

## IRREVOCABLE UNDERTAKING

To: Hive Bidco, Inc. (*Bidco*)  
The Corporation Trust Company  
Corporation Trust Center  
1209 Orange Street  
Wilmington, Delaware  
USA 19801

16 November 2023

Dear Sir/Madam

### Acquisition of Hotel Chocolat Group plc (*Hotel Chocolat*)

We understand that Bidco intends to make an offer to acquire the entire issued and to be issued ordinary share capital of Hotel Chocolat pursuant to the Scheme or the Offer (in each case, as defined in paragraph 10 below) substantially on the terms and subject to the conditions set out in the Rule 2.7 Announcement (as defined in paragraph 10 below). This undertaking is given by us in our capacity as registered holder of ordinary shares in Hotel Chocolat.

### Shareholdings

1. We represent and warrant to Bidco that:
  - (a) We are the registered holder of the number of ordinary shares of 0.1 pence each in the capital of Hotel Chocolat specified in Part 1 of Appendix 1 (the *Hotel Chocolat Shares*) and that we hold the Hotel Chocolat Shares free of any encumbrances or third party rights of any kind whatsoever;
  - (b) other than as set out in Appendix 1, we do not have any interest (as defined in the City Code on Takeovers and Mergers (the *Code*)) in any securities of Hotel Chocolat, or any rights to subscribe for, purchase or otherwise acquire any such securities, or any short positions (within the meaning set out in the Code) in any such securities; and
  - (c) we have full power and authority to enter into this undertaking and to perform our obligations under it (including to exercise all voting rights attaching to the Hotel Chocolat Shares in accordance with this undertaking).

### Dealings and undertakings

2. We irrevocably undertake to Bidco that before this undertaking lapses in accordance with paragraph 12 below, we shall not:
  - (a) sell, transfer, charge, encumber, grant any option or lien over or otherwise dispose of any interest in any Hotel Chocolat Shares or any other shares in Hotel Chocolat issued or unconditionally allotted to, or otherwise acquired by us

before then (***Further Hotel Chocolat Shares***), in each case except pursuant to the Scheme (or the Offer, as applicable);

- (b) accept, in respect of the Hotel Chocolat Shares or any Further Hotel Chocolat Shares, any offer or other transaction made in competition with or which would reasonably be expected to frustrate or impede the Acquisition (as defined in paragraph 10 of this undertaking);
- (c) in our capacity as a shareholder of the Hotel Chocolat, vote in favour of any resolution to approve any scheme of arrangement of Hotel Chocolat (other than the Scheme), or other transaction which is proposed in competition with or which would reasonably be expected to frustrate or impede the Acquisition;
- (d) (other than pursuant to the Acquisition) enter into any agreement or formal or informal arrangement, incur any obligation or give any indication of intent or undertaking:
  - (i) to do any of the acts referred to in paragraphs 2(a) to 2(c); or
  - (ii) which, in relation to the Hotel Chocolat Shares or any Further Hotel Chocolat Shares, would or would reasonably be expected to restrict or impede us voting in favour of the Scheme or accepting the Offer (as applicable),

and for the avoidance of doubt, references in this paragraph 2(d) to any agreement, formal or informal arrangement, obligation, undertaking or indication of intent includes any agreement, formal or informal arrangement, obligation, undertaking or indication of intent whether or not legally binding or subject to any condition or which is to take effect if the Scheme or the Offer (as the case may be) lapses or is withdrawn or if this undertaking ceases to be binding or following any other event.

3. We further irrevocably undertake not to, until the earlier of:

- (a) this undertaking lapsing in accordance with paragraph 12 below; and
- (b) the Scheme being approved by the Court,

acquire any interests (as defined in the Code) or otherwise deal or undertake any dealing (as defined in the Code) in any relevant securities (as defined in the Code) of Hotel Chocolat unless the Panel on Takeovers and Mergers (the ***Panel***) determines, and confirms to Bidco, that, in respect of such acquisition or dealing, we are not acting in concert with Bidco pursuant to Note 9 on the definition of "Acting in concert" set out in the Definitions section of the Code.

#### **Undertaking to vote in favour of the Scheme**

4. We irrevocably undertake that if Bidco elects to implement the Acquisition by way of the Scheme:

- (a) We shall exercise all voting rights attaching to the Hotel Chocolat Shares and any Further Hotel Chocolat Shares to vote in favour of all resolutions to approve the Scheme and/or the Acquisition, and any related matters, proposed at any general or class meeting (**General Meeting**) and Court convened meeting (**Court Meeting**) of Hotel Chocolat to be convened and held in connection with the Scheme and/or the Acquisition, or at any adjournment of any such meeting(s);
- (b) We shall (subject to paragraph 4(c) below and without prejudice to my right to attend and vote (in accordance with paragraph 4(a) above) in person at any General Meeting and Court Meeting) execute any forms of proxy in respect of the Hotel Chocolat Shares and any Further Hotel Chocolat Shares required by Bidco appointing the Chair of the relevant meeting (or such other person as Bidco may nominate) to attend and vote at any General Meeting or Court Meeting (including any adjournment of any such meeting(s)) in respect of the resolutions to approve the Scheme and/or the Acquisition, and any related matters, and shall ensure that any such executed forms of proxy are received by Hotel Chocolat's registrars not later than 3.00 p.m. (London time) on the tenth day after Hotel Chocolat sends the formal document setting out the terms and conditions of the Scheme (the **Scheme Document**) to Hotel Chocolat shareholders (or, in respect of any Further Hotel Chocolat Shares, within five days of becoming the registered holder of such shares, if later, provided that we shall use reasonable endeavours to ensure any such proxy forms are received by Hotel Chocolat's registrars ahead of the deadline for receipt of proxies for the relevant General Meeting or Court Meeting);
- (c) We shall not revoke or amend any proxy submitted in accordance with paragraph 4(b) above, and shall not, without Bidco's prior written consent, submit any new form of proxy or other proxy instructions, in each case whether in writing or by attendance at any General Meeting or Court Meeting (or any adjournment of any such meeting(s)) or otherwise; and
- (d) Bidco shall acquire the Hotel Chocolat Shares and any Further Hotel Chocolat Shares pursuant to the Scheme which provides for the transfer of such shares to Bidco free of any lien, charge, option, equity or encumbrance of any nature whatsoever and together with all rights of any nature attaching to those shares including the right to all dividends declared or paid after the date of this undertaking.

#### **Undertaking to accept the Offer**

- 5. We irrevocably undertake that, if Bidco elects to implement the Acquisition by way of the Offer:
  - (a) We shall accept (in respect of the Hotel Chocolat Shares and the Further Hotel Chocolat Shares) such Offer in accordance with the procedure for acceptance set out in the formal document containing such Offer (the **Offer Document**) not later than ten days after Bidco sends the Offer Document to Hotel Chocolat shareholders (or, in respect of Further Hotel Chocolat Shares, within five days of becoming registered holder of such shares, if later) or, if earlier, by such

earlier date as the Panel may determine to be the last date for satisfaction of the acceptance condition in connection with the Offer;

- (b) We shall not withdraw such acceptance; and
- (c) Bidco shall acquire the Hotel Chocolat Shares and any Further Hotel Chocolat Shares pursuant to the Offer free of any lien, charge, option, equity or encumbrance of any nature whatsoever and together with all rights of any nature attaching to those shares including the right to all dividends declared or paid after the date of this undertaking.

### **Partial Share Alternative**

6. We irrevocably undertake (whether Bidco implements the Acquisition by way of a Scheme or an Offer) not to elect for the Partial Share Alternative in respect of any Hotel Chocolat Shares or Further Hotel Chocolat Shares.

### **Voting rights**

7. From the time Bidco releases the Rule 2.7 Announcement to the time this undertaking lapses in accordance with paragraph 12, we hereby irrevocably undertake that:

- (a) we shall exercise the voting rights attached to the Hotel Chocolat Shares and any Further Hotel Chocolat Shares on a Relevant Resolution (as defined in paragraph 8) only in accordance with Bidco's directions;
- (b) we shall exercise the rights attaching to the Hotel Chocolat Shares and any Further Hotel Chocolat Shares to requisition or join in requisitioning any general or class meeting of Hotel Chocolat pursuant to section 303 of the Companies Act 2006 for the purposes of considering a Relevant Resolution and to require Hotel Chocolat to give notice of such a resolution pursuant to section 338 of the Companies Act 2006 only in accordance with Bidco's directions; and
- (c) for the purpose of voting on a Relevant Resolution, we shall execute any form of proxy required by Bidco appointing any person nominated by Bidco to attend and vote at the relevant general or class meeting of Hotel Chocolat in such manner as Bidco determines in its sole discretion (and shall not revoke the terms of any such proxy whether in writing, by attendance or otherwise).

8. A ***Relevant Resolution*** means:

- (a) a resolution (whether or not amended) proposed at a general or class meeting of Hotel Chocolat, or at an adjourned meeting, the passing of which is required to implement the Acquisition or which, if passed, might result in any condition of the Acquisition not being fulfilled or which might impede or frustrate the Acquisition in any way (including, for the avoidance of doubt, any resolution to approve any scheme of arrangement or other transaction in relation to Hotel Chocolat which is proposed in competition with or which would reasonably be

expected to frustrate or impede the Acquisition) or which is to approve a matter for the purposes of Rule 21 of the Code;

- (b) a resolution to adjourn a general or class meeting or Court-convened meeting of Hotel Chocolat whose business includes the consideration of a resolution falling within paragraph 8(a); and
- (c) a resolution to amend a resolution falling within paragraph 8(a) or paragraph 8(b).

### **Documentation**

9. We consent to:

- (a) this undertaking being disclosed to the Panel;
- (b) the inclusion of references to us and particulars of this undertaking and our holdings of, interests in, rights to subscribe for and short positions in relevant securities of Hotel Chocolat being included in the Rule 2.7 Announcement and any offer document or scheme document published in connection with the Acquisition, and any other announcement made, or document issued, by or on behalf of Bidco in connection with the Acquisition; and
- (c) this undertaking being available for inspection as required by Rule 26 of the Code including, without limitation, being made publicly available on Bidco's and Hotel Chocolat's websites.

### **Interpretation**

10. In this undertaking:

- (a) references to the *Offer* means any offer to be made by or on behalf of Bidco to acquire the ordinary share capital of Hotel Chocolat substantially on the terms, and subject to the conditions, set out or referred to in the announcement to be made under Rule 2.7 of the Code in the form attached to this undertaking (subject to the inclusion of any alternative or additional terms and conditions as may be required to comply with the requirements of the Panel or the Court or as otherwise agreed between Bidco and Hotel Chocolat) (the *Rule 2.7 Announcement*), and a reference to the *Offer* also includes any new, increased, renewed or revised offer made by Bidco to acquire shares in Hotel Chocolat, provided that, unless otherwise agreed in writing between Bidco and Hotel Chocolat, the cash price per Hotel Chocolat share is no less than stated in the Rule 2.7 Announcement;
- (b) references to the *Scheme* means any scheme of arrangement of Hotel Chocolat under section 895 of the Companies Act 2006 for the acquisition by Bidco of the ordinary share capital of Hotel Chocolat substantially on the terms, and subject to the conditions, set out or referred to in the Rule 2.7 Announcement, and a reference to the *Scheme* also includes any new, increased, renewed or revised scheme of arrangement made by Bidco to acquire shares in Hotel

Chocolat provided that, unless otherwise agreed in writing between Bidco and Hotel Chocolat, the cash price per Hotel Chocolat share is no less than stated in the Rule 2.7 Announcement;

- (c) references to the *Acquisition* means the proposed acquisition by Bidco of Hotel Chocolat, whether pursuant to the Scheme or the Offer; and
- (d) references to the *Partial Share Alternative* and the *Court* have the respective meanings given in the Rule 2.7 Announcement.

### **Time of the Essence**

- 11. Any time, date or period mentioned in this undertaking may be extended by mutual agreement but as regards any time, date or period originally fixed or as extended, time shall be of the essence.

### **Lapse of Undertaking**

- 12. This undertaking and our obligations hereunder shall lapse:
  - (a) at 5.00 p.m. (London time) on the date of this undertaking, if the Rule 2.7 Announcement has not been released prior to such time (or such later time and/or date as Bidco and Hotel Chocolat may agree in writing);
  - (b) on the date and time (in each case if applicable):
    - (i) at which Bidco announces that it does not intend to proceed with the Acquisition, if no new, revised or replacement Scheme or Offer is announced in accordance with Rule 2.7 of the Code at the same time;
    - (ii) at which the Offer or Scheme lapses or is withdrawn, if no new, revised or replacement Scheme or Offer has been announced, in accordance with Rule 2.7 of the Code, in its place or is announced, in accordance with Rule 2.7 of the Code at the same time;
    - (iii) which is 11.59pm London time on the Long-Stop Date (as that term is defined in the Rule 2.7 Announcement) unless, on such date, Bidco is bound to make or has made an Offer that remains open for acceptance in accordance with the Code; or
    - (iv) at which any competing offer for the entire issued and to be issued share capital of Hotel Chocolat is declared unconditional or, if proceeding by way of scheme of arrangement, becomes effective.
- 13. If this undertaking lapses, we shall have no claim against Bidco and Bidco shall have no claim against us under this undertaking, other than in respect of any prior breach of this undertaking. This paragraph shall survive the lapse of this undertaking.

## **Confirmation**

14. We confirm that in signing this undertaking we are not a client or customer of Morgan Stanley & Co International plc (*Morgan Stanley*) for the purposes of the Conduct of Business Sourcebook of the Financial Conduct Authority and that Morgan Stanley is acting for Mars, Incorporated and Bidco in connection with the Acquisition and no-one else and is not responsible to anyone other than Mars, Incorporated and Bidco for providing the protections afforded to customers of Morgan Stanley nor for providing advice in relation to the Acquisition. We confirm that we have been given an adequate opportunity to consider whether or not to execute this undertaking and to obtain independent advice.

## **Power of Attorney**

15. In order to secure the performance of my obligations under this undertaking, we irrevocably appoint any member of the board of directors of Bidco as my attorney in our name and on my behalf if we fail to comply in full with any of the undertakings in paragraphs 2 to 7:
  - (a) to execute and deliver any form(s) of acceptance and/or form(s) of proxy and to sign, execute and deliver all other documents and do all such other acts and things as may be necessary for or incidental to the performance of our obligations under this undertaking; and
  - (b) to execute and deliver any form of proxy required by Bidco to appoint any person nominated by Bidco to attend a general or class meeting of Hotel Chocolat and vote on a Relevant Resolution.
16. We agree that this power of attorney is given by way of security and is irrevocable in accordance with section 4 of the Powers of Attorney Act 1971 until this undertaking lapses in accordance with paragraph 12.

## **Specific Performance**

17. We agree that, if we fail to comply with any of the undertakings in paragraphs 2 to 7 above or breach any of our other obligations under this undertaking, damages may not be an adequate remedy and accordingly Bidco shall be entitled to the remedies of specific performance, injunction or other equitable relief.

## **Miscellaneous**

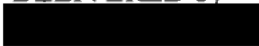
18. A person who is not a party to, or a recipient of, this undertaking shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this undertaking.
19. This undertaking supersedes any previous written or oral agreement between us in relation to its subject matter and contains the whole agreement between the parties in relation thereto.

20. We acknowledge that the release of the Rule 2.7 Announcement is at Bidco's absolute discretion. For the avoidance of doubt, nothing in this undertaking shall oblige Bidco to announce or proceed with the Acquisition (whether pursuant to the Scheme, the Offer or otherwise).

### **Governing Law**

21. This undertaking and any non-contractual obligations arising out of or in connection with this undertaking shall be governed by, and interpreted in accordance with, English law. The English courts shall have exclusive jurisdiction in relation to all disputes (including claims for set-off and counterclaims) arising out of or in connection with this undertaking including, without limitation disputes arising out of or in connection with: (i) the creation, validity, effect, interpretation, performance or non-performance of, termination or the legal relationships established by, this undertaking; and (ii) any non-contractual obligations arising out of or in connection with this undertaking. For such purposes each party irrevocably submits to the jurisdiction of the English courts and waives any objection to the exercise of such jurisdiction. Each party also irrevocably waives any objection to the recognition or enforcement in the courts of any other country of a judgment delivered by an English court exercising jurisdiction pursuant to this clause.



**SIGNED as a DEED and  
DELIVERED by**  
  
**in his capacity as trustee of  
HARRIS FAMILY TRUST  
in the presence of:**

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SIGNATURE:



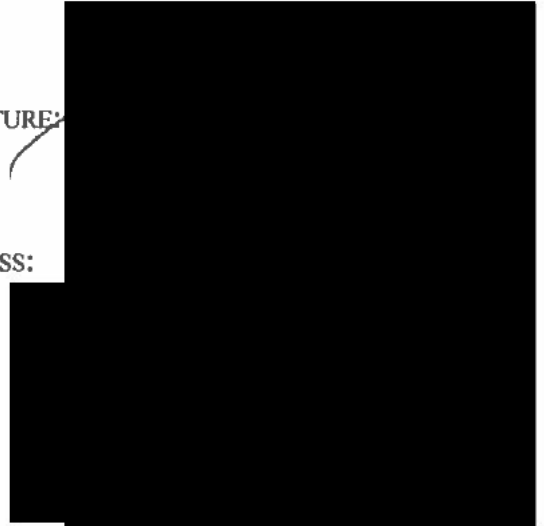
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SIGNATURE:

NAME:

ADDRESS:



**SIGNED as a DEED and  
DELIVERED by**  
[REDACTED]  
in her capacity as trustee of  
**HARRIS FAMILY TRUST**  
in the presence of:

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SIGNATURE:

[REDACTED]

Witness

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SIGNATURE:

NAME:

ADDRESS:

[REDACTED]

## APPENDIX 1

### Part 1

<b>No. of ordinary shares of 0.1 pence in Hotel Chocolat</b>	<b>Exact name(s) of registered holder as appears on the register of members</b>	<b>Beneficial owner(s)</b>
5,300,000	Harris Family Trust	The children and grandchildren of Peter Harris

## **APPENDIX 2**

### **2.7 announcement**

**NOT FOR RELEASE, PUBLICATION OR DISTRIBUTION, IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, IN OR INTO ANY JURISDICTION WHERE TO DO SO WOULD CONSTITUTE A VIOLATION OF THE RELEVANT LAWS OF SUCH JURISDICTION.**

**THIS ANNOUNCEMENT CONTAINS INSIDE INFORMATION  
FOR IMMEDIATE RELEASE**

**16 November 2023**

**RECOMMENDED CASH ACQUISITION  
of  
HOTEL CHOCOLAT GROUP PLC  
by  
HIVE BIDCO, INC.**

**a wholly-owned indirect subsidiary of Mars, Incorporated,**

**to be implemented by means of a scheme of arrangement under Part 26 of the  
Companies Act 2006**

**Summary**

- The boards of directors of Hive Bidco, Inc. (“**Bidco**”) and Hotel Chocolat Group plc (“**Hotel Chocolat**”) are pleased to announce that they have reached agreement on the terms of a recommended cash acquisition, pursuant to which Bidco, a wholly-owned indirect subsidiary of Mars, Incorporated (“**Mars**”), will acquire the entire issued and to be issued ordinary share capital of Hotel Chocolat (the “**Acquisition**”). It is intended that the Acquisition will be implemented by means of a Court-sanctioned scheme of arrangement under Part 26 of the Companies Act.
- Under the terms of the Acquisition, which will be subject to the Conditions and further terms set out in Appendix 1 to this announcement and to the full terms and conditions which will be set out in the Scheme Document, each Hotel Chocolat Shareholder at the Scheme Record Time will be entitled to receive:

**for each Hotel Chocolat Share 375 pence in cash (the “Cash Offer”)**
- The Cash Offer values the entire issued and to be issued share capital of Hotel Chocolat at approximately £534 million on a fully diluted basis.
- The Cash Offer represents a premium of approximately:
  - 169.8 per cent. to Hotel Chocolat’s share price of 139 pence at the close of business on 15 November 2023, being the last Business Day prior to the date of this announcement.
  - 194.2 per cent. to the volume-weighted average price of 127 pence per Hotel Chocolat Share for the 60-day period ended at the close of business on 15

November 2023, being the last Business Day prior to the date of this announcement.

- 144.3 per cent. to the volume-weighted average price of 154 pence per Hotel Chocolat Share for the 12 month period ended at the close of business on 15 November 2023, being the last Business Day prior to the date of this announcement.
- As an alternative to the Cash Offer, eligible Hotel Chocolat Shareholders may elect to receive one unlisted share of Class B stock of Bidco (a “**Rollover Share**”) for each Hotel Chocolat Share (the “**Partial Share Alternative**”), such Rollover Shares to be issued on the terms and pursuant to the mechanism described in paragraphs 13 and 14 and Appendix 4 of this announcement. Eligible Hotel Chocolat Shareholders will be able to elect for the Partial Share Alternative in relation to some or all of their holdings of Hotel Chocolat Shares, subject to any such election being in respect of at least the Minimum Rollover Threshold (as defined in paragraph 2 of this announcement). In aggregate, the maximum number of Rollover Shares available to be issued to eligible Hotel Chocolat Shareholders under the Partial Share Alternative will be limited to the equivalent of 30 per cent. of the Bidco Offer Shares (as defined in paragraph 14 of this announcement). The key terms and conditions of the Partial Share Alternative are summarised in paragraph 13 of this announcement and a more detailed summary of the rights attaching to the Rollover Shares is set out in Appendix 4 to this announcement. The Rollover Shares will not be listed nor transferable (subject to certain limited exceptions). An estimate by Morgan Stanley (as financial adviser to Bidco) of the value of a Rollover Share, together with the assumptions, qualifications and caveats forming the basis of its estimate of value, will be set out in a letter to be included in the Scheme Document.
- If, on or after the date of this announcement and prior to the Effective Date, any dividend and/or other distribution and/or other return of capital or value is announced, declared, made or paid or becomes payable in respect of the Hotel Chocolat Shares, Bidco reserves the right to reduce the consideration due pursuant to the Cash Offer (and, as the case may be, the consideration due under the Partial Share Alternative) under the terms of the Acquisition at such date by an amount up to the amount of such dividend and/or distribution and/or return of capital or value. In such circumstances, Hotel Chocolat Shareholders shall be entitled to retain any such dividend, distribution, or other return of value declared, made or paid.

### **Background to and reasons for the Acquisition**

- Mars has long admired Hotel Chocolat’s impressive credentials as a contemporary, premium brand with a differentiated product offering, world-class product quality and strong direct-to-consumer capabilities through its physical store presence and sophisticated digital commerce platform.
- Mars believes that Hotel Chocolat and Mars are culturally aligned, with shared values of quality, sustainability and purpose among their guiding principles. Mars’ stated purpose is “the world we want tomorrow starts with how we do business today” and it shares the passion and conviction in Hotel Chocolat’s mission, “to make people and nature happy through reinventing chocolate”.

- Mars believes it is well-positioned to support Hotel Chocolat's next growth phase with its international footprint, global supply chain and extensive commercial relationships, which could provide the Hotel Chocolat brand with an enhanced platform for growth in the UK and potentially in new geographies.
- Mars has a strong track record of nurturing entrepreneurial brands, including KIND, Nature's Bakery and Tru Fru. Mars believes that it can support Hotel Chocolat's founders and management team, who it holds in high regard, to generate long-term value for the benefit of all stakeholders, whilst maintaining Hotel Chocolat's brand and supporting its continued delivery of high quality, premium products to consumers.
- Mars considers that the Acquisition would further strengthen its commitment to the UK market (where it has operated since 1932 and today employs c.10k people), bringing a much-loved brand into its portfolio and deepening its relationships with consumers. The UK has been an important market for Mars, and it expects this to be complemented by the acquisition of Hotel Chocolat, with its distinctive capabilities in product development, luxury gifting and immersive brand experiences.
- Mars believes that it is ideally positioned to support Hotel Chocolat's long-term strategic objectives with better access to committed, long-term capital, and to provide Hotel Chocolat's management team and employees with a supportive environment within a like-minded, entrepreneurial, purpose-led, family-owned business.

### **Recommendation**

- The Hotel Chocolat Directors, who have been so advised by Lazard and Liberum as to the financial terms of the Cash Offer, consider the terms of the Cash Offer to be fair and reasonable. In providing their financial advice to the Hotel Chocolat Directors, Lazard and Liberum have each taken into account the commercial assessments of the Hotel Chocolat Directors. Lazard is providing independent financial advice to the Hotel Chocolat Directors for the purposes of Rule 3 of the Code.
- Accordingly, the Hotel Chocolat Directors intend to unanimously recommend Hotel Chocolat Shareholders to vote in favour of the Scheme at the Court Meeting and the Resolutions at the General Meeting (or, in the event that the Acquisition is implemented by way of a Takeover Offer, to accept or procure acceptance of the Takeover Offer) as they have irrevocably undertaken to do in respect of their Hotel Chocolat Shares (representing, in aggregate, approximately 54.2 per cent. of the issued ordinary share capital of Hotel Chocolat as at 15 November 2023, being the last Business Day prior to this announcement).
- For the reasons described below, the Hotel Chocolat Directors are not making any recommendation to holders of Hotel Chocolat Shares in relation to the Partial Share Alternative. In considering the terms of the Partial Share Alternative, Lazard, Liberum and the Hotel Chocolat Directors have identified certain key disadvantages and advantages of electing for the Partial Share Alternative outlined below:

#### *Disadvantages of electing for the Partial Share Alternative*

- The Rollover Shares will be:

- unlisted and will not be admitted to trading on any stock exchange or market for the trading of securities and will therefore be illiquid. Any assessment of the value of the Rollover Shares should therefore take into account an individual shareholder's assessment of an appropriate liquidity discount;
  - subject to a five-year lock-up restriction, during which they can only be transferred in very limited circumstances, and thereafter will be subject to a right of first refusal in favour of Mars Snacking Holdings and certain other restrictions (including, but not limited to, in respect of the identity of the proposed transferee and requirements in respect of compliance with anti-money laundering, anti-bribery and corruption and anti-sanctions checks and receipt of necessary regulatory approvals (if applicable)); and
  - of uncertain value and there can be no assurance that they will be capable of being sold in the future (other than pursuant to the put and call options described in Appendix 4) or that they will be capable of being sold at the value to be estimated by Morgan Stanley in the Scheme Document.
- The amount payable by Mars Snacking Holdings to Rollover Shareholders in respect of any purchase of Rollover Shares on the exercise of any of the put or call options described in Appendix 4 will depend on the future performance of the Hotel Chocolat business under the Bidco Group's ownership. This remains uncertain and could result in the amount received being less than the cash consideration foregone under the Cash Offer.
  - Upon the Effective Date, the Bidco Group will be controlled by Mars Snacking Holdings. Holders of the Rollover Shares, which will not carry any general voting rights at general meetings of Bidco nor the right to receive a copy of or vote on any written resolutions of shareholders of Bidco and will have consent rights only in respect of a very limited number of reserved matters (exercisable only by a supermajority of Rollover Shareholders), will therefore have no influence over decisions made by Bidco in relation to its investment in Hotel Chocolat or in any other business.
  - Individual Rollover Shareholders will have limited control over the date(s) on and value(s) at which they may be able to realise their investment in the Bidco Group and, in particular, only Original Rollover Shareholders holding 5 per cent. or more of the Bidco Shares issued at or around the Effective Date may defer the exercise of their put option rights in any Interim Option Exercise Period.
  - The rights of Rollover Shareholders to participate in future issues of securities by Bidco will be subject to certain exceptions (including those described in paragraph 8 of Appendix 4) which may result in them suffering significant dilution.
  - The percentage ownership of Bidco attributable to Hotel Chocolat Shareholders who elect for the Partial Share Alternative, but do not



subsequently provide the cash funds required to accept their entitlements pursuant to any further issue of securities by Bidco in the period following the Effective Date, would be significantly reduced.

