

AMENDED AND RESTATED STOCK PURCHASE AGREEMENT

THIS STOCK PURCHASE AGREEMENT (this “**Agreement**”) is made as of 23 May, 2023 by and between Mr. Derek C. Abbott, not individually, but solely in his capacity as receiver (the “**Receiver**”) appointed by the United States District Court for the Southern District of New York (the “**Court**”) in *Koestler v. Shkreli*, 1:16-cv-07175-DLC (the “**Action**”), for the purpose of selling the Phoenixus Shares (as defined below) to satisfy the Judgment awarded to Dr. Thomas P. Koestler against Martin Shkreli in the Action (herein, the “**Seller**”), and Akkadian Partners SA, a joint-stock company (*société anonyme*) incorporated under Luxembourg law, acting as management company of Akkadian Partners Fund – Compartment Phoenixus Investment, a Luxembourg registered securitization fund (“**Buyer**” or “**Akkadian**”), acting in its name and for its own account, which is represented by Mathieu Bigois, in presence of the Company as defined below.

WITNESSETH:

WHEREAS, Dr. Thomas P. Koestler (the “**Judgment Creditor**”) was awarded a Judgment by the Court for a principal amount of \$2,614,930, plus interest accruing until satisfied, costs and expenses on February 6, 2017 (the “**Judgment**”), against Mr. Martin Shkreli (the “**Judgment Debtor**”);

WHEREAS, the Judgment Debtor has been the owner of shares, and may have the right to vote additional shares pursuant to various agreements (those shares and additional shares have been estimated to be 2,251,923 and 579,338 shares respectively, for a total of 2,831,261 shares as to which the Judgment Debtor may have voting rights), of Phoenixus AG, a joint-stock company (*société anonyme*) incorporated under Swiss law and registered under number CHE-226.370.706 (the “**Company**”), and the Receiver is appointed on the terms set forth in the Order dated December 16, 2021, in the Action, at its Docket No. 120 (the “**Order**”), to collect the “Phoenixus Stock,” as that term is defined in the Order, owned by the Judgment Debtor in the Company and to sell that stock so as to satisfy the Judgment to the Judgment Creditor (collectively, the “**Phoenixus Shares**”);

WHEREAS, pursuant to that certain Order for Turnover and Appointment of a Receiver dated August 16, 2021 issued by the Court (the “**Order**”), Seller has been appointed as a receiver to, among other things, collect and sell the Phoenixus Shares in order to attempt to satisfy, in whole or in part, the Judgment to the Judgment Creditor to the extent the sale of the Phoenixus Shares generates cash that can be paid toward satisfaction of any portion of the Judgment in accordance with the terms of the Order; and

WHEREAS, in accordance with the Order, Seller desires to sell and Buyer desires to purchase the Phoenixus Shares on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, the parties, intending to be legally bound, agree as follows:

1. Purchase and Sale of Shares. Subject to receipt of Court Approval (as defined below) and the other provisions set forth in this Agreement, Seller agrees to sell, assign,

transfer and convey to Buyer, and Buyer agrees to acquire from Seller, the Phoenixus Shares for an initial purchase price of one million dollars (U.S. \$1,000,000.00) (the “**Purchase Price**”) and for additional consideration (“**Additional Purchase Price**”) as follows:

(a) In the event that the Buyer directly or indirectly transfers or otherwise disposes of any Phoenixus Shares within a 10-year period from the date of the execution of the Agreement (a “**Transfer**”), then the Seller is entitled to 20% of the consideration (in cash or otherwise) for such Transfer as Additional Purchase Price. Buyer shall also be prohibited from making a Transfer of the Phoenixus Shares, or pledging or subjecting such shares to any lien, during such 10-year period, except for a Transfer of the Phoenixus Shares to an unaffiliated third party in a *bona fide* third-party sale transaction on commercially reasonable, arms’ length terms.

(b) In addition to any Additional Purchase Price payment due under ¶1(a), in the event that Buyer receives dividends, other distributions and/or any other proceeds, directly or indirectly, in respect of the Phoenixus Shares, for a period of 10 years from the date of the execution of the Agreement, then the Seller is entitled to 20% of the dividends, other distributions and/or other proceeds received by Buyer in respect of the shares as Additional Purchase Price.

