DECLARATION OF COMPLIANCE 2013 / 14

The Executive Board and Supervisory Board issued the previous declaration of compliance, in accordance with article 161 of the German law governing limited liability companies (AktG), on 27th of March 2013. The following declaration refers, for the period between the publication of the previous declaration of compliance and 15th June 2013, to the version of the German Corporate Governance Code published on 15th May 2012 and, for the period from 16th June 2013, to the recommendations of the version of the code from 13th May 2013, as published in the German Federal Gazette (*Bundesanzeiger*) dated 15th June 2013.

The Executive Board and Supervisory Board of the company H&R AG hereby declare that the recommendations of the Government Commission of the German Corporate Governance Code have been and are being complied with, subject the following exceptions:

– Item 4.2.3, paragraph 2 of the code:
The variable remuneration components paid to Detlev Wösten, deputy member of the Executive Board, are made up equally of the annual consolidated operating result (EBITDA), adjusted for any extraordinary result as defined in Art. 275 para. 2 no. 16 of the German Commercial Code (HGB), and a second so-called “earnings component” dependent on personal targets. As of the company’s 2013 financial year, this will be a maximum of 100% of the annual fixed remuneration. This form of variable remuneration was decided upon in light of Detlev Wösten’s position on the management board being limited to the end of 2013.

This agreement was initially extended in August 2013, without any amendment to the provisions regarding remuneration, until the end of 2014. Although a long-term basis theoretically exists for calculating the amount of variable remuneration for a further year, it does not take possible negative developments into account. The Executive Board and the Supervisory Board are confident that this form of variable remuneration does not represent any kind of false incentive to the company’s sustainable development, as the variable-remuneration component at most represents 100% of annual fixed remuneration from the fiscal year 2013 onwards. Should Mr Detlev Wösten’s position on the Executive Board be extended until the end of 2014, this form of variable remuneration will be examined in the light of the corresponding legal requirements and the code’s recommendations.

– Item 4.2.3, paragraph 3 of the code:
The German Corporate Governance Code recommends that no subsequent changes be made to the targets or comparison parameters for variable-remuneration components. The executive employment contracts of all Executive Board members ensure that the variable remuneration is limited in case of extraordinary developments in the company that could not have been foreseen at the time the contract was drawn up or at the time that targets were defined, which are deemed to make the payment of the agreed variable remuneration or the achievement of the defined targets unreasonable. This could also be dealt with by appropriate amendments to the targets already defined for the payment of variable remuneration. It is the opinion of the Executive Board and the Supervisory Board that this does not represent any form of prohibited repricing as defined in Item 4.2.3, para. of the German Corporate Governance Code, but rather an amendment of the agreed targets which, due to unforeseen circumstances, could be interpreted as false incentives. Since the decision of whether the amount of variable remuneration or the predetermined targets could be deemed unreasonable lies with the company, a subsequent change to the targets which would be unprofitable for the company is precluded.

– Item 4.2.3, paragraph 4 of the code:
In the case of board member Niels H. Hansen and former board member Luis Rauch, terminating their executive roles prematurely, the calculation of the compensation cap is not and has not been based on total remuneration of the previous financial year or the estimated total remuneration for the current financial year, but rather solely on their annual fixed remuneration without consideration of the variable remuneration components. This arrangement is more beneficial to business than the recommendation of the code, and is therefore in the company’s interest.

– Item 5.1.2, paragraph 2 of the code:
With the exception of the executive employment contract held by former Executive Board member Mr Luis Rauch, neither the executive employment contracts of other management board members nor the rules of procedure for the management board stipulate, or have stipulated, a general age-limit for members of the Executive Board at H&R AG. Given the age structure of the company's current management board, the Executive and Supervisory Boards see no need for a rule of this kind. Furthermore, the imposition of a formal age-limit would make it needlessly more difficult to find suitable Executive Board members. When searching for suitable candidates, the focus should be on individuals' qualifications; not their age.

– Item 5.4.6, paragraph 2 of the code:
The annual variable remuneration of Executive Board members is linked, according to article 15, sect. 1 of the articles of association, to the return on capital employed (ROCE), which is calculated on the basis of the audited and approved consolidated financial statements by dividing the earnings before interest and tax (EBIT) by the interest-bearing capital, i.e. the sum of net financial debt, equity and pension provisions. This financial-year-related variable remuneration is not geared to sustainable commercial development over a period spanning several years, as envisaged in article 87, sect. 1, subsections 2 and 3 of the German law governing limited liability companies (AktG), insofar as they refer to management remuneration. The current provisions of the articles of association were drawn up before the code's recommendations came into force, and have therefore not taken these new recommendations into account. The Executive and Supervisory Boards are currently deciding on whether to suggest an amendment to the Supervisory Board's variable remuneration at the annual shareholders' meeting, in light of the new recommendations contained in the code.

– Item 7.1.2, paragraph 3 of the code:
The consolidated financial statements for the financial year 2012 were not published within the 90-day period established in article 7.1.2 of the code, but did comply in this respect with article 62, sect. 3 of the Frankfurt Stock Exchange regulations, article 37v, sect. 1 of the German law on securities trading (WpHG) and article 325, section 4 of the German Commercial Code (HGB), which establish a four-month publication deadline. The time required to prepare the consolidated financial statements meant that an earlier publication date was not possible. Preliminary key performance indicators have already been published in advance. The company will in the future once again comply with the code's recommendations in this respect.

Salzbergen (Germany), 17th December 2013

Niels H. Hansen - Chairman of the Executive Board -	Detlev Wösten - Deputy member of the Executive Board -	Dr Joachim Girg - Chairman of the Supervisory Board -