

IN THE HIGH COURT OF JUSTICE

CR-2023-004909

BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES

COMPANIES COURT (ChD)

Mr Justice Fancourt

9 November 2023

IN THE MATTER OF ERGOMED PLC

AND IN THE MATTER OF THE COMPANIES ACT 2006



CR-2023-004909

ORDER

UPON THE ADJOURNED APPLICATION by Part 8 Claim Form (the “**Claim Form**”) of the above named **ERGOMED PLC**, a company incorporated in England and Wales with registered number 04081094 whose registered office is situated at 1 Occam Court, Surrey Research Park, Guildford, England, GU2 7HJ (the “**Company**”).

AND UPON HEARING Andrew Thornton KC, Counsel for the Company,

AND UPON READING the Claim Form and the evidence, including the third witness statement of M. Reljanovic dated 7 November 2023 correcting part of the content of his second witness statement dated 6 November 2023

AND UPON Eden AcquisitionCo Limited, Eden Holdco 3 Limited, Eden Holdco 2 Limited, Eden Holdco 1 Limited and Eden Topco Limited (together, the “**Offeror Entities**”), by Counsel for the Company, being the Offeror Entities’ Counsel for this purpose, undertaking:

- (a) to be bound by the scheme of arrangement hereinafter sanctioned (the “**Scheme**”); and

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(b) to execute and do, or procure to be executed and done, all such documents, acts and things as may be necessary or desirable to be executed or done by it or on its behalf for the purpose of giving effect to the Scheme.

THE COURT HEREBY SANCTIONS the Scheme as set out in the Schedule hereto,

AND IT IS ORDERED that a copy of this order be delivered by the Company to the Registrar of Companies.

Service of this Order

The Court has provided a sealed copy of this order to the serving party:

Covington & Burling LLP, 22 Bishopsgate, London, EC2N 4BQ

Solicitors to the Company

THE SCHEME OF ARRANGEMENT

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMPANIES COURT (CH D)



CR-2023-004909

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IN THE MATTER OF ERGOMED PLC

and

IN THE MATTER OF THE COMPANIES ACT

2006 SCHEME OF ARRANGEMENT

(under Part 26 of the Companies Act 2006)

between

ERGOMED PLC

and

THE HOLDERS OF THE SCHEME SHARES

(as defined below)

PRELIMINARY

(A) In this Scheme, unless inconsistent with the subject or context, the following expressions bear the following meanings:

“Acquisition”

the recommended cash acquisition by Bidco of the entire issued and to be issued share capital of Ergomed to be effected by means of this Scheme (and, where the context admits, any subsequent revision, variation, extension or renewal of the Scheme);

“Bidco”

Eden AcquisitionCo Limited, a company incorporated in England and Wales with registered number 15049830;

“Bidco Group”

Bidco and its holding companies, its subsidiaries and subsidiary undertakings and direct and indirect parent undertakings and “**member of the Bidco Group**” shall be construed accordingly;

“Bidco Loan Notes”

£0.01 loan notes due 2033 issued by Bidco pursuant to the Partial Securities Alternative;

“business day”	a day (other than a Saturday, Sunday or public or bank holiday) on which clearing banks in London are generally open for normal business;
“Cash Offer	1,350 pence in cash for each Ergomed Share;
“certificated form” or “in certificated form”	in relation to a Scheme Share, one which is not in uncertificated form (that is, not in CREST);
“close of business”	6:00 p.m. (London time) on the business day in question;
“Code”	the UK City Code on Takeovers and Mergers;
“Companies Act”	the UK Companies Act 2006, as amended from time to time;
“Conditions”	the conditions to the implementation of the Acquisition, as set out in Part Error! Reference source not found. (<i>Conditions to the implementation of the Scheme and to the Acquisition</i>) of the Scheme Document;
“Court”	the High Court of Justice in England and Wales;
“Court Hearing”	the hearing at which the Court sanctions the Scheme under Part 26 of the Companies Act and, if such hearing is adjourned, references to the commencement of any such hearing shall mean the commencement of the final adjournment thereof;
“Court Meeting”	the meeting of Scheme Shareholders (and any adjournment of such meeting) convened with the permission of the Court pursuant to section 896 of the Companies Act for the purpose of considering and, if thought fit, approving (with or without modification) this Scheme;
“Court Order”	the order of the Court sanctioning this Scheme under Part 26 of the Companies Act;
“CREST”	the relevant system (as defined in the Regulations) in respect of which Euroclear UK and International Limited is the Operator (as defined in the Regulations) in accordance with which securities may be held and transferred in uncertificated form;
“Eden Midco 1”	Eden Holdco 1 Limited, a company incorporated in England and Wales with registered number 10489443;
“Eden Midco 2”	Eden Holdco 2 Limited, a company incorporated under the laws of England and Wales with registered number 15124823;
“Eden Midco 3”	Eden Holdco 3 Limited, a company incorporated under the laws of England and Wales with

