

Invitation to the Annual General Meeting 2010

Annual General Meeting

The shareholders in our Company
are hereby invited to attend the

Annual General Meeting

to be held at Congress Center Rosengarten, Musensaal,
Rosengartenplatz 2, 68161 Mannheim, on

Thursday, April 15, 2010, 10:00 hrs
(Central European Summer Time (CEST))

Agenda

1. Presentation of the adopted annual financial statements, the approved group financial statements, the management reports of Bilfinger Berger AG and of the group, the report of the Supervisory Board for the 2009 fiscal year and the explanatory notes of the Executive Board relating to the information provided pursuant to Sections 289 (4) and (5) and 315 (4) of the German Commercial Code (*Handelsgesetzbuch*, HGB)

In addition to its explanatory notes relating to the information provided pursuant to Sections 289 (4) and (5) and 315 (4) HGB, the Executive Board will make the following documents available to the General Meeting pursuant to Section 176 (1) sentence 1 of the German Stock Corporation Act (*Aktiengesetz*, AktG):

- the adopted annual financial statements of Bilfinger Berger AG as of December 31, 2009,
- the management report,
- the approved group financial statements as of December 31, 2009,
- the group management report,
- the report of the Supervisory Board and
- the proposal by the Executive Board for the use of unappropriated retained earnings.

These documents are available on the internet at:

<http://www.bilfinger.de/hauptversammlung>

and will be available for inspection during the General Meeting.

The Supervisory Board approved the annual financial statements prepared by the Executive Board and the group financial statements in accordance with Section 172 AktG on March 4, 2010 and has thus adopted the annual financial statements. It is therefore not necessary for the General Meeting to adopt the annual financial statements or approve the group financial statements in accordance with Section 173 AktG. Instead, the annual financial statements, the management report, the group financial statements, the group management report, the report of the Supervisory Board and the explanatory notes of the Executive Board relating to the information provided pursuant to Sections 289 (4) and (5) and 315 (4) HGB must be made available to the General Meeting, although no resolution is required under the AktG.

2. Resolution on the use of the unappropriated retained earnings

The Executive Board and the Supervisory Board propose to resolve as follows:

The unappropriated retained earnings reported in the annual financial statements for the 2009 fiscal year, amounting to EUR 92,048,254.00, will be used as follows:

Distribution of a dividend in the amount of EUR 2.00 per no-par value share carrying dividend rights	= EUR 88,280,254.00
Carryforward of the residual amount to the next fiscal year	= EUR 3,768,000.00
<hr/> Unappropriated retained earnings	<hr/> = EUR 92,048,254.00

The proposal concerning the use of unappropriated retained earnings is based on the capital stock carrying dividend rights which as at February 18, 2010 (the date of preparation of the annual financial statements) amounted to EUR 132,420,381.00 divided into 44,140,127 no-par value shares. Until such time as the resolution concerning the use of unappropriated retained earnings is adopted, the number of shares carrying dividend rights may change as a result of a change in the number of treasury shares. In such event, the Executive Board and the Supervisory Board will submit an adjusted resolution proposal concerning the use of unappropriated retained earnings to the General Meeting, which will, however, also provide for a distribution of EUR 2.00 per no-par value share carrying dividend rights. The adjustment will be performed as follows: If the number of shares carrying dividend rights – and thus the total dividend amount – increases, the amount carried forward to the next fiscal year will be reduced accordingly. If the number of shares carrying dividend rights – and thus the total dividend amount – decreases, the amount carried forward will be increased accordingly.

3. Resolution on the formal approval of the acts of the Executive Board with respect to the 2009 fiscal year

The Supervisory Board and the Executive Board propose that formal approval of their acts be granted to the members of the Executive Board who were in office during the 2009 fiscal year with respect to that period.

4. Resolution on the formal approval of the acts of the Supervisory Board with respect to the 2009 fiscal year

The Executive Board and the Supervisory Board propose that formal approval of their acts be granted to the members of the Supervisory Board who were in office during the 2009 fiscal year with respect to that period.

5. Appointment of the auditors of the financial statements and group financial statements for the 2010 fiscal year as well as of the auditors to be commissioned to review the abridged financial statements and the interim management report prepared in accordance with Sections 37w (5) and 37y no. 2 of the German Securities Trading Act (*Wertpapierhandelsgesetz, WpHG*)

Following a recommendation by the Audit Committee, the Supervisory Board proposes to resolve as follows:

- a) Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft, Mannheim, are appointed as auditors of the financial statements and group financial statements for the 2010 fiscal year.
- b) Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft, Mannheim, are also appointed to review the abridged financial statements and interim management report prepared in accordance with Sections 37w (5) and 37y no. 2 WpHG in the 2010 fiscal year.

6. Elections to the Supervisory Board

In accordance with Section 96 (1) and Section 101 (1) AktG in conjunction with Section 7 (1) sentence 1 no. 3 of the German Employee Participation Act (*Mitbestimmungsgesetz*) of 1976; (MitbestG 1976), the Supervisory Board of Bilfinger Berger AG is composed of ten shareholder representatives and ten employee representatives. The General Meeting is not obligated to observe nominations when electing the shareholders representatives.

The Annual General Meeting of May 21, 2008 elected two shareholder representatives, namely Hans Bauer and Dr Horst Dietz, not for the maximum term of office pursuant to Article 10 paragraph 1 of the Statutes but for a period ending at the close of the General Meeting that passes a resolution on the formal approval of the acts of the members of the Supervisory Board in the first fiscal year following the commencement of the term of office of these two members, with the fiscal year in which the term of office commences not counting towards this period. The term of office of Hans Bauer and Dr Horst Dietz will therefore end at the close of the Annual General Meeting of April 15, 2010. It is thus necessary to elect new members to the Supervisory Board.

In view of the change of legal form of the Company to that of a European stock corporation (*Societas Europaea*, SE), which is proposed in Agenda Item 11 and is due to be completed in the course of 2010, subject to approval by the General Meeting, and in view of the fact that the completion of this change of legal form will cause the terms of office of all members of the Supervisory Board of Bilfinger Berger AG to end, it will not be necessary to appoint the new members for the maximum term of office pursuant to Article 10 paragraph 1 of the Statutes. Instead, it will suffice to elect these members for a period ending no later than at the close of the General Meeting that passes a resolution on the formal approval of the acts of the members of the Supervisory Board in the 2010 fiscal year.

The Supervisory Board proposes to elect the following individuals to the Supervisory Board as shareholder representatives (with the two elections to be conducted separately):

- a) **Hans Bauer**,
Nuremberg,
Former Chairman of the Executive Board of HeidelbergCement AG, Heidelberg
(sector: building materials)
- b) **Dr Horst Dietz**,
Berlin,
Managing Director of DIETZ Unternehmensberatungsgesellschaft mbH, Berlin
(sector: management consultancy),

in each case subject to the proviso that they are not elected for the maximum term of office pursuant to Article 10 paragraph 1 of the Statutes but for the period ending at the close of the General Meeting that passes a resolution on the formal approval of the acts of the members of the Supervisory Board in the 2010 fiscal year (i.e. the term of office of these Supervisory Board members will end at the close of the 2011 Annual General Meeting at the latest).

Information pursuant to Section 125 (1) sentence 5 AktG on the individuals nominated by the Supervisory Board:

a) **Hans Bauer**

Memberships of other statutory supervisory boards:

none

Memberships of comparable supervisory bodies of commercial enterprises in Germany and abroad:

none

b) **Dr Horst Dietz**

Memberships of other statutory supervisory boards:

ABB AG, Mannheim,
Solon SE, Berlin

Memberships of comparable supervisory bodies of commercial enterprises in Germany and abroad:

E&Z Industrie-Lösungen GmbH, Duisburg
(chairman of the shareholders' committee)

7. Resolution on amendments to the Statutes to reflect the requirements of the German Act Implementing the Directive on Shareholders' Rights (*Gesetz zur Umsetzung der Aktionärsrechterichtlinie, ARUG*)

Under the Act Implementing the Directive on Shareholders' Rights of July 30, 2009, changes have been made to the statutory rules governing the calculation of deadlines by which shareholders must register for general meetings and the evidence to be provided concerning the entitlement to attend as well as the statutory rules concerning the exercise of voting rights by proxies.

Paragraphs 2 and 4 of Article 18 of the Statutes are to be amended to reflect these changes. In the context of amending Article 18 paragraph 4 of the Statutes, it is intended to also make use of the option to specify a form of proxy authorization in the calling notice that is less strict than that required by law.

The Executive Board and the Supervisory Board propose to resolve as follows:

a) Article 18 paragraph 2 of the Statutes is amended to read as follows:

“The application for registration must be submitted in German or English and must be received by the Company, at the address specified for this purpose in the calling notice, at least six days prior to the date of the General Meeting.”

b) Article 18 paragraph 4 of the Statutes is amended to read as follows:

“Voting rights may be exercised by proxy. Such proxy authorization must be granted or revoked, and evidence of the proxy authorization to be provided to the Company must be provided, in the form prescribed by law. The calling notice may specify less strict requirements in this context.”

8. Resolution on a new authorization to purchase and use treasury shares pursuant to Section 71 (1) no. 8 AktG with the possible exclusion of shareholders' subscription rights and any shareholders' rights to offer shares and including an option to reduce the capital by way of redeeming shares

The authorization to purchase treasury shares granted by the General Meeting of May 7, 2009 will expire on November 6, 2010. It is to be replaced by a new authorization.

Under the new authorization to purchase and use treasury shares, the Executive Board is also to be entitled to use treasury shares subject to an exclusion of shareholders' subscription rights. However, this possibility is to be limited to an aggregate volume of shares representing 20 percent of the capital stock, taking into account all authorizations to exclude subscription rights.

The Executive Board and the Supervisory Board propose to resolve as follows:

- a) The authorization to purchase treasury shares resolved by the General Meeting of May 7, 2009 is revoked from the time the following authorization takes effect; this shall not affect the authorizations resolved by the General Meeting of May 7, 2009 concerning the use of treasury shares.

The Executive Board is authorized for a period ending on April 14, 2015 to purchase shares in the Company representing a pro rata amount of capital stock of up to EUR 13,807,238.00 in total, subject to the consent of the Supervisory Board and subject to the proviso that the shares to be purchased under this authorization, together with other shares in the Company which the Company previously purchased and still holds or which are attributable to the Company pursuant to Sections 71 d and 71 e AktG, will at no time account for more than ten percent of the capital stock of the Company. Moreover, the requirements set out in Section 71 (2) sentences 2 and 3 AktG must be met. The share purchase must not be effected for the purpose of dealing in own shares.

The purchase will be effected in compliance with the principle of equal treatment (*Gleichbehandlungsgrundsatz*) (Section 53 a AktG) on the stock exchange or by way of a public purchase offer to all shareholders. If the purchase is effected on the stock exchange, the purchase price (not including incidental purchase expenses) must not exceed, or fall short of, the trading price of Bilfinger Berger shares, calculated on the purchase date in the opening auction in the XETRA trading system of Deutsche Börse AG (or any comparable successor system), by more than ten percent. In the event of a public purchase offer, the offering price (not including incidental purchase expenses) must not exceed, or fall short of, the average trading price of the Company's share, calculated on the basis of the arithmetic mean of the closing auction prices of Bilfinger Berger shares in the XETRA trading system of Deutsche Börse AG (or any comparable successor system), during the three trading days preceding the day of publication of the purchase offer by more than ten percent. The volume of the offer may be

limited. If the total number of shares offered for sale in response to a public purchase offer exceeds this limit, acquisition may be performed according to the proportion of offered shares (proportion offered); moreover, offers pertaining to limited numbers of shares (up to 50 shares per shareholder) may be given preferential treatment, and the number of shares may be rounded according to commercial principles, in order to avoid fractional shares. Any further right of the shareholders to offer shares is excluded in that respect.

The authorization may be exercised in whole or in part. During the term of the authorization, the purchase may be effected in partial tranches on different purchase dates up to the maximum purchase volume. The purchase may also be effected through dependent group companies of Bilfinger Berger AG within the meaning of Section 17 AktG or through third parties for the account of Bilfinger Berger AG or of such dependent group companies.

b) The Executive Board is authorized to either offer the treasury shares purchased under the above authorization for sale to all shareholders in compliance with the principle of equal treatment or to sell those shares on the stock exchange. The Executive Board is further authorized, in each case subject to the consent of the Supervisory Board,

ba) to sell the treasury shares purchased under the above authorization other than on the stock exchange or by way of an offer for sale to all shareholders, provided the shares are sold against payment in cash at a price that is not substantially below the average trading price of the Company's share during the three trading days preceding the final determination of the selling price by the Executive Board, calculated on the basis of the arithmetic mean of the closing auction prices of Bilfinger Berger shares in the XETRA trading system of Deutsche Börse AG (or any comparable successor system); this authorization is limited to the lower of ten percent of the capital stock existing at the time the resolution is adopted at the General Meeting of April 15, 2010 or ten percent of the capital stock existing at the time the shares are sold. The authorization volume will be reduced by the pro rata amount of capital stock which is represented by shares, or attributable to conversion and/or option rights or obligations under bonds which in each case were issued or sold after the beginning of April 15, 2010, subject to the exclusion of subscription rights, applying Section 186 (3) sentence 4 AktG directly, analogously, or *mutatis mutandis*; or

- bb) to offer and transfer the treasury shares purchased under the above authorization as consideration in connection with mergers with other companies or acquisitions of companies or parts of or equity interests in companies; or
- bc) to redeem the treasury shares purchased under the above authorization without a further resolution of the General Meeting being required; redemption shall lead to a capital reduction; notwithstanding the preceding, the Executive Board may determine that the capital stock will remain unchanged by the redemption and instead, by effecting the redemption, increase the amount of capital stock represented by the remaining shares in accordance with Section 8 (3) AktG; in that case, the Executive Board is authorized to adjust the statement of the number of shares in the Statutes; or
- bd) to use the treasury shares purchased under the above authorization to service conversion and/or option rights or obligations under convertible bonds or bonds with warrants issued by the Company either directly or through a group company in accordance with the authorization proposed under Agenda Item 10.

The authorizations may be exercised once or several times and separately or collectively.

The shareholders' subscription rights relating to the treasury shares are excluded to the extent those shares are sold on the stock exchange or used in accordance with the authorization as set out in lits. ba), bb) or bd) above. To the extent the shares are sold by way of an offer to all shareholders, the Executive Board may, subject to the consent of the Supervisory Board, exclude the shareholders' subscription rights to treasury shares in respect of fractional shares. The aggregate pro rata amount of capital stock represented by treasury shares in respect of which the shareholders' subscription rights are excluded under this authorization or by exercising the authorizations under lits. ba), bb) or bd), together with the pro rata amount of capital stock attributable to treasury shares or new shares from authorized capital or to which conversion and/or option rights or obligations relate under bonds which were issued or sold, subject to an exclusion of subscription rights, on or after April 15, 2010 must not, however, exceed 20 percent of the capital stock; this calculation shall be made on the basis of the amount of capital stock existing at the time this authorization takes effect or at the time the treasury shares are sold, whichever is lower. The shareholders' subscription rights are also deemed to have been excluded if the relevant shares are sold or issued by applying Section 186 (3) sentence 4 AktG directly, analogously, or *mutatis mutandis*.

