

DATED 13 DECEMBER 2023

RESURGENS TECHNOLOGY MANAGERS II, L.P.

AND

MORGAN STANLEY AIP GP LP

BID CONDUCT AGREEMENT

KING & SPALDING

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**THIS AGREEMENT** is made on 13 December 2023

**BETWEEN:**

- (1) **Resurgens Technology Managers II, L.P.**, a limited partnership registered in Delaware, United States having its principal business address at One Phipps Plaza, 3550 Peachtree Road NE, Suite 900, Atlanta, GA 30326, United States (the **Lead Investor**); and
- (2) **Morgan Stanley AIP GP LP**, a limited partnership registered in Delaware, United States having its principal business address at 100 Front Street, Suite 700, West Conshohocken, PA 19428, United States (the **Co-Investor**),

together, the **Investors** and each, an **Investor**.

**RECITALS:**

- (A) The Lead Investor is intending to effect the acquisition by the Offeror of the Target.
- (B) The Co-Investor intends to procure the provision of equity finance to Resurgens Co-Invest for the purposes of the Offer and to work together with the Lead Investor in relation to the offer by the Offeror for the Target Shares to be made at the price and substantially on the terms and conditions set out in the 2.7 Announcement (the **Offer**) and proposed to be implemented by way of a Scheme.
- (C) This Agreement sets out the terms on which the Investors will conduct and implement the Offer.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1** In this Agreement the following words and expressions shall have the following meanings:

**2.7 Announcement** means the press announcement in connection with the Offer to be made by or on behalf of the Offeror in compliance with Rule 2.7 of the Code in the Agreed Form;

**Affiliate** means in respect of an Investor, any person who or which, directly or indirectly, controls, or is controlled by, or is under common control with, such person, provided that (i) no limited partner of RTP II shall be considered to be an Affiliate of the Co-Investor; (ii) no limited partner of PECO shall be considered an Affiliate of the Lead Investor, and (iii) for the avoidance of doubt and for these purposes, no Investor shall be deemed to be an Affiliate of the other Investor under this Agreement;

**Agreed Form** means the form approved by (or on behalf of) each Investor;

**AIM** means the AIM Market operated by the London Stock Exchange plc;

**AIM Rules** means the AIM Rules for Companies;

**Business Day** means a day which is not a Saturday, Sunday or a bank or public holiday in London or New York;

**Capitalisation Table** means the pro forma funding and capitalisation table in the Agreed Form on or prior to the date of the 2.7 Announcement;

**Certain Funds Period** means the period from (and including) the date of this Agreement to (and including) 11:59 p.m. London time on the earliest to occur of:

- (i) where the Offer (or any Rebidding Party Offer) proceeds by way of a Scheme, the date on which the Scheme lapses (including, subject to exhausting any rights of appeal, if a relevant court refuses to sanction the Scheme, terminates or is withdrawn with the approval of the Panel, in accordance with its terms in the 2.7 Announcement or other Scheme Document (other than where such lapse, termination or withdrawal is: (i) as a result of the exercise of the Offeror's right to effect a switch from the Scheme to a Takeover Offer and the Offeror has announced the same in accordance with the requirements of Paragraph 8 of Appendix 7 to the Code, and such Takeover Offer has not lapsed or been withdrawn; or (ii) followed promptly by a firm intention announcement (under Rule 2.7 of the Code) made by the Offeror or a person acting in concert with the Offeror (as defined in the Code) to implement the Offer (or Rebidding Party Offer) by a different Scheme or Takeover Offer on substantially the same or improved terms, and such announcement is made within five (5) Business Days of such lapse, termination or withdrawal);
- (ii) where the Offer (or any Rebidding Party Offer) is to be consummated pursuant to a Takeover Offer, the date on which the Takeover Offer lapses, terminates or is withdrawn with the consent of the Panel in accordance with its terms (other than where such lapse, termination or withdrawal is: (i) as a result of the exercise of the Offeror's right to effect a switch from the Takeover Offer to a Scheme which the Panel has consented to and the Offeror has announced the same in accordance with the requirements of Paragraph 8 of Appendix 7 to the Code, and such Scheme has not lapsed or been withdrawn; or (ii) followed promptly by a firm intention announcement (under Rule 2.7 of the Code) made by the Offeror or a person acting in concert with the Offeror (as defined in the Code) to implement the Offer (or Rebidding Party Offer) by a different Takeover Offer or Scheme on substantially the same or improved terms, and such announcement is made within five (5) Business Days of such lapse, termination or withdrawal);
- (iii) if the Offer (or any Rebidding Party Offer) proceeds by way of a Scheme, the date falling 42 days after (and excluding) the Long Stop Date;
- (iv) if the Offer (or any Rebidding Party Offer) proceeds by way of a Takeover Offer, the date falling 56 days after (and excluding) the Long Stop Date;
- (v) if the Offer proceeds by way of a Takeover Offer, if the Offeror has become entitled under the Squeeze-Out Procedure to issue a Squeeze-Out Notice, the later of: (i) the first Business Day after the expiry of eight weeks after the first date on which the Offeror has become entitled to issue a Squeeze-Out Notice; and (ii) if an application to court is made under section 986 of the Companies Act in relation to any Squeeze-Out Notice, the third Business Day after the day on which that application is disposed of; and
- (vi) the date on which the Target becomes a wholly-owned subsidiary of the Offeror and the Offeror has paid for all the Target Shares then owned by it,

or, in each case, such later time and date as agreed by the Lead Investor and the Co-Investor (each acting reasonably and in good faith) provided that, for the avoidance of doubt, a switch from a Scheme to a Takeover Offer or from a Takeover Offer to a Scheme (or, for the avoidance of doubt, any amendments to the terms or conditions of a Scheme or Takeover Offer) shall not constitute a lapse, termination or withdrawal for the purposes of this definition;

**CJA** has the meaning given in Clause 4.3;

**Code** means the City Code on Takeovers and Mergers, as amended from time to time;

**Companies Act** means the UK Companies Act 2006, as amended from time to time;

**Competing Offer** means an offer, or revision to an offer, by a third party (whether by means of a Takeover Offer or by way of a Scheme) for the ordinary shares in the Target, the value of the consideration per ordinary share available under which at the time it is made or, if earlier, publicly announced exceeds the Offer Price;

**Competing Offer Announcement** has the meaning given in Clause 7.4(a);

**Concert Parties** means, in relation to an Investor, those persons who are deemed by the Panel to be, or are in fact, acting in concert (as defined in the Code) with such Investor, other than any person who the Panel has otherwise confirmed is not regarded as acting in concert with such Investor for the purpose of the Offer, save that in relation to an Investor, the expression Concert Party shall not include the Offeror or any concert party of the other Investor who would not be a concert party of the first Investor but for that Investor's participation;

**Conditions** means the conditions to implementation of the Offer to be set out in the Offer Documentation, including the Offer Regulatory Clearances;

**Confidentiality Agreement** means the confidentiality agreement entered into between MS and the Manager dated 30 May 2023;

**Confidential Information:** (i) means certain confidential information (whether orally, in writing or in any other form) relating to the Offer and / or the business, financial affairs and operations of the Investors and / or the Target Group; and (ii) includes, for the avoidance of doubt, any information defined as Confidential Information in the Confidentiality Agreement;

**control** (together with its correlative meanings, **controlled by** and **under common control with**) means, with respect to any other person, the possession, directly or indirectly, of power to direct or cause the direction of management or policies of such person (whether through ownership of voting securities or partnership or other ownership interests, by contract or otherwise);

**Co-Investor EC Shortfall** has the meaning given in Clause 7.4(c)(i)(2);

**Co-Investor Equity Commitment** means the USD amount to be contributed by PECO as set out in the Capitalisation Table, or such additional amount as may be contributed in accordance with the terms of this Agreement;

**Co-Investor Equity Commitment Uplift** has the meaning given in Clause 7.4(d);

**Co-Investor Regulatory Clearance** has the meaning given in Clause 5.1(d);

**Co-operation Agreement** means the co-operation agreement in relation to the Offer to be entered into between the Offeror and the Target;

