

Corporate Governance Report with Corporate Governance Declaration

The activities of the Management Board and Supervisory Board are determined by the principles of responsible corporate governance. This report comprises the Corporate Governance Report as per section 3.10 of the German Corporate Governance Code as well as the joint Corporate Governance Declaration as set out in section 289f and section 315d HGB (German Commercial Code).

1. Declaration of the Management Board and Supervisory Board pursuant to section 161 of the Aktiengesetz (AktG – German Stock Corporation Act)

The Management Board and the Supervisory Board of INTERSHOP Communications AG ("Intershop") welcomes the German Corporate Governance Code presented by the Government Commission and most recently updated in February 2017. The recommendations of the German Corporate Governance Code were largely complied with in fiscal year 2017; any departures were explained in the Declaration of Conformity. The Supervisory Board and the Management Board issued the following joint Declaration of Conformity in accordance with section 161 of the *Aktiengesetz* (AktG – German Stock Corporation Act) on December 18, 2017:

Since the declaration of conformity dated December 16, 2016 to April 23, 2017 INTERSHOP Communications AG has complied with the recommendations of the Government Commission on the German Corporate Governance Code in the version dated May 5, 2015, and as of April 24, 2017 to the time of this declaration with the recommendations of the Government Commission on the German Corporate Governance Code in the version dated February 7, 2017 ("Code"), with the following exceptions and will comply with them in the future with the following exceptions:

- a) The existing D&O insurance does not include a deductible for the members of the Supervisory Board (section 3.8 of the Code) since the Company has not been offered a policy with comparatively more favorable terms. Furthermore, the Management Board and Supervisory Board hold the view that the members of the Supervisory Board also exercise their obligations responsibly without a deductible.
- b) The Management Board ensures that measures suitable for the risk profile of the company are put into place; however, it does not have a stand-alone compliance system (Code paragraph 4.1.3, sentence 2) as the company believes that the measures implemented within the framework of the internal control and risk management system are sufficient based on the size of the company. For this reason, a whistleblower system in accordance with Code paragraph 4.1.3, sentence 3 will also not be set up by the company.
- c) In the remuneration reports, remuneration of the Management Board was continued and will continue to be individualized and shown based on fixed and variable components in accordance with the applicable accounting standards under the German Commercial Code. In the opinion of the Management Board and the

Supervisory Board there is no requirement for an additional breakdown of remuneration components and costs or reporting of the overall achievable variable remuneration pursuant to section 4.2.5 of the Code, since the statutory individualized data already offers sufficient information about the remuneration structure and amount, and the noting of merely a maximum and minimum amount of variable remuneration in the required form - without the context of the underlying remuneration provisions - is misleading and can thus lead to incorrect conclusions.

- d) The Supervisory Board has not determined a time limit for Supervisory Board membership, a competency profile, or a required number of independent Supervisory Board members in accordance with Code paragraph 5.4.1. The Supervisory Board believes that a time limit for Supervisory Board membership would not be appropriate since, in general, there is no necessary correlation between term of office, independence of the members of the Supervisory Board, and the occurrence of potential conflicts of interest. Furthermore, due to the small number of Supervisory Board members, the Supervisory Board believes that a precise definition of objectives and a competency profile would limit the selection of suitable Supervisory Board members. The Supervisory Board would like to be able to freely and flexibly decide on proposals for the composition of the Board in each specific situation and, when making nominations, will take the length of service of the Board members and their independence into account on a case-by-case basis. Currently, all three Supervisory Board members are independent.

This declaration of conformity and all previous declarations have been made permanently available on the Company's website at <http://www.intershop.com/investors-corporate-governance>.

2. Corporate Governance Practices

The Company has not implemented any **business practices** exceeding the recommendations of the German Corporate Governance Code, e.g. a company Code of Conduct. The Company takes into consideration the suggestions of the Corporate Governance Code to the greatest possible extent.

3. Information on the Management Board's and Supervisory Board's principles of work, as well as their composition

In accordance with the fundamental principle of German company law, Intershop is subject to the dual management system, which requires the separation of the management body (Management Board) and the supervisory body (Supervisory Board). Both bodies cooperate in the management and supervision of the Company.

The **Management Board** is responsible for managing the Company with the goal of creating sustainable value. The Management Board jointly develops the Company's strategy and ensures that it is implemented in consultation with the Supervisory Board. The Management Board must manage the Company's business in accordance with the law, the Articles of Association, and the by-laws. The principle of joint responsibility applies; this means that the members of the Management Board are jointly responsible for the management of the entire Company. The principles of the Management Board's work are summarized in the By-laws of the Management Board. In particular, these by-laws govern the adoption of resolutions and the allocation of responsibilities. The By-laws of the Management Board also include a list of transactions for which the Management Board requires the Supervisory Board's approval.

