

## - Translation for Convenience -

Annual General Meeting of Heidelberger Druckmaschinen Aktiengesellschaft on July 27, 2017

**Joint report of the Management Board of Heidelberger Druckmaschinen AG  
and  
the management of Heidelberg Digital Platforms GmbH  
in accordance with section 293a AktG**

**on the conclusion of a control and profit transfer agreement between Heidelberger  
Druckmaschinen AG and Heidelberg Digital Platforms GmbH**

### **I. General information**

Heidelberger Druckmaschinen AG, headquartered in Heidelberg (hereinafter “**Heidelberger Druck**”) and Heidelberg Digital Platforms GmbH, headquartered in Wiesloch (hereinafter “**Digital Platforms**”), a wholly owned subsidiary of Heidelberger Druck, intend to conclude a control and profit transfer agreement (hereinafter “**Agreement**”). Digital Platforms, formerly trading as Sporthotel Heidelberger Druckmaschinen GmbH, was reactivated in April 2017 by way of a change in the business objective and the company’s name. With the resumption of its operations, the control and profit transfer agreement previously in place between the companies is also to be reactivated.

Under the Agreement, Digital Platforms undertakes to place its management under Heidelberger Druck and to transfer its entire profits to Heidelberger Druck. In turn, Heidelberger Druck undertakes to absorb Digital Platforms’ losses.

The Management Board of Heidelberger Druck and the management of Digital Platforms jointly submit the following report on the conclusion of the Agreement in accordance with section 293a AktG.

### **II. Parties**

The parties to the Agreement are Heidelberger Druck and Digital Platforms.

#### **1. Heidelberger Druck**

Heidelberger Druck is a listed stock corporation headquartered in Heidelberg and entered into the commercial register of the Mannheim District Court under HRB 330004. Heidelberger Druck employs around 11,500 people worldwide in total and generated consolidated sales of around EUR 2.5 billion in the 2016/2017 reporting year. The purpose of the company according to its Articles of Association is the manufacture, sale and trade of printing presses and other products in the print media industry and the performance of services and advisory services that relate to this. The purpose of the company also includes other products, services, and advisory services in the area of mechanical engineering, electronics, electrical engineering, and the metal industry. The financial year of Heidelberger Druck is the period from April 1 to March 31.

#### **2. Digital Platforms**

Digital Platforms (formerly Sporthotel Heidelberger Druckmaschinen GmbH) is a limited liability company established in 1992, headquartered in Wiesloch, and entered into the commercial register of the Mannheim District Court under HRB 334444. The company’s share capital amounts to EUR 26,000.00. The financial year of Digital Platforms is the period from April 1 to March 31.

The purpose of the company according to its company agreement is the development, provision and operation of application software for use in cloud platforms, as well as consulting on and implementation of cloud-based applications, the sale of application software and modular services for the industrial value chain. The company's purpose also includes holding equity investments of all types in Germany and abroad and managing its own assets. The company may conduct any transactions deemed appropriate to serve the company's purpose directly or indirectly.

The company does not have any employees at its location in Wiesloch.

The existing control and profit transfer agreement is to be replaced with this Agreement.

In the financial year 2016/2017, Sporthotel Heidelberger Druckmaschinen GmbH generated a net profit of around EUR 0. Its balance sheet as of March 31, 2017, reported total assets of around EUR 29,110 with equity of EUR 26,000.

In the financial year 2015/2016, Sporthotel Heidelberger Druckmaschinen GmbH generated a net profit of around EUR 0. Its balance sheet as of March 31, 2016, reported total assets of around EUR 510,663 with equity of EUR 26,000.

In the financial year 2014/2015, Sporthotel Heidelberger Druckmaschinen GmbH generated a net profit of around EUR 0. Its balance sheet as of March 31, 2015, reported total assets of around EUR 738,130 with equity of EUR 26,000.

### **III. Agreement on control and profit transfer agreement**

#### **1. Conclusion and entry into effect of the Agreement**

Heidelberger Druck and Digital Platforms intend to conclude a control and profit transfer agreement. The approval of the Annual General Meeting of Heidelberger Druck is required in order for this Agreement to become effective. The Management Board and the Supervisory Board of Heidelberger Druck therefore propose to the Annual General Meeting scheduled for July 27, 2017 that it approve the version of the Agreement submitted to the Annual General Meeting.

