

THE INFORMATION CONTAINED IN THIS DOCUMENT MAY (IN WHOLE OR IN PART) CONSTITUTE INSIDE INFORMATION FOR THE PURPOSES OF PART V OF THE CRIMINAL JUSTICE ACT 1993 AND/OR EU REGULATION NO 596/2014 ON MARKET ABUSE AS APPLIED IN THE UK PURSUANT TO THE EUROPEAN UNION (WITHDRAWAL) ACT 2018 ("UK MAR") AND YOU AND ANY OF YOUR OFFICERS, EMPLOYEES, ADVISERS OR AGENTS WHO ARE IN, OR ACQUIRE, POSSESSION OF ANY INFORMATION PURSUANT TO THIS DOCUMENT MAY HAVE INFORMATION AS AN INSIDER FOR THE PURPOSES OF THE CRIMINAL JUSTICE ACT 1993 AND INSIDE INFORMATION FOR THE PURPOSES OF UK MAR.

To:

Resurgens Technology Partners
One Phipps Plaza
3550 Peachtree Road NE
Suite 900
Atlanta, GA 30326

19 May 2023

Dear Sirs

CONFIDENTIALITY AGREEMENT

You have expressed an interest in the proposed acquisition of the entire issued and to be issued share capital of Sopheon plc (the "**Company**") ("**Proposed Transaction**"). We write to record the terms and conditions pursuant to which we are prepared to make certain confidential information available to you and your advisers in connection with the Proposed Transaction.

1 DEFINITIONS

- 1.1 "**Affiliate**" means, in relation to a person, each or any other person who directly or indirectly controls, is controlled by or is under common control with such person, and "control" for these purposes means (a) holding the majority of the voting rights or share capital of such person or (b) otherwise having the power to direct the management and policies of such person.
- 1.2 Subject to clause 1.3, "**Confidential Information**" means:
- (a) the fact that the Company has entered into discussions or negotiations with you;
 - (b) all information relating to the Company, or to any customer, supplier or employee of the Company which we or our advisers may disclose to you or your advisers, whether made available to you before or after the date of this agreement and regardless of the form the information takes or the manner in which it is made available; and
 - (c) without prejudice to the generality of clause (b), any other information that is supplied to you or any of your officers, employees, consultants, contractors, agents or advisers by us or our advisers relating to the Proposed Transaction that is marked as confidential.

- 1.3 The expression "**Confidential Information**" shall not include information that:
- (a) is in or comes into the public domain other than as a result of a breach of this agreement;
 - (b) can be demonstrated by written evidence that it is, on the date of this letter, lawfully in your or your Affiliate's (or any of your or their officers, employees, consultants, contractors, agents or advisers) possession;
 - (c) lawfully becomes available to you or your Affiliate's (or any of your or their officers, employees, consultants, contractors, agents or advisers) possession free from any obligation of confidentiality; or
 - (d) can be demonstrated by written evidence to have been independently developed by you or your Affiliate (or any of your or their officers, employees, consultants, contractors, agents or advisers) without reference to, aid from or reliance on any Confidential Information,

in any such case, otherwise than as a result of a breach of this letter agreement by you or your Affiliate (or any of your or their officers, employees, consultants, contractors, agents or advisers).

2 CONFIDENTIALITY OBLIGATIONS

- 2.1 In consideration of the Confidential Information being made available to you, you undertake:
- (a) to treat all Confidential Information as confidential and take all necessary steps to preserve such confidentiality;
 - (b) not to use any Confidential Information other than for the purpose of evaluating the Proposed Transaction and, in particular, not to seek to use Confidential Information to obtain a commercial, trading or other advantage over the Company;
 - (c) not to disclose Confidential Information to anyone other than with our prior written permission or as permitted by clause 3;
 - (d) to confirm to the Company in writing at any time upon written request from the Company that you have complied with the provisions of this agreement;
 - (e) subject to clause 3.3, not to make any announcement or disclosure regarding your investigations into the Company without our prior written consent;
 - (f) not to make any copies of any Confidential Information (including, without limitation, any document, electronic file, note, extract, analysis or any other derivation or way of representing or recording any Confidential Information) save as may be reasonably considered necessary (and only so far as necessary);
 - (g) not to contact any of the Company's directors, employees, consultants, contractors or agents in connection with the Proposed Transaction other than as we may consent in writing; and
 - (h) if you decide not to proceed or at any other time on our written request, promptly to return to us or destroy, at your discretion, all materials containing Confidential

Information and all copies, extracts or reproductions of it and to certify to us in writing that you have done so.

