

NS Miscellaneous

## **RULE 2.10 DISCLOSURE - JOHCM**

Released 07:00:11 14 May 2024

RNS Number : 2544O  
Alchemy Copyrights, LLC  
14 May 2024

### **DISCLOSURE UNDER RULE 2.10(c) OF THE CITY CODE ON TAKEOVERS AND MERGERS (THE "CODE")**

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**FOR IMMEDIATE RELEASE**

**14 May 2024**

### **CASH OFFER FOR**

**HIPGNOSIS SONGS FUND LIMITED ("HIPGNOSIS")**

**BY**

**CONCORD CHORUS LIMITED ("CONCORD BIDCO")**

**Update on the irrevocable undertaking given by J O Hambro Capital Management Limited ("JO Hambro")**

### **DISCLOSURE UNDER RULE 2.10(C) OF THE CODE**

On 18 April 2024, Concord Bidco announced a cash offer pursuant to which Concord Bidco, a wholly-owned subsidiary of Alchemy Copyrights, LLC, trading as Concord ("Concord"), would acquire the entire issued and to be issued share capital of Hipgnosis (the "Acquisition") to be effected by means of a Court-sanctioned scheme of arrangement between Hipgnosis and relevant Hipgnosis Shareholders under Part VIII of the Companies (Guernsey) Law, 2008 (as amended) (the "Scheme") (the "Rule 2.7 Announcement").

On 24 April 2024, Concord Bidco announced an increased cash offer at an increased price of US\$1.25 for each Scheme Share (the "Increased Concord Offer") for the entire issued and to be issued share capital of Hipgnosis.

On 9 May 2024, Concord Bidco announced that the Increased Concord Offer was final and would not be increased.

Capitalised terms used in this announcement, unless otherwise defined, shall have the meanings given to them in the Rule 2.7 Announcement.

As set out in the Rule 2.7 Announcement, Concord Bidco had received certain irrevocable undertakings to vote in favour of the Scheme at the Court Meeting and in favour of the Resolution to be proposed at the General Meeting.

The irrevocable undertaking given by J O Hambro related to 20,453,123 Hipgnosis Shares, representing approximately 1.69 per cent of the issued share capital of Hipgnosis as at the Latest Practicable Date.

As at 8 May 2024, Concord Bidco had been advised by J O Hambro that it had disposed of a total of 14,930,038 of the Hipgnosis Shares and that the number of Hipgnosis Shares subject to the irrevocable undertaking given by J O Hambro had reduced to 5,523,085 Hipgnosis Shares, representing approximately 0.5 per cent of the issued share capital of Hipgnosis as at 8 May 2024.

On 13 May 2024, Concord Bidco was advised by J O Hambro that it had disposed of a further 400,000 of the Hipgnosis Shares subject to the irrevocable undertaking (together, the "Sold Shares"), and were no longer in a position to vote the Sold Shares in favour of the Scheme at the Court Meeting and in favour of the Resolution to be proposed at the General Meeting in relation to those Hipgnosis Shares.

Therefore, the total number of Hipgnosis Shares which are subject to irrevocable undertakings received by Concord Bidco in relation to Hipgnosis shares has reduced to 299,808,626 Hipgnosis shares, representing approximately 24.79 per cent of the issued share capital of Hipgnosis as at the close of business on 13 May 2024 (being the date prior to the date of this announcement). Following completion of the acquisition by Concord Bidco of the 57,725,227 Hipgnosis Shares held by CCLA Investment Management which was announced on 25 April 2024, the total number of Hipgnosis Shares which are subject to irrevocable undertakings received by Concord Bidco in relation to Hipgnosis Shares has further reduced to 242,083,399, representing approximately 20.02 per cent of the issued share capital of Hipgnosis as at the close of business on 13 May 2024 (being the date prior to the date of this announcement).

