreed to acquire (whether pursuant to the Offer or otherwise) hVIVO Shares carrying in aggregate more than 50 per cent. of the voting rights then normally exercisable at general meetings of hVIVO, including for this purpose (except to the extent otherwise agreed by the Panel), any voting rights attaching to any hVIVO Shares which are unconditionally allotted or issued before the Offer becomes or is declared unconditional as to acceptances (whether pursuant to the exercise of outstanding conversion or subscription rights or otherwise). For the purposes of this Condition 1.1:

1.1.1 hVIVO Shares which have been unconditionally allotted but not issued before the Offer becomes or is declared unconditional as to acceptances, whether pursuant to the exercise of any outstanding subscription or conversion rights or otherwise, shall be deemed to carry the voting rights they will carry on being entered into the register of members of hVIVO;

1.1.2 the expressions 'shares to which the Offer relates' and 'associates' shall be construed in accordance with Part 28 of the Act;

1.1.3 hVIVO Shares that cease to be held in treasury before the Offer becomes or is declared unconditional as to acceptances are hVIVO Shares to which the Offer relates; and

1.1.4 valid acceptances shall be deemed to have been received in respect of hVIVO Shares which are treated for the purposes of Part 28 of the Act as having been acquired or contracted to be acquired by Open Orphan by virtue of acceptances of the Offer;

##### 1.2 *CMA clearance*

to the extent that the European Commission refers any aspect of the Offer to the CMA under Article 4(4) or Article 9 of the Council Regulation (EC) 139/2004 (the **EU Merger Regulation**), or if it does not constitute a concentration with an Community dimension, but Open Orphan and hVIVO agree (such agreement to take due account of their relative legal obligations, and not to be unreasonably withheld) that a CMA filing is otherwise desirable, the CMA confirming, in terms reasonably satisfactory to Open Orphan and hVIVO, that there will not be a reference by the CMA of the Offer, any part of it or any matter arising from it to its chair for the constitution of a group under schedule 4 to the Enterprise and Regulatory Reform Act 2013;

##### 1.3 *Approval of Open Orphan Shareholders and Admission of the New Open Orphan Shares*

1.3.1 the passing at the Open Orphan General Meeting (or at any adjournment thereof) of the Merger Resolutions;

1.3.2 the admission to trading on AIM of the New Open Orphan Shares to be issued in connection with the Offer becoming effective in accordance with the AIM Rules or if Open Orphan and Arden so determine (and subject to the consent of the Panel), the London Stock Exchange having acknowledged to Open Orphan or its agent (and such acknowledgement not having been withdrawn) that the New Open Orphan Shares will be admitted to trading on AIM;

#### 1.4 **General regulatory matters**

other than in respect of Condition 1.2, no central bank, government or governmental, quasi-governmental, supranational, statutory, regulatory, environmental or investigative body, authority, court, trade agency, association, institution or professional or environmental body, private body or any other body or person whatsoever in any jurisdiction (each a “**Relevant Authority**”) having instituted, implemented or threatened or having announced its intention to institute, implement or threaten any action, proceedings, suit, investigation, enquiry or reference, or enacted, made or proposed any statute, regulation, decision or order, or having required any action to be taken or information to be provided or otherwise having taken any other steps which would or might reasonably be expected to:

- 1.4.1 make the Offer or its implementation, or the acquisition or the proposed acquisition by Open Orphan of any shares or other securities in, or control of, hVIVO or any of its subsidiaries or subsidiary undertakings void, illegal or unenforceable under the laws of any jurisdiction, or otherwise directly or indirectly restrain, prohibit, restrict, prevent or delay the same or impose additional adverse conditions or financial or other obligations with respect thereto, or otherwise challenge or interfere therewith;
- 1.4.2 impose any limitation on, or result in a delay in, the ability of any member of the Open Orphan Group to acquire or hold or exercise effectively, directly or indirectly, all rights of all or any of the hVIVO Shares (whether acquired pursuant to the Offer or otherwise);
- 1.4.3 require, prevent or delay the divestiture or alter the terms envisaged for any proposed divestiture by any member of the Open Orphan Group or the hVIVO Group of all or any portion of their respective businesses, assets or property, or impose any limitation on the ability of any of them to conduct all or any part of their respective businesses or to own or control any of their respective assets or properties;
- 1.4.4 require, prevent or delay the divestiture by any member of the Open Orphan Group of any shares, securities or other interests in any member of the hVIVO Group of all or any portion of their respective businesses, assets or properties or impose any limitation on the ability of any of them to conduct their businesses or own their respective assets or properties or any part thereof;
- 1.4.5 impose any limitation on, or result in a delay in, the ability of any member of the Open Orphan Group to acquire or hold or exercise effectively, directly or indirectly, any rights of ownership of shares or other securities convertible into shares or any other securities (or the equivalent) in any member of the hVIVO Group or on the ability of any member of the hVIVO Group to hold or exercise effectively, directly or indirectly, any rights of ownership of shares or other securities (or the equivalent) in, or to exercise management control over, any other member of the hVIVO Group;
- 1.4.6 result in any member of the Open Orphan Group or the hVIVO Group ceasing to be able to carry on their respective businesses under any name under which it is presently carried on;
- 1.4.7 require any member of the Open Orphan Group or of the hVIVO Group to acquire or offer to acquire any shares or other securities (or the equivalent) owned by any third party in any member of the Open Orphan Group or any member of the hVIVO Group, other than as a result of the implementation of the Offer;
- 1.4.8 make the Offer or its implementation or the proposed acquisition by the Offeror of any shares or other securities in the Offeree or the acquisition or control of hVIVO or any member of the hVIVO Group, illegal, void or unenforceable in or under the laws of

any jurisdiction or directly or indirectly restrict or delay, prohibit or otherwise interfere with the implementation of, or impose additional conditions or obligations with respect to, or otherwise challenge, the Offer or the acquisition of any shares in hVIVO, or control of hVIVO, by Open Orphan;

- 1.4.9 impose any limitation on, or result in any delay in, the ability of any member of the Open Orphan Group or of the hVIVO Group to conduct or co-ordinate or integrate its business, or any part of it, with the business of any other member of the Open Orphan Group or the hVIVO Group;
- 1.4.10 otherwise adversely affect the business, assets, financial or trading position or profits or prospects of any member of the Open Orphan Group or of the hVIVO Group; or
- 1.4.11 result in the refusal, withholding, suspension, withdrawal, cancellation, termination or modification in whole or in part of any licence, authority, permission or privilege held or enjoyed by any member of the Open Orphan Group or of the hVIVO Group which is necessary for the proper carrying on of its business or the imposition of any conditions, restrictions or limitations upon such licence, authority, permission or privilege which would materially inhibit the exercise thereof,

and all applicable waiting and other time periods (including any extensions thereof) during which any Relevant Authority could decide to take, institute, implement or threaten any action, proceeding, suit, investigation, enquiry or reference or any other step under the laws of any jurisdiction in respect of the Offer or the acquisition of any shares or other securities in hVIVO, or control of hVIVO, by Open Orphan, having expired, lapsed or been terminated;

#### 1.5 ***Notifications, filings, authorisations***

other than in relation to the competition law and regulatory approvals referred to in Condition 1.2, all necessary filings or applications having been made, and all statutory or regulatory obligations having been complied with, in each case in any jurisdiction and under any applicable legislation or regulation in relation to the Offer or the acquisition of hVIVO securities by any member of the Open Orphan Group or change of control of hVIVO, and all authorisations, orders, grants, recognitions, confirmations, licences, consents, clearances, permissions and approvals (together **authorisations**) necessary in any jurisdiction for or in respect of the Offer or the acquisition of hVIVO securities by any member of the Open Orphan Group or change of control of hVIVO having been obtained (in terms and form reasonably satisfactory to Open Orphan) from any Relevant Authority or other person or body with whom any member of the Open Orphan Group or the hVIVO Group has entered into an agreement or arrangement, and such authorisations and any other authorisations necessary or appropriate for any member of the Open Orphan Group or of the hVIVO Group to carry on any business now carried on by it remaining in full force and effect, and no notice having been given or threatened to revoke, suspend or not renew any of the same;

#### 1.6 ***Events since last accounts date***

save as Disclosed, no member of the hVIVO Group having, since 31 December 2018:

- 1.6.1 save as between hVIVO and its wholly-owned subsidiaries or for hVIVO Shares issued pursuant to the exercise of options or vesting of awards granted under the hVIVO Share Schemes, issued or agreed to issue or authorised or proposed the issue of additional shares of any class;
- 1.6.2 save as between hVIVO and its wholly-owned subsidiaries or for the grant of options or awards pursuant to the hVIVO Share Schemes, issued or agreed to issue or authorised or proposed the issue of securities convertible into shares of any class, or rights, warrants or options to subscribe for, or acquire, any such shares or convertible securities;
- 1.6.3 other than to another member of the hVIVO Group, recommended, declared, paid or made or proposed to recommend, declare, pay or make any bonus, dividend or other distribution, whether payable in cash or otherwise;

- 1.6.4 save for transactions with another member of the hVIVO Group, merged with or demerged from any body corporate, partnership or business, or acquired or disposed of or transferred, mortgaged or charged or created any security interest of any kind whatsoever over any assets or any right, title or interest in any asset (including shares and trade investments), or authorised or proposed or announced any intention to propose, enter into or create any merger, demerger, acquisition or disposal, transfer, mortgage, charge or security interest of any kind;
- 1.6.5 save for transactions with another member of the hVIVO Group, made or authorised, or announced a proposal to make, any change in its loan capital or the issue of any debentures;
- 1.6.6 incurred or increased any indebtedness or become subject to any guarantee or contingent liability other (in any such case) than in the ordinary course of business;
- 1.6.7 been unable to pay its debts, or having admitted such inability in writing, having stopped or suspended payment of its debts generally (or having threatened to do either such thing), or having ceased, or having threatened to cease, carrying on all or a substantial part of its business;
- 1.6.8 purchased, redeemed or repaid, or announced any proposal to purchase, redeem or repay, any of its own shares or other securities, or reduced or made any other change (excepting any change referred to in sub-paragraph 1.6.1 above) to any part of its share capital;
- 1.6.9 other than pursuant to the Offer (and except for transactions with another member of the hVIVO Group which are not material in the context of the hVIVO Group taken as a whole) entered into, implemented, effected or authorised, or proposed or announced its intention to enter into, implement, effect or authorise, any merger, demerger, reconstruction, amalgamation, scheme, commitment or other transaction or arrangement with a substantially equivalent effect;
- 1.6.10 entered into, or varied in any material respect the terms of, any contract with any director or senior executive of hVIVO or any of its subsidiaries;
- 1.6.11 other than in the ordinary course of business, entered into or varied or authorised, proposed or announced its intention to enter into, vary or authorise any contract, transaction or commitment (whether in respect of capital expenditure or otherwise) which is of a long term, onerous or unusual nature or magnitude, or involves or could involve an obligation of such a nature or magnitude, or which is or could be (in a manner or to an extent abnormal in the context of the business concerned) restrictive on any business of any member of the hVIVO Group;
- 1.6.12 (other than in respect of a member which is dormant and was solvent at the relevant time) taken any corporate action or had any legal proceedings started or threatened against it for its winding-up, dissolution, reorganisation or any analogous proceedings in any jurisdiction, or for the appointment of a receiver, administrative receiver, administrator, trustee or similar officer of all or any of its assets or revenues, or had any such person appointed;
- 1.6.13 entered into any contract, transaction or arrangement which would be restrictive on the business of any member of the hVIVO Group other than to a nature and extent which is normal in the context of the business concerned;
- 1.6.14 waived or compromised any claim otherwise than in the ordinary course of business;
- 1.6.15 entered into or varied the terms of any contract, commitment, arrangement or agreement otherwise than in the ordinary course of business, or passed any resolution or made any offer (which remains open for acceptance) with respect to, or announced any intention or proposal to effect, any of the transactions, matters or events referred to in this Condition;
- 1.6.16 made any amendment to its articles of association;

1.6.17 made or agreed or consented to any change to:

- (a) the terms of any trust deed constituting any pension scheme established by any member of the hVIVO Group for its directors, employees and/or their dependents,
- (b) the contributions payable to any such scheme, or the benefits which accrue or the pensions which are payable thereunder,
- (c) the basis on which qualification for, or accrual or entitlement to, such benefits or pensions are calculated or determined, or
- (d) the basis upon which the liabilities (including pensions) of any such pension schemes are funded, valued or made; or

1.6.18 proposed, modified the terms of, or agreed to provide, any share scheme, incentive scheme or other benefit relating to the employment or termination of employment of any person employed by the hVIVO Group, other than in accordance with the terms of the Offer;

**1.7 *Matters arising from agreement, arrangement etc.***

save as Disclosed, there being no provision of any agreement, arrangement, licence, permit or other instrument to which any member of the hVIVO Group is a party, or in or from which any such member may be interested or be entitled to benefit, or by or to which any such member or any of its assets may be bound or subject, which in consequence of the Offer or because of a change in the control of hVIVO or otherwise, could or might result in:

1.7.1 any moneys borrowed by, or any other indebtedness (actual or contingent) of, or any grant available to, any such member, being or becoming repayable or capable of being declared repayable immediately or earlier than their or its stated repayment or maturity date, or the ability of any such member to borrow moneys or incur any indebtedness being withdrawn or restricted, or being or becoming capable of being withdrawn or restricted;

1.7.2 any such agreement, arrangement, licence, permit or instrument or the rights, liabilities, obligations or interests of any such member thereunder being terminated or adversely modified or affected, or any obligation or liability arising or any adverse action being taken or arising thereunder;

1.7.3 any assets or interests of any such member being or falling to be disposed of or charged or any right arising under which any such asset or interest could be required to be disposed of or charged;

1.7.4 the creation or enforcement of any mortgage, charge or other security interest of any kind whatsoever over the whole or any part of the business, property, assets or other interests of any such member or any such security;

1.7.5 the rights, liabilities, obligations or interests of any such member in or in respect of any agreement or arrangement, or the business of any such member, with any person, firm or body being terminated or adversely modified or affected;

1.7.6 the value of any such member or its financial or trading position being prejudiced or adversely affected;

1.7.7 any such member ceasing to be able to carry on business under any name under which it currently does so; or

1.7.8 the imposition of any liability (actual or contingent) on, or an increase in the liability (whether actual or contingent) of, any such member;

and no event having occurred which, under any provision of any agreement, arrangement, licence, permit or other instrument to which any member of the hVIVO Group is a party or by or to which any such member or any of its assets may be bound, entitled or subject, could result in the occurrence of any of the events or circumstances described or referred to in paragraphs 1.7.1 to 1.7.8 of this Condition;

1.8 ***No adverse change, litigation etc.***

save as Disclosed, since the date to which hVIVO's most recently published annual report and accounts were made up:

- 1.8.1 no adverse change or deterioration having occurred in the business, assets, financial or trading position or profits of any member of the hVIVO Group;
- 1.8.2 no litigation, arbitration or mediation proceedings, prosecution or other legal proceedings to which any member of the hVIVO Group is or may become a party (whether as a claimant, defendant or otherwise), and no investigation by any Relevant Authority against or in respect of any member of the hVIVO Group remaining outstanding, or having been instituted, announced or threatened by or against any member of the hVIVO Group; and
- 1.8.3 no contingent or other liability of any member of the hVIVO Group which has not previously been disclosed having arisen which would be likely to adversely affect the business, assets, financial or trading position, profits, prospects or operational performance of any member of the hVIVO Group;

1.9 ***No withdrawal, cancellation, termination or modification of licence***

no steps having been taken and no omissions having been made which are likely to result in the withdrawal, cancellation, termination or modification of any licence held by any member of the hVIVO Group which is necessary for the proper carrying on of its business;

1.10 ***No discovery of adverse information***

save as Disclosed, Open Orphan not having discovered in relation to any member of the hVIVO Group:

- 1.10.1 that any financial, business or other information concerning the hVIVO Group as contained in the information publicly announced at any time by or on behalf of any member of the hVIVO Group is misleading, contains a misrepresentation of fact or omits to state a fact necessary to make that information not misleading;
- 1.10.2 that any member of the hVIVO Group, or any partnership, company or other entity which is not a member of the hVIVO Group but in which any member of the hVIVO Group has a significant economic interest, is subject to any liability (contingent or otherwise); or
- 1.10.3 any information which affects the importance of any other information disclosed at any time by or on behalf of any member of the hVIVO Group and whose importance is material in the context of the hVIVO Group taken as a whole.

## PART B: FURTHER TERMS OF THE OFFER

### Definitions

Except where the context requires otherwise, any reference in this Part B or in Parts C or D of this Part III and (in respect of the certificated hVIVO Shares) in the Form of Acceptance to:

1. the “**acceptance condition**” means the condition set out in paragraph 1.1 of Part A of this Part III;
2. the “**Offer**” includes any election or alternative available under the Offer and any revision, variation, renewal or extension of the Offer;
3. the “**Offer becoming unconditional as to acceptances**” means the Offer being or becoming or being declared unconditional as to acceptances by virtue of the acceptance condition having become or been declared fulfilled, whether or not any other condition to the Offer remains to be satisfied;
4. the “**Offer becoming wholly unconditional**” or the “**Offer becoming unconditional in all respects**” (and similar terms) means all of the Conditions to the Offer becoming, or being declared, satisfied, or where capable of being waived, waived, and references to the Offer having become, or having been declared, unconditional in all respects shall be construed accordingly;
5. “**acceptance of the Offer**” includes deemed acceptance of the Offer;
6. a person “**acting in concert with**” Open Orphan is a reference to a person acting, or deemed to be acting, in concert with Open Orphan for the purposes of the Code and/or the Offer;
7. “**send**”, “**sent**” or “**sending**” or a similar expression in relation to any document, announcement or other information shall include distribution in hard copy form or electronic form or publication on a website in such manner as shall be permitted by the Code or otherwise with the Panel’s consent;
8. “**Shareholders**” means holders of hVIVO Shares and shall include reference to the person or persons (in respect of certified hVIVO Shares) executing a Form of Acceptance and, in the event of more than one person executing a Form of Acceptance, the provisions of Part B and Part C of Part III shall apply to them jointly and to each of them. References to the masculine gender shall include the feminine;
9. “**Day 21**” means 30 December 2019 (or any later time and/or date as the Panel may determine);
10. “**Day 39**” means 17 January 2020 (or any later time and/or date as the Panel may determine);
11. “**Day 42**” means 20 January 2020 (or any later time and/or date as the Panel may determine);
12. “**Day 46**” means 24 January 2020 (or any later time and/or date as the Panel may determine); and
13. “**Day 60**” means 7 February 2020 (or any later time and/or date as the Panel may determine).

The following further terms apply, unless the context requires otherwise, to the Offer.

### 14. Acceptance Period

- 14.1 The Offer will initially be open for acceptance until 1.00 pm (London time) on Day 21 of the Offer. Open Orphan reserves the right (but will not be obliged, other than as may be required by the Code) at any time and from time to time after that date to extend the Offer and, in such event, it will make an announcement of such extension as described in paragraph 15.1 below and give oral or written notice of such extension to the Receiving Agent. If the Offer has not become unconditional by Day 21, Open Orphan will have the option to extend the Offer until such time as the Offer becomes unconditional as to acceptances. There can be no assurance, however, that Open Orphan will, in such circumstances, extend the Offer and, if no such extension is made, the Offer will lapse on Day 21 of the Offer and no hVIVO Shares will be purchased pursuant to the Offer.
- 14.2 Although no revision is contemplated, if the Offer is revised, a revised offer document will be published and sent to hVIVO Shareholders. On the day of publication, Open Orphan will place the revised offer document on display, make it available on its website and announce that the

document has been sent and where it can be inspected and otherwise accessed. If the Offer is revised, a revised offer document will be published and the Offer, in its revised form, will remain open for acceptance for a period of at least 14 days (or such other period as may be permitted by the Panel) from the date on which the document containing details of the revision is posted to hVIVO Shareholders. Except with the Panel's consent, no revision of the Offer may be made or revised offer documentation published after Day 46 of the Offer or, if later, the date falling 14 days before the last date on which the Offer can become unconditional as to acceptances.

- 14.3 The Offer, whether revised or not, shall not (except with the consent of the Panel) be capable of becoming unconditional as to acceptances after midnight (London time) on Day 60 (or any earlier time and/or date beyond which Open Orphan has stated that the Offer will not be extended and in respect of which it has not, where permitted, withdrawn that statement) nor of being kept open after that time and/or date unless it has previously become unconditional as to acceptances. However, Open Orphan reserves the right, with the consent of the Panel, to extend the Offer to a later time(s) and/or date(s). If the Offer has not become unconditional as to acceptances at such time (or any later time and/or date to which the Offer has been extended), the Offer will lapse, unless the Panel agrees otherwise. If the Offer lapses for any reason, the Offer shall cease to be capable of further acceptance and Open Orphan shall cease to be bound by prior acceptances.
- 14.4 Except with the consent of the Panel, Open Orphan may not, for the purpose of determining whether the acceptance condition has been satisfied, take into account acceptances received, or purchases of hVIVO Shares made, in respect of which relevant electronic instructions or documents have been received by the Receiving Agent after 1.00 p.m. (London time) on Day 60 of the Offer (or any earlier time and/or date beyond which Open Orphan has stated that the Offer will not be extended and in respect of which it has not, where permitted, withdrawn that statement) or such later time and/or date as Open Orphan may, with the permission of the Panel, decide. If the Offer is extended beyond midnight (London time) on Day 60 of the Offer, acceptances received and purchases made in respect of which relevant documents have been received by the Receiving Agent after 1.00 p.m. (London time) on the relevant date may (except where the Code otherwise permits) only be taken into account with the consent of the Panel.
- 14.5 If the Offer becomes unconditional as to acceptances, it will remain open for acceptance for not less than 14 days from the date on which it would otherwise have expired. If the Offer has become unconditional as to acceptances and it is stated by or on behalf of Open Orphan that the Offer will remain open until further notice or if the Offer will remain open for acceptance beyond the 70th day following the sending of this document, then not less than 14 days' notice in writing will be given prior to the closing of the Offer to those hVIVO Shareholders who have not accepted the Offer.
- 14.6 If a competitive situation arises after Open Orphan has made a 'no extension' statement or a 'no increase' statement (as referred to in the Code), Open Orphan may, if it specifically reserved the right to do so at the time such statement was made (or otherwise with the Panel's consent), choose not to be bound by and withdraw that statement and extend or revise the Offer (as appropriate) provided that it complies with the requirements of the Code and, in particular, that:
  - 14.6.1 it announces the withdrawal and that it is free to extend or revise the Offer (as appropriate) as soon as possible (and in any event within four Business Days of the firm announcement of the competing offer or other competitive situation);
  - 14.6.2 hVIVO Shareholders and persons with information rights are informed in writing at the earliest practicable opportunity or, in the case of hVIVO Shareholders with registered addresses outside the UK or whom Open Orphan knows to be a nominee, trustee or custodian hVIVO Shares for such persons, by announcement in the UK at the earliest practicable opportunity; and
  - 14.6.3 any hVIVO Shareholders who accepted the Offer after the date of the 'no extension' or 'no increase' statement are given a right of withdrawal in accordance with paragraph 16.4 of this Part B of Part III.
- 14.7 Open Orphan may choose not to be bound by a 'no increase' or 'no extension' statement if, having reserved the right to do so, it publishes an increased or improved offer (either as to the



value or form of the consideration or otherwise) which is recommended for acceptance by the hVIVO Directors, or in other circumstances permitted by the Panel.

