

# Corporate Governance report 2009

## **Declaration of conformity by the Management Board and the Supervisory Board in accordance with Section 161 of the German Stock Corporation Act**

The recommendations set out by the Government Commission on the German Corporate Governance Code, as amended on June 18, 2009, published by the German Federal Ministry of Justice in the official part of the electronic Bundesanzeiger were conformed to in 2009, save for the exceptions described below. This will also continue to be the case in the future unless changes are intended in the individual segments.

### **2.3.4. Transmission of the annual general meeting**

Nordex has so far not transmitted its annual general meeting using modern communication facilities (e.g., the Internet). It has not adopted this recommendation as it takes the view that the costs are not justified given the small interest expressed by its shareholders to date. Moreover, only a small number of shareholders have the technology to watch the annual general meeting on a streamed basis. At this stage, Nordex considers press work to be a more suitable method of communicating the details of the debate conducted at the annual general meeting.

### **3.8 D&O insurance**

In 2009, Nordex waived a deductible on the D&O insurance (directors and officers third-party liability insurance) for members of the Management Board and Supervisory Board. This is because it is convinced that the members of these two bodies are doing everything to avert potential harm to the Company. Responsibility towards the Company and a sense of motivation are not encouraged by imposing a deductible on D&O cover. In addition, the inclusion of a reasonable deductible would not have any effect on the insurance premium.

The "Act on Appropriate Management Board Compensation" (VorstAG), which came into effect on August 5, 2009, adds to the German Stock Corporation Act a new provision in the form of Section 93 (2) Sentence 3 stipulating a minimum deductible for members of the Management Board. Nordex complied with this statutory obligation when it renewed the existing D&O cover, which takes effect as of July 1, 2010. A deductible will continue to be waived for the members of the Supervisory Board for the reasons set out above.

### **4.2.3, 4.2.4, 4.2.5. Individual breakdown of Management Board compensation**

As the Company's shareholders have made use of their right under Section 286 (5) of the German Commercial Code and passed a resolution dispensing with the individualized disclosure required by Section 285 (1) No. 9 a Sentence 5-9 and Section 314 (1) No. 6 a) Sentence 5-9 of the German Commercial Code of the total compensation paid to the members of the Company's Management Board

for a period of five years commencing on January 1, 2006, i.e., up to and including the 2010 fiscal year, Nordex continues to refrain from individualizing the compensation paid to members of the Management Board, including benefits received by third parties in consideration of the performance of their duties in this capacity. The Company does not believe that the details of the compensation system constitute information of central importance for the capital markets.

However, the Company wishes to state that all members of the Management Board hold shares in Nordex AG. As of December 31, 2009, the number of shares held were as follows:

Thomas Richterich (CEO) holds 20,000 shares directly and a further 206,143 shares via a dormant sub-participation (without any voting or selling rights) in CMP Fonds 1 GmbH, Berlin. In addition, Thomas Richterich (CEO) is entitled to a share of the proceeds from any sale of the shares held in the Company by CMP Capital Management Partners and Goldman Sachs (excess profit participation). Carsten Pedersen (CSO) holds 30,463 shares directly and 2,360,221 million shares indirectly via his 50% stake in CJ Holding ApS, Denmark (parent company of Nordvest A/S). Dr. Eberhard Voß (CTO) directly holds 1,000 shares.

#### **5.4.5 Compensation of the Supervisory Board**

Each member of the Supervisory Board is entitled to fixed remuneration of EUR 15,000 in consideration of the performance of their duties for each full year in which they are members of the Supervisory Board, plus reimbursement of all costs incurred in the performance of their duties. In addition, each member of the Supervisory Board receives variable compensation calculated according to the proportion of the consolidated net profit less net financial result (EBIT) in consolidated sales (EBIT margin) for the year in question. The individualized compensation paid to members of the Supervisory Board is set out in the Company's bylaws ([www.nordex-online.com/de/investor-relations/veroeffentlichungen.html](http://www.nordex-online.com/de/investor-relations/veroeffentlichungen.html)). The Chairman of the Supervisory Board receives twice, and his deputy one-and-a-half times, the sum total of the fixed and variable compensation.

#### **4.3.2. and 5.5.2 Potential conflicts of interest**

Three members of the Nordex SE Supervisory Board hold management functions with the Company's business partners. One member of the Management Board holds shares in a business partner. There were no material conflicts of interest in any of these cases.

The details are as follows:

Siempelkamp Gießerei GmbH & Co. KG supplies Nordex with cast parts for wind turbines. As the parent company of the Siempelkamp Group, G. Siempelkamp GmbH & Co. KG is the sole shareholder of Siempelkamp Gießerei GmbH & Co. KG. In his capacity as the spokesman of the management board of G. Siempelkamp GmbH & Co. KG, Dr. Hans Fechner, who was a member of Nordex AG's Supervisory Board up until February 22, 2009, is not involved in the operative decisions of Siempelkamp Gießerei

GmbH & Co. KG and does not exert any specific influence on these business relations.

Martin Rey, a member of Nordex AG's Supervisory Board, is managing director of Babcock & Brown GmbH, Munich. In 2009, companies in the Babcock & Brown Group acquired wind turbines from Nordex. Mr. Rey was not personally involved in the contractual negotiations between Nordex and Babcock & Brown and did not exercise any material influence on these.

Mr. Jan Klatten is an indirect shareholder and chairman of the supervisory board of asturia Automotive Systems AG, Munich, with which Nordex entered into a joint development contract on January 13, 2009. This contract was subject to approval by the Supervisory Board. This approval was granted at the meeting of February 18, 2009 without Mr. Klatten's participation.

