

Investor Relations
Corporate Governance

Declaration of conformity of ItN Nanovation AG according to sec. 161 of the German Stock Companies Act (AktG) regarding the recommendations of the German Corporate Governance Code

The German Corporate Governance Code (the „Code“) is in line with nationally and internationally recognized standards for good and responsible governance and contains rules with varying levels of binding effect. The Code aims to make the German corporate governance system transparent and understandable. Apart from presenting aspects of the applicable stock corporation law as well as suggestions (marked in the text by using the word “can”), it includes a number of recommendations (marked in the text by using the word “shall”). According to sec. 161 of the German Stock Corporation Act (Aktengesetz, "AktG"), members of the Management Board and of the Supervisory Board of a listed stock corporation are required to issue an annual declaration stating that the recommendations of the German Corporate Governance Code Government Commission as published by the Federal Ministry of Justice in the official section of the electronic Federal Gazette have been complied with. In case of a deviation from those recommendations, they are also required to state which recommendations were not or are not being complied with, along with the reasons.

According to sec. 161 of the AktG and after duly audit, the members of the Board of Management and of the Supervisory Board of ItN Nanovation AG hereby issue the following declaration of conformity with the recommendations of the German Corporate Governance Code Government Commission:

“The members of the Board of Management and of the Supervisory Board of ItN Nanovation AG declare that the recommendations and suggestions of the German Corporate Governance Code Government Commission (“DCGK”) regarding corporate management and supervision in the version of 24 June 2014 as published by the Federal Ministry of Justice in the official section of the electronic Federal Gazette have been generally complied with. The members of the Board of Management and of the Supervisory Board of ItN Nanovation AG also intend to meet these recommendations and suggestions in the future. Only the recommendations of the Code included in the sections hereinafter were not complied with, totally or partially, as stated and explained hereafter.

According to **Sec. 3.8 para. 3 of the DCGK**, a reasonable deductible of at least 10% of the loss and up to at least the amount of one and a half times the fixed annual compensation of the Supervisory Board member must be agreed upon, if the company takes out a D&O policy for the Supervisory Board. Regarding the Supervisory Board members, the company deviates from the recommendations of Sec. 3.8 para 3 of the DCGK in that way that since 01 April 2012 a D&O policy exists but does not contain a deductible for the Supervisory Board members in accordance with DCGK so far. Hence, the company deviates from Sec. 3.8 para 3 of the DCGK in this respect.

According to **Sec. 4.1.5 of the DCGK**, the Management Board shall take diversity into consideration and, in particular, aim for an appropriate consideration of women, when filling managerial positions in the enterprise. Despite the company’s small size and the flat hierarchy, the Management Board, when making appointments for executive and management positions, takes into account the applicants’ qualifications and the best interest of the company as well as diversity aspects and the appropriate consideration of women for the filling of such positions. Since an adequate consideration of women is currently not reflected in managerial positions, a deviation from Sec. 4.1.5 of the DCGK is declared as a precautionary measure. In 2015 the Management Board will consider diversity when making appointments for managerial positions.

According to **Sec. 4.2.1 para. 1 sentence 1 of the DCGK**, the Management Board shall be composed of multiple persons and shall have a chairman or spokesman. Until 31 May 2014 the Management Board was composed of two persons. The chairman of the Management Board, Dr. Weiß, did not extend his service agreement as chairman after it expired on 31 May 2014. Since then Lutz Bungeroth, remaining member of the Management Board, has been leading the business of the company as sole managing director. Since then Sec. 4.2.1 para. 1

sentence 1 DCGK has not been met. The Supervisory Board has reappointed Dr. Weiß as a Member of the Management Board starting from 01 January 2015.

According to **Sec. 4.2.3 para. 4 sentence 1 DCGK**, in concluding Management Board contracts, care shall be taken to ensure that payments made to a Management Board member on premature termination of his/her contract, including fringe benefits, do not exceed the value of two years' compensation (severance pay cap) and compensate no more than the remaining term of the employment contract. If the employment contract is terminated for a serious cause for which the Management Board member is responsible, no payments are made to the Management Board member. An agreement of this kind runs counter to the basic understanding of a Management member's contract that is routinely agreed for the duration of the period of appointment and can, in principle, not be terminated ordinarily. In the event of a Management Board member's contract being terminated prematurely by mutual agreement, the company shall endeavor to take account of the recommended course of action. Therefore the company deviates from the Sec. 4.2.3 para. 4 sentence 1.