9. Resolution on the creation of Authorized Capital 2010 against contributions in cash and/or in kind, the cancellation of the existing Authorized Capital 2009 and the corresponding amendment to Article 4 of the Statutes

The Authorized Capital 2009 as provided for in Article 4 paragraph 3 of the Statutes, of which only an amount of EUR 29,015,925.00 remains available after the implementation of last year's capital increase, is to be replaced by new authorized capital (Authorized Capital 2010). Under the Authorized Capital 2010, the Executive Board is also to be authorized to exclude the shareholders' subscription rights. However, this possibility is to be limited to an aggregate volume of shares representing 20 percent of the capital stock, taking into account all authorizations to exclude subscription rights.

The Executive Board and the Supervisory Board propose to resolve as follows:

- a) The Authorized Capital 2009, as provided for in Article 4 paragraph 3 of the Statutes, is to be cancelled effective as of the date of registration of the Authorized Capital 2010, as determined below.
- b) The Executive Board is authorized for a period ending on April 14, 2015 to increase the Company's capital stock, subject to the consent of the Supervisory Board, by up to EUR 69,000,000.00 (i.e. slightly less than 50 percent of the current capital stock) by issuing new no-par value bearer shares on one or more occasions (Authorized Capital 2010). Such issue of new shares may be effected against contributions in cash and/or in kind. The new shares are to be offered to the shareholders for subscription. An indirect subscription right within the meaning of Section 186 (5) AktG shall suffice in this context. Only with regard to new shares representing a pro rata amount of capital stock of up to EUR 27,600,000.00 in total (i.e. slightly less than 20 percent of the current capital stock) and subject to the consent of the Supervisory Board, the Executive Board is authorized to exclude the shareholders' corresponding statutory subscription rights upon the issue of new shares in the following circumstances:
 - in respect of fractional shares;
 - insofar as required in order to grant subscription rights to new shares to holders and/or beneficiaries of conversion and/or option rights or obligors under conversion

and/or option obligations under bonds issued by the Company or a group company in the same volume they would be entitled to if they exercised their conversion and/or option rights or fulfilled their conversion and/or option obligations;

- if the capital is increased against contributions in cash and the total pro rata amount of capital stock represented by the new shares in respect of which subscription rights are excluded does not exceed ten percent of the capital stock and the issue price of the new shares is not substantially (within the meaning of Section 203 (1) and (2) and Section 186 (3) sentence 4 AktG) below the trading price of shares of the same class, which must be already listed and carry the same rights, at the time the Executive Board finally determines the issue price; this determination shall be made on the basis of the amount of capital stock existing on April 15, 2010, at the time of registration of the authorization or at the time of issuance of the new shares, whichever is lowest; the volume, which is limited to ten percent of the capital stock, shall be reduced by the pro rata amount of capital stock which is attributable to shares or to which conversion and/or option rights or obligations relate under bonds which were issued or sold, subject to an exclusion of subscription rights, on or after April 15, 2010 by applying Section 186 (3) sentence 4 AktG directly, analogously or *mutatis mutandis*;
- if the capital is increased against contributions in kind for the purpose of granting new shares as consideration in connection with mergers with other companies or acquisitions of companies or parts of or equity interests in companies.

The aggregate pro rata amount of capital stock represented by new shares in respect of which the shareholders' subscription rights are excluded under these authorizations, together with the pro rata amount of capital stock attributable to treasury shares or to which conversion and/or option rights or obligations relate under bonds which were issued or sold, subject to an exclusion of subscription rights, on or after April 15, 2010 must not, however, exceed 20 percent of the capital stock; this calculation shall be made on the basis of the amount of capital stock existing on April 15, 2010, at the time of registration of the authorization or at the time the new shares are issued, whichever is lowest. The shareholders' subscription rights are also deemed to have been excluded if the relevant shares are sold or issued by applying Section 186 (3) sentence 4 AktG analogously or *mutatis mutandis*.

The Executive Board is authorized, subject to the consent of the Supervisory Board, to determine the further details of the implementation of capital increases from the Authorized Capital 2010.

c) Article 4 paragraph 3 of the Statutes is amended to read as follows:

“The Executive Board is authorized for a period ending on April 14, 2015 to increase the Company’s capital stock, subject to the consent of the Supervisory Board, by up to EUR 69,000,000.00 by issuing new no-par value bearer shares on one or more occasions (Authorized Capital 2010). Such issue of new shares may be effected against contributions in cash and/or in kind. The new shares are to be offered to the shareholders for subscription. An indirect subscription right within the meaning of Section 186 (5) AktG shall suffice in this context. Only with regard to new shares representing a pro rata amount of capital stock of up to EUR 27,600,000.00 in total and subject to the consent of the Supervisory Board, the Executive Board is authorized to exclude the shareholders’ corresponding statutory subscription rights upon the issue of new shares in the following circumstances:

- in respect of fractional shares;
- insofar as required in order to grant subscription rights to new shares to holders and/or beneficiaries of conversion and/or option rights or obligors under conversion and/or option obligations under bonds issued by the Company or a group company in the same volume they would be entitled to if they exercised their conversion and/or option rights or fulfilled their conversion and/or option obligations;
- if the capital is increased against contributions in cash and the total pro rata amount of capital stock represented by the new shares in respect of which subscription rights are excluded does not exceed ten percent of the capital stock and the issue price of the new shares is not substantially (within the meaning of Section 203 (1) and (2) and Section 186 (3) sentence 4 AktG) below the trading price of shares of the same class, which must be already listed and carry the same rights, at the time the Executive Board finally determines the issue price; this determination shall be made on the basis of the amount of capital stock existing on April 15, 2010, at the time of registration of the authorization or at the time of issuance of the new shares, whichever is lowest; the volume, which is limited to ten percent of the capital stock, shall be reduced by the pro rata amount of capital stock which is attributable to

shares or to which conversion and/or option rights or obligations relate under bonds which were issued or sold, subject to an exclusion of subscription rights, on or after April 15, 2010 by applying Section 186 (3) sentence 4 AktG directly, analogously or *mutatis mutandis*;

- if the capital is increased against contributions in kind for the purpose of granting new shares as consideration in connection with mergers with other companies or acquisitions of companies or parts of or equity interests in companies.

The aggregate pro rata amount of capital stock represented by new shares in respect of which the shareholders' subscription rights are excluded under these authorizations, together with the pro rata amount of capital stock attributable to treasury shares or to which conversion and/or option rights or obligations relate under bonds which were sold or issued, subject to an exclusion of subscription rights, on or after April 15, 2010 must not, however, exceed 20 percent of the capital stock; this calculation shall be made on the basis of the amount of capital stock existing on April 15, 2010, at the time of registration of the authorization or at the time the new shares are issued, whichever is lowest. The shareholders' subscription rights are also deemed to have been excluded if the relevant shares are sold or issued by applying Section 186 (3) sentence 4 AktG analogously or *mutatis mutandis*. The Executive Board is authorized, subject to the consent of the Supervisory Board, to determine the further details of the implementation of capital increases from the Authorized Capital 2010."

10. Resolution on the authorization to issue convertible bonds or bonds with warrants and to exclude the shareholders' subscription rights, including the simultaneous creation of conditional capital and an amendment to Article 4 of the Statutes

The authorization granted to the Executive Board by the General Meeting of May 19, 2005 to issue convertible bonds and bonds with warrants under which conversion and option rights to shares in the Company are granted will expire on May 18, 2010. In order for the Company to continue to be able to make use of this method of raising equity capital in the future, a new authorization is to be resolved which reflects market trends and the current financial situation of the Company. In order to service conversion and option rights, it is furthermore intended to resolve on the creation of new conditional capital (Conditional Capital 2010) while cancelling the previous conditional capital created pursuant to Article 4 paragraph 4 of the Statutes (Conditional Capital III). Under the new authorization to issue convertible bonds and bonds with warrants, the Executive Board is also to be authorized to exclude the shareholders' subscription rights. However, this possibility is to be limited to an aggregate volume of shares representing 20 percent of the capital stock, taking into account all authorizations to exclude subscription rights.

The Supervisory Board and the Executive Board therefore propose to resolve as follows:

- a) Authorization to issue convertible bonds and bonds with warrants and to exclude shareholders' subscription rights
 - aa) Issue, nominal amount, number of shares, term

The Executive Board is authorized for a period ending on April 14, 2015, subject to the consent of the Supervisory Board, to issue convertible bonds and bonds with warrants (the bonds) on one or more occasions in an aggregate nominal amount of up to EUR 350,000,000.00 with a maximum term of 15 (fifteen) years from the date of issue and to grant to the holders or creditors (collectively the holders) of the relevant bonds, which rank *pari passu* among themselves, conversion or option rights in respect of no-par value bearer shares in the Company representing a pro rata amount of capital stock of up to EUR 13,807,236.00 in total (representing slightly less than ten percent of the current capital stock), divided into up

to 4,602,412 no-par value shares, as specified in more detail in the terms and conditions of the convertible bonds or bonds with warrants (the terms and conditions of the bonds).

The bonds may also be issued by a group company of Bilfinger Berger AG; in this case, the Executive Board is authorized, subject to the consent of the Supervisory Board of Bilfinger Berger AG, to guarantee the bonds and to grant or guarantee the bondholders conversion or option rights to no-par value bearer shares in Bilfinger Berger AG.

ab) Conversion/option right

Where convertible bonds are issued, the holders will have the right to convert their bonds into no-par value bearer shares in Bilfinger Berger AG. The conversion ratio is calculated by dividing the nominal amount, or the issue price of a bond if it is lower than the nominal amount, by the fixed conversion price for a share in the Company and may be rounded up or down to a whole number; moreover, an additional cash contribution may be specified, and the Company may require that fractional shares that cannot be converted be consolidated or settled in cash.

Where bonds with warrants are issued, one or more warrants will be attached to each bond which entitle the holder to subscribe for no-par value bearer shares in Bilfinger Berger AG. The terms and conditions of the bonds may provide for payment of the option price to be effected by transferring bonds and, where necessary, by making an additional cash payment.

The pro rata amount of capital stock represented by the shares that can be subscribed for under each bond must not exceed the nominal amount of the relevant bond.

ac) Conversion/option price, conversion obligation

The conversion or option price to be determined per share must, except in cases of a conversion or option obligation, be at least equal to the non-weighted average closing price of Bilfinger Berger AG shares in the XETRA trading system of Deutsche Börse AG (or any equivalent successor system) during the ten trading days preceding the date on which the Executive Board resolution relating to the

issue of the bonds was passed or, in the event that a subscription right is granted, the non-weighted average closing price of Bilfinger Berger AG shares in the XETRA trading system of Deutsche Börse AG (or any equivalent successor system) during the period from the commencement of the subscription period to and including the day preceding the day on which the final determination of the terms and conditions of the bonds is announced in accordance with Section 186 (2) AktG.

The terms and conditions of the bonds may also provide for a conversion or option obligation or a right of the Company to grant the bondholders shares in the Company in full or partial substitution of the monetary amount due on final maturity of the bonds (including where the bonds have fallen due as a result of termination). In such cases, the conversion or option price may, as specified in more detail in the terms and conditions of the bonds, also be equal to the non-weighted average closing price of Bilfinger Berger AG shares in the XETRA trading system of Deutsche Börse AG (or any equivalent successor system) during the last ten trading days preceding, or the ten trading days succeeding, the final maturity date, even if this price is lower than the aforementioned minimum price.

This does not affect Section 9 (1) AktG.

ad) Dilution protection

If any dilution occurs during the term of the bonds in respect of the economic value of the existing option or conversion rights or obligations and no subscription rights or cash payments are granted as compensation, the conversion or option price may, without prejudice to Section 9 (1) AktG, be adjusted in accordance with a dilution protection clause as set out in more detail in the terms and conditions of the bonds in such a manner that no loss in value occurs.

ae) Authorization to determine the further terms and conditions of the bonds

The Executive Board is authorized, subject to the consent of the Supervisory Board, to specify the further details of the issue and structure of the bonds, in particular the interest rate, issue price, maturity and denomination, the conversion or option period and, within the limits set out above, the conversion and option price, or to determine such details in consultation with the corporate bodies of the group company issuing the convertible bonds or bonds with warrants.

The terms and conditions of the bonds may also:

- provide for a variable conversion ratio and a determination of the conversion or option price (subject to the minimum price specified above) within a predetermined range, depending on the performance of the Bilfinger Berger AG share during the term of the bonds;
- provide that, instead of being converted into shares from conditional capital, the bonds may at the option of the Company also be converted into shares from authorized capital, existing shares in the Company or shares in another listed company, or that such shares may be delivered upon an exercise of option rights;
- provide for a right on the part of the Company to pay a corresponding amount of money rather than to grant shares in the event the conversion or option rights are exercised or the conversion or option obligations have been fulfilled.

af) Subscription rights and authorization to exclude them

The statutory subscription right in respect of the bonds is granted to the shareholders such that the bonds will be subscribed by one or more banks, which will in turn be obligated to offer the bonds to the shareholders for subscription. The Executive Board is, however, authorized to exclude fractional shares from the shareholders' subscription right.

The Executive Board is also authorized, subject to the consent of the Supervisory Board, to exclude subscription rights entirely if the issue price of the bonds is not significantly lower than their hypothetical market value, calculated on the basis of acknowledged principles, including in particular the principles of financial mathematics. However, the aggregate pro rata amount of capital stock represented by the shares to be issued under bonds on the basis of this authorization must not exceed ten percent of the Company's capital stock existing on the date the resolution was passed by the General Meeting or on the date on which the authorization was exercised, whichever is lower. The authorized volume shall be reduced by the pro rata amount of capital stock represented by shares, or to which conversion and/or option rights or obligations under any bonds relate, which were issued or sold on or after April 15, 2010 subject to an exclusion of sub-

scription rights by applying Section 186 (3) sentence 4 AktG directly, analogously or *mutatis mutandis*.

The aggregate pro rata amount of capital stock represented by shares to which conversion or option rights or obligations relate under bonds in respect of which the shareholders' subscription rights are excluded under these authorizations, together with the pro rata amount of capital stock attributable to treasury shares or new shares from authorized capital which were issued or sold, subject to an exclusion of subscription rights, on or after April 15, 2010 must not, however, exceed 20 percent of the capital stock; this calculation shall be made on the basis of the amount of capital stock existing at the time the authorization takes effect or at the time the authorization is exercised, whichever is lower. The shareholders' subscription rights are also deemed to have been excluded if the relevant shares are sold or issued by applying Section 186 (3) sentence 4 AktG directly or *mutatis mutandis*.

b) Conditional capital

The conditional capital increase resolved by the General Meeting on May 19, 2005 and set out in Article 4 paragraph 4 of the Statutes of the Company (Conditional Capital III) is hereby cancelled.

The capital stock is conditionally increased by up to EUR 13,807,236.00 by issuing up to 4,602,412 new no-par value bearer shares representing a pro rata amount of capital stock of EUR 3.00 each (Conditional Capital 2010). The conditional capital increase is to be utilized for granting shares in connection with the exercise of conversion or option rights or the fulfillment of conversion or option obligations under convertible bonds or bonds with warrants issued by the Company or a group company under the above authorization on or before April 14, 2015 to the holders or creditors (collectively the holders) of the bonds subject to the terms and conditions of the bonds. The new shares will be issued at a conversion or option price which is to be determined as specified in the authorization resolution set out above.

The conditional capital increase will only be implemented to the extent that any holders of bonds exercise their conversion or option rights, or fulfill their conversion or option obligations, and the conditional capital is required in accordance with the

terms and conditions of the bonds. The new shares issued in connection with the exercise of the conversion or option right or the fulfillment of the conversion or option obligation will be entitled to a dividend from the beginning of the fiscal year in which they are created.