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**Important notices**

*J.P. Morgan Securities LLC together with its affiliate J.P. Morgan Securities plc, which conducts its UK investment banking business as J.P. Morgan Cazenove and which is authorised in the United Kingdom by the Prudential Regulation Authority (the "PRA") and regulated in the United Kingdom by the PRA and the FCA (together, "J.P. Morgan Cazenove") is acting as financial adviser exclusively to Bidco and no one else in connection with the Acquisition and will not regard any other person as their client in relation to the Acquisition and will not be responsible to anyone other than Bidco for providing the protections afforded to clients of J.P. Morgan Cazenove or its affiliates, nor for providing advice in relation to the Acquisition or any other matter or arrangement referred to herein.*

*This Announcement is for information purposes only and is not intended to and does not constitute, or form part of, an offer to sell or an invitation to purchase any securities or a solicitation of an offer to buy, otherwise acquire, subscribe for, sell or otherwise dispose of any securities pursuant to the Acquisition or otherwise, nor shall there be any purchase, sale, issuance or exchange of securities or such solicitation in any jurisdiction in which such offer, invitation, solicitation, purchase, sale, issuance or exchange is unlawful. The Acquisition will be made solely by means of the Scheme Document (or, if the Acquisition is implemented by way of a Takeover Offer, any document by which the Takeover Offer is made) and the accompanying Forms of Proxy (or forms of acceptance, if applicable), which will contain the full terms and conditions of the Acquisition, including details of how to vote in respect of the resolutions proposed in connection with the Acquisition. Any vote, approval, decision in respect of, or other response to, the Acquisition should be made only on the basis of the information contained in the Scheme Document (or any other document by which the Acquisition is made by way of a Takeover Offer).*

*The statements contained in this Announcement are made as at the date of this Announcement, unless some other time is specified in relation to them, and the release of this Announcement shall not give rise to any implication that there has been no change in the facts set out in this Announcement since such date. This Announcement does not constitute a prospectus or prospectus equivalent document.*

*Hipgnosis Shareholders should not make any investment decision in relation to the Acquisition except on the basis of the Scheme Document (or any other document by which the Acquisition is made by way of a Takeover Offer). Bidco urges Hipgnosis Shareholders to read the whole of the Scheme Document when it becomes available because it will contain important information relating to the Acquisition.*

*No person should construe the contents of this Announcement as legal, financial or tax advice. If you are in any doubt about the contents of this Announcement or the action you should take, you are recommended to seek your own independent financial advice immediately from your stockbroker, bank manager, solicitor, accountant or from*

*an independent financial adviser duly authorised under FSMA if you are resident in the United Kingdom, or another appropriately authorised independent financial adviser, if you are in a territory outside the United Kingdom.*

### **Overseas Shareholders**

*This Announcement has been prepared for the purpose of complying with Guernsey law, English law, the Takeover Code, the Market Abuse Regulation, the Disclosure Guidance and Transparency Rules and the Listing Rules and information disclosed may not be the same as that which would have been disclosed if this Announcement had been prepared in accordance with the laws of jurisdictions outside the United Kingdom or Guernsey. Nothing in this Announcement should be relied on for any other purpose.*

*The release, publication or distribution of this Announcement in or into, jurisdictions other than the United Kingdom or Guernsey may be restricted by the laws and/or regulations of those jurisdictions and therefore persons into whose possession this Announcement comes who are subject to the laws and/or regulations of any jurisdiction other than the United Kingdom or Guernsey should inform themselves about and observe any such applicable laws and/or regulations in their jurisdiction. In particular, the ability of persons who are not resident in the United Kingdom or Guernsey to vote their Scheme Shares or Hipgnosis Shares (as applicable) with respect to the Scheme at the Court Meeting or the General Meeting, or to appoint another person as proxy to vote at the Court Meeting or the General Meeting on their behalf, may be affected by the laws of the relevant jurisdiction in which they are located. Further details in relation to Overseas Shareholders will be contained in the Scheme Document. Any failure to comply with any such restrictions may constitute a violation of the securities laws of any such jurisdiction. To the fullest extent permitted by applicable law, the companies and persons involved in the Acquisition disclaim any responsibility or liability for the violation of such restrictions by any person.*