	registered number 15049698;
“Effective”	the Scheme having become effective in accordance with its terms, upon delivery of the Court Order to the Registrar of Companies;
“Effective Date”	the date on which this Scheme becomes effective in accordance with its terms;
“Ergomed”	Ergomed plc, a company incorporated in England and Wales with registered number 04081094;
“Ergomed Group”	Ergomed and its subsidiaries and subsidiary undertakings from time to time;
“Ergomed’s Receiving Agent”	Share Registrars Limited of 3 The Millennium Centre, Crosby Way, Farnham, Surrey, GU9 7XX;
“Ergomed Shareholders”	the holders of Ergomed Shares from time to time;
“Ergomed Share Scheme”	the Ergomed Long-Term Incentive Plan, adopted on 11 June 2014 and amended on 12 June 2018, 18 January 2021, and 8 February 2022;
“Ergomed Shares”	the ordinary shares of one pence each in the capital of Ergomed;
“Euroclear”	Euroclear UK & International Limited;
“Excluded Shares”	(i) any Ergomed Shares legally or beneficially held by Bidco or any member of the Bidco Group; or (ii) any Treasury Shares;
“holder”	a registered holder and includes any persons entitled by transmission;
“Latest Practicable Date”	21 September 2023 (being the latest practicable date before the publication of this Scheme);
“Midco 1 Loan Notes”	£0.01 loan notes due 2033 issued by Eden Midco 1 pursuant to the Partial Securities Alternative;
“Midco 2 Loan Notes”	£0.01 loan notes due 2033 issued by Eden Midco 2 pursuant to the Partial Securities Alternative;
“Midco 3 Loan Notes”	£0.01 loan notes due 2033 issued by Eden Midco 3 pursuant to the Partial Securities Alternative;
“Partial Securities Alternative”	the alternative to the Cash Offer, being the ultimate exchange of Ergomed Share(s) for Topco Units (subject to the exercise of applicable put and call options) at a ratio of 1.0 Topco Units for each Ergomed Share, plus 451 pence in cash and as further set out in paragraphs Error! Reference source not found. to Error! Reference source not found. of Part Error!

Reference source not found. (*Explanatory Statement*) and in Part Eight (*Summary of the Partial Securities Alternative, the Topco Units and the Topco Group*) of the Scheme Document

“Put and Call Deeds”	the put and call deeds to be entered into between Bidco, Eden Midco 1, Eden Midco 2, Eden Midco 3, Topco, and Scheme Shareholders who make a valid Partial Securities Alternative Election
“Registrar of Companies”	the registrar of companies in England and Wales;
“Regulations”	the Uncertificated Securities Regulations 2001(SI 2001/3755), as amended;
“Restricted Jurisdiction”	any jurisdiction where local laws or regulations may result in a significant risk of civil, regulatory or criminal exposure if information concerning the Acquisition is sent or made available to Ergomed Shareholders in that jurisdiction;
“Restricted Shareholder”	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 Bidco reasonably believes to be in, any jurisdiction (whether or not a Restricted Jurisdiction) whom Bidco 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 Bidco regards as unduly onerous;
“Scheme”	this scheme of arrangement in its present form or with or subject to any modification, addition or condition which Ergomed and Bidco each agree and which is approved or imposed by the Court;
“Scheme Document”	the circular dated 22 September 2023 sent by Ergomed to Ergomed Shareholders and persons with information rights, of which this Scheme forms a part;
“Scheme Record Time”	close of business on the business day immediately after the day of the Court Hearing or such later time as Bidco and Ergomed may agree;
“Scheme Shareholders”	holders of Scheme Shares at any relevant date or time;
“Scheme Shares”	the Ergomed Shares: (i) in issue at the date of the Scheme