The Executive Board is authorized, subject to the consent of the Supervisory Board, to determine the further details of the implementation of the conditional capital increase.

c) Amendment to the Statutes

Article 4 paragraph 4 of the Statutes is amended to read as follows:

“The capital stock is conditionally increased by up to EUR 13,807,236.00 by issuing up to 4,602,412 no-par value bearer shares (Conditional Capital 2010). This conditional capital increase will only be implemented to the extent that any holders or creditors of convertible bonds or bonds with warrants (the bonds) issued or guaranteed by the Company or a group company on or before April 14, 2015 on the basis of the authorization granted to the Executive Board by resolution of the General Meeting of April 15, 2010 exercise their conversion or option rights, or fulfill their conversion or option obligations, and the conditional capital is required in accordance with the terms and conditions of the bonds. The new shares will be entitled to a dividend from the beginning of the fiscal year in which they are created by means of the exercise of any conversion or option rights or the fulfillment of any conversion or option obligations. The Executive Board is authorized, subject to the consent of the Supervisory Board, to determine the further details of the implementation of the conditional capital increase.”

11. Resolution on the conversion of Bilfinger Berger AG into a European Stock Corporation (Societas Europaea, SE)

The Executive Board and the Supervisory Board propose to resolve as follows, although pursuant to Section 124 (3) sentence 1 AktG, only the Supervisory Board proposes the appointment of the auditors for the first fiscal year of the future Bilfinger Berger SE (section 8 of the Draft Terms of Conversion) and the appointment of the shareholder representatives on the first Supervisory Board of the future Bilfinger Berger SE and their substitute member (Article 12 paragraph 6 of the Statutes of the future Bilfinger Berger SE, which are attached to the Draft Terms of Conversion proposed for resolution as an annex):

The Draft Terms of Conversion dated March 5, 2010 (roll of deeds of notary public Dr Rainer Preusche, notary's office director, having his office in Mannheim (notary's office IX), roll of deeds no. 9 UR 266/2010) concerning the conversion of Bilfinger Berger AG into a European stock corporation (Societas Europaea, SE) are approved; the Statutes of Bilfinger Berger SE attached to the Draft Terms of Conversion as an annex are adopted; with regard to Article 4 paragraphs 1, 3 and 4 of the Statutes of Bilfinger Berger SE, sections 3.5 through 3.7 of the Draft Terms of Conversion shall apply.

The Draft Terms of Conversion and the Statutes of Bilfinger Berger SE read as follows:

„Draft Terms of Conversion

concerning the change of legal form
of Bilfinger Berger AG, having its registered office in Mannheim, Germany,
to a
Societas Europaea (SE)

Preamble

Bilfinger Berger AG is a stock corporation (*Aktiengesellschaft*) under German law having its registered office and head office in Mannheim, Germany. It is registered in the commercial register of the Local Court (*Amtsgericht*) of Mannheim under HRB 4444. Its business address is Carl-Reiss-Platz 1-5, 68165 Mannheim, Germany. Bilfinger Berger AG is the ultimate holding company of the Bilfinger Berger Group, an international construction and services group. Bilfinger Berger AG holds all shares in the companies of the Bilfinger Berger Group, either directly or indirectly.

As of today's date, Bilfinger Berger AG has capital stock of EUR 138,072,381.00, which is divided into 46,024,127 no-par value shares. The pro rata amount of Bilfinger Berger AG's capital stock represented by each share is EUR 3.00. In accordance with Article 5 paragraph 1 of Bilfinger Berger AG's Statutes, the shares are bearer shares.

It is intended to convert Bilfinger Berger AG, in accordance with Article 2 (4) in conjunction with Article 37 of Council Regulation (EC) No. 2157/2001 of 8 October 2001 on the Statute for a European company (SE) (the "SE Regulation") into a European company (Societas Europaea, SE).

The Company is to maintain its registered office and head office in Germany.

The legal form of the SE is the only supranational legal form under European law available to a listed company which has its registered office in Germany.

The change of legal form from a stock corporation under German law into a European company also manifests Bilfinger Berger's self-image as a global and in particular European player in external terms. The legal form of a European company thus reflects the

increasing importance of the Company's European operations. The legal form of the European company also presents an opportunity to further develop the corporate governance structure of Bilfinger Berger AG and to continue to optimize the work of its corporate organs. An important step in this development is the opportunity to reduce the size of the Supervisory Board. The Supervisory Board will continue to be composed of an equal number of shareholder and employee representatives, i.e. half of its members will be employee representatives. However, subject to a participation agreement to this effect in connection with the involvement of employees, these representatives will not be exclusively appointed by the German employees and/or employee representatives of the Bilfinger Berger Group and the German trade unions, but with the involvement of the employees and/or employee representatives and trade unions from other member states of the European Union (EU) or a signatory state to the agreement on the European Economic Area (EEA), as appropriate.

The Executive Board of Bilfinger Berger AG has therefore drawn up the following Draft Terms of Conversion:

1. Conversion of Bilfinger Berger AG into Bilfinger Berger SE

In accordance with Article 2 (4) in conjunction with Article 37 of the SE Regulation, Bilfinger Berger AG will be converted into a European company (Societas Europaea, SE).

Bilfinger Berger AG has for many years had numerous subsidiaries which are governed by the laws of other EU member states, including Bilfinger Berger Budownictwo Spółka Akcyjna having its registered office in Warsaw, Poland (National Court Register – KRS – no. 0000026184), which became a member of the Bilfinger Berger Group in 2004 and, in October 2007, became a direct wholly-owned subsidiary of Bilfinger Berger AG. Since Bilfinger Berger AG has thus had a subsidiary which is governed by the laws of another member state for more than two years, the requirements for the conversion of Bilfinger Berger AG into Bilfinger Berger SE pursuant to Article 2 (4) of the SE Regulation have been fulfilled.

The conversion of Bilfinger Berger AG into an SE will lead neither to a liquidation of Bilfinger Berger AG nor to the formation of a new legal entity. Since the identity of the legal entity itself will be preserved, the shareholders' interests in the Company will also continue to exist without change.

Like Bilfinger Berger AG, Bilfinger Berger SE will have a two-tier management structure, comprising an Executive Board (management organ within the meaning of Article 38 of the SE Regulation) and a Supervisory Board (supervisory organ within the meaning of Article 38 of the SE Regulation).

2. Effective date of the conversion

The conversion will become effective upon entry in the commercial register of the Company.

3. Name, registered office, capital and statutes of Bilfinger Berger SE

- 3.1 The name of the SE is “Bilfinger Berger SE”.
- 3.2 The registered office of Bilfinger Berger SE and its head office are in Mannheim, Germany.
- 3.3 The entire capital stock of Bilfinger Berger AG, in the amount existing at the time the conversion is entered in the commercial register (currently EUR 138,072,381.00) and divided into the number of no-par value bearer shares existing at that time (currently 46,024,127) will form the capital stock of Bilfinger Berger SE. The persons and companies who are shareholders of Bilfinger Berger AG at the time the conversion is entered in the commercial register will become shareholders of Bilfinger Berger SE holding the same amounts of capital stock of and the same amount of no-par value bearer shares in Bilfinger Berger SE as they did in respect of Bilfinger Berger AG immediately before the conversion took effect. The notional portion of capital stock represented by each no-par value share (currently EUR 3.00) will remain the same as immediately before the conversion took effect.
- 3.4 Bilfinger Berger SE will adopt the Statutes attached hereto as an **annex**, which form an integral part of these Draft Terms of Conversion. However, the special provisions set out in sections 3.5 through 3.8 below apply in respect of Article 4 paragraphs 1, 3 and 4.

3.5 In the Statutes of Bilfinger Berger SE, certain amounts and figures correspond to the relevant amounts and figures set out in the Statutes of Bilfinger Berger AG, in each case as at the time Bilfinger Berger AG was converted into an SE, as set out in more detail in the following:

- (i) the amount of capital stock of and its division into no-par value shares in Bilfinger Berger SE (Article 4 paragraph 1 of the Statutes of Bilfinger Berger SE) corresponds to the amount of capital stock of and its division into no-par value shares in Bilfinger Berger AG (Article 4 paragraph 1 of the Statutes of Bilfinger Berger AG);
- (ii) the amount of authorized capital pursuant to Article 4 paragraph 3 of the Statutes of Bilfinger Berger SE corresponds to the amount of the remaining authorized capital pursuant to Article 4 paragraph 3 of the Statutes of Bilfinger Berger AG;
- (iii) the aggregate amount to which the authorization to exclude the shareholders' subscription rights in connection with capital increases from authorized capital is limited pursuant to Article 4 paragraph 3 of the Statutes of Bilfinger Berger SE corresponds to the unutilized aggregate amount to which the authorization to exclude the shareholders' subscription rights in connection with capital increases from authorized capital is limited pursuant to Article 4 paragraph 3 of the Statutes of Bilfinger Berger AG; and
- (iv) the amount and number of shares of the conditional capital pursuant to Article 4 paragraph 4 of the Statutes of Bilfinger Berger SE corresponds to the amount and number of shares of the remaining conditional capital pursuant to Article 4 paragraph 4 of the Statutes of Bilfinger Berger AG,

with the status existing immediately before the conversion of Bilfinger Berger AG into an SE takes effect being decisive in each case.

3.6 The authorized capital of Bilfinger Berger AG will become the authorized capital of Bilfinger Berger SE.

Article 4 paragraph 3 of the current version of the Statutes of Bilfinger Berger AG provides for authorized capital as follows:

“The Executive Board is authorized to increase the Company’s capital stock by May 6, 2014 at the latest, subject to the consent of the Supervisory Board, by up to EUR 29,015,925.00 by issuing, on one or several occasions, new no-par value bearer shares (Authorized Capital 2009). Such issue of new shares may be effected against contributions in cash and/or in kind. The new shares are to be offered to the shareholders for subscription. Only with regard to new shares representing a pro rata amount of capital stock of up to EUR 22,300,000.00 in total, the Executive Board is authorized to exclude the shareholders’ statutory subscription rights arising upon the issue of new shares in the following circumstances, subject to the consent of the Supervisory Board:

- in respect of fractional shares;
- insofar as required in order to grant subscription rights to new shares to holders and/or beneficiaries of conversion and/or option rights or obligors under conversion and/or option obligations under bonds issued by the Company or a group company in the same volume they would be entitled to if they exercised their conversion and/or option rights or fulfilled their conversion and/or option obligations;
- if capital is increased against contributions in cash and the total pro rata amount of capital stock represented by the new shares in respect of which subscription rights are excluded does not exceed ten percent of the capital stock and the issue price of the new shares is not substantially (within the meaning of Section 203 (1) and (2) and Section 186 (3) sentence 4 AktG) below the stock exchange price of already listed shares of the same class carrying the same rights at the time the Executive Board finally determines the issue price; this determination shall be made on the basis of the lowest of the amounts of capital stock existing on May 7, 2009, at the time of registration of the authorization or at the time of issuance of the new shares; the volume limited to ten percent of the capital stock shall be reduced by the pro rata amount of capital stock which is attributable to shares or to which conversion and/or option rights or obligations under bonds relate which were issued or sold on or after May 7, 2009 subject to an exclusion of subscription rights by applying Section 186 (3) sentence 4 AktG directly, analogously or *mutatis mutandis*;
- if the capital is increased against contributions in kind, for the purpose of granting new shares as consideration in connection with the merger with other companies or acquisitions of companies of parts of or equity interests in companies.

The Executive Board is authorized to determine, subject to the consent of the Supervisory Board, the further details of the implementation of capital increases from the Authorized Capital 2009.”

Under Agenda Item 9, a proposal is made to the General Meeting of April 15, 2010, which is to pass a resolution on whether or not to approve the conversion of Bilfinger Berger AG into an SE under Agenda Item 11, to pass a resolution creating new authorized capital (Authorized Capital 2010) and making a corresponding amendment to Article 4 paragraph 3 of the Statutes of Bilfinger Berger AG. If the General Meeting passes the resolution and as a result this amendment to the Statutes of Bilfinger Berger AG is registered in the commercial register of the Company before the conversion of Bilfinger Berger AG into an SE takes effect, the amended version of Article 4 paragraph 3 of the Statutes of Bilfinger Berger AG will continue to apply for Bilfinger Berger SE, subject to section 3.5 above, as Article 4 paragraph 3 of the Statutes of Bilfinger Berger SE. Accordingly, the Statutes of Bilfinger Berger SE as attached hereto as an **annex** provide in Article 4 paragraph 3 for authorized capital corresponding to the authorized capital proposed to the General Meeting of April 15, 2010 for Bilfinger Berger AG. If, however, the proposed amendment to the Statutes of Bilfinger Berger AG is not entered in the commercial register of the Company before the conversion of Bilfinger Berger AG into an SE takes effect, the current Article 4 paragraph 3 of the Statutes of Bilfinger Berger AG will continue to apply for Bilfinger Berger SE, subject to section 3.5 above, as Article 4 paragraph 3 of the Statutes of Bilfinger Berger SE until such time as Article 4 paragraph 3 of the Statutes of Bilfinger Berger SE has been validly amended.

- 3.7 The conditional capital of Bilfinger Berger AG will become the conditional capital of Bilfinger Berger SE.

Article 4 paragraph 4 of the current version of the Statutes of Bilfinger Berger AG provides for conditional capital as follows:

“The capital stock is conditionally increased by up to EUR 11,023,398.00 by issuing up to 3,674,466 no-par value bearer shares (Conditional Capital III). This conditional capital increase will only be implemented to the extent that any holders of convertible bonds or warrants issued or guaranteed by the Company or a group company by May 18, 2010 on the basis of the authorization resolution granted by the General Meeting of May 19, 2005 make use of their conversion or option rights, or fulfill their conversion or option obligations, and the conditional capital is required in accordance with the terms and

conditions of the bonds or warrants. The new shares will be entitled to a dividend from the beginning of the fiscal year in which they are created by means of the exercise of any conversion or warrant rights or the fulfillment of any conversion or option obligations. The Executive Board is authorized, subject to the approval of the Supervisory Board, to determine further details of the implementation of the conditional capital increase.”

Under Agenda Item 10, a proposal is made to the General Meeting of April 15, 2010, which is to pass a resolution on whether or not to approve the conversion of Bilfinger Berger AG into an SE under Agenda Item 11, to pass a resolution revoking the conditional capital increase resolved by the General Meeting of May 19, 2005 (Conditional Capital III) and approving a conditional capital increase (Conditional Capital 2010) and a corresponding amendment to Article 4 paragraph 4 of the Statutes of Bilfinger Berger AG. If the Conditional Capital III is cancelled and the proposed new Conditional Capital 2010 created by valid resolution of the General Meeting of April 15, 2010, the Conditional Capital 2010 will continue to apply for Bilfinger Berger SE. If the General Meeting passes the resolution and as a result the Conditional Capital 2010 and the proposed amendment to Article 4 paragraph 4 of the Statutes of Bilfinger Berger AG are registered in the commercial register of the Company before the conversion of Bilfinger Berger AG into an SE takes effect, the amended Article 4 paragraph 4 of the Statutes of Bilfinger Berger AG will continue to apply for Bilfinger Berger SE, subject to section 3.5 above, as Article 4 paragraph 4 of the Statutes of Bilfinger Berger SE. Accordingly, Article 4 paragraph 4 of the Statutes of Bilfinger Berger SE as attached hereto as an **annex** contains a provision on conditional capital corresponding to the amendment to Article 4 paragraph 4 of the Statutes of Bilfinger Berger AG as proposed to the General Meeting of April 15, 2010. If the cancellation of the Conditional Capital III, the creation of the Conditional Capital 2010 and the corresponding amendment to Article 4 paragraph 4 of the Statutes of Bilfinger Berger AG are not validly resolved by the General Meeting of April 15, 2010, or if the relevant resolution is passed by the General Meeting but the proposed conditional capital increase and the corresponding amendment to Article 4 paragraph 4 of the Statutes of Bilfinger Berger AG are not entered in the commercial register of the Company before the conversion of Bilfinger Berger AG into an SE takes effect, the current version of Article 4 paragraph 4 of the Statutes of Bilfinger Berger AG will continue to apply, subject to section 3.5 above – and subject to any additional necessity for an amendment making use of the authorization pursuant to section 3.8 below – as Article 4 paragraph 4 of the Statutes of Bilfinger Berger SE until such time as Article 4 paragraph 4 of the Statutes of Bilfinger Berger SE is validly amended.