14.8 If hVIVO makes an announcement of the kind referred to in Rule 31.9 of the Code after Day 39, Open Orphan may, if it has reserved the right to do so (or otherwise with the consent of the Panel) choose not to be bound by a 'no increase' or a 'no extension' statement, and to revise or extend the Offer with the consent of the Panel, provided that Open Orphan complies with the requirements of the Code and in particular that notice to this effect is given as soon as possible (and in any event within four Business Days of the date of hVIVO's announcement) and hVIVO Shareholders (except those resident in Restricted Jurisdictions) are informed in writing at the earliest opportunity.

14.9 If a competitive situation arises and is continuing on Day 60, Open Orphan will enable holders of hVIVO Shares in uncertificated form who have not already validly accepted the Offer but who have previously accepted the competing offer to accept the Offer by special form of acceptance to take effect on Day 60. The special form of acceptance shall constitute a valid acceptance of the Offer provided that:

14.9.1 it is received by the Receiving Agent on or before Day 60 of the Offer;

14.9.2 the relevant hVIVO Shareholder shall have applied to withdraw its acceptance of the competing offer but that the hVIVO Shares to which such withdrawal relates shall not have been released from escrow before Day 60 by the escrow agent to the competing offer; and

14.9.3 the hVIVO Shares to which the special form of acceptance relates are not transferred to escrow in accordance with the procedure for acceptance set out in this document on or before Day 60, but an undertaking is given that they will be so transferred as soon as possible thereafter.

hVIVO Shareholders wishing to use such forms of acceptance should contact the Receiving Agent, Equiniti Limited, on 0371 384 2050 (from within the UK) and +44 121 415 0259 (if calling from outside the UK). Calls are charged at the standard geographic rate and will vary by provider. Calls to the helpline from outside the United Kingdom will be charged at the applicable international rate. The helpline is open between 8.30 am and 5.30 pm (London time) Monday to Friday, excluding public holidays in England and Wales. Different charges may apply to calls from mobile telephones and calls may be recorded and randomly monitored for security and training purposes. Please note that, for legal reasons, the Receiving Agent will only be able to provide you with information contained in this document and will be unable to give advice on the merits of the Offer nor give any financial, legal or tax advice on the contents of this document. Subject to the right to use such special form of acceptance in the terms of this paragraph 14.9, holders of hVIVO Shares in uncertificated form may not use a Form of Acceptance (or any other purported acceptance form) for the purpose of accepting the Offer in respect of such shares.

14.10 For the purposes of determining at any particular time whether the acceptance condition is satisfied, Open Orphan is not bound (unless otherwise required by the Panel) to take into account any hVIVO Shares which have been issued or unconditionally allotted or which arise as the result of the exercise of subscription or conversion rights before the determination takes place unless hVIVO or its agent has given written notice containing relevant details of the allotment, issue, subscription or conversion before that time to Open Orphan or the Registrars on behalf of Open Orphan at the address specified in paragraph 16.2 of this Part B of Part III. Notification by e-mail, or facsimile or other electronic transmission or copies shall not be sufficient to constitute written notice for this purpose.

## 15. Announcements

15.1 Without prejudice to paragraph 16.2 of this Part B, by 8.00 am (London time) on the Business Day (the "**relevant day**") next following the day on which the Offer is due to expire or becomes or is declared wholly unconditional or is revised or extended, as the case may be (or such later time(s) or date(s) as the Panel may agree), Open Orphan will make an appropriate

announcement and simultaneously inform a Regulatory Information Service. The announcement will also state (unless otherwise permitted by the Panel):

- 15.1.1 the number of hVIVO Shares and rights over hVIVO Shares (as nearly as practicable) for which acceptances of the Offer have been received (showing the extent, if any, to which such acceptances have been received from persons acting in concert with Open Orphan or in respect of hVIVO Shares which were subject to an irrevocable commitment, or letter of intent, to accept the Offer procured by Open Orphan or any of its concert parties);
- 15.1.2 details of any relevant securities of hVIVO in which Open Orphan or any person acting in concert with it has an interest or in respect of which it has a right to subscribe, in each case specifying the nature of the interests or rights concerned. Similar details of any short positions (whether conditional or absolute and whether in the money or otherwise), including any short position under a derivative, any agreement to sell or any delivery obligation or right to require another person to purchase or take delivery, will also be stated;
- 15.1.3 details of any relevant securities of hVIVO in respect of which Open Orphan or any of its concert parties has an outstanding irrevocable commitment or letter of intent; and
- 15.1.4 details of any relevant securities of hVIVO which Open Orphan or any person acting in concert with it has borrowed or lent, save for any borrowed shares which have been either on-lent or sold,

and will in each case specify the percentage of each class of relevant securities of hVIVO represented by each of these figures.

Any such announcement shall include a prominent statement of the total number of hVIVO Shares which Open Orphan may count towards the satisfaction of the acceptance condition and the percentage of hVIVO Shares represented by this figure.

- 15.2 Any decision to extend the time and/or date by which the acceptance condition has to be fulfilled may be made at any time up to, and will be announced not later than, 8.00 am (London time) on the relevant day (as defined above in paragraph 15.1 of this Part B) or such later time(s) and/or date(s) as the Panel may agree. The announcement will state the next expiry date unless the Offer is then unconditional as to acceptances, in which case a statement may instead be made that the Offer will remain open until further notice.
- 15.3 In computing the number of hVIVO Shares represented by acceptances and/or purchases, an acceptance or purchase shall only be counted towards fulfilling the acceptance condition if the requirements of Notes 4, 5 and 6 (as applicable) on Rule 10 of the Code are satisfied (unless the Panel agrees otherwise). Subject to this, Open Orphan may include or exclude for announcement purposes acceptances and purchases which are not complete in all respects or which are subject to verification.
- 15.4 In this Part III, references to the making of an announcement or the giving of notice by or on behalf of Open Orphan include: (i) the release of an announcement by public relations consultants or by Arden to the press; and (ii) the delivery by hand or telephone or telex or facsimile or other electronic transmission of an announcement to a Regulatory Information Service. An announcement made otherwise than to a Regulatory Information Service shall be notified simultaneously to a Regulatory Information Service (unless otherwise agreed by the Panel).

## **16. Rights of withdrawal**

- 16.1 Except as provided by this paragraph 16 or as otherwise permitted by Open Orphan (either generally or for any particular hVIVO Shareholder), acceptances of and elections under the Offer shall be irrevocable.
- 16.2 If Open Orphan, having announced the Offer to be unconditional as to acceptances, fails to comply by 3.30 pm (London time) on the relevant day (as defined in paragraph 15.1 of this Part B) (or such later time(s) and/or date(s) as the Panel may agree) with any of the other requirements specified in paragraph 15.1 of this Part B, an accepting hVIVO Shareholder may (unless the Panel agrees otherwise) immediately thereafter withdraw its acceptance of the Offer:

- (i) by written notice received by post or, during normal business hours only, by hand to the Receiving Agent, Equiniti Limited at Corporate Actions, Aspect House, Spencer Road, Lancing BN99 6DA; or (ii) if the relevant hVIVO Shares are held in uncertificated form, in the manner set out in paragraph 16.6 of this Part B. Subject to paragraph 14.3 of this Part B, this right of withdrawal may be terminated not less than eight days after the relevant day by Open Orphan confirming, if it be the case, that the Offer is still unconditional, and complying with the other requirements specified in paragraph 15.1 of this Part B. If any such confirmation is given, the first period of 14 days referred to in paragraph 14.5 of this Part B will run from the date of such confirmation and compliance.
- 16.3 If by 1.00 pm (London time) on Day 42 (or such later time(s) and/or date(s) as the Panel may agree) the Offer has not become unconditional, an accepting hVIVO Shareholder may withdraw its acceptance at any time thereafter: (i) in respect of hVIVO Shares held in certified form, by written notice in the manner referred to in paragraph 16.2 of this Part B; or (ii) if the relevant hVIVO Shares are held in uncertificated form, in the manner set out in paragraph 16.6 of this Part B, until the earlier of:
- 16.3.1 the time when the Offer becomes unconditional; and
- 16.3.2 the final time for the lodging of acceptances of the Offer which can be taken into account in accordance with paragraph 14.3 of this Part B.
- 16.4 If a 'no extension' statement and/or a 'no increase' statement has been withdrawn in accordance with paragraph 14.6 of this Part B, any hVIVO Shareholder who accepts the Offer after the date of the statement may withdraw its acceptance: (i) in respect of hVIVO Shares held in certified form, in the manner referred to in paragraph 16.2 of this Part B; or (ii) if the relevant hVIVO Shares are held in uncertificated form, in the manner set out in paragraph 16.6 of this Part B, not later than the eighth day after the date on which written notice of withdrawal of the statement is posted to hVIVO Shareholders.
- 16.5 In this paragraph 16, **written notice** (including any letter of appointment, direction or authority) means notice in writing bearing the original signature(s) of the relevant accepting hVIVO Shareholder(s) or its/their agent(s) duly appointed in writing (evidence of whose appointment is produced with the notice in a form reasonably satisfactory to Open Orphan). E-mail, telex, facsimile or other electronic transmission, or copies, will not be sufficient to constitute written notice. If a notice from an hVIVO Shareholder withdrawing its acceptance is received in an envelope post-marked in, or which otherwise appears to Open Orphan or its agents to have been sent from, a Restricted Jurisdiction, Open Orphan reserves the right in its absolute discretion to treat that notice as invalid.
- 16.6 In the case of hVIVO Shares held in uncertificated form, if withdrawals are permitted pursuant to paragraphs 16.2, 16.3 or 16.4 of this Part B, an accepting hVIVO Shareholder may withdraw its acceptance through CREST by sending (or, if a CREST sponsored member, procuring that its CREST sponsor sends) an ESA instruction to settle in CREST in relation to each Electronic Acceptance to be withdrawn. Each ESA instruction must, in order for it to be valid and settle, include the following details:
- 16.6.1 the number of hVIVO Shares to be withdrawn, together with their ISIN number (which is GB00B6ZM0X53);
- 16.6.2 the member account ID of the accepting shareholder;
- 16.6.3 the participant ID of the accepting shareholder;
- 16.6.4 the Escrow Agent's participant ID (which is 2RA70);
- 16.6.5 the member account ID of the Escrow Agent included in the relevant Electronic Acceptance (which is OPEHVI01);
- 16.6.6 the CREST transaction ID of the Electronic Acceptance to be withdrawn, to be inserted at the beginning of the shared note field;
- 16.6.7 the intended settlement date for the withdrawal;
- 16.6.8 the corporate action number for the Offer allocated by Euroclear;

16.6.9 input with a standard delivery instruction priority of 80; and

16.6.10 a contact telephone number in the shared note field.

Any such withdrawal will be conditional upon the Receiving Agent verifying that the withdrawal request is validly made. Accordingly, the Receiving Agent will on behalf of Open Orphan either reject the withdrawal by transmitting in CREST a receiving agent reject (AEAD) message or accept the withdrawal by transmitting in CREST a receiving agent accept (AEAN) message.

- 16.7 If an accepting Shareholder withdraws its acceptance, all documents of title and other documents lodged with the Form of Acceptance will be returned by the Receiving Agent as soon as practicable following the receipt of the withdrawal (and in any event within 14 days) by post (or by such other method as may be approved by the Panel). All documents sent to certificated Shareholders (or their appointed agents) will be sent at their own risk.
- 16.8 Any question as to the validity (including time of receipt) of any notice of withdrawal will be determined by Open Orphan whose determination (save as the Panel otherwise determines) will be final and binding. None of Open Orphan, hVIVO, the Receiving Agent, Arden or any other person will be under any duty to give notification of any defect in any notice of withdrawal or will incur any liability for failure to do so or for any determination under this paragraph 16.
- 16.9 Except as stated in this paragraph 16, acceptances of the Offer shall be irrevocable.
- 16.10 hVIVO Shares in respect of which acceptances have been validly withdrawn in accordance with this paragraph 16 may subsequently be the subject of a new acceptance where the procedures set out in Part C of this document are followed while the Offer remains open for acceptance.

## 17. Revisions of the Offer

- 17.1 No revision of the Offer is contemplated, but if the Offer (in its original or any previously revised form(s)) is revised (either in its terms and conditions or in the value or nature of the consideration offered or otherwise) (which Open Orphan reserves the right to do) and such revision represents on the date on which it is announced (on such basis as Arden may consider appropriate) an improvement or no diminution in the value of the revised Offer compared with the consideration or terms previously offered or in the overall value received and/or retained by an hVIVO Shareholder (under the Offer or otherwise), the benefit of the revised Offer will, subject to paragraphs 17.3, 17.4 and 21 of this Part B, be made available to any hVIVO Shareholder who has accepted the Offer in its original or any previously revised form(s) and who has not validly withdrawn such acceptance (a **previous acceptor**). The acceptance of the Offer by or on behalf of a previous acceptor in its original or any previously revised form(s) shall, subject as provided in this paragraph 17 of this Part B, be deemed an acceptance of the revised Offer and shall constitute the separate appointment of each of Open Orphan and any director of, or person authorised by, Open Orphan or any of Open Orphan's financial advisers as its attorney and/or agent with authority:

17.1.1 to accept any such revised Offer on behalf of such previous acceptor;

17.1.2 if the revised Offer includes alternative forms of consideration, to make on its behalf elections for and/or accept alternative forms of consideration in the proportions which the attorney and/or agent in its absolute discretion thinks fit; and

17.1.3 to execute on behalf of and in the name of such previous acceptor all further documents (if any) and to do all things (if any) as may be required to give effect to such acceptances and/or elections.

In making any such election and/or acceptance, the attorney and/or agent shall take into account the nature of any previous acceptance(s) or election(s) made by or on behalf of the previous acceptor and such other facts or matters as it may reasonably consider relevant, and shall not be liable to any hVIVO Shareholder or other person with respect to the making of any such election and/or acceptance or in making any determination relating thereto.

- 17.2 Subject to paragraph 17.3 and paragraph 17.4 of this Part B, the powers of attorney and authorities conferred by this paragraph 17 and any acceptance of a revised Offer and/or any

election pursuant thereto shall be irrevocable unless and until the previous acceptor becomes entitled to withdraw its acceptance under paragraph 16 of this Part B and duly and validly does so.

17.3 The deemed acceptance and/or election referred to in paragraph 17.1 of this Part B shall not apply, and the power of attorney and authorities conferred by that paragraph shall not be exercised, to the extent that a previous acceptor:

17.3.1 in respect of hVIVO Shares in certificated form, lodges with the Receiving Agent, within 14 days of the posting of the document containing the revised Offer, a Form of Acceptance (or other form validly issued by or on behalf of Open Orphan) in which it validly elects to receive the consideration receivable by it under such revised Offer in some other manner than that set out in its original or any previous acceptance; or

17.3.2 in respect of hVIVO Shares in uncertificated form, sends (or, if a CREST sponsored member, procures that its CREST sponsor sends) an ESA instruction to settle in CREST in relation to each Electronic Acceptance in respect of which an election is to be varied. Each ESA instruction must, in order for it to be valid and settle, include the following details:

- (a) the number of hVIVO Shares in respect of which the changed election is made, together with their ISIN number (this is GB00B6ZM0X53);
- (b) the member account ID of the previous acceptor;
- (c) the participant ID of the previous acceptor;
- (d) the member account ID of the Escrow Agent included in the relevant Electronic Acceptance, which is 2RA70;
- (e) the Escrow Agent's participant ID, which is OPEHVI01;
- (f) the CREST transaction ID of the Electronic Acceptance in respect of which the election is to be changed to be inserted at the beginning of the shared note field;
- (g) the intended settlement date for the changed election;
- (h) the corporate action number for the Offer allocated by Euroclear;
- (i) the member account ID of the Escrow Agent relevant to the new election; and
- (j) input with a standard delivery instruction priority of 80.

Any such change of election will be conditional upon the Receiving Agent verifying that the request is validly made. Accordingly, the Receiving Agent will on behalf of Open Orphan reject or accept the requested change of election by transmitting in CREST a receiving agent reject (AEAD) or receiving agent accept (AEAN) message as appropriate.

17.4 The deemed acceptance and/or election referred to in paragraph 17.1 of this Part B shall not apply, and the power of attorney and authorities conferred by that paragraph shall not be exercised, if, as a result thereof, the previous acceptor would (on such basis as Arden may reasonably consider appropriate) thereby receive and/or retain less in aggregate in consideration under the revised Offer than it would have received and/or retained in aggregate as a result of acceptance of the Offer in the form in which it was previously accepted by or on its behalf, unless the previous acceptor has previously agreed in writing. The authorities conferred by paragraph 17.1 of this Part B shall not be exercised in respect of any election available under the revised Offer save in accordance with this paragraph.

17.5 Open Orphan and the Receiving Agent reserve the right to treat an executed Form of Acceptance or TTE instruction in respect of the Offer (in its original or any previously revised form(s)) which is received (or dated) on or after the announcement of any revised Offer as a valid acceptance of the revised Offer (and, where applicable, a valid election for or acceptance of any of the alternative forms of consideration). Such acceptance shall constitute an authority in the terms of paragraph 17.1 of this Part B, mutatis mutandis, on behalf of the relevant hVIVO Shareholder.

## **18. Dividends**

- 18.1 If after the date of this document, any dividend, distribution and/or return of capital is declared, paid or made or becomes payable by hVIVO, Open Orphan reserves the right (without prejudice to any of its other rights) to reduce the consideration payable under the Offer by the aggregate amount of such dividend, distribution and/or return of capital. Any exercise by Open Orphan of its rights referred to in this paragraph will be the subject of an announcement and, for the avoidance of doubt, will not be regarded as constituting any revision or variation of the Offer. Furthermore, Open Orphan reserves the right to reduce the consideration payable under the Offer in such circumstances as are, and by such amount as is, permitted by the Panel.
- 18.2 If Open Orphan exercises the right to reduce the consideration payable under the Offer by all or part of the amount of a dividend, distribution and/or return of capital that has not been paid or made, hVIVO Shareholders will be entitled to receive and retain the amount of that dividend, distribution and/or return of capital. Subject to the foregoing and notwithstanding the Conditions on which the hVIVO Shares are expressed to be acquired by Open Orphan pursuant to the Offer, the hVIVO Shares will be acquired by or on behalf of Open Orphan pursuant to the Offer fully paid and free from all liens, charges, encumbrances and other rights and interests of whatsoever nature and together with all rights now attaching and to become attached thereto, including the right to receive all dividends and other distributions declared, paid or made at any time after the date of this document.
- 18.3 To the extent that such a dividend, distribution and/or return of capital has been declared, paid, made or is payable and it is: (i) transferred pursuant to the Offer on a basis which entitles Open Orphan to receive the dividend, distribution and/or return of capital and to retain it; or (ii) cancelled, the consideration payable under the Offer will not be subject to change in accordance with this paragraph.

## **19. Acceptances and purchases**

- 19.1 Without prejudice to any other provisions of this Part B, Open Orphan, the Receiving Agent and Arden reserve the right to treat as valid in whole or in part any acceptance of the Offer which is not entirely in order or which is not accompanied by the relevant share certificate(s) and/or other relevant document(s) of title or not accompanied by the relevant transfer to escrow ("TTE") instruction, or if received by or on behalf of any of them at any place or places or in any manner determined by any of them or otherwise than as set out in this document or (in respect of hVIVO Shares held in certificated form) in the Form of Acceptance (subject to paragraph 19.2).
- 19.2 Except as otherwise agreed by the Panel:
- 19.2.1 an acceptance of the Offer shall not be treated as valid for the purposes of the acceptance condition unless the requirements of Note 4 and, if applicable, Note 6 on Rule 10 of the Code are satisfied with respect to it (and the hVIVO Shares to which such acceptance relates do not fall within Note 8 on Rule 10 of the Code);
- 19.2.2 a purchase of hVIVO Shares by Open Orphan or its nominee(s) (or, if Open Orphan is required to make an offer or offers under the provisions of Rule 9 of the Code, by a person acting in concert with Open Orphan or its nominee(s) for the purpose of such offer(s)) will be treated as valid for the purposes of the acceptance condition only if the requirements of Note 5 and, if applicable, Note 6 on Rule 10 of the Code are satisfied with respect to it (and the hVIVO Shares to which such acceptance relates do not fall within Note 8 on Rule 10 of the Code);
- 19.2.3 hVIVO Shares which have been borrowed by Open Orphan may not be counted towards fulfilling the acceptance condition; and
- 19.2.4 before the Offer may become or be declared unconditional as to acceptances, the Receiving Agent must have issued a certificate to Open Orphan which states: (i) the number of hVIVO Shares in respect of which acceptances have been received and which comply with paragraph 19.2.1; (ii) the number of hVIVO Shares otherwise acquired, whether before or during the Offer Period, which comply with paragraph 19.2.2; and (iii) the number of hVIVO Shares subscribed by Open Orphan during the Offer Period and which comply with paragraph 19.2.3.

- 19.3 For the purpose of determining at any particular time whether the acceptance condition has been satisfied, Open Orphan shall be entitled to take account only of those hVIVO Shares carrying voting rights which have been unconditionally allotted or issued before that time, and written notice of allotment or issue of which, containing all the relevant details, has been received before that time by the Receiving Agent from hVIVO or its agents at the address specified in paragraph 16.2 of this Part B. E-mail, telex, facsimile, the internet or other electronic transmission, or copies, will not be sufficient to constitute written notice.
- 19.4 In relation to any acceptance of the Offer in respect of hVIVO Shares which are in uncertificated form, Open Orphan reserves the right to make such alterations, additions or modifications as may be necessary or desirable to give effect to any purported acceptance of the Offer, whether in order to comply with the facilities or requirements of CREST or otherwise, provided such alterations, additions or modifications are consistent with the requirements of the Code or are otherwise made with the Panel's consent.
- 19.5 For the purposes of this document, the time of receipt of a TTE instruction, an ESA instruction or an Electronic Acceptance shall be the time at which the relevant instruction settles in CREST.

