

Joint Report

of

the Management Board of Delivery Hero SE

and

the Managing Directors of Foodpanda GmbH

pursuant to Section 293a German Stock Corporation Act

on the draft Profit Transfer Agreement between

Delivery Hero SE and Foodpanda GmbH

1. Introduction

Delivery Hero SE with registered seat in Berlin (hereinafter “**Delivery Hero**”) and Foodpanda GmbH with registered seat in Berlin (hereinafter “**Foodpanda**”) intend to conclude a profit transfer agreement within the meaning of Section 291 para. 1 sentence 1 German Stock Corporation Act (*Aktiengesetz*, “**AktG**”) (hereinafter “**Agreement**”). The Agreement is to be concluded in written form, and requires approval by the General Meeting of Delivery Hero and the Shareholders’ Meeting of Foodpanda, as well as the registration with the commercial register of Foodpanda to become effective.

The Annual General Meeting of Delivery Hero will be requested to give its approval of the Agreement presumably on June 14, 2023, and the Shareholders’ Meeting of Foodpanda subsequent to this Annual General Meeting. The Agreement is then to be concluded after approval has been granted and filed for registration with the commercial register of Foodpanda’s registered seat.

The Management Board of Delivery Hero and the Managing Directors of Foodpanda jointly issue the following report in accordance with Section 293a AktG to inform the shareholders of the two companies.

2. Parties to the Agreement

The parties to the agreement are Delivery Hero and Foodpanda.

2.1 Delivery Hero SE

Delivery Hero is a listed European Company (*Societas Europaea*) with registered seat in Berlin and is registered with the commercial register of the Local Court of Charlottenburg (Berlin) under HRB 198015 B. Delivery Hero is the parent company of the Delivery Hero group. Delivery Hero’s financial year corresponds to the calendar year.

According to the articles of association of Delivery Hero, its object is the holding and administration of participations in other companies in its own name and for its own account as well as for the account of its affiliated

companies, to the extent that no public approval is required; the development and operation of domestic and foreign internet, technology, media, trade, marketing, food service and logistic projects; the development, performance, brokerage and marketing of services and products, especially in the areas internet, technology, media, trade, marketing, food service and logistic; development and implementation of new business concepts in the above and related areas as well as the (direct or indirect) investment in and the establishment of companies, which are engaged in the above or related areas, including especially the performance of services and consulting services in the above or related areas; the provision, brokerage and marketing of services, especially in the areas of general consulting and management services as well as operations connected therewith to the extent that no public approval is required.

The registered share capital of Delivery Hero amounts to EUR 266,779,714.00 and is divided into 266,779,714 no par value shares.

2.2 Foodpanda GmbH

Foodpanda is a German limited liability company with registered seat in Berlin and is registered with the commercial register of the Local Court of Charlottenburg (Berlin) under HRB 138224 B. Foodpanda was founded by notarial deed on November 21, 2011 under the company name Jade 1352. GmbH by VRB Vorratsgesellschaften GmbH as its sole shareholder. With shareholders' resolution of July 17, 2013, the company was renamed Foodpanda GmbH.

Foodpanda's financial year corresponds to the calendar year. According to the articles of association of Foodpanda, its object is the development, marketing and provision of internet services through subsidiaries within and outside Germany (trading in goods of various kinds, in particular food and nutritional products), the provision of logistics services and digital services as well as all services related to the aforementioned object of the company.

The registered share capital of Foodpanda amounts to EUR 29,653.00 and is divided into 29,653 shares with a nominal amount of EUR 1.00 each. All shares in Foodpanda are held by Delivery Hero.

Foodpanda is a non-operational company whose main focus is holding stakes in group companies of the Delivery Hero group. Foodpanda does not have any employees as at the date of this report.

3. Explanation of the Agreement

The Agreement is a profit transfer agreement, and thus an enterprise agreement pursuant to Section 291 para. 1 sentence 1 AktG.

With respect to the individual provisions of the Agreement, the following is to be noted:

- **Transfer of Profit (Section 1)**

Pursuant to Section 1 para. 1 of the Agreement, Foodpanda is obliged to transfer its entire profit to Delivery Hero for the duration of the Agreement in accordance with Section 301 AktG, as amended from time to time. Subject to the formation and dissolution of reserves pursuant to Section 4 of the Agreement (see below), the annual profit generated without the transfer of profit, less any losses carried forward from the precedent year shall be transferred. The obligation to transfer profits will apply for the first time for the entire profit of the then current financial year of Foodpanda in which the Agreement becomes effective.

- **Absorption of Losses (Section 2)**

Delivery Hero is obliged to compensate any annual deficit of Foodpanda otherwise incurred during the term of the Agreement in accordance with the provisions of Section 302 AktG, as amended from time to time. In accordance with Section 302 para. 1 AktG, in its currently applicable version, the annual deficit is to be compensated only to the extent that same is not compensated by amounts withdrawn from the other retained earnings that were allocated to same during the term of this Agreement. All provisions of Section 302 AktG, as amended from time to time, shall apply accordingly. This also refers in particular to the statutory waiver and settlement option with regard to the claim and to the statutory limitation provision.