- 2.2 Nothing in clause 2.1 shall require you to return or destroy Confidential Information or any documents or materials containing it, if but only to the extent that:
- (a) you are required to retain such Confidential Information by applicable law or regulation, by any bona fide and existing internal compliance or document retention policy or procedures to which you are subject, or by any competent judicial, governmental or regulatory authority, stock exchange or professional body;
 - (b) such Confidential Information has been incorporated in good faith in your board, board committee or investment committee (or equivalent) papers relating to the Proposed Transaction; or
 - (c) such Confidential Information is contained in an archived electronic back up file made in accordance with your normal operating, security and/or disaster recovery procedures and, except as otherwise required by law or regulation, no attempt is made to access or recover it from such back up file.
- 2.3 Nothing in clause 2.1(g) shall prevent you or your advisers from: (i) contacting any person listed therein in the ordinary course of business for purposes unrelated to the Proposed Transaction; or (ii) conducting market diligence on an aggregated industry-wide basis, which may include contact with such person, to the extent that neither you or your advisers do not disclose that you are interested in acquiring the Company or any Confidential Information.
- 2.4 The Company hereby consents, for the purposes of clause 2.1(g), to you and your advisers communicating in relation to the Proposed Transaction with:
- (a) the Company's Board of Directors (or any of them);
 - (b) the Company's Rule 3 adviser;
 - (c) the Company's broker; and
 - (d) the Company's solicitors.

3 PERMITTED DISCLOSURE

- 3.1 You may disclose Confidential Information only to:
- (a) such of your and your Affiliate's directors, employees, consultants, potential providers of equity or debt finance, and professional advisers as need to have access to the Confidential Information for the sole purpose of the evaluation of the Proposed Transaction and/or providing finance, support or advising in relation to it; and
 - (b) such other persons as we agree in writing in advance.
- 3.2 You undertake to ensure that each person to whom Confidential Information is disclosed pursuant to clause 3.1:
- (a) is made aware of the confidential nature of the Confidential Information; and

- (b) observes the terms of this agreement as if he were a party to this agreement.
- 3.3 Subject to clauses 3.4 and 3.5, you may disclose Confidential Information to the extent that such a disclosure is required by law or by any securities exchange, or regulatory, judicial or governmental body having jurisdiction over you.
- 3.4 Prior to disclosing any Confidential Information under clause 3.3, you shall (to the extent permitted by law and to the extent reasonably practicable) use your best endeavours to:
- (a) inform us of the circumstances of the proposed disclosure;
 - (b) consult with us as to the wording of the disclosure and possible steps to limit the adverse effects of the disclosure; and
 - (c) consult with us in good faith regarding our reasonable requirements in relation to the disclosure.
- 3.5 Prior to disclosing any Confidential Information under clause 3.3, you shall (to the extent permitted by law and to the extent reasonably practicable) use your reasonable endeavours to gain assurances and/or undertakings as to confidentiality from the body to whom the information is to be disclosed.
- 3.6 Notwithstanding clauses 3.4 and 3.5, you will not be required to give notice to the Company of any disclosure made to or requested by any banking, financial, securities or similar supervisory or regulatory or governmental authority exercising its supervisory, examination or audit functions over you where such disclosure or request is not targeted at the Company or any Confidential Information specifically.

4 STANDSTILL OBLIGATION

- 4.1 You represent, warrant and undertake to us as follows:
- (a) otherwise than by virtue of acceptances of an offer made pursuant to the City Code on Takeovers and Mergers (the "**Code**") you will procure that neither you nor any of your Affiliate's shall, directly or indirectly, at any time from the date of this agreement acquire or offer to acquire, alone or acting in concert with others, any interest in shares or other securities in the Company or enter into an agreement or arrangement (whether or not legally binding) to acquire an interest greater than the aggregate of its interest in the shares or other securities of the Company at the time of this agreement;
 - (b) that neither you nor any of your Affiliate's shall, directly or indirectly, announce or make, or cause (including any form of agreement or otherwise) another person to announce or make, any offer for or proposal in connection with all or any of the shares or other securities in the Company; and
 - (c) that neither you nor any of your Affiliate's shall solicit, make or in any way participate in, directly or indirectly, alone or in concert with others, any solicitation of shareholders of the Company to vote in a particular manner or grant proxies for use at any meeting of such shareholders, or requisition or seek to requisition any meeting of the shareholders of the Company or otherwise seek to advise or influence in any manner whatsoever any shareholder or debtholder with respect to the Company,

save as expressly permitted by us or our professional advisers in writing (including by way of email) to you.