## **20. General**

- 20.1 The Offer is made at 1.00 pm (London time) on 9 December 2019 and is capable of acceptance from that date and after that time. Copies of this document, the Form of Acceptance and any related documents are available, subject to certain restrictions relating to persons resident in Restricted Jurisdictions, for inspection on the website maintained by Open Orphan in relation to the Offer at [www.openorphan.com](http://www.openorphan.com) and from the Receiving Agent at the address set out in paragraph 16.2 of this Part B from that time.
- 20.2 The Offeror reserves the right (subject to the requirements of the Code and the Panel) to waive all or any of Conditions (other than the acceptance condition), in whole or in part, at its absolute discretion.
- 20.3 The Offeror shall be under no obligation to waive or treat as fulfilled any of the Conditions, by a date earlier than the latest date specified below for the fulfilment of them notwithstanding that the other Conditions may at such earlier date have been waived or fulfilled and that there are at such earlier date no circumstances indicating that any of such Conditions may not be capable of fulfilment.
- 20.4 Except with the consent of the Panel, the Offer will lapse unless all the Conditions to the Offer set out in Part A of this Part III have been fulfilled or (if capable of waiver) waived or (where appropriate) have been determined by Open Orphan to be or remain satisfied, by midnight (London time) on the date which is 21 days after the later of the First Closing Date and the date on which the Offer becomes or is declared unconditional as to acceptances or such later date as Open Orphan may, with the consent of the Panel, decide.
- 20.5 The Offer will lapse if, before 1.00 pm (London time) on the later of the First Closing Date and the date on which the Offer becomes or is declared unconditional as to acceptances:
- 20.5.1 it is referred to the Competition and Markets Authority; or
- 20.5.2 the European Commission either initiates proceedings under Article 6(1)(c) of the EU Merger Regulation or, there is a Phase 2 CMA reference following a referral of the Offer by the European Commission under Article 9.1 of the EU Merger Regulation to a competent authority in the United Kingdom.
- 20.6 If the Offer lapses, not only will it cease to be capable of further acceptance, but also Open Orphan and hVIVO Shareholders will cease to be bound by prior acceptances.
- 20.7 If the Offeror is required by the Panel to make a mandatory offer for hVIVO Shares under Rule 9 of the Code, the Open Orphan may make such alterations to the Conditions as are necessary to comply with the provisions of that Rule.
- 20.8 Open Orphan reserves the right (with the consent of the Panel) to implement the Offer by way of a scheme of arrangement pursuant to Part 26 of the Act. In such event, the scheme of

arrangement will be implemented on the same terms (subject to appropriate amendments), so far as applicable, as those which would apply to the Offer. In particular, the Condition set out in paragraph 1.1 of Part A of this Part III will not apply and the scheme of arrangement will become subject to the following further conditions which are not intended to be capable of waiver:

- 20.8.1 approval of the scheme of arrangement at the court meeting (or any adjournment thereof) being given by a majority in number, representing 75 per cent. or more in value present and voting, either in person or by proxy, of the holders of the hVIVO Shares (or the relevant class or classes thereof) (excluding any hVIVO Shares held by Open Orphan and any person acting in concert with it);
  - 20.8.2 the resolution(s) required to approve and implement the scheme of arrangement and to be set out in the notice of the general meeting of the hVIVO Shareholders, being passed by the requisite majority at such general meeting; and
  - 20.8.3 sanction of the scheme of arrangement by the court (with or without modifications on terms reasonably acceptable to Open Orphan and hVIVO) and an office copy of the orders of the court sanctioning the scheme of arrangement being delivered for registration to the Registrar of Companies in England and Wales and being registered by it.
- 20.9 The Offer will extend to all hVIVO Shares unconditionally allotted or issued and fully paid on the date of the Offer, and any further hVIVO Shares unconditionally allotted or issued and fully paid pursuant to the exercise of options and awards under the hVIVO LTIP, before the date on which the Offer closes or such earlier date as Open Orphan may, subject to the Code, decide.
- 20.10 The hVIVO Shares will be acquired by Open Orphan under the Offer fully paid and free from all liens, charges, encumbrances, equitable interests, options, rights of pre-emption and other third party rights and interests of whatsoever nature and together with all rights now or hereafter attaching or accruing to them, including voting rights and the right to receive and retain, in full, all dividends, interest and other distributions (if any) declared, made or paid, or any other return of capital (whether by way of reduction of share capital or share premium account or otherwise) made on or after the date of this document.
- 20.11 The terms, provisions, instructions and authorities contained or deemed to be incorporated in the Form of Acceptance constitute part of the terms of the Offer, and the provisions of this Part III shall be deemed to be incorporated in and form part of the Form of Acceptance. Words and expressions defined in this document have the same meanings when used in the Form of Acceptance unless the context otherwise requires.
- 20.12 Except with the Panel's consent, settlement of the consideration to which any hVIVO Shareholder is entitled under the Offer will be implemented in full in accordance with the terms of the Offer without regard to any lien, right of set-off, counterclaim or other analogous right to which Open Orphan may otherwise be, or claim to be, entitled as against such hVIVO Shareholder and will be effected in the manner described in paragraph 12 of Part II (Letter from the Directors of Open Orphan) of this document. No consideration will be sent to an address in a Restricted Jurisdiction.
- 20.13 Any omission or failure to despatch this document, (where relevant) the Form of Acceptance, any other document relating to the Offer or any notice required to be despatched under the terms of the Offer, to (or any failure to receive the same by) any person to whom the Offer is made, or should be made, shall not invalidate the Offer in any way nor be treated as meaning, expressly or by implication, that the Offer has not been made to any such person. Subject to paragraph 21 of this Part B, the Offer extends to any such person and to all hVIVO Shareholders to whom this document, the Form of Acceptance and any related documents may not be despatched, or who may not receive such documents. Any and all such persons may collect copies of all such documents from the Receiving Agent at the address set out in paragraph 16.2 of this Part B or inspect this document, subject to certain restrictions relating to persons resident in Restricted Jurisdictions, on the website maintained by Open Orphan in relation to the Offer at [www.openorphan.com](http://www.openorphan.com) while the Offer remains open for acceptances.



- 20.14 All powers of attorney, appointments as agent and authorities on the terms conferred by or referred to in this Part III, or (where relevant) in the Form of Acceptance, are given by way of security for the performance of the obligations of the hVIVO Shareholder concerned and are irrevocable (in respect of powers of attorney, in accordance with section 4 of the Powers of Attorney Act 1971) except in the circumstances where the donor of such power of attorney, appointment or authority is entitled to withdraw its acceptance in accordance with paragraph 16 of this Part B and duly and validly does so.
- 20.15 All communications, notices, certificates, documents of title and remittances to be delivered by or sent to or from any hVIVO Shareholders (or their designated agent(s)) will be delivered by or sent to or from them (or their designated agents) at their risk. No acknowledgement of receipt of any Form of Acceptance, Electronic Acceptance, transfer by means of CREST, communication, notice, share certificate and/or other document of title will be given by or on behalf of Open Orphan.
- 20.16 Open Orphan reserves the right to notify any matter (including the making of the Offer) to all or any hVIVO Shareholder(s) with registered address(es) outside the UK or whom Open Orphan knows to be nominees, trustees or custodians for such persons by announcement or paid advertisement in any daily newspaper published and circulated in the UK in which case such notice shall be deemed to have been sufficiently given notwithstanding any failure by any such hVIVO Shareholders to receive or see such notice, and all references in this document to notice in writing (other than in paragraph 16 of this Part B) shall be construed accordingly.
- 20.17 If all Conditions are satisfied, fulfilled or, to the extent permitted, waived and sufficient acceptances under the Offer are received and/or sufficient hVIVO Shares are otherwise acquired whether pursuant to the Offer or otherwise, Open Orphan intends to apply the provisions of Chapter 3 of Part 28 of the Act to acquire compulsorily any outstanding hVIVO Shares to which the Offer relates on the same terms as the Offer.
- 20.18 Open Orphan also intends, following the Offer becoming or being declared unconditional in all respects and subject to any applicable requirements of the AIM Rules and if sufficient acceptances are received under the Offer such that Open Orphan holds not less than 75 per cent. of the voting rights of hVIVO, that it will procure the making of an application by hVIVO to the London Stock Exchange for cancellation of trading in the hVIVO Shares on AIM. It is anticipated that such cancellation will take effect no earlier than 20 Business Days after the date on which the Offer becomes wholly unconditional (subject to compliance with applicable requirements of the AIM Rules). The cancellation of trading of the hVIVO Shares will significantly reduce the liquidity and marketability of any hVIVO Shares not acquired by Open Orphan.
- 20.19 If the Offer does not become, or is not declared, unconditional in all respects and lapses:
- 20.19.1 in respect of hVIVO Shares held in certificated form, Forms of Acceptance, share certificates and other documents of title will be returned by post (or by such other method as may be approved by the Panel) within 14 days of the Offer lapsing to the person or agent whose name and address outside a Restricted Jurisdiction is set out in the relevant box in the Form of Acceptance or, if none is set out, to the first-named holder at its registered address outside a Restricted Jurisdiction. No such documents will be sent to an address in a Restricted Jurisdiction; and
- 20.19.2 in respect of hVIVO Shares held in uncertificated form, the Receiving Agent will, immediately after the lapsing of the Offer (or within such longer period as the Panel may permit, not exceeding 14 days from the lapsing of the Offer), give instructions to Euroclear to transfer all hVIVO Shares held in escrow balances and in relation to which it is the Escrow Agent for the purposes of the Offer to the original available balances of Shareholders concerned.
- 20.20 In relation to any acceptance of the Offer in respect of hVIVO Shares which are held in uncertificated form, Open Orphan reserves the right to make such alterations, additions or modifications to the terms of the Offer as may be necessary or desirable to give effect to any purported acceptance of the Offer, whether in order to comply with the facilities or requirements of CREST or otherwise, provided such alterations, additions or modifications are consistent with the requirements of the Code or are otherwise made with the consent of the Panel.

- 20.21 All references in this Part III to any statute or statutory provision shall include a statute or statutory provision which amends, consolidates or replaces the same (whether before or after the date of this document).
- 20.22 Each of the Conditions shall be regarded as a separate Condition and shall not be limited by reference to any other Condition.
- 20.23 The Offer, this document, all acceptances of it and all elections pursuant to it, the Form of Acceptance and Electronic Acceptances, all contracts made pursuant to the Offer, all action taken or made or deemed to be taken or made pursuant to any of these terms, the relationship between an hVIVO Shareholder and Open Orphan and/or the Receiving Agent and/or Arden, and all contractual and non-contractual obligations arising from any of the foregoing, shall be governed by and interpreted in accordance with English law. Execution of a Form of Acceptance or the making of an Electronic Acceptance by or on behalf of an hVIVO Shareholder will constitute that shareholder's agreement that:
- 20.23.1 the courts of England are (subject to paragraph 20.23.2 below) to have exclusive jurisdiction to settle any dispute which may arise in connection with the creation, validity, effect, interpretation or performance of, or the legal relationships established by, the Offer and the Form of Acceptance or the Electronic Acceptance or otherwise arising in connection with the Offer and the Form of Acceptance or the Electronic Acceptance, and for such purposes that it irrevocably submits to the jurisdiction of the courts of England; and
- 20.23.2 the agreement in paragraph 20.23.1 above is included for the benefit of Open Orphan, Arden and the Receiving Agent and accordingly each of Open Orphan, Arden and the Receiving Agent shall each retain the right to, and may in their absolute discretion, bring proceedings in any other courts which may have jurisdiction, and that the accepting hVIVO Shareholder irrevocably submits to the jurisdiction of such courts.

## **21. Overseas Shareholders**

- 21.1 **The making of the Offer to Overseas Shareholders or in jurisdictions outside the UK may be prohibited or affected by the laws of such a jurisdiction. Overseas Shareholders should fully inform themselves about and observe any applicable legal requirements.**

It is the responsibility of each Overseas Shareholder receiving a copy of this document and/or Form of Acceptance and wishing to accept the Offer to satisfy itself as to the full observance of the laws and regulatory requirements of the relevant jurisdiction in connection with the Offer, including obtaining any governmental, exchange control or other consents which may be required, or compliance with other necessary formalities needing to be observed and payment of any issue, transfer or other taxes or duties due in such jurisdiction. Each Overseas Shareholder will be responsible for any such issue, transfer or other taxes or other payments by whomsoever payable, and Open Orphan (and any person acting on its behalf) shall be fully indemnified and held harmless by the hVIVO Shareholder concerned for any such issue, transfer or other taxes or duties which Open Orphan (or any such person) may be required to pay.

**If you are an Overseas Shareholder and you are in any doubt about your position, you should consult your independent financial adviser in the relevant jurisdiction.**

- 21.2 The Offer is being made for all the hVIVO Shares, and is being made into all jurisdictions where it is capable of being lawfully made in compliance with local laws. The Offer is not being extended directly or indirectly in or into, by use of mails or any other means or instrumentality (including, without limitation, electronic mail, facsimile transmission, telex, telephone, internet or other forms of electronic communication) of foreign or interstate commerce of, or any facilities of a securities exchange of, any jurisdiction, where to do so would violate the laws of that jurisdiction. Accordingly, copies of this document and of the documents accompanying it are not being (unless otherwise determined by Open Orphan), and must not be, directly or indirectly mailed, transmitted or otherwise forwarded, distributed or sent in, into or from a Restricted Jurisdiction including to hVIVO Shareholders with registered addresses in a Restricted Jurisdiction or to persons whom Open Orphan knows to be custodians, trustees or nominees holding hVIVO Shares for persons with registered addresses in a Restricted Jurisdiction.

- 21.3 Persons receiving such documents (including, without limitation, custodians, nominees and trustees) should observe these restrictions and must not mail or otherwise forward, distribute or send them in, into or from a Restricted Jurisdiction. Doing so may render any purported acceptance of the Offer invalid.
- 21.4 Persons wishing to accept the Offer must not use the mail or any other means or instrumentality (including, without limitation, electronic mail, facsimile transmission, telex, telephone, internet or other forms of electronic communication) of foreign or interstate commerce of, or any facilities of a securities exchange of, any jurisdiction, where to do so would violate, directly or indirectly, the laws of that jurisdiction for any purpose relating to acceptance of the Offer. All hVIVO Shareholders (including nominees, trustees or custodians) who may have a contractual or legal obligation, or may otherwise intend, to forward this document and/or Form of Acceptance, should read the further details in this regard which are contained in this paragraph 21 and in Parts C and D of Appendix I before taking any action. Envelopes containing Forms of Acceptance, evidence of title or other documents relating to the Offer should not be despatched from a Restricted Jurisdiction (whether or not postmarked in the Restricted Jurisdiction). All acceptors of the Offer must provide an address outside a Restricted Jurisdiction for the receipt of the consideration to which they are entitled under the Offer or for the return of Forms of Acceptance or documents of title; otherwise any purported acceptance may be rendered invalid. Open Orphan reserves the right, in its absolute discretion, to treat any acceptance as invalid if it believes that such acceptance may violate applicable legal or regulatory requirements.
- 21.5 If, in connection with the making of the Offer and notwithstanding the restrictions set out in paragraphs 21.2 and 21.4 above, any person (including, without limitation, any custodian, nominee and/or trustee) sends, forwards or otherwise distributes this document, the Form of Acceptance or any related documents, whether pursuant to a legal obligation or otherwise, in, into or from a Restricted Jurisdiction or uses the mail of, or any other means or instrumentality (including, without limitation, electronic mail, facsimile transmission, telex, telephone, internet or other forms of electronic communication) of foreign or interstate commerce of, or any facilities of a securities exchange of, a Restricted Jurisdiction in connection with such forwarding, such person should:
- 21.5.1 inform the recipient of such fact;
  - 21.5.2 explain to the recipient that such action may invalidate any purported acceptance or election by the recipient; and
  - 21.5.3 draw the attention of the recipient to this paragraph 21.
- 21.6 Subject to the provisions of this paragraph 21 and applicable laws, an hVIVO Shareholder may be deemed not to have validly accepted the Offer if:
- 21.6.1 it puts 'NO' in Box 5 of the Form of Acceptance and thereby does not give the representations and warranties set out in paragraph (b) of Part C of this Part III;
  - 21.6.2 it has a registered address in a Restricted Jurisdiction or completes Box 6 of the Form of Acceptance with an address in a Restricted Jurisdiction and in either case does not insert in Box 6 of the Form of Acceptance the name and address of a person or agent outside a Restricted Jurisdiction to whom it wishes the consideration to which it is entitled under the Offer to be sent, subject to the provisions of this paragraph and applicable laws;
  - 21.6.3 it inserts in Box 6 of the Form of Acceptance the name and address of a person or agent in a Restricted Jurisdiction to whom it wishes the consideration to which it is entitled under the Offer to be sent;
  - 21.6.4 a Form of Acceptance received from it is received in an envelope postmarked in, or otherwise appears to Open Orphan or its agents to have been sent from, any Restricted Jurisdiction;
  - 21.6.5 it inserts in Box 2 of the Form of Acceptance a telephone number in a Restricted Jurisdiction for use in the event of queries; or

21.6.6 it makes a Restricted Escrow Transfer pursuant to paragraph 21.7 below without also making a related Restricted ESA instruction which is accepted by the Receiving Agent.

Open Orphan reserves the right, in its sole discretion, to investigate, in relation to any acceptance, whether the representations and warranties set out in paragraph (b) of Part C (or, as the case may be, Part D) of this Appendix 1 could have been truthfully given by the relevant hVIVO Shareholder and, if such investigation is made and, as a result, Open Orphan cannot satisfy itself that such representation and warranty was true and correct, the acceptance may be rejected as invalid. Any acceptance of the Offer by an hVIVO Shareholder who is unable to give the representations and warranties set out in paragraph (b) of Part C of this Part III is liable to be disregarded.

21.7 If an hVIVO Shareholder holding hVIVO Shares in uncertificated form cannot give the warranty set out in paragraph (b) of Part D of this Part III, but nevertheless can provide evidence satisfactory to Open Orphan that it can accept the Offer in compliance with all relevant legal and regulatory requirements, it may purport to accept the Offer by sending (or if a CREST sponsored member, procuring that its CREST sponsor sends) both:

21.7.1 a TTE instruction to a designated escrow balance detailed below (a “**Restricted Escrow Transfer**”); and

21.7.2 one or more valid ESA instructions (a “**Restricted ESA instruction**”) which specify the form of consideration which it wishes to receive (consistent with any alternatives which may from time to time be offered under the Offer).

Such purported acceptance will not be treated as a valid acceptance unless both the Restricted Escrow Transfer and the Restricted ESA instruction(s) settle in CREST and Open Orphan decides, in its absolute discretion, to exercise its right described in paragraph 21.10 of this Part B to waive, vary or modify the terms of the Offer relating to Overseas Shareholders, to the extent required to permit such acceptance to be made, in each case during the acceptance period set out in paragraph 14.1 of this Part B. If Open Orphan accordingly decides to permit such acceptance to be made, the Receiving Agent will, on behalf of Open Orphan, accept the purported acceptance as an Electronic Acceptance on the terms of this document (as so waived, varied or modified) by transmitting in CREST a receiving agent accept (AEAN) message. Otherwise, the Receiving Agent will, on behalf of Open Orphan, reject the purported acceptance by transmitting in CREST a receiving agent reject (AEAD) message.

Each Restricted Escrow Transfer must, in order for it to be valid and settle, include the following details:

21.7.3 the ISIN number for the hVIVO Shares, which is GB00B6ZM0X53;

21.7.4 the number of hVIVO Shares in uncertificated form in respect of which the Offer is to be accepted;

21.7.5 the member account ID of the hVIVO Shareholder;

21.7.6 the participant ID of the hVIVO Shareholder;

21.7.7 the participant ID of the Escrow Agent, which is 2RA70;

21.7.8 the member account ID specific to a Restricted Escrow Transfer, which is RESTRICT;

21.7.9 the intended settlement date;

21.7.10 the corporate action number for the Offer allocated by Euroclear;

21.7.11 input with a standard delivery instruction priority of 80; and

21.7.12 the contact name and telephone number inserted in the shared note file.

Each Restricted ESA instruction must, in order for it to be valid and settle, include the following details:

21.7.13 the ISIN number for the hVIVO Shares, which is GB00B6ZM0X53;

- 21.7.14 the number of hVIVO Shares relevant to that Restricted ESA instruction;
  - 21.7.15 the member account ID of the accepting hVIVO Shareholder;
  - 21.7.16 the participant ID of the accepting hVIVO Shareholder;
  - 21.7.17 the member account ID of the Escrow Agent set out in the Restricted Escrow Transfer;
  - 21.7.18 the participant ID of the Escrow Agent set out in the Restricted Escrow Transfer;
  - 21.7.19 the participant ID and the member account ID of the Escrow Agent relevant to the form of consideration required (details of which are set out above);
  - 21.7.20 the CREST transaction ID of the Restricted Escrow Transfer to which the Restricted ESA instruction relates to be inserted at the beginning of the shared note field;
  - 21.7.21 the intended settlement date. This should be as soon as possible and in any event not later than 1.00 pm (London time) on 30 December 2019;
  - 21.7.22 input with a standard delivery instruction priority of 80; and
  - 21.7.23 the corporate action number for the Offer.
- 21.8 Open Orphan and Arden reserve the right to notify any matter (including the making of the Offer) to all or any Overseas Shareholders by announcement in the UK through a Regulatory Information Service or by notice in the London Gazette or paid advertisement in any daily newspaper published and circulated in the UK, or in any other appropriate manner. Where such announcement, notice or advertisement is duly made, the relevant notice shall be deemed to have been sufficiently given notwithstanding any failure by any Overseas Shareholders to receive or see such notice. All references in this document to 'notice in writing' (other than in paragraph 16 of this Part B) shall be construed accordingly.
- 21.9 Notwithstanding any other provision of this paragraph 21, Open Orphan may in its sole and absolute discretion make the Offer to a resident in a Restricted Jurisdiction if Open Orphan is satisfied, in that particular case, that to do so would not constitute a breach of any securities or other relevant legislation of a Restricted Jurisdiction.
- 21.10 These provisions and any other terms of the Offer relating to Overseas Shareholders may be waived, varied or modified as regards specific Overseas Shareholders or on a general basis by Open Orphan in its absolute discretion. Subject to this discretion, the provisions of this paragraph 21 supersede any terms of the Offer inconsistent with them. Without prejudice to the generality of the foregoing, in exercising any compulsory acquisition rights it may have from time to time pursuant to the provisions of sections 974-991 of the Companies Act in respect of hVIVO Shares held by hVIVO Shareholders in, or with a registered address in, a Restricted Jurisdiction, Open Orphan may elect to arrange for such hVIVO Shares to be sold on behalf of the relevant hVIVO Shareholder and the proceeds (less the costs and expenses of such sale) remitted to such hVIVO Shareholder.
- 21.11 References in this paragraph 21 to an hVIVO Shareholder include references to the person or persons executing a Form of Acceptance and, if more than one person executes the Form of Acceptance, the provisions of this paragraph 21 shall apply to them jointly and severally.
- 21.12 None of Open Orphan, Arden or the Receiving Agent, nor any agent or director of Open Orphan, Arden or the Receiving Agent shall have any liability whatsoever to any person for any loss or alleged loss arising from any decision as to the treatment of acceptances of the Offer on any of the bases set out above in this paragraph 21 of this Part B or otherwise in connection with any such decision.
- 21.13 The provisions of this paragraph 21 of this Part B override any terms of the Offer inconsistent with such provisions.