(c) The Additional Purchase Price shall be payable by Buyer to Seller within ten (10) business days of the date of the Transfer and/or of the date of receipt of any consideration, dividends or other remuneration of any kind to Buyer. The Buyer undertakes to inform the Seller in writing of any Transfer without delay and to declare and guarantee in writing to the Seller, each year within ten (10) days after the anniversary of the execution of this Agreement, the number of Phoenixus Shares transferred by the Buyer, the price of such Phoenixus Shares and the number of Phoenixus Shares still held directly or indirectly by the Buyer.

(d) To the extent that any amount payable to the Buyer in connection with a Transfer or otherwise subject to the Additional Purchase Price provisions is not in cash, then the value of such non-cash consideration shall be determined at fair market value by agreement of the parties to this Agreement or in accordance with the Agreement’s dispute resolution procedures. To the extent that any amount subject to the Additional Purchase Price provisions is payable to the Buyer subject to conditions (such as earn out provisions or otherwise), then the amount of the contingent Additional Purchase Price shall become due and payable when such conditions are fulfilled, in which case the time limitation of ten (10) years stated above shall not apply if the Transfer or other act, transaction or event giving rise to Additional Purchase Price consideration was agreed by Buyer or otherwise completed before expiration of the ten (10) year time limitation, even though Buyer received consideration in question after the ten (10) year time limitation.

(e) The calculation of the Additional Purchase Price as 20% of any consideration, dividends or other remuneration of any kind shall be based upon the percentage of all outstanding ordinary shares and of all outstanding preferred shares

of the Company represented by the Phoenixus Shares as of the date of this Agreement (the “**Current Percentages**”). To the extent the percentage of the Phoenixus Shares as a percentage of all outstanding ordinary and preferred shares of the Company is reduced, for each class of shares, from the Current Percentages for any reason by any transaction or event of any kind in the future (i) in which any of the Phoenixus Shares to be acquired by the Buyer participate (provided that this clause shall not apply if the Phoenixus Shares are owned by a subsequent purchaser at the time of any such transaction or event and such purchase, transaction or event is not in substance or effect an effort to negate the obligation to pay the Additional Purchase Price for the benefit of Akkadian or the benefit of any investors with a beneficial interest in Akkadian) or (ii) in which any shares owned by any investors with a beneficial interest in Akkadian at the time of the execution of the Agreement participate, the amount to be paid as the Additional Purchase Price shall be calculated, per class of shares, as if there had been no such reduction and the Additional Purchase Price payable shall be the 20% of any consideration, dividends or other remuneration multiplied by the number equal to, for each class of shares: (i) the Current Percentage for such class of shares divided by (ii) the percentage of that class of shares (ordinary or preferred shares) of the Company represented by the Phoenixus Shares as of the time of the transaction giving rise to the Additional Purchase Price then payable (by way of example, if the Current Percentage for the ordinary shares is 25% and the ordinary shares of the Phoenixus Shares are diluted to 12.5% of the outstanding ordinary shares of the Company represented by the Phoenixus Shares as of the time of the transaction giving rise to the Additional Purchase Price, then the Additional Purchase Price shall be 20% of any consideration, dividends or other remuneration multiplied by two (25% divided by 12.5%)). For the avoidance of doubt, to the extent that any Additional Purchase Price payment due under ¶1(a) or ¶1(b) is associated with only one class of shares included in the Phoenixus Shares, then the calculation described in this paragraph shall be based upon and made only as to such shares.

(f) The rights of the Seller in this ¶1 may be transferred out of the receivership to the Judgment Creditor or any other party to which receivership assets might otherwise be conveyed in accordance with an order of the Court.

(g) The Purchase Price and the Additional Purchase Price are allocated to the acquisition of the Phoenixus Shares as follows: 20% to the acquisition of the preferred shares among the Phoenixus Shares and 80% to the acquisition of the ordinary shares among the Phoenixus Shares.