For the purposes of this agreement, an **"interest"** in the shares or other securities of the Company shall have the meaning set out in the definition of "Interests in securities" in the Code.

4.2 The restrictions in clause 4.1 shall cease to apply to you:

- (a) if you or any of your Affiliates (or any person acting in concert with you or them) announces under Rule 2.7 of the Code a firm intention to make an offer for the Company and such offer is recommended by the board of directors of the Company (or a committee thereof); or
- (b) if a third party (other than you or any of your Affiliates or any person acting in concert with you or them) announces under Rule 2.7 of the Code a firm intention, whether or not subject to pre-conditions, to make an offer for all of the share capital of the Company or a partial offer in accordance with Rule 36 of the Code which could result in such third party (or any person acting in concert with such third party) being interested in 30% or more of the Company's securities, (ii) acquires 30% or more of the Company's securities or (iii) acquires, or announces an intention to acquire, undertakings, assets or business of the Company or any Affiliate or enters into any other arrangement in each case which, if completed, would be reasonably likely to preclude the Potential Transaction; or
- (c) on the date which is 12 months following the date of this letter.

4.3 The restrictions in clause 4.1 shall not:

- (a) apply to dealings by any exempt principal trader or exempt fund manager which is in the same group as your financial adviser provided the dealings are for the purposes of its exempt principal trading or fund management business and such dealings are not otherwise prohibited by the Code; nor
- (b) prevent any of your advisers from taking any action in the normal course of its business including any dealing in securities, hedging, dealing, fund management, investment banking or other investment or advisory business provided such action is not taken pursuant to your instructions (or on your behalf).

5 INSIDE INFORMATION

5.1 You acknowledge that the Confidential Information may (in whole or in part) constitute inside information for the purposes of Part V of the Criminal Justice Act 1993 ("**CJA**") and/or the Market Abuse Regulation (Regulation 596/2014) ("**MAR**") and that any of you and any other member of your group undertakings and any of your or their respective officers, employees, consultants, contractors, agents or advisers who are in, or acquire, possession of any Confidential Information may have information as an insider for the purposes of the CJA and inside information for the purposes of the MAR. You consent to receiving such information and shall bring to the attention of your officers, employees, consultants, contractors, agents or advisers who, from time to time receive any such inside information, that they should not use or disclose, any inside information for any unlawful purpose.

5.2 You acknowledge and confirm that you are aware of its obligations under all applicable law and regulations concerning unpublished, price-sensitive information.

6 NON-SOLICITATION OF EMPLOYEES

For a period of 12 months from the date of this agreement, you shall not solicit, endeavour to entice away, employ or offer to employ any person who is at the time of this agreement employed by the Company either in a senior executive or managerial capacity or who is involved in negotiations and with whom you have had contact relating to the Proposed Transaction, provided that the publication of a bona fide recruitment advertisement which is not directed at such persons shall not be a breach of this clause (and nor shall seeking to employ any person who shall have responded to such an advertisement).

7 FURTHER UNDERTAKINGS

7.1 You acknowledge that:

- (a) all rights in the Confidential Information are reserved by the Company and no rights or obligations other than those expressly set out herein are granted or to be implied from this agreement. In particular no licence is granted directly or indirectly by this agreement relating to any invention, discovery, patent, copyright or other industrial or intellectual property right now or in the future held, made, obtained or licensable by the Company;
- (b) we accept no responsibility or liability for or make any representation or warranty with respect to the accuracy or completeness of the Confidential Information;
- (c) the obligations contained in this agreement shall continue until the earlier of (i) completion of the Proposed Transaction and (ii) the date falling 2 years after the date hereof;
- (d) you will be responsible for any breach of any of the terms of this agreement by any person to whom Confidential Information is disclosed by you pursuant to clause 3;
- (e) in addition to all remedies which we may be entitled to as a matter of law, we shall be entitled to seek specific performance, injunction and any other form of equitable relief to enforce the provisions of this agreement; and
- (f) damages may not be an adequate remedy for any breach by you of this agreement.