Furthermore, the Agreement requires the approval of the shareholder meeting of Digital Platforms in order to become effective. It is intended that the Agreement will be submitted to the shareholder meeting of Digital Platforms scheduled for August 1, 2017, for its approval.

Finally, in order to become effective the Agreement must be entered in the commercial register of Digital Platforms in accordance with section 294 (2) AktG. Given the intended retroactive effect of the profit transfer agreement, this applies from the financial year of Digital Platforms in which the profit transfer agreement becomes effective by way of entry in the commercial register, i.e. provisionally from April 1, 2017.

#### **2. Legal and business reasons for concluding the Agreement**

The goal of the Agreement is to make Heidelberger Druck and Digital Platforms a single entity for tax purposes.

As a result of forming such a relationship, it will initially be possible to attribute the profits and losses of Digital Platforms, as the company controlled, directly to Heidelberger Druck, as the controlling company, for tax law purposes, thereby enabling both companies to optimize their tax positions.

For Digital Platforms, in addition to the positive effects of the business integration, the Agreement will in particular result in benefits through financial security, as Heidelberger Druck is undertaking to settle any losses that may arise. The obligation to transfer profits is not expected to have a notable impact as Heidelberger Druck, as the sole shareholder, already receives its full profits. Currently, however, the distribution to Heidelberg Druck is subject to taxation whereas, in the

future given this corporation and trade tax arrangement, the two companies will form a single tax entity.

For Heidelberger Druck, the Agreement results in the obligation to absorb the losses of Digital Platforms. Beyond this, there will be no particular consequences for the shareholders of Heidelberger Druck, in particular there will be no settlement or compensation payments to minority shareholders as defined by sections 304, 305 AktG. Moreover, concluding the Agreement will not mean any changes in shareholdings for the parties to the Agreement.

### **3. Notes on specific regulations**

#### **a. Section 1 Control**

The contractual control component is included in section 1 of the Agreement. According to this, Digital Platforms is under the administration of Heidelberger Druck. Thus, even beyond its rights under company law, Heidelberger Druck is therefore comprehensively entitled to issue instructions to the management of Digital Platforms in the greater interests of the Group. Regardless of the right to issue instructions, the management and representation of Digital Platforms are the responsibility of the managers of Digital Platforms. The contractual regulation is based on the legal model of sections 291 (1) and 308 AktG.

The Agreement supports the formation of a single entity for VAT purposes between Heidelberger Druck and Digital Platforms. A requirement for the formation of a single entity for VAT purposes is the financial, economic and organizational integration of the company controlled (Digital Platforms) into the controlling company (Heidelberger Druck). The organizational integration must be separately verified. However, the tax authorities generally assume organizational integration when a control agreement exists.

#### **b. Section 2 Profit transfer**

Section 1 of the Agreement regulates the commitment by Digital Platforms to transfer its entire profits to Heidelberger Druck, as the controlling company, in accordance with the provisions of section 301 AktG as amended. The regulation is based on the legal model of section 301 AktG. The profit transfer – like the loss absorption under section 3 – is a central requirement for forming a single income tax entity, and is what enables the potential settlement of losses by offsetting the tax results of the companies forming the entity.

Section 2 (2) of the Agreement states that, during the term of this Agreement, other revenue reserves recognized must be reversed by Digital Platforms at the behest of Heidelberger Druck and transferred as profit. In accordance with section 2 (3) of the Agreement, Digital Platforms can transfer sums from the net income for the year to other revenue reserves (section 272 (3) HGB) with the approval of Heidelberger Druck to the extent permitted by commercial law and economically justifiable in line with prudent business judgment. In accordance with section 2 (4) of the Agreement, the entitlement to profit transfer arises as of the end of the financial year of Digital Platforms. It becomes due at the value date at this time.