- 3.8 The Supervisory Board of Bilfinger Berger SE is authorized and at the same time instructed to make any amendments ensuing from section 3.5 in respect of the amounts specified therein and the different types of capital, as well as any other amendments ensuing from sections 3.5 to 3.7, including any amendments that the register court may require as a condition for registering the conversion, provided in each case that they only relate to the wording, to the attached version of the Statutes of Bilfinger Berger SE before the conversion is entered in the commercial register of the Company.
- 3.9 Under Agenda Item 8, a proposal is made to the General Meeting of April 15, 2010, which is to pass a resolution on whether or not to approve the conversion of Bilfinger Berger AG into an SE under Agenda Item 11, to revoke the authorization granted by the General Meeting of May 7, 2009 to purchase treasury shares and to grant a new authorization to the Executive Board to purchase and use treasury shares in accordance with Section 71 (2) no. 8 AktG, with the possible exclusion of shareholders' subscription rights and any shareholders' rights to offer shares. If the General Meeting of April 15, 2010 validly grants this proposed authorization to the Executive Board, such authorization will continue to apply for the Executive Board of Bilfinger Berger SE once the conversion of Bilfinger Berger AG into an SE has taken effect. If, however, the General Meeting of April 15, 2010 does not validly grant this proposed authorization to the Executive Board, the existing authorization to purchase treasury shares as granted by the General Meeting of May 7, 2009 will continue to apply until November 6, 2010, and will thus, potentially, also apply for the Executive Board of Bilfinger Berger SE, provided that the conversion of Bilfinger Berger AG into an SE has been completed by this date.
- 3.10 Under Agenda Item 10, a proposal is made to the General Meeting of April 15, 2010, which is to pass a resolution on whether or not to approve the conversion of Bilfinger Berger AG into an SE under Agenda Item 11, to grant a new authorization to the Executive Board to issue convertible bonds and bonds with warrants and to exclude the shareholders' subscription rights in this context (including a cancellation of the Conditional Capital III, the creation of Conditional Capital 2010 and a corresponding amendment to Article 4 paragraph 4 of the Statutes of Bilfinger Berger AG, see also section 3.7 above). Should the General Meeting of April 15, 2010 validly grant this proposed authorization to the Executive Board, such authorization will continue to apply for the Executive Board of Bilfinger Berger SE once the conversion of Bilfinger Berger AG into an SE has taken effect. If, however, the General Meeting of April 15, 2010 does not validly grant this proposed authorization to the Executive Board, the existing authorization to issue convert-

ible bonds and bonds with warrants and to exclude the shareholders' subscription rights in this context, as granted by the General Meeting of May 19, 2005, will continue to apply until May 18, 2010, and will thus, potentially, also apply for the Executive Board of Bilfinger Berger SE, provided that the conversion of Bilfinger Berger AG into an SE has been completed by this date.

- 3.11 Shareholders who object to the conversion will not be offered any compensation in cash, as this is not provided for by law.

4. Executive board

Without prejudice to the decision-making competence under corporate law of the Supervisory Board of Bilfinger Berger SE, it is to be expected that the current members of the Executive Board of Bilfinger Berger AG will be appointed as members of the Executive Board of Bilfinger Berger SE. The current members of the Executive Board of Bilfinger Berger AG are Herbert Bodner (Chairman), Joachim Müller, Klaus Raps, Kenneth D. Reid, Prof. Hans Helmut Schetter and Thomas Töpfer.

5. Supervisory board

- 5.1 Pursuant to Article 11 of the Statutes of Bilfinger Berger SE (see the **Annex**), a Supervisory Board will be set up at Bilfinger Berger SE which will no longer comprise 20 members, as was the case with Bilfinger Berger AG, but will instead comprise twelve members. Of the twelve members, six are to be appointed on the basis of employee nominations. The General Meeting is obligated to observe the employee nominations. If an agreement governing employee participation concluded in accordance with the German Act on Employee Involvement in European Companies (*SE-Beteiligungsgesetz*, SEBG) stipulates a different procedure for appointing employee representatives to the Supervisory Board, employee representatives will not be appointed by the General Meeting, but rather in accordance with the agreed procedure.
- 5.2 The terms of office of both the shareholder representatives and the employee representatives on the Supervisory Board of Bilfinger Berger AG will end once the conversion has become effective, i.e. upon entry of the conversion in the relevant commercial register for Bilfinger Berger AG at the Local Court of Mannheim.

Of the shareholder representatives appointed to the Supervisory Board of Bilfinger Berger AG, the following members are to be appointed as members of the first Supervisory Board of Bilfinger Berger SE (see Article 12 paragraph 6 of the Statutes of Bilfinger Berger SE attached to these Draft Terms of Conversion as an **annex**):

Dr h. c. Bernhard Walter,

Bad Homburg,

former Spokesman of the Executive Board of Dresdner Bank AG, Frankfurt am Main
(sector: banking);

Dr rer. nat. John Feldmann,

Ludwigshafen am Rhein,

member of the Executive Board of BASF SE, Ludwigshafen am Rhein
(sector: chemicals);

Mr Thomas Pleines

Munich,

member of the Executive Board of Allianz Deutschland AG
and Chairman of the Executive Board of Allianz Versicherungs AG, Munich
(sector: insurance);

Mr Bernhard Schreier

Bruchsal,

Chairman of the Executive Board of Heidelberger Druckmaschinen AG, Heidelberg
(sector: custom mechanical engineering);

Mr Udo Stark

Munich,

former Chairman of the Executive Board of MTU Aero Engines Holding AG, Munich
(sector: engine manufacturing);

Prof. Dr Klaus Trützschler,

Essen,

member of the Executive Board of Franz Haniel & Cie. GmbH, Duisburg
(sector: trade and services).

As a substitute member for all the members listed above (see Article 12 paragraph 6 of the Statutes of Bilfinger Berger SE attached to these Draft Terms of Conversion as an **annex**):

Dr jur. Peter Thomsen,

Weinheim,

self-employed lawyer in Heidelberg.

The employee representatives on the first Supervisory Board of Bilfinger Berger SE will be appointed on the basis of the results of the procedure for establishing arrangements for employee involvement (see section 6 below).

6. Information on the procedure for establishing arrangements for employee involvement in Bilfinger Berger SE

- 6.1 In order to secure the rights acquired by the employees of Bilfinger Berger AG as regards their involvement in decisions of the Company, a procedure for establishing arrangements for the involvement of employees within Bilfinger Berger SE must be conducted in connection with the conversion into an SE. The objective is to conclude an agreement on arrangements for the involvement of the employees within the SE, i.e. in particular on the participation of the employees in the Supervisory Board of Bilfinger Berger SE and on the procedure for the information and consultation of the employees either by setting up an SE works council or by other means to be agreed with the Executive Board of Bilfinger Berger AG. In the event that no such agreement is concluded, the standard rules will apply. In order for the SE to be registered in the commercial register, and thus for the conversion into an SE to become effective, the negotiation procedure must have been completed (Article 12 (2) of the SE Regulation).

The procedure for establishing arrangements for employee involvement is based on the principle of securing the rights acquired by the employees of Bilfinger Berger AG. The level of employee involvement in the SE is governed by Section 2 (8) SEBG, which essentially follows Article 2 lit. (h) of Council Directive 2001/86/EC of October 8, 2001 supplementing the Statute for a European company with regard to the involvement of employees.

Pursuant to that provision, “involvement of employees” means any mechanism, including information, consultation and participation, through which employee representatives may exercise an influence on decisions to be taken within the Company. “Information” in this context means the informing of the SE works council or other employee representatives by the management organ of the SE on questions which concern the SE itself or any of its subsidiaries or establishments situated in another member state or which exceed the powers of the competent organs in a single member state. “Consultation” means, in addition to employee representatives expressing an opinion on matters that are relevant for decision-making, the exchange of views between employee representatives and the management and a dialogue with the objective of reaching agreement, although the management will be free to take the final decision. “Participation” means the influence of the employees in the affairs of the SE; pursuant to Section 2 (12) SEBG, it refers either to the right to elect or appoint members of the Supervisory Board or the right to nominate such members of the Supervisory Board or to reject members nominated by third parties.

6.2 Bilfinger Berger AG, as the ultimate parent company of the Bilfinger Berger Group, currently has a Supervisory Board comprising 20 members, which is composed of an equal number of shareholder and employee representatives in accordance with the MitbestG 1976. With regard to the ten employee representatives on the Supervisory Board of Bilfinger Berger AG, only the employees of the group companies employed in Germany currently have active and passive voting rights pursuant to the MitbestG 1976. The provisions of the MitbestG 1976 regarding the representation of employees on the Supervisory Board of Bilfinger Berger AG have now been replaced by the provisions of the SEBG. (With regard to the other implications of the change of legal form for the employees and their representative bodies, please see section 7 below.) Once the conversion of Bilfinger Berger AG into an SE has become effective, the terms of office of both the employee representatives and the shareholder representatives on the Supervisory Board of Bilfinger Berger AG will end (see section 5 above). The shareholder representatives on the new Supervisory Board of Bilfinger Berger SE have already been appointed under Bilfinger Berger SE's Statutes. The employee representatives on the first Supervisory Board of Bilfinger Berger SE will be appointed once the procedure for establishing arrangements for employee involvement has been completed. It is to be expected that the initial employee representatives will be appointed by the Local Court of Mannheim as the competent court for Bilfinger Berger SE, unless the agreement on arrangements for employee involvement provides for a different appointment procedure.

In addition to the Supervisory Board of Bilfinger Berger AG, there are additional corporate bodies at the level of its group companies in which the employees have participation rights.

In the companies of the Bilfinger Berger Group in the EU and the EEA, a number of employee representative bodies have been set up under the applicable national laws. Bilfinger Berger AG itself has a local works council. In addition, a group works council exists.

At a European level, the employees are represented by a European works council in accordance with the agreement between Bilfinger Berger AG and the European works council of Bilfinger Berger AG on the continuation of the European works council's activities dated May 2/30, 2005.

- 6.3 The procedure for establishing arrangements for employee involvement will be initiated in accordance with the provisions of the SEBG. This act requires that the management of the participating company, i.e. the Executive Board of Bilfinger Berger AG, notifies the employees or their respective representative bodies of the contemplated conversion and requests that they set up a Special Negotiating Body. The procedure must be initiated voluntarily and without undue delay, and at the latest once the Executive Board of Bilfinger Berger AG has published the Draft Terms of Conversion drawn up by it. The Draft Terms of Conversion will be published by filing the notarized version thereof with the competent commercial register in Mannheim. Pursuant to Section 4 SEBG, the notification given to the employees or their representative bodies must in particular include (i) the names and respective structures of Bilfinger Berger AG, the subsidiaries and establishments concerned and their distribution among the member states, (ii) the employee representative bodies existing within these companies and establishments, (iii) the number of employees employed in these companies and establishments and the total number of employees employed in a given member state determined on the basis thereof and (iv) the number of employees entitled to participation rights in the corporate bodies of these companies. Notification was given to the employees or their representative bodies on January 13, 2010.

6.4 Applicable law provides that, within a period of ten weeks from the date on which the employees or their representative bodies were notified as described in section 6.3, the employees or their representative bodies are to elect or appoint the members of the Special Negotiating Body, which as a rule is composed of employee representatives from all the affected EU member states and all the affected EEA states.

This Special Negotiating Body is responsible for negotiating with the management in order to determine the details of the involvement procedure and the participation rights of the employees within Bilfinger Berger SE.

The establishment and composition of this Special Negotiating Body is, in principle, governed by German law (Sections 4 through 7 SEBG). In respect of the formation of an SE having its registered office in Germany, the allocation of the seats on the Special Negotiating Body to the individual EU member states and the EEA states in which the Bilfinger Berger Group has employees is governed by Section 5 (1) SEBG. The seats are allocated in accordance with the following basic principles:

Each EU member state and EEA state in which the companies of the Bilfinger Berger Group have employees is allocated, as a rule, at least one seat on the Special Negotiating Body. The number of seats allocated to an EU member state or EEA state is increased by 1 in each case where the number of employees employed in this EU member state or EEA state exceeds the thresholds of 10%, 20%, 30% etc. of all employees of the Bilfinger Berger Group within the EU or the EEA, as appropriate. The allocation of seats is generally determined on the basis of the employee figures on the date on which the employees or their respective representative bodies were notified (see Section 4 (4) SEBG).

On the basis of the employee figures of the Bilfinger Berger Group in the individual EU member states and EEA states as at January 13, 2010, i.e. the date on which the employees or their respective representative bodies were notified, the seats are to be allocated as follows:

EU member state / EEA state	Number of employees	% (rounded)	Representatives on the Special Negotiating Body
Germany	25,912	< 60 %	6
Austria	4,071	< 10 %	1
Belgium	837	< 10 %	1
Bulgaria	5	< 10 %	1
Czech Republic	2,027	< 10 %	1
Denmark	4	< 10 %	1
France	170	< 10 %	1
Greece	10	< 10 %	1
Hungary	1,218	< 10 %	1
Ireland	80	< 10 %	1
Italy	23	< 10 %	1
Luxembourg	28	< 10 %	1
The Netherlands	907	< 10 %	1
Norway	2,457	< 10 %	1
Poland	4,944	< 20 %	2
Portugal	106	< 10 %	1
Romania	373	< 10 %	1
Slovakia	371	< 10 %	1
Slovenia	6	< 10 %	1
Spain	569	< 10 %	1
Sweden	1,094	< 10 %	1
United Kingdom	2,340	< 10 %	1
Total	47,552		28

The election or appointment of the members of the Special Negotiating Body from the individual EU member states and the EEA states is governed by the national laws of the respective country. As a result, various procedures apply, such as election by direct vote, appointment by trade unions or, as is the case under German law, election by an election body (see Section 8 SEBG). The election or appointment of the members as well as the establishment of the Special Negotiating Body are, in principle, the responsibility of the employees and their representative bodies or the relevant trade unions.

In Germany, the election body to be established will be set up from among the members of the group works council. In connection with the election of the German members of the Special Negotiating Body, the following requirements are to be observed:

- Of the six German members of the Special Negotiating Body, two members are to be elected upon the nomination of a trade union represented in the companies of the Bilfinger Berger Group. In this regard, the chairman of the group works council is to request the trade unions represented in the companies to make nominations.
- The German members of the Special Negotiating Body must accurately reflect the respective proportions of male and female employees.

6.5 At the earliest once all members have been designated, but no later than ten weeks after notification within the meaning of Section 4 (2) and (3) SEBG was given (see Sections 12 (1) and 11 (1) SEBG), the Executive Board of Bilfinger Berger AG must issue without undue delay the invitations for the constituent meeting of the Special Negotiating Body. On the day of the constituent meeting, the procedure for establishing the Special Negotiating Body ends and the negotiations begin; under applicable law, such negotiations may last up to six months. The parties to the negotiations may decide, by joint agreement, to extend the negotiation period beyond that period up to a total of one year.