*Unless otherwise determined by Hipgnosis or required by the Takeover Code, and permitted by applicable law and regulation, the Acquisition will not be made available, directly or indirectly, in, into or from a Restricted Jurisdiction where to do so would violate the laws in that jurisdiction and no person may vote in favour of the Scheme by any such use, means, instrumentality or form from within a Restricted Jurisdiction or any other jurisdiction if to do so would constitute a violation of the laws of that jurisdiction. Accordingly, copies of this Announcement and all documents relating to the Acquisition are not being, and must not be, directly or indirectly, mailed or otherwise forwarded, distributed or sent in, into or from a Restricted Jurisdiction where to do so would violate the laws in that jurisdiction, and persons receiving this Announcement and all documents relating to the Acquisition (including custodians, nominees and trustees) must not mail or otherwise distribute or send them in, into or from such jurisdictions where to do so would violate the laws in that jurisdiction. If the Acquisition is implemented by a Takeover Offer (unless otherwise permitted by applicable law or regulation), the Takeover Offer may not be made, directly or indirectly, in or into or by use of the mails or any other means or instrumentality (including, without limitation, facsimile, email or other electronic transmission, telex or telephone) of interstate or foreign commerce of, or any facility of a national state or other securities exchange, of any Restricted Jurisdiction and the Takeover Offer will not be capable of acceptance by any such use, means, instrumentality or facilities or from or within any Restricted Jurisdiction.*

*Further details in relation to Overseas Shareholders will be contained in the Scheme Document.*

### **Additional information for US investors**

*Hipgnosis Shareholders in the United States should note that the Acquisition relates to the securities of a Guernsey company with a listing on the London Stock Exchange and is proposed to be effected by means of a scheme of arrangement provided for under, and governed by, the Companies Law. This Announcement, the Scheme Document and certain other documents relating to the Acquisition have been or will be prepared in accordance with Guernsey law, English law, the Takeover Code and UK disclosure requirements, format and style, all of which differ from those in the United States. A transaction effected by means of a scheme of arrangement is not subject to the tender offer rules or the proxy solicitation rules under the US Exchange Act. Accordingly, the Acquisition is subject to the procedural and disclosure requirements and practices applicable to a scheme of arrangement involving a target company organised in Guernsey and listed on the London Stock Exchange, which differ from the procedural and disclosure requirements of the United States tender offer rules and proxy solicitation rules under the US Exchange Act. If, in the future, Bidco exercises the right to implement the Acquisition by way of a Takeover Offer and determines to extend the offer into the United States, the Acquisition will be made in compliance with applicable United States laws and regulations. Such Takeover Offer would be made by Bidco and no one else.*

*The financial information that is included in this Announcement or that may be included in the Scheme Document, or any other documents relating to the Acquisition, has been or will be prepared in accordance with IFRS and may not be comparable to financial statements of companies in the United States or other companies whose financial statements are prepared in accordance with US generally accepted accounting principles.*

*The Hipgnosis Shares have not been approved or disapproved by the Securities Exchange Commission or any US state securities commission, nor have any such authorities passed judgment upon the fairness or the merits of the Acquisition or determined if this Announcement is accurate or complete. Any representation to the contrary is a criminal offence in the United States.*

US holders of Hipgnosis Shares should also be aware that the transaction contemplated herein may have tax consequences in the United States and that such consequences, if any, are not described herein. US holders of Hipgnosis Shares are urged to consult with independent professional advisors regarding the legal, tax and financial consequences of the Acquisition applicable to them.

It may be difficult for US holders of Hipgnosis Shares to enforce their rights and claims arising out of US federal securities laws, since Hipgnosis is incorporated outside the United States, and its officers and directors may be residents of, and some or all of their assets may be located in, countries other than the United States. US holders of Hipgnosis Shares may have difficulty effecting service of process within the United States upon those persons or recovering against judgments of US courts, including judgments based upon the civil liability provisions of the US federal securities laws. US holders may not be able to sue a non-US company or its officers or directors in a non-US court for violations of US securities laws. Further, it may be difficult to compel a non-US company and its affiliates to subject themselves to a US court's judgement.

In accordance with normal practice in the UK and Guernsey and consistent with Rule 14e-5(b) of the US Exchange Act, Bidco, certain affiliated companies and their nominees or brokers (acting as agents) may make certain purchases of, or arrangements to purchase, shares in Hipgnosis outside the United States, other than pursuant to the Acquisition, until the date on which the Acquisition and/or Scheme becomes Effective, lapses or is otherwise withdrawn. If such purchases or arrangements to purchase were to be made, they would occur either in the open market at prevailing prices or in private transactions at negotiated prices and comply with applicable law, including the US Exchange Act. Any information about such purchases or arrangements to purchase will be disclosed as required in the United Kingdom, will be reported to a Regulatory Information Service and will be available on the London Stock Exchange website at [www.londonstockexchange.com](http://www.londonstockexchange.com).