## **PART C: FORM OF ACCEPTANCE**

**This Part C applies only to hVIVO Shares held in certificated form. If you hold all your hVIVO Shares in uncertificated form, you should ignore this Part C and instead read Part D below.**

For the purposes of this Part C of Part III and the Form of Acceptance, the phrase **'hVIVO Shares in certificated form comprised in the acceptance'** shall mean the number of hVIVO Shares inserted in Box 3 of the Form of Acceptance or, if no number is inserted (or a number greater than the relevant hVIVO Shareholder's holding of hVIVO Shares), the greater of:

- the relevant hVIVO Shareholder's entire holding of hVIVO Shares in certificated form as disclosed by details of the register of members made available to the Receiving Agent prior to the time the relevant Form of Acceptance is processed by them;
- the relevant hVIVO Shareholder's entire holding of hVIVO Shares in certificated form, as disclosed by details of the register of members made available to the Receiving Agent prior to the latest time for receipt of Form(s) of Acceptance which can be taken into account in determining whether the Offer is unconditional; and
- the number of hVIVO Shares in certificated form in respect of which certificates or an indemnity in lieu thereof is received.

Without prejudice to the terms of the Form of Acceptance and the provisions of Parts A and B of this Part III, each hVIVO Shareholder by whom, or on whose behalf, a Form of Acceptance is executed and delivered to the Receiving Agent, irrevocably undertakes, represents, warrants and agrees to and with Open Orphan, the Receiving Agent and Arden (so as to bind his/her personal or legal representatives, heirs, successors and assigns) that:

1.1 the execution of the Form of Acceptance constitutes:

1.1.1 an acceptance of the Offer in respect of the number of hVIVO Shares in certificated form inserted or deemed to be inserted in Box 3 of the Form of Acceptance; and

1.1.2 an undertaking to execute any further documents and give any further assurances which may be required to enable Open Orphan to obtain the full benefit of this Part C and/or to perfect any of the authorities expressed to be given in this Part C,

in each case on and subject to the terms and conditions set out or referred to in this document (which are deemed to be incorporated in the Form of Acceptance) and those expressly set out in the Form of Acceptance, and that, subject only to the rights of withdrawal set out or referred to in paragraph 16 of Part B of this Part III, such acceptance shall be irrevocable. If Box 3 is not completed, or if the number of hVIVO Shares inserted in Box 3 is greater than the number of hVIVO Shares in certificated form comprised in the acceptance or the acceptance is otherwise completed incorrectly, but the Form of Acceptance is signed, it will be deemed to be an acceptance of the Offer in respect of all hVIVO Shares in certificated form comprised in the acceptance.

1.2 unless the hVIVO Shareholder has written 'NO' in Box 5 of the Form of Acceptance, the hVIVO Shareholder:

1.2.1 has not received or sent copies or originals of this document, the Form of Acceptance or any related documents in, into, or from a Restricted Jurisdiction;

1.2.2 has not, in connection with the Offer or the execution or delivery of the Form of Acceptance utilised, directly or indirectly, the mails of, or any means or instrumentality (including, without limitation, facsimile transmission, e-mail, telephone, internet or other forms of electronic communication) of interstate or foreign commerce of, or of any facilities of a national securities exchange of, any Restricted Jurisdiction;

1.2.3 is accepting the Offer from outside a Restricted Jurisdiction and was outside such jurisdictions when the Form of Acceptance was delivered;

- 1.2.4 is not an agent or fiduciary acting on a non-discretionary basis for a principal, unless such agent or fiduciary is an authorised employee of such principal or such principal has given any instructions with respect to the Offer from outside a Restricted Jurisdiction;
- 1.2.5 if it is a US person, or is acting on behalf of a US person, it or that US person, as the case may be, is outside the United States within the meaning of Regulation S under the Securities Act; and
- 1.2.6 if such Open Orphan Shareholder is a citizen, resident or national of a jurisdiction outside the United Kingdom, it has observed the laws and regulatory requirements of the relevant jurisdiction in connection with the Offer, obtained all requisite governmental, exchange control or other consents, complied with all other necessary formalities and paid any issue, transfer or other taxes or duties or other requisite payments due in any such jurisdiction in connection with such acceptance and that it has not taken or omitted to take any action that shall or may result in Open Orphan or any other person acting in breach of the legal or regulatory requirements of any such jurisdiction in connection with the Offer or its acceptance of the Offer;
- 1.3 in relation to hVIVO Shares in certificated form, the execution of the Form of Acceptance and its delivery to the Receiving Agent constitutes, subject to the Offer becoming wholly unconditional and to the hVIVO Shareholder not having validly withdrawn its acceptance, the irrevocable and separate appointment of each of Open Orphan and/or Arden, and any of its or their respective directors or agents and/or any person authorised by either of them, as the hVIVO Shareholder's attorney and/or agent (the **attorney**), and an irrevocable instruction and authorisation to the attorney:
- 1.3.1 to complete and execute all or any form(s) of transfer and/or any other document(s) in connection with acceptance of the Offer which the attorney may consider necessary or appropriate in relation to the hVIVO Shares in certificated form comprised in the acceptance in favour of Open Orphan or such other person(s) as Open Orphan or its agents may direct;
- 1.3.2 to deliver for registration such form(s) of transfer and/or other document(s) which the attorney may consider necessary or appropriate, together with the certificate(s) and/or other document(s) of title relating to such hVIVO Shares within six months of the Offer becoming unconditional in all respects; and
- 1.3.3 to execute all such other documents and do all such other acts and things as may in the attorney's opinion be necessary or expedient for the purpose of, or in connection with, acceptance of the Offer and the vesting in Open Orphan or its nominee of the hVIVO Shares in certificated form comprised in the acceptance;
- 1.4 in relation to hVIVO Shares in certificated form, the execution of the Form of Acceptance and its delivery to the Receiving Agent constitutes, subject to the Offer becoming wholly unconditional and to the hVIVO Shareholder not having validly withdrawn its acceptance, an irrevocable authority and request (subject to the provisions of paragraph 21 of Part B of this Part III):
- 1.4.1 to hVIVO or its agents to procure the registration of the transfer pursuant to the Offer of the hVIVO Shares in certificated form comprised in the acceptance and the delivery of the share certificate(s) and/or other document(s) of title in respect of those hVIVO Shares to Open Orphan or as it may direct;
- 1.4.2 subject to the provisions of paragraph 21 of Part B of this Part III, to Open Orphan or its agents to procure the despatch by post (or by such other method as the Panel may approve) of the cheque for any cash consideration payable under the Offer, at the risk of the hVIVO Shareholder, to the person or agent whose name and address is set out in Box 1 of the Form of Acceptance, or to the name and address (if any) set out in Box 4a or Box 4b or, if none is set out, to the first-named holder at its registered address (outside the Restricted Jurisdictions unless otherwise permitted by Open Orphan); and
- 1.4.3 to Open Orphan or its agents, to record, act and rely on any mandates, instructions, consents or instruments in force relating to payments, notices or distributions which have

been entered in the records of hVIVO in respect of its holding of hVIVO Shares (until such are revoked or varied);

- 1.5 the execution of the Form of Acceptance constitutes the giving of authority to Open Orphan, the Receiving Agent and/or Arden and/or their respective directors, agents or authorised persons within the terms of Part B and Part C of this Part III;
- 1.6 subject to the Offer becoming wholly unconditional (or if the Offer will become wholly unconditional or lapse immediately upon the outcome of the resolution in question, or if the Panel consents) and pending registration of any transfer pursuant to the Offer:
  - 1.6.1 Open Orphan or its agents shall be entitled to direct the exercise of any votes and any or all other rights and privileges (including the right to requisition the convening of a general meeting of hVIVO or of any class of its shareholders) attaching to any hVIVO Shares in certificated form for which an acceptance of the Offer has been given under paragraph 1.1 of this Part C; and
  - 1.6.2 the execution of a Form of Acceptance in respect of any such hVIVO Shares constitutes:
    - (a) an authority to hVIVO and its agents from the hVIVO Shareholder to send any notice, circular, warrant, document or other communication which may be required to be sent to the hVIVO Shareholder as a member of hVIVO (including any share certificate(s) or other document(s) of title) to Open Orphan at its registered office;
    - (b) an authority to Open Orphan or any of its directors to sign any consent to short notice of a general or separate class meeting as the hVIVO Shareholder's attorney and/or agent and on its behalf, and/or to attend (and/or execute a form of proxy in respect of such hVIVO Shares appointing any person nominated by Open Orphan to attend) general and separate class meetings of hVIVO (and any adjournments thereof) and to exercise the votes attaching to such shares on its behalf, upon the understanding where relevant that such votes are to be cast so far as possible to satisfy any outstanding condition of the Offer; and
    - (c) the agreement of the hVIVO Shareholder not to exercise any of such rights without the consent of Open Orphan, and the irrevocable undertaking of the hVIVO Shareholder not to appoint a proxy to attend any such general meeting or separate class meeting

provided that the authorities given, and agreement made, under this paragraph shall cease to be of effect if the acceptance of the relevant hVIVO Shares is validly withdrawn;

- 1.7 the hVIVO Shareholder will deliver or procure the delivery to the Receiving Agent at the address referred to in paragraph 16.2 of Part B of this Part III its share certificate(s) and/or other document(s) of title in respect of all hVIVO Shares held by the hVIVO Shareholder in certificated form comprised in the acceptance (which has not been not validly withdrawn), or an indemnity acceptable to Open Orphan in lieu thereof, as soon as possible and in any event within six months of the Offer becoming unconditional in all respects;
- 1.8 the hVIVO Shareholder has all necessary rights to dispose of the hVIVO Shares for which an acceptance has been given under paragraph 1.1 of this Part C and has full capacity and authority to execute the Form of Acceptance in respect of such hVIVO Shares, that such hVIVO Shares are fully paid up and that Open Orphan will acquire title to and all interests in them free from all liens, equitable interests, charges, encumbrances, rights of pre-emption and other third party rights of any nature whatsoever and together with all rights attaching to them, including voting rights and the right to receive and retain all dividends and distributions (if any), or any returns of capital, declared, made or paid on or after 9 December 2019;
- 1.9 the hVIVO Shareholder will do all such acts and things as shall be necessary or expedient to vest in Open Orphan or its nominee(s) or such other persons as Open Orphan may decide the hVIVO Shares in certificated form for which an acceptance of the Offer has been given under paragraph 1.1 of this Part C (which has not been validly withdrawn), and will ratify each and every act or thing which may be done or effected by Open Orphan, Arden or the Receiving Agent or



any director of Open Orphan, Arden or the Receiving Agent or their respective agents, or by hVIVO or its agents, as the case may be, in the proper exercise of any of their powers and/or authorities under this Part C;

the execution of the Form of Acceptance constitutes the hVIVO Shareholder's agreement to the terms of paragraph 20.25 of Part B of this Part III;

- 1.10 upon execution, the Form of Acceptance shall take effect as a deed;
- 1.11 if any provision of Part B or this Part C of this Part III shall be unenforceable or invalid or shall not operate so as to afford Open Orphan or Arden or the Receiving Agent or any director of any of them the benefit of the authorities and powers of attorney (or any of them) expressed to be given therein, the hVIVO Shareholder shall with all practicable speed do all such acts and things and execute all such documents as may be required to enable Open Orphan and/or Arden and/or the Receiving Agent and/or any of their respective directors to secure the full benefits of all such authorities and powers of attorney; and
- 1.12 the hVIVO Shareholder is not a client (as defined by the rules of the Financial Conduct Authority) of Arden in connection with the Offer.

References in this Part C to an hVIVO Shareholder shall include references to the person or persons executing a Form of Acceptance and, if more than one person executes a Form of Acceptance, the provisions of this Part C shall apply to each of such persons jointly and severally.

## PART D: ELECTRONIC ACCEPTANCES

**This Part D applies only to hVIVO Shares held in uncertificated form. If you hold all your hVIVO Shares in certificated form, you should ignore this Part D and instead read Part C above.**

For the purposes of this Part D of Appendix I, the phrase '**hVIVO Shares in uncertificated form comprised in the acceptance**' shall mean the number of hVIVO Shares which are transferred by the relevant Shareholder by Electronic Acceptance to an escrow account by means of a TTE instruction.

Without prejudice to the provisions of Parts A and B of this Appendix I, each hVIVO Shareholder by whom, or on whose behalf, an Electronic Acceptance is made irrevocably undertakes, represents, warrants and agrees to and with Open Orphan, Arden and the Receiving Agent (so as to bind its personal representatives, heirs, successors and assigns) to the effect that:

- 1.1 the Electronic Acceptance shall constitute:
  - 1.1.1 an acceptance of the Offer in respect of the number of hVIVO Shares to which a transfer to escrow (**TTE**) instruction relates; and
  - 1.1.2 an undertaking to execute any further documents, take any further action and give any further assurances which may be required in connection with the foregoing,  
  
in each case on and subject to the terms and conditions set out or referred to in this document and that, subject to the rights of withdrawal set out in paragraph 16 of Part B of Appendix I, each such acceptance, election and undertaking shall be irrevocable;
- 1.2 that such hVIVO Shareholder:
  - 1.2.1 has not received or sent copies or originals of this document, the Form of Acceptance or any related documents in, into or from any Restricted Jurisdiction;
  - 1.2.2 has not otherwise utilised in connection with the Offer, directly or indirectly, the mails of, or any means or instrumentality (including, without limitation, fax, e-mail, TTE instruction or other electronic transmission or telephone) of interstate or foreign commerce of, or of any facility of a national, state or other securities exchange of, any Restricted Jurisdiction;
  - 1.2.3 is accepting the Offer from outside any Restricted Jurisdiction and was outside those jurisdictions at the time of the input and settlement of the relevant TTE instruction(s);
  - 1.2.4 in respect of the hVIVO Shares to which an Electronic Acceptance relates, is not an agent or fiduciary acting on a non-discretionary basis for a principal, unless such agent or fiduciary is an authorised employee of such principal or such principal has given any instructions with respect to the Offer from outside any Restricted Jurisdiction; and
  - 1.2.5 if the hVIVO Shareholder is an Overseas Shareholder, the hVIVO Shareholder has observed the applicable laws of any relevant jurisdiction, obtained all necessary governmental, exchange control and other consents, complied with all requisite formalities, paid any issue, transfer or other taxes and made other payments due in any such jurisdiction in connection with the hVIVO Shareholder's acceptance and has not taken or omitted to take any action that will or may result in Open Orphan, Arden or any other person acting in breach of the legal or regulatory requirements of any relevant jurisdiction in connection with the Offer or the hVIVO Shareholder's acceptance thereof;
- 1.3 the Electronic Acceptance constitutes, subject to the Offer becoming wholly unconditional with its terms and to the hVIVO Shareholder not having validly withdrawn its acceptance, the irrevocable appointment of each of Open Orphan and/or Arden and/or any of its or their respective directors or agents and/or any person authorised by either of them as the hVIVO Shareholder's attorney and/or agent (the **attorney**), and an irrevocable instruction and authorisation to the attorney to do all such acts and things as may in the attorney's opinion be necessary or expedient for the purpose of, or in connection with, acceptance of the Offer and to vest in Open Orphan or its nominee the hVIVO Shares for which an acceptance of the Offer has been given under paragraph 1.1 of this Part D;

- 1.4 the Electronic Acceptance constitutes the irrevocable appointment of the Escrow Agent and an irrevocable instruction and authority to the Escrow Agent: (i) subject to the Offer becoming wholly unconditional and to the accepting hVIVO Shareholder not having validly withdrawn its acceptance, to transfer to itself (or to such other person or persons as Open Orphan or its agents may direct) by means of CREST all or any of the hVIVO Shares for which an acceptance of the Offer has been given under paragraph 1.1 of this Part D; and (ii) if the Offer does not become wholly unconditional, to give instructions to Euroclear, immediately after the lapsing of the Offer (or within such longer period as the Panel may permit, not exceeding 14 days of the lapsing of the Offer), to transfer all such hVIVO Shares to the original available balance of the hVIVO Shareholder;
- 1.5 the Electronic Acceptance constitutes, subject to the Offer becoming wholly unconditional and to the hVIVO Shareholder not having validly withdrawn its acceptance, an irrevocable authority and request to Open Orphan or its agents (subject to the provisions of paragraph 21 of Part B of this Appendix) to procure the making of a CREST payment obligation in favour of the hVIVO Shareholder's payment bank in accordance with the CREST payment arrangements in respect of any cash consideration to which the hVIVO Shareholder is entitled, provided that Open Orphan may (if, for any reason, it wishes to do so) determine that all or any part of any such cash consideration shall be paid by cheque despatched by post;
- 1.6 the Electronic Acceptance constitutes in respect of hVIVO Shares for which an acceptance of the Offer has been given under paragraph 1.1 of this Part D a separate authority to Open Orphan, Arden and/or their respective directors in the terms of paragraph 17.1 of Part B of this Appendix 1 (subject to the other paragraphs of such paragraph 17);
- 1.7 subject to the Offer becoming wholly unconditional (or if the Offer will become unconditional in all respects or lapse immediately upon the outcome of the resolution in question or if the Panel consents) and pending registration of any transfer pursuant to the Offer:
  - 1.7.1 Open Orphan and/or its agents shall be entitled to direct the exercise of any votes and any or all other rights and privileges (including the right to requisition the convening of a general meeting of hVIVO or of any class of its shareholders) attaching to the hVIVO Shares for which an acceptance of the Offer has been given under paragraph 1.1 of this Part D; and
  - 1.7.2 an Electronic Acceptance, in respect of the hVIVO Shares for which an acceptance of the Offer has been given under paragraph 1.1 of this Part D, constitutes:
    - (a) an authority to hVIVO from the hVIVO Shareholder to send any notice, circular, warrant, document or other communication which may be required to be sent to the hVIVO Shareholder as a member of hVIVO (including any share certificate(s) and/or other document(s) of title issued as a result of a conversion of such hVIVO Shares into certificated form) to Open Orphan at its registered office;
    - (b) an authority to Open Orphan or any director of Open Orphan to sign any consent to short notice of a general or separate class meeting as the hVIVO Shareholder's attorney and/or agent and on its behalf and/or to attend, and/or to execute a form of proxy in respect of such hVIVO Shares appointing any person nominated by Open Orphan to attend general and separate class meetings of hVIVO (and any adjournments thereof) and to exercise the votes attaching to such shares on the hVIVO Shareholder's behalf, where relevant such votes to be cast so far as possible to satisfy any outstanding condition of the Offer; and
    - (c) the agreement of the hVIVO Shareholder not to exercise any of such rights without the consent of Open Orphan and the irrevocable undertaking of the hVIVO Shareholder not to appoint a proxy to attend any such general meeting or separate class meeting;

Provided that the authorities given and the agreement made under this paragraph 1.7 shall cease to be of effect if the acceptance of the relevant hVIVO Shares is validly withdrawn;

- 1.8 the hVIVO Shareholder has all necessary rights to dispose of the hVIVO Shares for which an acceptance of the Offer has been given under paragraph 1.1 of this Part D and has with full capacity and authority to effect an Electronic Acceptance in respect of such hVIVO Shares, that such hVIVO Shares are fully paid up and that Open Orphan will acquire title to and all interests in them free from all liens, equitable interests, charges, encumbrances and other third party rights of any nature whatsoever and together with all rights attaching to them, including voting rights and the right to receive and retain all dividends and other distributions (if any), or any returns of capital, declared, made or paid on or after 9 December 2019;
- 1.9 the hVIVO Shareholder will do all such acts and things as shall be necessary or expedient to vest in Open Orphan or its nominee(s) or such other person(s) as Open Orphan may decide the hVIVO Shares for which an acceptance of the Offer has been given under paragraph 1.1 of this Part D (which has not been validly withdrawn), will do all such acts and things as may be necessary or expedient to enable the Escrow Agent to perform its functions as escrow agent for the purposes of the Offer, and will ratify each and every act or thing which may be done or effected by Open Orphan, Arden or the Receiving Agent or any director of Open Orphan, Arden or the Receiving Agent or their respective agents, or by hVIVO or its agents, as the case may be, in the exercise of any of their powers and/or authorities under this Part D;
- 1.10 if for any reason any hVIVO Shares in respect of which a TTE instruction has been effected in accordance with paragraph 16 of the letter from Open Orphan contained in this document are converted to certificated form, the hVIVO Shareholder will (without prejudice to paragraph (g)(ii)(A) of this Part D) immediately deliver or procure the immediate delivery of the share certificate(s) and/or other document(s) of title in respect of all such hVIVO Shares as so converted to the Receiving Agent at the address referred to in paragraph 16.2 of Part B of this Appendix 1, or to Open Orphan at its registered office, or as Open Orphan or its agents may direct; and the hVIVO Shareholder shall be deemed upon conversion to undertake, represent, warrant and agree in the terms set out in Part C of this Appendix 1 in relation to such hVIVO Shares without prejudice to the application of this Part D as far as Open Orphan deems appropriate;
- 1.11 the creation of a CREST payment obligation in favour of the hVIVO Shareholder's payment bank in accordance with the CREST payment arrangements referred to in paragraph (e) of this Part D shall, to the extent of the obligation so created, discharge in full any obligation of Open Orphan to pay the hVIVO Shareholder any cash consideration to which the hVIVO Shareholder is entitled pursuant to the Offer;
- 1.12 the making of an Electronic Acceptance constitutes the hVIVO Shareholder's agreement to the terms of paragraph 20.25 of Part B of this Appendix 1;
- 1.13 by virtue of the CREST Regulations, the making of an Electronic Acceptance constitutes an irrevocable power of attorney in favour of Open Orphan, Arden, the Receiving Agent and any of their respective agents by the hVIVO Shareholder in the terms of all the powers and authorities expressed to be given by Part B, this Part D and (where applicable by virtue of paragraph 1.10 above) Part C of this Appendix 1;
- 1.14 if any provision of Part B or this Part D of this Appendix 1 shall be unenforceable or invalid or shall not operate so as to afford Open Orphan, Arden or the Receiving Agent or any director of any of them the benefit of the authorities and powers of attorney (or any of them) expressed to be given therein, the hVIVO Shareholder shall with all practicable speed do all such acts and things and execute all such documents that may be required to enable Open Orphan and/or Arden and/or the Receiving Agent and/or any director of either of them to secure the full benefits of all such powers and attorneys; and
- 1.15 the hVIVO Shareholder is not a client (as defined by the rules of the Financial Conduct Authority) of Arden in connection with the Offer.

References in this Part D to an hVIVO Shareholder shall include references to the person or persons making an Electronic Acceptance and, if more than one makes an Electronic Acceptance, the provisions of this Part D shall apply to them jointly and severally.