2. Payment of Purchase Price; Escrow; Effectiveness of Agreement.

(a) Seller shall pay the Purchase Price upon execution of this Agreement into escrow on the terms set forth below (the “**Escrow**”). Within five (5) business days of that payment into the Escrow, Seller shall request approval of this Agreement and the transactions contemplated in it by the Court in accordance with the Order and shall take such other steps as required or permitted by the Court

thereafter to secure the Court's approval. If the Court enters a definitive Order refusing to approve this Agreement and the transactions contemplated in it, this Agreement shall be nullified with respect to the further acts and transactions contemplated by this Agreement and the amount in Escrow shall be returned to Buyer upon demand by the Buyer in accordance with the terms of the Escrow set forth herein. If and when the Court enters an Order approving this Agreement and the transactions contemplated in it, the sale to Buyer by Seller of the Phoenixus Shares shall be complete (subject to the additional provisions set forth in the remainder of this Paragraph).

(b) Upon entry of an Order approving this Agreement and the transactions contemplated in it, Buyer shall promptly seek approval of the transfer of ownership of the Phoenixus Shares to Buyer from the Board of Directors of the Company and take all such other steps necessary to complete the transfer of ownership under the Company's Articles of Incorporation, Swiss or other applicable law and any agreement among shareholders of the Company. In the event any shareholder of the Company exercises any right to sell any of its shares as a consequence of this Agreement or the transactions contemplated by it, Buyer shall purchase such shares on terms that do not diminish the Purchase Price or Additional Purchase Price to Seller in any way whatsoever and according to the shareholders' agreement of the Company and shall take such steps, if entitled to according to Swiss Law, necessary as to preclude such action by any shareholder from otherwise interfering with this Agreement or the transactions contemplated by it. In the event any shareholder(s) of the Company exercises any right to purchase any of the Phoenixus Shares as a consequence of this Agreement or the transactions contemplated by it, then that purchase by such shareholder(s), once completed, shall result in the reduction of the Purchase Price by the percentage that equals (i) the number of such shares sold to such other shareholder(s), divided by (ii) the total number of the Phoenixus Shares; and that percentage of the Purchase Price shall be returned to Buyer in accordance with the provisions for demand for funds in the Escrow set forth below.

(c) Notwithstanding the foregoing, Buyer may rescind the transactions contemplated by this Agreement and cancel the transfer of the Phoenixus Shares from Seller to Buyer upon notice and documentation to that effect in, but only in, the following circumstances:

(i) (a) the Company's Board of Directors has not approved the transfer of ownership of the Phoenixus Shares to Buyer in accordance with the Company's Articles of Incorporation or (b) the transfer has not become effective by operation of law, within three (3) months of the Court's Order approving this Agreement and the transactions contemplated in it, provided further that if at any time within those three (3) months a majority of the Company's Board of Directors is comprised of persons nominated by Buyer, by Akkadian or by any investors with a beneficial interest in Akkadian at the time of the execution of the Agreement, this

condition shall cease to apply as of the time the Company Board of Directors is comprised of such majority;

OR

(ii) a meeting of the shareholders of Phoenixus has not been held within two (2) months of Court's Order approving this Agreement and the transactions contemplated in it;

OR

(iii) Mathieu Bigois is not appointed Board Member or Ross Maclean is not appointed Board Member or Jean-Luc Elhoueiss is not appointed Board Member or Guy-Charles Fanneau de la Horie is not appointed Board Member within two (2) months of Court's Order approving this Agreement and the transactions contemplated in it, provided further that if within two (2) months of the Court's approving this Agreement and the transactions contemplated by it a majority of the Company's Board of Directors is comprised of persons nominated by Buyer, by Akkadian or by any investors with a beneficial interest in Akkadian at the time of the execution of the Agreement, this condition shall not apply;

(iv) the Court enters a definitive Order refusing to approve this Agreement and the transactions contemplated in it, provided that this condition shall cease to apply upon the Court's Order approving this Agreement and the transactions contemplated in it,