The Management Board currently comprises two members. There is a Chief Executive Officer for the Management Board. The number of members of the Management Board is determined by the Supervisory Board, which can also appoint a Chairman or a Spokesperson and Deputy Chairman of the Management Board.

The Management Board provides the Supervisory Board with regular, timely, and comprehensive information about all aspects of business development that are material for the Company, significant transactions, and the current earnings situation, including the risk situation and risk management. Where business developments deviate from earlier forecasts and targets, these deviations are discussed and the reasons given in detail. The Management Board also reports regularly on compliance, i.e., the measures taken to meet legal requirements and internal guidelines, which is also the responsibility of the Management Board.

The **Supervisory Board** advises the Management Board on the management of the Company and monitors the Management Board's activities. It appoints and dismisses the members of the Management Board, resolves the compensation system for the Management Board members, and sets their total compensation. It is involved in all decisions that are of fundamental importance for the Company.

The Articles of Association stipulate that the Supervisory Board must comprise three members. Its regular term of office is five years and ends at the Annual Stockholders' Meeting that resolves the approval of the Supervisory Board's activities for the fourth fiscal year after the beginning of its term of office. The Supervisory Board regularly monitors and advises the Management Board in its management of the Company. It must perform its duties in accordance with the provisions of the law, the German Corporate Governance Code, the Articles of Association, and its By-laws. The Supervisory Board must be consulted on all decisions of fundamental importance for the Company. The By-laws of the Management Board therefore stipulate certain transactions – such as major investment projects, acquisitions, and employment contracts above a certain amount – that require the Supervisory Board's approval. The Chairman of the Supervisory Board represents the Supervisory Board externally and in dealings with the Management Board. He chairs the Supervisory Board meetings. No committees were established because the Supervisory Board only comprises three members. In addition to its reports at the Supervisory Board meetings, the Management Board regularly informs the Supervisory Board about current

key developments at the Company and the related measures required, as well as about the forecast for future quarters.

D&O insurance has been taken out for all members of the Management Board and the Supervisory Board; a deductible of 10% was agreed upon for Management Board members in accordance with section 93(2) sentence 3 of the AktG.

4. Information on setting the women's quota

Pursuant to section 111 (5) of the AktG, the resolution of the Supervisory Board dated June 21, 2017 set the target percentage of women on the Management Board and the Supervisory Board at 0% by June 30, 2021 according to the actually existing percentage and the rate previously applicable until June 30, 2017. However, the Supervisory Board is endeavoring to give priority to women with the same qualifications in order to increase the percentage of women on the Supervisory Board and the Management Board. Given that the target percentage was 0%, this was met in the reporting year.

The target figures for women on the two executive tiers below the Management Board set by the Management Board in accordance with section 76 (4) of the AktG amounted to 29.63% by June 30, 2017 according to the existing percentage in September 2015 and was limited until June 30, 2021 at a rate of 26.92% through the resolution of June 21, 2017. Due to the ongoing restructuring measures, the actual average monthly rate in the first half of 2017 of 25.87% for INTERSHOP Communications AG and 28.35% in the Intershop Group was below the previous target figure. Thus, effective as of July 1, 2017, the target figure was reset according to the existing percentage as per June 2017 at 26.92% for a period of four years. At the end of 2017, at 23.33% for INTERSHOP Communications AG and 26.47% for the Intershop Group, the rate was below the new target figure, as the total number of executives had changed since the date the rate was reset, at which the restructuring measures had not been completed yet. Intershop only has one management level below the Management Board, which is why only one target was defined for this management level.

5. Further information – Corporate Governance Report

Since the Management Board and Supervisory Board have stated in their Declaration of Conformity that they will not follow the Code's recommendations on appointing members in terms of the limit to be set for the length of membership, competency profile nor on appointing independent members, information on implementing this objective in terms of section 5.4.1 of the Code is also unnecessary in this report. However, it should be pointed out that the three Supervisory Board members have been independent since the Annual Stockholder's Meeting in 2013.

Details on the security holdings of the Company's executive bodies will be shown in the notes to the consolidated financial statements.

There are no stock option plans; the only security-based incentive program is that one of the many aims agreed with the members of the Management Board for their variable remuneration takes into account price development of the Intershop shares.

The particulars regarding the remuneration of the Management Boards and Supervisory Boards are outlined in the remuneration reports as part of the combined Group management report and management report of INTERSHOP Communications AG.

Jena, February 12, 2018

INTERSHOP Communications AG

For the Management Board

Dr. Jochen Wiechen Axel Köhler

For the Supervisory Board

Christian Oecking
Chairman of the Supervisory Board