## PART IV

### OPEN ORPHAN INVESTMENT CONSIDERATIONS

The attention of hVIVO Shareholders is drawn to certain investment considerations relating to the New Open Orphan Shares. The majority of these investment considerations are contingencies which may or may not occur and the Open Orphan Group is not in a position to express a view as to the likelihood of any such contingency occurring. The Open Orphan Board believes that the factors described below represent the current material risks inherent in holding the New Open Orphan Shares; however, the business, financial condition, results, operations or share price of Open Orphan may be materially and adversely affected by other factors which are currently not known to Open Orphan. In addition to all of the other information set out in this document, hVIVO Shareholders should carefully consider the risk factors set out below and reach their own views prior to making any investment decision. You should consult a legal adviser, an independent financial adviser duly authorised under the FSMA, or a tax adviser for legal, financial or tax advice.

**If any of the following risks occur, the Enlarged Group's business, financial position and/or operating results could be materially and adversely affected.**

In addition to the other relevant information set out in this document, the Directors consider that the following specific risk factors, which are not set out in any particular order of priority, should be taken into account when evaluating whether to make an investment in the Company:

#### 1. RISKS RELATING TO THE OFFER

##### ***Conditions of the Offer***

The Offer is conditional upon, amongst other things, the Merger Resolutions being passed at the Open Orphan General Meeting. There can be no assurance that this condition and the other conditions to the Offer will be satisfied and that the Offer will complete by 28 February 2020.

If the conditions to the Offer are not satisfied by 28 February 2020, the Offer will lapse and Open Orphan will not acquire hVIVO.

##### ***The integration costs related to the Acquisition may exceed the Board's expectations***

The Enlarged Group expects to incur certain costs in relation to the Acquisition, including integration and post completion costs in order to successfully combine the operations of the Company and hVIVO. The actual costs of the integration process may exceed those estimated and there may be further additional and unforeseen expenses incurred in connection with the Acquisition. In addition, the Company will incur legal, accounting, transaction fees and other costs relating to the Acquisition, some of which are payable regardless of whether or not the Acquisition completes. Although the Directors believe that the integration and Acquisition costs will be more than offset by the realisation of the synergies resulting from the Acquisition, this net benefit may not be achieved in the short-term or at all, particularly if the Acquisition does not complete or is delayed. These factors could adversely affect the Enlarged Group's operations and/or financial condition.

#### 2. SPECIFIC RISKS TO THE ENLARGED GROUP'S BUSINESS AND THE INDUSTRY IN WHICH IT OPERATES

##### ***Realisation of synergy benefits***

The Directors have identified various synergies which they expect to realise on completion of the Acquisition as set out in paragraph 4 of Part I of this Document. The inability to realise any expected synergy benefits, or to properly integrate hVIVO could adversely affect the future operations of the Enlarged Group including strain on working capital and/or future profitability of the Enlarged Group.

##### ***Failing to successfully implement its growth strategies***

The Enlarged Group intends to carry out certain growth and expansion strategies. The Enlarged Group's growth and future success will be dependent to some extent on the successful completion of such growth and expansion strategies currently or proposed to be undertaken by the Enlarged Group

and the sufficiency of demand for the Enlarged Group's services. The execution of the Enlarged Group's growth and expansion strategies may also place strain on its managerial, operational and financial reserves and the failure to implement such a strategy may adversely affect the Enlarged Group's reputation, business, prospects, results of operation and financial condition.

### ***Commercial agreements***

If customer contracts are cancelled or not renewed this could have adverse effects on the Enlarged Group's future revenues and profitability. Generally, contract cancellation carries a penalty fee, so this risk is partially mitigated. However, in the event of a cancelled contract, the Enlarged Group is unlikely to be able to secure alternative contracts to ensure utilisation of resources that otherwise would have been deployed. Given the specialist nature of some of the Enlarged Group's services, its ability to replace contracts is further reduced by a potentially limited customer market. If the Enlarged Group is unable to fulfil the conditions of a contract, that contract is usually able to be cancelled with no penalty fee charged. Revenue for individual contracts can have peaks and troughs depending on the nature of the services provided. The Enlarged Group will need to manage its cashflow effectively to ensure the availability of working capital.

### ***Pipeline conversion***

The Enlarged Group typically signs contracts for challenge trials close to the anticipated trial commencement. This is driven by customers to mitigate potential cancellation fees in the event of undesired clinical results earlier in the product's development. Therefore while the Enlarged Group is continually working to build its pipeline, there can be no guarantee that this Pipeline will convert to contracted work generating positive operational cash flows over the short term. In the event that contracts are not signed, the Enlarged Group would still incur certain fixed costs and have to manage its working capital until such time as it is able to secure new commercial contracts.

### ***The Group may not meet its expansion and acquisition objectives***

The Enlarged Group may fail to complete appropriate acquisitions, and therefore execute its strategy of consolidating small companies in the fragmented pharmaceuticals services space and extending its geographical footprint across Europe. If acquisitions are made, the Enlarged Group may fail to appropriately integrate acquisitions into the Enlarged Group, resulting in loss of service quality and ultimately lower revenues and profitability.

### ***Limited trading history for Open Orphan DAC***

Open Orphan DAC has only a limited operating history without any revenues and therefore limited trading information upon which to consider the ability of Open Orphan and its management to deliver its business plan and generate revenues, although Open Orphan's business must be considered in light of the risks, expenses and problems frequently encountered by companies at an early stage of development.

### ***General Data Protection Regulation ("GDPR")***

The Enlarged Group receives and processes a large amount of data in its business, some of which includes data that constitutes personal data within the meaning of the GDPR, which came into force on 25 May 2018 and replaced the previous EU data protection laws.

The GDPR introduces, among other things, new obligations on data controllers and data processors, increased rights for data subjects and increased fines and penalties for a breach of its requirements.

The Enlarged Group is aware of its obligations under the GDPR and seeks to conduct its business with the highest standards of governance and data security. The Open Orphan Group has recently implemented a number of safeguards, policies and procedures, as well as training to its staff, which it believes ensures that it is, and the Enlarged Group will be, compliant with the GDPR. These systems will remain under review as the Enlarged Group expands and includes new services to ensure that they remain appropriate.

However, there is a risk that if any personal data of a data subject were to be stolen or leaked from the Enlarged Group to a third party, then there may be potential consequences for both the data subject and the Enlarged Group. The penalties for loss of personal data are extremely high reflecting the

seriousness of such a breach. For example, non-compliance with the GDPR can lead to fines for serious breaches of up to the higher of four per cent. of annual worldwide turnover or €20 million and fines of up to the higher of two per cent. of annual worldwide turnover or €10 million (whichever is highest) for other specified infringements. There are also other corrective powers and sanctions available to supervisory authorities (which, in the UK, is the Information Commissioner's Office) under the GDPR including suspending data transfers to third countries, imposing a temporary or permanent ban on data processing and ordering the restriction, rectification or erasure of data. If the Enlarged Group were to experience a data breach or loss of personal data or to be in breach of the requirements of the GDPR, the Enlarged Group could face significant administrative and monetary sanctions as well as reputational damage which may have a material adverse effect on its business, revenue, profitability, operations, financial condition and future prospects and operations.

#### ***Unfavourable contract terms***

The Enlarged Group has a small number of contractual relationships which include warranties and indemnities, provided in some cases on an uncapped basis. Such warranties and indemnities create an inherent risk that any liability on the Enlarged Group's part for any breach could be material, given the uncapped basis. A successful claim under such warranties or indemnities may have a significant impact on the Enlarged Group's profitability.

#### ***Guarantee and Debenture in favour of Ulster Bank***

Pursuant to a guarantee dated 22 August 2016, the Company agreed to guarantee and pay the obligations (present, future, actual or contingent) of Innoven UK Limited ("**Innoven**"), an entity that no longer forms part of the Group, owing to Ulster Bank Ireland DAC ("**Ulster Bank**") up to a maximum amount of €1,000,000. In addition, the Company granted security to Ulster Bank by way of a fixed and floating charge over its assets pursuant to a debenture dated 22 August 2016. This debenture contains a negative pledge such that the Company cannot carry out certain acts without Ulster Bank's consent.

Although the Company has received verbal confirmation that the guarantee and debenture can be released, no formal release documentation has been provided. As a result, the Company could be required to pay on demand up to €1,000,000 to Ulster Bank, notwithstanding the fact that the Company has no control over whether or not the underlying obligations are satisfied. If the Company does not make this payment, Ulster Bank may enforce its security over the assets of the Company. The Company has been told by Innoven that the balance of the outstanding, underlying loan owing by Innoven to Ulster Bank is approximately €375,000 and remaining term is 21 months.

#### ***Market***

Pharmaceutical companies may decide to bring clinical trial operations in house, reducing the size of the contract research market significantly. Whilst this appears unlikely, given that recent trends indicate that pharmaceutical companies are increasing their level of outsourcing, nevertheless if this happens it could have a material adverse effect on the Enlarged Group.

#### ***Intellectual property, domain knowledge and know-how***

The Enlarged Group has sought to protect its proprietary know-how and other intellectual property by entering into non-disclosure agreements with employees, independent contractors and third parties in the ordinary course of its business, implementing and maintaining internal and external controls, and the laws of copyright, trade secret; and confidentiality. Any intellectual property, whether or not registered owned and/or used by the Enlarged Group in the course of its business or in respect of which the Enlarged Group believes it has rights, may be prejudiced and/or open to challenge by third parties (including where such third parties have or claim to have pre-existing rights in such intellectual property). In any such case, the Enlarged Group may be prevented from using such intellectual property or it may require the Enlarged Group to become involved in litigation to protect its intellectual property rights, each of which may have a material adverse effect on the Enlarged Group's reputation, business, prospects, results of operation and financial condition. Conversely, while the Directors believe the Enlarged Group has taken precautions, they cannot guarantee that any action or inaction by the Enlarged Group will not inadvertently infringe the intellectual property rights of others. Any infringement by the Enlarged Group of the intellectual property rights of others could have a material adverse effect on the Enlarged Group's reputation, business, prospects, results of operation and financial condition. Despite precautions which may be taken by the Enlarged Group to protect its intellectual property rights,

unauthorised parties may attempt to copy, or obtain and use, its intellectual property. This could cause the Enlarged Group to have to incur significant unbudgeted costs in defending its intellectual property rights and/or impact on the Enlarged Group's financial performance.

#### ***Reputation is important in winning contracts with both new and existing customers***

The Enlarged Group's reputation, in terms of the services it provides and the way in which it conducts its business, is central to the Enlarged Group winning contracts with both new and existing customers. Failure to meet the expectations of these customers and other business partners may have a material adverse effect on the Enlarged Group's reputation, business, prospects, results of operation and financial condition. The Enlarged Group's future revenue growth and the contracts it wins depend on its ability to provide customers with a high quality of service. If the Enlarged Group is unable to provide customers with a high quality of service, it could face customer dissatisfaction, leading to decreased demand for its services, a loss of revenue and damage to the Enlarged Group's reputation.

#### ***Expansion through acquisitions entails certain risks***

Part of the Enlarged Group's strategy involves expanding its business through acquisitions of other businesses. Such acquisitions will require the integration of new operations into the Enlarged Group's business. The Enlarged Group's ability to realise the expected benefits from future acquisitions will depend, in large part, upon its ability to integrate new operations with existing operations in a timely and effective manner and to manage an increasingly large business. It will also potentially depend upon the Enlarged Group's ability to recruit additional management as it cannot be assumed that management of acquired businesses will continue to work for the Enlarged Group in the longer-term, or that any of its recruiting efforts will succeed. In addition, the Enlarged Group's acquisition strategy will involve numerous risks, including the potential inability to identify appropriate acquisition opportunities, possible failures of acquisitions to be profitable or to generate anticipated cash flows, the entry into markets and geographic areas where the Enlarged Group has limited or no experience, diversion of management's time and resources from core operations and potential difficulties in integrating operations and systems with those of acquired companies.

#### ***Security breaches of the Enlarged Group's or customers' systems***

The Enlarged Group is often required to, and authorised by its customers to, work with confidential information in the deployment of the Enlarged Group's software and services. Should the Enlarged Group's computer systems be breached, this could result in damage to the Enlarged Group's reputation and/or financial loss. Viruses, worms and other malicious software programmes could, among other things, jeopardise the security of information stored in a user's computer or in the Enlarged Group's computer systems or attempt to change the internet experience of users by interfering with the Enlarged Group's ability to connect with its users. If the Enlarged Group's efforts to combat these malicious applications are unsuccessful, or if its products and services have actual or perceived vulnerabilities, the Enlarged Group's reputation may be harmed, and user traffic could decline. This could impair the Enlarged Group's future ability to be granted access to customer proprietary information and restrict its ability to complete contracts and develop its own products.

#### ***Government policy and legal and regulatory changes***

The application or modification of existing laws or regulations, or the adoption of new laws and regulations relating to pharmaceuticals, regulatory affairs, drug safety and the capture and use of genomic data could adversely affect the manner in which the Enlarged Group currently conducts its business. Generally, it is difficult to predict the extent to which policy and regulatory changes that may come into practice might affect the Enlarged Group. Any such changes may detrimentally affect revenue and/or require increased expenditure impacting the Enlarged Group's operating margin and potentially the planned expansion. Any of these may have a materially adverse impact on the Enlarged Group's operations and financial condition.

#### ***Currency risk***

Open Orphan reports its results in Euros, whilst it is expected that some of its costs and revenues will be denominated in currencies outside of its reporting currency (e.g. in Swiss Francs). This may result in additions to Open Orphan's reported costs or reductions in the Enlarged Group's reported revenues. Given the global and European economic environment, the continued existence of the Euro as a currency is also a risk. All or any of these factors may have a negative effect on the Enlarged Group's



financial results and may therefore adversely affect the Enlarged Group's financial condition. In addition, if the currencies in which the Enlarged Group earns its revenues and/or holds its cash balances weaken against the currencies in which it incurs its expenses, this could adversely affect the Enlarged Group's liquidity. The Enlarged Group does not currently undertake hedging, and were the Enlarged Group to do so, such hedging would be based on estimates of liabilities and future revenues and may not fully eliminate the impact of future foreign currency exchange fluctuations.

#### ***Dependence on key personnel***

The Enlarged Group has a small management team and the loss of any key individual or the inability to attract appropriate personnel could impact upon the Enlarged Group's future performance.

#### ***Additional working capital***

The Enlarged Group is currently operating at a loss and may need additional working capital as it implements its acquisition strategy and integrates these opportunities into the Enlarged Group. Such funds may not be available on acceptable terms or at all, and, without additional funds, the Enlarged Group may not be able to execute its growth strategy effectively, take advantage of future opportunities or respond to competitive pressures or unanticipated requirements.

### **3. GENERAL RISKS RELATING TO THE ENLARGED GROUP AND ITS BUSINESS**

#### ***Economic, political, judicial, administrative, taxation or other regulatory matters***

In addition to the impact of the downturn of the world's economies, the Enlarged Group may be adversely affected by other changes in economic, political, judicial, administrative, taxation or other regulatory or other unforeseen matters. Current and potential investors are strongly recommended to consult an independent financial adviser duly authorised for the purposes of FSMA who specialises in investments in shares before making any investment decision in respect of Ordinary Shares.

#### ***Force majeure***

The Enlarged Group's operation may be adversely affected by risks outside of its control including acts of terrorism, labour unrest, civil disorder, war, subversive activities or sabotage, fires, floods, explosion or other catastrophes, epidemics or quarantine restrictions.

#### ***Brexit***

The extent of the impact of Brexit on the Enlarged Group will depend in part on the nature of the arrangements that are put in place between the UK and the EU following the eventual Brexit and the extent to which the UK continues to apply laws that are based on EU legislation.

The Enlarged Group may be subject to a significant period of uncertainty in the period leading up to eventual Brexit including, *inter alia*, uncertainty in relation to any potential regulatory or tax change. Brexit could also create significant UK (and potentially global) stock market uncertainty, which may have a material adverse effect on the Enlarged Group's business and the price of the Ordinary Shares. As such, it is not possible to accurately state the impact that Brexit will have on the Enlarged Group at this stage. Brexit may also make it more difficult for the Enlarged Group to raise capital in the UK and/or increase the regulatory compliance burden on the Enlarged Group. This could restrict the Enlarged Group's future activities and thereby negatively affect returns.

However, the Enlarged Group has some hedges against any adverse Brexit matters, the Enlarged Group will be listed on both the London AIM stock exchange and also on the Euro denominated Euronext stock exchange via its Dublin listing. As such, giving the company an ability to access Sterling investors in London and Euro denominated investors throughout mainland Europe. Furthermore, the bulk of Open Orphan's current revenues are generated and also delivered in Euro via its Paris and Dutch offices, Open Orphan's cost base is predominantly Euro also, thus lacking any adverse currency exposure risk. The Open Orphan directors don't foresee or expect any impact on its existing revenues regardless of the outcomes of Brexit. Furthermore, hVIVO's revenues are predominantly generated and delivered from its London based labs and clinic as such its revenues are generated in Sterling and its cost base predominantly in Sterling, thus lacking a material adverse currency fluctuation risk. The hVIVO Directors do not don't foresee or expect any impact on its existing revenues regardless of the outcomes of Brexit.

#### **4. RISKS RELATING TO AIM, EURONEXT GROWTH AND THE NEW ORDINARY SHARES**

##### ***Suitability of the Ordinary Shares***

Investment in the Ordinary Shares may not be suitable for all readers of this document. Readers are accordingly advised to consult a person duly authorised under the FSMA who specialises in investments of this nature before making any investment decisions.

##### ***Volatility in the prices of Ordinary Shares***

The Placing Price agreed between the Board and Arden Partners may not be indicative of the market price for the Ordinary Shares following Admission. The subsequent market price of the Ordinary Shares may be subject to wide fluctuations in response to a number of events and factors that are unrelated to the Enlarged Group's operating performance such as changes in financial estimates, recommendations by securities analysts, the share price performance of other companies that investors may deem comparable to the Enlarged Group, market perceptions of the Enlarged Group, new reports relating to trends in the Enlarged Group's markets, large purchases or sales of Ordinary Shares, liquidity (or absence of liquidity) in the Ordinary Shares, legislative or regulatory changes, national and global economic conditions and various other factors and events. These fluctuations may adversely affect the trading price of the Ordinary Shares, regardless of the Enlarged Group's trading performance. The price at which the Ordinary Shares will be traded and the price at which investors may realise these investments will be influenced by many factors, some not specific to the Enlarged Group and its operations. Furthermore, there is no guarantee that the market price of an Ordinary Share will accurately reflect its underlying value.

##### ***Liquidity of trading market for Ordinary Shares***

Admission to trading on AIM and/or Euronext Growth should not be taken as implying that a liquid market for the Ordinary Shares will either develop or be sustained following Admission. The Enlarged Group cannot predict the extent to which investor interest in the Ordinary Shares will lead to the development of a trading market. The liquidity of a securities market is often a function of the volume of the underlying Ordinary Shares that are publicly held by unrelated parties. If a liquid trading market for the Ordinary Shares does not develop, the price of Ordinary Shares may become more volatile and it may be more difficult to complete a buy or sell order for Ordinary Shares.

##### ***Future issues of Ordinary Shares may result in dilution of existing Shareholders***

The Enlarged Group's stated strategy involves growth by acquisition. The Enlarged Group may decide to issue additional Ordinary Shares in the future in subsequent public offerings or private placements to fund expansion and development. If existing Shareholders do not subscribe for additional Ordinary Shares on a pro rata basis in accordance with their existing shareholdings, this will dilute their existing interests in the Enlarged Group. Furthermore, the issue of additional Ordinary Shares may be on more favourable terms than the Placing Shares. The issue of additional Ordinary Shares by the Enlarged Group, or the possibility of such issue, may cause the market price of the Ordinary Shares to decline and may make it more difficult for Shareholders to sell Ordinary Shares at a desirable time or price. There is no guarantee that market conditions prevailing at the relevant time will allow for such a fundraising or that new investors will be prepared to subscribe for Ordinary Shares at a price which is equal to or in excess of the Placing Price.

##### ***Future performance of the Enlarged Group cannot be guaranteed***

There is no certainty and no representation or warranty is given by any person that the Enlarged Group will be able to achieve any returns referred to in this document. The financial operations of the Enlarged Group may be adversely affected by general economic conditions or by the particular financial condition of other parties doing business with the Enlarged Group.

##### ***There is no guarantee that the Enlarged Group will maintain its quotation on AIM or Euronext Growth***

The Enlarged Group cannot assure investors that the Enlarged Group will always retain a quotation on AIM and/or Euronext Growth. If the Enlarged Group fails to do so investors may not have a market for their Ordinary Shares, which could have an adverse impact on the value of those shares. Additionally, if in the future the Enlarged Group decides to obtain a listing on another exchange, in addition to AIM

and Euronext Growth or as an alternative, this may affect the liquidity of the Ordinary Shares traded on AIM and/or Euronext Growth.

### ***Higher risk for shares traded on AIM and Euronext Growth than on the Official list***

Application has been made for the Ordinary Shares to be admitted to trading on AIM and Euronext Growth, markets designated primarily for emerging or smaller companies. The AIM Rules and the Euronext Growth Rules are less onerous than those of the Official List and an investment in shares that are traded on AIM and/or Euronext Growth is likely to carry a higher risk than an investment in shares listed on the Official List. The future success of AIM and Euronext Growth and liquidity in the market for Ordinary Shares cannot be guaranteed. In particular, the market for Ordinary Shares may become or may be relatively illiquid and therefore, such Ordinary Shares may be or may become difficult to sell. Prospective investors should be aware that the market price of the Ordinary Shares may go down as well as up and that the market price of the Ordinary Shares may not reflect the underlying value of the Enlarged Group. Investors may, therefore, realise less than or lose all of their investment.

### ***Legislation and tax status***

This document has been prepared on the basis of current legislation, regulation, rules and practices and the Directors' interpretation thereof. Such interpretation may not be correct and it is always possible that legislation, rules and practice may change. Any change in legislation or regulation and, in particular, in tax status or tax residence of the Enlarged Group or in tax legislation or practice may have an adverse effect on the returns available on an investment in the Enlarged Group.

### ***Taxation***

The tax rules and their interpretation relating to an investment in the Enlarged Group may change during its life. Any change in the Enlarged Group's tax status or in taxation legislation or its interpretation could affect the value of the investments held in the Enlarged Group or the Enlarged Group's ability to provide returns to Shareholders or alter the post-tax returns to Shareholders. Representations in this document concerning the taxation of the Enlarged Group and its investors are based upon current tax law and practice which is, in principle, subject to change. Current and potential investors are strongly recommended to consult an independent financial adviser authorised under FSMA who specialises in investments in shares before making any investment decision in respect of Ordinary Shares.