The negotiation procedure will still take place if the deadline for the election or appointment of individual or all members of the Special Negotiating Body is exceeded for reasons which fall within the sphere of responsibility of the employees (Section 11 (2) sentence 1 SEBG).

Members who are elected or appointed while the negotiations are ongoing will not be excluded once and for all; they may participate in the negotiation procedure at any time (Section 11 (2) sentence 2 SEBG). However, a member joining the ongoing negotiations must accept the status of the negotiations at that time. Such member will not have a claim for the six-month negotiation period to be extended (Section 20 SEBG). It is therefore in the interests of the employees to conclude the election or appointment of the members of the Special Negotiating Body within the ten-week period.

The objective of the negotiations is to conclude an agreement on arrangements for the involvement of employees within Bilfinger Berger SE. The subject matter of the negotiations is the participation of the employees in the Supervisory Board of Bilfinger Berger SE (see section 6.6 below) and the determination of a procedure for the information and consultation of the employees. This can be achieved either by the establishment of an SE works council or by way of a different procedure to be agreed by the parties to the negotiations, which guarantees that the employees of Bilfinger Berger SE are informed and consulted (see section 6.7).

6.6 As required by Article 40 (3) of the SE Regulation and Section 17 (1) of the German SE Implementation Act (*SE-Ausführungsgesetz*, SEAG), the number of members of the Supervisory Board or the rules for determining this number are to be laid down in the Statutes. Article 11 of the Statutes of Bilfinger Berger SE provides that the Supervisory Board will in future comprise twelve members. The principle of participation on the basis of an equal number of shareholder and employee representatives must be adhered to in this context (see Sections 15 (5), 16 (3), 21 (6) SEBG). Accordingly, the Statutes of Bilfinger Berger SE provide that six of the members of Supervisory Board are to be appointed on the basis of employee nominations.

Article 12 (4) of the SE Regulation provides that the Statutes of the SE may not conflict at any time with the arrangements for employee involvement which have been so determined. Therefore, the Statutes must, if necessary, be amended by resolution of the General Meeting of Bilfinger Berger AG in the event that a different provision regarding the participation of employees is laid down in an agreement on arrangements for the involvement of the employees within the future Bilfinger Berger SE. The conversion of Bilfinger Berger AG into an SE would only be entered in the commercial register of the Company once the General Meeting has adopted a resolution on the amendments to the Statutes.

No resolution may be adopted which results in a reduction of employee participation rights (see Sections 15 (5) and 21 (6) SEBG). Equally, no resolution may be adopted stipulating that negotiations are not to be opened or that negotiations already opened are to be terminated (see Section 16 (3) SEBG). In the event that no such agreement on employee participation is concluded, employee participation is governed by the standard rules as explained in section 6.9 below.

6.7 Furthermore, in the agreement between the Executive Board and the Special Negotiating Body, a procedure for the information and consultation of the employees in the SE is to be stipulated. This may be achieved by establishing an SE works council or by another procedure stipulated by the parties to the negotiations which guarantees the information and consultation of the employees in Bilfinger Berger SE. In the event that an SE works council is established, the following must be stipulated: the scope of application, the number of members and the allocation of seats, the powers and procedures for its information and consultation, the frequency of meetings, the financial and material resources to be made available, the effective date and the term of the agreement as well as the circumstances in which the agreement is to be renegotiated and the procedure to be applied in this regard. Instead of establishing an SE works council, a different procedure may also be stipulated which guarantees the information and consultation of the employees.

Further, the agreement should stipulate that further negotiations concerning arrangements for the involvement of employees within the SE must also be opened before any structural changes are made to the SE.

6.8 Before an agreement on arrangements for employee involvement can be concluded between the management and the Special Negotiating Body, a resolution must be adopted by the Special Negotiating Body. The resolution must be adopted by the majority of the members, which majority must also represent the majority of the employees represented. No resolution may be adopted which results in a reduction of employee participation rights (see Section 15 (5) SEBG). Neither is it permissible to refrain from opening or to terminate negotiations (see Section 16 (3) SEBG).

6.9 If no agreement on arrangements for employee involvement is reached within the stipulated period, the standard rules apply; the parties may also agree from the outset that these rules are to apply.

Even in the event that the standard rules apply, it is essential that, with regard to employee participation, the principle of participation on the basis of an equal number of shareholder and employee representatives, which applies to Bilfinger Berger AG, is also adhered to in respect of the Supervisory Board of Bilfinger Berger SE, i.e. half of the members of the Supervisory Board of Bilfinger Berger SE will be employee representatives. However, in contrast to the current situation regarding the employee representatives on the Supervisory Board of Bilfinger Berger AG, these representatives will no longer be exclusively elected by the employees in Germany, but by all employees in the EU member states and the EEA states that have been allocated seats on the Supervisory Board pursuant to Section 36 (1) SEBG. The employees would have to nominate, in accordance with the national laws of their respective countries, their employee representatives who are to be appointed by the General Meeting of Bilfinger Berger SE. In the event that no provisions regarding the appointment of employee representatives exist in a given country, the SE works council would instead designate the corresponding employee representatives to sit on the Supervisory Board of Bilfinger Berger SE.

Pursuant to Section 36 (1) SEBG, the SE works council allocates the number of seats on the Supervisory Board to the member states where members are to be elected or appointed. The allocation is based on the share of employees of the SE, its subsidiaries and establishments employed in the respective member states. In the event that, in the course of such proportionate allocation, the employees of one or more member states are not allocated a seat, the SE works council must allocate the last seat to be allocated to a member state which is not yet represented. This seat must, if reasonable, be allocated, to the member state in which the SE will have its registered office.

Section 36 (1) SEBG does not specify the mathematical method to be applied when allocating seats. The d'Hondt method is one possible method. It is expected that at least one employee representative will be appointed from a member state other than Germany. In the event that the standard rules apply, the SE works council is responsible for identifying the method best suited to attain the statutory objective, i.e. to ensure that the employees are represented in proportion to their respective numbers in the individual EU member states or EEA states.

With regard to securing the right of the employees of Bilfinger Berger SE to be informed and consulted, the standard rules would result in an SE works council having to be established whose task would be to ensure that the employees of the SE are being

informed and consulted. The SE works council would be responsible for any matters which concern the SE itself or any of its subsidiaries or establishments situated in another member state and for matters which exceed the powers of the competent organs in the particular member state. The SE works council would have to be informed and consulted once per calendar year with regard to the business position and prospects of Bilfinger Berger SE. It would also have to be informed and consulted in the course of the calendar year with regard to extraordinary circumstances substantially affecting the interests of employees. The composition of the SE works council and the election of its members would generally be governed by the provisions applicable to the composition and appointment of the members of the Special Negotiating Body.

- 6.10 In the event that the standard rules apply, the management of the SE must check whether changes within the SE, its subsidiaries or establishments require an adjustment of the composition of the SE works council; such check is to be conducted every two years during the existence of Bilfinger Berger SE. In the event that the standard rules apply, the SE works council must also pass a resolution on whether negotiations are to be opened with regard to reaching an agreement on arrangements for the involvement of employees within Bilfinger Berger SE or whether the existing arrangements are to remain in place, which resolution must be passed by the majority of the members of the SE works council four years after its establishment. If the SE works council resolves to enter into negotiations with regard to reaching an agreement on arrangements for employee involvement, the SE works council will participate in such negotiations in lieu of the Special Negotiating Body. In the event that no agreement is reached, the standard rules would continue to apply.
- 6.11 The necessary costs arising from the establishment and operation of the Special Negotiating Body will be borne by Bilfinger Berger AG and, after the conversion, by Bilfinger Berger SE. The obligation to bear the costs also covers the material and personal expenses incurred in connection with the activities of the Special Negotiating Body, including the negotiations. In particular, the necessary premises, material resources (e.g. telephone, fax, required literature), interpreters and clerical staff are to be provided for meetings and the necessary travel and subsistence expenses of the members of the Special Negotiating Body must be paid.

7. Other implications of the conversion for the employees and their representative bodies

- 7.1 The employment contracts of the employees of Bilfinger Berger AG as well as the employment contracts of the employees of the Bilfinger Berger Group with the respective group companies are not affected by the conversion; they will remain in effect after the conversion without any change to their terms. Any individual and collective agreements, in particular works agreements and collective bargaining agreements, will remain in effect in accordance with their terms.
- 7.2 With the exception of the procedure for establishing arrangements for employee involvement described in section 6 and the changes described in this context in section 6, the conversion of Bilfinger Berger AG into an SE will not have any implications for the employee representative bodies existing within Bilfinger Berger AG and the companies of the Bilfinger Berger Group. The conversion into an SE will not lead to any changes with regard to organs with employee participation at the German group companies. However, as a consequence of the establishment of an SE works council, the European works council existing at Bilfinger Berger AG will be dissolved (Section 47 (1) no. 2 SEBG).
- 7.3 No other measures which would have implications for the situation of the employees are anticipated or planned as a consequence of the conversion.

8. Auditors

Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft, Mannheim, are appointed as auditors for the first fiscal year of Bilfinger Berger SE. The first fiscal year of Bilfinger Berger SE is the fiscal year of the Company in which the conversion of Bilfinger Berger AG into Bilfinger Berger SE is entered in the commercial register of the Company.

9. No additional rights or special privileges

- 9.1 No rights will be granted to any persons within the meaning of Section 194 (1) no. 5 of the German Conversion Act (*Umwandlungsgesetz*, UmwG) and/or Article 20 (1) sentence 2 lit. (f) of the SE Regulation besides the shares referred to in section 3.3, and no special arrangements are to be made for such persons.

9.2 No special privileges will be granted to persons within the meaning of Article 20 (1) sentence 2 lit. (g) of the SE Regulation in connection with the conversion, except as set out in sections 4 and 5.2 paragraph 2.

10. Costs of incorporation / conversion

The costs of conversion, up to a maximum of EUR 3 million, will be borne by the Company.

Mannheim, March 5, 2010

Bilfinger Berger AG
The Executive Board“

Statutes of Bilfinger Berger SE

Part I: General Provisions

§ 1 Name and Registered Office of the Company

- (1) The Company is a European Company (Societas Europaea) and does business under the name of Bilfinger Berger SE.
- (2) Its registered office is in Mannheim, Germany.

§ 2 Duration and Fiscal Year

- (1) The Company is established for an unlimited period of time.
- (2) Its fiscal year is the calendar year.

§ 3 Purpose of the Company

- (1) The purpose of the Company is to act as a managing holding company, i.e. to unite companies under common management, to provide advice to and to assume other administrative tasks for companies that operate the following areas:
 - design, management and execution of construction services for the respective company's own account and for the account of others;
 - development and production of plant and systems in particular in the fields of power, process, environmental and mechanical engineering;
 - provision of commercial, technical and infrastructure-related facility management services as well as other real-estate services of all kinds;

- provision of repair and maintenance services, as well as maintenance management and other related services for production plants, power plants, public utilities and other plants;
 - realization of privately financed concession models for buildings, infrastructure facilities and plants of all kinds, including the construction, financing and managing thereof, as well as the provision of related services;
 - construction and operation of plant and facilities and provision of related services and services related to the other purposes of the respective company;
 - acquisition, sale, renting, leasing and management of real property and buildings;
 - extraction, manufacturing and sale of building materials.
- (2) The Company may also operate in the areas of activity set forth in paragraph 1 itself and may, in particular, carry out individual transactions.
- (3) In the context of the areas of activity set forth in paragraph 1, the Company may establish subsidiaries and set up branches in Germany and abroad; it may acquire equity interests in other companies or acquire such companies and transfer their business to the Company or any of its affiliated enterprises, wholly or in part. The Company may conclude inter company agreements and perform any business transactions and take any measures that are deemed to serve the purposes of the Company.

Part II: Capital Stock and Shares

§ 4 Capital Stock

- (1) The Company has a capital stock of EUR 138,072,381.00 which is divided into 46,024,127 no-par value shares. The capital stock was paid up by way of converting Bilfinger Berger AG into a European Company (SE).
- (2) The shares bear the signature of the Chairman of the Supervisory Board and two members of the Executive Board. These signatures may be printed. Global share certificates may be issued. Shareholders are not entitled to receive a certificate for their respective shares.

(3) The Executive Board is authorized for a period ending on April 14, 2015 to increase the Company's capital stock, subject to the consent of the Supervisory Board, by up to EUR 69,000,000.00 by issuing new no-par value bearer shares on one or more occasions (Authorized Capital 2010). Such issue of new shares may be effected against contributions in cash and/or in kind. The new shares are to be offered to the shareholders for subscription. An indirect subscription right within the meaning of Section 186 (5) of the German Stock Corporation Act (*Aktiengesetz, AktG*) shall suffice in this context. Only with regard to new shares representing a pro rata amount of capital stock of up to EUR 27,600,000.00 in total and subject to the consent of the Supervisory Board, the Executive Board is authorized to exclude the shareholders' corresponding statutory subscription rights upon the issue of new shares in the following circumstances:

- in respect of fractional shares;
- insofar as required in order to grant subscription rights to new shares to holders and/or beneficiaries of conversion and/or option rights or obligors under conversion and/or option obligations under bonds issued by the Company or a group company in the same volume they would be entitled to if they exercised their conversion and/or option rights or fulfilled their conversion and/or option obligations;
- if the capital is increased against contributions in cash and the total pro rata amount of capital stock represented by the new shares in respect of which subscription rights are excluded does not exceed ten percent of the capital stock and the issue price of the new shares is not substantially (within the meaning of Section 203 (1) and (2) and Section 186 (3) sentence 4 AktG) below the trading price of shares of the same class, which must be already listed and carry the same rights, at the time the Executive Board finally determines the issue price; this determination shall be made on the basis of the amount of capital stock existing on April 15, 2010, at the time of registration of the authorization or at the time of issuance of the new shares, whichever is lowest; the volume, which is limited to ten percent of the capital stock, shall be reduced by the pro rata amount of capital stock which is attributable to shares or to which conversion and/or option rights or obligations under bonds relate which were issued or sold on or after April 15, 2010 subject to an exclusion of subscription rights by applying Section 186 (3) sentence 4 AktG directly, analogously or *mutatis mutandis*;

- if the capital is increased against contributions in kind for the purpose of granting new shares as consideration in connection with mergers with other companies or acquisitions of companies or parts of or equity interests in companies.

The aggregate pro rata amount of capital stock represented by new shares in respect of which the shareholders' subscription rights are excluded under these authorizations, together with the pro rata amount of capital stock attributable to treasury shares or to which conversion and/or option rights or obligations relate under bonds which were sold or issued, subject to an exclusion of subscription rights, on or after April 15, 2010 must not, however, exceed 20 percent of the capital stock; this calculation shall be made on the basis of the amount of capital stock existing on April 15, 2010, at the time of registration of the authorization or at the time the new shares are issued, whichever is lowest. The shareholders' subscription rights are also deemed to have been excluded if the relevant shares are sold or issued by applying Section 186 (3) sentence 4 AktG analogously or *mutatis mutandis*. The Executive Board is authorized, subject to the consent of the Supervisory Board, to determine the further details of the implementation of capital increases from the Authorized Capital 2010.

