

**DOMINATION AND  
PROFIT AND LOSS TRANSFER AGREEMENT**

Convenience translation  
This translation is a working translation only. Legally binding and relevant is solely the  
German version.

between

**Zalando SE**, based in Berlin (business address: Tamara-Danz-Straße 1, 10243 Berlin) and registered in the commercial register of the Local Court (*Amtsgericht*) Charlottenburg under HRB 158855 B,  
(hereinafter referred to as **Zalando**)

and

**Zalando Media Solutions GmbH**, based in Berlin (business address: Tamara-Danz-Straße 1, 10243 Berlin) and registered in the commercial register of the Local Court (*Amtsgericht*) Charlottenburg under HRB 169205 B,  
(hereinafter referred to as **ZMS**)

**PREAMBLE**

Zalando holds all shares in ZMS in a nominal amount of EUR 25,000. This corresponds to the entire voting share capital of ZMS (financial integration). Such financial integration of ZMS in Zalando has been existing continuously since the beginning of ZMS's current fiscal year.

**§ 1 MANAGEMENT CONTROL OF ZMS**

- (1) ZMS submits the management control (*Leitung*) of its company to Zalando.
- (2) Zalando is entitled to issue instructions (*Weisungen*) to the managing directors of ZMS with regard to the management control of the company.
- (3) The managing directors of ZMS may claim that instructions be confirmed in writing.
- (4) Zalando is not entitled to issue the instruction to the managing directors of ZMS to amend, maintain or terminate this Agreement.

## **§ 2 TRANSFER OF PROFIT**

- (1) ZMS undertakes to transfer its entire annual profit (*Gewinnabführung*) to Zalando. Subject to the formation and dissolution of reserves pursuant to § 4 (1) of this Agreement, the annual profit generated without the transfer of profit, less any losses carried forward from the precedent year, the amount blocked from distribution pursuant to § 268 (8) of the German Commercial Code (*HGB*) and any appropriations to the reserves pursuant to § 4 (1), and plus any amounts withdrawn from the retained earnings pursuant to § 4 (1), shall be transferred.
- (2) With regard to the admissible maximum profit transfer amount pursuant to § 2 (1), § 301 of the German Stock Corporation Act (*AktG*), as amended from time to time, shall apply *mutatis mutandis*.

## **§ 3 ASSUMPTION OF LOSSES**

As regards the assumption of losses, the provisions of § 302 AktG, as amended from time to time, shall apply *mutatis mutandis*.

## **§ 4 FORMATION AND DISSOLUTION OF RESERVES**

- (1) With Zalando's consent, ZMS may appropriate amounts from the annual profit to the retained earnings 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 § 272 (3) sentence 2 HGB formed during the term of this Agreement shall be dissolved upon Zalando's request and be used in accordance with § 302 (1) AktG as amended from time to time to compensate any annual deficit or be transferred as profits.
- (2) Other reserves, profit carried forward and retained earnings from the period prior to the effective date of this Agreement must not be transferred as profit to Zalando. The same applies to capital reserves irrespective of whether such capital reserves were established prior to or after the effective date of this Agreement.

## **§ 5 DUE DATE**

- (1) The claim for compensation of the annual deficit pursuant to § 3 shall be due effective as per the end of the last day of any one fiscal year of ZMS.
- (2) The claim for the transfer of profits pursuant to § 2 shall be due effective as per the end of the day when the shareholders resolve on the adoption of the balance sheet in any one fiscal year of ZMS.
- (3) Prior to the adoption of the annual financial statements, Zalando may claim an advance on any profit transfer that it is likely to be due for the fiscal year, provided ZMS's liquidity allows for the payment of such an advance.

- (4) Correspondingly, ZMS may claim an advance on any likely annual deficit to be compensated in that fiscal year, provided it needs such an advance in view of its liquidity.
- (5) The claims for the transfer of profit pursuant to § 2 and for the compensation of the annual deficit pursuant to § 3 shall bear interest at a rate of 5% p.a. pursuant to §§ 352, 353 HGB as from the date when they fall due (§ 5 (1) and (2)). Any advance pursuant to § 5 (3) or (4) shall not bear interest. In case any advance paid exceeds the actual payment obligations under § 5 (1) or (2), the amount paid in excess shall be treated as an interest-bearing granted loan and shall bear interest according to sentence 1 as from the date when the advance is paid.

## **§ 6 EFFECTIVENESS AND TERM, TERMINATION**

- (1) This Agreement requires for its effectiveness the consent of both the General Meeting of Zalando and of the shareholders' meeting of ZMS.
- (2) This Agreement takes effect upon registration of its existence in the commercial register at the registered seat of ZMS and shall enter into force - except for § 1 (Management Control of ZMS) - with retroactive effect as from the beginning of the fiscal year of ZMS in which this Agreement becomes effective. § 1 shall be effective only as from the date when the Agreement enters into force upon its registration in the commercial register.
- (3) The Agreement is concluded for a fixed term of five years (60 months) as from the beginning of the fiscal year in which the Agreement is registered in the commercial register of ZMS. The Agreement shall be extended unchanged for a further year each time, unless either party gives notice one month to expiry at the latest. If the end of the term is not identical with the end of a fiscal year of ZMS, the term shall be extended by the end of the then current fiscal year.
- (4) The right to give notice of termination for good cause (*aus wichtigem Grund*) with immediate effect and without adhering to a notice period shall remain unaffected. Both parties are entitled to give notice for good cause in particular if Zalando does no longer hold, directly or indirectly, the majority of voting rights in ZMS, Zalando sells and transfers (*veräußert*) or contributes the shares in ZMS to a third person that is not affiliated with the controlling company in the meaning of §§ 15 et. seqq. AktG, or Zalando or ZMS is merged, split or liquidated.
- (5) Notice of termination must be given in writing.

## **§ 7 WRITTEN FORM AND SEVERABILITY**

- (1) Amendments to this Agreement must be made in writing.
- (2) If any of the provisions of this Agreement are or become invalid or unenforceable, or if it becomes evident that this Agreement contains a

gap, this shall not affect the validity of the remainder hereof. In such event, the parties undertake to replace the invalid or unenforceable provision by a valid provision that most closely approximates the invalid or impracticable 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.

*[Signature Pages follow]*

*[Signature Page 1/2 Domination and Profit and Loss Transfer Agreement Zalando and ZMS]*

Berlin,

**Zalando SE**

The Management Board

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Robert Gentz

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David Schneider

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Rubin Ritter

[Signature Page 2/2 Domination and Profit and Loss Transfer Agreement Zalando and ZMS]

Berlin,

**Zalando Media Solutions GmbH**

The Managing Directors

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Jerome Cochet

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Andreas Antrup