

## **Declaration of compliance by MLP AG pursuant to Article 161 AktG (As per: 10.12.2009)**

The Executive and Supervisory Boards of MLP AG hereby declare in accordance with Article 161 of the German Stock Corporation Act (AktG) that the recommendations of the government commission "German Corporate Governance Code" as contained in the version dated 18<sup>th</sup> June, 2009 have been fundamentally observed since the previous declaration of compliance. Only the following recommendations were not applied: 3.8 sentence 4 and 5, 4.2.3 section 4 and section 5, 5.1.2 sentence 6, 5.4.1 sentence 2 and 5.4.6 sentence 4.

The deviations cited above are justified as follows:

### **Item 3.8 sentence 4 and sentence 5 (D&O insurance with excess)**

According to the recommendations of the German Corporate Governance Code (item 3.8 sentence 4 of the old version dated 6th June, 2008) the Company should agree an appropriate excess for the Executive and Supervisory Boards when taking out D&O insurance for the Executive Board. Initially the Company did not follow this recommendation.

With the coming into force of the Act on the Appropriateness of Executive Board Remuneration (VorStAG), it is now mandatory to agree an excess for the members of the Executive Board of at least 10% of the damage up to a minimum level of 150 percent of the respective Executive Board member's fixed annual remuneration. According to item 3.8 sentence 5 of the German Corporate Governance Code, an appropriate excess should be agreed with respect to D&O-insurance for the Supervisory Board.

In 2009, MLP initially deviated from this recommendation. However, MLP has subsequently modified the existing D&O insurance such that, in the coming year, it provides for excesses for the members of the Executive Board and of the Supervisory Board in accordance with the guidelines and recommendations of the German Corporate Governance Code. In 2010 – unlike in 2009 – MLP will therefore comply with this recommendation.

### **Item 4.2.3 section 4 and section 5 (Severance payment cap)**

According to the recommendations of the German Corporate Governance Code, when concluding Executive Board member contracts, it should be ensured that payments, including fringe benefits, to an Executive Board member following premature cessation of Executive Board duties without serious cause, do not exceed the value of two years' remuneration (Severance payment cap). The calculation of the severance payment cap should be based on the total remuneration of the previous financial year and, if appropriate, also on the expected total remuneration for the current financial year. Promised benefits in the event of premature termination of Executive Board service resulting from a change of control should not exceed 150% of the severance payment cap.

MLP deviates from this recommendation. The contracts of employment for the members of the Executive Board provide for the payment of compensation in the event of premature cessation of an Executive Board member's contract as a result of replacement or termination without serious cause, corresponding to a maximum of four times the fixed annual salary of the respective Executive Board member, whereby a pro-rata temporis rule applies in the event of contract termination during the last two years prior to expiry of the respective Executive Board

member's contract of employment. This rule also applies in the event that members of the Executive Board avail themselves of their contractual extraordinary right to termination. This applies in specific cases of a transformation of the company in accordance with the German Transformation Act (UmwG) as well as in the event that a third party holding less than a 10% stake in MLP AG at the time of contract conclusion, acquires a holding of at least 50% of the voting rights.

However, there is no provision for a severance payment in the event of contract termination by mutual consent. A severance payment that is based on the overall remuneration of the previous financial year and which thereby also contains variable remuneration components is, in the opinion of the Company, not suitable to serve as a basis for assessment that applies to future contract time periods. Rules concerning a mutually-sought termination of contract can, in a contractual law sense, in any case only serve as a guideline from which, however, the parties may at any time deviate by mutual consent. Such a rule would thus be no more than a formal act and - as in 2009- MLP will therefore not comply with this recommendation in 2010.

#### **Item 5.1.2 sentence 7 (Age limit for members of the Executive Board)**

The German Corporate Governance Code recommends that an age limit be set for members of the Executive Board.

In 2009, MLP deviated from this recommendation. There is no set age limit for members of the Executive Board. The appointment of Executive Board members should focus solely on knowledge, abilities and specific experience. In 2010 – as in 2009 - MLP will therefore not implement this recommendation.

#### **Item 5.4.1 sentence 2 (Age limit for members of the Supervisory Board)**

According to the recommendations of the German Corporate Governance Code, an age limit should be set and taken into account when considering proposals for the election of Supervisory Board members.

In 2009, MLP deviated from this recommendation. There is no set age limit for members of the Supervisory Board. In view of the required knowledge, abilities and specific experience set out in item 5.4.1 sentence 1 of the Code, the setting of an age limit does not appear to be appropriate. In 2010 – as in 2009 - MLP will therefore not comply with this recommendation.

#### **Item 5.4.6 sentence 4 (Performance-related remuneration of the members of the Supervisory Board)**

According to the recommendations of the German Corporate Governance Code, members of the Supervisory Board should receive a performance-related element of remuneration beside their fixed remuneration.

MLP deviated from this recommendation in 2009. The members of the Supervisory Board of MLP AG do not receive any performance-related remuneration. No convincing concepts concerning performance –related Supervisory Board remuneration have yet been proposed. In 2010 – as in 2009 – MLP will therefore not comply with this recommendation.

Wiesloch, December 2009  
MLP AG

The Executive Board

The Supervisory Board