- (4) The capital stock is conditionally increased by up to EUR 13,807,236.00 by issuing up to 4,602,412 no-par value bearer shares (Conditional Capital 2010). This conditional capital increase will only be implemented to the extent that any holders or creditors of convertible bonds or bonds with warrants (the bonds) issued or guaranteed by the Company or a group company on or before April 14, 2015 on the basis of the authorization granted to the Executive Board by resolution of the General Meeting of April 15, 2010 exercise their conversion or option rights, or fulfill their conversion or option obligations, and the conditional capital is required in accordance with the terms and conditions of the bonds. The new shares will be entitled to a dividend from the beginning of the fiscal year in which they are created by means of the exercise of any conversion or option rights or the fulfillment of any conversion or option obligations. The Executive Board is authorized, subject to the consent of the Supervisory Board, to determine the further details of the implementation of the conditional capital increase.

§ 5 Shares

- (1) The shares are no-par value bearer shares.

- (2) The General Meeting may resolve that capital paid in during the course of the fiscal year be taken into account in the distribution of profits, in deviation from the provisions of Section 6o AktG.

§ 6 Redemption

The shares may be redeemed by the Company.

Part III: Executive Board

§ 7 Tasks, Number of Members

- (1) The Executive Board (the management organ) runs the business of the Company in accordance with the provisions of law, the Statutes and its own rules of procedure.
- (2) The Executive Board shall comprise two or more persons. The Supervisory Board may specify a higher number of Executive Board members.

§ 8 Composition, Appointment, Term of Office

- (1) The members of the Executive Board are appointed by the Supervisory Board for a period not exceeding five years. Members may be reappointed.
- (2) The Supervisory Board may appoint a member of the Executive Board to the position of Chairman of the Executive Board and another to the position of Deputy Chairman.

§ 9 Quorum, Passing Resolutions

- (1) The Executive Board shall be quorate if at least half of its members participate in passing the resolution, unless a different threshold is prescribed specified by law.
- (2) The Executive Board's resolutions shall be passed by a majority of votes cast, unless otherwise prescribed by law. In case of a tie, the Chairman of the Executive Board has the casting vote.

§ 10 Representation

- (1) The Company may be legally represented by two members of the Executive Board jointly or by one member of the Executive Board acting jointly with a Prokurist (an executive vested with general power of attorney).
- (2) Furthermore, the Supervisory Board is empowered to authorize individual members of the Executive Board to represent the Company alone.

Part IV: Supervisory Board

§ 11 Composition, Appointment

The Supervisory Board (the supervisory organ) shall comprise twelve members who are elected by the General Meeting. Of the twelve members, six are to be appointed on the basis of employee nominations. The General Meeting is obligated to observe the nominations when appointing employee representatives. The General Meeting is not obligated to observe any other nominations. If an agreement governing employee participation concluded in accordance with the German Act on Employee Involvement in European Companies (*SE-Beteiligungsgesetz*, SEBG) stipulates a different procedure for appointing employee representatives to the Supervisory Board, employee representatives will not be appointed by the General Meeting but rather in accordance with the agreed procedure.

§ 12 Term of Office

- (1) The members of the Supervisory Board are appointed for a period ending at the close of the General Meeting that passes a resolution on the formal approval of the acts of the members of the Supervisory Board in the fourth fiscal year after their term of office commenced; the fiscal year in which the term of office commences shall not count towards this period. The term of office shall end in any event after six years at the latest. Members may be reappointed.
- (2) If a member elected as a shareholder representative by the General Meeting steps down from the Supervisory Board before his or her term of office ends, a new election shall take place at the next General Meeting. The newly elected member's term of office is the

remaining term of office of the member who is being replaced. The same applies in respect of the term of office for employee representatives appointed as substitutes for the employee representatives who stepped down before their term of office ended.

- (3) The General Meeting may appoint substitute members for the members to be elected as shareholder representatives by the General Meeting, who shall become members of the Supervisory Board in the order laid down when the election takes place in the event that shareholder representatives step down before their term of office ends. The same applies for the appointment of substitute members for employee representatives. The General Meeting is obligated to observe the employee nominations in this context. Sentence 5 of Article 11 (precedence of agreement governing employee participation) shall also apply in this context.
- (4) The term of office of substitute members is limited in the case of shareholder representatives to the time remaining until the close of the General Meeting at which an election takes place pursuant to paragraph 2 above; in the case of employee representatives it is limited to the time remaining until the beginning of the term of office of the new employee representative appointed as a substitute for the employee representative who stepped down before his or her term of office ended. In both cases, the term of office shall not exceed the remaining term of office of the member being replaced.
- (5) A member of the Supervisory Board may resign from the Supervisory Board by offering one month's notice to the Chairman of the Supervisory Board or to the Executive Board. Resignation with immediate effect is possible with the consent of the Supervisory Board. A substitute member may resign his or her office at any time, but only with the consent of the Supervisory Board. This does not affect the right to resign from office for good cause.
- (6) As members of the first Supervisory Board – in deviation from paragraph 1 above – the following persons are appointed for a term ending at the close of the General Meeting that passes a resolution on the formal approval of the acts of the members of the Supervisory Board in Bilfinger Berger SE's first fiscal year, although the term must not exceed three years:

Dr h.c. Bernhard Walter, Bad Homburg, former Spokesman of the Executive Board of Dresdner Bank AG, Frankfurt am Main;

Dr rer. nat. John Feldmann, Ludwigshafen am Rhein, member of the Executive Board of BASF SE, Ludwigshafen am Rhein;

Mr Thomas Pleines, Munich, member of the Executive Board of Allianz Deutschland AG, Munich, and Chairman of the Executive Board of Allianz Versicherungs AG, Munich;

Mr Bernhard Schreier, Bruchsal, Chairman of the Executive Board of Heidelberger Druckmaschinen AG, Heidelberg;

Mr Udo Stark, Munich, former Chairman of the Executive Board of MTU Aero Engines Holding AG, Munich;

Prof. Dr Klaus Trützschler, Essen, member of the Executive Board of Franz Haniel & Cie. GmbH, Duisburg.

The following person is appointed as the substitute member for all the Supervisory Board members set out in sentence 1 above, subject to the following conditions: (i) that he shall become a member of the Supervisory Board if any of the members set out in sentence 1 above steps down, (ii) if more than one member steps down simultaneously, that he will only replace the first person to be listed in sentence 1 above, (iii) that his term of office as a Supervisory Board member ends and he re-occupies his position as substitute member for the then remaining members set out in sentence 1 as soon as the General Meeting undertakes a new election for the Supervisory Board member who stepped down before his or her term of office ended and whom the substitute member replaced, and (iv) that his term of office as a Supervisory Board member does not exceed the remaining term of office of the member whom he replaced:

Dr jur. Peter Thomsen, Weinheim, self-employed lawyer in Heidelberg.

The other six members of the first Supervisory Board will be appointed on the basis of employee nominations. Sentence 5 of Article 11 (precedence of agreement governing employee participation) shall apply *mutatis mutandis* in this context. They are appointed for a term ending at the close of the General Meeting that passes a resolution on the formal approval of the acts of the members of the Supervisory Board in Bilfinger Berger SE's first fiscal year, although the term must not exceed three years. The first fiscal year of Bilfinger Berger SE is the fiscal year of the Company in which the conversion of Bilfinger Berger AG into Bilfinger Berger SE is entered in the commercial register of the Company.

§ 13 Chairman

- (1) Following the General Meeting at which all new Supervisory Board members to be appointed by the General Meeting have been elected, a meeting of the Supervisory Board takes place for which no special invitation is required. This meeting (constituent meeting of the Supervisory Board) shall elect a Chairman and a Deputy Chairman from among its members whose term of office will correspond to that of the Supervisory Board. Thereafter, the Supervisory Board shall elect the Supervisory Board member who is to chair the General Meeting pursuant to Article 18 sentence 2 in the absence of the Chairman of the Supervisory Board. The election of the Chairman will be chaired by the eldest shareholder representative.
- (2) Should the Chairman, Deputy Chairman, or the Supervisory Board member appointed to chair the General Meeting in the absence of the Chairman pursuant to Article 18 sentence 2, step down from the Supervisory Board before the end of his or her term, the Supervisory Board shall immediately elect a successor.

§ 14 Quorum, Passing Resolutions, Committees

- (1) The Supervisory Board shall be quorate if at least half of the total number of members participate in the passing of resolutions, unless a different threshold is prescribed by law.
- (2) The Supervisory Board's resolutions shall be passed by a majority of votes cast, unless otherwise prescribed by law. In case of a tie, the Chairman of the Supervisory Board has the casting vote; if he or she is absent, his or her deputy has the casting vote, provided such deputy is a shareholder representative.
- (3) The Supervisory Board may build a Presiding Committee (*Präsidium*) and other committees, in particular an Audit Committee and a Nomination Committee, from among its own ranks, setting out their duties and powers in a rules of procedure document. To the extent permitted by law, these committees may also be authorized to make decisions that fall within the competence of the Supervisory Board. A committee passing resolutions within the meaning of sentence 2 above shall be quorate if the majority of its total members, but no less than three members, participate in the passing of resolutions; paragraph 2 applies *mutatis mutandis*.

§ 15 Transactions Requiring Approval

- (1) The Executive Board must obtain the approval of the Supervisory Board before performing any of the following transactions:
 - tapping new areas of business or relinquishing existing ones;
 - accepting liability for third-party obligations and assuming surety for sums in excess of EUR 25 million in each case, except where such obligations/surety relate to an affiliate of the Company;
 - issuing bonds or similar financial instruments;
 - acquiring or disposing of equity investments, founding a new company or performing a capital increase for an existing company if the costs of acquisition, or the proceeds in the case of a disposal, (enterprise value) exceed EUR 45 million in the individual case.
- (2) The Supervisory Board may specify additional types of transaction which the Executive Board may only perform with the Supervisory Board's approval.

§ 16 Compensation

- (1) In addition to the reimbursement of expenses, the members of the Supervisory Board are to be paid a fixed annual compensation of EUR 70,000.00. The Chairman of the Supervisory Board is to be paid two-and-a-half times this amount, the Deputy Chairman of the Supervisory Board and the Chairmen of the committees, with the exception of the Nomination Committee, are to be paid twice this amount, the members of the committees, with the exception of the Nomination Committee, are to be paid one-and-a-half times this amount. If a member of the Supervisory Board exercises several of the aforementioned functions, he or she will be entitled to only one of these compensation amounts, i.e. whichever is highest.
- (2) In addition, the members of the Supervisory Board also receive an attendance fee of EUR 500.00 for every meeting of the Supervisory Board or its committees which they attend.

- (3) Compensation is to be paid after the General Meeting at which the financial statements for the respective fiscal year are presented. Any value-added tax due on the compensation paid to the members of the Supervisory Board will be refunded by the Company.
- (4) The compensation due to the members of the first Supervisory Board will be determined by the General Meeting that passes a resolution on the formal approval of the acts of the members of the first Supervisory Board.

Part V: Advisory Board

§ 17 Advisory Board

- (1) The Company may constitute an Advisory Board comprising not more than twelve members, who are to be leading business figures from Germany and other countries. Its function is to advise the Executive Board on economic and business issues that arise during the performance of its duties. This shall not affect the legal rights and obligations of the Executive and Supervisory Boards and the General Meeting.
- (2) The members of the Advisory Board are to be appointed by the Chairman of the Supervisory Board following consultation with the Executive Board. The Chairman of the Supervisory Board is also a member of the Advisory Board. The term of office of the Advisory Board is the same as that of the Supervisory Board.
- (3) The Advisory Board shall have a chair and one or more deputy chairs. Its chair shall be the Chairman of the Supervisory Board, while the deputy chairs are to be elected by the Advisory Board.
- (4) The Advisory Board will lay down its own rules of procedure.
- (5) The compensation of the Advisory Board is to be laid down by the Executive Board following consultation with the Supervisory Board.

Part VI: General Meeting

§ 18 Place, Chair

- (1) The General Meeting shall take place in Mannheim or any other city in the Federal Republic of Germany with at least 100,000 inhabitants.
- (2) The Chairman of the Supervisory Board shall chair the General Meeting. In his/her absence, another shareholder representative member of the Supervisory Board shall be appointed by the Supervisory Board to take the chair.
- (3) The chairperson shall chair the proceedings and determine the order in which the agenda items are addressed as well as the order and method of voting. The chairperson may also impose a reasonable time limit on the shareholders' right to ask questions and to speak; the chairperson may, in particular, determine a reasonable timeframe for the meeting, the discussions regarding the individual agenda items, the individual questions and spoken contributions.

§ 19 Attendance, Voting by Proxy, Audio and Visual Broadcasts

- (1) Shareholders are entitled to attend the General Meeting and to exercise their voting rights only if they have registered prior to the General Meeting and furnished evidence of their shareholding to the Company.
- (2) The application for registration must be submitted in German or English and must be received by the Company, at the address specified for this purpose in the calling notice, at least six days prior to the date of the General Meeting.
- (3) Evidence of shareholdings must be furnished by way of a confirmation issued by a depositary bank in text form in German or English. The confirmation issued by the depositary bank must relate to the beginning of the twenty-first day prior to the date of the General Meeting. With respect to the furnishing of such evidence, paragraph 2 above shall apply *mutatis mutandis*.

- (4) Voting rights may be exercised by proxy. Such proxy authorization must be granted or revoked and evidence of the proxy authorization to be provided to the Company must be provided in the form prescribed by law. The calling notice may specify less strict requirements in this context.
- (5) The Executive Board is authorized to provide for audio and visual broadcasting of the General Meeting to be permitted.

§ 20 Voting rights

Each share entitles its holder to one vote at the General Meeting.

§ 21 Resolutions

- (1) Unless the Statutes or Council Regulation (EC) No. 2157/2001 dated 8 October 2001 or the stock corporation law prevailing in the country in which the Company has its registered office prescribes a greater majority, the resolutions of the General Meeting require a simple majority of the valid votes cast. This also applies in cases where a greater majority of capital stock is stipulated, but not mandatorily prescribed, by law.
- (2) A majority of two thirds of the valid votes cast is required in order to pass a resolution on an amendment to the Statutes or, provided at least half of the capital stock is represented, a simple majority of the valid votes cast shall suffice. This does not apply in the case of an amendment of the purpose of the Company, a resolution pursuant to Article 8 (6) of Council Regulation (EC) No. 2157/2001 of 8 October 2001 or for cases in which a greater majority of votes or capital stock is mandatorily prescribed by law.

Part VII: Annual Financial Statements, Appropriation of Profits

§ 22 Annual Financial Statements

In the first three months of the fiscal year, the Executive Board shall prepare the annual financial statements and management report for the previous fiscal year, as well as the group financial statements and the group management report (insofar as the Company is required to do so by law), and promptly submit them to the Supervisory Board, together with a proposal for the appropriation of profits.

§ 23 Appropriation of Profits

The profit reported in the balance sheet (unappropriated retained earnings) shall be distributed amongst the shareholders unless the General Meeting resolves to appropriate it in some other manner.

Part VIII: Miscellaneous

§ 24 Notices

- (1) Company notices shall be published in the electronic version of the German Federal Gazette.
- (2) The Company shall be entitled to provide information to its shareholders via remote data transmission insofar as this is legally permissible.

§ 25 Amendments to the Wording

The Supervisory Board is authorized to make amendments and supplements to the Statutes insofar as they affect only their wording.

§ 26 Costs of Incorporation

The costs of incorporation incurred in connection with the conversion of Bilfinger Berger AG into Bilfinger Berger SE, up to a maximum of EUR 3 million, will be borne by the Company.”