**Declining Party** has the meaning given in Clause 7.4(b);

**Defaulting Investor** has the meaning given in Clause 6.3;

**disclosing party** has the meaning given in Clause 5.3;

**Effective Date** means the date upon which:

- (i) the Scheme becomes effective in accordance with its terms; or
- (ii) if the Offeror elects to implement the Offer by means of a Takeover Offer in accordance with the terms of this Agreement (subject to the consent of the Panel), the Takeover Offer becomes or is declared unconditional;

**Equity Commitments** means the Primary Equity Commitment, the Co-Investor Equity Commitment and the Resurgens Amount;

**Equity Proportion** means the number of Holdco Shares to be held, directly or indirectly, by the relevant Investor calculated on a fully diluted basis and expressed in percentage terms as a proportion of the total to be issued share capital of Holdco on a fully diluted basis;

**Financial Adviser** has the meaning given in Clause 9.1;

**Financing** means the debt financing arrangements to be entered into in connection with the financing of the Offer;

**Holdco** means Archimedes Parent LLC;

**Holdco Group** means Holdco and its subsidiary undertakings from time to time, including, following the Effective Date, the Target Group and each, a **Holdco Group Company**;

**Holdco Shares** means the units in the capital of Holdco, from time to time;

**Increased Offer** has the meaning given in Clause 7.4(a);

**Increased Offer Deadline** has the meaning given in Clause 7.4(b);

**Increased Offer Price** has the meaning given in Clause 7.4(b);

**Individual Investor Expenses** has the meaning given in Clause 9.2;

**Investor** means the Co-Investor and/or Lead Investor (as applicable);

**LLC Agreement** means the amended and restated limited liability company agreement of Holdco, dated 27 June 2022 (as varied and amended from time to time);

**Long Stop Date** has the meaning given to it in the Co-operation Agreement;

**Losses** means all losses, liabilities, costs (including legal costs and experts' and consultants' fees), charges, expenses, actions, proceedings, claims and demands, excluding any loss of profit, goodwill, business opportunity, anticipated savings, anticipated benefits and any indirect or consequential loss;

**LP Agreement** means the limited partnership agreement setting out the rights and obligations of the parties thereto in relation to Resurgens Co-Invest, to be entered into between the Lead Investor and the Manager (as withdrawing partner);

**Manager** means Resurgens Technology Advisors, L.P.;

**MAR** has the meaning given in Clause 4.3;

**New Equity Commitment** has the meaning given in Clause 7.4(c)(i)(1);

**Non-Defaulting Investors** has the meaning given in Clause 6.3;

**Notice** has the meaning given in Clause 15.1

**Offer** has the meaning given in Recital (B);

**Offer Documentation** means the 2.7 Announcement, the Scheme Documentation (if the Offer is implemented by way of a Scheme) or the Takeover Offer Documentation (if the Offer is implemented by way of a Takeover Offer), as applicable;

**Offer Price** means the value of the consideration per share available under the Offer, as set out in the 2.7 Announcement or, if relevant, in any subsequent revised offer announcement made by the Offeror;

**Offer Regulatory Clearances** means each antitrust, foreign direct investment or other clearance and approval required by a Relevant Authority in connection with the Offer, including the Co-Investor Regulatory Clearances (if any);

**Offer Remedies** has the meaning given in Clause 5.1(e);

**Offeror** means IOps Buyer Inc. or another special purpose corporate entity incorporated or to be incorporated by or on behalf of the Lead Investor;

**Panel** means the UK Panel on Takeovers and Mergers;

**PECO** means PECO III Aggregator LP;

**Primary Equity Commitment** has the meaning given in Clause 6.1(a);

**Primary Equity Commitment Letter** means the equity commitment letter from the Resurgens Funds in relation to the Primary Equity Commitment and addressed to the Offeror,

**Rebidding Parties** has the meaning given in Clause 7.4(b);

**Rebidding Party Offer** has the meaning given in Clause 7.4(b);

**Rebidding Party Offer Announcement** has the meaning given in Clause 7.4(b)(i);

**Relevant Authority** means any central bank, ministry, governmental, quasigovernmental, supranational (including the European Union), statutory, regulatory or investigative body, authority or tribunal (including any national or supranational antitrust, competition or merger control authority, any sectoral ministry or regulator and any foreign investment review body), national, state, municipal or local government (including any subdivision, court, tribunal, administrative agency or commission or other authority thereof), any entity owned or controlled by them, any private body exercising any regulatory, taxing, importing or other authority, trade agency, association, institution or professional or environmental body in any jurisdiction;

**Relevant Securities** means any Target Shares or any other securities of the Target or any rights to subscribe for Target Shares or options in respect of, or derivatives or contracts for difference referenced to, Target Shares or any such other securities of the Target;

**RTP II** means Resurgens Technology Partners II, L.P.;

**Resurgens Amount** means the USD amount to be contributed by RTP II as set out in the Capitalisation Table, or such additional amount as may be contributed in accordance with the terms of this Agreement;

**Resurgens Co-Invest** means Resurgens II Co-Invest B, L.P.;

**Resurgens Funds** means RTP II and Resurgens Co-Invest;

**Sanction Hearing** means the hearing of the High Court of Justice of England and Wales at which the Target will seek an order sanctioning the Scheme pursuant to Part 26 of the Companies Act;

**Scheme** means a scheme of arrangement under Part 26 of the Companies Act;

**Scheme Document** means any scheme document published by the Target in order to effect the Offer by way of a Scheme;

**Scheme Documentation** means the Scheme Document (and any subsequent amendment to such Scheme Document) and other documentation required in connection with the Scheme, including any forms of proxy, court documentation and other such documents as are or may be required by the Code, the Panel, the Companies Act, the AIM Rules or any applicable law or regulation;

**Side Letter** means the side letter agreement to the Subscription Agreement to be executed by Resurgens Co-Invest and PECO;

**Squeeze Out Notice** means a notice under section 979 of the Companies Act given by the Offeror (or on its behalf) to a shareholder of the Target who has not accepted the Offer implementing the Squeeze Out Procedure;



**Squeeze Out Procedure** means the compulsory acquisition procedure under Part 28, Chapter 3 of the Companies Act;

**Structure Paper** means the structure paper prepared by the Tax Adviser in connection with the Offer dated on or about October 2023 in the Agreed Form, as amended from time to time in accordance with Clause 2.2(a)(ii);

**Subscription Agreement** means the subscription agreement to be executed by the Lead Investor and PECO for the purchase of an interest in Resurgens Co-Invest and admission to the LP Agreement;

**Subsequent Offer** means an offer under the Code (whether by means of a Takeover Offer or by way of a Scheme) for the Target Shares by an offeror in which one but not all Investors is interested (whether directly or indirectly), including a Rebidding Party Offer;

**Takeover Offer** means a takeover offer within the meaning of section 974 of the Companies Act to be made by or on behalf of the Offeror or an associated undertaking thereof to acquire the Target Shares, including any subsequent revision, amendment, variation, extension or renewal of such offer, the full terms of which shall be set out in the Takeover Offer Documentation or (as the case may be) any revised offer document(s);

**Takeover Offer Document** means the offer document to be sent to Target shareholders setting out, amongst other things, the terms of the Takeover Offer;

**Takeover Offer Documentation** means the Takeover Offer Document and other documentation required in connection with the Takeover Offer, including any forms of acceptance and other such documents as are or may be required by the Code, the Panel, the Companies Act or any applicable law or regulation;

**Target** means the UK public company which is code-named Opal, whose shares are admitted to trading on AIM;

**Target Group** means the Target and its subsidiary undertakings from time to time;

**Target Shares** means the entire issued share capital of the Target;

**Tax Adviser** has the meaning given in Clause 9.1;

**Transaction** means the Offer;

**Transaction Advisers** has the meaning given in Clause 9.1;

**Transaction Expenses** has the meaning given in Clause 9.2; and

**Withdrawing Party** has the meaning given to that term in Clause 7.4(f).

## 1.2 Singular, plural, gender

References to one gender include all genders and references to the singular include the plural and vice versa.

### **1.3 References to persons and companies**

References to:

- (a) a person include any individual, company, partnership or unincorporated association (whether or not having separate legal personality); and
- (b) a company include any company, corporation or body corporate, wherever incorporated.

### **1.4 References to subsidiaries and holding companies**

The words **holding company**, **subsidiary** and **subsidiary undertaking** shall have the same meaning in this Agreement as their respective definitions in the Companies Act.

