



GILDEMEISTER Aktiengesellschaft Bielefeld

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Explanatory Report of the Management Board to the statements under sections 289 para. 4, 315 para. 4 of the German Commercial Code (HGB – Handelsgesetzbuch)

**GILDEMEISTER**

**Explanatory Report of the Management Board of GILDEMEISTER AG to the statements under sections 289 para. 4 and Section 315 para. 4 of the German Commercial Code (HGB – Handelsgesetzbuch)**

**GILDEMEISTER AG is an Aktiengesellschaft (a German public limited company), has its registered office in Bielefeld and has issued voting shares that are listed on an organised market as defined in Section 2 para. 7 of the German Securities Acquisition and Takeover Act (WpÜG).**

**Under Section 289 paragraph 4, No. 1 HGB**

The registered capital of GILDEMEISTER Aktiengesellschaft amounts to € 118,513,207.80. It is divided into 45,582,003 owner shares with an accounting par value of € 2.60 per share.

**Under Section 289 paragraph 4, No. 6 HGB**

With respect to the appointment and dismissal of members of the Executive Board, reference is made to the statutory provisions in Sections 84 and 85 of the German Companies Act (AktG). Moreover, this authority is specified to that effect in Section 7 (2) of the Articles of Association of GILDEMEISTER Aktiengesellschaft as amended in May 2009, by which the Supervisory Board appoints the members of the Executive Board, determines their number and assigns their duties. The provisions on amendments to Articles of Association are regulated in Sections 133 and 179 of the German Companies Act in conjunction with Section 15 (4) of the Articles of Association.

**Under Section 289 paragraph 4, No. 7 HGB**

The Executive Board is authorised, with the approval of the Supervisory Board, to increase the share capital by up to € 50,073,300.00 in nominal terms during the period until 15 May 2010 by issuing new owner shares for contributions in cash and/or in kind (authorised capital).

Moreover, the company is authorised to purchase its own shares up to a pro rata amount of just under 10% of the registered capital, this corresponds to € 11,851,321.00. This authorisation is intended to place the company in a position of having its own shares available at short notice, without having to make use of the stock market, in order to offer these shares to a seller in return for the acquisition of entities or investments in other entities.

The Executive Board is authorised to issue shares to company employees and companies affiliated with the company with respect to a partial amount of € 5,000,000. The shareholders' statutory subscription rights are excluded to this extent.

In addition the Executive Board is authorised, with the approval of the Supervisory Board, to exclude the shareholders' statutory rights in certain cases that are stipulated in detail in the Articles of Association.

Moreover there has been a contingent increase in the registered capital up to a further € 37,500,000 through the issue of up to 14,423,076 individual shares in the name of the holder (contingent capital I). The conditional capital increase is to be effected only insofar as the options or conversion rights relating to warrant or convertible bonds, issued or guaranteed pursuant to the authorisation resolution of the Annual General Meeting of Shareholders of 14 May 2004, in the period until 31 March 2009 are exercised or any conversion obligation or obligation to exercise an option under the aforementioned bonds are fulfilled.

**Under Section 289 paragraph 4, No. 8 HGB**

The main agreements, which are subject to a change of control condition as a result of a takeover offer, are the syndicated loan agreement of € 175 million and the borrower's notes with a total volume of € 200 million of GILDEMEISTER Aktiengesellschaft. In the event of a change of control (acquisition of 25% or more of the voting rights), the repayment of the syndicated loan (if necessary, also in part payments) or the repayment of the borrower's notes may be requested.

In addition, the legislator has resolved that the Executive Board shall issue an explanatory report on the information given pursuant to Section 289 paragraph 4 HGB:

As at 31 December 2009, the registered capital of the company amounts to € 118,513,207.80 and is distributed in 45,582,003 individual shares in the name of the holder. Each share has a voting right and is the determining factor for the share of profits.

The company is managed by the Executive Board and is represented by the Executive Board towards third parties. The appointment and revocation of appointment of members of the Executive Board is the responsibility of the Supervisory Board pursuant to Section 84 of the Companies Act (AktG).

The most recent amendment to the Articles of Association took place at the 107<sup>th</sup> Annual General Meeting of Shareholders on 15 May 2009, on this occasion Clause 5 and Clause 12 of the Articles of Association were amended.

In the reporting year the Executive Board did not exercise the existing authorisation, with the exception of the authorisation to increase the share capital through the issue of new shares with the approval of the Supervisory Board.

The conditions for a change of control comply with the customary agreements. They do not lead to an automatic termination of the above-referred agreements but, in the event of a change of control, merely grant our contractual partners the possibility of terminating these, if necessary.

Bielefeld, March 2010

GILDEMEISTER Aktiengesellschaft  
sig. The Executive Board

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