Information pursuant to Section 125 (1) sentence 5 AktG on the individuals nominated by the Supervisory Board, who are to be appointed by virtue of the Statutes as members or substitute members of the first Supervisory Board of Bilfinger Berger SE:

Dr h. c. Bernhard Walter

Memberships of other statutory supervisory boards:

Daimler AG, Stuttgart,
Deutsche Telekom AG, Bonn,
Henkel AG & Co. KGaA, Düsseldorf

Memberships of comparable supervisory bodies of commercial enterprises in Germany and abroad:
none

Dr rer. nat. John Feldmann

Memberships of other statutory supervisory boards:

BASF Coatings AG, Münster*

Memberships of comparable supervisory bodies of commercial enterprises in Germany and abroad:
COFACE Holding AG, Mainz (member of the advisory board)

Mr Thomas Pleines

Memberships of other statutory supervisory boards:

DEKRA AG, Stuttgart

Memberships of comparable supervisory bodies of commercial enterprises in Germany and abroad:
none

Mr Bernhard Schreier

Memberships of other statutory supervisory boards:

ABB AG, Mannheim,
Heidelberger Druckmaschinen Vertrieb Deutschland GmbH, Heidelberg (chairman)*,
Universitätsklinikum Heidelberg, Anstalt des öffentlichen Rechts
(public-law institution), Heidelberg**

Memberships of comparable supervisory bodies of commercial enterprises in Germany and abroad:
Gallus Holding AG, St. Gallen, Switzerland (member of the board of directors),
Heidelberg Americas, Inc., Kennesaw, USA (chairman of the board of directors)*,

Heidelberg Graphic Equipment Ltd., Brentford, UK (chairman of the board of directors)*,
Heidelberg Japan K.K., Tokyo, Japan (member of the board of directors)*,
Heidelberg USA, Inc., Kennesaw, USA (chairman of the board of directors)*

Mr Udo Stark

Memberships of other statutory supervisory boards:

Cognis GmbH, Monheim,
MTU Aero Engines Holding AG, Munich

Memberships of comparable supervisory bodies of commercial enterprises in Germany and abroad:

Prysmian S.p.A., Milan, Italy (member of the supervisory board)

Prof. Dr Klaus Trützschler

Memberships of other statutory supervisory boards:

Celesio AG, Stuttgart*,
TAKKT AG, Stuttgart (Chairman)*

Memberships of comparable supervisory bodies of commercial enterprises in Germany and abroad:

Wilh. Wehrhahn KG, Neuss (member of the administrative board)

Individual proposed by the Supervisory Board as substitute member:

Dr jur. Peter Thomsen

Memberships of other statutory supervisory boards:

IBC Solar AG, Bad Staffelstein

Memberships of comparable supervisory bodies of commercial enterprises in Germany and abroad:

none

The memberships marked with * are group memberships (*Konzernmandate*) within the meaning of Section 100 (2) sentence 2 AktG or group memberships of comparable supervisory bodies in Germany and abroad. The memberships marked with ** are memberships of statutory supervisory boards in Germany other than supervisory boards of trading partnerships (*Handelsgesellschaften*) within the meaning of Section 100 (2) sentence 1 no. 1 AktG.

Additional information relating to the appointment of the members or substitute members of the Supervisory Board of Bilfinger Berger SE:

Subject to the General Meeting approving the Draft Terms of Conversion and the Statutes of Bilfinger Berger SE as attached to the Draft Terms of Conversion as an annex, which reflects the requirements set out in the Draft Terms of Conversion, the Supervisory Board of Bilfinger Berger SE will, in accordance with Article 40 (3) sentences 1 and 2 of the SE Regulation and Section 17 (1) and (2) SEAG in conjunction with Article 11 sentence 1 of the Statutes of Bilfinger Berger SE (as attached to the Draft Terms of Conversion as an annex), comprise twelve members, six of which are shareholder representatives and six of which are employee representatives. The General Meeting is not obligated to observe nominations when electing the shareholder representatives to the Supervisory Board of Bilfinger Berger SE. Where the employee representatives are appointed to the Supervisory Board of Bilfinger Berger SE by the General Meeting, the latter is obligated to observe the nominations proposed by the employees. The two foregoing sentences apply *mutatis mutandis* for the appointment of substitute members.

Note relating to Agenda Item 11:

The following documents are available on the internet at:

<http://www.bilfinger.de/hauptversammlung>

and will be available for inspection during the General Meeting:

- the Draft Terms of Conversion dated March 5, 2010 (roll of deeds of notary public Dr Rainer Preusche, notary's office director, having his office in Mannheim (notary's office IX), roll of deeds no. 9 UR 266/2010) including the Statutes of Bilfinger Berger SE attached thereto as an annex;
- the conversion report by the Executive Board of Bilfinger Berger AG dated March 5, 2010;
- the certificate issued by the court-appointed independent expert, Deloitte & Touche GmbH Wirtschaftsprüfungsgesellschaft, Frankfurt am Main, in accordance with Article 37 (6) of the SE Regulation;
- the annual financial statements and group financial statements of Bilfinger Berger AG for the 2007, 2008 and 2009 fiscal years as well as the management report of Bilfinger Berger AG and the group management reports for the 2007, 2008 and 2009 fiscal years.

Reports to the General Meeting

Report of the Executive Board pursuant to Section 71 (1) no. 8 in conjunction with Section 186 (4) sentence 2 AktG relating to Agenda Item 8:

Under Agenda Item 8 for the General Meeting of April 15, 2010, the Executive Board and the Supervisory Board propose that the Executive Board be authorized to purchase treasury shares on behalf of the Company and to either resell these shares or redeem them without a further resolution of the General Meeting being required. Pursuant to Section 71 (1) no. 8 sentence 5 in conjunction with Section 186 (4) sentence 2 AktG, the Executive Board submits this report on the reasons for the exclusion of shareholders' subscription rights in connection with the sale of treasury shares, which report, constituting an integral part of the present invitation, is available on the internet at <http://www.bilfinger.de/hauptversammlung> and will also be available for inspection at the General Meeting:

The Executive Board and the Supervisory Board propose that the Executive Board be authorized to purchase treasury shares on behalf of the Company, subject to the consent of the Supervisory Board. Under such authorization, the Executive Board may, during a period ending on April 14, 2015, purchase shares in the Company representing a pro rata amount of capital stock of up to EUR 13,807,238.00 in total, i. e. slightly less than ten percent of the current capital stock. Such authorization is to replace the authorization to purchase treasury shares resolved by the General Meeting of May 7, 2009.

According to the proposed authorization, the repurchase may be effected on the stock exchange or by way of a public offer to all shareholders.

If the purchase is effected by way of a purchase offer to all shareholders, the principle of equal treatment (Section 53a AktG) must be complied with, as would be the case in the event of a purchase of the shares on the stock exchange. Should the volume offered at the stipulated price exceed the number of shares the Company seeks to purchase, it should be possible that the acquisition is performed according to the proportion of shares offered (proportion offered). Only where acquisition is performed on the basis of the proportion offered as opposed to the proportion held can the acquisition process be executed along economically sound lines. Moreover, it should be possible for offers pertaining to limited numbers of shares (up to 50 offered shares per shareholder) to be

given preferential treatment. This option serves to avoid small, generally uneconomic, residual amounts and any corresponding disadvantage for minor shareholders. It also serves to simplify the actual execution of the acquisition procedure. Provision should also be made for a rounding rule to be applied according to commercial principles in order to avoid fractional shares. Thus the acquisition ratio and/or the number of shares to be acquired from an individual shareholder exercising a right to offer may be rounded according to commercial principles in such a way as to ensure that only whole shares are acquired. In these circumstances, it is necessary, and, in the opinion of the Executive Board and the Supervisory Board, justified, and reasonable from the shareholders' perspective to exclude any further right to offer.

According to the proposed authorization, treasury shares may be purchased directly by Bilfinger Berger AG or indirectly through dependent group companies of Bilfinger Berger AG within the meaning of Section 17 AktG or through third parties for the account of Bilfinger Berger AG or dependent group companies of Bilfinger Berger AG within the meaning of Section 17 AktG.

The Executive Board is to be authorized to sell the shares on the stock exchange or to offer the shares to the shareholders for acquisition in connection with an offer for sale, maintaining the shareholders' subscription rights. The Executive Board is furthermore to be authorized, subject to the consent of the Supervisory Board, to redeem the treasury shares without a further resolution of the General Meeting being required. In this context, redemption as a matter of principle results in a reduction of the capital stock. However, the Executive Board is to be authorized to effect the redemption in accordance with Section 237 (3) no. 3 AktG without any changes to the capital stock. In this case, the amount of capital stock represented by the remaining shares will be increased pursuant to Section 8 (3) AktG.

In addition, the Executive Board is to be authorized to sell, subject to the consent of the Supervisory Board, purchased treasury shares which in aggregate represent a pro rata portion of up to ten percent of the lower of the capital stock existing at the time the resolution is adopted at the General Meeting of April 15, 2010 or the capital stock existing at the time the shares are sold, excluding the shareholders' subscription rights, provided that the shares are sold against payment in cash at a price that is not substantially below the average trading price of the Company's share during the three trading days preceding the final determination of the selling price by the Executive Board, calculated on the basis of the arithmetic mean of the closing auction prices of Bilfinger Berger

shares in the XETRA trading system of Deutsche Börse AG (or any successor system). The statutory basis for this exclusion of subscription rights is Section 71 (1) no. 8 sentence 5 in conjunction with Section 186 (3) sentence 4 AktG. A possible deduction from the applicable trading price will presumably not exceed three percent, but will in any event not exceed five percent, of the trading price. This option to exclude subscription rights serves the Company's interest in realizing the best possible price for the treasury shares sold. This will enable the Company to quickly, flexibly and cost-effectively exploit opportunities arising in the market as a result of the prevailing stock exchange conditions. The sales proceeds that can be realized by way of fixing a price that is close to the market will as a rule result in a higher inflow of funds per share sold than the placement of shares with subscription rights. By avoiding the time-consuming and expensive handling of subscription rights, the Company will furthermore be able to meet its capital requirements quickly when market opportunities arise at short notice. It is true that Section 186 (2) sentence 2 AktG allows the subscription price to be published three days prior to the expiration of the subscription period at the latest. In light of the volatility in the stock markets, however, this still involves a market risk, in particular a price change risk, for several days, which may lead to a deduction of safety margins when the selling price is determined and, therefore, to conditions that are not close to the market. In addition, if the Company grants subscription rights, it will not be in a position to react quickly to favorable market conditions due to the length of the subscription period. The Authorized Capital 2010 proposed under Agenda Item 9 also serves this purpose. However, it is intended to enable the Company to achieve this purpose, following a repurchase of shares, in suitable cases without having to perform a capital increase, which would be more time consuming and, possibly, also more expensive due to the requirement to have it entered in the commercial register. By including a deduction clause, which is to provide for a corresponding reduction of the authorization volume in the event that other actions are performed in accordance with Section 186 (3) sentence 4 AktG (whether applied directly, analogously or *mutatis mutandis*) which are subject to an exclusion of subscription rights, it is furthermore intended to ensure that the ten percent threshold stipulated in Section 186 (3) sentence 4 AktG will not be exceeded when all authorizations permitting an exclusion of subscription rights in accordance with Section 186 (3) sentence 4 AktG are taken into account. For the stated reasons, the proposed authorization is in the interests of the Company and its shareholders. Since the selling price for the treasury shares to be granted will have to be determined by reference to the trading price and the scope of the authorization is limited, the interests of the shareholders are adequately protected. The shareholders have the option to maintain their participation ratios by purchasing shares on the stock exchange.

It is further proposed that the Executive Board be authorized to offer and transfer the repurchased treasury shares, subject to the consent of the Supervisory Board, as consideration in connection with mergers with other companies or acquisitions of companies or parts of or equity interests in companies. In this context, the shareholders' subscription rights are to be equally excluded. In connection with mergers or acquisitions of companies or parts of or equity interests in companies it is becoming increasingly necessary to deliver treasury shares as consideration rather than pay amounts of money. One reason for this is that where attractive targets are to be acquired, the delivery of shares in the acquiring entity is often demanded. Furthermore, the delivery of treasury shares held by the Company can be more advantageous than a sale of these shares for the purpose of generating the funds required for an acquisition, since the sale may have a negative effect on the share price. With this authorization, the Company is provided with the flexibility required to exploit opportunities to merge or to acquire companies or parts of or equity interests in companies as it enables the Company to use this type of consideration. The proposed exclusion of shareholders' subscription rights is necessary for this. If subscription rights are granted, however, mergers with other companies or acquisitions of companies or parts of or equity interests in companies in return for the granting of treasury shares will not be possible, and the associated benefits cannot be generated. The Authorized Capital 2010 proposed under Agenda Item 9 also serves this purpose. However, it is intended to enable the Company to achieve this purpose, following a repurchase of shares, in suitable cases without having to perform a capital increase, which would be more time consuming and, possibly, also more expensive due to the requirement to have it entered in the commercial register. Currently, there are no specific plans to exercise this authorization. Should any specific opportunities open up with regard to mergers with other companies or acquisitions of companies or parts of or equity interests in companies, the Executive Board will carefully assess whether or not to make use of the authorization to grant treasury shares. The Executive Board will do so only if it arrives at the conclusion that the merger or the acquisition of the relevant company or parts of or equity interests in the relevant company in return for the granting of Bilfinger Berger shares is in the best interest of the Company. The Supervisory Board will give its required consent to the use of treasury shares for this purpose only if it arrives at the same conclusion. The Executive Board will report on the details in connection with the exercise of the authorization at the General Meeting following any merger or acquisition in return for the granting of shares in Bilfinger Berger AG.

It is furthermore intended to permit the use of the repurchased treasury shares, subject to the consent of the Supervisory Board, in order to service conversion and/or option rights or obligations under bonds issued by the Company either directly or through a group company in accordance with the authorization proposed under Agenda Item 10. In order to service the rights and/or to fulfill the obligations arising under these bonds concerning the subscription of shares in the Company, it may be expedient from time to time to use treasury shares rather than a capital increase, since this will represent a suitable instrument to prevent a dilutive effect on the shareholders' equity and voting rights, which may to a certain extent result when such rights are serviced or such obligations fulfilled by issuing new shares. The authorization therefore permits the use of treasury shares for this purpose. In this respect, the shareholders' subscription rights shall also be excluded.

Finally, to the extent the shares are to be sold by way of an offer to all shareholders, the Executive Board is to be authorized, subject to the consent of the Supervisory Board, to exclude the shareholders' subscription rights to treasury shares in respect of fractional shares. The option to exclude subscription rights for fractional shares will serve to ensure a technically feasible subscription ratio. The treasury shares that are exempted from shareholders' subscription rights as fractional shares will be realized either by way of a sale on the stock exchange or in any other manner as to best further the Company's interest. The potential dilutive effect is low due to the limitation to fractional shares.

A specific clause is to be included in order to ensure in the interests of the shareholders that the possibility of using treasury shares subject to an exclusion of shareholders' subscription rights is limited to an aggregate volume of shares representing 20 percent of the capital stock, taking into account all other authorizations to exclude subscription rights.

Having considered all of the above circumstances, the Executive Board and the Supervisory Board regard the exclusion of subscription rights in the aforementioned cases as being factually justified and reasonable for the shareholders for the reasons stated, even if the dilutive effect that could potentially affect the shareholders is taken into account.