In principle, the respective claim for absorption of losses shall arise on the balance sheet date of the relevant financial year of Foodpanda.

For the intended establishment of a tax group for corporation and trade tax (cf. below under 4.) between Foodpanda and Delivery Hero, the agreement of such an absorption of losses by reference to the provisions of Section 302 AktG, as amended from time to time, is mandatory (Section 17 para. 1 sentence 2 no. 2 of the German Corporate Income Tax Act (*Körperschaftsteuergesetz*, “KStG”).

- **Preparation of the Annual Financial Statements (Section 3)**

Pursuant to Section 3 of the Agreement, the annual financial statements of Foodpanda shall be submitted to Delivery Hero for information, review and approval prior to their adoption. In addition, the annual financial statements of Foodpanda shall be prepared and adopted prior to the annual financial statements of Delivery Hero.

If the financial year of Foodpanda ends at the same time as the financial year of Delivery Hero, the profit or loss of Foodpanda to be absorbed shall nevertheless be taken into account in the annual

financial statements of Delivery Hero for the same financial year.

- **Formation and Dissolution of Reserves (Section 4)**

With Delivery Hero's consent, Foodpanda may allocate amounts from the annual profit to the retained earnings (retained earnings pursuant to Section 272 para. 3 sentence 2, 3. variant of the German Commercial Code (*Handelsgesetzbuch*, "HGB")) only to the extent permissible under commercial law and justified in economic terms on the basis of a reasonable commercial assessment. Any other retained earnings pursuant to Section 272 para. 3 sentence 2, 3. variant HGB formed during the term of the Agreement shall be dissolved upon Delivery Hero's request and be used in accordance with Section 302 para. 1 AktG as amended from time to time to compensate any annual deficit or be transferred as profit. The transfer of amounts from the dissolution of capital reserves or of retained earnings and profit carryforwards formed before the Agreement came into effect is excluded. The provisions set out in Section 4 of the Agreement are standard provisions of a profit transfer agreement.

- **Due Date and Interest (Section 5)**

Section 5 of the Agreement provides, firstly, for the due date of the claim for transfer of profit and compensation of the annual deficit: the claim for compensation of the annual deficit pursuant to Section 2 of the Agreement shall become due as per the balance sheet date of the relevant financial year of Foodpanda; the claim for transfer of profit pursuant to Section 1 of the Agreement shall become due upon the respective adoption of the annual financial statements of Foodpanda for the relevant past financial year.

Furthermore, Section 5 para. 3 of the Agreement contains a provision on the option to demand advances on an expected claim for the transfer of profit.

Pursuant to Section 5 para. 4 sentence 1 of the Agreement, claims for the transfer of profit and for the compensation of the annual deficit shall bear interest at a rate of 5 % p. a. pursuant to Sections 352, 353 HGB as from the date when they fall due. Advances pursuant to Section 5 para. 3 of the Agreement are non-interest bearing. In case any advance paid exceeds the actual profit transfer obligations, the amount paid in excess shall be treated as an interest-bearing granted loan and shall bear interest according to Section 5 para. 4 sentence 1 of the Agreement as from the date when the advance is paid.

- **Effectiveness, Term and Termination (Section 6)**

Section 6 of the Agreement contains provisions on the effectiveness, term and termination of the Agreement.

In accordance with the statutory approval requirements pursuant to Section 293 AktG, Section 6 para. 1 of the Agreement provides that the Agreement requires the approval of the General Meeting of Delivery Hero and the approval of the Shareholders' Meeting of Foodpanda to become effective.

In accordance with the statutory provision in Section 294 para. 2 AktG, Section 6 para. 2 of the Agreement specifies that the Agreement takes effect upon registration with the commercial register of Foodpanda. It shall then enter into force with retroactive effect as from the beginning of the financial year of Foodpanda in which the Agreement becomes effective. The profit transfer obligation and the obligation to compensate the annual deficit shall thus already apply to the entire financial year 2023, provided that the Agreement is registered in the financial year 2023, which ends on December 31, 2023.

Section 6 para. 3 of the Agreement governs the term of the Agreement. The Agreement is concluded for a fixed term of five time years, counting from the time it becomes effective, that is, from the registration with the commercial register of Foodpanda. Thereafter, the Agreement continues indefinitely unless it is terminated in writing by one of the contracting parties with six months' notice in compliance with the above minimum term of five years. Provided that the end of the term does not fall at the end of a financial year of Foodpanda, the Agreement provides for the term to be extended until the end of the then current financial year of Foodpanda. For the intended tax group for corporation and trade tax to be effective, the Agreement must, pursuant to Section 14 para. 1 sentence 1 no. 3 in conjunction with Section 17 para. 1 KStG, be concluded for a period of at least five years from the effective date of the Agreement and must be actually performed during the entire period of effectiveness.