	Document;
	(ii) (if any) issued after the date of the Scheme Document and prior to the Voting Record Time; and
	(iii) (if any) issued at or after the Voting Record Time and before the Scheme Record Time in respect of which the original or any subsequent holder thereof is bound by the Scheme or shall by such time have agreed in writing to be bound by the Scheme,
	and, in each case, remaining in issue at the Scheme Record Time but excluding any Excluded Shares;
“Section 431 Election”	an election under section 431(1) of the Income Tax (Earnings and Pensions Act) 2003 to the extent required by the terms of the Put and Call Deeds;
“Share Registrars Limited”	Share Registrars Limited of 3 The Millennium Centre, Crosby Way, Farnham, Surrey, GU9 7XX;
“Sterling”	the lawful currency of the United Kingdom;
“Takeover Panel”	the UK Panel on Takeovers and Mergers;
“Topco”	Eden Topco Limited, a company incorporated in England and Wales with registered number 15049295
“Topco A Ordinary Shares”	the A ordinary shares in the capital of Topco;
“Topco A Preference Shares”	the A preference shares in the capital of Topco;
“Topco A Shares”	the Topco A Ordinary Shares and the Topco A Preference Shares;
“Topco Board”	the board of directors of Topco;
“Topco B Ordinary Shares”	the B ordinary shares in the capital of Topco;
“Topco B Preference Shares”	the B preference shares in the capital of Topco;
“Topco B Shareholders”	any holder of Topco B Ordinary Shares and/or the Topco B Preference Shares;
“Topco B Shares”	the Topco B Ordinary Shares and the Topco B Preference Shares;
“Topco Group”	Topco and its direct and indirect subsidiaries including, following completion of the Acquisition, the Ergomed Group;
“Topco Ordinary Shares”	the Topco A Ordinary Shares and the Topco B Ordinary Shares;
“Topco Preference Shares”	the Topco A Preference Shares and the Topco B

	Preference Shares;
“Topco Securities”	the Topco A Shares and the Topco B Shares;
“Topco Shareholders’ Agreement”	the shareholders’ agreement relating to Topco to be entered into by (amongst others) Topco and the holders of Topco Units;
“Topco Units”	that number of the Topco B Ordinary Shares and the Topco B Preference Shares available under the Partial Securities Alternative, where 1.0 Topco Unit comprises 1 Topco B Ordinary Share and 8.667 Topco B Preference Shares;
“Treasury Shares”	any Ergomed Shares which are for the time being held by Ergomed as treasury shares (within the meaning of the Companies Act);
“TTE Instruction”	a transfer to escrow instruction (as defined in CREST Manual);
“uncertificated form” or “in uncertificated form”	in relation to a Scheme Share, one which is recorded on the relevant register as being held in uncertificated form in CREST; and
“Voting Record Time”	11:00 a.m. (in respect of the Court Meeting) and 11:15 a.m. (in respect of the General Meeting) on the day which is two days before the date of the Court Meeting or, if the Court Meeting is adjourned, 11:00 a.m. (in respect of the Court Meeting) and 11:15 a.m. (in respect of the General Meeting) on the day which is two days before the date of such adjourned meeting, in each case excluding any day that is not a business day.