- The Hotel Chocolat Shares are currently admitted to trading on AIM and Hotel Chocolat Shareholders are afforded certain standards and protections, including in respect of disclosure, as a result. Hotel Chocolat Shareholders who receive Rollover Shares (being unlisted securities in a private company) will not be afforded protections commensurate with those that they currently benefit from as shareholders in Hotel Chocolat, including because Bidco intends to rely on an exemption from registration under US securities laws and will therefore not be registering the Rollover Shares with the US Securities and Exchange Commission. Except for the information to be provided to the Rollover Shareholder Representative (but not to other Rollover Shareholders) in connection with the put and call options as described in Appendix 4, neither the Bidco Organisational Documents nor the Bidco Shareholders' Agreement will provide holders of Rollover Shares with information rights.
- Payments in respect of Rollover Shares will not be guaranteed or secured and it is not anticipated that Bidco will declare or pay any distributions on any of the Rollover Shares prior to the end of the Final Option Exercise Period described in Appendix 4.
- Hotel Chocolat Shareholders will have no certainty as to the amount of Rollover Shares they would receive because:
  - the maximum number of Rollover Shares available to Hotel Chocolat Shareholders under the Partial Share Alternative will be limited to the equivalent of 30 per cent. of the Bidco Offer Shares; and
  - to the extent that elections for the Partial Share Alternative cannot be satisfied in full, the number of Rollover Shares to be issued to each eligible Hotel Chocolat Shareholder who has elected for the Partial Share Alternative will be reduced on a pro rata basis, and the consideration for each Hotel Chocolat Share that is not exchanged for Rollover Shares will be paid in cash in accordance with the terms of the Cash Offer.

*Advantages of electing for the Partial Share Alternative*

- The Partial Share Alternative allows eligible Hotel Chocolat Shareholders to invest directly in Bidco, providing continued economic exposure to Hotel Chocolat under private ownership.
- The Partial Share Alternative will entitle eligible Hotel Chocolat Shareholders to sell their Rollover Shares during certain pre-defined option exercise periods pursuant to the put options summarised in Appendix 4 below, which may ultimately result in the cash amount received per Hotel Chocolat Share being more than under the Cash Offer (although this cannot be guaranteed).

- From completion of the Acquisition, the Rollover Shares will rank economically *pari passu* with the investment in Bidco by Mars Snacking Holdings, and will carry a pro rata entitlement to dividends, distributions and returns of capital.
- Lazard and Liberum are unable to advise the Hotel Chocolat Directors as to whether or not the financial terms of the Partial Share Alternative are fair and reasonable. This is because Lazard and Liberum have not had any involvement in the development and validation of any financial projections for Bidco. As a result, Lazard and Liberum are unable to assess any plans Bidco may have for the development of Hotel Chocolat or the Bidco Group to the degree necessary to form an assessment of the value of the Partial Share Alternative. Lazard and Liberum also note the significant and variable impact that the disadvantages and advantages of the Partial Share Alternative may have for individual eligible Hotel Chocolat Shareholders. In terms of the advantages, these include, in particular, the ability to participate in the potential future value creation of the Hotel Chocolat Group. In terms of the disadvantages, these include, in particular, the level of uncertainty in their future value which will depend on the performance of Hotel Chocolat over a number of years which itself will be impacted by the business plan and strategy of the business under Bidco’s control, as well as the terms of the Rollover Shares including the fact that they are illiquid and subject to a five-year lock-up period, the potential dilution that would result if a Hotel Chocolat Shareholder did not fund their pre-emptive entitlement pursuant to any further issue of securities by Bidco in the period following the Effective Date and the fact that the Rollover Shares do not carry voting rights other than on very limited reserved matters.
- Accordingly, the Hotel Chocolat Directors are unable to form an opinion as to whether or not the terms of the Partial Share Alternative are fair and reasonable and are not making any recommendation to eligible Hotel Chocolat Shareholders as to whether or not they should elect for the Partial Share Alternative.
- Hotel Chocolat Shareholders are encouraged to take into account the key advantages and disadvantages outlined above and in paragraph 4 in relation to the Partial Share Alternative, as well as their particular circumstances, when deciding whether to elect for the Partial Share Alternative in respect of all or part of their holding in Hotel Chocolat Shares (subject to any such election being in respect of at least the Minimum Rollover Threshold). Hotel Chocolat Shareholders should also ascertain whether acquiring or holding Rollover Shares is affected by the laws of the relevant jurisdiction in which they reside and consider whether Rollover Shares are a suitable investment in light of their own personal circumstances. Accordingly, Hotel Chocolat Shareholders are strongly recommended to seek their own independent financial, tax and legal advice in light of their own particular circumstances and investment objectives before deciding whether to elect for the Partial Share Alternative. Any decision to elect for the Partial Share Alternative should be based on any such independent financial, tax and legal advice and full consideration of the information in this announcement and the Scheme Document (when published).

### **Background to and reasons for the recommendation**

- Over the last 20 years, Hotel Chocolat has evolved to become one of the UK’s leading premium chocolate brands. Hotel Chocolat is known not only for its high quality “More

Cacao Less Sugar” products, but also for the values of originality, authenticity and ethical behaviour which are at the core of its business. Since the Hotel Chocolat business was founded, innovation has remained at the forefront of what Hotel Chocolat strives for. New products such as the Velvetiser drinking chocolate system have ensured that the business continues to resonate with its customers. Hotel Chocolat manufactures the vast majority of its chocolate products at its UK-based innovation centre in Cambridgeshire and enjoys a direct relationship with its millions of UK customers through its growing network of stores, an online channel and selected resale partners. Areas of international growth for Hotel Chocolat include the US digital subsidiary business, the cocoa agro-tourism Saint Lucian subsidiary business and Hotel Chocolat's minority shareholding in the Japanese brand licence partnership. Since Hotel Chocolat's initial listing on AIM in 2016, Hotel Chocolat's revenues have grown by 124.5 per cent. to approximately £205 million in the 53-week period ended 2 July 2023.

- Hotel Chocolat's disappointing financial results for the 53-week period ended 2 July 2023 reflected a year of intensive re-shaping to deal with the consequences of Hotel Chocolat's previous fast growth. In the first quarter of the current financial year, Hotel Chocolat's revenue growth has benefited from opportunities available through opening more stores in the UK and extending the Hotel Chocolat brand into new product categories. The Hotel Chocolat Directors believe the Hotel Chocolat brand, with its exciting range of products, has potential for substantial growth outside the UK in the years ahead.
- While this growth potential has previously been recognised by the market and reflected in the Hotel Chocolat share price, over the last year or two it has become clear to the Hotel Chocolat Directors that achieving this potential will require substantial investment and time. In particular, the need for, and cost of, the recent reorganisation of Hotel Chocolat's initial expansion into the US and Japan illustrates the scale of the challenge to grow the Hotel Chocolat brand internationally. While the Hotel Chocolat Directors believe that Hotel Chocolat could realise the full potential of the Hotel Chocolat brand on a standalone basis in the UK in the medium term, in order to achieve its overseas growth ambitions in the near to medium term in a way that would capture the full value for Hotel Chocolat Shareholders would require a level of investment that is likely to exceed that available from its own resources.
- Whilst Hotel Chocolat is making good progress implementing a three year plan to re-shape its future business and the Hotel Chocolat Directors consider that the recent share price does not accurately reflect the underlying value and potential of Hotel Chocolat, the Hotel Chocolat Directors nevertheless believe that it is right to recommend Bidco's highly attractive offer for the following reasons:
  - The Cash Offer price at 375 pence per share values the entire issued and to be issued share capital of Hotel Chocolat at approximately £534 million on a fully diluted basis and implies an enterprise value of £570 million and a multiple of approximately 23.7 times Underlying EBITDA for the 53-week period ended 2 July 2023.
  - The Cash Offer provides an opportunity for Hotel Chocolat Shareholders to achieve a substantial premium to the current Hotel Chocolat Share price, a

premium to the 2021 placing price of 355 pence per Hotel Chocolat Share and is well above typical public market offer premiums.

- The Cash Offer price represents a premium of approximately:
  - 169.8 per cent. to Hotel Chocolat's share price of 139 pence at the close of business on 15 November 2023, being the last Business Day prior to the date of this announcement.
  - 194.2 per cent. to the volume-weighted average price of 127 pence per Hotel Chocolat Share for the 60-day period ended at the close of business on 15 November 2023, being the last Business Day prior to the date of this announcement.
  - 144.3 per cent. to the volume-weighted average price of 154 pence per Hotel Chocolat Share for the 12 month period ended at the close of business on 15 November 2023, being the last Business Day prior to the date of this announcement.
- The Hotel Chocolat Directors believe the Cash Offer also appropriately reflects the value of the potential growth of Hotel Chocolat on a standalone basis over the medium term and provides an opportunity for Hotel Chocolat Shareholders to realise their investment in Hotel Chocolat, in cash, at a highly attractive price. The certainty of the Cash Offer should be weighed against the uncertainty of the value which may be delivered through the Partial Share Alternative and the risks inherent in executing successfully on the future strategy of Hotel Chocolat as an independent listed company.
- Notwithstanding the positive management action and encouraging revenue growth resulting from Hotel Chocolat's recent UK store expansion programme, the Hotel Chocolat Directors acknowledge that the challenging macro-economic environment, particularly in the discretionary consumer space, may expose Hotel Chocolat to an element of risk in achieving its credible but ambitious business plan targets.
- If Hotel Chocolat continues as a listed company, it is likely to be difficult in the short to medium term for Hotel Chocolat to raise the significant equity funding required to expand the business internationally in a way that captures more of the potential value for shareholders. Expanding into new territories through an asset and investment light model by way of partners providing funding is likely to result in much of the benefit of such growth being realised by the partners rather than Hotel Chocolat.
- With substantially all of Hotel Chocolat's free cash likely to be required for re-investment into Hotel Chocolat's growth strategy for the foreseeable future, it is likely to be some time before Hotel Chocolat is in a position to be able to pay a significant dividend.
- The Hotel Chocolat Directors believe that Mars would be an excellent steward of the Hotel Chocolat brand. Mars has expressed its excitement about the long-term prospects of the Hotel Chocolat business and has been clear that it intends

to continue to support Hotel Chocolat's business in the UK and to explore opportunities to grow the Hotel Chocolat brand outside the UK. Mars shares similar values to Hotel Chocolat, including in key areas such as quality and sustainability, and has agreed a cash price for Hotel Chocolat that the Hotel Chocolat Directors believe recognises Hotel Chocolat's impressive credentials as a premium chocolate brand and its ethical farming and environmental practices that are considered to be important by many consumers in today's market.

- The Hotel Chocolat Directors also believe that Mars is well positioned to support Hotel Chocolat in its next phase of growth and continue to invest in the business to improve the sustainable long-term value of the Hotel Chocolat business. The Hotel Chocolat Directors believe that the Hotel Chocolat brand would benefit from better access to committed, long-term capital as part of a like-minded, entrepreneurial, purpose-led, family-owned business. The Hotel Chocolat Directors welcome Mars' stated intentions for the broader business, management, employees and business footprint of Hotel Chocolat.
- As a result of all of the above, the Hotel Chocolat Directors believe the Acquisition will allow Hotel Chocolat to achieve growth faster and more sustainably than Hotel Chocolat would be able to achieve alone.
- Accordingly, following careful consideration of the above factors, the Hotel Chocolat Directors intend to unanimously recommend the Cash Offer to Hotel Chocolat Shareholders.

### **Shareholder support**

- Bidco has received commitments and indications of support for the Acquisition from Hotel Chocolat Shareholders in respect of 95,753,759 Hotel Chocolat Shares representing, in aggregate, approximately 69.6 per cent. of the existing issued ordinary share capital of Hotel Chocolat as at 15 November 2023, being the last Business Day prior to this announcement. These commitments and indications comprise irrevocable undertakings in respect of 88,875,376 Hotel Chocolat Shares representing, in aggregate, approximately 64.6 per cent. of the existing issued ordinary share capital of Hotel Chocolat and a non-binding letter of intent in respect of 6,878,383 Hotel Chocolat Shares representing approximately 5.0 per cent. of the existing issued ordinary share capital of Hotel Chocolat, in each case as at 15 November 2023, being the last Business Day prior to this announcement.
- The irrevocable undertakings include irrevocable undertakings from each Founder, a related trust of each Founder and the other Hotel Chocolat Directors who are interested in Hotel Chocolat Shares to vote in favour of the Scheme at the Court Meeting and the Resolutions at the General Meeting (or, in the event that the Acquisition is implemented by way of a Takeover Offer, to accept or procure acceptance of the Takeover Offer) in respect of 74,525,727 Hotel Chocolat Shares owned or controlled by them representing, in aggregate, approximately 54.2 per cent. of the existing issued ordinary share capital of Hotel Chocolat as at 15 November 2023, being the last Business Day prior to this announcement. Each Founder and a related trust of one of the Founders have also undertaken to elect for the Partial Share Alternative in respect of an aggregate of

42,699,969 Hotel Chocolat Shares as described in paragraph 6 and Appendix 3 of this announcement.

- In addition, these commitments and indications include an irrevocable undertaking and a non-binding letter of intent from Phoenix Asset Management Partners Limited (“**Phoenix**”) to vote in favour of the Scheme at the Court Meeting and the Resolutions at the General Meeting (or, in the event that the Acquisition is implemented by way of a Takeover Offer, to accept the Takeover Offer). The Phoenix Irrevocable Undertaking (as defined in paragraph 6) and the non-binding letter of intent are in respect of, in aggregate, all Hotel Chocolat Shares under Phoenix’s investment management control representing, in aggregate, approximately 15.4 per cent. of the existing issued ordinary share capital of Hotel Chocolat as at 15 November 2023, being the last Business Day prior to this announcement.
- Further details of these irrevocable undertakings (including the circumstances in which they may lapse) and the non-binding letter of intent are set out in Appendix 3 to this announcement.

### **Timetable and conditions**

- The Scheme and Acquisition will be subject to the terms and conditions set out in this announcement and to be set out in full in the Scheme Document, including amongst other things the satisfaction or (where applicable) waiver of the Conditions and certain further terms referred to in Appendix 1 to this announcement. In relation to the Scheme, this includes, among others:
  - the approval of the Scheme by a majority in number of, representing not less than 75 per cent. in value of the Hotel Chocolat Shares voted by, Scheme Shareholders present and voting and entitled to vote, either in person or by proxy, at the Court Meeting;
  - the approval of the Resolutions by the requisite majority of Hotel Chocolat Shareholders at the General Meeting; and
  - the sanction of the Scheme by the Court.
- It is expected that the Scheme Document, containing further information about the Acquisition and notices of the Court Meeting and General Meeting, together with the Forms of Proxy and Form of Election, will be sent to Hotel Chocolat Shareholders and (for information only) participants in the Hotel Chocolat Share Schemes within 28 days of this announcement (or such later time as Hotel Chocolat, Bidco and the Panel agree).
- The Scheme is expected to be effective in Q1 2024, subject to the satisfaction or (where applicable) waiver of all relevant conditions, including the Conditions. An expected timetable of key events relating to the Acquisition will be provided in the Scheme Document.
- Commenting on today’s announcement, Angus Thirlwell, Chief Executive Officer of Hotel Chocolat said:

“Hotel Chocolat’s brand destiny is to become a leading premium chocolate brand in major markets through reinventing chocolate for people and nature. In Mars we have

found a true meeting of minds - in strong cultural values, bold strategy and true long-termism.

Our Gentle Farming programme has got off to a promising start and we truly believe it can help make cocoa agriculture right for nature and for people. Joining forces with Mars to achieve an increased positive impact, is a huge attraction for us.

We know our brand resonates with consumers overseas, but operational supply chain challenges have held us back. By partnering with Mars, we can grow our international presence much more quickly using their skills, expertise and capabilities.

The pillars on which we have built the Hotel Chocolat brand – originality, authenticity and ethical trading, is precisely what brought Hotel Chocolat and Mars together and our intention is to strengthen and invest behind these. I’m excited about the future of the business and in Mars we have found an excellent long-term steward of the Hotel Chocolat brand and everything we stand for.”

- Commenting on today’s announcement, Stephen Alexander, Chair of Hotel Chocolat said:

“Hotel Chocolat is a brand with strong long-term prospects and today’s deal will allow it to grow further and faster. Joining forces with Mars will deliver great value through the Cash Offer for Hotel Chocolat shareholders and the combination will create exciting opportunities for Hotel Chocolat employees as part of Mars.”

- Commenting on today’s announcement, Andrew Clarke, Global President of Mars Snacking, said:

“We have long admired the fantastic business that Angus, Peter and the Hotel Chocolat team have created. Hotel Chocolat is a differentiated and much-loved brand, with an impressive product offering and a deep commitment to its values of originality, authenticity and ethical trading. The Mars and Hotel Chocolat businesses are highly complementary, and during the course of our discussions with Hotel Chocolat’s leadership it has also become clear that there is a very strong cultural fit - with purpose at the heart of both organisations, and a shared passion for quality and sustainability.

Mars has a long and proud history in the UK, and today’s announcement further strengthens our commitment to this important market by bringing an exciting brand into our portfolio and deepening our relationship with consumers. Building on the strong foundations that Angus, Peter and their team have established, we are very excited to support Hotel Chocolat’s next phase of growth.

We are confident that Mars will be an excellent long-term home for Hotel Chocolat, providing a like-minded, entrepreneurial and purpose-led environment in which to maximise the potential of the Hotel Chocolat brand which is already so beloved by consumers.”

**This summary should be read in conjunction with, and is subject to, the full text of the following announcement (including its Appendices). The Acquisition will be subject to the Conditions and certain further terms herein and set out in Appendix 1 and to the full terms and conditions to be set out in the Scheme Document. Appendix 2 contains the sources and bases of certain information contained in this summary and the following**

**announcement. Appendix 3 contains details of the irrevocable undertakings and the letter of intent received by Bidco. Appendix 4 contains details of Bidco, the Rollover Shares and eligibility to subscribe for the Rollover Shares. Appendix 5 contains the definitions of certain terms used in this summary and the following announcement.**

The person responsible for arranging the release of this announcement on behalf of Hotel Chocolat is Angus Thirlwell, Chief Executive Officer.

### **Enquiries**

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Freshfields Bruckhaus Deringer LLP is acting as legal adviser to Bidco and Mars in connection with the Acquisition. Herbert Smith Freehills LLP is acting as legal adviser to Hotel Chocolat in connection with the Acquisition.

#### **Further information**

*This announcement is for information purposes and is not intended to and does not constitute, or form part of, an offer, invitation or the solicitation of an offer to purchase, otherwise acquire, subscribe for, sell or otherwise dispose of any securities, or the solicitation of any vote or approval in any jurisdiction, pursuant to the Acquisition or otherwise, nor shall there be any sale, issuance or transfer of securities of Hotel Chocolat in any jurisdiction in contravention of applicable law. The Acquisition will be made solely by means of the Scheme Document (or, if the Acquisition is implemented by way of a Takeover Offer, the Offer Document), which will contain the full terms and conditions of the Acquisition including details of how to vote in respect of the Acquisition. Any vote in respect of the Scheme or other response in relation to the Acquisition should be made only on the basis on the information contained in the Scheme Document (or, if the Acquisition is implemented by way of a Takeover Offer, the Offer Document). Hotel Chocolat and Bidco urge Hotel Chocolat Shareholders to read the Scheme Document when it becomes available because it will contain important information relating to the Acquisition.*

*This announcement is an advertisement and does not constitute a prospectus or prospectus equivalent.*

*Please be aware that addresses, electronic addresses and certain other information provided by Hotel Chocolat Shareholders, persons with information rights and other relevant persons for the receipt of communications from Hotel Chocolat may be provided to Bidco during the offer period as required under Section 4 of Appendix 4 of the Code to comply with Rule 2.11(c).*

*Morgan Stanley, which is authorised by the Prudential Regulation Authority and regulated in the United Kingdom by the Financial Conduct Authority and the Prudential Regulation Authority, is acting exclusively as financial adviser to Bidco and Mars and no one else in connection with the matters contained in this announcement and Morgan Stanley, its affiliates*

*and their respective directors, officers, employees and agents will not regard any other person as their client, nor will they be responsible to anyone other than Bidco and Mars for providing the protections afforded to clients of Morgan Stanley nor for providing advice in connection with the matters contained in this announcement or any other matter referred to herein.*

*Lazard, which is authorised and regulated by the Financial Conduct Authority in the United Kingdom, is acting exclusively as financial adviser and Rule 3 adviser to Hotel Chocolat and no one else in connection with the Acquisition and will not be responsible to anyone other than Hotel Chocolat for providing the protections afforded to clients of Lazard nor for providing advice in relation to the Acquisition or any other matters referred to herein. Neither Lazard nor any of its affiliates owes or accepts any duty, liability or responsibility whatsoever (whether direct or indirect, whether in contract, in tort, under statute or otherwise) to any person who is not a client of Lazard in connection with this announcement, any statement contained herein or otherwise.*

*Liberum, which is authorised and regulated by the Financial Conduct Authority in the United Kingdom, is acting exclusively for Hotel Chocolat and for no one else in connection with the subject matter of this announcement and will not be responsible to anyone other than Hotel Chocolat for providing the protections afforded to its clients or for providing advice in connection with the subject matter of this announcement. Neither Liberum nor any of its affiliates (nor their respective directors, officers, employees or agents) owes or accepts any duty, liability or responsibility whatsoever (whether direct or indirect, whether in contract, in tort, under statute or otherwise) to any person who is not a client of Liberum in connection with the Acquisition, this announcement, any statement contained herein or otherwise. No representation or warranty, express or implied, is made by Liberum as to the contents of this announcement.*

### **Overseas jurisdictions**

*The release, publication or distribution of this announcement in or into jurisdictions other than the UK may be restricted by law and therefore any persons who are subject to the law of any jurisdiction other than the UK should inform themselves about, and observe, any applicable legal or regulatory requirements. In particular the ability of persons who are not resident in the United Kingdom, to vote their Hotel Chocolat Shares with respect to the Scheme at the Court Meeting, or to appoint another person as proxy to vote at the Court Meeting on their behalf, may be affected by the laws of the relevant jurisdictions in which they are located. Any failure to comply with the applicable 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. This announcement has been prepared for the purposes of complying with English law, the AIM Rules and the Code and the 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 of England.*

*Copies of this announcement and formal documentation relating to the Acquisition will not be and must not be, mailed or otherwise forwarded, distributed or sent in, into or from any Restricted Jurisdiction or any jurisdiction where to do so would violate the laws of that jurisdiction and persons receiving such documents (including custodians, nominees and trustees) must not mail or otherwise forward, distribute or send them in or into or from any*

*Restricted Jurisdiction. Doing so may render invalid any related purported vote in respect of the Acquisition. If the Acquisition is implemented by way of 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 within any Restricted Jurisdiction.*

*The availability of the Acquisition (including the Partial Share Alternative) to Hotel Chocolat Shareholders who are not resident in the United Kingdom may be affected by the laws of the relevant jurisdictions in which they are resident. Persons who are not resident in the United Kingdom should inform themselves of, and observe, any applicable requirements.*

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

*The Acquisition shall be subject to the applicable requirements of the Code, the Panel, the London Stock Exchange, the FCA and the AIM Rules.*

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

*The Acquisition is being made to acquire the shares of an English company by means of a scheme of arrangement provided for under English law. 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 Scheme will be subject to disclosure requirements and practices applicable in the UK to schemes of arrangement, which are different from the disclosure requirements of the US tender offer and proxy solicitation rules. The financial information included in this announcement and the Scheme documentation has been or will have been prepared in accordance with accounting standards applicable in the United Kingdom and thus may not be comparable to financial information of US companies or companies whose financial statements are prepared in accordance with generally accepted accounting principles in the US. If Bidco exercises its right to implement the acquisition of the Hotel Chocolat Shares by way of a Takeover Offer, such offer will be made in compliance with applicable US laws and regulations.*

*The receipt of cash pursuant to the Acquisition by a US holder as consideration for the transfer of its Hotel Chocolat Shares pursuant to the Scheme will likely be a taxable transaction for United States federal income tax purposes and under applicable United States state and local, as well as foreign and other, tax laws. Each Hotel Chocolat Shareholder is urged to consult their independent professional adviser immediately regarding the tax consequences of the Acquisition applicable to them.*

*The Rollover Shares issued under the Partial Share Alternative will not be registered under the US Securities Act of 1933 (the “**Securities Act**”). Bidco expects to issue the Rollover Shares in reliance upon the exemption from the registration requirements of the Securities Act provided by Section 3(a)(10) thereof (“**Section 3(a)(10)**”). Section 3(a)(10) exempts securities issued in specified exchange transactions from the registration requirement under the Securities Act*

*where, among other things, the fairness of the terms and conditions of the issuance and exchange of such securities have been approved by a court or governmental authority expressly authorised by law to grant such approval, after a hearing upon the fairness of the terms and conditions of the exchange at which all persons to whom the Rollover Shares are proposed to be issued have the right to appear and receive adequate and timely notice thereof. If Bidco exercises its right to implement the acquisition of the Hotel Chocolat Shares by way of a Takeover Offer, the Rollover Shares will not be offered in the United States except pursuant to an exemption from or in a transaction not subject to registration under the Securities Act.*

*The Rollover Shares that may be issued pursuant to the Acquisition have not been and will not be registered under the Securities Act or under the relevant securities laws of any state or territory or other jurisdiction of the United States and will not be listed on any stock exchange. Neither the US Securities and Exchange Commission nor any US state securities commission has approved or disapproved of the Partial Share Alternative or determined if the Scheme Document is accurate or complete. Any representation to the contrary is a criminal offence.*

*In accordance with normal UK practice and pursuant to Rule 14e-5(b) of the US Exchange Act (to the extent applicable), Bidco or its nominees, or its brokers (acting as agents), may from time to time make certain purchases of, or arrangements to purchase, Hotel Chocolat Shares outside of the US, 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 be made outside of the US and would be in accordance with applicable law, including the US Exchange Act and the Code. These purchases may occur either in the open market at prevailing prices or in private transactions at negotiated prices. Any information about such purchases will be disclosed as required in the UK, 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).*

