

# Declaration of Conformity with German Corporate Governance Code

(convenience translation: only the German version is binding)

Pursuant to Section 161 of the German Stock Corporation Act (AktG), the Management Board and the Supervisory Board of PAION AG are obliged to declare annually that the recommendations of the "Government Commission on the German Corporate Governance Code" (the "**Code**") as amended from time to time and published by the Federal Ministry of Justice in the official section of the Federal Gazette (Bundesanzeiger) have been and are being complied with or which recommendations have not been or are not being applied and why not.

PAION AG's last declaration of conformity with the Code was in December 2021, at which time the Code as amended on 16 December 2019, published in the official section of the Federal Gazette on 20 March 2020 ("**DCGK 2020**"), was applicable.

Since its publication in the official section of the Federal Gazette on 27 June 2022, the Code as amended on 28 April 2022 ("**DCGK 2022**") has been applicable.

Having said this, the Management Board and the Supervisory Board of PAION AG declare pursuant to Section 161 AktG:

## **1. German Corporate Governance Code as amended on 16 December 2019 ("**DCGK 2020**")**

Since issuing the last declaration of compliance in December 2021, PAION AG has complied with all recommendations of the DCGK 2020 with the exception of the following deviations.

- **Recommendation F.2 DCGK 2020:**

*According to recommendation F.2 DCGK 2020, the consolidated financial statements and the group management report shall be publicly accessible within 90 days after the end of the financial year and the mandatory financial information during the year shall be publicly accessible within 45 days after the end of the respective reporting period.*

With regard to the timing of the public disclosure of the mandatory interim financial information, the Company has not complied with recommendation F.2 DCGK 2020 with effect for the 2022 half-year report. The deviation from the recommendation is due to the following circumstance:

The sales reports of the Remimazolam licensees, which are essential for the preparation of the semi-annual reports, are only available at the end of July of each year at the earliest. This was also the case in 2022.

In order to be able to depict the corresponding turnover reports in the 2022 half-year report, the corresponding deadline in accordance with recommendation F.2 DCGK 2020 was not met.

## **2. German Corporate Governance Code as amended on 28 April 2022 ("GCGC 2022")**

Since 27 June 2022, PAION AG has also complied with all recommendations of the GCGC 2022 with the exception of the following deviations:

- **Recommendation A.1 DCGK 2022:**

*According to Recommendation A.1 DCGK 2022, newly introduced by the DCGK 2022, the executive board shall systematically identify and assess the risks and opportunities for the company associated with social and environmental factors as well as the ecological and social impacts of the company's activities. In addition to the long-term economic goals, the corporate strategy should also give appropriate consideration to ecological and social goals. Corporate planning shall include corresponding financial and sustainability-related goals.*

Due to the short lead time since the recommendations on the topic of social and environmental factors (often also referred to as "**ESG**") newly introduced by the

DCGK 2022 came into force, the processes required to implement the recommendations in A.1 DCGK 2022 could not be fully completed in the 2022 business year. The identification of environmental and social impacts as well as the consideration of environmental and social objectives in the corporate strategy and their inclusion in the corporate planning as provided for in A.1 DCGK 2022 could therefore not be completed so far. However, PAION AG intends to fully comply with the recommendations under A.1 DCGK 2022 in the future.

- **Recommendation A.3 DCGK 2022:**

*According to the new recommendation A.3 DCGK 2022 introduced by the DCGK 2022, the internal control system and the risk management system shall also cover sustainability-related objectives, unless already required by law. This should include the processes and systems for recording and processing sustainability-related data.*

Due to the short lead time since the new recommendations on ESG in A.3 DCGK 2022 introduced by the DCGK 2022 came into force, the processes required to implement the recommendations could not yet be fully completed in the 2022 financial year. The internal control system and the risk management system as well as the processes and systems for recording and processing data therefore do not yet fully cover all sustainability-related objectives and data. However, PAION AG intends to fully comply with the recommendations in A.3 DCGK 2022 in the future.

- **Recommendation C.1, sentence 3 DCGK 2022:**

*According to the recommendation in C.1, sentence 3 DCGK 2022, newly introduced by the DCGK 2022, the competence profile of the supervisory board shall also include expertise on sustainability issues of importance to the company.*

Due to the short lead time since the entry into force of the new recommendation in C.1 sentence 3 DCGK 2022, the competence profile for the Supervisory Board of PAION AG could not yet be extended to include expertise in sustainability issues of importance to the company. The company intends to

carry out an evaluation of the sustainability issues of importance to it and, based on the results, to expand the competence profile accordingly so that the recommendation in C.1 sentence 3 DCGK 2022 is fully complied with in the future.