OR

(v) the Company gives notice that it has resolved to acquire the Phoenixus Shares within the time allowed under the Company's Articles of Incorporation and Swiss law for it to do so after Buyer timely seeks approval of the transfer to it of ownership of the Phoenixus Shares;

OR

(vi) the Company's and its subsidiaries bankruptcy filing under Chapter 11 – Subchapter V of the United States bankruptcy laws in the United States Bankruptcy Court for the District of Delaware under Case No. 23-10606-JKS ("Bankruptcy Case"), any other related bankruptcy case pending at the time of the execution of this Agreement and any other similar bankruptcy or insolvency filing made by the Company and its subsidiaries in any jurisdiction prior to the time a majority of the Company's Board of Directors is comprised of persons nominated by Buyer, by Akkadian or by any investors with a beneficial interest in Akkadian at the time of the execution of the Agreement (the

“Bankruptcy”) is not dismissed or withdrawn within twelve (12) months of the date of execution of this Agreement, provided further that this condition shall not apply (i) if, once a majority of the Company’s Board of Directors is comprised of persons nominated by Buyer, by Akkadian or by any investors with a beneficial interest in Akkadian at the time of the execution of the Agreement, the Company does not make all best efforts through bankruptcy counsel to have the Bankruptcy withdrawn or dismissed, or (ii) the Bankruptcy is withdrawn or dismissed at some time prior to the expiration of those twelve (12) months.

In the event any of those conditions arise, Buyer will be entitled to return of the money it has paid into Escrow as soon as one or more of those conditions arise and at the latest within twelve (12) months of the date of execution of this Agreement.

IT BEING UNDERSTOOD THAT, in the event the Court has entered an Order approving this Agreement and the transactions contemplated in it and none of the conditions identified in the preceding sentence have arisen within the time specified, and in any event as soon as none of these conditions permitting Buyer to rescind will be met, and at the latest after the expiration of twelve (12) months of the date of the execution of this Agreement, Seller will be entitled to payment of the money paid into Escrow.

(d) The Escrow shall be held by Joshua Levin-Epstein, Esq., as escrow agent (the “**Escrow Agent**”) in a bank account under his control or the control of the law firm of which he is a member, on the following terms:

(i) The Escrow Agent is entitled to hold the Escrow, at the request of the Seller and Buyer jointly, in an interest-bearing account or instrument to which Seller and Buyer agree, and the interest accrued on the funds in Escrow, shall be payable to the party who will receive the Escrow in accordance with this Agreement.

(ii) Buyer and Seller may each make demand upon the Escrow Agent for payment of the amount held in Escrow when it becomes payable in accordance with the terms of this Agreement. Any such demand shall be made by email and by Federal Express Overnight delivery to the Escrow Agent and the other parties at or c/o the following addresses:

If to Buyer:

Akkadian Partners SA

18 rue Robert Stümper

Luxembourg

contact@akkadianpartnersfunds.com

mbigois@akkadianpartnersfunds.com

cell: +41 78 211 191 20 and cell +33 6 48 18 43 50

If to Seller:

Derek C. Abbott
Morris, Nichols, Arsht & Tunnell LLP
1201 North Market St., 16th Floor
Wilmington, Delaware 19801
USA
dabbott@morrisnichls.com
office: +1 (302) 351-9357
cell: +1 (302)593-4729

If to Escrow Agent:

Joshua D. Levin-Epstein, Esq.
Levin-Epstein & Associates, P.C.
60 East 42nd Street, Suite 4700
New York, NY 10165
Joshua@levinepstein.com
Phone: (212) 792-0046
Mobile: (516) 343-0542

If no party to this Agreement provides actual notice to the Escrow Agent that it objects to the release of the funds within five (5) business days of the email transmission of the demand, with a copy to the party making the demand by the same means of notice as the demand was made, then the Escrow Agent shall promptly after the expiration of that five (5) day period transmit the funds to the party making the demand. If any party does object, then the Escrow Agent shall hold the funds until receipt of either (i) a joint and authenticated instruction by Buyer and Seller as to disposition of the funds in Escrow or (ii) actual receipt and notice of a final and non-appealable order of a Court of competent jurisdiction determining the disposition of the funds. The Escrow Agent may, at his election, pay the funds in Escrow to a Court of competent jurisdiction as allowed by the rules of such court in the nature of an interpleader proceeding or any other similar proceeding or practice where there is a dispute as to the entitlement of funds held in escrow. In the event any party disputes a demand for the release of the funds in Escrow, the prevailing party in such dispute may seek recovery of its reasonable attorneys' fees related to the dispute in accordance with this Agreement's dispute resolution procedures.