### ***Dividends***

The Enlarged Group's ability to pay dividends (including any special dividends) in the future is affected by a number of factors, principally the generation of distributable profits within its Group and the receipt of sufficient dividends from its subsidiaries. Under English law, a company can only pay cash dividends to the extent that it has distributable reserves and cash available for this purpose. In addition, the Enlarged Group may not pay dividends if the Directors believe this would cause the Enlarged Group to be inadequately capitalised or if, for any other reason, the Directors conclude it would not be in the best interests of the Enlarged Group. Any change in the tax treatment of dividends or interest received by the Enlarged Group may reduce the amounts available for dividend distribution. Any of the foregoing could limit the payment of dividends to Shareholders or, if the Enlarged Group does pay dividends, the amount of such dividends. In addition, the Enlarged Group's ability to pay dividends will depend on the level of distributions, if any, received from its operating subsidiaries. The Enlarged Group's subsidiaries may, from time to time, be subject to restrictions on their ability to make distributions including foreign exchange limitations, and regulatory, fiscal and other restrictions.

### ***Substantial sales of Ordinary Shares***

There can be no assurance that certain Shareholders will not elect to sell their Ordinary Shares following the expiry of applicable lock-in and orderly market arrangements. The market price of Ordinary Shares could decline as a result of any such sales of Ordinary Shares or as a result of the perception that these sales may occur. In addition, if these or any other sales were to occur, the Enlarged Group may in the future have difficulty in offering Ordinary Shares at a time or at a price it deems appropriate.

## PART V

### FINANCIAL INFORMATION ON HVIVO

The following sets out the financial information in respect of hVIVO as required by Rule 24.3 of the Code. The documents referred to below, the contents of which have been previously announced through a Regulatory Information Service, are incorporated into this document by reference pursuant to Rule 24.15 of the Code:

#### **Audited consolidated accounts of hVIVO**

- The audited consolidated accounts of hVIVO for the financial year ended on 31 December 2018 are set out on pages 42 to 76 (inclusive) of the annual report and accounts of hVIVO for the financial year ended on 31 December 2018 available free of charge on hVIVO's website <https://hvivo.com/investors/financial-reports>.
- The audited consolidated accounts of hVIVO for the financial year ended on 31 December 2017 are set out on pages 32 to 62 (inclusive) of the annual report and accounts of hVIVO for the financial year ended on 31 December 2017 available free of charge on hVIVO's website <https://hvivo.com/investors/financial-reports/>.

#### **Interim statement and preliminary results of hVIVO**

- The unaudited consolidated financial statements of hVIVO for the six months ended on 30 June 2019 are set out in hVIVO's announcement of its interim results for the six months ended on 30 June 2019 available free of charge on hVIVO's website <https://hvivo.com/investors/financial-reports/>.

If you are reading this document in hard copy form, please enter one of the web addresses above in your web browser to be brought to the relevant document. If you are reading this document in electronic form, please click on the relevant web address above to be brought to the relevant document.

The above Annual Reports and Accounts of hVIVO are available in "read-only" format and can be printed from hVIVO's website. hVIVO will provide within two business days of the request being received, without charge, to each shareholder, person with information rights or other person to whom a copy of this document has been sent, upon their written or verbal request, a copy of any information incorporated by reference in this document. Copies of any information incorporated by reference in this document will not be provided unless such a request is made.

**Requests for copies of any such document should be directed to Equiniti Limited or by calling Equiniti Limited on telephone number 0371 384 2050 (from within the UK) or +44 121 415 0259 (from outside the UK). Calls are charged at the standard geographic rate and will vary by provider. Calls to the helpline from outside the United Kingdom will be charged at the applicable international rate. The helpline is open between 8.30 am and 5.30 pm (London time) Monday to Friday, excluding public holidays in England and Wales. Different charges may apply to calls from mobile telephones and calls may be recorded and randomly monitored for security and training purposes. Please note that, for legal reasons, the Receiving Agent will only be able to provide you with information contained in this document and will be unable to give advice on the merits of the Offer nor give any financial, legal or tax advice on the contents of this document**

## PART VI

### FINANCIAL INFORMATION ON OPEN ORPHAN

The following sets out the financial information in respect of Open Orphan as required by Rule 24.3 of the Code. The documents referred to below, the contents of which have been previously announced through a Regulatory Information Service, are incorporated into this document by reference pursuant to Rule 24.15 of the Code:

#### **Audited consolidated accounts of Open Orphan**

- The audited consolidated accounts of Open Orphan for the financial year ended on 31 December 2018 are set out on pages 17 to 54 (inclusive) of the annual report and accounts of Open Orphan for the financial year ended on 31 December 2018 available free of charge on Open Orphan's website <https://www.openorphan.com/investors/reports-and-presentations/year/2018>.
- The audited consolidated accounts of Open Orphan for the financial year ended on 31 December 2017 are set out on pages 17 to 53 (inclusive) of the annual report and accounts of Open Orphan for the financial year ended on 31 December 2017 available free of charge on Open Orphan's website <https://www.openorphan.com/investors/reports-and-presentations/year/archive>.

#### **Interim statement and preliminary results of Open Orphan**

- The unaudited consolidated financial statements of Open Orphan for the six months ended on 30 June 2019 are set out in Open Orphan's announcement of its interim results for the six months ended on 30 June 2019 available free of charge on Open Orphan's website <https://www.openorphan.com/investors/reports-and-presentations>.

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The above Annual Report and Accounts, and interim statement of Open Orphan are available in "read-only" format and can be printed from Open Orphan's website. Open Orphan will provide within two business days of the request being received, without charge, to each shareholder, person with information rights or other person to whom a copy of this document has been sent, upon their written or verbal request, a copy of any information incorporated by reference in this document. Copies of any information incorporated by reference in this document will not be provided unless such a request is made.

**Requests for copies of any such document should be directed to [info@openorphan.com](mailto:info@openorphan.com) or by calling the Investor Relations team on telephone number +353 1 644 0007 on Monday to Friday (other than Irish public holidays). Calls to +353 1 644 0007 will be charged at 55 pence per minute from a UK BT landline. Other service providers' costs may vary. Calls to +353 1 644 0007 from outside the UK will be charged at applicable international rates. Different charges may apply to calls made from mobile telephones. Calls may be recorded and monitored randomly for security and training purposes.**

## PART VII

### ADDITIONAL INFORMATION

#### 1. Responsibility

- 1.1 The Open Orphan Directors, whose names are set out in paragraph 2.1 below, accept responsibility for the information contained in this document save for the information for which the hVIVO Directors or the Independent hVIVO Directors (as required) accept responsibility in accordance with paragraphs 1.2 and 1.3 below. To the best of the knowledge and belief of the Open Orphan Directors (who have taken all reasonable care to ensure that such is the case), the information contained in this document for which they are responsible is in accordance with the facts and does not omit anything likely to affect the import of such information.
- 1.2 The hVIVO Directors, whose names are set out in paragraph 2.2 below, accept responsibility for the information contained in this document relating to hVIVO Group and the hVIVO Directors, their immediate families, related trusts and connected persons other than the recommendation of the Independent hVIVO Directors relating to the Offer contained in the letter from the Senior Independent hVIVO Director set out in Part I of this document, for which the Independent hVIVO Directors accept sole responsibility as set out below. To the best of the knowledge and belief of hVIVO Directors (who have taken all reasonable care to ensure that such is the case), the information contained in this document for which they accept responsibility is in accordance with the facts and does not omit anything likely to affect the import of such information.
- 1.3 The Independent hVIVO Directors, whose names are set out in paragraph 2.3 below, accept responsibility for their recommendation relating to the Offer contained in the letter from the Senior Independent hVIVO Director set out in Part I of this document. To the best of the knowledge and belief of the Independent hVIVO Directors (who have taken all reasonable care to ensure that such is the case), the recommendation contained in this document for which they accept responsibility, is in accordance with the facts and does not omit anything likely to affect the import of such recommendation.

#### 2. Directors

- 2.1 The Open Orphan Directors and their respective functions are as follows:

<i>Name</i>	<i>Position</i>
Brendan Buckley	<i>Chairman</i>
Cathal Friel	<i>Chief Executive Officer</i>
David Kelly	<i>Independent Non-Executive Director</i>
Christian Milla	<i>Chief Operating Officer</i>
Michael Ryan	<i>Independent Non-Executive Director</i>
Maurice Treacy	<i>Executive Director</i>

Open Orphan is a public company limited by shares and incorporated in England and Wales with registered number 07514939. The registered office of Open Orphan is Berkeley Square House 2nd Floor, Mayfair, London, W1J 6BD.

- 2.2 The hVIVO Directors and their respective functions are as follows:

<i>Name</i>	<i>Position</i>
Dr Trevor Phillips	<i>Executive Chairman</i>
Dr Trevor Nicholls	<i>Non-Executive Director</i>
Dr Mark Warne	<i>Non-Executive Director</i>
James Winschel	<i>Non-Executive Director</i>

hVIVO is a public company limited by shares and incorporated in England and Wales under the Companies Act 2006 with registration number 08008725. The registered office and principal place of business of the Company is at Queen Mary Bioenterprises Innovation Centre, 42 New Road, London, E1 2AX.

2.3 The Independent hVIVO Directors and their function are as follows:

James Winshel	<i>Non-Executive Director</i>
Dr Trevor Nicholls	<i>Non-Executive Director</i>

The business address of the Independent hVIVO Directors is Queen Mary BioEnterprises Innovation Centre, 42 New Road, London, E1 2AX.

**3. Interests in Open Orphan Shares**

**3.1 *Interests of Open Orphan Directors in relevant securities of Open Orphan***

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), the interests (as defined in section 820 of the Act) of the Open Orphan Directors and their immediate families, related trusts and connected persons (within the meaning of section 252 of the Act), all of which are beneficial unless otherwise stated, in relevant securities of Open Orphan were (with the exception of options in respect of Open Orphan Shares which are set out in paragraph 3.2 below) as follows:

<i>Name</i>	<i>Number of shares</i>	<i>%</i>
Brendan Buckley	7,845,860	3.1
Cathal Friel	41,046,981	16.2

**3.2 *Interests of Open Orphan Directors in options over Open Orphan Shares***

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), the following options in respect of Open Orphan Shares had been granted to the following Open Orphan Directors for nil consideration and remained outstanding under the Open Orphan Share Option Schemes:

<i>Name</i>	<i>Number of Open Orphan Shares under option</i>	<i>Exercise price (p)</i>	<i>Grant date</i>	<i>Expiry date</i>
Christian Milla	770,000	13	14/09/2017	13 September 2027
Michael Ryan	200,000	13	14/09/2017	13 September 2027
Maurice Treacy	7,716,964	5.6	28/06/2019	27 June 2022

**3.3 *Interests of persons acting in concert with Open Orphan in relevant securities of Open Orphan***

As at the close of business on 6 December 2019 (being the last practicable date prior to the publication of this document), the following shareholders have been determined to constitute a “concert party” in relation to Open Orphan plc:

<i>Name</i>	<i>Number of Open Orphan Shares</i>	<i>% of Open Orphan issued share capital</i>
Raglan Road Capital Limited	21,536,124	8.46%
Pamela Iver	14,880,721	5.85%
Horizon Medical Technologies Limited	4,630,136	1.82%
Anthony Richardson	16,313,388	6.41%
Brendan Buckley	7,845,860	3.08%
Crow Rock Capital Limited	7,845,860	3.08%
Dairine Dempsey	3,138,344	1.23%
Ian O’Connell	3,138,344	1.23%
Montana Capital Limited	1,376,466	0.54%
Clydagh Limited	1,376,466	0.54%
Pat O’Neill	1,569,172	0.62%
McNolan Ventures Limited	470,974	0.19%
Carol Dalton	313,983	0.12%
Bridget Chisolm	313,983	0.12%
Ross Crocket	313,983	0.12%
Dennis Jennings	1,003,332	0.39%
Tom Tierney	2,006,665	0.79%
Mount Amber International Limited	5,016,291	1.97%
Francoise Richardson	1,805,136	0.71%

3.4 **Interests of persons with whom Open Orphan has an arrangement in relevant securities of Open Orphan**

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), there were no persons with whom Open Orphan or any person acting in concert with Open Orphan had an arrangement who was interested in securities of Open Orphan.

3.5 **Interests of hVIVO in relevant securities of Open Orphan**

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), there were no persons with whom hVIVO or any person acting in concert with hVIVO had an arrangement who was interested in securities of Open Orphan.

3.6 **Interests of hVIVO Directors in relevant securities of Open Orphan**

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document) the interests of the hVIVO Directors and their immediate families, related trusts and connected persons (within the meaning of section 252 of the Act) were as follows:

<i>Name</i>	<i>Number of Open Orphan Shares</i>	<i>%</i>
Dr Mark Warne	2,543*	<0.1

\*These Open Orphan Shares are held in Mark Warne's account with Interactive Investors Nominees Limited.

3.7 **Interests of persons acting in concert with hVIVO in relevant securities of Open Orphan**

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), there were no persons acting in concert with hVIVO who had any interest in relevant securities of Open Orphan.

3.8 **Interests of persons with whom hVIVO has an arrangement in relevant securities of Open Orphan**

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), there were no persons with whom hVIVO or any person acting in concert with hVIVO (other than the hVIVO Directors) had an arrangement who was interested in relevant securities of Open Orphan.

3.9 **Borrowing or lending of relevant securities of Open Orphan by Open Orphan**

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), neither Open Orphan nor any persons acting in concert with Open Orphan had borrowed or lent (including for these purposes any financial collateral arrangements of the kind referred to in Note 4 to Rule 4.6 of the Code) any relevant securities of Open Orphan.

3.10 **Borrowing or lending of relevant securities of Open Orphan by hVIVO**

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), neither hVIVO, nor any persons acting in concert with hVIVO had borrowed or lent (including for these purposes any financial collateral arrangements of the kind referred to in Note 4 to Rule 4.6 of the Code) any relevant securities of Open Orphan.

**4. Interests in hVIVO Shares**

4.1 **Interests of hVIVO Directors in relevant securities of hVIVO**

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), the interests (as defined in section 820 of the Act) of hVIVO Directors and their immediate families, related trusts and connected persons, all of which are beneficial unless otherwise stated, in relevant securities of hVIVO were (with the exception of options in respect of hVIVO Shares which are set out in paragraph 4.2 below) as follows:



<i>Name</i>	<i>Number of shares</i>	<i>%</i>
Dr Trevor Phillips*	44,776	0.05
James Winschel	154,548	0.19
Dr Mark Warne**	5,677	0.01

\*These hVIVO Shares are held in Trevor Phillips' account with Brewin Dolphin.

\*\*These Open Orphan Shares are held in Mark Warne's account with Interactive Investors Nominees Limited.

Other than as disclosed in the table above and in paragraph 4.2 below, no hVIVO Director has any interest in the issued share capital of hVIVO.

#### 4.2 ***Interests of hVIVO Directors in options over hVIVO Shares***

The following hVIVO Directors have been granted share options/awards under the hVIVO Share Schemes that are outstanding as at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), as set out below:

<i>Name</i>	<i>Number of options</i>	<i>Exercise price</i>
Dr Trevor Phillips	850,000	5p
Dr Trevor Nicholls	26,540	101.63p

#### 4.3 ***Interests of persons acting in concert with hVIVO in relevant securities of hVIVO***

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), no person acting in concert with hVIVO was interested in any relevant securities of hVIVO.

#### 4.4 ***Interests of persons with whom hVIVO has an arrangement in relevant securities of hVIVO***

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), no person with whom hVIVO or any person acting in concert with hVIVO (other than the hVIVO Directors) has an arrangement was interested in relevant securities of hVIVO.

#### 4.5 ***Interests of Open Orphan in relevant securities of hVIVO***

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), Open Orphan had no interests in relevant securities of hVIVO.

#### 4.6 ***Interests of Open Orphan Directors in relevant securities of hVIVO***

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document) there were no interests (as defined in section 820 of the Act) of Open Orphan Directors and their immediate families, related trusts and connected persons, all of which are beneficial unless otherwise stated, in relevant securities of hVIVO (including options in respect of hVIVO Shares).

#### 4.7 ***Interests of persons acting in concert with Open Orphan in relevant securities of hVIVO***

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), there were no persons acting in concert with Open Orphan (other than the Open Orphan Directors) who were interested in relevant securities of hVIVO.

#### 4.8 ***Interests of persons with whom Open Orphan has an arrangement in relevant securities of hVIVO***

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), no person with whom Open Orphan or any persons acting in concert with Open Orphan (other than the Open Orphan Directors) and save for the irrevocable undertakings, details of which are set out in paragraph 6.8 below, has an arrangement was interested in any relevant securities of hVIVO.

#### 4.9 ***Borrowing or lending of relevant securities of hVIVO by hVIVO***

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), neither hVIVO nor any person acting in concert with hVIVO had borrowed or lent (including for these purposes any financial collateral arrangements of the kind referred to in Note 4 to Rule 4.6 of the Code) any relevant securities of hVIVO.

#### 4.10 ***Borrowing or lending of relevant securities of hVIVO by Open Orphan***

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), neither Open Orphan nor any person acting in concert with Open Orphan had borrowed or lent (including for these purposes any financial collateral arrangements of the kind referred to in Note 4 to Rule 4.6 of the Code) any relevant securities of hVIVO.

### **5. Significant shareholdings**

As at the close of business on 6 December 2019 (being the latest practicable date prior to the publication of this document), hVIVO had been notified of the following substantial interests in hVIVO Shares.

<i>Name</i>	<i>Number of shares</i>	<i>% Holding</i>
Invesco	21,249,382	25.51%
Link Fund Solution	15,635,064	18.77%
IP Group	13,063,883	15.68%
Jupiter Asset Management	9,238,696	11.09%
Hargreaves Lansdown, stockbrokers (EO)	3,037,980	3.65%
Alliance Trust Savings	2,873,709	3.45%
<b>Total</b>	<b>65,098,714</b>	<b>78.15%</b>

### **6. Dealings in hVIVO Shares**

#### 6.1 ***Dealings in relevant securities of hVIVO by hVIVO Directors***

There were no dealings in the relevant securities of hVIVO between the commencement of the Offer Period and the last day of the Disclosure Period by the hVIVO Directors or their immediate families, related trusts and connected persons.

#### 6.2 ***Dealings in relevant securities of hVIVO by persons acting in concert with hVIVO***

There were no dealings in the relevant securities of hVIVO between the commencement of the Offer Period and the last day of the Disclosure Period by any person acting in concert with hVIVO.

#### 6.3 ***Dealings in relevant securities of hVIVO by persons with whom hVIVO has an arrangement***

There were no dealings in the relevant securities of hVIVO between the commencement of the Offer Period and the last day of the Disclosure Period by persons with whom hVIVO or any person acting in concert with hVIVO has an arrangement.

#### 6.4 ***Dealings in relevant securities of hVIVO by Open Orphan and the Open Orphan Directors***

There were no dealings in the relevant securities of hVIVO during the Disclosure Period by Open Orphan, the Open Orphan Directors or their immediate families, related trusts and connected persons.

#### 6.5 ***Dealings in relevant securities of hVIVO by persons acting in concert with Open Orphan***

There were no dealings in the relevant securities of hVIVO during the Disclosure Period by persons acting in concert with Open Orphan.

6.6 **Dealings in relevant securities of hVIVO by persons with whom Open Orphan has an arrangement**

There were no dealings in the relevant securities of hVIVO during the Disclosure Period by persons with whom Open Orphan or any person acting in concert with Open Orphan has an arrangement.

6.7 **Purchases and redemptions of hVIVO Shares**

There were no purchases or redemptions by hVIVO of relevant securities of hVIVO during the Disclosure Period.

6.8 **Irrevocable Undertakings**

Irrevocable undertakings (“**Irrevocable Undertakings**”) to accept, or procure the acceptance of, the Offer have been received by Open Orphan from the following persons in respect of the following interests in hVIVO Shares:

6.8.1 *hVIVO Directors and the following shareholders:*

<i>Name</i>	<i>Number of hVIVO Shares</i>	<i>% of hVIVO issued share capital</i>
Dr Trevor Phillips	44,776	0.05
Dr Mark Warne	5,672	0.01
James Winschel	154,516	0.19

Pursuant to the Irrevocable Undertakings, the hVIVO Directors have also agreed that, following the making of appropriate proposals to the holders of options under the hVIVO Share Schemes, they will each accept such appropriate proposals within 10 business days of such proposals being made in respect of their holdings of such options as follows:

<i>Name</i>	<i>Number of options</i>	<i>Exercise price</i>
Dr Trevor Phillips	850,000	5p
Dr Trevor Nicholls	26,540	101.63p

6.8.2 *Further details of Irrevocable Undertakings*

All of the undertakings in paragraphs 6.8.1 and 6.8.2 above will cease to have effect in the event that (i) the Announcement is not released by 5.00 p.m. on 13 December 2019, (ii) the Offer Document has not been posted within 28 days of the date of the Announcement, or such later time as may be agreed by the Panel, (iii) any competing offer is made which is declared wholly unconditional (if implemented by way of a takeover offer) or otherwise becomes effective (if implemented by way of a scheme of arrangement) or (iv) if the Offer is withdrawn or lapses or (v) a third party makes a bona fide arm’s length offer to acquire the whole of the issued share capital of hVIVO not owned by that third party (or persons acting in concert with it), at a cash price which is 10 per cent. greater than the price of the Offer.

7. **Dealings in Open Orphan Shares**

7.1 **Dealings in relevant securities of Open Orphan by Open Orphan Directors**

There were no dealings in the relevant securities of Open Orphan during the Disclosure Period by the Open Orphan Directors and their immediate families, related trusts and connected persons.

7.2 **Dealings in relevant securities of Open Orphan by persons acting in concert with Open Orphan**

There were no dealings in relevant securities of Open Orphan during the Disclosure Period by any person acting in concert with Open Orphan (other than the Open Orphan Directors).

**7.3 Dealings in relevant securities of Open Orphan by persons with whom Open Orphan has an arrangement**

There were no dealings in relevant securities of Open Orphan during the Disclosure Period by any person with whom Open Orphan (or any person acting in concert with Open Orphan) has an arrangement.

**7.4 Dealings in relevant securities of Open Orphan by hVIVO and the hVIVO Directors**

There were no dealings in relevant securities of Open Orphan between the commencement of the Offer Period and the last day of the Disclosure Period by hVIVO, the hVIVO Directors and their immediate families, related trusts and connected persons.

**7.5 Dealings in relevant securities of Open Orphan by persons acting in concert with hVIVO**

There were no dealings in relevant securities of Open Orphan between the commencement of the Offer Period and the last day of the Disclosure Period by any person acting in concert with hVIVO.

**7.6 Dealings in relevant securities of Open Orphan by persons with whom hVIVO has an arrangement**

There were no dealings in relevant securities of Open Orphan between the commencement of the Offer Period and the last day of the Disclosure Period by any person with whom hVIVO (or any person acting in concert with hVIVO) has an arrangement.

**7.7 Purchases and redemptions of Open Orphan Shares**

There were no purchases or redemptions by Open Orphan of relevant securities of Open Orphan between the commencement of the Offer Period and the last day of the Disclosure Period.