Management Board member Carsten Pedersen holds a share in Skykon Give A/S (formerly Welcon A/S). In the year under review, Skykon was a supplier of towers to the Nordex Group. The purchasing relations with Skykon comply strictly with arms-length requirements. Orders are placed only after intensive comparisons of prices and services. Mr. Pedersen in his capacity as Chief Sales Officer is not involved in these decisions. As Skykon is one of the most efficient producers of towers in northern Europe, it has been one of Nordex's suppliers for many years.

Finally, it should be noted that the members of the Supervisory Board hold personal mandates with duties of confidentiality.

### **7.1.2 Reporting dates**

Nordex complies with the follow-up admission rules stipulated for the Prime Standard. These transparency standards formulated by Deutsche Börse are among the strictest in Europe. Among other things, the stockmarket rules stipulate that annual reports must be published within four months and quarterly reports within two months of the end of the period to which they refer. Nordex believes that the 90/45-day rule provided for in the code does not necessarily heighten transparency. Moreover, the billing practices in the mechanical and plant-engineering sector make it difficult to comply with shorter reporting deadlines. The Company therefore published its quarterly reports within the usual period of 60 days after the end of the period in question in 2009. However, the aforementioned periods stipulated by the Corporate Governance Code will be observed as of 2010.

### **7.1.3 Disclosures on stock option program**

At the annual general meeting held on May 27, 2008 a resolution was passed to create Contingent Capital II in an amount of EUR 1,500,000. It is used solely to settle subscription rights under the stock options granted to executives and employees of the Company and the domestic and non-domestic members of the Nordex Group, members of the management bodies of the Nordex Group companies and members of the Company's Management Board granted on or before December 31, 2012, in accordance

with the authorization granted by the shareholders at the annual general meeting on May 27, 2008, for the purposes of motivating them and bonding them to Company and the Nordex Group.

A maximum of 1,500,000 options are to be granted under the option plan. Of these options, (a) a maximum of 550,000 are to be granted to executives and employees of the Company as well as domestic and non-domestic Nordex Group companies who are not members of the management bodies of the Company or any of the Nordex Group companies, (b) a maximum of 100,000 to members of the management bodies of domestic and non-domestic Nordex Group companies who are not members of the Company's Management Board, and (c) a maximum of 850,000 to members of the Company's Management Board.

The individual entitled persons within the above-mentioned groups and the volume of the options to be granted to them are determined by the Management Board within the scope of the terms and conditions for the grant of options. In doing so, it takes account of the individual performance and capabilities of the individual entitled persons. The eligible persons among the members of the Company's Management Board and the volume of subscription rights to be offered to them are determined at the due discretion of the Supervisory Board in light of eligible parties' individual performance and capabilities and, in particular, in the interests of binding such members of the Management Board to the Company who are otherwise not directly or indirectly involved in the Company as a result of third-party services with respect to their activity on the Management Board.

Subject to an adjustment as a result of a corporate measure, one option entitles the holder to acquire one bearer share issued by Nordex AG in accordance with terms of the stock option program. When the option is exercised, an exercise price per share is paid unless the Company waives its right to request cash settlement. There is no legal or constructive cash settlement obligation on the part of the Company towards option holders.

The exercise price equals the arithmetic mean of the Xetra closing prices as quoted on the Frankfurt Stock Exchange (or any replacement system comparable in terms of its function) over the previous ten trading days for Nordex ordinary voting shares with full participation in the Company's profit and assets.

The options vest no earlier than three years upon being granted, and are forfeited if the employment contract expires within this period. The options may only be exercised during two windows per year ("exercise period") in the following two years. The exercise periods are as follows:

- the first 28 days after the day on which the Company announces its final results for the previous year
- the first 28 days after the day on which the Company announces its final results for the second quarter of the current year.

The options may only be exercised if the price of Nordex ordinary shares on the ten trading days preceding the date on which the option is exercised exceeds the exercise price of the option in question by at least 20%.

In 2009, 279,775 stock options were offered to employees of the Nordex Group. Of these, 243,484 stock options were accepted. To date, none of these options have been forfeited since being granted. In 2008, 989,112 stock options were offered to employees of the Nordex Group. Of these, 813,221 stock options were accepted.

The exercise price stands at EUR 12.84 per stock option for the 2009 installment and EUR 23.10 for the 2008 installment. As of the balance sheet date, 1,875 of the options granted in 2009 had been forfeited. The average residual period before vesting is 3 years. Of the 2008 installment, 8,860 stock options had been forfeited as of the balance sheet date. Accordingly, 1,045,970 stock options were outstanding as of December 31, 2009, none of which have vested.

### **Directors' dealings**

In the period under review, members of the Management Board and the Supervisory Board engaged in the following transactions with Nordex stock of which they informed Nordex immediately.

Date	Person Position	No. of Share Action	SCN Stock Exchange	Price p. Share Nom. amount
04-15- 2009	Dr. rer. nat. Dieter Maier Member of supervisory board	5,000 buy	DE000A0D6554 Xetra	12.12 Euro 60,600 Euro
04-20- 2009	Dr. Eberhard Voß Member of Management Board	1,000 buy	DE000A0D6554 Xetra	13.38 Euro 13,380.00 Euro
05-04- 2009	Nordvest A/S Legal entity in relation with member of management board	200,000 sell	DE000A0D6554 Frankfurt	13.2980 Euro 2,659,600.00 Euro
05-26- 2009	Dr. rer. nat. Dieter Maier Member of supervisory board	5,000 sell	DE000A0D6554 Frankfurt	12.98 Euro 64,900.00 Euro