Further details in relation to US investors will be contained in the Scheme Document.

#### **Forward-looking statements**

This Announcement (including information incorporated by reference in this Announcement), oral statements made regarding the Acquisition, and other information published by Concord, Apollo or Bidco contain statements about Bidco and Hipgnosis and/or the Wider Bidco Group that are or may be deemed to be forward-looking statements. All statements other than statements of historical facts included in this Announcement, may be forward-looking statements. Without limitation, any statements preceded or followed by or that include the words "targets", "plans", "believes", "expects", "aims", "intends", "will", "may", "anticipates", "estimates", "hopes", "projects", "continue", "schedule" or words or terms of similar substance or the negative thereof, are forward-looking statements. Forward-looking statements include statements relating to the following: (i) future capital expenditures, expenses, revenues, earnings, synergies, economic performance, indebtedness, financial condition, dividend policy, losses and future prospects; (ii) business and management strategies and the expansion and growth of Concord's, Apollo's or Hipgnosis' or the Wider Bidco Group's operations and potential synergies resulting from the Acquisition; and (iii) the effects of government regulation on Concord's, Apollo's or Hipgnosis' or the Wider Bidco Group's business.

These forward-looking statements are not based on historical fact and are not guarantees of future performance. By their nature, such forward-looking statements involve known and unknown risks and uncertainties that could significantly affect expected results and are based on certain key assumptions. Many factors could cause actual results to differ materially from those projected or implied in any forward-looking statements. Many of these risks and uncertainties relate to factors that are beyond the entities' ability to control or estimate precisely. These factors include, but are not limited to, the satisfaction of or failure to satisfy all or any of the conditions to the Acquisition, as well as additional factors, such as changes in political and economic conditions, changes in the level of capital investment, retention of key employees, changes in customer habits, success of business and operating initiatives and restructuring objectives, the impact of any acquisitions or similar transactions, changes in customers' strategies and stability, competitive product and pricing measures, changes in the regulatory environment, fluctuations of interest and exchange rates and the outcome of any litigation.

Bidco nor any of its respective associates or directors, officers, employees or advisers, provides any representation, assurance or guarantee that the occurrence of the events expressed or implied in any forward-looking statements in this Announcement will actually occur. Due to such uncertainties and risks, readers are cautioned not to place undue reliance on such forward-looking statements, which speak only as of the date of this Announcement. All subsequent oral or written forward-looking statements attributable to Bidco or any of its respective members, directors, officers, employees or advisers or any persons acting on its behalf are expressly qualified in their entirety by the cautionary statement above. Bidco expressly disclaims any obligation to update any forward-looking or other statements contained in this Announcement, except as required by applicable law or by the rules of any competent regulatory authority, whether as a result of new information, future events or otherwise.

#### **Disclosure requirements of the City Code on Takeovers and Mergers**

Under Rule 8.3(a) of the Takeover Code, any person who is interested in 1 per cent. or more of any class of relevant securities of an offeree company or of any securities exchange offeror (being any offeror other than an offeror in respect of which it has been announced that its offer is, or is likely to be, solely in cash) must make an

*Opening Position Disclosure following the commencement of the Offer Period and, if later, following the announcement in which any securities exchange offeror is first identified.*

*An Opening Position Disclosure must contain details of the person's interests and short positions in, and rights to subscribe for, any relevant securities of each of (i) the offeree company and (ii) any securities exchange offeror(s). An Opening Position Disclosure by a person to whom Rule 8.3(a) applies must be made by no later than 3.30 p.m. (London time) on the 10<sup>th</sup> Business Day (as defined in the Takeover Code) following the commencement of the Offer Period and, if appropriate, by no later than 3.30 p.m. (London time) on the 10<sup>th</sup> Business Day (as defined in the Takeover Code) following the announcement in which any securities exchange offeror is first identified. Relevant persons who deal in the relevant securities of the offeree company or of a securities exchange offeror prior to the deadline for making an Opening Position Disclosure must instead make a Dealing Disclosure.*