According to **Sec. 4.2.5 of the DCGK**, the compensation report shall also include information on the nature of the fringe benefits provided by the company. The fringe benefits do not exceed common and reasonable limits, and the Supervisory Board is of the opinion that the interest of the current members of the Management Board to preserve their privacy has priority over a listing of the fringe benefits.

According to **Sec. 4.2.5 para. 3 of the DCGK** in addition, for financial years starting after 31 December 2013, and for each Management Board member, the compensation report shall present:

- the benefits granted for the year under review including the fringe benefits, and including the maximum and minimum achievable compensation for variable compensation components;
- the allocation of fixed compensation, short-term variable compensation and long-term variable compensation in/for the year under review, broken down into the relevant reference years;
- for pension provisions and other benefits, the service cost in/for the year under review.

The model tables provided in the appendix shall be used to present this information. From Sec. 4.2.5 para 3 the company will currently deviate. The remuneration of the Management Board members is disclosed in accordance with the statutory provisions. More comprehensive disclosure in a remuneration report and breakdowns with the particulars supplied in the model table is not expected due to the conversion effort and the administrative burden in 2015.

According to **Sec. 5.1.2 para. 1 sentence 2 and sentence 3 of the DCGK**, the Supervisory Board shall respect diversity and, in particular, aim for an appropriate consideration of women when appointing the Management Board. Together with the Management Board it shall ensure that there is a long-term succession planning. The Supervisory Board will deal with the question of a succession planning and diversity as soon as the contractual status requires and allows a new appointment.

According to **Sec. 5.1.2 para. 2 sentence 3 of the DCGK**, the Supervisory Board shall specify an age limit for members of the Management Board. Thus far, this has not happened. Against the background that the Management Board members will not reach any relevant age limit in the next few years, the specification of an age limit appears to be an academical issue. Hence, and because the Supervisory Board sees no reason to specify an age limit in regard of future Management Board members, no age limit has been specified, yet.

According to **Sec. 5.3.1, 5.3.2 and 5.3.3 of the DCGK**, the Supervisory Board shall form committees, inter alia an audit committee and a nomination committee. With regard to the fact that the Supervisory Board of ItN Nanovation AG currently consists of merely three persons, the Supervisory Board did not form any committees, in particular, neither an audit committee nor a nomination committee was formed. Thus, deviating from Sec. 5.2 subsec. 2 DCGK, no chair positions existed in any committees.

According to **Sec. 5.4.1 para. 2 and 3 of the DCGK**, the Supervisory Board has to be composed in such a way that its members as a group possess the knowledge, ability and expert experience required to properly complete its tasks. The Supervisory Board shall specify 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, the number of independent members of the Supervisory Board according to Sec. 5.4.1 of the DCGK, 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. The objectives set by the Supervisory Board and the status of their implementation shall be published in the Corporate Governance Report. ItN Nanovation AG will deviate from these recommendations. The composition of the Supervisory Board of ItN Nanovation AG is oriented towards the best interest of the company and has to ensure an effective control and consultation of the Management Board. Therefore the composition of the Supervisory Board is based primarily on the knowledge, skills and professional experience of the individual person being necessary for the proper performance of these functions. In addition to these criteria we consider the aspects named in Section 5.4.1 para. 2 of the DCGK to be legitimate factors and the Supervisory Board will include them in its decision at the time of the nomination proposals and with regard to the actual situation of the company. Currently no objectives for the composition of the Supervisory Board will be defined. Thus no such objectives will be published either.

According to **Sec. 5.4.5 subsection 2 of the DCGK**, the Supervisory Board members shall carry out independently the professional training necessary for their positions. The company shall support them in a suitable manner. The Supervisory Board members continue to receive further professional training. Thus far, it is still partially unclear, which conditions must be met in order to fulfil the requirements for an adequate scope and support of training of the Supervisory Board members by the company within the meaning of the respective provisions. Hence, the Supervisory Board precautionary declares a deviation from Sec. 5.4.1 para. 4 sentence 2 of the DCGK in the version of 24 June 2014 as in the previous year.

According to **Sec. 7.1.2 sentence 4 of the DCGK**, the Consolidated Financial Statements shall be publicly accessible within 90 days of the end of the financial year; interim reports shall be publicly accessible within 45 days of the end of the reporting period. Against the background of the type of business and the financial situation of the company, the compliance with those periods would involve disproportional expenses. The company endeavours to quickly prepare the statements and reports. However, the periods according to Sec. 7.1.2 sentence 4 of the DCGK cannot regularly be met.”

Saarbrücken, December 2014
ItN Nanovation AG

Acting for the Management Board
Lutz Bungeroth

Acting for the Supervisory Board
Dr. Ulrich-Peter Kinzl