### **Forward looking statements**

*This announcement (including information incorporated by reference in this announcement), oral statements made regarding the Acquisition, and other information published by Bidco, Mars and Hotel Chocolat contain statements which are, or may be deemed to be, “forward-looking statements”. Forward-looking statements are prospective in nature and are not based on historical facts, but rather on current expectations and projections of the management of Bidco, Mars and Hotel Chocolat about future events, and are therefore subject to risks and uncertainties which could cause actual results to differ materially from the future results expressed or implied by the forward-looking statements. The forward-looking statements contained in this announcement include statements relating to the expected effects of the Acquisition on Bidco, Mars and Hotel Chocolat, the expected timing and scope of the Acquisition and other statements other than historical facts. Often, but not always, forward-looking statements can be identified by the use of forward-looking words such as “plans”, “expects” or “does not expect”, “is expected”, “is subject to”, “budget”, “scheduled”, “estimates”, “forecasts”, “intends”, “goal”, “anticipates” or “does not anticipate”, or “believes”, or variations of such words and phrases or statements that certain actions, events or results “may”, “could”, “should”, “would”, “might” or “will” be taken, occur or be achieved. Although Bidco, Mars and Hotel Chocolat believe that the expectations reflected in such forward-looking statements are reasonable, Bidco, Mars and Hotel Chocolat can give no assurance that such expectations will prove to be correct. By their nature, forward-looking*

*statements involve risk and uncertainty because they relate to events and depend on circumstances that will occur in the future. There are a number of factors that could cause actual results and developments to differ materially from those expressed or implied by such forward-looking statements. Among the factors that could cause actual results to differ materially from those described in the forward-looking statements are changes in the global, political, economic, business, competitive, market and regulatory forces, future exchange and interest rates, changes in tax rates and future business combinations or dispositions, and any epidemic, pandemic or disease outbreak. Other unknown or unpredictable factors could cause actual results to differ materially from those in the forward-looking statements. Such forward-looking statements should therefore be construed in the light of such factors. Neither Bidco, Mars nor Hotel Chocolat, nor any of their respective associates or directors, members, managers, partners, officers 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. You are cautioned not to place any reliance on these forward-looking statements. The forward-looking statements speak only at the date of this announcement. All subsequent oral or written forward-looking statements attributable to Bidco or any member of the Wider Bidco Group or the Hotel Chocolat Group, or any of their respective associates, directors, officers, employees or advisers, are expressly qualified in their entirety by the cautionary statement above. Other than in accordance with their legal or regulatory obligations, neither Bidco, Mars or Hotel Chocolat is under any obligation, and Bidco, Mars and Hotel Chocolat expressly disclaim any intention or obligation, to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.*

#### ***Dealing disclosure requirements***

*Under Rule 8.3(a) of the Code, any person who is interested in 1% 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 pm (London time) on the 10<sup>th</sup> business day following the commencement of the offer period and, if appropriate, by no later than 3.30 pm (London time) on the 10<sup>th</sup> business day 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 Code, any person who is, or becomes, interested in 1% 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 pm (London time) on the business day 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).*

*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 Takeover 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.*

#### ***No profit forecasts, estimates or quantified financial benefits statements***

*No statement in this announcement is intended as a profit forecast, profit estimate or quantified benefits statement for any period and no statement in this announcement should be interpreted to mean that earnings or earnings per share for Bidco, Mars or Hotel Chocolat, as appropriate, for the current or future financial years would necessarily match or exceed the historical published earnings or earnings per share for Bidco, Mars or Hotel Chocolat, as appropriate.*

#### ***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 arithmetic aggregation of figures that precede them.*

#### ***General***

*Bidco reserves the right to elect, with the consent of the Panel and subject to the terms of the Cooperation Agreement, to implement the Acquisition by way of a Takeover Offer as an alternative to the Scheme. If the Acquisition is effected by way of a Takeover Offer, and such offer becomes or is declared unconditional and sufficient acceptances are received, Bidco intends to exercise its rights to apply the provisions of Chapter 3 of Part 28 of the Companies Act so as to acquire compulsorily the remaining Hotel Chocolat Shares in respect of which the Takeover Offer has not been accepted.*

*Investors should be aware that Bidco may purchase Hotel Chocolat Shares otherwise than under any Takeover Offer or the Scheme, including pursuant to privately negotiated purchases.*

*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 or independent financial adviser duly authorised under*

*FSMA if you are resident in the United Kingdom or, if not, from another appropriate authorised independent financial adviser.*

***Rule 2.9 of the Code***

*For the purposes of Rule 2.9 of the Code, Hotel Chocolat confirms that it has in issue 137,597,673 ordinary shares of 0.1 pence each. The ISIN for the shares is GB00BYZC3B04. Hotel Chocolat holds no shares in treasury.*

***Publication on website and hard copies***

*A copy of this announcement and the documents required to be published by Rule 26 of the Code will be made available, subject to certain restrictions relating to persons resident in Restricted Jurisdictions, on Bidco's website at <https://www.mars.com/news-and-stories/press-releases-statements/recommended-acquisition-of-hotel-chocolat-group-plc> and Hotel Chocolat's website at <https://www.hotelchocolat.com/uk/investor-relations-offer.html> by no later than 12 noon (London time) on the Business Day following publication of this announcement. For the avoidance of doubt, the contents of any websites referred to in this announcement are not incorporated into and do not form part of this announcement.*

*Hotel Chocolat Shareholders, persons with information rights and participants in the Hotel Chocolat Share Schemes may request a hard copy of this announcement by contacting Equiniti during business hours on +44 (0)371 384 2030 or by submitting a request in writing to Equiniti at Aspect House, Spencer Road, Lancing, West Sussex, BN99 6DA, United Kingdom. If you have received this announcement in electronic form, copies of this announcement and any document or information incorporated by reference into this document will not be provided unless such a request is made.*

**NOT FOR RELEASE, PUBLICATION OR DISTRIBUTION, IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, IN OR INTO ANY JURISDICTION WHERE TO DO SO WOULD CONSTITUTE A VIOLATION OF THE RELEVANT LAWS OF SUCH JURISDICTION.**

**THIS ANNOUNCEMENT CONTAINS INSIDE INFORMATION  
FOR IMMEDIATE RELEASE**

**16 November 2023**

**RECOMMENDED CASH ACQUISITION  
of  
HOTEL CHOCOLAT GROUP PLC  
by  
HIVE BIDCO, INC.**

**a wholly-owned indirect subsidiary of Mars, Incorporated,**

**to be implemented by means of a scheme of arrangement under Part 26 of the  
Companies Act 2006**

**1. Introduction**

The boards of directors of Hive Bidco, Inc. (“**Bidco**”) and Hotel Chocolat Group plc (“**Hotel Chocolat**”) are pleased to announce that they have reached agreement on the terms of a recommended cash acquisition, pursuant to which Bidco, a wholly-owned indirect subsidiary of Mars, Incorporated (“**Mars**”), will acquire the entire issued and to be issued ordinary share capital of Hotel Chocolat (the “**Acquisition**”).

It is intended that the Acquisition will be implemented by means of a Court-sanctioned scheme of arrangement under Part 26 of the Companies Act.

**2. The Acquisition**

Under the terms of the Acquisition, which will be subject to the Conditions and further terms set out in Appendix 1 to this announcement and to the full terms and conditions which will be set out in the Scheme Document, each Hotel Chocolat Shareholder at the Scheme Record Time will be entitled to receive:

**for each Hotel Chocolat Share            375 pence in cash (the “Cash Offer”)**

The Cash Offer values the entire issued and to be issued share capital of Hotel Chocolat at approximately £534 million on a fully diluted basis.

The Cash Offer represents a premium of approximately:

- (a) 169.8 per cent. to Hotel Chocolat’s share price of 139 pence at the close of business on 15 November 2023, being the last Business Day prior to the date of this announcement.



- (b) 194.2 per cent. to the volume-weighted average price of 127 pence per Hotel Chocolat Share for the 60-day period ended at the close of business on 15 November 2023, being the last Business Day prior to the date of this announcement.
- (c) 144.3 per cent. to the volume-weighted average price of 154 pence per Hotel Chocolat Share for the 12 month period ended at the close of business on 15 November 2023, being the last Business Day prior to the date of this announcement.

#### *Partial Share Alternative*

As an alternative to the Cash Offer, eligible Hotel Chocolat Shareholders may elect to receive one unlisted share of Class B stock of Bidco (a “**Rollover Share**”) for each Hotel Chocolat Share (the “**Partial Share Alternative**”), such Rollover Shares to be issued on the terms and pursuant to the mechanism described in paragraphs 13 and 14 and Appendix 4 of this announcement.

Eligible Hotel Chocolat Shareholders will be able to elect for the Partial Share Alternative in relation to some or all of their holdings of Hotel Chocolat Shares, subject to any such Hotel Chocolat Shareholder electing for the Partial Share Alternative in respect of at least 30 per cent. of the Hotel Chocolat Shares held by them on the “election return date” (further details of which shall be included in the Scheme Document) (the “**Minimum Rollover Threshold**”).

In aggregate, the maximum number of Rollover Shares available to be issued to eligible Hotel Chocolat Shareholders under the Partial Share Alternative will be limited to the equivalent of 30 per cent. of the Bidco Offer Shares (as defined in paragraph 14 below).

The Partial Share Alternative is not being offered, sold or delivered, directly or indirectly, in or into any Restricted Jurisdiction (and so Hotel Chocolat Shareholders in such jurisdictions will not be eligible to elect for the Partial Share Alternative) and individual acceptances of the Partial Share Alternative will only be valid if all regulatory approvals required by a Hotel Chocolat Shareholder to acquire the Rollover Shares have been obtained.

The Rollover Shares will be independently valued and an estimate of the value of the Rollover Shares will be included in the Scheme Document. Further information about the Rollover Shares is set out in paragraphs 13 and 14 and Appendix 4 and will be included in the Scheme Document.

If, on or after the date of this announcement and prior to the Effective Date, any dividend and/or other distribution and/or other return of capital or value is announced, declared, made or paid or becomes payable in respect of the Hotel Chocolat Shares, Bidco reserves the right to reduce the consideration due pursuant to the Cash Offer (and, as the case may be, the consideration due under the Partial Share Alternative) under the terms of the Acquisition at such date by an amount up to the amount of such dividend and/or distribution and/or return of capital or value. In such circumstances,

Hotel Chocolat Shareholders shall be entitled to retain any such dividend, distribution, or other return of value declared, made or paid.

### **3. Background to and reasons for the Acquisition**

Mars has long admired Hotel Chocolat's impressive credentials as a contemporary, premium brand with a differentiated product offering, world-class product quality and strong direct-to-consumer capabilities through its physical store presence and sophisticated digital commerce platform.

Mars believes that Hotel Chocolat and Mars are culturally aligned, with shared values of quality, sustainability and purpose among their guiding principles. Mars' stated purpose is "the world we want tomorrow starts with how we do business today" and it shares the passion and conviction in Hotel Chocolat's mission, "to make people and nature happy through reinventing chocolate".

Mars believes it is well-positioned to support Hotel Chocolat's next growth phase with its international footprint, global supply chain and extensive commercial relationships, which could provide the Hotel Chocolat brand with an enhanced platform for growth in the UK and potentially in new geographies.

Mars has a strong track record of nurturing entrepreneurial brands, including KIND, Nature's Bakery and Tru Fru. Mars believes that it can support Hotel Chocolat's founders and management team, who it holds in high regard, to generate long-term value for the benefit of all stakeholders, whilst maintaining Hotel Chocolat's brand and supporting its continued delivery of high quality, premium products to consumers.

Mars considers that the Acquisition would further strengthen its commitment to the UK market (where it has operated since 1932 and today employs c.10k people), bringing a much-loved brand into its portfolio and deepening its relationships with consumers. The UK has been an important market for Mars, and it expects this to be complemented by the acquisition of Hotel Chocolat, with its distinctive capabilities in product development, luxury gifting and immersive brand experiences.

Mars believes that it is ideally positioned to support Hotel Chocolat's long-term strategic objectives with better access to committed, long-term capital, and to provide Hotel Chocolat's management team and employees with a supportive environment within a like-minded, entrepreneurial, purpose-led, family-owned business.

### **4. Recommendation**

#### ***Acquisition and Cash Offer***

The Hotel Chocolat Directors, who have been so advised by Lazard and Liberum as to the financial terms of the Cash Offer, consider the terms of the Cash Offer to be fair and reasonable. In providing their financial advice to the Hotel Chocolat Directors, Lazard and Liberum have each taken into account the commercial assessments of the Hotel Chocolat Directors. Lazard is providing independent financial advice to the Hotel Chocolat Directors for the purposes of Rule 3 of the Code.

Accordingly, the Hotel Chocolat Directors intend to unanimously recommend Hotel Chocolat Shareholders to vote in favour of the Scheme at the Court Meeting and the Resolutions at the General Meeting (or, in the event that the Acquisition is implemented by way of a Takeover Offer, to accept or procure acceptance of the Takeover Offer) as they have irrevocably undertaken to do in respect of their Hotel Chocolat Shares (representing, in aggregate, approximately 54.2 per cent. of the issued ordinary share capital of Hotel Chocolat as at 15 November 2023, being the last Business Day prior to this announcement).

### ***Partial Share Alternative***

For the reasons described below, the Hotel Chocolat Directors are not making any recommendation to holders of Hotel Chocolat Shares in relation to the Partial Share Alternative. In considering the terms of the Partial Share Alternative, Lazard, Liberum and the Hotel Chocolat Directors have identified certain key disadvantages and advantages of electing for the Partial Share Alternative outlined below:

#### *Disadvantages of electing for the Partial Share Alternative*

- (a) The Rollover Shares will be:
  - (i) unlisted and will not be admitted to trading on any stock exchange or market for the trading of securities and will therefore be illiquid. Any assessment of the value of the Rollover Shares should therefore take into account an individual shareholder's assessment of an appropriate liquidity discount;
  - (ii) subject to a five-year lock-up restriction, during which they can only be transferred in very limited circumstances, and thereafter will be subject to a right of first refusal in favour of Mars Snacking Holdings and certain other restrictions (including, but not limited to, in respect of the identity of the proposed transferee and requirements in respect of compliance with anti-money laundering, anti-bribery and corruption and anti-sanctions checks and receipt of necessary regulatory approvals (if applicable)); and
  - (iii) of uncertain value and there can be no assurance that they will be capable of being sold in the future (other than pursuant to the put and call options described in Appendix 4) or that they will be capable of being sold at the value to be estimated by Morgan Stanley in the Scheme Document.
- (b) The amount payable by Mars Snacking Holdings to Rollover Shareholders in respect of any purchase of Rollover Shares on the exercise of any of the put or call options described in Appendix 4 will depend on the future performance of the Hotel Chocolat business under the Bidco Group's ownership. This remains uncertain and could result in the amount received being less than the cash consideration foregone under the Cash Offer.
- (c) Upon the Effective Date, the Bidco Group will be controlled by Mars Snacking Holdings. Holders of the Rollover Shares, which will not carry any general

voting rights at general meetings of Bidco nor the right to receive a copy of or vote on any written resolutions of shareholders of Bidco and will have consent rights only in respect of a very limited number of reserved matters (exercisable only by a supermajority of Rollover Shareholders), will therefore have no influence over decisions made by Bidco in relation to its investment in Hotel Chocolat or in any other business.

- (d) Individual Rollover Shareholders will have limited control over the date(s) on and value(s) at which they may be able to realise their investment in the Bidco Group and, in particular, only Original Rollover Shareholders holding 5 per cent. or more of the Bidco Shares issued at or around the Effective Date may defer the exercise of their put option rights in any Interim Option Exercise Period.
- (e) The rights of Rollover Shareholders to participate in future issues of securities by Bidco will be subject to certain exceptions (including those described in paragraph 8 of Appendix 4) which may result in them suffering significant dilution.
- (f) The percentage ownership of Bidco attributable to Hotel Chocolat Shareholders who elect for the Partial Share Alternative, but do not subsequently provide the cash funds required to accept their entitlements pursuant to any further issue of securities by Bidco in the period following the Effective Date, would be significantly reduced.
- (g) The Hotel Chocolat Shares are currently admitted to trading on AIM and Hotel Chocolat Shareholders are afforded certain standards and protections, including in respect of disclosure, as a result. Hotel Chocolat Shareholders who receive Rollover Shares (being unlisted securities in a private company) will not be afforded protections commensurate with those that they currently benefit from as shareholders in Hotel Chocolat, including because Bidco intends to rely on an exemption from registration under US securities laws and will therefore not be registering the Rollover Shares with the US Securities and Exchange Commission. Except for the information to be provided to the Rollover Shareholder Representative (but not to other Rollover Shareholders) in connection with the put and call options as described in Appendix 4, neither the Bidco Organisational Documents nor the Bidco Shareholders' Agreement will provide holders of Rollover Shares with information rights.
- (h) Payments in respect of Rollover Shares will not be guaranteed or secured and it is not anticipated that Bidco will declare or pay any distributions on any of the Rollover Shares prior to the end of the Final Option Exercise Period described in Appendix 4.
- (i) Hotel Chocolat Shareholders will have no certainty as to the amount of Rollover Shares they would receive because:
  - (i) the maximum number of Rollover Shares available to Hotel Chocolat Shareholders under the Partial Share Alternative will be limited to the equivalent of 30 per cent. of the Bidco Offer Shares; and

- (ii) to the extent that elections for the Partial Share Alternative cannot be satisfied in full, the number of Rollover Shares to be issued to each eligible Hotel Chocolat Shareholder who has elected for the Partial Share Alternative will be reduced on a pro rata basis, and the consideration for each Hotel Chocolat Share that is not exchanged for Rollover Shares will be paid in cash in accordance with the terms of the Cash Offer.

*Advantages of electing for the Partial Share Alternative*

- (a) The Partial Share Alternative allows eligible Hotel Chocolat Shareholders to invest directly in Bidco, providing continued economic exposure to Hotel Chocolat under private ownership.
- (b) The Partial Share Alternative will entitle eligible Hotel Chocolat Shareholders to sell their Rollover Shares during certain pre-defined option exercise periods pursuant to the put options summarised in Appendix 4 below, which may ultimately result in the cash amount received per Hotel Chocolat Share being more than under the Cash Offer (although this cannot be guaranteed).
- (c) From completion of the Acquisition, the Rollover Shares will rank economically *pari passu* with the investment in Bidco by Mars Snacking Holdings, and will carry a pro rata entitlement to dividends, distributions and returns of capital.

Lazard and Liberum are unable to advise the Hotel Chocolat Directors as to whether or not the financial terms of the Partial Share Alternative are fair and reasonable. This is because Lazard and Liberum have not had any involvement in the development and validation of any financial projections for Bidco. As a result, Lazard and Liberum are unable to assess any plans Bidco may have for the development of Hotel Chocolat or the Bidco Group to the degree necessary to form an assessment of the value of the Partial Share Alternative. Lazard and Liberum also note the significant and variable impact that the disadvantages and advantages of the Partial Share Alternative may have for individual eligible Hotel Chocolat Shareholders. In terms of the advantages, these include, in particular, the ability to participate in the potential future value creation of the Hotel Chocolat Group. In terms of the disadvantages, these include in particular, the level of uncertainty in their future value which will depend on the performance of Hotel Chocolat over a number of years which itself will be impacted by the business plan and strategy of the business under Bidco's control, as well as the terms of the Rollover Shares including the fact that they are illiquid and subject to a five-year lock-up period, the potential dilution that would result if a Hotel Chocolat Shareholder did not fund their pre-emptive entitlement pursuant to any further issue of securities by Bidco in the period following the Effective Date and the fact that the Rollover Shares do not carry voting rights other than on very limited reserved matters.

Accordingly, the Hotel Chocolat Directors are unable to form an opinion as to whether or not the terms of the Partial Share Alternative are fair and reasonable and are not making any recommendation to eligible Hotel Chocolat Shareholders as to whether or not they should elect for the Partial Share Alternative.

Hotel Chocolat Shareholders are encouraged to take into account the key advantages and disadvantages outlined above and in paragraph 4 in relation to the Partial Share Alternative, as well as their particular circumstances, when deciding whether to elect for the Partial Share Alternative in respect of all or part of their holding in Hotel Chocolat Shares (subject to any such election being in respect of at least the Minimum Rollover Threshold). Hotel Chocolat Shareholders should also ascertain whether acquiring or holding Rollover Shares is affected by the laws of the relevant jurisdiction in which they reside and consider whether Rollover Shares are a suitable investment in light of their own personal circumstances. Accordingly, Hotel Chocolat Shareholders are strongly recommended to seek their own independent financial, tax and legal advice in light of their own particular circumstances and investment objectives before deciding whether to elect for the Partial Share Alternative. Any decision to elect for the Partial Share Alternative should be based on any such independent financial, tax and legal advice and full consideration of the information in this announcement and the Scheme Document (when published).

Further details of the Partial Share Alternative are set out in paragraphs 13 to 15 (inclusive) and Appendix 4 of this announcement.

## **5. Background to and reasons for the recommendation**

Over the last 20 years, Hotel Chocolat has evolved to become one of the UK's leading premium chocolate brands. Hotel Chocolat is known not only for its high quality "More Cacao Less Sugar" products, but also for the values of originality, authenticity and ethical behaviour which are at the core of its business. Since the Hotel Chocolat business was founded, innovation has remained at the forefront of what Hotel Chocolat strives for. New products such as the Velvetiser drinking chocolate system have ensured that the business continues to resonate with its customers. Hotel Chocolat manufactures the vast majority of its chocolate products at its UK-based innovation centre in Cambridgeshire and enjoys a direct relationship with its millions of UK customers through its growing network of stores, an online channel and selected resale partners. Areas of international growth for Hotel Chocolat include the US digital subsidiary business, the cocoa agro-tourism Saint Lucian subsidiary business and Hotel Chocolat's minority shareholding in the Japanese brand licence partnership. Since Hotel Chocolat's initial listing on AIM in 2016, Hotel Chocolat's revenues have grown by 124.5 per cent. to approximately £205 million in the 53-week period ended 2 July 2023.

Hotel Chocolat's disappointing financial results for the 53-week period ended 2 July 2023 reflected a year of intensive re-shaping to deal with the consequences of Hotel Chocolat's previous fast growth. In the first quarter of the current financial year, Hotel Chocolat's revenue growth has benefited from opportunities available through opening more stores in the UK and extending the Hotel Chocolat brand into new product categories. The Hotel Chocolat Directors believe the Hotel Chocolat brand, with its exciting range of products, has potential for substantial growth outside the UK in the years ahead.

While this growth potential has previously been recognised by the market and reflected in the Hotel Chocolat share price, over the last year or two it has become clear to the Hotel Chocolat Directors that achieving this potential will require substantial

investment and time. In particular, the need for, and cost of, the recent reorganisation of Hotel Chocolat's initial expansion into the US and Japan illustrates the scale of the challenge to grow the Hotel Chocolat brand internationally. While the Hotel Chocolat Directors believe that Hotel Chocolat could realise the full potential of the Hotel Chocolat brand on a standalone basis in the UK in the medium term, in order to achieve its overseas growth ambitions in the near to medium term in a way that would capture the full value for Hotel Chocolat Shareholders would require a level of investment that is likely to exceed that available from its own resources.

Whilst Hotel Chocolat is making good progress implementing a three year plan to re-shape its future business and the Hotel Chocolat Directors consider that the recent share price does not accurately reflect the underlying value and potential of Hotel Chocolat, the Hotel Chocolat Directors nevertheless believe that it is right to recommend Bidco's highly attractive offer for the following reasons:

- The Cash Offer price at 375 pence per share values the entire issued and to be issued share capital of Hotel Chocolat at approximately £534 million on a fully diluted basis and implies an enterprise value of £570 million and a multiple of approximately 23.7 times Underlying EBITDA for the 53-week period ended 2 July 2023.
- The Cash Offer provides an opportunity for Hotel Chocolat Shareholders to achieve a substantial premium to the current Hotel Chocolat Share price, a premium to the 2021 placing price of 355 pence per Hotel Chocolat Share and is well above typical public market offer premiums.
- The Cash Offer price represents a premium of approximately:
  - 169.8 per cent. to Hotel Chocolat's share price of 139 pence at the close of business on 15 November 2023, being the last Business Day prior to the date of this announcement.
  - 194.2 per cent. to the volume-weighted average price of 127 pence per Hotel Chocolat Share for the 60-day period ended at the close of business on 15 November 2023, being the last Business Day prior to the date of this announcement.
  - 144.3 per cent. to the volume-weighted average price of 154 pence per Hotel Chocolat Share for the 12 month period ended at the close of business on 15 November 2023, being the last Business Day prior to the date of this announcement.
- The Hotel Chocolat Directors believe the Cash Offer also appropriately reflects the value of the potential growth of Hotel Chocolat on a standalone basis over the medium term and provides an opportunity for Hotel Chocolat Shareholders to realise their investment in Hotel Chocolat, in cash, at a highly attractive price. The certainty of the Cash Offer should be weighed against the uncertainty of the value which may be delivered through the Partial Share Alternative and the risks inherent in executing successfully on the future strategy of Hotel Chocolat as an independent listed company.

- Notwithstanding the positive management action and encouraging revenue growth resulting from Hotel Chocolat's recent UK store expansion programme, the Hotel Chocolat Directors acknowledge that the challenging macro-economic environment, particularly in the discretionary consumer space, may expose Hotel Chocolat to an element of risk in achieving its credible but ambitious business plan targets.
- If Hotel Chocolat continues as a listed company, it is likely to be difficult in the short to medium term for Hotel Chocolat to raise the significant equity funding required to expand the business internationally in a way that captures more of the potential value for shareholders. Expanding into new territories through an asset and investment light model by way of partners providing funding is likely to result in much of the benefit of such growth being realised by the partners rather than Hotel Chocolat.
- With substantially all of Hotel Chocolat's free cash likely to be required for re-investment into Hotel Chocolat's growth strategy for the foreseeable future, it is likely to be some time before Hotel Chocolat is in a position to be able to pay a significant dividend.
- The Hotel Chocolat Directors believe that Mars would be an excellent steward of the Hotel Chocolat brand. Mars has expressed its excitement about the long-term prospects of the Hotel Chocolat business and has been clear that it intends to continue to support Hotel Chocolat's business in the UK and to explore opportunities to grow the Hotel Chocolat brand outside the UK. Mars shares similar values to Hotel Chocolat, including in key areas such as quality and sustainability, and has agreed a cash price for Hotel Chocolat that the Hotel Chocolat Directors believe recognises Hotel Chocolat's impressive credentials as a premium chocolate brand and its ethical farming and environmental practices that are considered to be important by many consumers in today's market.
- The Hotel Chocolat Directors also believe that Mars is well positioned to support Hotel Chocolat in its next phase of growth and continue to invest in the business to improve the sustainable long-term value of the Hotel Chocolat business. The Hotel Chocolat Directors believe that the Hotel Chocolat brand would benefit from better access to committed, long-term capital as part of a like-minded, entrepreneurial, purpose-led, family-owned business. The Hotel Chocolat Directors welcome Mars' stated intentions for the broader business, management, employees and business footprint of Hotel Chocolat.
- As a result of all of the above, the Hotel Chocolat Directors believe the Acquisition will allow Hotel Chocolat to achieve growth faster and more sustainably than Hotel Chocolat would be able to achieve alone.
- Accordingly, following careful consideration of the above factors, the Hotel Chocolat Directors intend to unanimously recommend the Cash Offer to Hotel Chocolat Shareholders.