### **1.5 Schedules**

References to this Agreement shall include any Recitals and Schedules to it and references to Clauses and Schedules are to Clauses of, and Schedules to, this Agreement.

### **1.6 Headings**

Headings shall be ignored in interpreting this Agreement.

### **1.7 Reference to documents**

References to any document (including this Agreement), or to a provision in a document, shall be construed as a reference to such document or provision as amended, supplemented, modified, restated or novated from time to time.

### **1.8 Non-limiting effect of words**

The words “including”, “include”, “in particular” and words of similar effect shall not be deemed to limit the general effect of the words that precede them.

### **1.9 Obligations to procure**

Unless otherwise expressly provided, the expression “procure” where used in the context of an Investor’s Affiliates, means taking such steps to procure the relevant matter, including undertaking to exercise its voting rights and to use any and all other powers vested in it from time to time and, where used in the context of an Investor’s Concert Parties, means only undertaking to exercise its voting rights and to use any and all other powers vested in it from time to time.

### **1.10 Several liability**

Except where this Agreement provides otherwise, obligations, covenants, warranties, representations and undertakings expressed to be assumed or given by two or more persons shall, in each case, be construed as if expressed to be given severally and not jointly and severally or jointly.

## **2. INVESTOR CO-OPERATION**

### **2.1 Holdco Group**

- (a) The Holdco Group has been established in accordance with the Structure Paper. As of the date hereof, the Holdco Group is controlled by the Lead Investor.

- (b) The Lead Investor agrees to procure that, as soon as practicable following the Effective Date and conditional only upon execution of the Subscription Agreement and Side Letter in accordance with Clause 2.4(a)(iii) and payment of, and in consideration for, the Co-Investor Equity Commitment:
  - (i) membership interests in Resurgens Co-Invest are issued to PECO reflecting its Co-Investor Equity Commitment and as set forth in the Subscription Agreement and Side Letter; and
  - (ii) Holdco issues to Resurgens Co-Invest such number of Holdco Shares as is equal to the Co-Investor's Equity Proportion as at the Effective Date, subject only to any adjustment to the Equity Proportion required by Clause 7.4(c), as a result of the Investors agreeing to make an Increased Offer.
- (c) Without prejudice to the generality of Clause 2.1(a), the Co-Investor shall provide such information as is requested by the Lead Investor in connection with the satisfaction of the customary and reasonable KYC requirements of the Holdco Group (including with respect to its controlling Affiliates) as soon as reasonably practicable following the receipt of any such request and in any event within 5 Business Days thereof.

## **2.2 Offer Conduct**

- (a) Without prejudice to Clauses 2.2(b), 2.2(e) and 2.2(f), the Lead Investor shall control the general conduct and strategy of the Offer (and any revisions thereto) including but not limited to:
  - (i) implementing the Offer on the terms set out in the 2.7 Announcement, subject to the terms of this Agreement, the Co-operation Agreement and any Conditions;
  - (ii) implementing the agreed structure set out in the Structure Paper in connection with the Offer and making any amendments thereto to the extent reasonably required;
  - (iii) subject to the Code, taking any decisions in respect of the actual or purported waiver, treating as satisfied, invocation, variation or amendment of any Condition, the extension of any acceptance period in respect of the Offer, or the lapsing or withdrawal of the Offer;
  - (iv) discussions with the Target or its advisers, its management, any of its shareholders and any of its stakeholders;
  - (v) consulting with the Panel as necessary and where appropriate seeking any consents required in connection with the Offer, subject to Clauses 2.2(f) and 3.1(d);
  - (vi) taking any decision to change the proposed or announced timetable for the Offer, including any acceleration or extension of the acceptance period or the Long Stop Date;
  - (vii) the structure, provider and terms of any Financing, including any amendment, modification or variation thereto; and
  - (viii) taking any decision in relation to any Offer Regulatory Clearance and the submission of any regulatory filings or notifications in connection therewith, subject to Clause 5.1.
- (b) The Lead Investor shall consult with the Co-Investor prior to:

- (i) taking any decision to change materially the proposed or announced timetable for the Offer, including any acceleration or extension of the acceptance period or the Long Stop Date;
  - (ii) taking any material decision in relation to any Offer Regulatory Clearance and the submission of any regulatory filings or notifications in connection therewith;
  - (iii) increasing the Offer Price or changing the form of consideration offered pursuant to the terms of the Offer;
  - (iv) taking any decision in connection with a change in the Target's board of directors' recommendation of the Offer; and
  - (v) taking any decision as to whether to switch from a Scheme to a Takeover Offer where the acceptance condition relating to such Takeover Offer is set by reference to those Target Shares carrying less than 75 per cent. of the voting rights in the Target, including the waiver of any such acceptance condition.
- (c) The Lead Investor shall keep the Co-Investor informed of all material developments related to the Offer as soon as reasonably practicable following the occurrence of all material developments related to the Offer, including informing the Co-Investor of any announcements expected to be made pursuant to Clause 12, and shall send drafts of all Offer Documentation to the Co-Investor for review and comment promptly after preparation allowing and providing the Co-Investor with sufficient time to review and comment. The Lead Investor shall take reasonable account of the Co-investor's comments on the Offer Documentation but, subject to Clause 12.1(b) and the express provisions of this Agreement, the Co-Investor's consent to the issue or finalization of the same shall not be required.
- (d) Each Investor shall use all reasonable endeavours to (and shall use reasonable endeavours to procure that, to the extent appropriate in the circumstances, its Concert Parties shall):
- (i) work together with the other Investor in good faith and act reasonably in connection with the implementation of the Offer, including (without limitation but taking account of the Offer conduct control granted to the Lead Investor pursuant to Clause 2.2(a)) with respect to each of the matters set out in Clause 2.2(a); and
  - (ii) not knowingly do or omit to do anything (including making any public statement) which is or may be inconsistent with the obligations of the Investors with respect to, or which is likely to prejudice in any way, the implementation of the Offer in accordance with the terms of the Code, this Agreement or the Co-operation Agreement.
- (e) In exercising the rights provided for in Clause 2.2(a), the Lead Investor shall use all reasonable care and skill and shall not without the prior written agreement of the Co-Investor:
- (i) take any action which would be materially and disproportionately adverse to the economic, tax, reputational or legal position of the Co-Investor and its Concert Parties, or, to the extent it is aware of the same, PECO or its Affiliates, as compared to the Lead Investor; or
  - (ii) increase the Offer Price otherwise than in accordance with Clause 7.4 of this Agreement.

- (f) Nothing in this Clause 2.2 shall prevent the Co-Investor (and/or its advisers) from consulting directly and confidentially with the Panel as necessary and where appropriate in connection with its participation in the Offer including without limitation regarding the matters in Clause 3.1(d), provided that no such consultation shall: (i) relate to the general conduct and strategy of the Offer (and any revisions thereto), which shall be solely controlled by the Lead Investor in accordance with Clause 2.2(a); or (ii) knowingly compromise (or may reasonably be expected to compromise) the Offeror's ability to fulfil the obligations referred to in Clause 2.3(a).

### **2.3 Undertakings in connection with the Scheme**

- (a) Each Investor acknowledges that the Co-operation Agreement contains certain obligations of the Offeror in favour of the Target in connection with the Scheme and the preparation of the Scheme Documentation. The Lead Investor shall promptly share drafts of the Scheme Documentation with the Co-Investor for review and comment and shall ensure that the Co-operation Agreement (i) includes appropriate accommodation provisions to assist the Co-Investor in achieving the Co-Investor Regulatory Clearances and (ii) does not prevent or impede compliance by the Lead Investor of its obligations in Clause 5.1(e).
- (b) The Co-Investor undertakes to the Lead Investor that it shall:
- (i) not object to the Sanction Hearing being convened as soon as reasonably practicable (and, in any event, prior to the Long Stop Date) following the satisfaction of the relevant Conditions; and
  - (ii) co-operate with the Lead Investor and save as otherwise contemplated pursuant to Clause 5.1(e)(ii), shall take or cause to be taken all such steps as are permissible by applicable law and regulation and are within its power that are necessary or reasonably requested by the Lead Investor to implement the Offer in accordance with, and subject to the terms and conditions set out in, the 2.7 Announcement, the Scheme Documentation and the Co-operation Agreement.