(iii) The parties represent to the Escrow Agent that they understand and acknowledge that the Escrow Agent is serving as Escrow Agent and holding the Escrow solely as an accommodation to the parties to allow the completion of the transaction contemplated in this Agreement. In dealing with and disbursing the Escrow and the funds held, the Escrow Agent shall not be liable for any damage, liability or loss arising out of or in connection with the services rendered by the Escrow Agent pursuant to this Agreement, except for damage, liability or loss resulting from gross negligence or willful misconduct. The Escrow Agent shall be under no liability or obligation to take any action under or in respect to this Agreement which in his opinion shall be likely to involve expenses or liability to the Escrow Agent, other than holding the Escrow Funds as provided herein, and disbursing the Escrow Funds as provided herein. In the event of any litigation between Buyer and Seller as a result of which Escrow Agent incurs any attorney's fees, costs or expenses related to his obligations under this Agreement, then such fees, costs and

expenses shall be payable to the Escrow Agent from the Escrow and may be deducted from the escrowed funds by the Escrow Agent. In the event that either party proceeds to litigation over this Agreement or the Escrow, the Escrow Agent may deduct any reasonable attorneys' fees incurred as Escrow Agent. Buyer and Seller each also represent to the Escrow Agent that they each know that the Escrow Agent and the law firm of which he is a member has been and expects to continue to act as counsel to the Buyer, and Buyer and Seller each agree that the Escrow Agent and the law firm of which he is a member may continue to act as such counsel, notwithstanding this service as Escrow Agent, any information becoming known to the Escrow Agent in this capacity or for any other reason related to this Agreement whatsoever, including representing the Buyer in any matter or dispute or litigation arising with respect to the Escrow or with respect to any obligation of any party under this Agreement.

3. Representations and Warranties of Seller. Seller represents and warrants to Buyer as follows:

(a) Receiver; Right to Sell. Pursuant to the Order, Seller has been appointed as receiver to collect and sell the Phoenixus Shares, subject to the Court's approval.

(b) Power and Authority. Seller has the requisite power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby, subject to the Court's approval.

(c) Validity of this Agreement. Subject to Court approval, this Agreement has been duly executed and delivered by Seller and, assuming the due execution and delivery of this Agreement by Buyer, is Seller's valid and binding obligation, enforceable against Seller in accordance with its terms, except to the extent that its enforceability may be subject to applicable bankruptcy, insolvency, reorganization and similar laws affecting the enforcement of creditors' rights generally and to general equitable principles.

(d) Seller has the right to sell the Phoenixus Shares as they are described in the Order and subject to a further order of the Court. as provided above. The Company has represented the percentages of ownership of its equity at pp. 15-19 on its Voluntary Petition in the Bankruptcy Case (at Docket No. 1), and has represented the number of its outstanding preferred and ordinary shares at p. 7 of a communication to shareholders of the Company dated May 12, 2023.

4. Representations and Warranties of Buyer. Buyer represents and warrants to Seller as follows:

(a) Existence and Good Standing; Power and Authority. Buyer is a Luxembourg registered securitization fund in good standing under Luxembourg law. Buyer has requisite power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby.

(b) Validity of this Agreement. This Agreement has been duly executed and delivered by Buyer and, assuming the due execution and delivery of this Agreement by Seller, is Buyer's valid and binding obligation, enforceable against Buyer in accordance with its terms, except to the extent that its enforceability may be subject to applicable bankruptcy, insolvency, reorganization and similar laws affecting the enforcement of creditors' rights generally and to general equitable principles.