## 6. Irrevocable undertakings and letter of intent

Bidco has received commitments and indications of support for the Acquisition from Hotel Chocolat Shareholders in respect of 95,753,759 Hotel Chocolat Shares representing, in aggregate, approximately 69.6 per cent. of the existing issued ordinary share capital of Hotel Chocolat as at 15 November 2023, being the last Business Day prior to this announcement.

### *Founders*

Bidco has received irrevocable undertakings from each Founder (the “**Founder Irrevocable Undertakings**”) and from a related trust of each Founder (the “**Family Trusts**”) (the “**Family Trust Irrevocable Undertakings**”) to vote in favour of the Scheme at the Court Meeting and the Resolutions at the General Meeting (or, if the Acquisition is subsequently structured as a Takeover Offer, to accept, or procure the acceptance of, the Takeover Offer).

The Founder Irrevocable Undertakings are in respect of the entire holdings owned or controlled by the Founders amounting to 63,911,314 Hotel Chocolat Shares representing, in aggregate, approximately 46.4 per cent. of the existing issued ordinary share capital of Hotel Chocolat as at 15 November 2023, being the last Business Day prior to this announcement.

The Family Trust Irrevocable Undertakings are in respect of the entire holdings owned or controlled by the Family Trusts amounting to 10,600,000 Hotel Chocolat Shares representing, in aggregate, approximately 7.7 per cent. of the existing issued ordinary share capital of Hotel Chocolat as at 15 November 2023, being the last Business Day prior to this announcement.

Pursuant to the Founder Irrevocable Undertakings and the Family Trust Irrevocable Undertaking in respect of the Thirlwell Family Trust, the Founders and the Thirlwell Family Trust have also irrevocably undertaken to elect for the Partial Share Alternative in respect of:

- Angus Thirlwell: 24,473,247 Hotel Chocolat Shares, representing approximately 17.2 per cent. of the fully diluted ordinary share capital of Hotel Chocolat and approximately 76.6 per cent. of his existing holding in Hotel Chocolat;
- Peter Harris: 14,233,323 Hotel Chocolat Shares, representing approximately 10.0 per cent. of the fully diluted ordinary share capital of Hotel Chocolat and approximately 44.5 per cent. of his existing holding in Hotel Chocolat;
- Thirlwell Family Trust: 3,993,399 Hotel Chocolat Shares, representing approximately 2.8 per cent. of the fully diluted ordinary share capital of Hotel Chocolat and approximately 75.3 per cent. of the trust’s existing holding in Hotel Chocolat.

The Founder Irrevocable Undertakings also extend to any Hotel Chocolat Shares acquired by a Founder as a result of the vesting of awards or the exercise of options under the Hotel Chocolat Share Schemes.

The Founder Irrevocable Undertakings and the Family Trust Irrevocable Undertakings will remain binding in the event that a higher competing offer is made for Hotel Chocolat and will cease to be binding only if the Scheme lapses or is withdrawn.

#### *Other Hotel Chocolat Directors*

In addition to the Founder Irrevocable Undertakings, Bidco has received irrevocable undertakings from all of the other Hotel Chocolat Directors who are interested in Hotel Chocolat Shares to vote (or procure the voting) in favour of the Scheme at the Court Meeting and the Resolutions at the General Meeting (or, in the event that the Acquisition is implemented by way of the Takeover Offer, to accept, or procure the acceptance of, the Takeover Offer) in respect of 14,413 Hotel Chocolat Shares, representing, in aggregate, approximately 0.01 per cent. of the existing issued ordinary share capital as at 15 November 2023, being the last Business Day prior to this announcement, and the entire holdings of such directors.

These irrevocable undertakings from the Hotel Chocolat Directors will cease to be binding only if the Scheme lapses or is withdrawn, and they remain binding in the event that a higher competing offer for Hotel Chocolat is made.

#### *Other Hotel Chocolat Shareholders*

Phoenix has committed and/or indicated its support for the Acquisition in respect of all Hotel Chocolat Shares under its investment management control representing, in aggregate, approximately 15.4 per cent. of the existing issued ordinary share capital of Hotel Chocolat as at 15 November 2023, being the last Business Day prior to this announcement. This comprises: (i) an irrevocable undertaking from Phoenix to vote (or procure the voting) in favour of the Scheme at the Court Meeting and the Resolutions at the General Meeting (or, in the event that the Acquisition is implemented by way of the Takeover Offer, to accept, or procure the acceptance of, the Takeover Offer) in respect of 14,349,649 Hotel Chocolat Shares representing approximately 10.4 per cent. of the existing issued ordinary share capital of Hotel Chocolat (the “**Phoenix Irrevocable Undertaking**”); and (ii) a non-binding letter of intent from Phoenix to vote (or procure the voting) in favour of the Scheme at the Court Meeting and the Resolutions at the General Meeting (or, in the event that the Acquisition is implemented by way of the Takeover Offer, to accept the Takeover Offer) in respect of 6,878,383 Hotel Chocolat Shares representing approximately 5.0 per cent. of the existing issued ordinary share capital of Hotel Chocolat, in each case as at 15 November 2023, being the last Business Day prior to this announcement.

The Phoenix Irrevocable Undertaking will remain binding in the event that a higher competing offer for Hotel Chocolat is made and will cease to be binding only if the Scheme lapses or is withdrawn. Pursuant to the Phoenix Irrevocable Undertaking, Phoenix has also irrevocably undertaken not to elect for the Partial Share Alternative

in respect of the Hotel Chocolat Shares which are subject to the Phoenix Irrevocable Undertaking.

Further details of these irrevocable undertakings (including the circumstances in which they may lapse) and the letter of intent are set out in Appendix 3 to this announcement.

## **7. Information relating to Bidco and Mars**

### **Bidco**

Bidco is a corporation incorporated under the laws of the State of Delaware in the United States of America. Bidco is indirectly wholly owned by Mars and was formed for the purpose of implementing the Acquisition. Bidco has not traded or entered into any obligations other than in connection with the Acquisition.

### **Mars**

Mars is a leading global manufacturer of chocolate, chewing gum, mints, fruity confections, and other snacks. It makes products that inspire moments of everyday happiness for millions, including iconic brands like M&Ms, Snickers, Orbit, Extra, Kind, and Skittles that are enjoyed in more than 180 countries.

Today, its UK business employs over 1,600 people across four UK sites in Slough, Plymouth, Maidenhead and London, manufacturing much-loved brands including Mars, Snickers, Galaxy, and Maltesers.

Globally, its 34,000 Mars Snacking Associates are working hard to improve the way Mars sources, makes and markets its products, so its consumers can enjoy them even more. This includes an industry-leading commitment to invest \$1 billion to build a new cocoa supply chain model centered on smallholder farmers. For four decades, Mars has worked in collaboration with others toward a goal of sustainable cocoa production. Cocoa is an integral ingredient in Mars' beloved chocolate products, and Mars believes a sustainable cocoa sector is essential to ensure Mars can continue to provide chocolate for future generations of chocolate lovers. Protecting children and empowering women and communities are pivotal to a thriving cocoa supply chain. Mars' Strategic Approach to Protecting Children in Cocoa Farming Communities sets out how it identifies, prevents, and mitigates human rights issues. Additionally, Mars has committed to achieving a deforestation- and conversion-free supply chain for 100% of the cocoa it sources by 2025 and net zero greenhouse gas emissions across its full value chain by 2050.

Mars is driven by the belief that the world we want tomorrow starts with how we do business today. As a global, family-owned business, Mars is transforming, innovating, and evolving to make a positive impact on the world. Across its diverse and expanding portfolio of quality snacking, food, and pet care products and services, Mars employs 140,000+ dedicated Associates. With more than \$47 billion in annual sales, Mars produces some of the world's best-loved brands including Ben's Original™, CESAR®, Cocoavia®, DOVE®, EXTRA®, KIND®, M&M's®, SNICKERS®, PEDIGREE®, ROYAL CANIN®, and WHISKAS®. We are creating A Better World for Pets through

our global network of pet hospitals and diagnostic services – including AniCura, BANFIELD™, BLUEPEARL™, Linnaeus and VCA™.

## **8. Information relating to Hotel Chocolat**

Hotel Chocolat is a premium British chocolate maker with a strong and distinctive direct to consumer brand. The business was founded in 1993 by Angus Thirlwell and Peter Harris, who remain directors of Hotel Chocolat, and has traded under the Hotel Chocolat brand since 2003. Hotel Chocolat manufactures premium chocolate and cocoa-related products and sells its products online, through a network of stores in the UK and abroad, and through selected wholesale partners. Hotel Chocolat has 131 stores in the UK, as well as cafés, restaurants, outlets, factory stores, and an eco-hotel on its working cacao farm in St Lucia. Hotel Chocolat also has 21 stores in Japan, operated through a brand licencing and supply agreement with a local partner. Through this integrated model, Hotel Chocolat is involved in each stage of chocolate, from working with partner farmers, to designing and innovating new products, to making, distributing and engaging customers through its own direct channels.

## **9. Intentions of Mars**

As described in paragraph 3 above, Mars believes that Hotel Chocolat would be better suited to developing its business under private ownership as part of the Bidco Group, with better access to the committed, long-term capital required to deliver Hotel Chocolat's growth ambitions and without the costs and constraints associated with its current public status. Mars is confident that the Hotel Chocolat Group would benefit from being part of a like-minded, entrepreneurial, purpose-led, family-owned group of businesses with extensive international expertise, infrastructure and relationships.

Following the Effective Date, Mars intends to maintain Hotel Chocolat's brand and to support its continued delivery of high quality, premium products to consumers through both physical and digital routes to market.

Prior to this announcement and consistent with market practice, Mars has been granted access to certain Hotel Chocolat information and to Hotel Chocolat's senior management for the purposes of confirmatory due diligence. However, because of applicable regulatory controls and the constraints of a public offer process, Mars has not yet had access to sufficiently detailed information to formulate detailed plans or intentions regarding the impact of the Acquisition on the Hotel Chocolat Group.

Following the Effective Date, Mars intends to work with Hotel Chocolat's management to undertake a detailed evaluation of the Hotel Chocolat Group and its operations in order to determine how its short and long-term strategic objectives can best be

delivered. Mars expects that this evaluation will be undertaken within approximately 12 months from the Effective Date.

Whilst the parameters of the evaluation have not yet been finalised, it is expected to include the following areas:

- evaluating in more detail Hotel Chocolat's existing organisational structure, strategy, and marketing, supply chain and procurement, development and delivery capabilities;
- considering how best to position the business and assessing potential opportunities that may support Hotel Chocolat's growth ambitions (including, where appropriate, considering opportunities for expansion in new markets in complementary new geographies); and
- assessing the opportunities to enhance the efficiency of business processes and structures of the Hotel Chocolat Group.

The outcomes of the review could include investment in people and assets to grow the business sustainably over the long-term, as well as efficiency in operations to ensure that Hotel Chocolat is operating in line with industry best practice and operational and commercial enhancements drawing on Mars' expertise and capabilities.

### ***Employees and management***

Mars attaches great importance and value to the skills, experience and commitment of the Hotel Chocolat Group's management and employees and recognises that the management and employees of the Hotel Chocolat Group will continue to be an important factor in maximising the success and growth of the business going forward.

Mars expects the Hotel Chocolat Group's management and employees to continue to contribute to the success of the Hotel Chocolat Group following the Effective Date and anticipates that they will benefit from greater opportunities as a result of the Acquisition. As part of this, Mars intends that Angus Thirlwell will continue as Chief Executive Officer of the Hotel Chocolat business following the Effective Date. Mars understands that Peter Harris intends to retire following the Effective Date, but expects that he will remain with the Hotel Chocolat business for a handover period, in a consulting role to support his successor.

Except as described below, Mars does not envisage making any material reduction to Hotel Chocolat's overall headcount or to the balance of skills and functions of the management and employees of the Hotel Chocolat Group, including employees engaged in Hotel Chocolat's existing retail stores and manufacturing, distribution and packing facilities in the UK (other than in the ordinary course of business).

However, once Hotel Chocolat ceases to be a listed company and becomes part of the Mars family of companies, a limited number of back-office and listed company functions may be reduced in scope or become unnecessary. Given that some of these functions are outsourced or involve very few employees, the number of employment roles within the Hotel Chocolat Group potentially affected is likely to be small. Further

details of any reductions or changes will be considered as part of Mars' detailed evaluation described above. To the extent that Mars proceeds with any such reductions or changes, it intends to consult with relevant Hotel Chocolat employees and employee representatives as required by applicable law.

Mars expects that the members of the board of directors of Hotel Chocolat Group plc will resign from office as directors of Hotel Chocolat Group plc with effect from the Effective Date.

### ***Existing employment rights and pensions***

Mars intends to safeguard the existing contractual and statutory employment and pensions rights of the management and the employees of the Hotel Chocolat Group in accordance with applicable law and does not intend to make any material change to the conditions of employment of the management and employees of the Hotel Chocolat Group.

Hotel Chocolat does not operate or contribute to any defined benefit pension schemes in respect of its management and employees. It does, however, contribute to a defined contribution pension plan. Mars does not intend to make any material changes to Hotel Chocolat's existing employer pension contribution arrangements, the accrual of benefits for existing members or the rights of admission of new members.

### ***Management incentivisation arrangements***

Mars intends to put in place incentivisation arrangements for certain members of the Hotel Chocolat Group's management following the Effective Date and has confirmed that intention orally to Hotel Chocolat. Mars has not entered into, and has not held any discussions on the terms, content, scope, or form of its proposals in relation to any such incentivisation arrangements. Any discussions with Hotel Chocolat's management about the terms, content, scope or form of such incentivisation arrangements will not take place until after the Effective Date.

### ***Headquarters, locations and fixed assets***

Mars admires Hotel Chocolat's strong brand appeal and its commitment to the UK market. As a result, Mars intends to maintain and continue to support Hotel Chocolat's business in the UK after the Effective Date.

Mars does not intend the Acquisition to result in a material reduction in the retail or manufacturing footprint of Hotel Chocolat in the United Kingdom or a redeployment of the fixed assets of Hotel Chocolat. In particular:

- Mars intends to continue to invest in the Hotel Chocolat Group's UK store footprint (including further store openings) as an important component of its growth story. Hotel Chocolat regularly evaluates its portfolio of stores (including plans for further store openings) in the ordinary course and Mars intends to continue to do the same following the Effective Date in the ordinary course and as part of the detailed evaluation described above.

- Mars intends to retain Hotel Chocolat's: factory space in Huntingdon, UK; distribution and packing centres in Northampton, UK and in St Neots, UK; design space in London, UK; and Rabot Estate (including the Rabot Hotel) in St Lucia.
- Mars intends to maintain Hotel Chocolat's UK headquarters in Royston, UK. The global headquarters of Mars' Snacking business (of which Bidco will be part) are expected to remain in Chicago, Illinois, USA.

### ***Research and development***

Mars understands the importance of research and development to Hotel Chocolat's high-quality product ranges and continued new product development. Mars therefore intends to maintain the research and development functions of Hotel Chocolat, subject to reviewing such functions in further detail as part of the detailed evaluation described above in order to evaluate opportunities for integrating and enhancing the capabilities of that function within Mars following the Effective Date.

### ***Sustainability***

Mars admires Hotel Chocolat's commitment to sustainability across its business as highlighted by its existing environmental, carbon and packaging targets and investment in sustainable farming and supply chain initiatives. Mars considers Hotel Chocolat's stated focus on sustainability to be an important area of cultural alignment with Mars' business, and Mars intends to continue to support the Hotel Chocolat business in pursuing sustainability initiatives following the Effective Date.

### ***Trading facilities***

Hotel Chocolat Shares are currently traded on AIM and, as set out in paragraph 17 of this announcement, it is intended that a request will be made to the London Stock Exchange to cancel trading in Hotel Chocolat's Shares on AIM, with effect shortly following the Effective Date. As stated in paragraph 17 of this announcement, dealings in Hotel Chocolat Shares will be suspended shortly prior to the Effective Date and thereafter there will be no trading facilities in relation to Hotel Chocolat Shares from that time.

No statement in this paragraph 9 constitutes a post-offer undertaking for the purposes of Rule 19.5 of the Code.

## **10. Financing**

The cash consideration payable by Bidco to Hotel Chocolat Shareholders under the terms of the Acquisition is expected to be financed by existing cash resources of Mars or its affiliates.

Notwithstanding the above, on 16 November 2023, in order to enable Morgan Stanley to give the confirmation referred to in Rule 2.7(d) of the Code, Mars and JPMorgan Chase Bank, N.A. entered into the Acquisition Facility Agreement, pursuant to which an up to £375,000,000 term facility is available to Mars to be drawn to finance the cash

consideration payable pursuant to the Acquisition (and to finance fees, costs and expenses in connection with the Acquisition). To the extent the Acquisition is not funded by existing cash resources of Mars or its affiliates, the Acquisition Facility Agreement will be drawn down and Mars has agreed to use the funds received under the Acquisition Facility Agreement to the extent necessary to fund (directly or indirectly) Bidco with the cash consideration payable by Bidco to Hotel Chocolat Shareholders under the terms of the Acquisition.

Morgan Stanley, in its capacity as financial adviser to Bidco and Mars, confirms that it is satisfied that sufficient resources are available to Bidco to satisfy in full the cash consideration payable to Hotel Chocolat Shareholders under the terms of the Acquisition.

Further information on the financing of the Acquisition will be set out in the Scheme Document.

#### **11. Hotel Chocolat Share Schemes**

Participants in the Hotel Chocolat Share Schemes will be contacted regarding the effect of the Acquisition on their rights and appropriate proposals will be made to such participants in due course. Details of these proposals will be set out in the Scheme Document.

#### **12. Offer-related arrangements**

##### *Confidentiality Agreement*

Mars and Hotel Chocolat have entered into a confidentiality agreement dated 16 October 2023 pursuant to which each of Mars and Hotel Chocolat has undertaken, amongst other things, to: (a) keep confidential information relating to the Acquisition and the other party and not to disclose it to third parties (other than certain permitted parties) unless required by law or regulation; and (b) use the confidential information only in connection with considering, evaluating, negotiating, implementing or advising on the potential Acquisition. These confidentiality obligations remain in force until two years from the date of the Confidentiality Agreement. The agreement also contains provisions pursuant to which each party has agreed not to solicit certain employees of the other party, subject to customary carve-outs, for a period of 12 months.

##### *Cooperation Agreement*

Bidco and Hotel Chocolat have entered into a cooperation agreement dated 16 November 2023, pursuant to which, among other things, Bidco and Hotel Chocolat have each agreed to certain undertakings to co-operate and provide each other with reasonable information, assistance and access in relation to any filings, submissions and notifications to be made in relation to regulatory clearances and authorisations.

The Cooperation Agreement records the parties' intentions to implement the Acquisition by way of Scheme, subject to the ability of Bidco to implement the



Acquisition by way of a Takeover Offer in certain circumstances set out in the Cooperation Agreement and with the consent of the Panel.

The Cooperation Agreement will be capable of termination by either party in certain circumstances, including if the Scheme does not become Effective by the Long-Stop Date, a competing transaction completes, becomes effective or is declared or becomes unconditional, any Condition has been invoked by Bidco (in circumstances where invocation of the relevant Condition is permitted by the Panel) prior to the Long-Stop Date or if the Acquisition is withdrawn or lapses in accordance with its terms prior to the Long-Stop Date.

In addition, Bidco may terminate the Cooperation Agreement on written notice to Hotel Chocolat in certain circumstances, including where the Hotel Chocolat Directors have publicly withdrawn, adversely qualified, adversely modified or failed to reaffirm or re-issue (when reasonably requested by Bidco to do so) their unanimous recommendation that Hotel Chocolat Shareholders vote in favour of the Scheme or a competing transaction is recommended by the Hotel Chocolat Directors.

Pursuant to the terms of the Cooperation Agreement, Bidco has undertaken that it will deliver a notice in writing to Hotel Chocolat on the Business Day prior to the Scheme Court Hearing confirming either: (i) the satisfaction or waiver of all Conditions (other than Condition 2(c)); or (ii) if permitted by the Panel, that it intends to invoke one or more Conditions.

The Cooperation Agreement also contains provisions that will apply in respect of the Hotel Chocolat Share Schemes and certain other employee incentive arrangements.

#### *Clean Team Agreement*

Mars and Hotel Chocolat have entered into a due diligence clean team agreement dated 24 October 2023, which sets out how any confidential information that is commercially sensitive can be disclosed, used or shared for the purposes of due diligence, integration planning and regulatory analysis and any associated clearance processes. Such commercially sensitive information must only be made available to the party receiving information through designated persons removed from day-to-day commercial or strategic operations and decisions and external professional advisers. The findings of such designated persons and external advisers may only be relayed to other employees, officers and directors of the receiving party in specified circumstances and subject to certain restrictions.

#### *Confidentiality and Joint Defence Agreement*

Mars, Hotel Chocolat and their respective legal advisers have entered into a Confidentiality and Joint Defence Agreement dated 25 October 2023, the purpose of which is to ensure that the exchange and/or disclosure of certain materials relating to the parties only takes place between their respective external legal advisers and external experts, and does not diminish in any way the confidentiality of such materials and does not result in a waiver of privilege, right or immunity that might otherwise be available.

### 13. Partial Share Alternative

Under the Partial Share Alternative, eligible Hotel Chocolat Shareholders may elect, in respect of some or all of their Hotel Chocolat Shares (subject to any such election being in respect of at least the Minimum Rollover Threshold), to receive, in lieu of the Cash Offer to which they are otherwise entitled:

**for each Hotel Chocolat Share:   1 Rollover Share**

In aggregate, the maximum number of Rollover Shares available to be issued to eligible Hotel Chocolat Shareholders under the Partial Share Alternative will be limited to the equivalent of 30 per cent. of the Bidco Offer Shares (as defined in paragraph 14 below) (the “**Partial Share Alternative Maximum**”). Assuming the Founders and the Thirlwell Family Trust elect for the Partial Share Alternative in the proportions in which each of them has undertaken to do pursuant to the Founder Irrevocable Undertakings and the Family Trust Irrevocable Undertaking for the Thirlwell Family Trust, it is expected that Partial Share Alternative Maximum will be met.

If elections are validly received from eligible Hotel Chocolat Shareholders in respect of a number of Hotel Chocolat Shares that would require the issue of Rollover Shares exceeding the Partial Share Alternative Maximum, such elections will be unable to be satisfied in full. In these circumstances the number of Rollover Shares to be issued to each Hotel Chocolat Shareholder who has validly elected for the Partial Share Alternative will be reduced on a pro rata basis, and the consideration for each Hotel Chocolat Share that is not exchanged for Rollover Shares will be paid in cash in accordance with the terms of the Cash Offer.

Any fractional entitlements to Rollover Shares under the Partial Share Alternative will be rounded down to the nearest whole number of Rollover Shares per eligible Hotel Chocolat Shareholder. Fractional entitlements to Rollover Shares will not be allotted or issued to such Hotel Chocolat Shareholder but will be disregarded, and the consideration for each applicable Hotel Chocolat Share will be paid in cash in accordance with the terms of the Cash Offer.

The availability of the Partial Share Alternative is conditional upon valid elections being made for such number of Rollover Shares which represents at least 30 per cent. of the Bidco Offer Shares (as defined in paragraph 14 below), failing which it will lapse. In these circumstances, no Rollover Shares will be issued and the consideration payable in respect of each Hotel Chocolat Share will be settled in cash in accordance with the terms of the Cash Offer. However, given the Founders’ and the Thirlwell Family Trust’s undertakings to elect for the Partial Share Alternative in the proportions set out in the Founder Irrevocable Undertakings and the Family Trust Irrevocable Undertaking for the Thirlwell Family Trust, the Partial Share Alternative is not expected to lapse for this reason.

**The Partial Share Alternative is not being offered, sold or delivered, directly or indirectly, in or into any Restricted Jurisdiction and individual acceptances of the Partial Share Alternative will only be valid if all regulatory approvals required by a Hotel Chocolat Shareholder to acquire the Rollover Shares have been obtained.**

In addition, Hotel Chocolat Shareholders who wish to elect for the Partial Share Alternative will be required to provide certain “Know Your Client” information as requested by Bidco and Mars. Further details of this eligibility requirement will be set out in the Scheme Document.

The issue of any Rollover Shares pursuant to the Partial Share Alternative will be in accordance with the mechanism described in paragraph 14 below and subject to the Conditions and further terms set out in Appendix 1 to this announcement and to be set out in the Scheme Document. Further details regarding Bidco and the rights of the Rollover Shares are set out in paragraphs 14 and 15 below and in Appendix 4 to this announcement.

For the purposes of Rule 24.11 of the Code, Morgan Stanley, as financial adviser to Bidco, will provide an estimate of the value of a Rollover Share, together with the assumptions, qualifications and caveats forming the basis of its estimate of value, in a letter to be included in the Scheme Document.

If the Acquisition becomes Effective, Hotel Chocolat Shareholders who do not validly elect for the Partial Share Alternative will automatically receive cash consideration due under the Cash Offer for their entire holding of Hotel Chocolat Shares.

#### **14. Structure of the Partial Share Alternative**

##### *Bidco share capital as a result of the Acquisition*

The current share capital of Bidco consists of 100 shares of common stock (the “**Initial Bidco Shares**”). On or around the Effective Date, Bidco will issue around 142,333,230 Bidco Shares (the “**Bidco Offer Shares**”) and the Initial Bidco Shares will be cancelled. If the Partial Share Alternative (including any Bidco A Shares or Rollover Shares already in issue) were taken up in full by eligible Hotel Chocolat Shareholders, and assuming the amount of Hotel Chocolat Shares issued pursuant to the Hotel Chocolat Share Schemes prior to the Effective Date is consistent with the calculation set out in Appendix 2 to this announcement, Bidco would issue around:

- (a) 99,633,261 Bidco A Shares to Mars Snacking Holdings to fund the cash consideration and costs and expenses payable in respect of the Acquisition; and
- (b) 42,699,969 Rollover Shares to those eligible Hotel Chocolat Shareholders who validly elect to receive the Partial Share Alternative.

##### *Terms of Issue of Rollover Shares*

The Rollover Shares to be issued to eligible Hotel Chocolat Shareholders who validly elect for the Partial Share Alternative will be issued credited as fully paid and will rank economically *pari passu* with the Bidco A Shares being issued to Mars Snacking Holdings pursuant to the Acquisition as described above, including the right to receive and retain dividends and other distributions declared, made or paid (if any) by reference to a record date falling on or after the date of this announcement.

