

## **Compliance Declaration pursuant to Section 161 of the German Stock Corporations Act (AktG)**

After due appraisal, the Executive Board and Supervisory Board of HOCHTIEF Aktiengesellschaft submit their compliance declaration as follows:

1. HOCHTIEF Aktiengesellschaft has complied with the recommendations of the Government Commission on the German Corporate Governance Code dated February 7, 2017 ("Code 2017") and published on April 24, 2017 by the German Ministry of Justice and Consumer Protection in the official section of the electronic Bundesanzeiger (Federal Official Gazette) since the publication of the latest Compliance Declaration in December 2019 and up until the day of the announcement of the new version of the code on March 20, 2020. The following exceptions applied:
  - Since 2012, Section 5.3.2, paragraph 3, of the Code 2017 has contained a recommendation that the Chairman of the Audit Committee should be independent. To comply with this recommendation, the Supervisory Board would have had to vote out of office the current Chairman of the Audit Committee, Mr. Ángel García Alrozano. The Supervisory Board is of the opinion that it is in the interests of the Company for Mr. García Alrozano to remain Chairman of the Audit Committee despite his business relations with ACS, Actividades de Construcción y Servicios, S.A. This assessment is based on the fact that Mr. García Alrozano has been the Chairman of the Audit Committee since May 2010. In its decision, the Supervisory Board took into account Mr. García Alrozano's considerable expertise and experience from having held leading positions in international companies.
  - The Code's recommendations on nominations for election to the Annual General Meeting contained in Section 5.4.1 paragraphs 6 to 8 of the Code 2017 (disclosure of the personal and business relations of each individual candidate with the enterprise, the executive bodies of the enterprise and with any shareholder holding a material interest in the enterprise) have not been applied as in prior years. In practice, there is currently still legal uncertainty regarding what relations the Code recommendations require to be disclosed in each individual instance and in what scope.

With regard to the recommendation given in Section 4.2.3, paragraph 2, sixth sentence of the Code 2017—that the amount of compensation be capped, both overall and for variable compensation components—we note that the contracts with the members of our Executive Board, as well as providing for a fixed salary, include caps on the amounts of all variable compensation elements. Supplementary to this, the Supervisory Board has reserved the right, in addition to the fixed annual salary and the variable compensation components, to grant at its own discretion a one-off payment for exceptional performance. The contracts also provide for normal fringe benefits (private use of company car, accident insurance, etc.). There is no cap on the amount of any one-off payment for exceptional performance or on the value of fringe benefits because it does not appear necessary for such amounts to be capped in accordance with the letter and spirit of the Code recommendation and, in our legal appraisal, the Code recommendation does not extend to this. For the same reason, such payments and benefits are not covered by any cap on the amount of overall compensation.

2. HOCHTIEF Aktiengesellschaft complies with the recommendations of the Government Commission on the German Corporate Governance Code dated December 16, 2019 and published on March 20, 2020 by the German Ministry of Justice and Consumer Protection in the official section of the electronic Bundesanzeiger (Federal Official Gazette) ("Code 2020"). The following exceptions apply:

The Code 2020 contains recommendation C.10 saying that the Chairman of the Audit Committee ought to be independent of the Company and independent of the controlling shareholder. To comply with this recommendation, the Supervisory Board would have had to vote out of office the current Chairman of the Audit Committee, Mr. Ángel García Alrozano. The Supervisory Board is of the opinion that it is in the interests of the Company for Mr. García Alrozano to remain Chairman of the Audit Committee despite his business relations with ACS, Actividades de Construcción y Servicios, S.A. and despite being member of the Supervisory Board for more than twelve years. This assessment is based on the fact that Mr. García Alrozano has been the Chairman of the Audit Committee since May 2010. In its decision, the Supervisory Board took into account Mr. García Alrozano's considerable expertise and experience from having held leading positions in international companies.

The Code's recommendations on nominations for election to the Annual General Meeting contained in C.13 of the Code 2020 (disclosure of the personal and business relations of each individual candidate with the enterprise, the executive bodies of the enterprise and with any shareholder holding a material interest in the enterprise) are still not being applied. In practice, there is currently still legal uncertainty regarding what relations the Code recommendations require to be disclosed in each individual instance and in what scope. The Supervisory Board will watch developments in this regard and re-examine the question of applying the Code recommendations in the next fiscal year. The compensation system to be resolved by the Supervisory Board according the new provision of Section 87a AktG will be established in due time by the Supervisory Board and presented to the ordinary Annual General Meeting for resolution in financial year 2021. This compensation system will comply with the recommendations of Code 2020.

The provisions on the compensation of the members of the Executive Board in existing employment contracts of the Executive Board (old contracts) currently do not comply with all recommendations of Code 2020. Recommendations stipulated therein will in the future be applied in the appointment and conclusion of employment contracts of new Executive Board members. The existing contracts of the Executive Board members in office (old contracts), however, shall only be adapted in the case of a reappointment. Until the compensation recommendations of Code 2020 will have been implemented for all members of the Executive Board, the old contracts contain the following deviations from Code 2020:

In addition to the fixed salary, the compensation pursuant to the old contracts contains caps on the amounts of all variable compensation elements. The Supervisory Board has reserved the right, in addition to the fixed annual salary and the variable compensation components, to grant at its own discretion a one-off payment for exceptional performance. The contracts also provide for normal fringe benefits (private use of company car, accident insurance, etc.) and pension commitments in the form of pension benefits. The old contracts do not contain the recommended maximum compensation stipulated in G.1 of Code 2020.

Subsequent changes of the target amounts or comparison parameters of the variable compensation shall be excluded pursuant to the recommendation in G.8 of Code 2020. This arrangement is the same in the old contracts. With regard to the specification of the variable compensation the Supervisory Board, however, shall have the right to increase or decrease the overall degree of goal accomplishment, resulting from the achievement of economic goals, taking into consideration the accomplishment of strategic goals determined annually. Apart from

that, the Supervisory Board may grant additional compensation up to the maximum amount of 200% for all variable compensation elements as an acknowledgement for entrepreneurial achievements.

Pursuant to the recommendation in G.10 of Code 2020 the Executive Board member shall receive the long-term variable compensation only after a period of four years. The LTIP elements of the old contracts shall only be granted after a period of one year, depending on the result of the financial year. Afterwards the waiting time/retention period for the LTIP-I element is 2 years and for the LTIP-II element 3 years. Thus, the dependency on profit of the LTIP-I element is guaranteed only for three years, whereas it is guaranteed for four years for the LTIP-II element.

According to recommendation G.11 of Code 2020 it shall be possible for the variable compensation to be withheld or reclaimed in justified cases. The right to reduce the variable compensation for old contracts exists only in the case of a deterioration of the Company's situation according to Section 87 (2) AktG. No further claims for repayment have been agreed. The recommendation of Code 2020 in G.15 of deducing the compensation for holding an intercorporate seat in the Supervisory Board is generally applied. Solely in the case of the parallel appointment of Mr. Fernández Verdes as Executive Chairman at CIMIC the Supervisory Board decided not to deduce the compensation received from CIMIC. There are no provisions in the old contracts regarding the decision of the Supervisory Board recommended in G.16 to deduce the compensation for seats in Supervisory Boards outside the Company.

Essen, November 2020

HOCHTIEF Aktiengesellschaft

For the Supervisory Board

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Pedro López Jiménez

For the Executive Board

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Marcelino Fernández Verdes Peter Sassenfeld