- (B) References to clauses, sub-clauses and paragraphs are to clauses, sub-clauses and paragraphs of this Scheme.
- (C) The issued share capital of Ergomed as at the Latest Practicable Date was divided into 50,932,605 ordinary shares of one pence each, all of which were credited as fully paid. Ergomed does not hold any shares in treasury.
- (D) As at the Latest Practicable Date, assuming that the Scheme becomes Effective on the expected Effective Date, 1,151,649 Ergomed Shares may be issued on or after the date of the Scheme Document in order to satisfy the exercise of options pursuant to the Ergomed Share Scheme.
- (E) As at the Latest Practicable Date, no member of the Bidco Group holds any Ergomed Shares.
- (F) Bidco was incorporated on 4 August 2023 under the laws of England and Wales as a private company limited by shares with registered number 15049830 for the purpose of carrying out the Acquisition.
- (G) Bidco, Eden Midco 1, Eden Midco 2, Eden Midco 3 and Topco have, subject to the satisfaction or, where capable, waiver of the Conditions, agreed to appear by counsel at the hearing to sanction this Scheme and to undertake to the Court to be bound by the provisions of this Scheme and to execute and do, or procure to be executed and done, all such documents, acts and things as may be necessary or desirable to be executed or done by it to give effect to this Scheme.

- (H) Bidco Group will rely upon the Court's sanctioning of the Scheme for the purpose of qualifying for the exemption from the registration requirements of the Securities Act, as amended, provided by Section 3(a)(10) thereof with respect to the Topco Units to be issued pursuant to the Partial Securities Alternative.
- (I) References to times are to London, United Kingdom time.

1. Transfer of Scheme Shares

- (A) Upon and with effect from the Effective Date, Bidco (and/or its nominee(s)) shall acquire all the Scheme Shares with full title guarantee, fully paid and free from all liens, equities, charges, encumbrances, rights of pre-emption and any other third party rights and interests whatsoever, and together with all rights at the Effective Date or thereafter attached to them, including the right to receive and retain all dividends and other distributions (if any).
- (B) For the purposes of such acquisition, the Scheme Shares shall be transferred to Bidco (and/or its nominee(s)) by means of one or more forms of transfer or other instruments or instructions of transfer, and to give effect to such transfers, any person may be appointed by the Company as attorney and/or agent and/or otherwise, and is authorised on behalf of the holder or holders concerned, to execute and deliver as transferor one or more instruments of transfer (whether by deed or otherwise) of any Scheme Shares and every instrument or instruction of transfer so executed or instruction given shall be effective as if it had been executed or given by the holder or holders of the Scheme Shares thereby transferred. Such instruments, forms or instructions of transfer shall be deemed to be the principal instruments of transfer and the equitable or beneficial interest in the Scheme Shares shall only be transferred to Bidco (and/or its nominee(s)), together with the legal interest in such Scheme Shares, pursuant to such instructions, forms or instruments of transfer.
- (C) With effect from the Effective Date and until the register of members of Ergomed is updated to reflect the transfer of the Scheme Shares pursuant to clause 1(B) above, each Scheme Shareholder irrevocably appoints Bidco (and/or its nominee(s)) as its attorney and/or agent and/or otherwise to exercise on its behalf (in place of and to the exclusion of the relevant Scheme Shareholder) any voting rights attached to its Scheme Shares and any or all rights and privileges attaching to its Scheme Shares, to sign on its behalf any documents, and do such things, as may in the opinion of Bidco be necessary or desirable in connection with the exercising of any votes or other rights or privileges attached to the relevant Scheme Shares, to sign any consent to short notice of a general or separate class meeting, to execute a form of proxy in respect of its Scheme Shares appointing any person nominated by Bidco to attend general and separate class meetings of Ergomed and to deal with the Scheme Shares as Bidco thinks fit, and authorises Ergomed to send to Bidco at its registered office any notice, circular, warrant or other document or communication, and to pay to Bidco any dividend or other distribution, which may be required to be sent or paid to it as a member of Ergomed and which will not be deducted from the consideration in accordance with clause 2(B) below, such that from the Effective Date, no Scheme Shareholder shall be entitled to exercise (and irrevocably undertakes not to exercise) any voting rights attached to the Scheme Shares or any other rights or privileges attaching to the Scheme Shares.
- (D) With effect from the Effective Date, each Scheme Shareholder who has validly elected for the Partial Securities Alternative irrevocably appoints the Company and/or Bidco and/or any one or more of their respective directors as its agent and/or attorney to sign, execute and deliver as a deed on behalf of such Scheme Shareholder (in such form as Bidco may require) the Put and Call Deeds, any exchange agreement, instrument of transfer, instrument, any Section 431 Election, or other document deemed by Bidco (in its absolute discretion) to be necessary or desirable to effect the steps set out in clauses 3(A) to 3(E) and to execute and deliver as a deed on behalf of such Scheme Shareholder (in such form as Bidco may require), a deed of adherence by such Scheme Shareholder to the Topco Shareholders' Agreement.
- (E) Ergomed shall register, or procure the registration, of any transfer(s) of Scheme Shares effected in accordance with clause 1(A) and clause 1(B) of this Scheme.