**15. Risk factors and other investment considerations in respect of the Partial Share Alternative**

Eligible Hotel Chocolat Shareholders who elect for the Partial Share Alternative will, pursuant to a power of attorney to be included in the Form of Election and/or the Scheme, deliver a fully executed deed of adherence pursuant to which they will be bound by the Bidco Shareholders' Agreement. A summary of the key rights of the Rollover Shares is set out in Appendix 4.

In addition, the attention of eligible Hotel Chocolat Shareholders who may be considering electing for the Partial Share Alternative is drawn to certain risk factors and other investment considerations relevant to such an election. These will be set out in full in the Scheme Document and include, inter alia, the following:

- (a) upon the Effective Date, the Bidco Group will be controlled by Mars Snacking Holdings. Holders of the Rollover Shares, which will not carry any general voting rights at general meetings of Bidco nor any right to receive a copy of or vote on written resolutions of shareholders of Bidco and will have consent rights only in respect of a very limited number of reserved matters (exercisable only by a supermajority of Rollover Shareholders), will therefore have no influence over decisions made by Bidco in relation to its investment in Hotel Chocolat or in any other business;
- (b) the Rollover Shares are unquoted and will not be listed or admitted to trading on any exchange or market for the trading of securities, and will therefore be illiquid;
- (c) the Rollover Shares will have very limited transfer rights. They will not be transferable during the Lock-Up Period (save in very limited circumstances in relation to certain put and call options, to certain Associates or otherwise with the prior consent of Mars Snacking Holdings). Following the Lock-Up Period, a holder of Rollover Shares shall be entitled to transfer its Rollover Shares (provided that any such transfer is for all (but not only part) of the Rollover Shares held by such Rollover Shareholder and any of its Associates), subject to a right of first refusal in favour of Mars Snacking Holdings and to certain other restrictions including, but not limited to, in respect of the identity of the proposed transferee;
- (d) the value of the Rollover Shares will at all times be uncertain and there can be no assurance that any such securities will be capable of being sold in the future (other than pursuant to the put and call options described in Appendix 4) or that they will be capable of being sold at the value to be estimated by Morgan Stanley in the Scheme Document;
- (e) payments in respect of Rollover Shares will not be guaranteed or secured and it is not anticipated that Bidco will declare or pay any distributions on any of the Rollover Shares prior to the end of the final call option exercise period described in Appendix 4;

- (f) in relation to any further issues of securities, if holders of Rollover Shares wish to avoid their percentage interest in Bidco being reduced by any such issue, they will need to invest further cash sums in the Bidco Group. In particular, Rollover Shareholders who do not elect to exercise their pre-emption rights or catch-up rights by investing the necessary cash sums in respect of any further issues of securities by the Bidco Group will suffer significant dilution in their percentage ownership;
- (g) the right of Rollover Shareholders to participate in future issues of securities by the Bidco Group will also be subject to other important exceptions. For example:
  - (i) holders of Rollover Shares will not be entitled to participate in any issues of securities to actual or potential employees, directors, officers or consultants of the Bidco Group (whether of the same or different classes to the Rollover Shares);
  - (ii) if Bidco introduces one or more management incentive plans for actual or potential employees, directors, officers and consultants of the Bidco Group after the Effective Date that provide participants with an interest in securities in the Bidco Group, such issue(s) could potentially significantly dilute the Rollover Shares. In addition, the Bidco Group may not receive material cash sums on the issue of any such securities and the returns on any such securities may potentially be structured to increase their proportionate interest in the value of the Bidco Group as it increases in value (whether pursuant to a ratchet mechanism or otherwise); and
  - (iii) the holders of Rollover Shares will not be entitled to participate in issues of securities by the Bidco Group in certain other cases, including in consideration for, or in connection with, its acquisition of other assets, companies or all or part of any other businesses or undertakings;
- (h) the holders of Rollover Shares will enjoy only limited minority protections or other rights (as summarised in Appendix 4);
- (i) holders of Rollover Shares may be required at some point following the Lock-Up Period to sell their Rollover Shares under the terms of a “drag along” provision in the Bidco Shareholders’ Agreement;
- (j) it is possible that Mars Snacking Holdings may dispose of some or all of its Bidco A Shares during the Lock-Up Period and in such circumstances no “tag along” rights will apply to Rollover Shareholders;
- (k) Mars Snacking Holdings will have a call option over a percentage of Rollover Shares held by each Rollover Shareholder during the pre-determined Option Exercise Periods. The call option could be exercised at a value that is less than holders of Rollover Shares may receive for a sale at another time;

- (l) the amount payable by Mars Snacking Holdings to Rollover Shareholders in respect of any purchase of Rollover Shares on the exercise of any of the put or call options described in Appendix 4 will depend on the future performance of the Hotel Chocolat business under the Bidco Group's ownership. This remains uncertain and could result in the amount received being less than the cash consideration foregone under the Cash Offer;
- (m) individual Rollover Shareholders will have limited control over the date(s) on and value(s) at which they may be able to realise their investment in the Bidco Group and, in particular, only Original Rollover Shareholders holding 5 per cent. or more of the Bidco Shares issued at or around the Effective Date may defer the exercise of their put option rights in any Interim Option Exercise Period;
- (n) individual Rollover Shareholders will not have a right to challenge the Option Price (as defined in Appendix 4) and any challenge by the Rollover Shareholder Representative may, if unsuccessful, result in a lower valuation for the put and call options and/or reduce the cash amount payable in relation to the put and call options in any relevant Option Exercise Period;
- (o) the Hotel Chocolat Shares are currently admitted to trading on AIM and Hotel Chocolat Shareholders are afforded certain standards and protections, including in respect of disclosure, as a result. Hotel Chocolat Shareholders who receive Rollover Shares (being unlisted securities in a private company) will not be afforded protections commensurate with those that they currently benefit from as shareholders in Hotel Chocolat, including because Bidco intends to rely on an exemption from registration under US securities laws and will therefore not be registering the Rollover Shares with the US Securities and Exchange Commission. Except for the information to be provided to the Rollover Shareholder Representative (but not to other Rollover Shareholders) in connection with the put and call options as described in Appendix 4, neither the Bidco Organisational Documents nor the Bidco Shareholders' Agreement will provide holders of Rollover Shares with information rights;
- (p) there can be no certainty or guarantee as to the performance of the Bidco Group or the Hotel Chocolat Group following the Effective Date (including, for the avoidance of doubt, whether or the extent to which any of the EBITDA Values or Low-End EBITDA Values relevant to calculation of the put and call options will be met), and past performance cannot be relied upon as an indication of future performance or growth; and
- (q) Hotel Chocolat Shareholders will have no certainty as to the amount of Rollover Shares they would receive because:
  - (i) the maximum number of Rollover Shares available to Hotel Chocolat Shareholders under the Partial Share Alternative will be limited to the equivalent of 30 per cent. of the Bidco Offer Shares; and
  - (ii) to the extent that elections for the Partial Share Alternative cannot be satisfied in full, the number of Rollover Shares to be issued to each eligible Hotel Chocolat Shareholder who has elected for the Partial

Share Alternative will be reduced on a pro rata basis, and the consideration for each Hotel Chocolat Share that is not exchanged for Rollover Shares will be paid in cash in accordance with the terms of the Cash Offer.

Further information relating to Bidco and the Rollover Shares is set out in Appendix 4 below.

## **16. Structure of and conditions to the Acquisition**

It is intended that the Acquisition will be implemented by way of a Court-sanctioned scheme of arrangement between Hotel Chocolat and the Scheme Shareholders, under Part 26 of the Companies Act. The procedure involves, among other things, an application by Hotel Chocolat to the Court to sanction the Scheme.

The purpose of the Scheme is to provide for Bidco to become the owner of the entire issued and to be issued share capital of Hotel Chocolat. This is to be achieved by the transfer of Hotel Chocolat Shares to Bidco in consideration for which Hotel Chocolat Shareholders will receive the cash consideration due under the Cash Offer and/or (subject to valid election) Rollover Shares on the terms and conditions set out in paragraph 2 above, in each case to be effected pursuant to the Scheme. The transfer to Bidco of the Hotel Chocolat Shares is intended to result in Hotel Chocolat becoming a wholly-owned subsidiary of Bidco.

### *Conditions to the Acquisition*

The Scheme and Acquisition will be subject to the Conditions and certain further terms referred to in Appendix 1 to this announcement and to be set out in the Scheme Document when issued. In particular, the Scheme will only become Effective if, among other things, the following events occur on or before 11.59pm (London time) on the Long-Stop Date:

- (a) a resolution to approve the Scheme is passed by a majority in number of, representing 75 per cent. in value of the Hotel Chocolat Shares voted by, Scheme Shareholders present and voting (and entitled to vote) at the Court Meeting, either in person or by proxy;
- (b) the Resolutions are passed by the requisite majority of Hotel Chocolat Shareholders at the General Meeting;
- (c) the Scheme is sanctioned by the Court (without modification, or with modification on terms agreed by Bidco and Hotel Chocolat); and
- (d) following the sanction by the Court, a copy of the Scheme Court Order is delivered to the Registrar of Companies.

Additionally, the Scheme will lapse if, amongst other things:

- (a) the Court Meeting and/or General Meeting are not held on or before the 22<sup>nd</sup> day after the expected date of such meetings, which will be set out in the Scheme Document in due course (or such later date as may be agreed by Bidco

and Hotel Chocolat with the consent of the Panel and, if required, with the consent of the Court);

- (b) the Scheme Court Hearing is not held on or before the 22<sup>nd</sup> day after the expected date of such hearing, which will be set out in the Scheme Document in due course (or such later date as may be agreed by Bidco and Hotel Chocolat with the consent of the Panel and, if required, with the consent of the Court); or
- (c) the Scheme does not become Effective on or before 11.59pm (London time) on the Long-Stop Date.

Bidco may only invoke a Condition so as to cause the Acquisition not to proceed, lapse or to be withdrawn with the consent of the Panel. Certain Conditions are not subject to this requirement. Further details are set out in Parts A and B of Appendix 1.

Upon the Scheme becoming Effective: (i) it will be binding on all Scheme Shareholders, irrespective of whether or not they attended or voted at the Court Meeting or the General Meeting (and if they attended and voted, whether or not they voted in favour); and (ii) share certificates in respect of Hotel Chocolat Shares will cease to be valid and entitlements to Hotel Chocolat Shares held within the CREST system will be cancelled.

If the Scheme does not become Effective on or before 11.59pm (London time) on the Long-Stop Date, it will lapse and the Acquisition will not proceed (unless Bidco and Hotel Chocolat otherwise agree and the Panel otherwise consents).

The Scheme Document will include full details of the Scheme, together with notices of the Court Meeting and the General Meeting. The Scheme Document will also contain the expected timetable for the Acquisition and will specify the necessary actions to be taken by Hotel Chocolat Shareholders. It is expected that the Scheme Document, together with the Forms of Proxy and the Form of Election, will be posted to Hotel Chocolat Shareholders and, for information only, to persons with information rights and to holders of options and awards granted under the Hotel Chocolat Share Schemes within 28 days of this announcement (or such later time as Bidco and Hotel Chocolat and the Panel may agree). Subject, amongst other things, to the satisfaction or (where applicable) waiver of the Conditions, it is expected that the Scheme will become effective by Q1 2024.

## **17. Delisting and re-registration**

It is intended that an application will be made to the London Stock Exchange for the cancellation of trading of the Hotel Chocolat Shares on AIM, with effect shortly following the Effective Date.

The last day for dealings in Hotel Chocolat Shares on AIM of the London Stock Exchange is expected to be the last Business Day immediately prior to the Effective Date and no transfers shall be registered after 6.00 p.m. (London time) on that date.



It is also intended that, following the Effective Date, Hotel Chocolat will be re-registered as a private limited company under the relevant provisions of the Companies Act.

#### **18. Disclosure of interests in Hotel Chocolat relevant securities**

Except for the irrevocable undertakings referred to in paragraph 6 above, as at close of business on 15 November 2023 (being the last Business Day prior to the date of this announcement), save as disclosed below, neither Bidco, nor any of the directors of Bidco or any member of the Bidco Group, nor, so far as the directors of Bidco are aware, any person acting in concert with Bidco for the purposes of the Acquisition had any interest in, right to subscribe for, or had borrowed or lent any Hotel Chocolat Shares or securities convertible or exchangeable into Hotel Chocolat Shares, nor did any such person have any short position (whether conditional or absolute and whether in the money or otherwise), including any short position under a derivative, any agreement to sell or any delivery obligation or right to require another person to take delivery, or any dealing arrangement of the kind referred to in Note 11 of the definition of acting in concert in the Code, in relation to Hotel Chocolat Shares or in relation to any securities convertible or exchangeable into Hotel Chocolat Shares.

In the interests of secrecy prior to this announcement, it has not been possible for Bidco to make enquiries in respect of the matters referred to in this paragraph of all parties who may be deemed or presumed by the Panel to be acting in concert with Bidco for the purposes of the Acquisition. Enquiries of such parties will be made as soon as practicable following the date of this announcement and any disclosure in respect of such parties will be included in the Opening Position Disclosure.

#### **19. Overseas shareholders**

The availability of the Acquisition (including the Partial Share Alternative) and the distribution of this announcement to Hotel Chocolat Shareholders who are not resident in the United Kingdom may be affected by the laws of the relevant jurisdiction. Such persons should inform themselves of, and observe, any applicable legal or regulatory requirements of their jurisdiction. Hotel Chocolat Shareholders who are in any doubt regarding such matters should consult an appropriate independent professional adviser in the relevant jurisdiction without delay.

This announcement does not constitute an offer for sale of any securities or an offer or an invitation to purchase any securities. Hotel Chocolat Shareholders are advised to read carefully the Scheme Document and related Forms of Proxy and Form of Election once these have been dispatched.

#### **20. Documents published on a website**

Copies of the following documents will, by no later than 12 noon (London time) on 17 November 2023, be published on Hotel Chocolat's website at <https://www.hotelchocolat.com/uk/investor-relations-offer.html> and Bidco's website at <https://www.mars.com/news-and-stories/press-releases-statements/recommended-acquisition-of-hotel-chocolat-group-plc> until the end of the offer period:

- (a) this announcement;
- (b) the irrevocable undertakings referred to in paragraph 6 above and summarised in Appendix 3 to this announcement;
- (c) the documents relating to the financing of the Acquisition referred to in paragraph 10 above;
- (d) the Confidentiality Agreement described in paragraph 12 above;
- (e) the Clean Team Agreement described in paragraph 12 above;
- (f) the Confidentiality and Joint Defence Agreement described in paragraph 12 above;
- (g) the Cooperation Agreement described in paragraph 12 above; and
- (h) the consent letters from each of Morgan Stanley, Lazard and Liberum referred to in paragraph 21 below.

## **21. General**

Bidco reserves the right to elect, with the consent of the Panel and in accordance with the Cooperation Agreement, to implement the Acquisition by way of a Takeover Offer for the entire issued and to be issued share capital of Hotel Chocolat not already held by Bidco as an alternative to the Scheme. In such an event, the Takeover Offer will be implemented on the same terms (subject to appropriate amendments), so far as applicable, as those which would apply to the Scheme subject to appropriate amendments, including (without limitation) an acceptance condition set at 75 per cent. of the Hotel Chocolat Shares (or such other lower percentage (being more than 50 per cent.) as Bidco may, subject to the rules of the Code and the terms of the Cooperation Agreement and with the consent of the Panel, decide). If the Acquisition is effected by way of a Takeover Offer and such Takeover Offer becomes or is declared unconditional and sufficient acceptances are received, Bidco intends to: (i) make a request to the London Stock Exchange to cancel trading in Hotel Chocolat Shares on AIM; and (ii) exercise its rights to apply the provisions of Chapter 3 of Part 28 of the Companies Act to acquire compulsorily the remaining Hotel Chocolat Shares in respect of which the Takeover Offer has not been accepted.

The Scheme will be governed by English law and will be subject to the jurisdiction of the courts of England and Wales. The Scheme will be subject to the applicable requirements of the Code, the Panel, the London Stock Exchange, the AIM Rules and the FCA.

Each of Morgan Stanley, Lazard and Liberum has given and not withdrawn its consent to the inclusion in this announcement of references to its name in the form and context in which it appears.

The Acquisition will be on the terms and subject to the Conditions and certain further terms set out herein and in Appendix 1 and to the full terms and conditions which will be set out in the Scheme Document. The bases and sources of certain financial

information contained in this announcement are set out in Appendix 2. Details of the irrevocable undertakings and the non-binding letter of intent received by Bidco in connection with the Acquisition are set out in Appendix 3. Details of Bidco, the Rollover Shares and eligibility to subscribe for the Rollover Shares are set out in Appendix 4. Certain terms used in this announcement are defined in Appendix 5.

The Scheme Document, the Forms of Proxy and the Form of Election accompanying the Scheme Document are expected to be sent to Hotel Chocolat Shareholders within 28 days of this announcement (or on such later time as Bidco, Hotel Chocolat and the Panel may agree). A copy of the Scheme Document is also expected to be sent (for information only) to persons with information rights and participants in the Hotel Chocolat Share Schemes at the same time as it is posted to Hotel Chocolat Shareholders.

The person responsible for arranging the release of this announcement on behalf of Hotel Chocolat is Angus Thirlwell, Chief Executive Officer.

## **Enquiries**

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Freshfields Bruckhaus Deringer LLP is acting as legal adviser to Bidco and Mars in connection with the Acquisition. Herbert Smith Freehills LLP is acting as legal adviser to Hotel Chocolat in connection with the Acquisition.

#### **Further information**

*This announcement is for information purposes and is not intended to and does not constitute, or form part of, an offer, invitation or the solicitation of an offer to purchase, otherwise acquire, subscribe for, sell or otherwise dispose of any securities, or the solicitation of any vote or approval in any jurisdiction, pursuant to the Acquisition or otherwise, nor shall there be any sale, issuance or transfer of securities of Hotel Chocolat in any jurisdiction in contravention of applicable law. The Acquisition will be made solely by means of the Scheme Document (or, if the Acquisition is implemented by way of a Takeover Offer, the Offer Document), which will contain the full terms and conditions of the Acquisition including details of how to vote in respect of the Acquisition. Any vote in respect of the Scheme or other response in relation to the Acquisition should be made only on the basis on the information contained in the Scheme Document (or, if the Acquisition is implemented by way of a Takeover Offer, the Offer Document). Hotel Chocolat and Bidco urge Hotel Chocolat Shareholders to read the Scheme Document when it becomes available because it will contain important information relating to the Acquisition.*

*This announcement is an advertisement and does not constitute a prospectus or prospectus equivalent.*

*Please be aware that addresses, electronic addresses and certain other information provided by Hotel Chocolat Shareholders, persons with information rights and other relevant persons for the receipt of communications from Hotel Chocolat may be provided to Bidco during the offer period as required under Section 4 of Appendix 4 of the Code to comply with Rule 2.11(c).*

*Morgan Stanley, which is authorised by the Prudential Regulation Authority and regulated in the United Kingdom by the Financial Conduct Authority and the Prudential Regulation Authority, is acting exclusively as financial adviser to Bidco and Mars and no one else in connection with the matters contained in this announcement and Morgan Stanley, its affiliates and their respective directors, officers, employees and agents will not regard any other person as their client, nor will they be responsible to anyone other than Bidco and Mars for providing the protections afforded to clients of Morgan Stanley nor for providing advice in connection with the matters contained in this announcement or any other matter referred to herein.*

*Lazard, which is authorised and regulated by the Financial Conduct Authority in the United Kingdom, is acting exclusively as financial adviser and Rule 3 adviser to Hotel Chocolat and no one else in connection with the Acquisition and will not be responsible to anyone other than Hotel Chocolat for providing the protections afforded to clients of Lazard nor for providing advice in relation to the Acquisition or any other matters referred to herein. Neither Lazard nor any of its affiliates owes or accepts any duty, liability or responsibility whatsoever (whether direct or indirect, whether in contract, in tort, under statute or otherwise) to any person who is not a client of Lazard in connection with this announcement, any statement contained herein or otherwise.*

*Liberum, which is authorised and regulated by the Financial Conduct Authority in the United Kingdom, is acting exclusively for Hotel Chocolat and for no one else in connection with the subject matter of this announcement and will not be responsible to anyone other than Hotel Chocolat for providing the protections afforded to its clients or for providing advice in connection with the subject matter of this announcement. Neither Liberum nor any of its affiliates (nor their respective directors, officers, employees or agents) owes or accepts any duty, liability or responsibility whatsoever (whether direct or indirect, whether in contract, in tort, under statute or otherwise) to any person who is not a client of Liberum in connection with the Acquisition, this announcement, any statement contained herein or otherwise. No representation or warranty, express or implied, is made by Liberum as to the contents of this announcement.*

### **Overseas jurisdictions**

*The release, publication or distribution of this announcement in or into jurisdictions other than the UK may be restricted by law and therefore any persons who are subject to the law of any jurisdiction other than the UK should inform themselves about, and observe, any applicable legal or regulatory requirements. In particular the ability of persons who are not resident in the United Kingdom, to vote their Hotel Chocolat Shares with respect to the Scheme at the Court Meeting, or to appoint another person as proxy to vote at the Court Meeting on their behalf, may be affected by the laws of the relevant jurisdictions in which they are located. Any failure to comply with the applicable 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. This announcement has been prepared for the purposes of*

*complying with English law, the AIM Rules and the Code and the 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 of England.*

*Copies of this announcement and formal documentation relating to the Acquisition will not be and must not be, mailed or otherwise forwarded, distributed or sent in, into or from any Restricted Jurisdiction or any jurisdiction where to do so would violate the laws of that jurisdiction and persons receiving such documents (including custodians, nominees and trustees) must not mail or otherwise forward, distribute or send them in or into or from any Restricted Jurisdiction. Doing so may render invalid any related purported vote in respect of the Acquisition. If the Acquisition is implemented by way of 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 within any Restricted Jurisdiction.*

*The availability of the Acquisition (including the Partial Share Alternative) to Hotel Chocolat Shareholders who are not resident in the United Kingdom may be affected by the laws of the relevant jurisdictions in which they are resident. Persons who are not resident in the United Kingdom should inform themselves of, and observe, any applicable requirements.*

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

*The Acquisition shall be subject to the applicable requirements of the Code, the Panel, the London Stock Exchange, the FCA and the AIM Rules.*

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

*The Acquisition is being made to acquire the shares of an English company by means of a scheme of arrangement provided for under English law. 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 Scheme will be subject to disclosure requirements and practices applicable in the UK to schemes of arrangement, which are different from the disclosure requirements of the US tender offer and proxy solicitation rules. The financial information included in this announcement and the Scheme documentation has been or will have been prepared in accordance with accounting standards applicable in the United Kingdom and thus may not be comparable to financial information of US companies or companies whose financial statements are prepared in accordance with generally accepted accounting principles in the US. If Bidco exercises its right to implement the acquisition of the Hotel Chocolat Shares by way of a Takeover Offer, such offer will be made in compliance with applicable US laws and regulations.*

*The receipt of cash pursuant to the Acquisition by a US holder as consideration for the transfer of its Hotel Chocolat Shares pursuant to the Scheme will likely be a taxable transaction for United States federal income tax purposes and under applicable United States state and local,*

as well as foreign and other, tax laws. Each Hotel Chocolat Shareholder is urged to consult their independent professional adviser immediately regarding the tax consequences of the Acquisition applicable to them.

The Rollover Shares issued under the Partial Share Alternative will not be registered under the US Securities Act of 1933 (the “**Securities Act**”). Bidco expects to issue the Rollover Shares in reliance upon the exemption from the registration requirements of the Securities Act provided by Section 3(a)(10) thereof (“**Section 3(a)(10)**”). Section 3(a)(10) exempts securities issued in specified exchange transactions from the registration requirement under the Securities Act where, among other things, the fairness of the terms and conditions of the issuance and exchange of such securities have been approved by a court or governmental authority expressly authorised by law to grant such approval, after a hearing upon the fairness of the terms and conditions of the exchange at which all persons to whom the Rollover Shares are proposed to be issued have the right to appear and receive adequate and timely notice thereof. If Bidco exercises its right to implement the acquisition of the Hotel Chocolat Shares by way of a Takeover Offer, the Rollover Shares will not be offered in the United States except pursuant to an exemption from or in a transaction not subject to registration under the Securities Act.

The Rollover Shares that may be issued pursuant to the Acquisition have not been and will not be registered under the Securities Act or under the relevant securities laws of any state or territory or other jurisdiction of the United States and will not be listed on any stock exchange. Neither the US Securities and Exchange Commission nor any US state securities commission has approved or disapproved of the Partial Share Alternative or determined if the Scheme Document is accurate or complete. Any representation to the contrary is a criminal offence.

In accordance with normal UK practice and pursuant to Rule 14e-5(b) of the US Exchange Act (to the extent applicable), Bidco or its nominees, or its brokers (acting as agents), may from time to time make certain purchases of, or arrangements to purchase, Hotel Chocolat Shares outside of the US, 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 be made outside of the US and would be in accordance with applicable law, including the US Exchange Act and the Code. These purchases may occur either in the open market at prevailing prices or in private transactions at negotiated prices. Any information about such purchases will be disclosed as required in the UK, 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).