7.2 You confirm that you are acting as principal in the proposed transaction and not as a broker or agent for a third party.

8 DATA PROTECTION

8.1 For the purposes of this clause 8:

"Data Protection Legislation" means all applicable data protection and eprivacy legislation in force from time to time including the General Data Protection Regulation ((EU) 2016/679) ("**GDPR**"), including as implemented into the laws of the UK ("**UK GDPR**"), the Data Protection Act 2018, the Privacy and Electronic Communications Directive 2002/58/EC and any legislation implementing, amending or replacing the aforementioned from time to time; and any regulatory guidance and codes of practice issued by the UK Information Commissioner or other relevant regulatory authority applicable to a party.

"Personal Data" means personal data made available to you and/or received by you for purposes of the Proposed Transaction.

"controller", "personal data", "personal data breach" and "process(ing)" have the meanings given to them in the Data Protection Legislation.

8.2 Each party shall act as an independent controller with respect to any and all Personal Data and you shall:

- (a) comply with the Data Protection Legislation;
- (b) process the Personal Data only for the purpose of evaluating the contractual, trading and financial position of the Company;
- (c) not disclose or allow access to the Personal Data to anyone other than the recipients in accordance with clause 3.1;
- (d) ensure that you have in place appropriate technical and organisational measures, reviewed and approved by us where practicable, to protect the Personal Data against a personal data breach and to ensure that there is no lack of accuracy resulting from personal data transfers, including personal data transfers to you; and
- (e) not transfer any of the personal data outside the UK and/or EU other than in accordance with the Data Protection Legislation.

8.3 You shall:

- (a) notify us without delay (and in any event, within 24 hours) upon becoming aware of any actual or suspected personal data breach affecting the Personal Data via an email titled 'URGENT data breach' at [REDACTED]; and
- (b) shall not make any notifications relating to the personal data breach before agreeing the content and the recipients of such notifications with us.

8.4 You shall maintain complete and accurate records and information to demonstrate your compliance with this clause 8.

8.5 In connection with any transfer of Personal Data between the parties for which an appropriate transfer safeguard is required under the GDPR and/or the UK GDPR, the parties agree that module 1 of the standard contractual clauses included within the European Commission's decision of 4 June 2021 (EU) 2021/914 ("**EU SCCs**"), applies between the parties and (where required) the international transfer addendum to the EU SCCs which came into force on 21 March 2022, are hereby incorporated and apply between the parties.

9 THIRD PARTIES

No person who is not a party to this agreement shall have any right to enforce it pursuant to the Contracts (Rights of Third Parties) Act 1999.

10 COSTS

Each party shall pay its own costs relating to the negotiation, preparation, execution and implementation by it of this agreement. Nothing in this Agreement shall oblige a party to pay

any amount which the Takeover Panel determines would not be permitted by Rule 21.2 of the Code.

11 COUNTERPARTS

This agreement may be executed in any number of counterparts, but shall not take effect until each party has executed at least one counterpart. Each counterpart shall constitute an original but all the counterparts together shall constitute a single agreement.

12 GENERAL

We acknowledge that (i) you and your Affiliates are engaged in the business of private equity investing and may from time to time invest in entities that develop and utilise technologies, products or services that are similar to or competitive with those of the Company, and (ii) except insofar as this Agreement restricts the disclosure or use of Confidential Information, this agreement shall not prevent you or your Affiliates from (a) evaluating or engaging in investment discussions with, or investing in or acquiring, any third party or (b) engaging in or operating any business, in each case whether or not competitive with the Company or its Affiliates, provided that neither you nor your representatives disclose any Confidential Information in violation of this Agreement.

13 GOVERNING LAW AND JURISDICTION

This agreement, (and any non-contractual obligations arising in respect of it) and any dispute or claim arising out of or in connection with it or its subject matter, formation, performance or termination (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts (including in respect of non-contractual obligations, disputes or claims).

Please confirm your agreement to the above terms and conditions by signing, dating and returning to us the attached copy of this letter agreement.

Yours faithfully,



.....

for and on behalf of Sopheon plc

We agree to the terms and conditions of this letter agreement.

.....

for and on behalf of Resurgens Technology Partners

Dated:2023

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Yours faithfully,

.....
for and on behalf of Sopheon plc

We agree to the terms and conditions of this letter agreement.


for and on behalf of Resurgens Technology Partners

Dated: May 19, 2023