### **2.4 Limited Partnership Agreement and LLC Agreement**

- (a) On or before the date of the 2.7 Announcement:
- (i) the Lead Investor shall enter into the LP Agreement with the Manager;
  - (ii) the Lead Investor shall in its capacity as general partner of Resurgens Co-Invest execute the Subscription Agreement and the Side Letter; and
  - (iii) the Co-Investor (in its capacity as investment manager for and on behalf of PECO) shall execute the Subscription Agreement and the Side Letter, pursuant to which the Co-Investor (as investment manager for and on behalf of PECO) shall commit to provide the Co-Investor Equity Commitment to Resurgens Co-Invest in accordance with and subject to Clause 2.4(b).
- (b) The Co-Investor undertakes to the Lead Investor that it shall procure that PECO shall fund the Co-Investor Equity Commitment in accordance with: (i) the terms of the LP Agreement, Subscription Agreement and Side Letter; and (ii) any Call Notice (as such term is defined in the LP Agreement) served on the Co-Investor under the LP Agreement.
- (c) On or before the date of the 2.7 Announcement and following execution of the LP Agreement, Subscription Agreement and Side Letter as identified at Clause 2.4(a), the Lead Investor shall procure that:

- (i) Resurgens Co-Invest and Holdco will enter into a subscription agreement in the Agreed Form in respect of the subscription for Holdco Shares by Resurgens Co-Invest; and
- (ii) Resurgens Co-Invest will enter into a joinder in the Agreed Form to the LLC Agreement; and
- (iii) RTP II will enter into a subscription agreement in the Agreed Form in respect of the subscription for Holdco Shares by RTP II.

## **2.5 Agreed Form Documents**

To the extent any documents required to be in Agreed Form are not in Agreed Form at the date of this Agreement, the Investors shall use all reasonable endeavours to agree such documents as soon as reasonably practicable after the date of this Agreement and in any event prior to publication of the 2.7 Announcement.

## **3. OFFER DOCUMENTATION**

### **3.1 Preparation of Offer Documentation**

- (a) The Lead Investor shall prepare the Offer Documentation and the Co-Investor shall be consulted by and provide assistance to the Lead Investor in connection therewith, in each case in accordance with Clause 3.1(b).
- (b) For the purposes of Clause 3.1(a) and in connection with the fulfilment by the Offeror of the obligations referred to in Clause 2.3(a) and the fulfilment by the Co-Investor of the obligations referred to in Clause 2.3(b):
  - (i) the Lead Investor shall prepare the Offer Documentation to the highest standards of care and accuracy and use reasonable endeavours to ensure that all information contained therein is adequately and fairly presented and in compliance with the Code and all applicable laws and regulations; and
  - (ii) the Co-Investor shall:
    - (1) co-operate with the Lead Investor in relation to the preparation, publication and filing (where applicable) of the Offer Documentation and any other document, supplemental document or filing which is required or which the Lead Investor reasonably deems to be necessary for the purposes of implementing the Offer and which relates to the Co-Investor and, to the extent applicable, its Affiliates and/or Concert Parties;
    - (2) prepare those parts of the Offer Documentation which relates to the Co-Investor and/or its Affiliates or Concert Parties which (and to the extent that) the Lead Investor has requested in order to comply with the Code and all applicable laws and regulations, in each case to the highest standards of care and accuracy and use reasonable endeavours to ensure that all information contained in such documents is adequately and fairly presented;
    - (3) where so requested by the Lead Investor, provide promptly comments on any draft of the Offer Documentation which relates to the Co-Investor, its Affiliates and Concert Parties;

- (4) provide for inclusion in the Offer Documentation as promptly as reasonably practicable, all such information as may be required under the Code and applicable laws and regulations in connection therewith, including about its groups, directors and connected persons and, if the Co-Investor becomes aware that any information so provided is or has become false or misleading, it shall notify the Lead Investor and correct such information as promptly as reasonably practicable thereafter; and
  - (5) provide as promptly as reasonably practicable all such other reasonable assistance as may reasonably be required by the Lead Investor in connection with the preparation of the Offer Documentation and the fulfilment of the Lead Investor's obligations referred to in Clause 2.3(a), including providing access to and ensuring the provision of reasonable assistance by, its management and relevant professional advisers.
- (c) The Lead Investor acknowledges that any person which it appoints to the board of directors of the Offeror prior to the Effective Date shall be required, in accordance with the Code, to accept responsibility and give responsibility statements for certain information in the Offer Documentation and other statements made by Offeror during the course of the Offer and undertakes to procure that such persons shall accept responsibility and give responsibility statements for such information.
- (d) In addition, the Co-Investor acknowledges that certain of its (or its Concert Parties) personnel of appropriate seniority and with appropriate authority may each be required, in accordance with the requirements of the Panel and following direct consultation between (or on behalf of) the Co-Investor and the Panel, to accept responsibility and give responsibility statements for certain information in the Offer Documentation and other statements relating or relevant to the Co-Investor or its Concert Parties (other than the Lead Investor) only during the course of the Offer and undertakes to procure that such persons shall accept responsibility and give responsibility statements for such information.

#### **4. INTERESTS IN TARGET SHARES**

##### **4.1 No existing interests or recent dealings**

Each Investor warrants that, as at the date of this Agreement neither it nor any of its Concert Parties (which in the case of the Co-Investor excludes all members of its Concert Party group who the Panel has agreed will be presumed to be acting in concert only from when the Co-Investor has been publicly identified as a co-investor in the Offer):

- (a) has any interest in any Relevant Securities or has entered into any agreement or arrangement as a result of which it or any person may acquire an interest in any such securities;
- (b) has dealt in any such securities in the 12 months preceding the date on which the offer period (as defined in the Code) in respect of the Target started; or
- (c) has entered into any arrangement of the type specified in Note 11 on the definition of "acting in concert" in the Code in relation to any Relevant Securities.

##### **4.2 Prohibition on acquiring Relevant Securities**

- (a) Each Investor undertakes that, unless otherwise agreed in writing with the other Investor, and, if required under the Code, permitted by the Panel, from the date of this Agreement

it will not and shall procure that none of its Concert Parties shall, directly or indirectly, alone or with others (other than pursuant to the Offer, including the Financing thereof):

- (i) save as provided for and subject to Clause 4.2(b) in the case of the Co-Investor only, acquire, or offer, commit or otherwise seek to acquire any direct or indirect interest in Relevant Securities;
- (ii) enter into, continue, solicit, facilitate, or encourage any discussion, enquiry or proposal from, or discussions or negotiations with any person or enter into any agreement, understanding or arrangements (conditionally or otherwise and whether legally binding or not) with any person in relation to the acquisition of any substantial part of the assets of the Target, or (save as provided for and subject to Clause 4.2(b) in the case of the Co-Investor only) the acquisition of any Relevant Securities of the Target;
- (iii) make a general offer, including a mandatory offer, for all or any part of the share capital of the Target;
- (iv) enter into, continue, solicit, facilitate, or encourage any discussion, enquiry or proposal from, or discussions or negotiations with any person or enter into any agreement, understanding or arrangements (conditionally or otherwise and whether legally binding or not) with any person in relation to providing or otherwise acquiring any debt, equity, or any finance facilities to any member of the Target Group or in relation to providing any debt, equity, or other finance facilities in connection with a competing offer for Relevant Securities;
- (v) announce, or take any action which, under the Code or otherwise, would require the announcement of, any proposals for any takeover, merger, consolidation or share exchange or similar transaction involving Relevant Securities;
- (vi) take any step which might give rise to any obligation under the Code or its equivalent in any jurisdiction to make any offer for all or any part of the share capital of the Target;
- (vii) offer to acquire any substantial part of the assets of the Target; or
- (viii) save as provided for and subject to Clause 4.2(b) in the case of the Co-Investor only, assist or advise any person in relation to any of the foregoing.

If, at any time following the date of this Agreement, an Investor becomes aware that it may have breached any of the provisions of this Clause 4.2(a), it shall immediately notify the other Investor in writing of such breach or potential breach.