2. Consideration for the transfer of Scheme Shares

- (A) In consideration for the transfer of the Scheme Shares to Bidco and/or its nominee(s) referred to in clause 1(A) above, Bidco shall, subject as provided below, pay, or procure that there shall be paid, to or for the

account of each Scheme Shareholder (as appearing in the register of members at the Scheme Record Time):

for each Scheme Share

1,350 pence in cash

- (B) If any dividend or other distribution (including any return of capital) is authorised, declared, made, paid or payable by Ergomed in respect of the Ergomed Shares on or after 4 September 2023 and before the Effective Date, Bidco reserves the right to reduce the consideration (as set out in clause 2(A) above) by the amount of all or part of any such dividend or other distribution, except insofar as the Ergomed Share is or will be transferred pursuant to the Acquisition on a basis which entitles Bidco alone to receive the dividend and/or distribution and/or return of capital, but if that reduction in price has not been effected, the person to whom the consideration is paid in respect of that Ergomed Share, will be obliged to account to Bidco for the amount of such dividend and/or distribution and/or return of capital.
- (C) If Bidco reduces the consideration in accordance with clause 2(A) above, the exercise of such right shall be the subject of an announcement, and shall not constitute a revision or variation of the terms of this Scheme.

3. The Partial Securities Alternative

- (A) Conditional on and subject to the remainder of this clause 3, to the extent that any Scheme Shareholder appearing in the register of members at the Scheme Record Time (other than a Restricted Shareholder) validly elects for the Partial Securities Alternative in respect of their entire holding of Scheme Shares, Bidco shall, in consideration for the transfer of the Scheme Shares to Bidco and/or its nominee(s) referred to in sub-clauses 1(A) and 1(B) of this Scheme, subject as hereinafter provided, for each Scheme Share held by the Scheme Shareholder at the Scheme Record Time: (i) pay, or procure that there shall be paid, to or for the account of such Scheme Shareholder, 451 pence in cash; and (ii) allot and issue to such Scheme Shareholder, Bidco Loan Notes in an aggregate nominal amount of 899 pence.
- (B) Immediately following the allotment and issue by Bidco of the Bidco Loan Notes and conditional thereon, each relevant Scheme Shareholder may, if a relevant put or call option is exercised under the terms of the relevant Put and Call Deed, transfer its holding of Bidco Loan Notes to Eden Midco 3 in exchange for the same number of Midco 3 Loan Notes with the same nominal value as the Bidco Loan Notes transferred to Eden Midco 3 by such Scheme Shareholder.
- (C) Immediately following any exchange of loan notes pursuant to clause 3(B) and conditional thereon, each relevant Scheme Shareholder may, if a relevant put or call option is exercised under the terms of the relevant Put and Call Deed, transfer its holding of Midco 3 Loan Notes to Eden Midco 2 in exchange for the same number of Midco 2 Loan Notes with the same nominal value as the Midco 3 Loan Notes transferred to Eden Midco 2 by such Scheme Shareholder.
- (D) Immediately following any exchange of loan notes pursuant to clause 3(C) and conditional thereon, each relevant Scheme Shareholder may, if a relevant put or call option is exercised under the terms of the relevant Put and Call Deed, transfer its holding of Midco 2 Loan Notes to Eden Midco 1 in exchange for the same number of Midco 1 Loan Notes with the same nominal value as the Midco 2 Loan Notes transferred to Eden Midco 1 by such Scheme Shareholder.
- (E) Immediately following any exchange of loan notes pursuant to clause 3(D) and conditional thereon, each relevant Scheme Shareholder may, if a relevant put or call option is exercised under the terms of the relevant Put and Call Deed, transfer its holding of Midco 1 Loan Notes to Topco in exchange for the relevant number of Topco Units which such Scheme Shareholder has validly elected to receive under the Partial Securities Alternative. The Midco 1 Loan Notes will be acquired on the basis that 1.0 Topco Unit will be issued for every 899 Midco 1 Loan Notes.
- (F) The Loan Notes will be constituted by instruments in the form initialled for the purposes of identification by Freshfields Bruckhaus Deringer LLP, solicitors for Bidco, with such modification or additions, if any, as may be agreed by the Company and Bidco prior to the execution thereof.
- (G) The issuance of Topco B Ordinary Shares and Topco B Preference Shares pursuant to the Partial Securities Alternative shall be conditional upon valid elections having been made for the Partial Securities