### **Forward looking statements**

This announcement (including information incorporated by reference in this announcement), oral statements made regarding the Acquisition, and other information published by Bidco, Mars and Hotel Chocolat contain statements which are, or may be deemed to be, “forward-looking statements”. Forward-looking statements are prospective in nature and are not based on historical facts, but rather on current expectations and projections of the management of Bidco, Mars and Hotel Chocolat about future events, and are therefore subject to risks and uncertainties which could cause actual results to differ materially from the future results expressed or implied by the forward-looking statements. The forward-looking statements contained in this announcement include statements relating to the expected effects of the Acquisition on Bidco, Mars and Hotel Chocolat, the expected timing and scope of the

*Acquisition and other statements other than historical facts. Often, but not always, forward-looking statements can be identified by the use of forward-looking words such as “plans”, “expects” or “does not expect”, “is expected”, “is subject to”, “budget”, “scheduled”, “estimates”, “forecasts”, “intends”, “goal”, “anticipates” or “does not anticipate”, or “believes”, or variations of such words and phrases or statements that certain actions, events or results “may”, “could”, “should”, “would”, “might” or “will” be taken, occur or be achieved. Although Bidco, Mars and Hotel Chocolat believe that the expectations reflected in such forward-looking statements are reasonable, Bidco, Mars and Hotel Chocolat can give no assurance that such expectations will prove to be correct. By their nature, forward-looking statements involve risk and uncertainty because they relate to events and depend on circumstances that will occur in the future. There are a number of factors that could cause actual results and developments to differ materially from those expressed or implied by such forward-looking statements. Among the factors that could cause actual results to differ materially from those described in the forward-looking statements are changes in the global, political, economic, business, competitive, market and regulatory forces, future exchange and interest rates, changes in tax rates and future business combinations or dispositions, and any epidemic, pandemic or disease outbreak. Other unknown or unpredictable factors could cause actual results to differ materially from those in the forward-looking statements. Such forward-looking statements should therefore be construed in the light of such factors. Neither Bidco, Mars nor Hotel Chocolat, nor any of their respective associates or directors, members, managers, partners, officers 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. You are cautioned not to place any reliance on these forward-looking statements. The forward-looking statements speak only at the date of this announcement. All subsequent oral or written forward-looking statements attributable to Bidco or any member of the Wider Bidco Group or the Hotel Chocolat Group, or any of their respective associates, directors, officers, employees or advisers, are expressly qualified in their entirety by the cautionary statement above. Other than in accordance with their legal or regulatory obligations, neither Bidco, Mars or Hotel Chocolat is under any obligation, and Bidco, Mars and Hotel Chocolat expressly disclaim any intention or obligation, to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.*

### ***Dealing disclosure requirements***

*Under Rule 8.3(a) of the Code, any person who is interested in 1% 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 pm (London time) on the 10<sup>th</sup> business day following the commencement of the offer period and, if appropriate, by no later than 3.30 pm (London time) on the 10<sup>th</sup> business day 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 Code, any person who is, or becomes, interested in 1% 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 pm (London time) on the business day 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).*

*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 Takeover 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.*

### ***No profit forecasts, estimates or quantified financial benefits statements***

*No statement in this announcement is intended as a profit forecast, profit estimate or quantified benefits statement for any period and no statement in this announcement should be interpreted to mean that earnings or earnings per share for Bidco, Mars or Hotel Chocolat, as appropriate, for the current or future financial years would necessarily match or exceed the historical published earnings or earnings per share for Bidco, Mars or Hotel Chocolat, as appropriate.*

### ***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 arithmetic aggregation of figures that precede them.*

### ***General***

*Bidco reserves the right to elect, with the consent of the Panel and subject to the terms of the Cooperation Agreement, to implement the Acquisition by way of a Takeover Offer as an alternative to the Scheme. If the Acquisition is effected by way of a Takeover Offer, and such offer becomes or is declared unconditional and sufficient acceptances are received, Bidco*

*intends to exercise its rights to apply the provisions of Chapter 3 of Part 28 of the Companies Act so as to acquire compulsorily the remaining Hotel Chocolat Shares in respect of which the Takeover Offer has not been accepted.*

*Investors should be aware that Bidco may purchase Hotel Chocolat Shares otherwise than under any Takeover Offer or the Scheme, including pursuant to privately negotiated purchases.*

*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 or independent financial adviser duly authorised under FSMA if you are resident in the United Kingdom or, if not, from another appropriate authorised independent financial adviser.*

### **Rule 2.9 of the Code**

*For the purposes of Rule 2.9 of the Code, Hotel Chocolat confirms that it has in issue 137,597,673 ordinary shares of 0.1 pence each. The ISIN for the shares is GB00BYZC3B04. Hotel Chocolat holds no shares in treasury.*

### **Publication on website and hard copies**

*A copy of this announcement and the documents required to be published by Rule 26 of the Code will be made available, subject to certain restrictions relating to persons resident in Restricted Jurisdictions, on Bidco's website at <https://www.mars.com/news-and-stories/press-releases-statements/recommended-acquisition-of-hotel-chocolat-group-plc> and Hotel Chocolat's website at <https://www.hotelchocolat.com/uk/investor-relations-offer.html> by no later than 12 noon (London time) on the Business Day following publication of this announcement. For the avoidance of doubt, the contents of any websites referred to in this announcement are not incorporated into and do not form part of this announcement.*

*Hotel Chocolat Shareholders, persons with information rights and participants in the Hotel Chocolat Share Schemes may request a hard copy of this announcement by contacting Equiniti during business hours on +44 (0)371 384 2030 or by submitting a request in writing to Equiniti at Aspect House, Spencer Road, Lancing, West Sussex, BN99 6DA, United Kingdom. If you have received this announcement in electronic form, copies of this announcement and any document or information incorporated by reference into this document will not be provided unless such a request is made.*

## **Appendix 1**

### **Conditions and Certain Further Terms of the Scheme and the Acquisition**

#### **Part A Conditions to the Scheme and Acquisition**

##### **Long-Stop Date**

1. The Acquisition is conditional upon the Scheme becoming unconditional and becoming effective, subject to the provisions of the Code, by no later than 11.59 p.m. on the Long-Stop Date.

##### **Scheme approval**

2. The Scheme will be conditional upon:
  - (a) (i) its approval by a majority in number of, representing not less than 75 per cent. in value of the Hotel Chocolat Shares voted by, Scheme Shareholders (or each of the relevant classes thereof, if applicable) present and voting and entitled to vote, either in person or by proxy, at the Court Meeting (or at any separate class meeting, if applicable), or at any adjournment thereof; and (ii) the Court Meeting (and any separate class meeting, if applicable) and any adjournment thereof being held on or before the 22<sup>nd</sup> day after the expected date of the Court Meeting to be set out in the Scheme Document in due course (or such later date (if any) as Bidco and Hotel Chocolat may agree, with the consent of the Panel (and that the Court may allow, if required));
  - (b) (i) all Resolutions being duly passed by the requisite majority or majorities at the General Meeting or at any adjournment thereof; and (ii) the General Meeting and any adjournment thereof being held on or before the 22<sup>nd</sup> day after the expected date of the General Meeting to be set out in the Scheme Document in due course (or such later date (if any) as Bidco and Hotel Chocolat may agree, with the consent of the Panel (and that the Court may allow, if required)); and
  - (c) (i) the sanction of the Scheme by the Court without modification or with modification on terms acceptable to Bidco and Hotel Chocolat and the delivery of a copy of the Scheme Court Order to the Registrar of Companies; and (ii) the Scheme Court Hearing being held on or before the 22<sup>nd</sup> day after the expected date of the Scheme Court Hearing to be set out in the Scheme Document in due course (or such later date (if any) as Bidco and Hotel Chocolat may agree, with the consent of the Panel, (and that the Court may allow, if required)).

In addition, subject to as stated in Part B of Appendix 1 below and to the requirements of the Panel, Bidco and Hotel Chocolat have agreed that the Acquisition will be conditional upon the following Conditions and, accordingly, the necessary actions to make the Scheme effective will not be taken unless such Conditions (as amended, if appropriate) have been satisfied or, where relevant, waived:

## **Official authorisations and regulatory clearances**

### ***General Third Party official authorisations and regulatory clearances***

3. all notifications to, and filings with, Third Parties which are necessary or are reasonably considered appropriate by Bidco having been made, all appropriate waiting and other time periods (including any extensions of such waiting and other time periods) under any applicable legislation or regulation of any relevant jurisdiction having expired, lapsed or been terminated (as appropriate) and all statutory or regulatory obligations in any relevant jurisdiction having been complied with in each case in connection with the Acquisition or, except pursuant to Chapter 3 of Part 28 of the Companies Act, the acquisition or proposed acquisition of any shares or other securities in, or control or management of, Hotel Chocolat or any other member of the Wider Hotel Chocolat Group by any member of the Wider Bidco Group or the carrying on by any member of the Wider Hotel Chocolat Group of any material aspect of its business, and all such Authorisations remaining in full force and effect at the time at which the Acquisition becomes otherwise unconditional and there being no notice or intimation of an intention to revoke, suspend, restrict, modify or not to renew such Authorisations;
4. no Third Party having intervened (as defined below) and there not continuing to be outstanding any statute, regulation or order of any Third Party in each case which is or is likely to be material in the context of the Wider Bidco Group or Wider Hotel Chocolat Group or the Acquisition which would reasonably be expected to:
  - (a) make the Scheme or the Acquisition or, in each case, its implementation or the acquisition or proposed acquisition by Bidco or any member of the Wider Bidco Group of any shares or other securities in, or control or management of, Hotel Chocolat or any member of the Wider Hotel Chocolat Group void, illegal or unenforceable in any jurisdiction, or otherwise directly or indirectly materially restrain, prevent, prohibit, restrict or delay the same or impose additional material conditions or obligations with respect to the Scheme or the Acquisition or such acquisition, or otherwise materially impede, challenge or interfere with the Scheme or Acquisition or such acquisition, or require material amendment to the terms of the Scheme or Acquisition or the acquisition or proposed acquisition of any Hotel Chocolat Shares or the acquisition of control or management of Hotel Chocolat or the Wider Hotel Chocolat Group by Bidco or any member of the Bidco Group;
  - (b) materially limit or delay, or impose any material limitations on, the ability of any member of the Wider Bidco Group or any member of the Wider Hotel Chocolat Group to acquire or to hold or to exercise effectively, directly or indirectly, all or any rights of ownership in respect of shares or other securities in, or to exercise voting or management control over, any member of the Wider Hotel Chocolat Group or any member of the Wider Bidco Group;
  - (c) require, prevent or materially delay the divestiture or materially alter the terms envisaged for any proposed divestiture by any member of the Wider Bidco Group of any shares or other securities in any member of the Wider Hotel Chocolat Group;

- (d) require, prevent or materially delay the divestiture or materially alter the terms envisaged for any proposed divestiture by any member of the Wider Bidco Group or by any member of the Wider Hotel Chocolat Group of all or any material portion of their respective businesses, assets or properties or materially limit the ability of any of them to conduct any of their respective businesses or to own or control any of their respective assets or properties or any part thereof;
- (e) except pursuant to sections 974 to 991 of the Companies Act, require any member of the Wider Bidco Group or of the Wider Hotel Chocolat Group to acquire, or to offer to acquire, any shares or other securities (or the equivalent) in any member of either group owned by any third party;
- (f) materially adversely limit the ability of any member of the Wider Bidco Group or of the Wider Hotel Chocolat Group to conduct or integrate or coordinate or manage its business, or any part of it, with the businesses or any part of the businesses of any other member of the Wider Bidco Group or of the Wider Hotel Chocolat Group;
- (g) result in any member of the Wider Hotel Chocolat Group or the Wider Bidco Group ceasing to be able to carry on business under any name under which it presently does so; or
- (h) otherwise materially adversely affect any or all of the business, assets, profits, financial or trading position or prospects of any member of the Wider Hotel Chocolat Group or of the Wider Bidco Group,

and all applicable waiting and other time periods during which any Third Party could intervene under the laws of any relevant jurisdiction having expired, lapsed or been terminated;

5. all Authorisations which are necessary or are reasonably considered necessary or appropriate by Bidco in any relevant jurisdiction for or in respect of the Acquisition or the acquisition or proposed acquisition of any shares or other securities in, or control or management of, Hotel Chocolat or any other member of the Wider Hotel Chocolat Group by any member of the Wider Bidco Group or the carrying on by any member of the Wider Hotel Chocolat Group of its business having been obtained, in terms and in a form reasonably satisfactory to Bidco, from all appropriate Third Parties or from any persons or bodies with whom any member of the Wider Hotel Chocolat Group has entered into contractual arrangements in each case where the absence of such Authorisation would have a material adverse effect on the Hotel Chocolat Group taken as a whole and all such Authorisations remaining in full force and effect and at the time which the Acquisition becomes otherwise unconditional there being no notice or intimation of any intention to revoke, suspend, restrict, modify or not to renew any of such Authorisations;

**Certain matters arising as a result of any arrangement, agreement etc.**

6. except as Disclosed, there being no provision of any arrangement, agreement, licence, permit, franchise or other instrument to which any member of the Wider Hotel Chocolat Group is a party, or by or to which any such member or any of its assets is or are or

may be bound, entitled or subject or any circumstance, which, in each case as a consequence of the Acquisition or the acquisition or proposed acquisition of any shares or other securities in, or control of, Hotel Chocolat or any other member of the Wider Hotel Chocolat Group by any member of the Wider Bidco Group or otherwise, would reasonably be expected to result in (in any case to an extent which is or would be material and adverse in the context of the Hotel Chocolat Group taken as a whole):

- (a) any monies borrowed by or any other indebtedness (actual or contingent) of, or any grant available to, any member of the Wider Hotel Chocolat Group being or becoming repayable or capable of being declared repayable, immediately or prior to its stated maturity date or repayment date, or the ability of any member of the Wider Hotel Chocolat Group to borrow monies or incur any indebtedness being withdrawn or inhibited or becoming capable of being withdrawn or inhibited;
- (b) the creation or enforcement of any mortgage, charge or other security interest over the whole or any part of the business, property, assets or interests of any member of the Wider Hotel Chocolat Group or any such mortgage, charge or other security interest (wherever created, arising or having arisen) becoming enforceable;
- (c) any such arrangement, agreement, licence, permit, franchise or instrument, or the rights, liabilities, obligations or interests of any member of the Wider Hotel Chocolat Group thereunder, being, or becoming capable of being, terminated or adversely modified or affected or any adverse action being taken or any obligation or liability arising thereunder;
- (d) any asset or interest of any member of the Wider Hotel Chocolat Group being or falling to be disposed of or charged or ceasing to be available to any member of the Wider Hotel Chocolat Group or any right arising under which any such asset or interest could be required to be disposed of or could cease to be available to any member of the Wider Hotel Chocolat Group otherwise than in the ordinary course of business;
- (e) any member of the Wider Hotel Chocolat Group ceasing to be able to carry on business under any name under which it presently does so;
- (f) the creation of material liabilities (actual or contingent) by any member of the Wider Hotel Chocolat Group other than trade creditors or other liabilities incurred in the ordinary course of business;
- (g) the rights, liabilities, obligations or interests of any member of the Wider Hotel Chocolat Group under any such arrangement, agreement, licence, permit, franchise or other instrument or the interests or business of any such member in or with any other person, firm, company or body (or any arrangement or arrangements relating to any such interests or business) being terminated or adversely modified or affected; or
- (h) the financial or trading position or the prospects or the value of any member of the Wider Hotel Chocolat Group being prejudiced or adversely affected,

and no event having occurred which, under any provision of any such arrangement, agreement, licence, permit or other instrument, would be reasonably likely to result in any of the events or circumstances which are referred to in paragraphs (a) to (h) of this Condition 6 in any case to an extent which is or would be material and adverse in the context of the Hotel Chocolat Group taken as a whole;

7. since 2 July 2023 and except as Disclosed, no member of the Wider Hotel Chocolat Group having:
- (a) issued or agreed to issue, or authorised the issue of, additional shares of any class, or securities convertible into or exchangeable for, or rights, warrants or options to subscribe for or acquire, any such shares or convertible securities or transferred or sold any shares out of treasury, other than as between Hotel Chocolat and wholly-owned subsidiaries of Hotel Chocolat other than any shares issued or shares transferred from treasury upon the exercise of any options or vesting of awards granted in the ordinary course under any of the Hotel Chocolat Share Schemes;
  - (b) purchased or redeemed or repaid any of its own shares or other securities or reduced or made any other change to any part of its share capital;
  - (c) recommended, declared, paid or made any dividend or other distribution whether payable in cash or otherwise or made any bonus issue (other than to Hotel Chocolat or a wholly-owned subsidiary of Hotel Chocolat);
  - (d) except as between Hotel Chocolat and its wholly-owned subsidiaries or between such wholly-owned subsidiaries made or authorised any change in its loan capital;
  - (e) (other than any acquisition or disposal of assets in the ordinary course of business or a transaction between Hotel Chocolat and a wholly-owned subsidiary of Hotel Chocolat or between such wholly-owned subsidiaries) merged with, demerged or acquired any body corporate, partnership or business or acquired or disposed of or transferred, mortgaged, charged or created any security interest over any assets or any right, title or interest in any assets (including shares in any undertaking and trade investments) or authorised the same;
  - (f) issued or authorised the issue of, or made any change in or to, any debentures or (except in the ordinary course of business or except as between Hotel Chocolat and its wholly-owned subsidiaries or between such wholly-owned subsidiaries) incurred or increased any indebtedness or liability (actual or contingent) which in any case is material in the context of the Hotel Chocolat Group taken as a whole;
  - (g) entered into, varied, or authorised any material agreement, transaction, arrangement or commitment (whether in respect of capital expenditure or otherwise) which, except in the ordinary course of business:

- (i) is of a long term, onerous or unusual nature or magnitude or which is reasonably likely to involve an obligation of such nature or magnitude;  
or
- (ii) restricts or would reasonably be likely to restrict the business of any member of the Wider Hotel Chocolat Group,

and which is material in the context of the Hotel Chocolat Group taken as a whole;

- (h) except as pursuant to the Acquisition and except as between Hotel Chocolat and its wholly-owned subsidiaries or between such wholly-owned subsidiaries entered into, implemented, effected or authorised any merger, demerger, reconstruction, amalgamation, scheme, commitment or other transaction or arrangement in respect of itself or another member of the Wider Hotel Chocolat Group otherwise than in the ordinary course of business which in any case is material in the context of the Hotel Chocolat Group taken as a whole;
- (i) entered into or varied the terms of, any contract, agreement or arrangement with any of the directors or senior executives of any member of the Wider Hotel Chocolat Group;
- (j) other than in respect of a member of the Wider Hotel Chocolat Group which is dormant and was solvent at the relevant time, taken any corporate action or had any legal proceedings instituted or threatened against it or petition presented or order made for its winding-up (voluntarily or otherwise), dissolution or reorganisation or for the appointment of a receiver, administrator, administrative receiver, trustee or similar officer of all or any material part of its assets and revenues or any analogous proceedings in any jurisdiction or appointed any analogous person in any jurisdiction which in any case is material in the context of the Hotel Chocolat Group taken as a whole;
- (k) been unable, or admitted in writing that it is unable, to pay its debts or having stopped or suspended (or threatened to stop or suspend) payment of its debts generally or ceased or threatened to cease carrying on all or a substantial part of its business in any case with a material adverse effect on the Hotel Chocolat Group taken as a whole;
- (l) waived or compromised any claim, otherwise than in the ordinary course of business, which is material in the context of the Hotel Chocolat Group taken as a whole;
- (m) other than in connection with the Scheme, made any alteration to its memorandum or articles of association which is material in the context of the Acquisition;
- (n) except in relation to changes required as a result of changes to legislation, made or agreed or consented to:
  - (i) any material change:



- (A) to the terms of the trust deeds constituting the pension scheme(s) established for its directors, employees or their dependants; or
- (B) the contributions payable to any such scheme(s) or to the benefits which accrue or to the pensions which are payable thereunder; or
- (C) the basis on which qualification for, or accrual or entitlement to such benefits or pensions are calculated or determined; or
- (D) the basis upon which the liabilities (including pensions) or such pension schemes are funded, valued or made,

in each case, which has or would reasonably be expected to have an effect that is material in the context of the Hotel Chocolat Group taken as a whole;

- (o) proposed, agreed to provide or modified the terms of any share option scheme or award, incentive scheme or other benefit relating to the employment or termination of employment of any person employed by the Wider Hotel Chocolat Group, other than as set out in the Cooperation Agreement, and which are material in the context of the Wider Hotel Chocolat Group taken as a whole; or
- (p) entered into any agreement, commitment or arrangement or passed any resolution or made any offer (which remains open for acceptance) or proposed or announced any intention with respect to any of the transactions, matters or events referred to in this Condition 7;

**No adverse change, litigation or regulatory enquiry**

8. since 2 July 2023 and except as Disclosed:

- (a) there having been no adverse change or deterioration in the business, assets, financial or trading positions or profit or prospects of any member of the Wider Hotel Chocolat Group which in any case is material in the context of the Hotel Chocolat Group taken as a whole;
- (b) no contingent or other liability of any member of the Wider Hotel Chocolat Group having arisen or become apparent or increased which would reasonably be expected to affect adversely the business, assets, financial or trading position or profits or prospects of any member of the Wider Hotel Chocolat Group to an extent which is material in the context of the Hotel Chocolat Group taken as a whole;
- (c) no steps having been taken and no omissions having been made which would result in the withdrawal, cancellation, termination or modification of any licence held by any member of the Wider Hotel Chocolat Group which is necessary for the proper carrying on of its business and the withdrawal, cancellation, termination or modification of which would have a material adverse effect on the Wider Hotel Chocolat Group taken as a whole;

- (d) no litigation, arbitration proceedings, prosecution or other legal proceedings to which any member of the Wider Hotel Chocolat Group is or may become a party (whether as plaintiff, defendant or otherwise) having been threatened, announced, implemented or instituted by or against or remaining outstanding against or in respect of any member of the Wider Hotel Chocolat Group which in each case would have a material adverse effect in the context of the Wider Hotel Chocolat Group taken as a whole;
- (e) (other than as a result of or in connection with the Acquisition but without prejudice to any other Condition) no enquiry or investigation by, or complaint or reference to, any Third Party having been threatened, announced, implemented, instituted by or against or remaining outstanding against or in respect of any member of the Wider Hotel Chocolat Group which in each case would have a material and adverse effect in the context of the Wider Hotel Chocolat Group taken as a whole;
- (f) on or after the date of this announcement, other than with the consent of Bidco, no action having been taken or proposed by any member of the Wider Hotel Chocolat Group, or having been approved by Hotel Chocolat Shareholders or consented to by the Panel, which falls or would fall within or under Rule 21.1 of the Code or which otherwise is or would be materially inconsistent with the implementation by Bidco of the Acquisition on the basis contemplated as at the date of this announcement; and
- (g) no member of the Wider Hotel Chocolat Group having conducted its business in breach of any applicable laws and regulations which in any case is material in the context of the Hotel Chocolat Group taken as a whole;

**No discovery of certain matters**

- 9. save as Disclosed, Bidco not having discovered:
  - (a) that any financial or business or other information concerning the Wider Hotel Chocolat Group disclosed at any time by or on behalf of any member of the Wider Hotel Chocolat Group, whether publicly, to any member of the Wider Bidco Group or to any of their advisers or otherwise, is materially misleading or contains a material misrepresentation of fact or omits to state a fact necessary to make any information contained therein not misleading and which was not subsequently corrected before the date of this announcement by disclosure either publicly or otherwise to Bidco or its professional advisers to an extent which in any case is material in the context of the Hotel Chocolat Group taken as a whole; or
  - (b) that any member of the Wider Hotel Chocolat Group is subject to any liability (actual or contingent) which is not disclosed in Hotel Chocolat's annual report and accounts for the period ended 2 July 2023 which has not been Disclosed and which in any case is material in the context of the Hotel Chocolat Group taken as a whole;
  - (c) any information which affects the import of any information disclosed at any time by or on behalf of any member of the Wider Hotel Chocolat Group to an

extent which is material in the context of the Hotel Chocolat Group taken as a whole;

- (d) that any past or present member of the Wider Hotel Chocolat Group has not complied with any applicable legislation or regulations of any jurisdiction with regard to the use, treatment, handling, storage, transport, release, disposal, discharge, spillage, leak or emission of any waste or hazardous substance or any substance likely to impair the environment or harm human health, or otherwise relating to environmental matters or the health and safety of any person, or that there has otherwise been any such use, treatment, handling, storage, transport, release, disposal, discharge, spillage, leak or emission (whether or not this constituted a non-compliance by any person with any legislation or regulations and wherever the same may have taken place) which, in any case, would be likely to give rise to a liability (whether actual or contingent) or cost on the part of any member of the Wider Hotel Chocolat Group which in any case is material in the context of the Hotel Chocolat Group taken as a whole;
- (e) that there is, or is likely to be, any material liability, whether actual or contingent, to make good, repair, reinstate or clean up any property now or previously owned, occupied or made use of by any past or present member of the Wider Hotel Chocolat Group or any other property or any controlled waters under any environmental legislation, regulation, notice, circular, order or other lawful requirement of any relevant authority or third party or otherwise which in any case is material in the context of the Hotel Chocolat Group taken as a whole; or
- (f) that circumstances exist whereby a person or class of persons would be likely to have a claim in respect of any product or process of manufacture or materials used therein now or previously manufactured, sold or carried out by any past or present member of the Wider Hotel Chocolat Group which is or would be material in the context of the Hotel Chocolat Group taken as a whole;

#### **Anti-corruption, sanctions and criminal property**

10. Bidco not having discovered other than as Disclosed that:
- (a) (i) any past or present member, director, officer or employee of the Wider Hotel Chocolat Group is or has at any time engaged in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010, the US Foreign Corrupt Practices Act of 1977 or any other anti-corruption legislation applicable to the Wider Hotel Chocolat Group or (ii) any person that performs or has performed services for or on behalf of the Wider Hotel Chocolat Group is or has at any time engaged in any activity, practice or conduct in connection with the performance of such services which would constitute an offence under the Bribery Act 2010, the US Foreign Corrupt Practices Act of 1977 or any other applicable anti-corruption legislation;
  - (b) any asset of any member of the Wider Hotel Chocolat Group constitutes criminal property as defined by section 340(3) of the Proceeds of Crime Act 2002 (but disregarding paragraph (b) of that definition);

- (c) any past or present member, director, officer or employee of the Hotel Chocolat Group, or any other person for whom any such person may be liable or responsible, has engaged in any business with, made any investments in, made any funds or assets available to or received any funds or assets from: (i) any government, entity or individual in respect of which US or European Union persons, or persons operating in those territories, are prohibited from engaging in activities or doing business, or from receiving or making available funds or economic resources, by US or European Union laws or regulations, including the economic sanctions administered by the United States Office of Foreign Assets Control or HM Treasury; or (ii) any government, entity or individual targeted by any of the economic sanctions of the United Nations, the United States, the European Union or any of its member states; or
- (d) a member of the Hotel Chocolat Group has engaged in any transaction which would cause Bidco to be in breach of any law or regulation upon its acquisition of Hotel Chocolat, including the economic sanctions of the United States Office of Foreign Assets Control or HM Treasury, or any government, entity or individual targeted by any of the economic sanctions of the United Nations, the United States, the European Union or any of its member states.

For the purpose of these Conditions:

- (i) **“Third Party”** means any central bank, government, government department or governmental, quasi-governmental, supranational, statutory, regulatory, environmental or investigative body, authority (including any national or supranational anti-trust or merger control authority), court, trade agency, association, institution or professional or environmental body or any other person or body whatsoever in any relevant jurisdiction, including, for the avoidance of doubt, the Panel;
- (ii) a Third Party shall be regarded as having **“intervened”** if it has decided or, if applicable, given notice of a decision, to take, institute, implement or threaten any action, proceeding, suit, investigation, enquiry or reference or made, proposed or enacted any statute, regulation, decision or order or taken any measures or other steps or required any action to be taken or information to be provided or otherwise having done anything and **“intervene”** shall be construed accordingly; and
- (iii) **“Authorisations”** means authorisations, orders, grants, recognitions, determinations, certificates, confirmations, consents, licences, clearances, provisions and approvals, in each case, of a Third Party.