- (b) The prohibitions in Clauses 4.2(a)(i) and 4.2(a)(ii) relating to Relevant Securities and Clause 4.2(a)(viii) (insofar as it relates to the foregoing provisions) shall not apply to Concert Parties of the Co-Investor in so far and to the extent that the Panel Executive has granted relevant general or specific dispensations or permission(s) to the Co-Investor or its relevant Concert Parties to undertake any dealings or actions which would otherwise be restricted under such provisions.
- (c) Save as provided herein, the provisions of this Clause 4.2 shall continue to apply to an Investor that becomes a Withdrawing Party in accordance with Clause 7.4(f) but shall not be enforceable by such Investor. The provisions in Clauses 4.2(a)(i), 4.2(a)(ii) relating to Relevant Securities and Clause 4.2(a)(viii) (insofar as it relates to the foregoing provisions)



shall cease to apply to the Concert Parties of the Co-Investor in circumstances where the Co-Investor becomes a Withdrawing Party.

- (d) The Co-Investor acknowledges and agrees that the provisions of its Confidentiality Agreement continue to apply.

#### 4.3 Legal obligations

Each Investor acknowledges that the Confidential Information and the Offer may be inside information for the purposes of the Market Abuse Regulation (EU) No 596/2014, as it forms part of UK law (**MAR**) and the Criminal Justice Act 1993 (**CJA**) and that:

- (a) once it has received such information it must not act or use the information in any way that contravenes Article 8 MAR (insider dealing), Article 10 MAR (unlawful disclosure of inside information) and/or Article 12 MAR (market manipulation) for such time as the information remains inside information; and
- (b) subject to and in accordance with applicable law, it must not deal in securities that are price-affected securities (as defined in the CJA) in relation to the inside information, encourage another person to deal in price-affected securities or disclose the information (except as permitted by the CJA) for such time as the information remains inside information.

## 5. REGULATORY FILINGS

### 5.1 Obtaining Offer Regulatory Clearances

- (a) Each Investor acknowledges that the Co-operation Agreement contains certain obligations of the Offeror in connection with the Offer Regulatory Clearances and the satisfaction thereof as soon as reasonably practicable following the date of the Co-operation Agreement and, in any event, in sufficient time as to enable the Effective Date to occur before the Long Stop Date.
- (b) Each Investor undertakes to the other Investor that, until the Offer Regulatory Clearances are satisfied, it shall not effect or commit to effect any transaction, or take or not take any other action, which in either case has not been disclosed in the 2.7 Announcement and which would be reasonably likely to preclude, impede, prejudice or materially delay the effectiveness of any steps referred to in Clause 5.1(e)(ii) or any application for, or receipt of, any Offer Regulatory Clearance or the implementation of the Offer at the earliest practicable date.
- (c) Without prejudice to Clause 5.2, nothing in this Clause 5.1 shall prevent the Co-Investor from engaging with any Relevant Authority as necessary and where appropriate solely in connection with its participation in the Offer, provided that, subject to Clause 5.1(d), no such consultation shall: (i) relate to the general conduct and strategy of the Offer (and any revisions thereto), which shall be solely controlled by the Lead Investor in accordance with Clause 2.2(a); or (ii) knowingly compromise (or may reasonably be expected to compromise) the ability of the Offeror to fulfil the obligations referred to in Clause 5.1(a).
- (d) As regards any anti-trust, foreign direct investment or other clearance and approval required by a Relevant Authority in connection with the Offer which is notifiable by any of the Co-Investor, PECO or Resurgens Co-Invest (a "**Co-Investor Regulatory Clearance**"):

- (i) subject to (ii) and (iii) below, the Lead Investor as the general partner of Resurgens Co-Invest shall take responsibility for the preparation of any regulatory filings required for any Co-Investor Regulatory Clearances which are notifiable by Resurgens Co-Invest;
  - (ii) the Lead Investor shall consult and obtain the prior consent of the Co-Investor in relation to information relating to the Co-Investor, PECO or any of their respective Affiliates (as relevant) in any such regulatory filings as referred to in (i) above; and
  - (iii) subject to (ii) above, the Lead Investor will only proceed with making any such regulatory filings referred to in (i) above subject to prior consultation with the Co-Investor.
- (e) Each of the Investors undertakes to the other Investor:
- (i) to provide, subject to Clause 5.4, to the other Investor (the **“Requesting Investor”**) as promptly as reasonably practicable (and, in any event, before any applicable deadline or due date) following any request by or on behalf of the Requesting Investor with such information and assistance as may reasonably be requested by the Requesting Investor in connection with obtaining the Offer Regulatory Clearances, including (without limitation) providing information and assistance for the purposes of:
    - (1) preparing any initial or subsequent submissions to be made to any Relevant Authority for the purposes of obtaining any Offer Regulatory Clearances; and
    - (2) responding to any request for information by any Relevant Authority directed to it in connection with its consideration of whether to grant any Offer Regulatory Clearance; and
  - (ii) that it shall:
    - (1) if it is a party to any filing or submission made or submitted to any Relevant Authority, agree to offer (and not withdraw), agree and implement; and
    - (2) not prevent the Requesting Investor from offering (and not withdrawing), agreeing and implementing,

any conditions, obligations, terms, undertakings, commitments and remedies (**“Offer Remedies”**) which can reasonably be expected to be required or are required in order to satisfy the regulatory conditions contained in the Offer Documentation or to obtain the Offer Regulatory Clearances at the first stage of the Relevant Authority’s review process, provided that any Offer Remedy applies only to a member or members of the Target Group and / or its or their respective business(es) (which for the avoidance of doubt shall include any Offer Remedy required in connection with any Co-Investor Regulatory Clearance) and not to any other company or business which is (directly or indirectly) controlled by the Lead Investor, Co-Investor or its Affiliates, provided that, in each case but without prejudice to Clause 5.2, the Requesting Investor shall consult with the other Investor insofar as reasonably practicable in connection with the satisfaction of the Offer Regulatory Clearances (including, for the avoidance of doubt, any Offer Remedies) and take into account any reasonable comments made by the other Investor in relation thereto.

- (f) Each Investor shall keep the other Investor reasonably informed of the progress and status of any Offer Regulatory Clearance for which they have taken responsibility and shall

promptly provide such information as is reasonably requested by the other Investor in connection therewith subject to the provisions of Clauses 5.3 and 5.4.

## **5.2 No actions to prejudice satisfaction of Conditions**

No Investor shall, and the Lead Investor shall use reasonable efforts to procure that none of its Affiliates, and the Co-Investor shall use reasonable efforts to procure that none of its Concert Parties or Affiliates, shall take any action that could reasonably be expected to materially adversely affect the satisfaction of any Condition.

## **5.3 No sharing of commercially or competitively sensitive information**

Nothing in this Agreement shall oblige an Investor or any of its Affiliates (the **disclosing party**) to disclose any information to the other:

- (a) which the disclosing party reasonably considers (acting in good faith and having regard to its historical practices in respect of dissemination of information) to be commercially or competitively sensitive (including, for example, the financial statements of an Investor or its Affiliates) or where disclosure would reasonably be expected to have an adverse impact on the disclosing party's legitimate business interests;
- (b) which the disclosing party is prohibited from disclosing by applicable law or regulation or a Relevant Authority; or
- (c) where such disclosure would result in the loss of privilege that subsists in relation to such information (including legal advice privilege).

## **5.4 Clean team arrangements**

Where the circumstances referred to in Clauses 5.3(a) or 5.3(b) apply, the disclosing party shall disclose the relevant information:

- (a) pursuant to any clean team arrangement in place between the parties from time to time;
- (b) on an "external counsel only" basis; or
- (c) directly to the Relevant Authority (and in such circumstances, the disclosing party shall provide to the other a non-confidential version of such information).

## **6. EQUITY COMMITMENTS**

### **6.1** In furtherance of the Offer:

- (a) the Resurgens Funds will be required to commit (directly or indirectly) to the Offeror such amount of cash funding as will be sufficient in aggregate with the net cash proceeds available under the Financing to satisfy the payment of all cash consideration due pursuant to the Offer, which commitment shall form the basis of the confirmation required under the Code to be provided by the Financial Adviser to the Offeror, as to the availability of resources to the Offeror to satisfy in full, the cash consideration payable under the Offer (the **Primary Equity Commitment**); and
- (b) subject to Clause 6.4, the Co-Investor shall, subject to and on the applicable terms of the Subscription Agreement, Side Letter and LP Agreement, be required to commit (directly or indirectly) to Resurgens Co-Invest the Co-Investor Equity Commitment (the aggregate of which amount, when aggregated with the Resurgens Amount, shall be sufficient to satisfy the payment of the Primary Equity Commitment).