Alternative in respect of such number of Scheme Shares as shall correspond to at least 10.0 per cent. of the Topco Offer Shares. If the condition set out in this clause 0(G) is not met, any Scheme Shares in respect of which a Partial Securities Alternative Election has been made shall be deemed to be Scheme Shares in respect of which no Partial Securities Alternative Election has been made, and the consideration in respect of all Scheme Shares shall be settled by way of cash consideration.

- (H) The maximum number of Topco Units available to eligible Scheme Shareholders under the Partial Securities Alternative will be limited to a number which represents 20.0 per cent. of the issued ordinary share capital of Topco at completion of the Acquisition (the "Partial Securities Alternative Maximum"). If valid Partial Securities Alternative Elections are received which, in aggregate, exceed the Partial Securities Alternative Maximum:
 - (i) the number of Scheme Shares in respect of which each Scheme Shareholder has made a valid Partial Securities Alternative Election shall be scaled down to the proportion of such Scheme Shares that the Partial Securities Alternative Maximum bears to the total number of Scheme Shares in respect of which Partial Securities Alternative Elections have been made (rounding such number of Scheme Shares down to the nearest whole number of Scheme Shares); and
 - (ii) the balance of the Scheme Shares the subject of such Partial Securities Alternative Election shall be deemed to be Scheme Shares in respect of which no Partial Securities Alternative Election has been made and the balance of the consideration shall be settled in cash pursuant to the terms of the Cash Offer.
- (I) A Scheme Shareholder must make a Partial Securities Alternative Election in respect of all (and not part only) of their holding of Scheme Shares.
- (J) The fractional entitlements of each eligible Scheme Shareholder to Topco Units under the Partial Securities Alternative (provided that the applicable put and call options have been exercised) will be rounded down to the nearest whole number of Topco Units per eligible Scheme Shareholder. Fractional entitlements to Topco Units will not be allotted or issued to such eligible Scheme Shareholder but will be disregarded. For the purposes of determining fractional entitlements, each portion of a Scheme Shareholder's holding which is recorded in the register of members of Ergomed by reference to a separate designation at the Scheme Record Time, whether in certificated or uncertificated form, shall be treated as a separate holding.
- (K) The Topco Units issued pursuant to the relevant Put and Call Deed shall be issued credited as fully paid and together with all rights attaching to them including, without limitation, the right to receive and retain in full all dividends and other distributions (if any) declared, paid or made by Topco in relation to such Topco Units (as applicable) by reference to a record date falling on or after the Effective Date.
- (L) In the case of Scheme Shareholders who hold Scheme Shares in certificated form, an election under the Partial Securities Alternative shall be made by completion of a Form of Election which shall be signed by the Scheme Shareholder or his/her/its duly authorised attorney (or, in the case of a body corporate, executed by an authorised representative), and in the case of joint holders by or on behalf of all such holders. To be effective, the Form of Election must be completed and returned, in accordance with the instructions printed thereon so as to arrive by no later than the Election Return Time, to Share Registrars Limited. In the case of Scheme Shareholders who hold Scheme Shares in uncertificated form, a Partial Securities Alternative Election shall be made by delivery of a TTE Instruction validly electing for the Partial Securities Alternative by no later than the Election Return Time.
- (M) If a Form of Election or TTE Instruction electing for the Partial Securities Alternative is received after the Election Return Time, or is received before such time but is not, or is deemed not to be, valid or complete in all respects at such time, then such election shall be void unless Ergomed and Bidco, in their absolute discretion, elect to treat as valid in whole or in part any such election.
- (N) Upon execution and delivery by a Scheme Shareholder of a valid Form of Election or TTE Instruction electing for the Partial Securities Alternative, such Scheme Shareholder shall be bound by the terms and