- **Recommendation D.10, sentences 1 and 2 DCGK 2022:**

*According to recommendations D.10, sentences 1 and 2 DCGK 2022, as amended by DCGK 2022, expertise in the field of accounting shall consist of special knowledge and experience in the application of accounting principles and internal control and risk management systems, and expertise in the field of auditing shall consist of special knowledge and experience in the auditing of financial statements. Accounting and auditing also include sustainability reporting and auditing.*

Due to the short lead time since the entry into force of the recommendations in D.10 sentence 1 and 2 DCGK 2022, as amended by the DCGK 2022, the members of the Supervisory Board and the members of the Audit Committee do not yet have knowledge and experience in the field of sustainability reporting and its audit. The company intends to build up the corresponding knowledge and experience among existing and future members so that the recommendation in D.10 sentence 1 and 2 DCGK 2022 is fully complied with in the future.

- **Recommendation F.2 DCGK 2022:**

*According to Recommendation F.2 DCGK 2022 (which is unchanged compared to Recommendation F.2 DCGK 2020), the consolidated financial statements and the group management report shall be publicly accessible within 90 days after the end of the financial year and the mandatory interim financial information within 45 days after the end of the respective reporting period.*

With regard to the timing of the public disclosure of the mandatory interim financial information, the Company has not complied with recommendation F.2

DCGK 2020 with effect for the 2022 half-year report (see above under 1.) and will not do so in the future with regard to recommendation F.2 DCGK 2022.

Information on the sales reports of the Remimazolam licensees, which is essential for the preparation of the half-yearly reports, is only available at the end of July of each year at the earliest. In order to ensure that this information, which is essential for the half-yearly reports, is taken into account in any case, the company will not comply with recommendation F.2 DCGK 2022 with regard to the time of public disclosure of the obligatory financial information during the year in the future.

PAION AG will continue to comply with the recommendations of the DCGK 2022 with the aforementioned deviations.

Aachen, December 2022

### **The Supervisory Board of PAION AG**

For the Supervisory Board: Michael Schlenk, Chairman of the Supervisory Board

### **The Management Board of PAION AG**

Gregor Siebert, Chairman of the Management Board

Sebastian Werner, Member of the Management Board

### **Update of the declaration of conformity 2022/2023 during the year**

The Management Board and the Supervisory Board of PAION AG issued the last Declaration of Conformity in December 2022 ("Declaration of Conformity 2022/2023").

In addition to the deviations listed in the Declaration of Conformity 2022/2023, they declare the following additional deviation from the recommendations of the Government Commission on the German Corporate Governance Code ("GCGC 2022") published by the Federal Ministry of Justice and Consumer Protection in the Federal Gazette on April 28, 2022:

Recommendation F.2 GCGC 2022:

According to Recommendation F.2 DCGK 2022, the consolidated financial statements and the Group management report shall be publicly accessible within 90 days of the end of the financial year and the mandatory interim financial information within 45 days of the end of the respective reporting period.

With regard to the date of publication of the consolidated financial statements and the Group management report, the Company will not comply with recommendation F.2 GCGC with respect to the consolidated financial statements and the Group management report for the financial year 2022. The deviation from the recommendation is due to the following circumstance, among others:

The audit of the annual financial statements for financial reporting is proving to be extremely complex for the 2022 financial year, in particular due to the "European Single Electronic Format". The "European Single Electronic Format" (ESEF) is an EU requirement for all companies that have issued securities within the EU. Accordingly, the companies concerned must prepare their annual financial reports in XHTML format from January 1, 2020. These obligations and the resulting scope have been significantly increased again for the 2022 annual financial report. Against this background, the audit of the annual financial statements continues, so that this year the audited annual and consolidated financial statements of PAION AG for the fiscal year 2022 will not be available until April 2023.

Aachen, March 2023

Supervisory Board of PAION AG

For the Supervisory Board: Michael Schlenk, Chairman of the Supervisory Board

Management Board of PAION AG

Gregor Siebert, Chairman of the Board of Management Sebastian Werner,  
Member of the Board of Management".