- 6.2** In connection with the Equity Commitments, the Investors agree that:
- (a) on or before the date of the 2.7 Announcement, the Resurgens Funds shall be required to provide the Primary Equity Commitment Letter in a form reasonably satisfactory to the Financial Adviser;
  - (b) the Lead Investor (in its capacity as general partner for and on behalf of Resurgens Co-Invest) and the Co-Investor (in its capacity as investment manager for and on behalf of PECO) shall be required to execute the Side Letter; and
  - (c) subject to Clause 6.4, on or before the date of the Primary Equity Commitment Letter, the Co-Investor or if one of its Affiliates is a party, the relevant Affiliate(s) shall be required to execute the Subscription Agreement.
- 6.3** Subject to Clause 6.4 and save as provided hereinafter, if either Investor fails to satisfy (or its Affiliates who are party to the relevant agreements fail to satisfy) its obligations under the Primary Equity Commitment Letter (in the case of the Lead Investor and its Affiliates (including the Offeror)) or the Subscription Agreement and/or Side Letter (in the case of the Co-Investor and its relevant Affiliates) (an Investor, in such capacity, being a **Defaulting Investor**), without prejudice to any other remedies that the other Investor (in such capacity, the **Non-Defaulting Investor**) may have in respect of such failure, the Defaulting Investor shall indemnify the Non-Defaulting Investor for any Losses incurred or suffered by the Non-Defaulting Investor and their respective Affiliates (which shall include the Offeror if the Non-Defaulting Investor is the Lead Investor) as a result of that Defaulting Investor's failure to satisfy its obligations under the Primary Equity Commitment Letter or Subscription Agreement/Side Letter (as applicable), ("**EC Related Losses**"). Notwithstanding any of the hereinbefore, to the extent that the Non-Defaulting Investor and/or any of its Affiliates (as applicable) have already been indemnified or received compensation for the EC Related Losses, the Defaulting Investor's obligation to indemnify the Non-Defaulting Investor under the indemnity set out hereinbefore shall be reduced by a like amount.
- 6.4** Notwithstanding anything to the contrary in the LP Agreement, LLC Agreement or the Subscription Agreement, neither the Co-Investor nor its Affiliates (as applicable) shall be required to commit, transfer or otherwise pay over the Co-Investor Equity Commitment to Resurgens Co-Invest (and its Subscription Agreement shall forthwith irrevocably terminate in accordance with its terms without any liability of any character or recourse to the Co-Investor and/or its Affiliates (as applicable)) if the Co-Investor has become a Withdrawing Party in accordance with Clause 7.4(f).

## **7. COMPETING OFFERS**

### **7.1 No involvement with Competing Offers**

Each Investor warrants to the other Investor that, as at the date of this Agreement, neither it nor (to its knowledge, having made such enquiries as are reasonable in the circumstances) any of its Affiliates (other than pursuant to the Offer, including the Financing thereof):

- (a) is a bidder, acquirer, concert party, lender to any person, interested party or a person of otherwise similar status in any other offer or proposal in relation to the acquisition of some or all of the assets or share capital of the Target;
- (b) is otherwise part of, or has agreed formally or informally to take part in, or lend to, any form of partnership, joint venture, concert party or similar arrangement with any other party or

parties in each case for the purposes of making or considering making an offer or proposal for some or all of the assets or share capital of the Target; or

- (c) has entered into discussions with the Target in connection with an offer or proposal in relation to some or all of the assets or share capital of the Target (other than in relation to the Offer).

Each Investor undertakes that it shall not (and that it shall procure that none of its Affiliates shall), (other than pursuant to the Offer, including the Financing thereof) become in any way interested in or otherwise assist any such alternative offer or proposal for some or all of the assets or share capital of the Target or enter into any discussions in relation thereto.

The provisions of this Clause 7.1 shall continue to apply to an Investor that becomes a Withdrawing Party in accordance with Clause 7.4(f) but shall not be enforceable by such Investor.

Without prejudice to Clause 4.2, nothing in this Clause 7.1 shall prevent an Investor or that Investor's Affiliates from taking or having taken any action in the normal course of their investment or advisory business, provided that such action, to the Investor's knowledge, does not give rise to any obligation on the other Investor pursuant to the Code.

For the purposes of this Clause 7.1, references to "Affiliate" or "Affiliates" of the Co-Investor means entities which are presumed to be Concert Parties of the Co-Investor as at the date of this Agreement.

## 7.2 Notification of Competing Offers

Each Investor undertakes to notify the other Investor immediately if:

- (a) it is approached by any possible competing bidder with a view to making an offer in respect of the Target; or
- (b) it becomes aware of any possible competing bidder which intends to make an offer in respect of the Target.

## 7.3 Acceptance of Competing Offers

Each Investor undertakes that it shall not, and it shall procure that its Concert Parties shall not:

- (a) tender into, accept or vote in favour of any proposed offer, scheme of arrangement or other analogous competing transaction to the Offer in respect of any Relevant Securities which it holds from time to time in the Target; or
- (b) sell, transfer, charge, encumber or otherwise dispose of an interest in such Relevant Securities.

## 7.4 Responding to a Competing Offer

- (a) If an announcement is made under Rule 2.7 of the Code in respect of a Competing Offer, or an announcement is made in respect of a revision of a Competing Offer (each, a **Competing Offer Announcement**), the Investors undertake to discuss in good faith for a period of five days from such announcement (or such longer period as the Lead Investor may determine) whether or not to increase the Offer Price to a value that is the same or above the value of the Competing Offer (an **Increased Offer**), subject to determining the funding of the Increased Offer pursuant to Clause 7.4(c).

- (b) If the Offeror has not announced an Increased Offer within five days of the Competing Offer Announcement (or such longer period as the Lead Investor may determine), if the Lead Investor supports an increase in the Offer Price to a value that is the same or above the per share value of the Competing Offer, it shall be entitled to serve a notice on the Co-Investor specifying the value per share of the Target to which it wants to increase the Offer Price (the **Increased Offer Price**) and, if the Co-Investor (in such capacity, a **Declining Party**) does not agree to increase the Offer Price to the Increased Offer Price as proposed by the Lead Investor within 48 hours of such notice (or such longer period as the Lead Investor may determine) (the **Increased Offer Deadline**), the Lead Investor (together with its respective Affiliates and any new co-investor, the **Rebidding Parties**) shall be entitled to proceed with announcing, making and implementing an offer by such Rebidding Parties for the Target Shares, at a value per share at or above the Increased Offer Price (the **Rebidding Party Offer**), provided that and subject to the following:
- (i) an announcement under Rule 2.7 of the Code is made in respect of the Rebidding Party Offer (the **Rebidding Party Offer Announcement**) within five days of the Increased Offer Deadline (or such longer period as the Lead Investor may determine);
  - (ii) the Investors shall take all reasonable steps possible to achieve the withdrawal or lapse of the Offer; and
  - (iii) to the extent that it is not possible simultaneously to withdraw or lapse the Offer, the Rebidding Parties replace (in such proportions as are agreed between them) a Declining Party's Equity Commitments in full.
- (c) By no later than the Increased Offer Deadline and subject to Clause 7.4(d), in agreeing to any Increased Offer:
- (i) each Investor's Equity Commitment will be increased in line with its respective Equity Proportion such that the funds available to the Offeror, along with any Financing, shall be enough to pay the full amount of consideration payable pursuant to the Increased Offer, unless:
    - (1) Holdco, the Offeror or the Investors source alternative equity funding ("**New Equity Commitment**"), in which case each Investor's Equity Proportion shall be reduced pro rata taking account of the New Equity Commitment, and the Resurgens Amount and Co-Investor Equity Commitment shall be amended in line with the new Equity Proportions (if necessary); and/or
    - (2) the Co-Investor elects not to increase its original Co-Investor Equity Commitment pursuant to Clause 7.4(d) by the full amount of the Co-Investor Equity Commitment Uplift (with any such deficit being the "**Co-Investor EC Shortfall**"), in which case:
      - (A) the Lead Investor shall be entitled to increase its Equity Proportion to account for some or all of the Co-Investor EC Shortfall; and
      - (B) if the Lead Investor does not increase its Equity Proportion in accordance with (A) above to account for all of the Co-Investor EC Shortfall, the Investors shall work together in good faith to source New Equity Commitment(s) to cover any proportion of the Co-Investor EC Shortfall not met by the Lead Investor in accordance with (A) above,

and, in each case, each Investor's Equity Proportion shall be adjusted accordingly; and/or

- (3) the Investors agree to amend the Resurgens Amount, the Co-Investor Equity Commitment and the Equity Proportions in any other way; and
- (ii) the Investors shall use all reasonable endeavours to ensure that that an announcement under Rule 2.7 of the Code is made by the Offeror (the **Increased Offer Announcement**) within five days of the Increased Offer Deadline (or such longer period as the Lead Investor may determine),

provided, however, that if the Co-Investor elects not to increase its original Equity Commitment pursuant to Clause 7.4(d) and the Lead Investor is unable or unwilling to increase its original Equity Commitment and/or source New Equity Commitment(s) to make up the Co-Investor EC Shortfall, then the Lead Investor may elect, at its sole discretion, not to proceed with an Increased Offer.