provisions contained in the Form of Election or the TTE Instruction (as the case may be) and by the terms and provisions contained in the Scheme Document.

- (O) A Form of Election duly completed and delivered or TTE Instruction electing for the Partial Securities Alternative made in accordance with this clause 0 may be withdrawn by notice to the Share Registrars Limited in writing (in the case of a Form of Election) or through CREST (in the case of a TTE Instruction) so as to be received, in either case, by no later than the Election Return Time.
- (P) If a Scheme Shareholder delivers more than one Form of Election electing for the Partial Securities Alternative (in each case electing for Partial Securities Alternative) in respect of their Scheme Shares, in the case of an inconsistency between such Forms of Election or TTE Instructions, the last Form of Election or TTE Instruction which is delivered by the Election Return Time shall prevail over any earlier Form of Election or TTE Instruction. The delivery time for a Form of Election or TTE Instruction shall be determined on the basis of which Form of Election or TTE Instruction is last sent or, if Share Registrars Limited is unable to determine which is last sent, is last received. Forms of Election which are sent in the same envelope shall be treated for these purposes as having been sent and received at the same time and, in the case of an inconsistency between such Forms of Election, none of them shall be treated as valid (unless Ergomed and Bidco otherwise determine in their absolute discretion).
- (Q) Any election under the Partial Securities Alternative made by Scheme Shareholders for the Partial Securities Alternative shall not affect the entitlements of Scheme Shareholders who do not make any such election. If a Scheme Shareholder has elected for the Partial Securities Alternative, then: (i) the validity of the such election shall not be affected by any alteration in the number of Scheme Shares held by such holder at any time prior to the Scheme Record Time; and (ii) accordingly, such election shall apply, subject to clause 3(E) above, in respect of all of the Scheme Shares held by such holder at the Scheme Record Time.
- (R) Minor adjustments to the entitlements of Scheme Shareholders pursuant to any Partial Securities Alternative Election made under this Scheme may be made by Share Registrars Limited with the prior consent of Ergomed and Bidco on a basis that Ergomed and Bidco consider to be fair and reasonable. Such adjustments shall be final and binding on Scheme Shareholders. Neither Bidco nor Ergomed shall be liable to any Scheme Shareholder in respect of any adjustment, decision or determination made pursuant to this clause 0.

4. Share certificates and cancellation of CREST entitlements

With effect from the Effective Date:

- (A) all certificates representing Scheme Shares shall cease to have effect as documents of title to the Scheme Shares comprised in the certificates and every holder of Scheme Shares shall be bound by the request of Ergomed to deliver up the same to Ergomed, or, as it may direct, to destroy the same;
- (B) Euroclear shall be instructed to cancel the entitlements to Scheme Shares of holders of Scheme Shares in uncertificated form;
- (C) following the cancellation of entitlements to Scheme Shares held by Scheme Shareholders in uncertificated form, Share Registrars Limited shall be authorised to rematerialise entitlements to such Scheme Shares; and
- (D) subject to completion of any form(s) of transfer or other instrument(s) or instruction(s) of transfer as may be required in accordance with clause 1(B) above, Ergomed shall make appropriate entries in the register of members of Ergomed to reflect the transfer of the Scheme Shares to Bidco (and/or its nominee(s)).