**7.8 Voting Irrevocable Undertakings**

Irrevocable undertakings ("**Voting Irrevocable Undertakings**"), to vote in favour of all the resolutions to be proposed at the Open Orphan General Meeting, have been received by hVIVO from the following persons in respect of the following interests in Open Orphan Shares:

**7.8.1 Open Orphan Directors and the following shareholders:**

<i>Name</i>	<i>Number of Open Orphan Shares</i>	<i>% of Open Orphan issued share capital</i>
Cathal Friel	41,046,981	16.12
Brendan Buckley	7,845,860	3.08

**7.8.2 Further details of Voting Irrevocable Undertakings**

All of the undertakings in paragraphs 7.8.1 above will cease to have effect in the event that (i) the Announcement is not released by 5.00 p.m. on 13 December 2019, (ii) the Offer Document has not been posted within 28 days of the date of the Announcement, or such later time as may be agreed by the Panel, (iii) any competing offer is made which is declared wholly unconditional or (iv) if the Offer is withdrawn or lapses.

**8. Interests and dealings – General**

8.1 As at the last day of the Disclosure Period, save as disclosed in this document, neither Open Orphan, nor any of the Open Orphan Directors, nor any member of their immediate families, related trusts or (so far as the Open Orphan Directors are aware) connected persons nor any persons acting in concert with Open Orphan nor any person with whom Open Orphan or any person acting in concert with Open Orphan has an arrangement had an interest in or right to subscribe for any relevant securities of Open Orphan or hVIVO (whether conditional or absolute and whether in the money or otherwise), including any short position under a derivative, any agreement to sell or any delivery obligation or right to acquire another person to purchase or take

delivery, nor had any of the foregoing dealt in any relevant securities of Open Orphan or hVIVO during the Disclosure Period.

- 8.2 As at the last day of the Disclosure Period, save as disclosed in this document, neither Open Orphan nor any person acting in concert with Open Orphan has borrowed or lent (including for these purposes any financial collateral arrangements of the kind referred to in Note 4 to Rule 4.6 of the Code) any relevant securities of hVIVO or Open Orphan.
- 8.3 As at the last day of the Disclosure Period, save as disclosed in this document, neither hVIVO, nor any of hVIVO Directors, nor any member of their immediate families, related trusts nor (so far as hVIVO Directors are aware) connected persons had an interest or right to subscribe for relevant securities of hVIVO or any relevant securities of Open Orphan (whether conditional or absolute and whether in the money or otherwise), including any short position under a derivative, any agreement to sell or any delivery obligation or right to require another person to purchase or take delivery, nor had any of the foregoing dealt in any relevant securities of hVIVO or any relevant securities of Open Orphan from the commencement of the Offer Period until the last day of the Disclosure Period.
- 8.4 As at the last day of the Disclosure Period, save as disclosed in this document, no person acting in concert with hVIVO and no person who has an arrangement with hVIVO had an interest in or right to subscribe for any relevant securities of hVIVO or Open Orphan (whether conditional or absolute and whether in the money or otherwise), including any short position under a derivative, any agreement to sell or any delivery obligation or right to require another person to purchase or take delivery, nor had any of the foregoing dealt in any relevant securities of hVIVO or Open Orphan from the commencement of the Offer Period until the last day of the Disclosure Period.
- 8.5 As at the last day of the Disclosure Period, save as disclosed in this document, neither hVIVO nor any person acting in concert with hVIVO has borrowed or lent (including for these purposes any financial collateral arrangements of the kind referred to in Note 4 to Rule 4.6 of the Code) any relevant securities of hVIVO.
- 8.6 As at the last day of the Disclosure Period, save as disclosed in this document, there were no arrangements between hVIVO or any person acting in concert with hVIVO and any other person.
- 8.7 As at the last day of the Disclosure Period, hVIVO has not redeemed or purchased any hVIVO Shares or any securities convertible into, rights to subscribe for or options in respect of, or derivatives referenced to hVIVO Shares during the Disclosure Period.
- 8.8 As at the last day of the Disclosure Period, Open Orphan has not redeemed or purchased any Open Orphan Shares or any securities convertible into, rights to subscribe for or options in respect of, or derivatives referenced to Open Orphan Shares between the commencement of the Offer Period and the last day of the Disclosure Period.
- 8.9 For the purposes of this Part VII:
- (a) **“acting in concert”** has the meaning set out in the Code;
  - (b) **“arrangement”** has the meaning set out in Note 11 to the definition of acting in concert;
  - (c) **“dealing”** or **“dealt”** includes the following:
    - (i) the acquisition or disposal of securities;
    - (ii) the taking, granting, acquisition, disposal, entering into, closing out, termination, exercise (by either party) or variation of an option (including a traded option contract) in respect of any relevant securities;
    - (iii) subscribing or agreeing to subscribe for relevant securities;
    - (iv) the exercise or conversion, whether in respect of new or existing relevant securities, of any relevant securities carrying conversion or subscription rights;
    - (v) the acquisition of, disposal of, entering into, closing out, exercise (by either party) of any rights under, or variation of, a derivative referenced, directly or indirectly, to relevant securities;

- (vi) entering into, terminating or varying the terms of any agreement to purchase or sell relevant securities; and
  - (vii) any other action resulting, or which may result, in an increase or decrease in the number of relevant securities in which a person is interested or in respect of which he has a short position;
- (d) “**derivative**” includes any financial product whose value, in whole or in part, is determined directly or indirectly by reference to the price of an underlying security;
- (e) “**Disclosure Period**” means the period commencing on 9 December 2018 (being the date 12 months prior to the commencement of the Offer Period) and ending on 6 December 2019 (being the latest practicable date prior to the publication of this document);
- (f) “**relevant securities of Open Orphan**” means Open Orphan Shares and securities convertible into, or rights to subscribe for, options (including traded options) in respect thereof and derivatives referenced thereto;
- (g) “**relevant securities of hVIVO**” means hVIVO Shares and securities convertible into, or rights to subscribe for, options (including traded options) in respect thereof and derivatives referenced thereto;
- (h) ownership or control of 20 per cent. or more of the equity share capital is regarded as the test of associated company status and “**control**” means an interest or interests in shares carrying 30 per cent. or more of the voting rights attributable to the share capital of a company which are currently exercisable at a general meeting, irrespective of whether the holding or aggregate holding gives de facto control; and
- (i) a person is treated as having an “**interest in relevant securities**” if he has long economic exposure, whether absolute or conditional, to changes in the price of those securities (and a person who only has a short position in securities is not treated as interested in those securities). In particular, a person is treated as “**interested**” in securities if:
- (i) he owns them;
  - (ii) he has the right (whether conditional or absolute) to exercise or direct the exercise of the voting rights attaching to them or has general control of them;
  - (iii) by virtue of any agreement to purchase, option or derivative, he;
    - (A) has the right or option to acquire them or call for their delivery; or
    - (B) is under an obligation to take delivery of them,
 whether the right, option or obligation is conditional or absolute and whether it is in the money or otherwise; or
  - (iv) he is a party to any derivative:
    - (A) whose value is determined by reference to their price; and
    - (B) which results, or may result, in his having a long position in them.

## 9. Market quotations

The following table shows the hVIVO Closing Price as derived from the data aggregations services on:

- (a) the first business day of each of the six months immediately prior to the date of this document;
- (b) 6 December 2019, being the last business day prior to the commencement of the Offer Period; and

- (c) 6 December 2019, being the last practicable date prior to the publication of this document:

<i>Date</i>	<i>Price per hVIVO Share (p)</i>	<i>Price per Open Orphan Share (p)</i>
1 July 2019	20.25	6.80
1 August 2019	19.75	6.70
2 September 2019	19.50	5.90
1 October 2019	16.00	6.05
1 November 2019	15.50	6.30
2 December 2019	12.13	6.10
6 December 2019	11.63	5.78

## 10. Material contracts

- 10.1 The following contracts (not being in the ordinary course of business) have been entered into by the members of the Open Orphan Group in the two years preceding the date of this document and which are or may be material or contain any provision under which any member of the Open Orphan Group has an obligation or entitlement which is or may be material to such member of the Open Orphan Group as at the date of this document:

- 10.1.1 An acquisition agreement dated 1 August 2018 between (1) CRM Biometrics GmbH (“**CRM**”) and (2) Venn Life Sciences (Germany) GmbH (“**VLSG**”) pursuant to which VLSG agreed to acquire various assets from CRM for the conduct of biometric evaluations of clinical studies (“**CRM Acquisition Agreement**”). The consideration payable under the CRM Agreement was €20,000 in relation to the equipment purchased (which was due upon the conclusion of the contract) and a sum for purchased business opportunities as determined pursuant to the CRM Acquisition Agreement.

VLSG took on the liabilities of the business (including the employees) and CRM gave various indemnities and guarantees in favour of VLSG associated with the part of the business being acquired. The maximum liability of CRM for all guarantees claims under the CRM Acquisition Agreement (other than claims for tax and other indemnifications) is €200,000. Under the CRM Acquisition Agreement there is also exhibited a description of business opportunities that could be realised for VLSG as a result of the acquisition in the form of two research projects from Pharming Group NV conducted in support of CRM in the estimated amount to the acquired business of €200,000 – €300,000 for each project.

- 10.1.2 An agreement dated 15 February 2019 between (1) Open Orphan and (2) Arden Partners pursuant to which Arden Partners was appointed to act as nominated adviser and joint broker to Open Orphan for the purposes of the AIM Rules. Open Orphan agreed to pay Arden Partners a fee of £60,000 (plus VAT) per annum, payable quarterly in advance and all reasonable expenses incurred by Arden Partners. The agreement contains certain undertakings and indemnities including but not limited to Open Orphan’s compliance with all applicable laws and regulations. The agreement is terminable after the first anniversary on notice.
- 10.1.3 An agreement dated 17 May 2019 between (1) Open Orphan and (2) Davy pursuant to which Davy was appointed to act as Euronext Growth advisor and joint broker to Open Orphan for the purposes of the Euronext Growth Rules as published by Euronext Dublin from time to time. Open Orphan agreed to pay Davy a fee of €35,000 (plus VAT) per annum, payable annually in advance to Davy for its services and all reasonable expenses by Davy. The agreement is terminable on 6 months’ notice.
- 10.1.4 A loan note instrument executed by Open Orphan and dated 11 December 2018, creating fixed rate secured loan notes, up to a maximum amount of £1,000,000 (“**Loan Notes**”). Interest is payable on the Loan Notes at 10 per cent. per annum. The Loan Notes, which are to be secured by way of a second charge over Open Orphan, will be repayable by Open Orphan on 11 December 2020. The loan note instrument contains customary warranties and representations in favour of the note holders.
- 10.1.5 An equity warrant instrument executed by Open Orphan in connection with the Loan Notes and dated 11 December 2018 containing provisions for warrant holders to subscribe for 6,050,000 Ordinary Shares each in the issued share capital of Open

Orphan ("**Warrant Shares**"). The subscription price for the initial 2,141,854 Warrant Shares is 0.1 pence per Warrant Share. For the remaining Warrant Shares, the subscription price is the average of the volume-weighted average price of ordinary shares, as reported by Bloomberg LP on the fifth trading day prior to the commencement date of the equity warrant instrument. The equity warrant instrument contains customary obligations on Open Orphan in favour of the warrant holders.

- 10.1.6 A loan note instrument executed by Open Orphan and dated 6 April 2019, creating fixed rate secured loan notes, up to a maximum amount of £250,000 ("**Second Loan Notes**"). Interest is payable on the Second Loan Notes at eight per cent. per annum. The Second Loan Notes, which are to be secured as part of the second charge over Open Orphan in respect of the Loan Notes, will be repayable by Open Orphan on 6 May 2020. The loan note instrument contains customary warranties and representations in favour of the note holders. The Second Loan Notes are to rank pari passu with the Loan Notes.
- 10.1.7 A debt conversion deed ("**DC Deed**") dated 12 April 2019 between Venn Life Sciences Limited ("**VLSL**") and Integumen pursuant to which a loan of £421,000 owing from Integumen to VLSL was settled by the issue to VLSL of 30,071,4278 ordinary shares of 0.01 pence each in the capital of Integumen ("**Conversion Shares**"), which were allotted at 1.4 pence per share. In return for the issue of the Conversion Shares, Integumen was unconditionally and irrevocably released and discharged from any and all covenants, liabilities, claims, demands and obligations owed to VLSL.
- 10.1.8 An orderly market deed dated 12 April 2019 between, amongst others, VLSL and Integumen ("**OM Deed**") relating to the Conversion Shares. Pursuant to the OM Deed, VLSL has agreed, subject to certain limited exceptions, not to dispose of the Conversion Shares or any interest in them for a two year period commencing on 2 May 2019 other than through Integumen's broker and with the written consent of Integumen, SPARK Advisory Partners Limited and Turner Pope Investments (TPI) Ltd.
- 10.1.9 An acquisition agreement dated 9 May 2019 (as amended on 10 June 2019) and made between (1) the registered holders of shares in Open Orphan DAC ("**Open Orphan Shareholders**") and (2) Open Orphan pursuant to which Open Orphan agreed to acquire the entire issued and to be issued share capital of Open Orphan DAC ("**Open Orphan**") ("**Acquisition Agreement**").

The consideration payable under the Acquisition Agreement was £5,697,495 and was satisfied at admission of the enlarged share capital of Open Orphan to trading on AIM and Euronext Growth by the issue of 101,740,969 new ordinary shares allotted and issued to the Open Orphan Shareholders ("**Consideration Shares**").

Certain of the Open Orphan Shareholders ("**Warrantors**") gave certain customary warranties (including tax warranties) in favour of the Company in relation to, amongst other things, the business of Open Orphan. The maximum liability of the Warrantors for all warranty claims and tax claims under the Acquisition Agreement (other than claims for certain fundamental warranties) is £4,557,996.

The Open Orphan Shareholders have all given fundamental warranties in relation to the shares they hold in Open Orphan and their authority and capacity to enter into the Acquisition Agreement.

Open Orphan has also given certain warranties in favour of the sellers relating to, amongst other things, the audited consolidated accounts of Open Orphan for the financial year ended on 31 December 2018. Open Orphan's liability for all claims under these warranties is limited to £4,557,996.

Certain of the Open Orphan Shareholders are also subject to certain restrictive covenants which, for a period of 18 months from completion, prevent them from, amongst other things, competing with the business of Open Orphan, soliciting or having business dealings with certain clients or customers of Open Orphan, and soliciting key employees of Open Orphan.

- 10.1.10 On 10 June 2019 (1) Open Orphan, (2) Arden Partners, (3) the directors of Open Orphan at that time entered into a placing agreement pursuant to which, subject to certain



conditions, Arden Partners agreed to act as agent for Open Orphan and to use its reasonable endeavours to procure places to subscribe for placing shares at a placing price (“**Placing Agreement**”).

The Placing Agreement contains warranties from Open Orphan and its directors in favour of Arden Partners in relation to, amongst other things, the accuracy of the information in the admission document posted on or around the date thereof and other matters relating to the Open Orphan Group and its business. The Placing Agreement contains customary indemnities from Open Orphan in favour of Arden Partners together with provisions which enabled Arden Partners to terminate the Placing Agreement in certain circumstances, including circumstances where any of the warranties were found to be untrue or inaccurate in any material respect.

- 10.1.11 Pursuant to lock-in agreements dated 10 June 2019 between (1) Open Orphan, (2) Arden Partners and (3) certain Open Orphan Shareholders, who together hold 75.2 per cent. of the issued and to be issued share capital of Open Orphan DAC prior to their conversion to shares in Open Orphan plc in June 2019, those Open Orphan Shareholders have undertaken that they will not, except in certain limited circumstances, dispose of the consideration shares for a period of 24 months from 28 June 2019.

For a further 12 months, the relevant Open Orphan Shareholders will, save in certain limited circumstances, only dispose of the consideration shares held by them through Open Orphan’s broker from time to time.

- 10.1.12 Pursuant to a lock-in agreement dated 10 June 2019 between (1) Open Orphan, (2) Arden Partners, (3) Davy and (4) Maurice Treacy, Maurice has undertaken that he will not, except in certain limited circumstances, dispose of any ordinary shares in Open Orphan he acquires on the vesting of options granted to him by the Company for a period of 24 months from the date of vesting. For a further 12 months, Maurice will, save in certain limited circumstances, only dispose of any such Ordinary Shares through Open Orphan’s broker from time to time.

- 10.1.13 A warrant instrument dated 10 June 2019 constituting new warrants to subscribe for, in aggregate, 1,607,142 ordinary shares in the Company which were granted to Arden Partners on 28 June 2019. The warrants are exercisable at a placing price at any time during the period of five years from 28 June 2019.

- 10.1.14 A convertible debt securities instrument made by Open Orphan and dated March 2018, creating €3,000,000 convertible redeemable debt securities (“**Debt Securities**”). The Debt Securities were available for subscription from the date of the instrument, in nominal amounts and integral multiples of €1,000 and shall be issued for cash or such other consideration as determined by Open Orphan’s board of directors. Interest accrues on the Debt Securities at seven per cent. per annum and is payable on the six month anniversary of the issue of the Debt Securities, and every six months thereafter for four years – with the principal being repaid at the end of year four (subject to earlier redemption in the event of a sale of Open Orphan). Immediately prior to a listing or IPO of Open Orphan, the security holder had the option to continue to hold the interest bearing Debt Securities, or to convert their Debt Securities into such number of ordinary shares of €0.001 each in the capital of Open Orphan as determined by the number of Debt Securities held, plus 30 per cent. of such investment amount (subject to the determination provisions in the instrument). The instrument contains customary events of default provisions, covenants, warranties and representations in favour of the security holders. The Debt Securities are transferable by security holders. Immediately prior to the IPO Open Orphan closed out the debt securities instrument having raised €1.06 million and of the €1.06 million, €710,000 converted into Ordinary Shares in Open Orphan plc and €350,000 elected to retain their Debt Security instrument paying 7 per cent. per annum until the end of year four. These Convertible Debt Securities do not have any further convertibility post the IPO in June 2019 and the company has no further ability to raise any further funds through this instrument other than the €1.06 million originally raised.

10.1.15 A convertible debt securities instrument made between Open Orphan and Horizon Medical Technologies Limited dated 7 October 2017 and amended on 22 November 2018, creating a €300,000 convertible redeemable debenture security (“**Debenture Security**”). The Debenture Security is available for subscription fully paid up, from the date of the instrument and shall be issued for cash or such other consideration as determined by Open Orphan’s board of directors. The Debenture Security is non-interest bearing. The Debenture Security was convertible in the event of a sale of listing of Open Orphan, with no rights of conversion or redemption in advance of such event. The number of ordinary shares of €0.001 each in the capital of Open Orphan were issued upon the conversion as determined in accordance with the provisions in the instrument. The debt securities were converted into shares in Open Orphan plc at the completion of the IPO in June 2019 at the IPO price of 5.6p per share. These Convertible Debt Securities do not have any further convertibility post the IPO in June 2019 and the company has no further ability to raise any further funds through this instrument.

10.1.16 Pursuant to a letter agreement dated 9 December 2019 (the “Underwriting Agreement”), Raglan Capital Limited, an Irish company which is a company controlled by Mr Friel and of which the Company’s Chief Executive Officer, is a director, has conditionally agreed to subscribe for certain Placing Shares in an aggregate amount of £2.5 million less any amount subscribed for, or agreed to be subscribed for, by third parties pursuant to the Placing. Any such subscription would be made no later than 14 February 2020 at the same price at which any third party subscribers participated in the Placing, failing which at the equivalent price of an Open Orphan Share under the terms of the Offer.

The Company has given certain representations and warranties to Raglan Capital Limited under the Underwriting Agreement.

Raglan Capital Limited’s subscription commitment is conditional upon, amongst other things:

- valid acceptances of the Offer being received in respect of hVIVO Shares which, together with all other hVIVO Shares acquired by the Company, carry not less than 90% (or such lower percentage as Open Orphan may agree) of the voting rights attaching to the hVIVO Shares to which the Offer relates;
- the accuracy of the representations and warranties given by Open Orphan in the Underwriting Agreement;
- the absence of any material adverse change or force majeure event; and
- the Placing Shares to be subscribed by Raglan Capital Limited being admitted to trading on AIM as soon as practicable following their issue.

10.1.17 On 9 December 2019 (1) Open Orphan, (2) Arden Partners, (3) the Existing Directors and (4) the Proposed Directors of Open Orphan entered into a placing agreement pursuant to which, subject to certain conditions, Arden Partners agreed to act as agent for Open Orphan and to use its reasonable endeavours to procure placees to subscribe for placing shares at a placing price (“**Placing Agreement**”).

The Placing Agreement contains warranties from Open Orphan, the Existing Directors and the Proposed Directors in favour of Arden Partners in relation to, amongst other things, the accuracy of the information in this document and other matters relating to the Open Orphan Group and its business. The Placing Agreement contains customary indemnities from Open Orphan in favour of Arden Partners together with provisions which enabled Arden Partners to terminate the Placing Agreement in certain circumstances, including circumstances where any of the warranties were found to be untrue or inaccurate in any material respect.

10.2 The following contract (not being in the ordinary course of business) has been entered into by a member of the hVIVO Group in the two years preceding the date of this document and which is or may be material for disclosure:

- (a) a contract between, amongst others, hVIVO and Goldman Sachs International (“GSI”) dated 30 April 2018 in relation to the appointment of GSI as financial adviser in connection with the possible sale of all, or a portion of, Imutex Limited. The relationship between

hVIVO and GSI is not currently active and GSI is not actively seeking potential buyers on hVIVO's behalf.