## **Part B Waiver and invocation of the Conditions**

11. Subject to the requirements of the Panel, Bidco reserves the right in its sole discretion to waive all or any of the Conditions set out in Part A of this Appendix 1 except Conditions 2(a)(i), 2(b)(i), 2(c)(i) which cannot be waived. The deadlines in any of Conditions 2(a)(ii), 2(b)(ii) and 2(c)(ii) may be extended to such later date as may be agreed in writing by Bidco and Hotel Chocolat (with the consent of the Panel, if

required) and with the approval of the Court, if such approval is required. If any of Conditions 2(a)(ii), 2(b)(ii) or 2(c)(ii) are not satisfied by the deadline specified in the relevant Condition, Bidco shall make an announcement by 8.00 a.m. on the Business Day following such deadline confirming whether it has invoked the relevant Condition, waived the relevant deadline or agreed with Hotel Chocolat to extend the relevant deadline.

12. Bidco shall be under no obligation to waive (if capable of waiver), to determine to be or remain satisfied or to treat as fulfilled any of Conditions 3 to 10 in Part A of this Appendix 1 by a date earlier than the Long-Stop Date, notwithstanding that the other Conditions may at such earlier date have been waived or fulfilled and that there are, at such earlier date, no circumstances indicating that any Condition may not be capable of fulfilment.
13. Subject to paragraph 14 below, under Rule 13.5(a) of the Code, Bidco may only invoke a Condition so as to cause the Acquisition not to proceed, to lapse or to be withdrawn with the consent of the Panel. The Panel will normally only give its consent if the circumstances which give rise to the right to invoke the Condition are of material significance to Bidco in the context of the Acquisition. This will be judged by reference to the facts of each case at the time that the relevant circumstances arise.
14. The Conditions set out in paragraphs 1 and 2(a)(i), 2(b)(i) and 2(c)(i) of Part A of this Appendix 1 (and any Takeover Offer acceptance condition adopted on the basis specified in Part C of this Appendix 1) will not be subject to Rule 13.5(a) of the Code.
15. Any Condition that is subject to Rule 13.5(a) of the Code may be waived by Bidco.
16. The Scheme will not become effective unless the Conditions have been fulfilled or (to the extent capable of waiver) waived or, where appropriate, have been determined by Bidco to be or remain satisfied by no later than the Long-Stop Date.
17. If the Panel requires Bidco to make an offer or offers for any Hotel Chocolat Shares under the provisions of Rule 9 of the Code, Bidco may make such alterations to the Conditions as are necessary to comply with the provisions of that Rule.
18. Each of the Conditions shall be regarded as a separate Condition and shall not be limited by reference to any other Condition.

### **Part C Implementation by way of Takeover Offer**

19. Bidco reserves the right to elect to implement the Acquisition by way of a Takeover Offer, subject to the Panel's consent and (where relevant) to the terms of the Cooperation Agreement. In such event, subject to the Cooperation Agreement, such Takeover Offer will be implemented on the same terms and conditions, so far as applicable, as those which would apply to the Scheme subject to appropriate amendments to reflect the change in method of effecting the Acquisition, including (without limitation and subject to the consent of the Panel) an acceptance condition that is set at 75 per cent. of the Hotel Chocolat Shares (or such other percentage (being more than 50 per cent.) as Bidco may decide (subject to the Panel's consent)) (i) in nominal value of the shares to which such Takeover Offer relates; and (ii) of the voting rights attaching to those shares.

#### **Part D Certain further terms of the Acquisition**

20. Hotel Chocolat Shares will be acquired by Bidco fully paid and free from all liens, equitable interests, charges, encumbrances, rights of pre-emption and other third party rights of any nature whatsoever and together with all rights attaching to them as at the date of this announcement or subsequently attaching or accruing to them, including the right to receive and retain, in full, all dividends and other distributions (if any) declared, made, paid or payable, or any other return of capital or value made, on or after the date of this announcement, other than any dividend or distribution in respect of which Bidco exercises its rights under the terms of the Acquisition to reduce the consideration payable in respect of each Hotel Chocolat Share.
21. If, on or after the date of this announcement and prior to the Effective Date, any dividend and/or other distribution and/or other return of capital or value is announced, declared, made or paid or becomes payable in respect of the Hotel Chocolat Shares, Bidco reserves the right (without prejudice to any right of Bidco to invoke Condition 7(c) in Part A of this Appendix 1), to reduce the consideration payable under the Cash Offer (and, as the case may be, the consideration due under the Partial Share Alternative) under the terms of the Acquisition for the Hotel Chocolat Shares by an amount up to the amount of such dividend and/or distribution and/or return of capital or value. In such circumstances, Hotel Chocolat Shareholders shall be entitled to retain any such dividend, distribution, or other return of value declared, made, or paid. Where the consideration payable is so reduced, any reference in this announcement or in the Scheme Document to the consideration payable under the terms of the Acquisition will be deemed to be a reference to the consideration as so reduced. To the extent that any such dividend and/or distribution and/or other return of capital or value is announced declared, made or paid or is payable and it is: (i) transferred pursuant to the Acquisition on a basis which entitles Bidco to receive the dividend or distribution and to retain it; or (ii) cancelled, the consideration payable under the terms of the Acquisition will not be subject to change in accordance with this paragraph. Any exercise by Bidco of its rights referred to in this paragraph shall be the subject of an announcement and, for the avoidance of doubt, shall not be regarded as constituting any revision or variation of the Acquisition.
22. The Acquisition will be subject, *inter alia*, to the Conditions and certain further terms which are set out in this Appendix 1 and those terms which will be set out in the Scheme Document and such further terms as may be required to comply with the provisions of the Code.
23. The availability of the Acquisition (including the Partial Share Alternative) to persons not resident in the United Kingdom may be affected by the laws of the relevant jurisdiction. Any persons who are subject to the laws of any jurisdiction other than the United Kingdom should inform themselves about and observe any applicable requirements. Further information in relation to Overseas Shareholders will be contained in the Scheme Document.
24. Unless otherwise determined by Bidco or required by the Code and permitted by applicable law and regulations, the Acquisition (including the Partial Share Alternative) is not being, and will not be, made, directly or indirectly, in, into or by the use of the mail of, or by any other means or instrumentality (including, but not limited

to, facsimile, email or other electronic transmission, telex or telephone) of interstate or foreign commerce of, or of any facility of a national, state or other securities exchange of, any Restricted Jurisdiction and will not be capable of acceptance by any such use, means, instrumentality or facility or from within any Restricted Jurisdiction.

25. This announcement and any rights or liabilities arising hereunder, the Acquisition, the Scheme, the Partial Share Alternative (and any elections thereunder) and any proxies will be governed by English law and be subject to the jurisdiction of the courts of England and Wales. The Scheme will be subject to the applicable requirements of the Code, the Panel, the London Stock Exchange, the AIM Rules and the FCA.

## Appendix 2

### Bases and Sources

1. The value attributed to the fully diluted ordinary share capital of Hotel Chocolat is based upon the 137,597,673 Hotel Chocolat Shares in issue on 15 November 2023 (being the last Business Day prior to this announcement) and an additional 4,735,557 Hotel Chocolat Shares, being the maximum number of Hotel Chocolat Shares that may be issued on or after the date of this announcement to satisfy the exercise and vesting of options and awards outstanding under the Hotel Chocolat Share Schemes as at 15 November 2023 (being the last Business Day prior to this announcement).
2. The 4,735,557 Hotel Chocolat Shares required to satisfy the exercise and vesting of options and awards outstanding under the Hotel Chocolat Share Schemes comprise:
  - (i) 2,966,984 Hotel Chocolat Shares which may be issued on or after the date of this announcement pursuant to the Hotel Chocolat Long Term Incentive Plan; plus
  - (ii) 159,422 Hotel Chocolat Shares which may be issued on or after the date of this announcement pursuant to the Hotel Chocolat Founder Shares Plan; plus
  - (iii) 1,609,151 Hotel Chocolat Shares which may be issued on or after the date of this announcement pursuant to the Hotel Chocolat Save As You Earn Plan.
3. The value of approximately £534 million for the entire issued and to be issued share capital of Hotel Chocolat is based on:
  - (i) the Cash Offer of 375 pence for each Hotel Chocolat Share; and
  - (ii) Hotel Chocolat's fully diluted issued ordinary share capital of 142,333,230 Hotel Chocolat Shares, as set out in paragraph 1 above.
4. The enterprise value of Hotel Chocolat is calculated by reference to the valuation of the Cash Offer referenced in paragraph 3 above plus Hotel Chocolat's reported net debt of £36.8 million (being Hotel Chocolat's reported gross debt of £48.0 million less Hotel Chocolat's reported cash and cash equivalents of £11.2 million) less reported equity investments of £0.1 million, as published by Hotel Chocolat in its annual report and accounts for the period ended 2 July 2023.
5. Hotel Chocolat's underlying EBITDA (on a post-IFRS 16 basis) for the 53-week period ended 2 July 2023 of £24.1 million has been extracted from Hotel Chocolat's annual report and accounts for the period ended 2 July 2023. "**Underlying EBITDA**" is defined as earnings before net finance costs, depreciation and amortisation, profit/loss on disposal of assets, share-based payment charges (and related taxes), share of profit/loss of joint ventures or associates, tax and exceptional or adjusting items.
6. Unless otherwise stated, the financial information on Hotel Chocolat is extracted (without material adjustment) from Hotel Chocolat's annual report and accounts for the period ended 2 July 2023.



7. The market prices of the Hotel Chocolat Shares are the closing middle market quotations as derived from information published by the London Stock Exchange.
8. The volume-weighted average prices have been derived from Bloomberg data.
9. Certain figures included in this announcement have been subject to rounding adjustments.

### Appendix 3 Details of Irrevocable Undertakings and Letter of Intent

#### Founders and Family Trusts

The Founders and the Family Trusts have given irrevocable undertakings to vote in favour of the Scheme at the Court Meeting and the Resolutions at the General Meeting (or, in the event that the Acquisition is implemented by way of the Takeover Offer, to accept the Takeover Offer) in relation to the following Hotel Chocolat Shares:

<b>Registered holder</b>	<b>Beneficial holder</b>	<b>Number of Hotel Chocolat Shares</b>	<b>Percentage of issued ordinary share capital of Hotel Chocolat</b>
Angus Thirlwell	Angus Thirlwell	31,955,657	23.2
Peter Harris	Peter Harris	31,955,657	23.2
Thirlwell Family Trust	The children of Angus Thirlwell	5,300,000	3.9
Harris Family Trust	The children and grandchildren of Peter Harris	5,300,000	3.9

The Founder Irrevocable Undertakings also extend to any Hotel Chocolat Shares acquired by such Hotel Chocolat Directors as a result of the vesting of awards or the exercise of options under the Hotel Chocolat Share Schemes.

The Founders and the Thirlwell Family Trust have also irrevocably undertaken to elect for the Partial Share Alternative in respect of the following Hotel Chocolat Shares:

<b>Registered holder</b>	<b>Beneficial holder</b>	<b>Number of Hotel Chocolat Shares</b>	<b>Percentage of issued ordinary share capital of Hotel Chocolat</b>
Angus Thirlwell	Angus Thirlwell	24,473,247	17.8
Peter Harris	Peter Harris	14,233,323	10.3
Thirlwell Family Trust	The children of Angus Thirlwell	3,993,399	2.9

The Founder Irrevocable Undertakings and the Family Trust Irrevocable Undertakings remain binding in the event that a higher competing offer is made for Hotel Chocolat and will cease to be binding only if the Scheme lapses or is withdrawn.

#### Other Hotel Chocolat Directors

The following other Hotel Chocolat Directors (being all other Hotel Chocolat Directors who are interested in Hotel Chocolat Shares) have given irrevocable undertakings to vote (or procure the voting) in favour of the Scheme at the Court Meeting and the Resolutions at the General

Meeting (or in the event that the Acquisition is implemented by way of a Takeover Offer, to accept, or procure the acceptance of, the Takeover Offer) in relation to the following Hotel Chocolat Shares:

<b>Name</b>	<b>Number of Hotel Chocolat Shares</b>	<b>Percentage of issued ordinary share capital of Hotel Chocolat</b>
Gregory Hodder	8,802	0.01
Sophie Tomkins	5,014	0.00
Jonathan Akehurst	597	0.00

These irrevocable undertakings remain binding in the event that a higher competing offer is made for Hotel Chocolat and will cease to be binding only if the Scheme lapses or is withdrawn.

#### **Phoenix Asset Management Partners Limited**

Phoenix, an entity exercising investment management control over certain Hotel Chocolat Shares, has given an irrevocable undertaking to vote (or procure the voting) in favour of the Scheme at the Court Meeting and the Resolutions at the General Meeting (or, in the event that the Acquisition is implemented by way of the Takeover Offer, to accept, or procure the acceptance of, the Takeover Offer) in relation to the following Hotel Chocolat Shares:

<b>Investment manager</b>	<b>Number of Hotel Chocolat Shares</b>	<b>Percentage of issued ordinary share capital of Hotel Chocolat</b>
Phoenix Asset Management Partners Limited	14,349,649	10.4

Pursuant to the Phoenix Irrevocable Undertaking, Phoenix has also irrevocably undertaken not to elect for the Partial Share Alternative in respect of the Hotel Chocolat Shares which are subject to the Phoenix Irrevocable Undertaking.

The Phoenix Irrevocable Undertaking remains binding in the event that a higher competing offer is made for Hotel Chocolat and will cease to be binding only if the Scheme lapses or is withdrawn.

In addition, Phoenix has delivered a non-binding letter of intent to vote (or procure the voting) in favour of the Scheme at the Court Meeting and the Resolutions at the General Meeting (or, in the event that the Acquisition is implemented by way of the Takeover Offer, to accept the Takeover Offer) in relation to the following Hotel Chocolat Shares:

<b>Investment manager</b>	<b>Number of Hotel Chocolat Shares</b>	<b>Percentage of issued ordinary share capital of Hotel Chocolat</b>
Phoenix Asset Management Partners Limited	6,878,383	5.0

In aggregate, the Phoenix Irrevocable Undertaking and the non-binding letter of intent from Phoenix provide support for the Acquisition in respect of all Hotel Chocolat Shares over which Phoenix exercises investment management control.

## **Appendix 4**

### **Details on Bidco and the Rollover Shares**

#### **1. Information on Bidco and the intermediate holding company**

Bidco is a corporation incorporated under the laws of the State of Delaware in the United States of America. Bidco is indirectly wholly owned by Mars and was formed for the purpose of implementing the Acquisition. Bidco has not traded or entered into any obligations other than in connection with the Acquisition. The share capital of Bidco currently comprises 100 Initial Bidco Shares, but will be reorganised on or around the Effective Date so that it comprises 99,633,261 Bidco A Shares and 42,699,969 Rollover Shares, and the Initial Bidco Shares will be cancelled.

At the date of this announcement, Bidco is a wholly-owned direct subsidiary of Mars Snacking Holdings.

Mars Snacking Holdings is a corporation incorporated in Delaware, United States of America and is a wholly-owned direct subsidiary of Mars.

Set out below is a summary of the proposed share capital structure of Bidco and the provisions of the Bidco Organisational Documents and the Bidco Shareholders' Agreement governing the terms on which eligible Hotel Chocolat Shareholders who validly elect for the Partial Share Alternative will hold Rollover Shares in Bidco pursuant to the mechanism described in paragraphs 13 and 14 of the announcement above. Further details will be included in the Scheme Document.

Eligible Hotel Chocolat Shareholders who elect for the Partial Share Alternative will, pursuant to a power of attorney to be included in the Form of Election and/or the Scheme, deliver a fully executed deed of adherence pursuant to which they will be bound by the Bidco Shareholders' Agreement.

#### **2. Information on Bidco shares**

On or around the Effective Date, Bidco is expected to issue around 142,333,230 Bidco Shares (on the basis of the maximum issue of Hotel Chocolat Shares pursuant to the Hotel Chocolat Share Schemes described in Appendix 2), and the Initial Bidco Shares will be cancelled. If the Partial Share Alternative were taken up in full by eligible Hotel Chocolat Shareholders, and assuming the amount of Hotel Chocolat Shares issued pursuant to the Hotel Chocolat Share Schemes prior to the Effective Date is consistent with the calculation set out in Appendix 2 to this announcement, Bidco would issue around:

- (a) 99,633,261 Bidco A Shares to Mars Snacking Holdings to fund the cash consideration and costs and expenses payable in respect of the Acquisition; and
- (b) 42,699,969 Rollover Shares to those Hotel Chocolat Shareholders who validly elect to receive the Partial Share Alternative.

#### **3. Terms of issue of Rollover Shares**

The Rollover Shares to be issued to eligible Hotel Chocolat Shareholders who elect for the Partial Share Alternative will be issued credited as fully paid and will rank economically pari passu with the Bidco A Shares being issued to Mars Snacking Holdings pursuant to

the Acquisition as described above, including the right to receive and retain dividends and other distributions declared, made or paid by reference to a record date falling on or after the date of this announcement.

#### **4. Economic rights**

The economic rights described below are subject to the risks also described below and in paragraph 15 of this announcement (for example, that (i) holders of Rollover Shares may be diluted over time, potentially significantly, should holders of Rollover Shares not elect to participate in further issues of additional shares, loan notes or other securities of the Bidco Group; (ii) holders of Rollover Shares are not always entitled to participate in such issues; and (iii) such additional securities may have different rights to the Rollover Shares).

Subject to the above, at the date of this announcement, any return of proceeds to shareholders of Bidco, whether on an Exit (as described below in paragraph 12 of this Appendix 4) or otherwise, including the right to receive and retain dividends and all other distributions and returns of capital made or paid, shall be distributed to each holder of Bidco A Shares and Rollover Shares pro rata to their holdings of Bidco Shares. The Bidco A Shares and the Rollover Shares shall rank equally as regards any distributions, dividends, buy-back, any other capital redemption or other returns of income or capital made by Bidco.

#### **5. Governance and voting rights**

Every holder of one or more Bidco A Shares on the date on which either a written resolution is circulated or a general meeting is held and who is present at such meeting shall, subject to the Bidco Organisational Documents and the Bidco Shareholders' Agreement, have one vote for each Bidco A Share.

The Rollover Shares will not entitle the holders thereof to: (i) any votes; (ii) receive a copy of any written resolution; or (iii) receive notice of any general meetings.

Bidco will generally be governed by a board of directors. The following matters, however, are reserved matters requiring the prior consent of holders of 75% or more of the Rollover Shares ("**Rollover Shareholder Supermajority Consent**"):

- (a) any issuances of shares by Bidco which are not in accordance with the pre-emption, catch-up or other procedures and customary exceptions specified in the Bidco Organisational Documents and the Bidco Shareholders' Agreement;
- (b) any dividends or distributions by Bidco to holders of Rollover Shares. Other returns of capital, including by way of buyback or repurchase of Rollover Shares, will not require Rollover Shareholder Supermajority Consent, but Mars Snacking Holdings will be required to consider in good faith any potential material adverse tax consequences of such actions on Original Rollover Shareholders (as a whole or in general) as compared to Mars Snacking Holdings prior to taking them;
- (c) any amendments to the provisions of the Bidco Organisational Documents or the Bidco Shareholders' Agreement relating to (i) the content or scope of matters requiring, or approval thresholds for, Rollover Shareholder Supermajority Consent described in this paragraph 5, (ii) permitted transfers

of Rollover Shares by Rollover Shareholders as described in paragraph 6 of this Appendix 4, (iii) the exercise, valuation and deferral of put and call options described in paragraph 7 of this Appendix 4, (iv) the board appointment right for Original Rollover Shareholders described in paragraph 10 of this Appendix 4, and (v) drag-along and tag-along rights in relation to the Rollover Shares described in paragraph 13 of this Appendix 4;

- (d) any other amendments to the rights of Rollover Shares which would be materially and/or disproportionately adverse to the economic, tax or legal position of the Original Rollover Shareholders (as a whole or in general) as compared to Mars Snacking Holdings, provided that other amendments to the rights of Bidco Shares as described below shall be permitted;
- (e) the entry into, variation or termination of any related party contract with Mars Snacking Holdings and/or its affiliates (subject to (i) customary carve outs, including for actions taken in the ordinary course of business, and (ii) a de minimis threshold).

Except as described in paragraphs (c) and (d) above, Mars Snacking Holdings may amend the rights of the Bidco Shares (notwithstanding any class rights) without the consent of the Rollover Shareholders (including Rollover Shareholder Supermajority Consent), provided that reasonable notice setting out the amendments shall be sent to Rollover Shareholders. Any amendments made without Rollover Shareholder Supermajority Consent shall be for bona fide purposes.

## **6. Transfers of Rollover Shares**

Rollover Shares will not be transferable during an initial five-year lock up period (the “**Lock-Up Period**”) without the prior written consent of Mars Snacking Holdings except pursuant to the put and call options described below or a reorganisation approved by Mars Snacking Holdings or in respect of customary permitted transfers by an Original Rollover Shareholder to its Associates or by its Associates to other Associates of the Original Rollover Shareholder (subject in each case to such Associates satisfying the requirements in paragraphs (a) to (c) below). Permitted transfers to Associates may be in respect of some but not all of the Rollover Shares held by an Original Rollover Shareholder.

No changes in direct or indirect interests or economic entitlements in Rollover Shares shall be permitted which circumvent the restrictions on transfers during the Lock-Up Period and, without prejudice to any claims available as a matter of law, all rights attaching to such Rollover Shares shall be suspended during any such breach.

Following the Lock-Up Period, an Original Rollover Shareholder shall be entitled to transfer its Rollover Shares (provided that any such transfer is for all (but not part) of the Rollover Shares held by such Rollover Shareholder and any of its Associates), subject to a right of first refusal in favour of Mars Snacking Holdings (other than on transfers to an Associate of such Original Rollover Shareholder) and to certain other restrictions in respect of the identity of the proposed transferee. In particular, any proposed transferee of Rollover Shares after the Lock-Up Period shall:

- (a) adhere to the Bidco Shareholders’ Agreement;

- (b) complete any applicable anti-money laundering, anti-bribery and corruption, anti-sanctions and “Know Your Client” checks reasonably required by Mars Snacking Holdings or its associates, the Bidco Group or the Hotel Chocolat Group (to be undertaken promptly) and/or any antitrust or regulatory change in control approvals required by any regulator (which the Bidco Group and Hotel Chocolat shall provide reasonable information and assistance in obtaining, if required); and
- (c) not be permitted if considered by the board of Bidco (acting reasonably and without delay) to be a competitor of the Bidco Group or the Hotel Chocolat Group, or a person whose investment is likely to result in reputational harm to Mars or its associates, the Bidco Group or the Hotel Chocolat Group.

## 7. Put and Call Options

During certain pre-defined option exercise periods commencing on 31 December 2025, 31 December 2026, 31 December 2027 (each an “**Interim Option Exercise Period**”) and 31 December 2028 (the “**Final Option Exercise Period**”), Mars Snacking Holdings shall have the right to call for the transfer to it of:

- (a) in respect of each Interim Option Exercise Period, 20 per cent. of the Rollover Shares subscribed for by each Original Rollover Shareholder at or around the Effective Date (plus 100 per cent. of any additional Rollover Shares held by such Original Rollover Shareholder and its Associates as a result of exercise of the Option Deferral Right (defined below) in an earlier Interim Option Exercise Period); and
- (b) in respect of the Final Option Exercise Period, all remaining Rollover Shares held by each Rollover Shareholder,

for cash consideration, calculated pursuant to the valuation mechanic described below and on and subject to the further terms to be set out in the Bidco Organisational Documents and the Bidco Shareholders’ Agreement.

During each Option Exercise Period, each Original Rollover Shareholder shall also have a corresponding right to require Mars Snacking Holdings to purchase the relevant percentage of its and its Associates’ Rollover Shares described above, for cash consideration calculated pursuant to the valuation mechanic described below.

### *Anti-circumvention*

The valuation mechanic for the put and call options will be subject to customary anti-circumvention protections which will: (i) oblige Mars Snacking Holdings to use commercially reasonable endeavours to operate the Bidco Group’s business in the ordinary course; (ii) prohibit Mars Snacking Holdings from taking (or causing or permitting to be done) any action in bad faith with the purpose of reducing the price payable to Rollover Shareholders in connection with the exercise of the put or call options; and (iii) prohibit any Rollover Shareholder from taking (or permitting to be done) any action in bad faith with the purpose of increasing the price payable to Rollover Shareholders in connection with the exercise of the put or call options where such action is not in the best interests of the Bidco Group’s long-term prospects and success.



Within 60 days of the start of each Option Exercise Period, Mars Snacking Holdings shall provide the Rollover Shareholder Representative with (A) a copy of the Bidco Group's annual management accounts (in GBP) for the relevant Reference Period, (B) written confirmation of the put and call option price for the relevant Option Exercise Period, as calculated by or on behalf of Mars Snacking Holdings (the "**Option Price**"), and (C) details of Mars Snacking Holdings' calculation of the put and call option price (together the "**Calculation Information**"). In the event that the Rollover Shareholder Representative considers in good faith that the Option Price is materially lower than it should be based on the Calculation Information, the Rollover Shareholder Representative shall be entitled to request that Bidco engages an appropriately qualified independent third party accountant to review the Calculation Information and provide an independent calculation of the put and call option price for that Option Exercise Period (the "**Independent Valuation Price**"). By requiring an independent valuation as described above, the Rollover Shareholder Representative shall be deemed to agree as agent on behalf of all Rollover Shareholders that the Independent Valuation Price shall apply in respect of that Option Exercise Period and that, if the Independent Valuation Price is less than 5 per cent. higher than the Option Price, all reasonable costs payable by Bidco in relation to the independent valuation shall be deducted from the cash amount payable to Rollover Shareholders in respect of exercise of that put and call option.

*Valuation mechanic for put and call options*

The price to be paid per Rollover Share pursuant to the put and call options shall be calculated at an enterprise value based on an average of the Bidco Group's revenue and (US GAAP) EBITDA multiple (equally weighted), in each case adjusted for the performance of the Bidco Group in the 12 month period prior to commencement of the relevant Option Exercise Period (the "**Reference Period**") and net of net debt adjustments. The relevant revenue and (US GAAP) EBITDA multiple shall be calculated and adjusted for the performance of the Bidco Group during each Reference Period, as follows:

- (c) if EBITDA is at or above the EBITDA Value for the relevant Reference Period, 3.0x revenue and 20.0x EBITDA (equally weighted);
- (d) if EBITDA is at or above the Low-End EBITDA Value but below the EBITDA Value, between 2.5x and 3.0x revenue and 17.0x and 20.0x EBITDA (equally weighted), increasing on a linear basis within the stated ranges based on EBITDA; or
- (e) if EBITDA is below the Low-End EBITDA Value, 2.0x revenue and 14.0x EBITDA (equally weighted),

with the resulting valuation then adjusted for net debt and then divided by the number of Bidco Shares in issue on the final day of the preceding Reference Period.

The agreed "**EBITDA Value**" and "**Low-End EBITDA Value**" for each Reference Period will be as follows:

<b>Reference Period</b>	<b>EBITDA Value</b>	<b>Low-End EBITDA Value</b>
12 months ended 31 December 2025	£50 million	£30 million
12 months ended 31 December 2026	£60 million	£40 million
12 months ended 31 December 2027	£70 million	£50 million
12 months ended 31 December 2028	£80 million	£60 million

Further details regarding the valuation mechanic for the put and call options will be included in the Bidco Organisational Documents and the Bidco Shareholders' Agreement which are expected to be published on or around the date of publication of the Scheme Document.