(c) Consents and Approvals; No Violations. The execution and delivery of this Agreement by Buyer and the consummation by Buyer of the transactions contemplated hereby will not: (i) violate any provision of the organizational documents of Buyer; or (ii) violate any statute, rule, regulation, order or decree of any governmental authority by which Buyer is bound or by which any of its properties or assets are bound.

(d) No Litigation. There is no action, suit, proceeding at law or in equity, arbitration or administrative or other proceeding by or before any court or other governmental authority pending or, to the knowledge of Buyer, threatened against Buyer or its properties or assets that could reasonably be anticipated to have any effect on the transactions contemplated by this Agreement, and Buyer has no knowledge of any facts or circumstances that could reasonably be anticipated to give rise to any such proceeding.

5. General Provisions.

(a) As-Is, Where-Is. BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY PROVIDED HEREIN, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MATTER RELATING TO THE PHOENIXUS SHARES. BUYER ACKNOWLEDGES THAT IT HAS CONDUCTED AN INDEPENDENT INSPECTION AND INVESTIGATION OF THE PHOENIXUS SHARES AND THE COMPANY AND ALL SUCH OTHER MATTERS RELATING TO OR AFFECTING THE PHOENIXUS SHARES AS BUYER DEEMS NECESSARY OR APPROPRIATE AND THAT IN PROCEEDING WITH ITS ACQUISITION OF THE PHOENIXUS SHARES, EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH HEREIN, BUYER IS DOING SO BASED SOLELY UPON SUCH INDEPENDENT INSPECTIONS AND INVESTIGATIONS. ACCORDINGLY, BUYER WILL ACCEPT THE PHOENIXUS SHARES AT THE DATE OF TRANSFER UNDER THIS AGREEMENT "AS IS," "WHERE IS," AND "WITH ALL FAULTS." BUYER FURTHER STATES THAT IT HAS SUBSTANTIAL EXPERIENCE IN EVALUATING AND INVESTING IN PRIVATE PLACEMENT TRANSACTIONS OF SECURITIES IN COMPANIES SIMILAR TO THE COMPANY AND ACKNOWLEDGES THAT BUYER CAN PROTECT ITS

OWN INTERESTS AND THAT IT HAS THE AVAILABILITY AND USE OF LEGAL COUNSEL IN THIS TRANSACTION. BUYER ALSO FURTHER STATES THAT IT HAS SUCH KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS SUCH THAT BUYER IS CAPABLE OF EVALUATING THE MERITS AND RISKS OF ITS INVESTMENT IN THE COMPANY. BUYER UNDERSTANDS AND ACKNOWLEDGES THAT ANY INVESTMENT IN THE COMPANY IS HIGHLY SPECULATIVE AND INVOLVES SUBSTANTIAL RISKS. BUYER STATES THAT IT CAN BEAR THE ECONOMIC RISK OF SUCH BUYER'S INVESTMENT AND IS ABLE, WITHOUT IMPAIRING SUCH BUYER'S FINANCIAL CONDITION, TO HOLD THE PHOENIXUS SHARES FOR AN INDEFINITE PERIOD OF TIME AND TO SUFFER A COMPLETE LOSS OF BUYER'S INVESTMENT. BUYER ACKNOWLEDGES THAT THE SELLER MAY POSSESS MATERIAL INFORMATION NOT KNOWN TO THE BUYER. BUYER HAS CONDUCTED SUCH INVESTIGATION, IF ANY, AS BUYER DEEMED NECESSARY TO REACH AN INFORMED DECISION WITH RESPECT TO ITS PURCHASE OF THE PHOENIXUS SHARES FROM SELLER. BUYER AGREES THAT SELLER SHALL NOT HAVE ANY LIABILITY TO BUYER WITH RESPECT TO THE NON-DISCLOSURE OF ANY INFORMATION IN SUCH SELLER'S POSSESSION RELATING EITHER DIRECTLY OR INDIRECTLY TO THE FINANCIAL CONDITION OR PROSPECTS OF THE COMPANY OR THE VALUE OF THE PHOENIXUS SHARES. SELLER AND BUYER EACH ACKNOWLEDGE AND AGREE, ON BEHALF OF THEMSELVES AND THEIR AFFILIATES, THAT THE JUDGMENT CREDITOR IS NOT A PARTY TO THIS AGREEMENT AND SHALL HAVE NO OBLIGATIONS OR DUTIES TO ANY PARTY HERETO AND SHALL HAVE NO LIABILITY HEREUNDER OR IN CONNECTION HEREWITH.