## **11. Service Contracts**

11.1 Set out below are details of the service agreements of each of the hVIVO Directors:

- 11.1.1 Dr Trevor Phillips is employed as executive chairman of hVIVO pursuant to the terms of a contract of employment dated 18 December 2017 as amended by letter agreement on 30 May 2018. The appointment is terminable on six months' written notice given by either party to the other or in certain circumstances including Dr Phillips becoming bankrupt or of unsound mind, being guilty of fraud or being convicted of a criminal offence (other than a non-custodial road traffic offence). Dr Phillips' base salary under the agreement is £265,000. In addition to his salary, Dr Phillips is entitled to be considered of payment of a bonus, up to a maximum of 100 per cent. of his basic salary and to be repaid all out of pocket expenses properly incurred by him in the performance of his duties under the agreement (this includes a £12,000 per annum travel allowance). Dr Phillips is also entitled to appropriate medical health insurance and life assurance cover. Dr Phillips is subject to certain obligations to keep confidential information of hVIVO secret (both before and after the termination date of the agreement). Dr Phillips is also subject to certain non-competition and non-solicitation covenants for a period of twelve months following termination of his employment. The agreement is governed in accordance with the laws of England and Wales.
- 11.1.2 Dr Trevor Nicholls is a non-executive director of hVIVO pursuant to the terms of a letter of appointment dated 21 May 2014. The appointment is terminable on three months' written notice by either party to the other or in certain circumstances including Dr Nicholls becoming bankrupt or of unsound mind, being guilty of fraud or being convicted of a criminal offence (subject to certain carve-outs). The fee payable to Dr Nicholls is £20,000 gross per annum, Dr Nicholls is entitled to be repaid all out of pocket expenses properly incurred by him in the performance of his duties under the letter. Dr Nicholls does not participate in the group's pension, bonus or option scheme. All intellectual property created by Dr Nicholls during the course of his directorship and/or employment will belong to hVIVO. Dr Nicholls is subject to certain obligations to keep confidential information of hVIVO secret (both before and after the termination date of the agreement). The letter of appointment is governed in accordance with the laws of England and Wales.
- 11.1.3 Mr James Winschel is a non-executive director of hVIVO pursuant to the terms of a letter of appointment dated 1 October 2014. The appointment is terminable on three months' written notice by either party to the other or in certain circumstances including Mr Winschel becoming bankrupt or of unsound mind, being guilty of fraud or being convicted of a criminal offence (subject to certain carve-outs). The fee payable to Mr Winschel is £50,000 gross per annum, comprising a £25,000 non-executive director fee and a £25,000 audit committee chairman fee. Mr Winschel is entitled to be repaid all out of pocket expenses properly incurred by him in the performance of his duties under the letter. Mr Winschel does not participate in the hVIVO Group's pension, bonus or option scheme. All intellectual property created by Mr Winschel during the course of his directorship and/or employment will belong to hVIVO. Mr Winschel is subject to certain obligations to keep confidential information of hVIVO secret (both before and after the termination date of the letter). The letter of appointment is governed in accordance with the laws of England and Wales.
- 11.1.4 Dr Mark Warne is a non-executive director of hVIVO pursuant to the terms of a letter of appointment dated 19 April 2016. The appointment is terminable on three months' written notice by either party to the other or in certain circumstances including Dr Warne becoming bankrupt or of unsound mind, being guilty of fraud or being convicted of a criminal offence (subject to certain carve-outs). The fee payable to Dr Warne is £20,000 gross per annum. Dr Warne is entitled to be repaid all out of pocket expenses properly incurred by him in the performance of his duties under the letter. Dr Warne does not participate in the hVIVO Group's pension, bonus or option scheme. All intellectual property created by Dr Warne during the course of his directorship and/or employment will belong to hVIVO. Dr Warne is

subject to certain obligations to keep confidential information of hVIVO secret (both before and after the termination date of the letter). The letter of appointment is governed in accordance with the laws of England and Wales.

## **12. Ratings**

- 12.1 As far as Open Orphan is aware, no rating agency has publicly accorded Open Orphan any current credit rating or outlook.
- 12.2 As far as hVIVO is aware, no rating agency has publicly accorded hVIVO any current credit rating or outlook.

## **13. Significant change**

- 13.1 Save as disclosed in this document, there has been no significant change in the financial or trading position of Open Orphan since 31 December 2018 (the date to which the latest published audited accounts of Open Orphan were prepared).
- 13.2 Save as disclosed in this document, there has been no significant change in the financial or trading position of hVIVO since 31 December 2018 (the date to which the latest published audited accounts of hVIVO were prepared).

## **14. Persons acting in concert**

- 14.1 The following persons have been determined to constitute a “concert party” (as such term is used in the Code) in relation to Open Orphan plc: Raglan Road Capital Limited, Anthony Richardson, Pamela Iyer, Brendan Buckley, Crow Rock Capital Limited, Dairine Dempsey, Ian O’Connell, Montana Capital Limited, Clydagh Limited, Pat O’Neill, McNolan Ventures Limited, Carol Dalton, Bridget Chisholm, Ross Crocket, Dennis Jennings, Tom Tierney, Mount Amber International Limited, Françoise Richardson, Horizon Medical Technologies Limited, Cathal Friel CMF Pension Fund, Dan Cronin, Gary Duffy, Michael Fleming, Pa Nolan and Maurice Treacy (together, the “Open Orphan Concert Party”).

In aggregate, the Open Orphan Concert Party is interested in shares in the capital of Open Orphan carrying 37.3 per cent. of the voting rights of Open Orphan and no individual member of the Open Orphan Concert Party is interested in shares in the capital of Open Orphan carrying 30 per cent. or more of the voting rights of Open Orphan.

Upon Admission occurring and before the impact of the issue of any Placing Shares, in the event that Raglan Capital Limited, a company connected to the Open Orphan Concert Party, subscribes for the maximum number of Placing Shares prescribed for in the Underwriting Agreement, it is anticipated that, in aggregate, the Open Orphan Concert Party will be interested in shares in the capital of Open Orphan carrying 15.3 per cent. of the voting rights of Open Orphan and that no individual member of the Open Orphan Concert Party will be interested in shares in the capital of Open Orphan carrying 30 per cent. or more of the voting rights of Open Orphan.

- 14.2 The only persons (other than the hVIVO Directors and members of the hVIVO Group) acting in concert with hVIVO in respect of the Offer is MCF Ltd of 14 Waterloo Place, 2nd Floor, South, London, SW1Y 4AR which is acting as a connected adviser under the Code.

## **15. Litigation**

### **15.1 *Open Orphan Group***

There have been no governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which Open Orphan is aware) during the 12 months preceding the date of this document which may have, or have had in the recent past, significant effects on the financial position or profitability of Open Orphan and/or the Open Orphan Group nor, so far as Open Orphan is aware, are any such proceedings pending or threatened.

## 15.2 **hVIVO Group**

There have been no governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which hVIVO is aware) during the 12 months preceding the date of this document which may have, or have had in the recent past, significant effects on the financial position or profitability of hVIVO and/or hVIVO Group nor, so far as hVIVO is aware, are any such proceedings pending or threatened.

## 16. **Financing arrangements**

It is estimated that full acceptance of the Offer (assuming no exercise of options under the hVIVO Share Option Schemes) would require the issue by Open Orphan of a maximum of approximately up to 205,489,715 new Open Orphan Shares.

## 17. **Fees and expenses**

### 17.1 **Open Orphan's fees and expenses**

The following table sets out an estimate of the aggregate fees and expenses (excluding VAT) expected to be incurred by Open Orphan in connection with the Offer (assuming full acceptance).

#### *Estimated cost (£)*

Financial and corporate broking advice	£300,000
Legal advice	£250,000
Other costs and expenses	£40,000
Aggregate fees and expenses	£890,000

### 17.2 **hVIVO's fees and expenses**

The following table sets out an estimate of the aggregate fees and expenses (excluding VAT) expected to be incurred by hVIVO in connection with the Offer.

#### *Estimated cost (£)*

Financial and Advisory	£275,000
Rule 3 Advisory	£70,000
Nomad	£40,000
Legal advice	£210,000
Other costs and expenses	£2,000
Aggregate fees and expenses	£595,000

## 18. **General**

- 18.1 Save as disclosed in this document, no agreement, arrangement or understanding (including any compensation arrangement) exists between any member of the Open Orphan Group or any person acting in concert with it for the purpose of the Offer, and any of the directors, recent directors, shareholders or recent shareholders of hVIVO (or any person interested or recently interested in hVIVO Shares) having any connection with or dependence upon the Offer.
- 18.2 Save as disclosed in this document, no proposal exists in connection with the Offer regarding any incentivisation arrangement with members of hVIVO management who are interested in hVIVO Shares that any payment or other benefit be made or given by Open Orphan, or any person acting in concert with Open Orphan to any hVIVO Director as compensation for loss of office or as consideration for or in connection with his retirement from office.
- 18.3 Save as disclosed in this document, there is no agreement, arrangement or understanding by which any of the hVIVO Shares acquired by Open Orphan pursuant to the Offer will be transferred to any other person, save that Open Orphan reserves the right to transfer any such hVIVO Shares acquired to any member of the Open Orphan Group.
- 18.4 There are no agreements or arrangements to which Open Orphan is a party which relate to the circumstances in which it may or may not invoke or seek to invoke a condition of the Offer.
- 18.5 The emoluments of the current Open Orphan Directors will not be affected by the Offer.

- 18.6 Arden Partners plc has given and has not withdrawn its written consent to the issue of this document with the inclusion herein of the references to its name in the form and context in which it appears.
- 18.7 MCF Ltd has given and has not withdrawn its written consent to the issue of this document with the inclusion herein of the references to its name in the form and context in which it appears.
- 18.8 J&E Davy has given and has not withdrawn its written consent to the issue of this document with the inclusion herein of the references to its name in the form and context in which it appears.
- 18.9 All references to time in this document and the Form of Acceptance are to London time unless the context requires otherwise.

**19. Documents on display**

- 19.1 A copy of this document is available free of charge at the websites of Open Orphan and hVIVO at (respectively) [www.openorphan.com](http://www.openorphan.com) and [www.hVIVO.com](http://www.hVIVO.com) until the end of the Offer Period (or, if later, the end of any competition reference period).
- 19.2 Copies of the following documents have been published on the websites of Open Orphan and hVIVO websites at (respectively) [www.openorphan.com](http://www.openorphan.com) and [www.hVIVO.com](http://www.hVIVO.com) and will be available until the end of the Offer Period (or, if later, the end of any competition reference period):
- 19.2.1 the Irrevocable Undertakings to accept (or procure the acceptance of) the Offer referred to in paragraph 6.8 above;
  - 19.2.2 the articles of association of Open Orphan;
  - 19.2.3 the articles of association of hVIVO;
  - 19.2.4 the consent letters referred to in paragraph 18 above of Arden, J&E Davy and MCF Ltd;
  - 19.2.5 the material contracts referred to in paragraph 10 above;
  - 19.2.6 the Form of Acceptance; and
  - 19.2.7 this document and the Announcement.

For the avoidance of doubt, the content of the websites referred to in paragraphs 19.1 and 19.2 above is not incorporated into and does not form part of this document.

## PART VIII

### BASES AND SOURCES

Unless otherwise stated in this document:

- 1.1 financial information relating to Open Orphan has been extracted from the audited accounts of Open Orphan for the financial year ended 31 December 2018;
- 1.2 financial information relating to hVIVO has been extracted from the audited accounts of hVIVO for the financial year ended 31 December 2018;
- 1.3 the value of the fully diluted share capital of hVIVO is calculated on the basis of:
  - (a) 83,293,129 hVIVO Shares in issue on 6 December 2019 (being the last business day prior to the publication of this document); and
  - (b) 246,598 hVIVO Shares subject to options outstanding under the hVIVO Share Schemes on 6 December 2019 (being the last business day prior to the publication of this document) and are capable of exercise;
- 1.4 the number of New Open Orphan Shares to be issued in respect of full acceptance of the Offer is calculated based upon the number of hVIVO Shares in issue (as described in subparagraph 1.3 above) resulting in the issue of approximately 205,489,715 New Open Orphan Shares;
- 1.5 the market capitalisation of the Enlarged Group is calculated on the basis of 254,572,567 Open Orphan Shares in issue as at 6 December 2019 (being the last business day prior to the publication of this document) and 205,489,715 New Open Orphan Shares to be issued pursuant to the Offer;
- 1.6 all share prices for Open Orphan Shares and hVIVO Shares are derived from the AIM Appendix of the Daily Official List;
- 1.7 all share prices quoted for Open Orphan Shares and hVIVO Shares are closing prices; and
- 1.8 references to €/£ exchange rates are derived from spot rates as at the date of conversion.

## PART IX

### DEFINITIONS

In this document and the Form of Acceptance, the following words and expressions have the following meanings, unless the context requires otherwise:

<b>“Act” or “Companies Act”</b>	the Companies Act 2006 (as amended or re-enacted)
<b>“Acquisition”</b>	the acquisition by Open Orphan of the entire issued and to be issued share capital of hVIVO pursuant to the Offer
<b>“Admission”</b>	the admission of the Enlarged Open Orphan Share Capital (and consequently the Enlarged Group) to trading on AIM in accordance with Rule 6 of the AIM Rules
<b>“Admission Document”</b>	the admission document, relating, <i>inter alia</i> , to the approval of the Offer, the issue of the New Open Orphan Shares and Admission, dated with the same date as this document and be sent to hVIVO Shareholders and to Open Orphan Shareholders
<b>“AIM”</b>	the AIM Market of the London Stock Exchange
<b>“AIM Rules”</b>	the rules applicable to companies governing their admission to AIM, and following admission their continuing obligations to AIM, as set out in the AIM Rules for Companies published by the London Stock Exchange from time to time
<b>“Announcement”</b>	the announcement of the Offer dated 9 December 2019 made by Open Orphan and hVIVO
<b>“Arden”</b>	means Arden Partners plc, financial adviser to Open Orphan
<b>“Articles”</b>	the articles of association of hVIVO as at the date of the Offer and “Article” shall mean any article of those Articles
<b>“business day”</b>	a day (excluding Saturdays, Sundays and public holidays) on which banks are generally open for business in the City of London
<b>“certificated” or in “certificated form”</b>	where a share or other security is not in uncertificated form (that is, not in CREST)
<b>“Closing Price”</b>	the closing middle market quotation of a hVIVO Share or an Open Orphan Share (as the case may be) as derived from the AIM Appendix of the Daily Official List
<b>“CMA”</b>	the Competition and Markets Authority
<b>“Code”</b>	the City Code on Takeovers and Mergers, issued by the Panel
<b>“Conditions”</b>	the conditions to the Offer which are set out in Part III of this document
<b>“connected person”</b>	as defined in section 252 of the Act
<b>“CREST”</b>	the relevant system (as defined in the CREST Regulations) in respect of which Euroclear is the Operator (as defined in the CREST Regulations)
<b>“CREST Manual”</b>	the CREST Manual referred to in agreements entered into by Euroclear and available at <a href="http://www.euroclear.com/CREST">www.euroclear.com/CREST</a>
<b>“CREST payment”</b>	has the meaning given in the CREST Manual



<b>“CREST Proxy Instruction”</b>	the appropriate CREST message to make a proxy appointment by means of CREST
<b>“CREST Regulations”</b>	the Uncertificated Securities Regulations 2001 (SI 2001 No. 3755)
<b>“CREST sponsor”</b>	a CREST participant admitted to CREST as a CREST sponsor
<b>“COPD”</b>	Chronic Obstructive Pulmonary Disease
<b>“CRO”</b>	Clinical Research Organisation
<b>“Daily Official List”</b>	the daily official list of the London Stock Exchange
<b>“Dealing Disclosure”</b>	the announcement concerning dealings in relevant securities of any party to the Merger required for the purposes of Rule 8 of the Code
<b>“Disclosed”</b>	the information which has been fairly disclosed by or on behalf of hVIVO: (i) in writing prior to the date of this document to Open Orphan or Open Orphan’s professional advisers (in their capacity as such in relation to the Merger); (ii) in the Annual Report and Financial Statements of hVIVO; (iii) in the Announcement; (iv) in this document; or (v) in any other public announcement made by hVIVO after 31 December 2018 and prior to the date of this Announcement in accordance with the Market Abuse Regulation, the AIM Rules or the Disclosure Guidance and Transparency Rules
<b>“Disclosure Guidance and Transparency Rules”</b>	the Disclosure Guidance and Transparency Rules of the FCA under FSMA and contained in the FCA’s publication of the same name (as amended from time to time)
<b>“EC Merger Regulation”</b>	Council Regulation 139/2004/EC (as amended)
<b>“electronic form”</b>	as defined in the Code
<b>“Enlarged Group”</b>	the combined businesses of the Open Orphan Group and the hVIVO Group following the completion of the Offer
<b>“Enlarged Open Orphan Share Capital”</b>	the issued share capital of Open Orphan as enlarged by the Acquisition and the issue of the New Open Orphan Shares
<b>“Euroclear”</b>	Euroclear UK & Ireland Limited, a company incorporated under the laws of England and Wales
<b>“FCA”</b>	the UK Financial Conduct Authority
<b>“First Closing Date”</b>	30 December 2020
<b>“Flu”</b>	Influenza Virus
<b>“Form of Acceptance”</b>	the form of acceptance and authority relating to the Offer which has been sent to hVIVO Shareholders with this document
<b>“FSMA”</b>	the Financial Services and Markets Act 2000 (as amended)
<b>“hard copy form”</b>	as defined in the Code
<b>“HMRC”</b>	HM Revenue and Customs
<b>“holder”</b>	a registered holder of shares, including any person entitled by transmission
<b>“HRV”</b>	Human Rhinovirus

<b>“hVIVO”</b>	hVIVO plc
<b>“hVIVO Board” or “hVIVO Directors”</b>	the board of directors of hVIVO and <b>“hVIVO Director”</b> means any member of the hVIVO Board
<b>“hVIVO Group”</b>	hVIVO and its subsidiaries and subsidiary undertakings (each as defined in the Act)
<b>“hVIVO LTIP”</b>	the hVIVO Long Term Incentive Scheme 2017
<b>“hVIVO Options”</b>	options, awards or other rights to acquire hVIVO Shares granted pursuant to the hVIVO Share Schemes
<b>“hVIVO Shareholders”</b>	holders of hVIVO Shares
<b>“hVIVO Shares” or “Ordinary Shares”</b>	ordinary shares of one penny each in the capital of hVIVO
<b>“hVIVO Share Schemes”</b>	the option granted to Dr Nicholls by hVIVO on 2 April 2014, the hVIVO Company Share Option Plan 2015 and the hVIVO LTIP
<b>“IFRS”</b>	International Financial Reporting Standards as adopted by the European Union
<b>“Ireland”</b>	the island of Ireland, excluding Northern Ireland (the counties of Antrim, Armagh, Derry, Down, Fermanagh and Tyrone), and the word <b>“Irish”</b> shall be construed accordingly
<b>“Independent hVIVO Directors”</b>	Dr Trevor Nicholls and James Winschel
<b>“Latest Practicable Date”</b>	6 December 2019
<b>“London Stock Exchange”</b>	London Stock Exchange plc
<b>“MCF”</b>	means MCF Ltd, financial adviser to hVIVO
<b>“Merger Ratio”</b>	the ratio used to calculate the New Open Orphan Shares pursuant to the Offer
<b>“Merger Resolutions”</b>	the resolutions numbered 1 and 2 to be proposed at the Open Orphan General Meeting for approval of the Offer pursuant to rule 14 of the AIM Rules and Rule 14 of the Euronext Growth Rules and the issue and allotment of the New Open Orphan Shares
<b>“New Open Orphan Shares”</b>	the Open Orphan Shares which are to be issued to pursuant to the Offer
<b>“Offer”</b>	the recommended offer by Open Orphan pursuant to this document for the entire issued share capital of hVIVO details of which are set out in this document
<b>“Offer Period”</b>	the period commencing on 9 December 2019 and ending in accordance with the rules of the Code
<b>“Open Orphan” or “Company”</b>	Open Orphan plc
<b>“Open Orphan Board” or “Open Orphan Directors”</b>	the board of directors of Open Orphan and <b>“Open Orphan Director”</b> means any member of the Open Orphan Board
<b>“Open Orphan General Meeting”</b>	the general meeting of Open Orphan to be held at 11.00 a.m. on 6 January 2020 at the offices of DAC Beachcroft LLP and which has been convened pursuant to the Notice
<b>“Open Orphan Group”</b>	Open Orphan and its subsidiaries and subsidiary undertakings (each as defined in the Act)

<b>“Open Orphan Shares”</b>	the ordinary shares of 1 pence each in the capital of Open Orphan
<b>“Opening Position Disclosure”</b>	the announcement required for the purposes of Rule 8 of the Code containing details of interests or short positions in, or rights to subscribe for, any relevant securities of a party to the Offer if the person concerned has such a position
<b>“Overseas Shareholders”</b>	hVIVO Shareholders who are resident in, ordinarily resident in, or citizens of, jurisdictions outside the United Kingdom
<b>“Panel”</b>	the UK Panel on Takeovers and Mergers
<b>“participant ID”</b>	means the identification code or membership number used in CREST to identify a particular CREST member or other CREST participant
<b>“persons with information rights”</b>	as defined in the Code
<b>“pounds”, “£”, “pence”, “p” or “Sterling”</b>	the lawful currency of the United Kingdom
<b>“Prospectus Rules”</b>	the Prospectus Regulation Rules made by the FCA pursuant to section 73A of the FSMA
<b>“Receiving Agent”</b>	Equiniti Limited, a company incorporated under the laws of England and Wales
<b>“Registrar of Companies”</b>	the Registrar of Companies for England and Wales, within the meaning of the Act
<b>“Regulatory Information Service”</b>	one of the regulatory information services authorised by the London Stock Exchange to receive, process and disseminate regulatory information in respect of companies trading on AIM
<b>“Restricted Jurisdiction”</b>	the United States, Canada, Australia, Japan and any other jurisdiction where extension or acceptance of the Offer would violate the law of that jurisdiction
<b>“Restricted Overseas Shareholder”</b>	a person (including, without limitation, an individual, partnership, unincorporated syndicate, limited liability company, unincorporated organisation, trust, trustee, executor, administrator or other legal representative) in, or resident in, or any person whom Open Orphan (following consultation with hVIVO) reasonably believes to be in, or resident in, any Restricted Jurisdiction and persons in any other jurisdiction (other than US persons or persons in the UK) whom Open Orphan (following consultation with hVIVO) is advised to treat as restricted overseas persons in order to observe the laws of such jurisdiction or to avoid the requirement to comply with any governmental or other consent or any registration, filing or other formality which Open Orphan (following consultation with hVIVO) regards as unduly onerous
<b>“RSV”</b>	Respiratory Syncytial Virus
<b>“SDRT”</b>	stamp duty reserve tax
<b>“UK” or “United Kingdom”</b>	the United Kingdom of Great Britain and Northern Ireland
<b>“UK GAAP”</b>	generally accepted accounting principles in the United Kingdom
<b>“uncertificated” or in “uncertificated form”</b>	in respect of a share or other security, where that share or other security is recorded on the relevant register of the share or

	security concerned as being held in uncertificated form in CREST and title to which may be transferred by means of CREST
<b>“Underwriting Agreement”</b>	the underwriting agreement with Raglan Capital Limited
<b>“US” or “United States”</b>	the United States of America, its territories and possessions, any state of the United States of America and the District of Columbia and all other areas subject to its jurisdiction
<b>“US Exchange Act”</b>	the US Securities Exchange Act 1934, as amended
<b>“US hVIVO Shareholders”</b>	hVIVO Shareholders located or resident in the United States
<b>“US person”</b>	as defined in Regulation S, as promulgated under the US Securities Act
<b>“US Securities Act”</b>	the United States Securities Act 1933, as amended, and the rules and regulations promulgated under such Act
<b>“VAT”</b>	value added tax as provided under the Value Added Tax Act 1994
<b>“Venn” or “Venn Life Sciences”</b>	Venn Life Sciences Holdings plc

For the purposes of this document, the expressions “subsidiary”, “subsidiary undertaking”, “associated undertaking” and “undertaking” have the respective meanings given by the Act.

References to an enactment include references to that enactment as amended, replaced, consolidated or re-enacted.

In this document, references to the singular include the plural and vice versa, unless the context otherwise requires.

This document was published on 9 December 2019







