

**DECLARATION BY THE EXECUTIVE BOARD AND SUPERVISORY BOARD OF XING AG ON THE RECOMMENDATIONS OF THE  
"GOVERNMENT COMMISSION CORPORATE GOVERNANCE CODE"  
PURSUANT TO ARTICLE 161 OF THE STOCK CORPORATION ACT (AKTG)**

Since the last declaration of compliance was submitted, XING AG has complied and will comply with the recommendations of the "Government Commission Corporate Governance Code" in the version dated May 15, 2012, with the following exceptions:

**3.8 (3) - D&O insurance deductible for Supervisory Board members**

XING AG has taken out a D&O insurance for its Supervisory Board that does not include a deductible. The Executive Board and Supervisory Board take the view that a D&O insurance deductible does not constitute an adequate means of achieving the Code's objectives. Deductibles of this kind are usually insured by the Executive members themselves, so that the actual purpose of the deductible is nullified.

**4.2.3 (4) and (5) - Settlement cap for members of the Executive Board**

The Code stipulates that contracts for Executive Board members must specify that settlement payments including bonuses to Board members in the event of a premature cessation of duties be capped at a maximum amount of twice the annual remuneration to said Executive Board member, except in cases of good cause (settlement cap), and that said payments be made for a term equal to or lesser than the remaining term of contract.

In one case, XING AG did not agree upon settlement caps in its Executive Board contracts. A settlement cap could not be enforced during contractual negotiations as it is at odds with the basic understanding of a regular Executive Board contract, which was agreed upon for the duration of the term and cannot be terminated without good cause. In this case, the Supervisory Board deliberately decided against offering a reduced contractual term in order to ensure management continuity over a longer period of time. In the case of a premature, amicable termination of the Executive Board contract and when concluding new Executive Board contracts, the Company will endeavor to accommodate the fundamental idea behind the recommendation.

Furthermore, the Code stipulates that a settlement due to premature cessation of Executive Board duties due to a change of control should not exceed three times the annual remuneration. One current Executive Board contract stipulates that in the event of a change of control under certain conditions, remuneration be paid at the contractual amount for the remainder of the term of contract or at least for a term of 1.5 years, whichever is greater. The same Executive Board contract stipulates that in the event of a change of control, a cash payment be made to the Board member at the amount of issued but not yet exercised stock options. This is aimed at excluding conflicts of interest in the event of an impending change of control. In certain situations, these agreements could lead to the recommended settlement cap being exceeded. The Supervisory Board was of the opinion, in view of the specified term of appointment of the Executive Board member, that compliance with

the cap recommended by the Code is therefore unnecessary and that this cap shall be subject to individual rescission negotiations as and when appropriate.

## **5.2 and 5.3.2 - Formation of Supervisory Board committees**

Contrary to the recommendation in point 5.2 (2) of the Code in the version dated May 15, 2012, the Chairman of the Supervisory Board, Dr. Neil Sunderland, is also the Chairman of the Audit Committee. The Supervisory Board holds the opinion that the professional qualifications of the available candidates should constitute the sole basis for deciding who to appoint as Chairman of the Audit Committee.

## **5.4.1 (2) and (3) - Composition of the Supervisory Board**

The Supervisory Board has not specified concrete objectives regarding its composition which, whilst considering the specifics of the enterprise, take into account the international activities of the enterprise, potential conflicts of interest, an age limit to be specified for the members of the Supervisory Board and diversity. These concrete objectives shall, in particular, stipulate an appropriate degree of female representation (point 5.4.1 (2) of the Code). Should the objectives of point 5.4.1 (2) of the Code not be specified, they will not be taken into consideration when nominating suitable Supervisory Board candidates and the objectives and status of implementation will not be published in the Corporate Governance report (point 5.4.1 (3) of the Code). In the past, the Supervisory Board has already taken expertise into consideration along with an age limit, internationality, potential conflicts of interest, and diversity, and intends to do so in future.

## **5.4.6 (1) and (2) - Compensation of Supervisory Board members**

The Vice Chairman of the Supervisory Board and the Chairman and members of committees have not been and will not be considered individually with regard to compensation of Supervisory Board members. Since the Vice Chairman already receives commensurate basic compensation, both the Executive Board and Supervisory Board believe separate compensation to be unnecessary. The compensation of Supervisory Board members has not and does not contain performance-related compensation components. In the interest of boosting the necessary independent function of the Supervisory Board, both the Executive Board and Supervisory Board wishes to avoid financial incentives connected with short-term success of the Company. A deviation from the recommendation set out in point 5.4.6 (2) of the Code no longer exists since the Code in the version dated May 15, 2012, came into force on June 15, 2012.

Hamburg, February 2013

The Supervisory Board

The Executive Board