(b) Further Assurances. Seller agrees, at any time and from time to time following the date hereof, upon the request and at the expense of Buyer, that Seller will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney, assurances or other acts and things as may reasonably be required in order more fully to vest in and confirm to Buyer title to and possession of the Phoenixus Shares or in order to more fully effectuate the transactions contemplated hereby.

(c) Expenses. Except as expressly provided otherwise in this Agreement, including Section 4 of this Agreement, each of the parties hereto shall bear and be responsible for the payment of such party's own expenses and costs relating to the transactions contemplated by this Agreement. All stamp duties and registration duties and any late-payment interest and/or penalties relating thereto payable in connection with the sale of the Phoenixus Shares shall be borne by Buyer and shall be paid on a timely basis in compliance with all statutory requirements.

(d) Counterparts; Electronic Signatures; Integration. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by facsimile or other electronic means. This Agreement represents the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, written or oral, all of which are merged herein.

(e) Arbitration of Disputes; Governing Law; Jurisdiction; Jury Trial Waiver. This Agreement shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of Delaware (other than any conflict of law provisions thereof that would call for the application of the law of any jurisdiction other than the State of Delaware). Except as set forth below, the parties agree to resolve any claim or controversy arising out of or relating to this Agreement, including without limitation any issue relating to the disposition of the funds to be placed in escrow and any issue relating to the Additional Purchase Price, by submission to the American Arbitration Association or the International Center for Dispute Resolution in New York, NY, before a single arbitrator and with provision for the arbitration to be conducted by means of virtual participation by the parties and their counsel by videoconference unless it is determined by the arbitrator that the arbitration should take place in person based upon a finding of good cause, provided, however, that any claim against the Receiver must be brought in the Court. Each of the parties hereby irrevocably waives any right to trial by jury in any legal proceeding arising out of or relating to this Agreement.

(f) Severability. If any provision of this Agreement shall be held invalid, illegal or unenforceable, in whole or in part, the validity, legality, and enforceability of the remaining part of such provision, and the validity, legality and enforceability of all other provisions hereof or thereof, shall not be affected thereby.

(g) Amendment. This Agreement may be amended or modified in whole or in part at any time by an agreement in writing signed by Buyer and Seller.

(h) Waiver. The waiver by a party hereto of a breach of any covenant, agreement, condition or undertaking contained herein shall be made only by a written waiver in each case. No waiver of any breach of any covenant, agreement, condition or undertaking contained herein shall operate as a waiver of any prior or subsequent breach of the same covenant, agreement, condition or undertaking or as a waiver of any breach of any other covenant, agreement, condition or undertaking. No failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

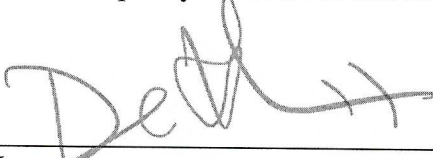
(i) Entire Agreement. This Agreement (together with the other agreements or documents to be entered into or executed pursuant to or in connection with this Agreement) constitutes the entire agreement and understanding between the parties hereto with respect to its subject matter and replaces and supersedes all prior agreements, arrangements, undertakings or statements regarding such subject matter.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the day and year first above written.

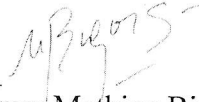
SELLER:

DEREK C. ABBOTT,
solely in his capacity as receiver and not individually

By: 
Name: _____
Title:

BUYER:

AKKADIAN PARTNERS SA,
as management company of Akkadian Partners Fund –
Compartment Phoenixus Investment

By: 
Name: Mathieu Bigois
Title: Authorized Signatory

Solely as ESCROW AGENT

Joshua D. Levin-Epstein, Esq.