#### **c. Section 3 Loss absorption**

Section 3 of the Agreement regulates the loss absorption commitment of Heidelberger Druck by way of express reference to the provision of section 302 AktG, as currently amended. Heidelberger Druck therefore undertakes to absorb the losses of Digital Platforms for the duration of the Agreement. The obligation to settle losses does not apply if the net loss for the year is settled by withdrawing amounts from other revenue reserves in accordance with section 272 (3) sentence 2 HGB that were transferred to these reserves during the term of the profit transfer agreement. The obligation to settle losses ensures that the accounting equity of Digital Platforms at the time of the Agreement taking effect is not diminished during the term of the Agreement. The obligation to settle losses serves to safeguard the proprietary interests of Digital Platforms and its creditors for the duration of the existence of the profit transfer agreement.

#### **d. Section 4 Start, duration, effective date**

Section 4 of the Agreement regulates the start, duration and effective date of the Agreement. In accordance with section 4 (1), the Agreement becomes effective on entry in the commercial register of Digital Platforms. In relation to section 1 of the Agreement, the regulation applies to the period after entry of this Agreement in the commercial register of Digital Platforms. Moreover, it applies retroactively from the start of the financial year of Digital Platforms in which the Agreement is entered in the commercial register of Digital Platforms.

In accordance with section 4 (2) sentence 1, the Agreement is concluded for a period of five years, counting from the time it becomes effective in accordance with section 4 (1) sentence 3. If this period of five years ends during an ongoing financial year of Digital Platforms, the minimum term of the agreement in accordance with section 4 (1) sentence 1 extends until the end of this financial year. Thereafter, the agreement continues indefinitely unless it is terminated in writing with notice of one month in compliance with the above minimum term. The minimum term of five years is a basic requirement for the recognition of the intended single entity for income tax purposes (section 14 (1) sentence 1 no. 3 KStG in conjunction with section 17 (1) KStG).

In addition to a minimum term for the Agreement of five years (cf. section 14 (1) sentence 1 no. 3 KStG in conjunction with section 17 (1) KStG), a requirement for the recognition of a single entity for income tax purposes is that Digital Platforms, as a dependent company, is financially integrated into Heidelberger Druck, as the controlling company, such that the majority of voting rights in the dependent company are attributed to the controlling company without interruption from the start of the financial year. Furthermore, the profit transfer agreement must actually be carried out during its term. Regardless of the exclusion of the right of ordinary termination, the Agreement can be terminated for cause without notice in accordance with section 4 (3) sentence 1. The right of termination for cause exists by law and cannot be contractually excluded. Cause always exists if, when weighing all the circumstances of the terminating party, it cannot be reasonably expected to continue the contractual arrangement. In accordance with section 4 (3) sentence 2, cause also exists in particular if Heidelberger Druck no longer holds a majority of voting rights in Digital Platforms, if Heidelberger Druck sells or contributes its shares in Digital Platforms, if Heidelberger Druck or Digital Platforms is merged, hived off, or liquidated, or if an external shareholder invests in Digital Platforms for the first time as defined by section 307 AktG.

Termination of the profit transfer agreement before the end of the statutory minimum term in accordance with section 14 (1) sentence 1 no. 3 KStG in conjunction with section 17 (1) KStG results in the non-recognition of the entity for tax purposes from the outset, except in the event of cause for termination recognized by tax law. In particular, this includes the grounds for termination provided as examples in section 4 (3) of the draft agreement.

#### **e. Section 5 Closing provisions**

The severability clause contained in section 5 (1) of the Agreement is intended to ensure the preservation of the essential content of the Agreement if individual provisions of the Agreement, contrary to expectations, are found to be partially or entirely void, unenforceable, or to contain loopholes. This is a typical regulation included in control and profit transfer agreements. In accordance with section 5 (2) of the Agreement, the provisions of sections 14 and 17 KStG as currently amended, or the corresponding successor regulations, apply to the interpretation of the individual provisions of this agreement. If individual provisions of the Agreement conflict with section 3, section 3 takes precedence over these provisions. This, too, is a typical contractual component.

## **VI. No settlement or compensation rights, no review**

As Heidelberger Druck holds all shares in Digital Platforms and Digital Platforms therefore has no minority shareholders, regulations on settlement or compensation rights (section 304, 305 AktG) are not necessary. For this reason, there was no need to perform a valuation of the companies involved in order to calculate an appropriate settlement and appropriate compensation. Similarly, no review of the Agreement by a court-appointed auditor (contract auditor) in accordance with sections 293b et seq. AktG is required.

Heidelberg, June

The Management Board of Heidelberger Druckmaschinen AG

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