5. Despatch of consideration

Cash Offer

- (A) No later than 14 days after the Effective Date (or such other period as may be approved by the Takeover Panel), Bidco shall:

- (i) in the case of the Scheme Shares which at the Scheme Record Time are in certificated form, despatch, or procure the despatch of, to the persons entitled to such shares in accordance with the provisions of clause 5(B) below, cheques for the sums payable to them respectively in accordance with clause 2;
 - (ii) in the case of the Scheme Shares which at the Scheme Record Time are in uncertificated form, ensure that Ergomed's Receiving Agent are instructed to create, through Euroclear, an assured payment obligation in respect of the sums payable in accordance with the CREST assured payment arrangements, provided that Bidco shall be entitled to make payment of the consideration by cheque as aforesaid in clause 5(A)(i) if, for any reason, it wishes to do so; and
 - (iii) in the case of Scheme Shares acquired on or around the same time as the Scheme becomes Effective pursuant to the exercise of options under the Ergomed Share Scheme, pay the sums otherwise payable to the persons entitled to such shares to Ergomed on their behalf to enable the settlement of those sums as soon as reasonably practicable through the payroll, subject to the deduction of applicable income taxes, social security contributions and the aggregate exercise price for the Scheme Shares.
- (B) All deliveries of cheques required to be made pursuant to this Scheme shall be effected by sending the same by first class post (or by international standard post, if overseas) in pre-paid envelopes addressed to the persons entitled to them at their respective registered addresses as appearing in the register of members of Ergomed at the Scheme Record Time (or in the case of any joint holders, at the address of one of the joint holders whose name stands first in the register of members of Ergomed in respect of such joint holding) and none of Ergomed, Bidco or their respective agents or nominees or Share Registrars Limited shall be responsible for any loss or delay in the transmission of any cheques sent in accordance with this clause 5(B) which shall be sent at the risk of the person or persons entitled to them.
- (C) All cheques shall be in Sterling and drawn on a United Kingdom clearing bank and made payable to the person or persons to whom, in accordance with the foregoing provisions of this clause 5, the envelope containing the same is addressed (save that, in the case of joint holders, Bidco reserves the right to make the cheque payable to all joint holders), and the encashment of any such cheque shall be a complete discharge of Bidco's obligation under this Scheme to pay the monies represented thereby.
- (D) In respect of payments made through CREST, Bidco shall ensure that Euroclear is instructed to create an assured payment obligation in accordance with the CREST assured payment arrangements. The creation of such an assured payment obligation shall be a complete discharge of Bidco's obligation under this Scheme with reference to the payments made through CREST.
- (E) The preceding paragraphs of this clause 5 shall take effect subject to any prohibition or condition imposed by law.

Partial Securities Alternative

- (F) Settlement of any consideration to be satisfied by the issue of Loan Notes and Topco Units shall be effected by the issue of Loan Notes and Topco Units to which the relevant Scheme Shareholder is entitled (regardless of whether the Scheme Shares are held in certificated or uncertificated form) in certificated form only.
- (G) Definitive share certificates for Topco Units will be despatched to each relevant Scheme Shareholder (or such other person as they may direct) within 14 days of the Effective Date.

6. Dividend mandates

Each mandate relating to the payment of dividends on any Scheme Shares and other instructions given to Ergomed by Scheme Shareholders in force at the Scheme Record Time shall, as from the Effective Date, cease to be valid.

7. Operation of this Scheme

- (A) This Scheme shall become effective upon a copy of the Court Order being delivered to the Registrar of Companies for registration.

(B) Unless this Scheme has become effective on or before 4 June 2024, or such later date (if any) as Bidco and Ergomed may agree and (if required) the Takeover Panel and the Court may allow, this Scheme shall never become effective.

8. Modification

Ergomed and Bidco may jointly consent on behalf of all persons concerned to any modification of or addition to this Scheme or to any condition which the Court may approve or impose. Any such modification or addition shall require the consent of the Takeover Panel where such consent is required under the Code.

9. Governing law

This Scheme and all rights and obligations arising out of or in connection with it, are governed by English law. Any dispute of any kind whatsoever arising out of or in connection with this Scheme, irrespective of the cause of action, including when based on contract or tort, shall be exclusively submitted to the English courts. The rules of the Code will apply to this Scheme on the basis provided in the Code.

Dated: 22 September 2023