Section 6 para. 4 of the Agreement clarifies that the Agreement may be terminated at any time with immediate effect for an important cause. An important cause is deemed to be given in particular if Delivery Hero no longer holds the majority of the voting rights from the shares in Foodpanda and in the event of the transformation, merger, split or liquidation of Delivery Hero or Foodpanda. Pursuant to Section 6 para. 4 of the Agreement, any other reason leading to the discontinuation of the tax group for corporation and trade tax between Delivery Hero and Foodpanda also constitutes an important cause for termination. The aforementioned important causes are not exhaustive.

Pursuant to Section 6 para. 5 of the Agreement, notice of termination must be issued in writing.

If the Agreement ends, Section 6 para. 6 of the Agreement provides that Delivery Hero must provide security to the creditors of Foodpanda pursuant to Section 303 AktG if they so request. According to Section 303 AktG, the obligation to provide security exists vis-à-vis creditors whose claims have been substantiated before the registration of the termination of the contract with the commercial register pursuant to Section 10 HGB has been published, if the creditors report to Delivery Hero for this purpose within six months of the announcement of the registration. The right to demand security does not belong to creditors who, in the event of insolvency proceedings, have a right to preferential satisfaction from a cover pool established by law for their protection and supervised by the State. Instead of providing security, Delivery Hero can vouch for the claim, whereby Section 349 HGB on the exclusion of the defence of the advance claim does not apply in this case.

- **Final Provisions (Section 7)**

Section 7 of the Agreement contains a written form requirement for amendments and supplements to the Agreement. Furthermore, Section 7 of the Agreement contains a standard, so-called severability clause, according to which, in the event of the invalidity or unenforceability of any provisions of the Agreement or gaps in the Agreement, this shall not affect the validity of the remainder of the Agreement. In such event, the parties undertake to replace the invalid or unenforceable provision by a valid provision that most closely approximates the invalid or unenforceable provision in economic intent; similarly, in the event of a gap, the Agreement is to be supplemented by a provision that the parties would have agreed to in accordance with their economic intent if they had considered this point.

4. Explanation of the legal and economic reasons for the conclusion of the profit transfer agreement

The Agreement is a necessary prerequisite for the establishment of a tax group for corporation and trade tax between Delivery Hero and Foodpanda. Through such a tax group for corporation and trade tax the profits and losses of Foodpanda are attributed directly to Delivery Hero as the controlling company for tax purposes, so that any profits made by one company are offset by the losses of the other company (consolidation of results). In addition, with an existing tax group for corporation and trade tax, any profit transfers from Foodpanda to Delivery Hero are not treated as at least partially taxable dividend payments, which would be subject to capital gains tax – even though this would be predominantly refundable in principle. Depending on the profit situation of the companies concerned this can result in tax advantages.

There is no economically reasonable alternative to the conclusion of the Agreement between Delivery Hero and Foodpanda with which the objectives described above could be achieved equally or better. In particular, the intended tax group for corporation and trade tax cannot be achieved by concluding another intercompany agreement within the meaning of Section 292 AktG due to the mandatory requirements of the KStG. A merger of Foodpanda into Delivery Hero also does not present an alternative, as a loss of the legal independence of Foodpanda is not intended.

Foodpanda benefits from the Agreement due to the associated financial security, as Delivery Hero is obliged to compensate Foodpanda for any losses incurred during the term of the Agreement. From the perspective of the shareholders of Delivery Hero, there are no particular consequences arising from the Agreement apart from the described obligation to absorb losses; in particular, no compensation payment or severance payment is to be granted to outside shareholders, as Delivery Hero is the sole shareholder of Foodpanda.

5. No compensation and no severance payment; no audit of the Agreement

Since Delivery Hero is the sole direct shareholder of Foodpanda and therefore there are no outside shareholders of Foodpanda, provisions on compensation and severance payments for outside shareholders pursuant to Sections 304, 305 AktG are not required in the Agreement. For this reason, there is also no need for an audit of the Agreement pursuant to Section 293b para. 1 AktG, nor is an audit report required pursuant to Section 293e AktG. In the absence of a compensation payment to be determined pursuant to Section 304 AktG and a severance payment pursuant to Section 305 AktG, there is also no need for a valuation of the contracting companies to determine an appropriate compensation and a reasonable severance payment.

For the reasons set out above, a summarised assessment of the Agreement shows that the Agreement is beneficial for both Delivery Hero and Foodpanda.

– NON-BINDING CONVENIENCE TRANSLATION FROM GERMAN INTO ENGLISH –

[Signature page to the Joint Report of the Management Board of Delivery Hero SE and the Managing Directors of Foodpanda GmbH pursuant to Section 293a German Stock Corporation Act on the draft Profit Transfer Agreement between Delivery Hero SE and Foodpanda GmbH]

Berlin, in May 2023

Delivery Hero SE

The Management Board

Niklas Östberg

Emmanuel Thomassin

David Pieter-Jan Vandepitte

Berlin, in May 2023

Foodpanda GmbH

The Managing Directors

Emmanuel Thomassin

David Pieter-Jan Vandepitte