

## **Akkadian Partners condemns the clear abuse of power by Erytech's management team with the active complicity of a group of Pherecydes shareholders**

**Paris – 19 May 2023 – 8.00 am** – After announcing in its joint press release with Pherecydes on 15 February 2023 that: "*PHERECYDES has received commitments from Elaia Partners (acting on behalf of Auriga IV Bioseeds), Go Capital (acting on behalf of Ouest Ventures III) and the pool of shareholders represented by Mr. Guy Rigaud, who together represent approximately 41.5% of the share capital and voting rights of PHERECYDES, to contribute, after the signing of the merger agreement but before the completion of the Proposed Merger, a pro rata proportion of their PHERECYDES shares to ERYTECH in consideration for newly issued ERYTECH shares that would represent a maximum of 10% of the ERYTECH shares according to the same exchange ratio as the Proposed Merger and subsequently to vote in favour of the resolutions related to the transaction-related submitted during the extraordinary GM of ERYTECH EGM.*";

In its press release of 15 May 2023, Erytech confirmed the completion of the said contribution in kind on the same date ("contribution, by Elaia Partners, Go Capital and a pool of PHERECYDES shareholders represented by Mr. Guy Rigaud, of 827,132 PHERECYDES shares to ERYTECH in consideration for 3,101,745 newly issued ERYTECH shares...") without providing any further justification as to the substantial or material interest of this contribution in kind other than that already indicated on 15 February 2023, i.e. to allow the investors of Pherecydes shares, who became Erytech shareholders, to vote in favour of the merger of Pherecydes by Erytech during Erytech's general meeting on 23 June 2023.

### **Fraudulent issue of Erytech shares to the benefit of a group of specific shareholders of Pherecydes**

In other words, the executives of Erytech and a group of specific shareholders of Pherecydes intended fraudulently and by abusing their powers to secure a majority at the general meeting of 23 June 2023 to decide on the merger by manipulating their ability to issue shares in Erytech, by virtue of the delegations of authority granted to Erytech's Board of Directors, not to receive cash or a tangible asset benefiting the Erytech's business but to allow this group of specific Pherecydes Investors to hold new Erytech shares and, consequently, voting rights to approve the merger in the said general meeting, whereas these contributed Pherecydes shares were planned to be revoked immediately after 23 June 2023 since Pherecydes was to be wound up after the merger as stated in the joint Erytech and Pherecydes press release dated 15 February 2023.

### **Total lack of value of the Pherecydes shares contributed in kind**

Indeed, the new shares issued in favour of the investors do not remunerate any contribution since the Pherecydes shares at which the said contribution is aimed will be eliminated on 23 June 2023 following the merger between the two companies when Pherecydes and its shares will be liquidated.

Consequently, this contribution in kind of Pherecydes shares has no merit per se neither for Erytech's business nor for its shareholders since the sole aim of Erytech's executives is to secure approval of the merger by granting real but totally fraudulent voting rights to Pherecydes shareholders at Erytech's GM on 23 June 2023 in exchange for a contribution of a symbolic amount.

This group of shareholders led by Elaia Partners/Auriga Partners and including some of them within Erytech have chosen to prioritise their own interests within Pherecydes, in order to impose a 1:1 parity in the said merger and to secure approval for the said merger and parity by fraudulently granting themselves additional voting rights to force approval for the merger at the general meeting on 23 June 2023.

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Firmly convinced that the "minor shareholders" will not understand the aim or purpose of these fraudulent manipulations of company law, Erytech's executives, with the complicity of this group of shareholders, are abusing their powers under Article L. 242-6 paragraph 4 of the French Commercial Code to the detriment of the free vote of Erytech shareholders planned on 23 June 2023.

### **Fraudulent appointment of an ad hoc trustee in order to obtain a quorum on 23 June 2023**

It is against this free exercise of these shareholders' voting rights that Erytech's executives intend to appoint an ad hoc trustee whose aim is to obtain a quorum at the extraordinary general meeting on 23 June 2023.

However, such an appointment is only justified if it is established that the general meeting has failed to obtain such a quorum at the first or second invitation to attend and if, at the very least, the survival of Erytech is at stake.

In the present circumstances, it is specifically the survival of Pherecydes which is on the verge of bankruptcy and is being kept afloat by the group of shareholders led by Elaia Partners / Auriga Partners that is at stake, not the survival of Erytech.

What urgency can justify the appointment of an ad hoc trustee at the GM of 23 June 2023 to replace a quorum that would not be obtained at the first invitation to attend and which would lead to the convening of a second GM where the same quorum would not be obtained and which ultimately would lead, assuming the need to allow Erytech to continue trading, to the possible appointment of an ad hoc trustee to obtain the quorum necessary to hold the general meeting?

Akkadian Partners would remind Erytech's executives that their shareholders are free both at the first and second invitation to attend their meeting to obtain a quorum without any ad hoc trustee to replace them, just as during previous general meetings where Erytech never had the slightest difficulty to obtain a quorum.

### **Fraudulent appropriation of the voting rights of Erytech shareholders**

This appropriation by Erytech's executives of the voting rights of their shareholders and of the free formation of a quorum demonstrate their contempt for their shareholders who are being urged to accept the Erytech/Pherecydes merger at a parity of 1 for 1, whereas the former holds more than €30,000,000 m under management and the latter is in a potential state of bankruptcy and is awaiting the merger to continue trading.

All this is being done by drawing on Erytech's reserves, more than €1,200,000 m in legal fees **to entrust their counsels with the task of packaging this operation in a seemingly bona fide legal framework which is a pure breach of the rights of Erytech's shareholders as well as a clear abuse of power.**

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#### **About Akkadian Partners**

Akkadian Partners manages a multi strategy investment fund, mostly in the health sector. The fund manages shareholders in several pharmaceutical and biotechnology companies in the US and Europe. Akkadian invests the money of its managers and investors which include Family Offices and Ultra High NetWork Investors (UHNWIs).

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