- (d) The Co-Investor may elect, at its sole discretion, to either increase or not increase its original Co-Investor Equity Commitment to take account of the difference between the Offer Price and the Increased Offer Price based on the Co-Investor's original Equity Proportion (with the Co-Investor's Equity Proportion of the difference between the Offer Price and the Increased Offer Price being the "**Co-Investor Equity Commitment Uplift**").
- (e) No agreement shall be entered into with any new equity investor in respect of a New Equity Commitment unless it has first agreed to adhere to the terms of the Agreement.
- (f) With effect from the time of any Rebidding Party Offer Announcement, a Declining Party shall be deemed to be a **Withdrawing Party**.
- (g) The Investors undertake to cooperate and work together in good faith in order to make such submissions to the Panel as are required from time to time in order to enable:
  - (i) the Rebidding Parties to proceed with any Rebidding Party Offer as contemplated by this Clause 7.4;
  - (ii) the Declining Party to cease to be regarded as acting in concert (as defined in the Code) with the Rebidding Parties with effect from the announcement of the Rebidding Party Offer; and
  - (iii) the Offer to be withdrawn or lapsed as contemplated by this Clause 7.4.

## 8. WITHDRAWAL

8.1 If the Co-Investor is deemed to be a Withdrawing Party pursuant to Clause 7.4(f), the Co-Investor shall withdraw from the Offer, and:

- (a) the Lead Investor shall be permitted to proceed with a Subsequent Offer without restriction, including forming a consortium with one or more third parties;
- (b) without prejudice to Clause 13, the rights and obligations of the Withdrawing Party and each of its Affiliates, PECO and Resurgens Co-Invest shall cease and terminate (but without prejudice to any rights, obligations or liabilities in respect of the period prior to such time), with the exception of Clauses 1, 4.2, 7.1, 9.3, 11 and 14; and

- (c) without prejudice to the terms of its Confidentiality Agreement, the Co-Investor shall either return or destroy any Confidential Information provided by the Lead Investor and any copies of it, save as required by law or regulation.

## 9. COSTS

### 9.1 Transaction Advisers

The Investors acknowledge that the following advisers (together with any additional advisers that the Lead Investor may appoint, the “**Transaction Advisers**”) have been engaged to advise the Offeror in connection with the Offer and the Combination:

- (a) King & Spalding International LLP (and its Affiliates) as legal advisers;
- (b) Raymond James Financial International Limited as financial advisers (the **Financial Adviser**);
- (c) PricewaterhouseCoopers LLP as financial, tax and accounting advisers (the **Tax Adviser**);
- (d) KMS Technology, Inc. as technology advisers; and
- (e) Marsh USA LLC as insurance advisers.

### 9.2 Designation of costs

The Lead Investor shall designate, acting reasonably and in good faith, any costs and expenses incurred (or reasonably expected to be incurred) by the Offeror in relation to the Transaction as either:

- (a) **Transaction Expenses**, being fees and expenses reasonably incurred for the benefit of the Offeror and properly documented in respect of the Transaction; or
- (b) **Individual Investor Expenses**, being fees and expenses attributable to a specific Investor which are not Transaction Expenses,

the funding of which shall be in accordance with Clauses 9.3, 9.4 and 9.5.

### 9.3 Allocation of costs in respect of a Withdrawing Party

If the Co-Investor is deemed to be a Withdrawing Party pursuant to Clause 7.4(f):

- (a) the Transaction Expenses shall be borne in full by the Offeror (or such other entity within the Holdco Group as the Lead Investor may determine); and
- (b) each Investor shall bear its own Individual Investor Expenses in full.

### 9.4 Allocation of costs if the Offer is successful

If the Transaction is completed in accordance with its terms:

- (a) the Transaction Expenses shall be borne in full by Offeror; and
- (b) each Investor shall bear its own Individual Investor Expenses in full.

### 9.5 Allocation of costs if the Offer is not successful

If the Transaction does not complete in accordance with its terms:

- (a) subject to Clause 9.3:



- (i) the Offeror shall be liable for two thirds of the Transaction Expenses; and
  - (ii) the Co-Investor shall be liable for one third of the Transaction Expenses and covenants to pay to the Offeror, within 5 Business Days of a written demand and provision of a breakdown and proper supporting documentation of the same an amount equal to one third of the Transaction Expenses; and
- (b) each Investor shall bear its own Individual Investor Expenses in full.

## 10. WARRANTIES

### 10.1 Each Investor warrants to the other Investor that:

- (a) it has the requisite power and authority to enter into this Agreement and there is no agreement, commitment or other understanding which would preclude or restrict such Investor from entering into and performing this Agreement;
- (b) this Agreement when executed will constitute valid, binding and enforceable obligations of such Investor;
- (c) it is not a bidder, acquiror, lender to any such person, or otherwise an interested party in, any other bid or proposal in relation to the acquisition of any Relevant Securities or the acquisition of any substantial part of the assets of the Target and that it is not otherwise a part of, nor has agreed formally or informally to take part in or lend to, any form of partnership, joint venture, consortium, or similar arrangement with any other third party or parties making or contemplating making an offer for the Relevant Securities or the acquisition of any substantial part of the assets of the Target; and
- (d) it has obtained the necessary corporate approvals required to enter into this Agreement.

### 10.2 Reliance on Information

With respect to the Offer Regulatory Clearances the Lead Investor acknowledges that, in making its determination to participate in the Offer, the Co-Investor has relied (i) on the information provided by or on behalf of the Lead Investor with respect to any regulatory clearances required to be secured in relation to the Lead Investor's investment in Holdco and the Target; and (ii) on the information provided by or on behalf of the Lead Investor with respect to the activities, turnover, asset values, Government or security related contracts and corporate presence, business and operations of each of both Holdco and the Target (together the "**Regulatory Clearances Information**"). The Lead Investor warrants to the Co-Investor that, so far it is aware, having made reasonable enquiries, the Regulatory Clearances Information provided is complete and accurate and not misleading.

## 11. INDEPENDENT APPRAISAL

The Co-Investor acknowledges and confirms that, in relation to the transactions contemplated by this Agreement, it has entered into this Agreement and (directly or indirectly) such transactions entirely on the basis of its own assessment of such transactions and of the risks and effect thereof and (save in respect of any other obligations of the Lead Investor under this Agreement or under any of the Transaction related agreements) the Lead Investor and its Affiliates and their respective directors, officers and employees and agents shall have no liability to the Co-Investor in connection with the same.

## **12. ANNOUNCEMENTS**

### **12.1 Public statements by the Offeror**

The Lead Investor may procure that the Offeror shall make any public statement in relation to the Offer in accordance with the terms of this Agreement, save if and to the extent the statement refers to the Co-Investor, its Affiliates or Concert Parties, the Lead Investor shall be required to obtain the consent of the relevant Investor prior to the publication of proposed statement, provided that:

- (a) the Lead Investor may procure that the Offeror shall make any public statement in relation to the Offer if required by law, the Code or by any securities exchange or regulatory or governmental body to which it or its Affiliates are subject (including the Panel), save that, subject to Clause 12.1(b) below, if and to the extent any such statement refers to the Co-Investor, its Affiliates and/or its Concert Parties, the Lead Investor shall, as far as it is reasonably practicable to do so, consult with the Co-Investor prior to any such public statement; and
- (b) consent shall not be required in relation to any statement relating to the Co-Investor, its Affiliates or Concert Parties if an equivalent statement in relation to such persons has been included in Offer Documentation released by the Offeror prior to the date of the proposed statement and such statement has been subject to the prior review and approval by the relevant party and/or which they have taken responsibility for under the Code.

