

### Headnote

*Securities Act*, s. 114(2) – Exemption from the take-over bid requirements of National Instrument 62-104 Take-Over Bids and Issuer Bids – The offeror has obtained support from shareholders holding 90% of the target’s outstanding shares, excluding the shares held by the offeror; provided that shareholders holding over 90% of the target’s shares tendered into the bid, the offeror will be able to use the compulsory acquisition provisions of the target’s incorporating legislation to force the other 10% of the target’s shareholders to sell their shares to the offeror; all of the target’s shareholders will receive the same consideration under the offer.

### Applicable Legislative Provisions

*Securities Act*, R.S.B.C. 1996, c. 418, s. 114(2)

National Instrument 62-104 *Take-Over Bids and Issuer Bids* (NI 62-104), Part 2

November 25, 2025

### Exemption Order

Heart Force AG and 1564175 B.C. Ltd.

Section 114(2) of the *Securities Act*, R.S.B.C. 1996, c. 418

Section 6.1 of National Instrument 62-104 *Take-Over Bids and Issuer Bids*

### Background

- ¶ 1 Heart Force AG (the Buyer) has applied for a decision under section 114(2) of the *Securities Act* (British Columbia) for an exemption from the take-over bid requirements of Part 2 of National Instrument 62-104 *Take-Over Bids and Issuer Bids* (NI 62-104) in connection with the proposed acquisition by the Buyer, or by its Canadian indirect wholly-owned subsidiary 1564175 B.C. Ltd. (Subco), of all the issued and outstanding Class A Shares (as defined below) of Heart Force Medical Inc. (the Target) (the Exemption Sought).

### Interpretation

- ¶ 2 Terms defined in National Instrument 14-101 *Definitions* or NI 62-104 have the same meaning if used in this order, unless otherwise defined.

### Representations

- ¶ 3 The Buyer represents that:
1. the Target is a company incorporated in British Columbia, Canada, with its head office located in Vancouver, British Columbia;
  2. the Target is not a reporting issuer in any jurisdiction in Canada and there is no published market in respect of any of its securities;
  3. the authorized share capital of the Target consists of an unlimited number of Class A common shares (Class A Shares) and Class B common shares (Class B Shares, and together with Class A Shares, Target Shares); the Target has informed the Buyer that as of November 21, 2025, the only securities of the Target outstanding are 722,640,539 Class A Shares and 75,250,000 Class B Shares;

4. the Target is a start-up company in the business of developing a medical device and is controlled and primarily funded by the Buyer;
5. to the Buyer's knowledge, the Target is not in default of securities legislation in any jurisdiction in Canada;
6. the Buyer is a Swiss stock corporation (Aktiengesellschaft (AG)) incorporated in Switzerland, with its head office in Zug, Switzerland, and is a financial holding company for the Target;
7. the Buyer is not a reporting issuer in any jurisdiction in Canada and there is no published market in respect of any of its securities;
8. the Buyer holds 449,968,863 Class A Shares and 19,500,000 Class B Shares, representing 62.27% of the outstanding Class A Shares and 25.91% of the outstanding Class B Shares;
9. Subco is a company incorporated in British Columbia, Canada, with its head office located in Vancouver, British Columbia;
10. Subco is not a reporting issuer in any jurisdiction in Canada, and there is no published market in respect of any of its securities;
11. Subco is an indirect wholly-owned subsidiary of the Buyer with no assets and was newly incorporated on November 20, 2025 solely for tax purposes in connection with completing the Bid (as defined below);
12. neither the Buyer nor Subco is in default of securities legislation in any jurisdiction in Canada;
13. the Buyer has agreed to cause Subco, and Subco has agreed, to acquire all of the issued and outstanding Class A Shares and Class B Shares of the Target (the Bid), excluding those held by the Buyer at the effective time of the Bid, for a consideration of one common share of the Buyer (the Buyer Share) for every 28 Target Shares tendered, being a total consideration of approximately 11,729,345 Buyer Shares, representing a deemed transaction price of \$0.168 per Target Share;
14. for Shareholders in Canada, the consideration may be satisfied by the issuance of one non-voting exchangeable share of Subco (SubCo Exchangeable Share) for every 28 Target Shares tendered; SubCo Exchangeable Shares are exchangeable for Buyer Shares on a one-for-one basis;
15. the Buyer's sole material asset is its equity ownership in the Target, aside from cash; the Buyer has no business other than capitalizing the Target so that it may advance the development and commercialization of its medical product, and accordingly, the information in respect of the Buyer that is relevant to the shareholders of the Target (the Shareholders) includes (i) that the value of the Buyer and the Target is interchangeable, (ii) the relative percentage ownership interest that the Shareholders will have in the Buyer following the acquisition, and (iii) that the Buyer's shareholders are entitled to a premium for having borne the risk of investment in the Target for over 7 years;
16. there are 226 registered holders and 217 beneficial owners of Class A Shares (accounting for the fact that 9 Shareholders of record are holding companies wholly held by other Shareholders of record), as follows:

- (a) 121 registered holders reside in British Columbia, holding 253,351,926 Class A Shares or 35.05% of the issued and outstanding Class A Shares, and 114 beneficial owners reside in British Columbia, holding 253,351,926 Class A Shares or 35.05% of the issued and outstanding Class A Shares;
  - (b) 37 registered holders reside in Ontario, holding 4,380,949 Class A Shares or 0.61% of the issued and outstanding Class A Shares, and 35 beneficial owners reside in Ontario, holding 3,580,949 Class A Shares or 0.50% of the issued and outstanding Class A Shares;
  - (c) 34 registered holders and beneficial owners reside in Saskatchewan, holding 6,297,500 Class A Shares or 0.87% of the issued and outstanding Class A Shares;
  - (d) 14 registered holders and beneficial owners reside in Alberta, holding 1,347,000 Class A Shares or 0.19% of the issued and outstanding Class A Shares;
  - (e) one registered holder and beneficial owner (being the Buyer) is located in Switzerland, holding 449,968,863 Class A Shares or 62.27% of the issued and outstanding Class A Shares; and
  - (f) 19 registered holders reside outside of Canada, holding 7,294,301 Class A Shares or 1.01% of the issued and outstanding Class A Shares, and 19 beneficial owners reside outside of Canada, holding 8,094,301 Class A Shares or 1.12% of the issued and outstanding Class A Shares;
17. there are 20 holders of Class B Shares, all of whom reside in Canada (in British Columbia, Ontario and Alberta) except 4 holders who reside outside of Canada, one of which being the Buyer located in Switzerland;
18. the Buyer and Subco are relying on the de minimis exemption in section 4.5 of NI 62-104 in each of Ontario, Saskatchewan and Alberta for the acquisition of Class A Shares because the number of beneficial holders of Class A Shares in each of those jurisdictions will be fewer than 50 and the number of Class A Shares held by those beneficial holders in each jurisdiction will be less than 2% of the total number of issued and outstanding Class A Shares at the time of the Bid;
19. there is no exemption from the take-over bid requirements available in British Columbia for the acquisition of Class A Shares;
20. the Buyer and SubCo are relying on the non-reporting issuer exemption in section 4.3 of NI 62-104 in British Columbia, Ontario and Alberta for the acquisition of the Class B Shares;
21. certain significant Shareholders of the Target (the Supporting Shareholders) have entered into irrevocable support agreements with the Buyer where such Supporting Shareholders have agreed to tender their Target Shares to the Bid subject to customary conditions; together with the directors and officers of the Target, all of whom have advised the Buyer of their intention to tender all of their Target Shares to the Bid, over 90% of the issued and outstanding Target Shares in the aggregate, excluding the Buyer, are expected to be tendered to the Bid;
22. the Buyer, Subco and the Target have structured a process by which the Bid will be carried out in a way that will ensure equal treatment for all Shareholders, the provision of adequate information to Shareholders, and an open and even-handed process, including:

- (a) the Bid is for all of the Target Shares that are not owned by the Buyer and all Shareholders will receive the same consideration per Target Share (no matter the class), except that Shareholders may elect to receive, instead of one Buyer Share, one SubCo Exchangeable Share; the SubCo Exchangeable Shares will have, in all material respects and to the greatest extent possible subject to applicable law in Switzerland and Canada, the same rights and restrictions as the Buyer Shares;
  - (b) none of the Shareholders will be party to any collateral agreement, commitment or understanding that would have the effect, directly or indirectly, of providing such Shareholder with consideration of greater value than that offered to any other Shareholder under the terms of the Bid;
  - (c) each Shareholder will receive a copy of an offering document, which will contain information with respect to (i) the Buyer, including corporate, financial and business information, (ii) Subco and the associated tax efficient transaction structure, (iii) the consideration being offered for each Target Share and summary of certain material differences between the Buyer Shares and the SubCo Exchangeable Shares, (iv) the fact that all Shareholders can elect to receive SubCo Exchangeable Shares instead of Buyer Shares as consideration and the method to do so, (v) reasons for the Bid and reasons to accept the Bid, (vi) risks associated with the Bid, (vii) the mechanics of accepting the Bid, (viii) the conditions of the Bid, and (ix) the intention to pursue a second-step compulsory acquisition under the *Business Corporations Act* (British Columbia)(BCBCA) and associated dissent rights;
  - (d) there will be a deposit period of at least 25 days from the commencement date of the Bid and as such, all Shareholders will be afforded the opportunity to, and encouraged to, seek independent legal advice, tax advice and business advice in connection with the Bid;
  - (e) all Shareholders can tender their Target Shares to the Bid through the execution of a letter of transmittal; and
  - (f) all Shareholders may reach out directly to the management team of the Target or the Buyer to ask any questions regarding the terms of the Bid;
23. each director and officer of the Target that is also a Shareholder (whether directly or indirectly through a holding company) is supportive of the Bid in his or her capacity as a Shareholder, and the offering document in connection with the Bid will contain a statement to that effect;
24. under the compulsory acquisition procedures under the BCBCA, provided that Shareholders holding over 90% of the Target Shares, excluding those held by the Buyer, tendered into the Bid, the Buyer and Subco will be entitled to purchase the Target Shares held by those Shareholders that did not enter into a support agreement regardless of whether those Shareholders tender their Target Shares under the Bid; and
25. the Buyer, together with members of the Target's management team and their affiliates, hold, in the aggregate, sufficient Target Shares to approve the acquisition of the Target by the Buyer and Subco by way of an amalgamation in accordance with the requirements under the BCBCA and the articles of the Target; however, the Buyer and Subco want to complete the acquisition by way of the Bid for business reasons.

**Order**

- ¶ 4 Considering that to do so would not be prejudicial to the public interest, the Commission orders under section 114(2) of the Act that the Bid is exempt from the requirements in Part 2 of NI 62-104.

John Hinze  
Director, Corporate Finance  
British Columbia Securities Commission