

## Corporate Governance.

### **Declaration of conformity by the Executive Board and the Supervisory Board of JENOPTIK AG in fiscal year 2009 concerning the Corporate Governance Code pursuant to §161 German Stock Corporation Act (AktG).**

Under § 161 of the German Stock Corporation Act (AktG) the Executive Board and the Supervisory Board of a stock-listed company are required to issue an annual declaration that the recommendations of the Government Commission on the German Corporate Governance Code as published by the Federal Ministry of Justice in the official section of the Federal Gazette (Bundesanzeiger) have been and are complied with or to advise which recommendations have not been or are not applied.

The JENOPTIK AG Executive and Supervisory Boards support the recommendations of the Government Commission on the German Corporate Governance Code and state that pursuant to § 161 German Stock Corporation Act:

I. The recommendations of the Government Commission on the German Corporate Governance Code (“DCGK”) in the version dated June 18, 2009 will be followed with the following exception:

A deductible for D&O insurance for members of the Supervisory Board shall be waived (Point 3.8 DCGK).

II. Since the last declaration of conformity dated December 2008 the recommendations of the Government Commission on the German Corporate Governance Code (“DCGK”) have been followed with the following exceptions:

1. A deductible for D&O insurance for members of the Executive and Supervisory Boards was waived (Point 3.8 DCGK).
2. The Personnel Committee of the Supervisory Board, so far responsible for Executive Board contracts, had consulted the Supervisory Board plenum with regard to the Board's remuneration scheme including major elements of the contracts if the plenum wished this or when the Committee deemed it necessary for a specific reason (Point 4.2.2 DCGK).

#### Justification of deviation Point I.

The view is seen as fundamentally objectionable that the motivation and responsibility of the Supervisory Board members would be improved through the introduction of a deductible. Such a policy could also lead to difficulties in recruiting members to the Supervisory Board.

#### Justification of deviations Point II.

1. The view is seen as fundamentally objectionable that the motivation and responsibility of the Executive and Supervisory Board members would be improved through the introduction of a deductible. Such a policy could also lead to difficulties in recruiting members to the Supervisory Board. The new legal provisions on deductibles for members of the Executive Board pursuant to the Act on the Appropriateness of Management Board Compensation (VorstAG)

which came into force in August 2009 will be taken into account when new contracts will be concluded.

2. The case-by-case treatment of Executive Board contracts and of the remuneration scheme including major elements of the contracts was regarded sufficient for the Supervisory Board to work efficiently before the Act on the Appropriateness of Management Board Compensation (VorstAG) came into force. The new legal provision that the Supervisory Board as plenum must decide on the total remuneration of an Executive Board member pursuant to the VorstAG which came into force on August 5, 2009 will be complied with.

### **Background information from the preamble to the Code.**

On September 6, 2001, Germany's Government Commission on the German Corporate Governance Code (DCGK) was appointed to develop internationally and nationally recognized principles for correct and responsible corporate governance. As stated in the Code's preamble, "The Code aims at making the German Corporate Governance system transparent and understandable. Its purpose is to promote the trust of international and national investors, customers, employees and the general public in the management and supervision of listed German stock corporations." The Commission presented the German Corporate Governance Code to the general public on February 26, 2002 and amended it most recently on June 18, 2009. The Code provides "regulations" that describe the legal norm currently valid in Germany, in addition to further "recommendations" and "suggestions." The "recommendations" are indicated by the use of the word "shall" in the Code. Companies that deviate from one or more recommendations must disclose this fact in an annual declaration of conformity in accordance with § 161 of the German Stock Corporation Act. The Code thereby "enables companies to reflect sector and enterprise-specific requirements." "Suggestions" are indicated in the Code by the use of the words "should" or "can" and can be deviated from without disclosure.

### **Code strengthens confidence into German enterprises.**

JENOPTIK AG welcomes the German Corporate Governance Code, which is in the economic interests of Germany and of the companies, and which will contribute towards building the trust of investors in the German economy within Germany and throughout the world. JENOPTIK AG is aware of the significance of investor trust and has maintained an open and transparent corporate style from the very beginning - long before it went public on June 16, 1998. JENOPTIK AG also welcomes the Code's deliberate flexibility concerning further national and international corporate governance developments. JENOPTIK AG welcomes the code also because it is open for further national and international developments in corporate governance. The Code indeed reflects the fact that corporate governance is to be treated as a continual process, and not merely a set of regulations fixed in print. For individual companies, this is a matter of earning the trust of investors, *customers, employees and the general public - all of which goes without saying for Jenoptik.*