### **12.2 Public statements by Investors**

Subject to Clauses 12.1 and 12.3, each Investor agrees that it shall not, and shall procure that none of its Concert Parties shall, make a public statement in relation to the Offer, including any statement that may bind the Offeror or which otherwise may affect the Offer, or which otherwise relates to the Co-Investor, its Affiliates or Concert Parties, without the consent of the other Investors.

### **12.3 Permitted announcements**

An Investor may make an announcement in connection with the Offer if required by law, the Code or by any securities exchange or regulatory or governmental body to which it or its Affiliates are subject (including the Panel), provided that the announcement is made only after consultation with each other Investor (where legally permissible and practicable).

## **13. TERMINATION**

### **13.1 Termination Events**

Without prejudice to Clause 8, this Agreement shall terminate on the earliest of the date that is:

- (a) the date on which the Offeror makes an announcement under Rule 2.8 of the Code of its intention not to make an offer for the Target;
- (b) the date on which any competing offer becomes effective or unconditional;
- (c) the date on which the Certain Funds Period expires;
- (d) the date on which the Offer or, if applicable, the Increased Offer lapses in accordance with its terms;
- (e) the date on which the Investors mutually agree that this Agreement shall terminate; and

- (f) if the 2.7 Announcement has not been released by 1630 hours (GMT) on 31 December 2023, the date/time which falls 24 hours after such date/time, unless the Investors agree otherwise.

**13.2 Consequences of termination**

Following termination of this Agreement in accordance with Clause 13.1:

- (a) the obligations of each Investor under this Agreement shall terminate, save for:
  - (i) the provisions in Clauses 1, 9, 11 and 14; and
  - (ii) the accrued rights of either Investor, which shall survive any termination of this Agreement; and
- (b) the Lead Investor shall inform the Panel promptly of the cessation of the Investors' concert party status.

**14. FURTHER ASSURANCE**

Each of the Investors shall (where applicable) procure that members of their respective groups or Affiliates shall execute such documents and do such acts and things for the purpose of giving full benefit of this Agreement to the other Investor. In particular and without prejudice to the foregoing, the Lead Investor shall procure that Bidco shall do all things reasonably necessary and within its power and control for the purpose of supporting fulfilment of the obligations on the Lead Investor under this Agreement in connection with its conduct of the Offer generally, including with respect to the performance of its obligations and exercise of its rights under the Co-operation Agreement.

**15. MISCELLANEOUS**

**15.1 Notices**

- (a) Any notice or other communication in connection with this Agreement (each a **Notice**) shall be:
  - (i) in writing;
  - (ii) in English; and
  - (iii) delivered by hand, recorded or special delivery or courier using an internationally recognised courier company, or email.
- (b) Notices for the Lead Investor shall be sent to it at the following address, or such other address as the Lead Investor may notify to the Co-Investor from time to time.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

(c) Notices for the Co-Investor shall be sent to it at the following address, or such other address as the Co-Investor may notify to the Lead Investor from time to time.

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

- (d) Subject to Clause 15.1(e), a Notice shall be effective upon receipt and shall be deemed to have been received:
  - (i) at the time recorded by the delivery company in the case of recorded delivery or special delivery;
  - (ii) at the time of delivery, if delivered by hand or courier; or
  - (iii) at time of sending, if sent by email, provided that receipt shall not occur if the sender receives an automated message indicating that the message has not been delivered to the recipient.
- (e) A Notice that is deemed by Clause 15.1(d) to be received on a day that is not a Business Day or after 5.00 p.m. on any Business Day shall be deemed to be received at 9.00 a.m. on the next Business Day.
- (f) For the purposes of this Clause 15.1, all references to time are to local time in the place of receipt.

**15.2 Assignment**

This Agreement is personal to the Investors and no Investor shall assign, transfer, mortgage, charge, subcontract, declare a trust over deal in any other manner with any of its rights and obligations under this Agreement, except to one of its Affiliates.

**15.3 No Waiver**

- (a) No failure or delay by an Investor in exercising any right or remedy provided under this Agreement shall operate as a waiver of it, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise of it or the exercise of any other right or remedy.
- (b) Any waiver of a breach of this Agreement shall not constitute a waiver of any subsequent breach.

**15.4 Whole Agreement**

- (a) This Agreement, the LP Agreement, the Side Letter, the Subscription Agreement and the Confidentiality Agreement contain the whole agreement between the Investors relating to the subject matter of this Agreement, the LP Agreement, the Side Letter, the Subscription Agreement, the Confidentiality Agreement, to the exclusion of any terms implied by law which may be excluded by contract, and supersede any previous written or oral agreement between the Investors in relation to the subject matter of this Agreement, the LP Agreement, the Side Letter, the Subscription Agreement, the Confidentiality Agreement.
- (b) Each Investor acknowledges that, in entering into this Agreement and any documents referred to in this Agreement or entered into pursuant to this Agreement, it is not relying on any representation, warranty or undertaking not expressly incorporated into them.
- (c) Other than as expressly specified pursuant to Clause 6.4, in the event of any conflict between the terms of this Agreement and the terms of any of the Subscription Agreement, LP Agreement, Side Letter, the terms of the Subscription Agreement, Side Letter, LP Agreement shall prevail. Nothing in this Clause 15.4 excludes or limits any liability for fraud.

**15.5 No Partnership or Agency**

This Agreement shall not be construed as creating any partnership relationship between any of the Investors. This Agreement shall not be construed as creating any agency relationship between any of the Investors, except where this Agreement expressly so provides.

**15.6 Third Party Rights**

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of, or enjoy any benefit under, this Agreement, except that the Offeror or its Affiliates shall be entitled to enforce the rights granted to them under Clause 6.3.

**15.7 Counterparts**

This Agreement may be entered into in any number of counterparts, all of which taken together shall constitute one and the same instrument. The Investors may enter into this Agreement by executing any such counterpart.

**15.8 Invalidity**

- (a) If any provision in this Agreement shall be held to be illegal, invalid or unenforceable, in whole or in part, the provision shall apply with whatever deletion or modification is necessary so that the provision is legal, valid and enforceable and gives effect to the commercial intention of the Investors.

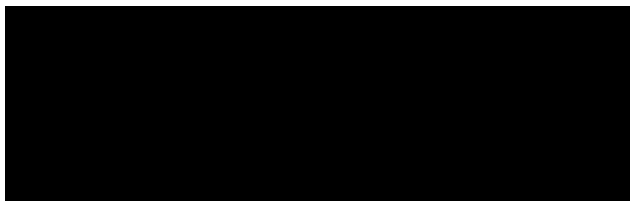
- (b) To the extent that it is not possible to delete or modify the provision, in whole or in part, under Clause 15.8(a) then such provision or part of it shall, to the extent that it is illegal, invalid or unenforceable, be deemed not to form part of this Agreement and the legality, validity and enforceability of the remainder of this Agreement shall, subject to any deletion or modification made under Clause 15.8(a), not be affected.

**15.9 Governing law and jurisdiction**

- (a) This Agreement and any non-contractual obligations arising out of or in connection with this Agreement shall be governed by the laws of England and Wales.
- (b) Each Investor irrevocably agrees that any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this clause, and the following shall apply:
  - (i) the number of arbitrators shall be three.
  - (ii) The seat, or legal place, of arbitration shall be London, United Kingdom.
  - (iii) The language to be used in the arbitral proceedings shall be English.

**This Agreement** has been entered into on the date first stated above.

SIGNED for and on behalf of **RESURGENS TECHNOLOGY MANAGERS II, L.P.**, acting by its general partner **RESURGENS TECHNOLOGY PARTNERS LLC**



Title: Managing Director

SIGNED for and on behalf of **MORGAN STANLEY AIP GP LP**, acting by its general partner **MORGAN STANLEY ALTERNATIVE INVESTMENTS LLC**



Title: Executive Director