*Deferral of put / call option exercise*

Any Original Rollover Shareholder holding at least 5 per cent. of the Bidco Shares issued at or around the Effective Date may defer their right to exercise the put option in any Interim Option Exercise Period until the next Option Exercise Period (the "**Option Deferral Right**"). The Option Deferral Right shall be exercisable by service of written notice (in accordance with the Bidco Organisational Documents and the Bidco Shareholders' Agreement) to Mars Snacking Holdings.

If the Option Deferral Right is exercised:

- (f) the put option rights of such Original Rollover Shareholder (together with the equivalent rights of its Associates) in respect of the relevant Interim Option Exercise Period shall be deferred in full until the next Option Exercise Period;
- (g) Mars Snacking Holdings' right to exercise its call option in respect of such Original Rollover Shareholder (together with the equivalent rights of its Associates) in such Interim Option Exercise Period shall also be deferred in full until the next Option Exercise Period (other than in relation to Rollover Shares held by such persons as a result of an earlier exercise of the Option Deferral Right); and
- (h) the price payable in respect of exercise of any deferred put and/or call option in the next Option Exercise Period shall be calculated by reference to (i) the Bidco Group's performance in the most recent completed Reference Period prior to exercise of the deferred put or call option (as applicable), and (ii) the EBITDA Value and Low-End EBITDA Value in respect of such later Option Exercise Period.

The Option Deferral Right can only be exercised by an Original Rollover Shareholder once in relation to each Interim Option Exercise Period. Multiple deferrals by an Original Rollover Shareholder of the put and call options relating to their and their Associates'

Rollover Shares in respect of the same Interim Option Exercise Period will not be permitted.

## **8. Additional Bidco Share Issues**

Further issues of securities by Bidco may be implemented following the Effective Date.

If Bidco proposes to issue new Bidco Shares, each holder of Bidco Shares shall be entitled to participate pro rata in such issuance, exercisable on at least 15 Business Days' written notice, excluding issues of Bidco Shares or transfers of Bidco Shares from treasury:

- (a) to Mars Snacking Holdings and/or its associates to finance the Acquisition;
- (b) to the Original Rollover Shareholders pursuant to the Scheme and/or the mechanism described in paragraph 14 above;
- (c) to actual or potential employees, directors, officers or consultants (whether directly or indirectly) which shall dilute Mars Snacking Holdings' Bidco Shares and the Rollover Shareholders' Bidco Shares pro rata;
- (d) other than to Mars Snacking Holdings or its associates, for non-cash consideration on the acquisition of, or merger with, all or part of another business, undertaking, company or assets, which shall dilute Mars Snacking Holdings' Bidco Shares and the Rollover Shareholders' Bidco Shares pro rata;
- (e) other than to Mars Snacking Holdings or its associates, in connection with any debt financing arrangements of the Bidco Group, which shall dilute Mars Snacking Holdings' Bidco Shares and the Rollover Shareholders' Bidco Shares pro rata;
- (f) in connection with an IPO or a pre-IPO reorganisation; or
- (g) in respect of which Mars Snacking Holdings obtains Rollover Shareholder Supermajority Consent to the disapplication of pre-emption rights.

In the case of an issue of further Bidco Shares to Mars Snacking Holdings (or its affiliates), such recipient will receive Bidco A Shares and the Rollover Shareholders entitled to participate in such issue will receive further Rollover Shares. Bidco A Shares and Rollover Shares shall be issued pro rata in the proportions which exist immediately before the new issue of securities if each shareholder in Bidco exercises their pre-emption rights in full.

Unless otherwise agreed between Mars Snacking Holdings and the Rollover Shareholder Representative, any issues of Bidco Shares following the Effective Date shall occur at fair market value.

## **9. Terms of Partial Share Alternative in the event of a switch**

In the event that Bidco elects, with the consent of the Panel and subject to the Cooperation Agreement, to switch to a Takeover Offer, and less than one hundred per cent. of the Hotel Chocolat Shares are acquired by Bidco on or around the date of such Takeover Offer becoming unconditional, the total number of Bidco A Shares to be issued to Mars Snacking Holdings and Rollover Shares to be issued to Hotel Chocolat Shareholders who elect for the Partial Share Alternative will be reduced (and in the same proportions as between Bidco

A Shares and Rollover Shares such that the maximum number of Rollover Shares available to Hotel Chocolat Shareholders under the Partial Share Alternative will remain equal to the equivalent of 30.0 per cent. of the total Bidco Offer Shares in issue at such time).

In that event, if elections for the Partial Share Alternative are unable to be satisfied in full as a result, the number of Rollover Shares to be issued to each eligible Hotel Chocolat Shareholder who has elected for the Partial Share Alternative will be reduced on a pro rata basis, and the consideration for each Hotel Chocolat Share that is not exchanged for Rollover Shares will be paid in cash in accordance with the terms of the Cash Offer.

If (i) further Hotel Chocolat Shares are acquired for cash by or on behalf of Bidco after the Takeover Offer becomes unconditional (under the compulsory acquisition procedure or otherwise), and (ii) the Bidco A Shares to be issued to fund those acquisitions were not included in the calculation of the above 30.0 per cent. entitlement of Hotel Chocolat Shareholders who elect for the Partial Share Alternative, any additional Bidco Shares which are issued in order to fund those acquisitions will be issued in the same proportions as between each class of Bidco A Shares and Rollover Shares as existed following the initial issue of Bidco Offer Shares to electing Hotel Chocolat Shareholders. Holders of Rollover Shares shall be entitled to customary pre-emption rights or catch-up rights in relation to any such additional issue of Bidco Shares in order to maintain their percentage interest in Bidco.

#### **10. Governance; Bidco board representation**

Any Original Rollover Shareholder holding (in aggregate with any holdings of its Associates) at least 50 per cent. of the Rollover Shares issued to Original Rollover Shareholders at or around the Effective Date from time to time shall have the right to appoint a member to Bidco's board of directors at any time during the Lock-up Period (subject to the identity of such member being acceptable to the board of directors of Bidco (acting reasonably and in good faith)) to attend, speak and vote at meetings of the board of directors of Bidco. All other members of the Bidco board of directors will be appointed by Mars Snacking Holdings (or its associates).

Capital expenditure by the Bidco Group in excess of agreed levels (on a per project / per major investment basis) shall only be permitted with board supermajority consent (requiring approval of a majority of the Bidco board of directors, including any member of the Bidco board of directors appointed by an Original Rollover Shareholder pursuant to this paragraph 10). Further details will be set out in the Bidco Shareholders' Agreement.

#### **11. Information rights**

Any director appointed to Bidco's board of directors in accordance with paragraph 10 of this Appendix 4 shall receive all notices of board meetings and shall be provided with (subject to customary confidentiality undertakings, carve-outs for situations in which the board considers in good faith that such director has a conflict of interest and restrictions around the sharing of such information) all relevant papers, documents and reports provided to the members of the board, and papers, material provided to, minutes of and resolutions approved by such board and any committee of such board.

Except as provided for in this paragraph 11 and without prejudice to the information to be provided to the Rollover Shareholder Representative pursuant to paragraph 7 of this

Appendix 4, neither the Bidco Organisational Documents nor the Bidco Shareholders' Agreement will provide information rights for Rollover Shareholders.

## **12. Exit Arrangements**

### *During the Lock-Up Period*

During the Lock-Up Period, the following actions and liquidity events shall be at Mars Snacking Holdings' sole discretion:

- (a) any sale, transfer or disposal of or other dealing in Bidco Shares (other than Rollover Shares);
- (b) the giving of any consent for any transfer of Rollover Shares;
- (c) any reorganisation of the Bidco Group (including but not limited to any winding up or similar process in respect of any member of the Bidco Group where such process is required by applicable law or such action would not reasonably be expected to have an adverse effect on the Bidco Group as a whole or the put and call valuation described in paragraph 7). Rollover Shareholders shall co-operate and take such actions in respect of any proposed reorganisation as are reasonably requested by Bidco, Mars Snacking Holdings or Mars.

### *Following the Lock-Up Period*

Following the Lock-Up Period, any sale of shares, asset sale, IPO, winding-up or other form of liquidity event relating to the Bidco Group (other than pursuant to the put options described in paragraph 7 of this Appendix 4) (an "Exit") shall be at the absolute discretion of Mars Snacking Holdings.

All holders of Rollover Shares are required to co-operate and take such actions in respect of any proposed Exit as are reasonably requested by Bidco, Mars Snacking Holdings or Mars. This shall include without limitation: (i) cooperating in respect of any reorganisation, restructuring or other corporate (or similar) action required to facilitate such Exit; (ii) providing warranties as to the title to the Rollover Shares held by such holder and its capacity to sell such Rollover Shares; and (iii) in the case of an IPO, entering into customary "lock-up" undertakings.

## **13. Drag-along and tag-along**

Following the Lock-Up Period:

- (a) Mars Snacking Holdings shall have a drag right in relation to all Rollover Shares on the same economic terms on any disposal of direct or indirect interests in Bidco Shares by Mars Snacking Holdings and/or its affiliates to a bona fide purchaser which is not connected with Mars Snacking Holdings if, following such transfer, the purchaser would thereafter directly or indirectly hold a majority of the Bidco Shares.
- (b) Original Rollover Shareholders shall have a "pro rata" tag right (applicable in relation to Rollover Shares held by such Original Rollover Shareholder and its

Associates) on the same economic terms on any transfer of Bidco Shares by Mars Snacking Holdings, other than in respect of certain excluded instances including, but not limited to: (i) customary permitted transfers to affiliates or any current or prospective director, officer, employee or consultant of the Bidco Group; (ii) a reorganisation or IPO of Bidco or the Bidco Group; or (iii) where a drag right has been exercised. Original Rollover Shareholders shall have a full tag right (applicable in relation to Rollover Shares held by such Original Rollover Shareholder and its Associates) on the same economic terms on a transfer by Mars Snacking Holdings of a majority of the Bidco Shares (save that this right will be subject to certain excluded instances specified above). The tag rights described in this paragraph are exercisable by an Original Rollover Shareholder in respect of all but not only some of the Rollover Shares to which those tag rights apply.

#### **14. Governing law and jurisdiction**

The Bidco Shareholders' Agreement shall be governed by the laws of the State of Delaware in the United States. The relevant courts of the State of Delaware have exclusive jurisdiction to settle any dispute which may arise out of or in connection with the Bidco Shareholders' Agreement and accordingly any proceedings arising out of or in connection with the Bidco Shareholders' Agreement shall be brought in such courts.

#### **15. "Know Your Client" and other regulatory requirements**

Eligible Hotel Chocolat Shareholders who elect for the Partial Share Alternative will be required to provide, and procure that their affiliates and other related persons provide, to Bidco and Mars before the Effective Date such materials and information with respect to themselves (and, to the extent applicable, their directors, shareholders, members, affiliates and other relevant parties) as requested by Bidco, Mars Snacking Holdings or Mars in order to satisfy any applicable anti-money laundering, anti-bribery and corruption, anti-sanctions and "Know Your Client" checks reasonably required by Bidco, Mars Snacking Holdings or Mars or their respective associates and/or any antitrust or regulatory change in control approvals required by any regulator.

## Appendix 5 Definitions

The following definitions apply throughout this announcement unless the context requires otherwise.

<b>“£”, “Sterling”, “pence” or “p”</b>	the lawful currency of the UK
<b>“\$”, “US\$”, “USD” or “dollars”</b>	the lawful currency of the US
<b>“Acquisition”</b>	the direct or indirect acquisition of the entire issued and to be issued share capital of Hotel Chocolat by Bidco to be implemented by way of the Scheme or (should Bidco so elect, subject to the consent of the Panel and to the terms of the Cooperation Agreement) by way of the Takeover Offer and, where the context admits, any subsequent revision, variation, extension or renewal thereof
<b>“Acquisition Facility Agreement”</b>	the term credit agreement dated as of 16 November 2023, among Mars (as borrower), the lenders party thereto and JPMorgan Chase Bank, N.A. (as administrative agent);
<b>“AIM”</b>	AIM, a market operated by the London Stock Exchange
<b>“AIM Rules”</b>	the AIM Rules for Companies, as amended from time to time
<b>“Associate”</b>	an associate of an Original Rollover Shareholder (including certain affiliates, close family members and related family trusts), further details of which will be set out in the Bidco Shareholders’ Agreement
<b>“Bidco”</b>	Hive Bidco, Inc.
<b>“Bidco A Shares”</b>	the shares of Class A stock of Bidco
<b>“Bidco Group”</b>	Bidco and its subsidiary undertakings from time to time
<b>“Bidco Shares”</b>	the Bidco A Shares and the Rollover Shares
<b>“Bidco Offer Shares”</b>	99,633,261 Bidco A Shares and 42,699,969 Rollover Shares
<b>“Bidco Organisational Documents”</b>	the certificate of incorporation and bylaws of Bidco
<b>“Bidco Shareholders’ Agreement”</b>	the shareholders’ agreement to be entered into by the holders of Rollover Shares, from time to time, and the holders of Bidco A Shares

<b>“Business Day”</b>	a day (other than Saturdays, Sunday and public holidays in the UK or the United States of America) on which banks are open for business in London and New York
<b>“Calculation Information”</b>	has the meaning given in paragraph 7 of Appendix 4 of this announcement
<b>“Cash Offer”</b>	375 pence per Hotel Chocolat Share
<b>“Clean Team Agreement”</b>	the clean team agreement dated 24 October 2023 between Mars and Hotel Chocolat entered into in connection with the Acquisition and further details of which are set out in paragraph 12 of this announcement
<b>“Code”</b>	the City Code on Takeovers and Mergers, as amended from time to time
<b>“Companies Act”</b>	the Companies Act 2006, as amended from time to time
<b>“Conditions”</b>	the conditions to the implementation of the Acquisition (including the Scheme) as set out in Appendix 1 to this announcement and to be set out in the Scheme Document
<b>“Confidentiality Agreement”</b>	the confidentiality agreement dated 16 October 2023 between Mars and Hotel Chocolat entered into in connection with the Acquisition and further details of which are set out in paragraph 12 of this announcement
<b>“Confidentiality and Joint Defence Agreement”</b>	the confidentiality and joint defence agreement dated 25 October 2023 between Mars and Hotel Chocolat (amongst others) entered into in connection with the Acquisition and further details of which are set out in paragraph 12 of this announcement
<b>“Cooperation Agreement”</b>	the agreement dated 16 November 2023 between Bidco and Hotel Chocolat and relating, among other things, to the implementation of the Acquisition and further details of which are set out in paragraph 12 of this announcement
<b>“Court”</b>	the High Court of Justice of England and Wales
<b>“Court Meeting”</b>	the meeting(s) of the Scheme Shareholders to be convened by order of the Court pursuant to section 896 of the Companies Act, notice of which will be set out in the Scheme Document, for the purpose of considering and, if thought fit, approving the Scheme, including any adjournment thereof
<b>“CREST”</b>	the relevant system (as defined in the Uncertificated Securities Regulations 2001 (SI 2001/3755)) in respect of which Euroclear UK & International Limited is the



Operator (as defined in such Regulations) in accordance with which securities may be held and transferred in uncertificated form

**“Dealing Disclosure”**

has the same meaning as in Rule 8 of the Code

**“Disclosed”**

information which has been fairly disclosed by or on behalf of Hotel Chocolat: (i) in the annual report and accounts of the Hotel Chocolat Group for the 53-week period to 2 July 2023; (ii) in this announcement; (iii) in any other public announcement to a Regulatory Information Service by, or on behalf of, Hotel Chocolat prior to the date of this announcement; and /or (iv) in writing to Bidco (or its officers, employees, agents or advisers in their capacity as such) by or on behalf of Hotel Chocolat (including in the virtual data room operated by or on behalf of Hotel Chocolat in connection with the Acquisition) in each case prior to the date of this announcement

**“EBITDA Value”**

has the meaning given in paragraph 7 of Appendix 4 of this announcement

**“Effective”**

(i) if the Acquisition is implemented by way of the Scheme, the Scheme having become effective pursuant to and in accordance with its terms; or (ii) if the Acquisition is implemented by way of the Takeover Offer, the Takeover Offer having been declared or having become unconditional in accordance with the requirements of the Code

**“Effective Date”**

the date upon which the Acquisition becomes Effective

**“Excluded Shares”**

(i) any Hotel Chocolat Shares beneficially owned by Bidco or any other member of the Bidco Group; and (ii) any other Hotel Chocolat Shares which Bidco and Hotel Chocolat agree will not be subject to the Scheme

**“Exit”**

has the meaning given in paragraph 12 of Appendix 4

**“FCA”**

the Financial Conduct Authority of the United Kingdom, acting in its capacity as the competent authority for the purposes of FSMA

**“Final Option Exercise Period”**

has the meaning given in paragraph 7 of Appendix 4 of this announcement

**“Form of Election”**

the form of election to be sent to Scheme Shareholders by or on behalf of Hotel Chocolat pursuant to which an eligible Scheme Shareholder may elect for the Partial Share Alternative

<b>“Forms of Proxy”</b>		the forms of proxy in connection with each of the Court Meeting and the General Meeting, which shall accompany the Scheme Document
<b>“Family Trust Undertakings”</b>	<b>Irrevocable</b>	has the meaning given in paragraph 6 of this announcement
<b>“Family Trusts”</b>		has the meaning given in paragraph 6 of this announcement
<b>“Founder Undertaking”</b>	<b>Irrevocable</b>	has the meaning given in paragraph 6 of this announcement
<b>“Founders”</b>		Angus Thirlwell and Peter Harris
<b>“FSMA”</b>		the Financial Services and Markets Act 2000
<b>“General Meeting”</b>		the general meeting of Hotel Chocolat to be convened in connection with the Scheme, to consider and, if thought fit, approve the Resolutions, notice of which will be set out in the Scheme Document, including any adjournment thereof
<b>“Hotel Chocolat”</b>		Hotel Chocolat Group plc
<b>“Hotel Chocolat Directors”</b>		the directors of Hotel Chocolat at the time of this announcement or, where the context so requires, the directors of Hotel Chocolat from time to time
<b>“Hotel Chocolat Group”</b>		Hotel Chocolat and its subsidiary undertakings
<b>“Hotel Chocolat Share Schemes”</b>		the Hotel Chocolat Long Term Incentive Plan, the Hotel Chocolat Save As You Earn Plan and the Hotel Chocolat Founder Shares Plan
<b>“Hotel Chocolat Shareholders”</b>		the registered holders of Hotel Chocolat Shares from time to time
<b>“Hotel Chocolat Shares”</b>		ordinary shares of 0.1 pence each in the capital of Hotel Chocolat
<b>“Independent Valuation Price”</b>		has the meaning given in paragraph 7 of Appendix 4 of this announcement
<b>“Initial Bidco Shares”</b>		has the meaning given in paragraph 14 of this announcement
<b>“Interim Option Exercise Period”</b>		has the meaning given in paragraph 7 of Appendix 4 of this announcement
<b>“IPO”</b>		initial public offering
<b>“Lazard”</b>		Lazard & Co., Limited

<b>“Liberum”</b>	Liberum Capital Limited
<b>“Lock-Up Period”</b>	has the meaning given in paragraph 6 of Appendix 4
<b>“London Stock Exchange”</b>	London Stock Exchange plc
<b>“Long-Stop Date”</b>	17 May 2024 or such later date (i) as may be agreed in writing by Bidco and Hotel Chocolat (with the Panel’s consent if required) or (ii) at the direction of the Panel under the Note on Section 3 of Appendix 7 to the Code
<b>“Low-End EBITDA Value”</b>	has the meaning given in paragraph 7 of Appendix 4 of this announcement
<b>“Mars”</b>	Mars, Incorporated
<b>“Mars Snacking Holdings”</b>	Mars Snacking Holdings, Inc., a wholly-owned direct subsidiary of Mars
<b>“Minimum Rollover Threshold”</b>	has the meaning given in paragraph 2 of this announcement
<b>“Morgan Stanley”</b>	Morgan Stanley & Co. International plc
<b>“Offer Document”</b>	should the Acquisition be implemented by way of a Takeover Offer, the offer document to be sent to (amongst others) Hotel Chocolat Shareholders setting out, amongst other things, the full terms and conditions of the Takeover Offer
<b>“Opening Position Disclosure”</b>	has the same meaning as in Rule 8 of the Code
<b>“Option Deferral Right”</b>	has the meaning given in paragraph 7 of Appendix 4 of this announcement
<b>“Option Exercise Periods”</b>	the Interim Option Exercise Periods and the Final Option Exercise Period, and <b>“Option Exercise Period”</b> shall mean any one of them
<b>“Option Price”</b>	has the meaning given in paragraph 7 of Appendix 4 of this announcement
<b>“Original Rollover Shareholder”</b>	an eligible Hotel Chocolat Shareholder who validly elects for the Partial Share Alternative and to whom Rollover Shares are issued at or around the Effective Date
<b>“Overseas Shareholders”</b>	Hotel Chocolat Shareholders who are resident in, ordinarily resident in, or citizens of, jurisdictions outside the United Kingdom
<b>“Panel”</b>	the UK Panel on Takeovers and Mergers

<b>“Partial Share Alternative”</b>	the alternative to the Cash Offer under which eligible Hotel Chocolat Shareholders may elect to receive Rollover Shares on and subject to the terms of this announcement and the terms and conditions to be set out in the Scheme Document (or, if applicable, the Offer Document) in due course, further details of which are set out at paragraph 2 of this announcement
<b>“Partial Share Alternative Maximum”</b>	has the meaning given in paragraph 13 of this announcement
<b>“Phoenix”</b>	has the meaning given in paragraph 6 of this announcement
<b>“Phoenix Irrevocable Undertaking”</b>	has the meaning given in paragraph 6 of this announcement
<b>“Reference Period”</b>	has the meaning given in paragraph 7 of Appendix 4 of this announcement
<b>“Registrar of Companies”</b>	the Registrar of Companies in England and Wales
<b>“Regulatory Information Service”</b>	any information service authorised from time to time by the FCA for the purpose of disseminating regulatory announcements
<b>“Resolutions”</b>	the shareholder resolution(s), to be proposed at the General Meeting necessary to approve, implement and effect the Scheme and the Acquisition, including (without limitation) a resolution to implement certain amendments to be made to the articles of association of Hotel Chocolat
<b>“Restricted Jurisdiction”</b>	any jurisdiction where local laws or regulations may result in a significant risk of civil, regulatory or criminal exposure if information concerning the Acquisition is sent or made available to Hotel Chocolat Shareholders in that jurisdiction
<b>“Rollover Shareholder”</b>	any holder of Rollover Shares from time to time
<b>“Rollover Shareholder Representative”</b>	such person as the Rollover Shareholders appoint from time to time by Rollover Shareholder Supermajority Consent as their agent for the purposes of certain actions to be taken under the Bidco Organisational Documents and the Bidco Shareholders’ Agreement and in the event that no such person is appointed by the Rollover Shareholders, the Original Rollover Shareholder holding the largest number of Rollover Shares at the relevant time, further details of which will be set out in the Bidco

Organisational Documents and the Bidco Shareholders' Agreement

<b>“Rollover Shareholder Supermajority Consent”</b>	has the meaning given in paragraph 5 of Appendix 4 of this announcement
<b>“Rollover Shares”</b>	the shares of Class B stock of Bidco, and <b>“Rollover Share”</b> shall mean any one of them
<b>“Scheme”</b>	the scheme of arrangement proposed to be made under Part 26 of the Companies Act between Hotel Chocolat and the Scheme Shareholders, with or subject to any modification, addition or condition approved or imposed by the Court and agreed to by Hotel Chocolat and Bidco
<b>“Scheme Court Hearing”</b>	the hearing of the Court to sanction the Scheme
<b>“Scheme Court Order”</b>	the order of the Court sanctioning the Scheme under Part 26 of the Companies Act
<b>“Scheme Document”</b>	the document to be sent to (among others) Hotel Chocolat Shareholders containing and setting out, among other things, the full terms and conditions of the Scheme and containing the notices convening the Court Meeting and General Meeting
<b>“Scheme Record Time”</b>	the time and date specified in the Scheme Document, expected to be 6.00 p.m. London time on the Business Day immediately prior to the Effective Date
<b>“Scheme Shareholders”</b>	holders of Scheme Shares
<b>“Scheme Shares”</b>	Hotel Chocolat Shares: <ul style="list-style-type: none"><li>(a) in issue as at the date of the Scheme Document;</li><li>(b) (if any) issued after the date of the Scheme Document and prior to the Scheme Voting Record Time; and</li><li>(c) (if any) issued on or after the Scheme Voting Record Time and before the Scheme Record Time, either on terms that the original or any subsequent holders thereof shall be bound by the Scheme or in respect of which the holders thereof shall have agreed in writing to be bound by the Scheme,</li></ul>

but in each case other than the Excluded Shares

<b>“Scheme Voting Record Time”</b>	the time and date specified in the Scheme Document by reference to which entitlement to vote on the Scheme will be determined
<b>“Section 3(a)(10)”</b>	Section 3(a)(10) the Securities Act
<b>“Securities Act”</b>	the US Securities Act of 1933
<b>“Substantial Interest”</b>	a direct or indirect interest in 20 per cent. or more of the voting equity capital of an undertaking
<b>“Takeover Offer”</b>	if (subject to the consent of the Panel) Bidco elects to effect the Acquisition by way of a takeover offer (as defined in Chapter 3 of Part 29 of the Companies Act), the offer to be made by or on behalf of Bidco to acquire the issued and to be issued ordinary share capital of Hotel Chocolat on the terms and subject to the conditions to be set out in the related offer document
<b>“UK” or “United Kingdom”</b>	the United Kingdom of Great Britain and Northern Ireland
<b>“Underlying EBITDA”</b>	has the meaning given in Appendix 2 of this announcement
<b>“United States of America”, “United States” or “US”</b>	the United States of America, its territories and possessions, any state of the United States and the District of Columbia
<b>“US Exchange Act”</b>	the United States Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder
<b>“Wider Bidco Group”</b>	Bidco and the subsidiaries and subsidiary undertakings of Bidco and associated undertakings (including any joint venture, partnership, firm or company) in which any member of the Bidco Group and any such undertakings (aggregating their interests) have a Substantial Interest)
<b>“Wider Hotel Chocolat Group”</b>	Hotel Chocolat and the subsidiaries and subsidiary undertakings of Hotel Chocolat and associated undertakings (including any joint venture, partnership, firm or company in which any member of the Hotel Chocolat Group or any such undertakings (aggregating their interests) have a Substantial Interest)

For the purposes of this announcement, **“subsidiary”**, **“subsidiary undertaking”**, **“undertaking”**, **“associated undertaking”** have the meanings given to them by the Companies Act.

References to an enactment include references to that enactment as amended, replaced, consolidated or re-enacted by or under any other enactment before or after the date of this announcement.

All references to time in this announcement are to London time unless otherwise stated.

References to the singular include the plural and vice versa.