*Under Rule 8.3(b) of the Takeover Code, any person who is, or becomes, interested in 1 per cent. or more of any class of relevant securities of the offeree company or of any securities exchange offeror must make a Dealing Disclosure if the person deals in any relevant securities of the offeree company or of any securities exchange offeror. A Dealing Disclosure must contain details of the dealing concerned and of the person's interests and short positions in, and rights to subscribe for, any relevant securities of each of (i) the offeree company and (ii) any securities exchange offeror(s), save to the extent that these details have previously been disclosed under Rule 8. A Dealing Disclosure by a person to whom Rule 8.3(b) applies must be made by no later than 3.30 p.m. (London time) on the Business Day (as defined in the Takeover Code) following the date of the relevant dealing.*

*If two or more persons act together pursuant to an agreement or understanding, whether formal or informal, to acquire or control an interest in relevant securities of an offeree company or a securities exchange offeror, they will be deemed to be a single person for the purpose of Rule 8.3.*

*Opening Position Disclosures must also be made by the offeree company and by any offeror and Dealing Disclosures must also be made by the offeree company, by any offeror and by any persons acting in concert with any of them (see Rules 8.1, 8.2 and 8.4 of the Takeover Code).*

*Details of the offeree and offeror companies in respect of whose relevant securities Opening Position Disclosures and Dealing Disclosures must be made can be found in the Disclosure Table on the Panel's website at [www.thetakeoverpanel.org.uk](http://www.thetakeoverpanel.org.uk), including details of the number of relevant securities in issue, when the Offer Period commenced and when any offeror was first identified. You should contact the Panel's Market Surveillance Unit on +44 (0) 20 7638 0129 if you are in any doubt as to whether you are required to make an Opening Position Disclosure or a Dealing Disclosure.*

#### **Right to switch to a Takeover Offer**

*Bidco reserves the right to elect, with the consent of the Panel, to implement the Acquisition by way of a Takeover Offer for the entire issued and to be issued ordinary share capital of Hipgnosis as an alternative to the Scheme. In such an event, the Takeover Offer will be implemented on the same terms or, if Bidco so decides, on such other terms being no less favourable (subject to appropriate amendments), so far as applicable, as those which would apply to the Scheme and subject to the amendment referred to in Part B of Appendix 1 to this Announcement.*

#### **Publication of this Announcement on websites and availability of hard copies**

*A copy of this Announcement and the documents required to be published pursuant to Rules 26.1 and 26.2 of the Takeover Code will be available, free of charge, subject to certain restrictions relating to persons resident in Restricted Jurisdictions, on <https://communications.singercm.com/p/4UWI-ETV/recommended-cash-offer-hipgnosis> and Bidco's website at [www.projectchorus.com](http://www.projectchorus.com) by no later than 12.00 p.m. on the Business Day following the date of this Announcement.*

*In accordance with Rule 30.3 of the Takeover Code, Hipgnosis Shareholders and persons with information rights may request a hard copy of this Announcement by contacting Hipgnosis' registrars, Computershare Investor Services (Guernsey) Limited, or by calling 0370 707 4040 or from overseas +44 370 707 4040. Calls are charged at the standard geographical rate and will vary by provider. Calls outside the United Kingdom or Guernsey will be charged at the applicable international rate. Lines are open between 8.30 a.m. to 5.30 p.m. (London time), Monday to Friday (except public holidays in the UK and Guernsey). Please note that Computershare Investor Services (Guernsey) Limited cannot provide any financial, legal or tax advice. Calls may be recorded and monitored for security and training purposes. For persons who receive a copy of this Announcement in electronic form or via a website notification, a hard copy of this Announcement will not be sent unless so requested. Such persons may also request that all future documents, announcements and information to be sent to them in relation to the Acquisition should be in hard copy form.*

#### **Rounding**

*Certain figures included in this Announcement have been subjected to rounding adjustments. Accordingly, figures shown for the same category presented in different tables may vary slightly and figures shown as totals in certain tables may not be an exact arithmetic aggregation of the figures that precede them.*

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