Report of the Executive Board pursuant to Section 203 (2) AktG in conjunction with Section 186 (4) sentence 2 AktG relating to Agenda Item 9:

Under Agenda Item 9 for the General Meeting of April 15, 2010, the Executive Board and the Supervisory Board propose to create new authorized capital (Authorized Capital 2010). In accordance with Section 203 (2) AktG in conjunction with Section 186 (4) sentence 2 AktG, the Executive Board submits this report on the reasons for the authorizations to exclude the shareholders' subscription rights upon the issuance of the new shares, which report, constituting an integral part of the present invitation, is available on the internet at <http://www.bilfinger.de/hauptversammlung> and will also be available for inspection at the General Meeting:

Under Agenda Item 6, the General Meeting of May 7, 2009 resolved to create the "Authorized Capital 2009" and to cancel the "authorized capital I" upon registration of the "Authorized Capital 2009". Once the "Authorized Capital 2009" had been registered on May 19, 2009, the Executive Board was authorized for a period ending on May 6, 2014 to increase the Company's capital stock, subject to the consent of the Supervisory Board, by up to EUR 55,500,000.00 by issuing new no-par value bearer shares on one or more occasions (Authorized Capital 2009). Following a capital increase in the amount of EUR 26,484,075.00 from the Authorized Capital 2009, which the Executive Board effected last year with the consent of the Supervisory Board, the Company currently has authorized capital in an amount of only EUR 29,015,925.00 at its disposal (Authorized Capital 2009). It is intended to cancel this authorized capital and to replace it by a higher Authorized Capital 2010. For this purpose, Article 4 paragraph 3 of the Statutes is to be restated.

The Executive Board and the Supervisory Board propose that the Executive Board be authorized for a period ending on April 14, 2015 to increase the Company's capital stock, subject to the consent of the Supervisory Board, by up to EUR 69,000,000.00 by issuing new no-par value bearer shares against contributions in cash and/or in kind on one or more occasions (Authorized Capital 2010). The volume of the Authorized Capital 2010 equals nearly 50 percent of the current capital stock and makes almost full use of the statutory upper limit for authorized capital in order to provide the Company with the greatest possible flexibility. The new shares are generally to be offered to the shareholders for subscription. An indirect subscription right within the meaning of Section 186 (5) AktG shall suffice in this context. However, the Executive Board is to be authorized to exclude the shareholders' corresponding statutory subscription rights upon the

issuance of new shares in certain circumstances, subject to the consent of the Supervisory Board. This option to exclude subscription rights, however, is to be limited to new shares representing a pro rata portion of capital stock of up to EUR 27,600,000.00, i.e. slightly less than 20 percent of the current capital stock. Moreover, a specific clause is to be included in order to ensure in the interests of the shareholders that the possibility of excluding shareholders' subscription rights is limited to an aggregate volume of shares representing 20 percent of the capital stock, taking into account all other authorizations to exclude subscription rights.

Where shareholders are generally granted subscription rights to new shares in the context of a capital increase, the Executive Board is furthermore to be authorized to exclude the shareholders' subscription rights with regard to fractional shares, subject to the consent of the Supervisory Board. This option to exclude subscription rights for fractional shares serves to ensure a technically feasible subscription ratio. The shares that are exempted from shareholders' subscription rights as fractional shares will be realized either by way of a sale on the stock exchange or in any other manner so as to best further the Company's interest. The potential dilutive effect will be low due to the limitation to fractional shares.

Where shareholders are generally granted subscription rights to new shares in the context of a capital increase, the Executive Board is furthermore to be authorized to exclude such shareholders' subscription rights, subject to the consent of the Supervisory Board, to the extent required in order to grant subscription rights to new shares to holders and/or beneficiaries of conversion and/or option rights or obligors under conversion and/or option obligations under bonds issued by the Company or a group company in the same volume they would be entitled to if they exercised their conversion and/or option rights or fulfilled their conversion and/or option obligations. To facilitate placement on the capital market, convertible bonds or bonds with warrants typically have certain dilution protection mechanisms. Customary dilution protection mechanisms are monetary compensation or, optionally, a reduction of the conversion or option price or an adjustment of the exchange ratio. In addition, the terms and conditions of convertible bonds or bonds with warrants typically provide that, in particular in the event of a capital increase involving the granting of subscription rights for shareholders, the holders or beneficiaries of conversion or option rights or obligors under conversion or option obligations may be granted subscription rights to new shares similar to that granted to shareholders instead of the dilution protection mechanisms outlined above. If the Executive Board selects the latter option, the holders or beneficiaries of conversion or option

rights or obligors under conversion or option obligations will be placed in the same position as if they had already exercised their conversion or option rights or fulfilled their conversion or option obligations. The advantage of this mechanism is that, other than in the case of dilution protection by reducing the conversion or option price or by adjusting the exchange ratio, the Company can realize a higher issue amount for the shares to be issued in connection with the conversion or the exercise of option rights and does not have to pay any compensation. In order to achieve this, an exclusion of the corresponding subscription rights is required.

Moreover, the Executive Board is to be authorized to exclude the shareholders' subscription rights, subject to the consent of the Supervisory Board, if the capital is increased against contributions in cash and the total pro rata amount of capital stock represented by the new shares in respect of which subscription rights are excluded does not exceed ten percent of the capital stock and the issue price of the new shares is not substantially (within the meaning of Section 203 (1) and (2) and Section 186 (3) sentence 4 AktG) below the trading price of shares of the same class, which must be already listed and carry the same rights, at the time the Executive Board finally determines the issue price. The determination of the ten percent threshold shall be made on the basis of the amount of capital stock existing on April 15, 2010, at the time of registration of the authorization or at the time of issuance of the new shares, whichever is lowest. This means that the lowest of these amounts is to be used for the purposes of this determination. The statutory basis for this exclusion of subscription rights is Section 203 (1) and (2) in conjunction with Section 186 (3) sentence 4 AktG. A possible deduction from the applicable trading price will presumably not exceed three percent, but will in any event not exceed five percent, of the trading price. This option to exclude subscription rights serves the Company's interest in realizing the best possible price for the new shares issued. This will enable the Company to quickly, flexibly and cost-effectively exploit opportunities arising in the market as a result of the prevailing stock exchange conditions. The issue amount that can be realized by way of fixing a price that is close to the market will as a rule result in a higher inflow of funds per new share than the placement of shares with subscription rights. By avoiding the time-consuming and expensive handling of subscription rights, the Company will furthermore be able to meet its equity requirements quickly when market opportunities arise at short notice. Section 186 (2) sentence 2 AktG permits the subscription price to be published three days prior to the end of the subscription period at the latest. In light of the volatility in the stock markets, however, this still involves a market risk, in particular a price change risk, for several days, which may lead to a deduction of safety margins when the selling price is

determined and, therefore, to conditions that are not close to the market. In addition, if the Company grants subscription rights, it will not be in a position to react quickly to favorable market conditions due to the length of the subscription period. It is true that the authorization to use treasury shares as set out in lit. ba) of the resolution to purchase and use treasury shares proposed under Agenda Item 8 also serves this purpose. However, the intention is to provide the Company with the necessary flexibility to be able to achieve this purpose also independently of a repurchase of treasury shares on the basis of the purchasing authorization proposed under Agenda Item 8. By including a deduction clause, which is to provide for a corresponding reduction of the authorization volume in the event that other actions are performed in accordance with Section 186 (3) sentence 4 AktG (whether applied directly, analogously or *mutatis mutandis*) which are subject to an exclusion of subscription rights, it is furthermore intended to ensure that the ten percent threshold stipulated in Section 186 (3) sentence 4 AktG will not be exceeded when all authorizations permitting an exclusion of subscription rights in accordance with Section 186 (3) sentence 4 AktG are taken into account. For the stated reasons, the proposed authorization to exclude subscription rights is in the interest of the Company and its shareholders. Since the issue amount for the new shares will have to be determined by reference to the trading price and the scope of the authorization is limited, the interests of the shareholders are adequately protected. The shareholders have the option to maintain their participation ratios by purchasing shares on the stock exchange.

Finally, the Executive Board is to be authorized to exclude shareholders' subscription rights, subject to the consent of the Supervisory Board, where capital increases are effected against contributions in kind in order to grant new shares as consideration in connection with mergers with other companies or acquisitions of companies or parts of or equity interests in companies. In connection with mergers or acquisitions of companies or parts of or equity interests in companies it is becoming increasingly necessary to deliver shares of the acquiring entity as consideration rather than pay amounts of money. One reason for this is that where attractive targets are to be acquired, the delivery of shares of the acquiring entity is often demanded. Furthermore, especially where larger entities are involved, the granting of new shares as consideration can be advantageous in terms of protecting liquidity. With the proposed authorization, the Company obtains the necessary flexibility to also offer this form of consideration when using opportunities for mergers or acquisitions of companies or parts of or equity interests in companies. The proposed exclusion of shareholders' subscription rights is necessary for this purpose since, where subscription rights are granted, mergers with other compa-

nies or acquisitions of companies or parts of or equity interests in companies in return for the granting of treasury shares will not be possible, and the associated benefits cannot be generated. It is true that the authorization to use treasury shares as set out in lit. bb) of the resolution proposed under Agenda Item 8 concerning the purchase and use of treasury shares also serves these purposes. However, the intention is to provide the Company with the necessary flexibility to be able to achieve these purposes also independently of a repurchase of treasury shares on the basis of the purchasing authorization proposed under Agenda Item 8, which is limited to ten percent of the capital stock. Currently, there are no specific plans to exercise this authorization. Should any specific opportunities open up with regard to mergers with other companies or acquisitions of companies or parts of or equity interests in companies, the Executive Board will carefully assess whether or not to make use of the option to increase capital against contributions in kind and to exclude subscription rights. The Executive Board will do so only if it arrives at the conclusion that the merger or the acquisition of the relevant company or parts of or equity interests in the relevant company in return for the granting of new Bilfinger Berger shares is in the best interest of the Company. The Supervisory Board will give its required consent only if it arrives at the same conclusion. The Executive Board will report on the details in connection with the exercise of the authorization at the General Meeting following any merger or acquisition in return for the granting of shares in Bilfinger Berger AG.

Having considered all of the above circumstances, the Executive Board and the Supervisory Board regard the authorization to exclude subscription rights in the aforementioned cases as being factually justified and reasonable for the shareholders for the reasons stated, even if the dilutive effect is taken into account that will affect the shareholders if the relevant authorization is exercised.

Report of the Executive Board pursuant to Section 221 (4) sentence 2 and Section 186 (4) sentence 2 AktG relating to Agenda Item 10:

The proposed authorization to issue convertible bonds and bonds with warrants (the bonds) in an aggregate nominal amount of up to EUR 350,000,000.00 and to create the related conditional capital in an amount of up to EUR 13,807,236.00 (representing slightly less than ten percent of the current capital stock) is to open up a possibility for the Executive Board, subject to the consent of the Supervisory Board, to obtain financing quickly and flexibly in particular when capital markets conditions are favorable, which is in the interests of the Company.

The shareholders are generally entitled to statutory subscription rights in respect of the bonds. The exclusion of subscription rights for fractional shares enables the Company to utilize the proposed authorization in round amounts. This facilitates the handling of the shareholders' subscription rights.

Moreover, the Executive Board is authorized, subject to the consent of the Supervisory Board, to exclude the shareholders' subscription rights entirely if the bonds are issued at a price that is not significantly lower than their market value. This allows the Company to exploit favorable market conditions quickly and at very short notice and, as a result of being able to determine terms and conditions that are close to the market, to achieve more favorable terms in particular when determining the interest rate, the conversion or option price and the issue price of the convertible bonds or bonds with warrants. If subscription rights were to be granted, it would only be possible to determine terms and conditions that are close to the market and to conduct a smooth placement process subject to certain restrictions. Although Section 186 (2) AktG permits the subscription price (and thus, in the event of convertible bonds or bonds with warrants, the terms and conditions of the bonds) to be published up to three days before the end of the subscription period, in view of the volatility which can frequently be observed in the stock markets a market risk will nevertheless exist for several days, which will cause safety margins to be deducted when determining the terms and conditions of the bonds, which in turn will mean that the terms and conditions are not close to the market. In addition, if the Company were to grant the shareholders subscription rights, a successful placement with third parties would be jeopardized or would cause additional expense owing to the uncertainty as to whether or not shareholders will actually exercise their subscription rights (subscription behavior).

Section 221 (4) sentence 2 AktG stipulates that Section 186 (3) sentence 4 AktG applies *mutatis mutandis* in the event that the shareholders' subscription rights are excluded entirely. According to the content of the resolution, the threshold of ten percent of the capital stock as prescribed in Section 186 (3) sentence 4 AktG must be observed. By including a deduction clause which is to provide for a corresponding reduction of the authorization volume in the event that other actions are performed in accordance with Section 186 (3) sentence 4 AktG (whether applied directly, analogously or *mutatis mutandis*) which are subject to an exclusion of subscription rights, it is furthermore intended to ensure that the ten percent threshold stipulated in Section 186 (3) sentence 4 AktG will not be exceeded when all authorizations permitting an exclusion of subscription rights in accordance with Section 186 (3) sentence 4 AktG are taken into account. Moreover, Section 186 (3) sentence 4 AktG also requires that the issue price must not be significantly lower than the trading price. This is to ensure that no significant dilution of the share value will occur. Whether or not such a dilutive effect will occur upon an issue of convertible bonds or bonds with warrants where the shareholders' subscription rights are excluded can be determined by calculating the hypothetical trading price (market value) of the convertible bonds or bonds with warrants on the basis of acknowledged principles of financial mathematics and by comparing the result of such calculation with the issue price. If, following due examination, this issue price is only insignificantly lower than the hypothetical trading price (market value) at the time the convertible bonds or bonds with warrants are issued, an exclusion of shareholders' subscription rights will be permitted because the deduction is insignificant. The resolution therefore provides that, prior to issuing the convertible bonds or bonds with warrants, the Executive Board must have satisfied itself, following due examination, that the envisaged issue price will not lead to any significant dilution of the share value. If this were the case, the hypothetical market value of the subscription rights would be close to zero, which means that the shareholders would not suffer any significant financial disadvantage as a result of their subscription rights being excluded.

Insofar as the Executive Board deems it appropriate in the relevant situation to obtain professional advice, it may avail itself of the services of experts. For example, the underwriters involved in the issue process, or other experts, could confirm to the Executive Board, in an appropriate form, that a significant dilution of the share value is not to be expected.

Ultimately, a specific clause is to be included in order to ensure in the interests of the shareholders that the authorization to exclude shareholders' subscription rights is limited to an aggregate volume of shares representing 20 percent of the capital stock, taking into account all other authorizations to exclude subscription rights.

Having considered all of the above circumstances, the Executive Board and the Supervisory Board regard the authorizations concerning the exclusion of shareholder's subscription rights in the aforementioned cases as being factually justified and reasonable for the shareholders for the reasons stated, even if the dilutive effect that could potentially affect the shareholders is taken into account.

Right to attend and voting rights, voting by proxy

Conditions for attending the General Meeting and exercising voting rights

Shareholders are entitled to attend the General Meeting and to exercise their voting rights only if they have registered prior to the General Meeting and furnished evidence of their shareholding to the Company. The application for registration must be submitted in German or English. Evidence of shareholding must be furnished by way of a confirmation issued by the depositary bank in text form in German or English. The confirmation issued by the depositary bank must relate to the beginning of March 25, 2010 (00:00 hrs Central European Time – CET). Both the application for registration and the evidence of shareholding must be received by the Company no later than by the end of the day of April 8, 2010 (24:00 hrs CEST) at the address specified below:

Bilfinger Berger AG
c/o C-HV AG
Gewerbepark 10
92289 Ursensollen
Germany

or by fax to: +49 (0) 9628 9299871

or by e-mail to: HV@Anmeldestelle.net.

Pursuant to Section 123 (3) sentence 6 AktG, a person is deemed to be a shareholder in relations with the Company for the purpose of attending the General Meeting and exercising voting rights only if evidence of shareholding (as described above) has been furnished. In order for shareholders to be entitled to attend the General Meeting and to exercise their voting rights, they must therefore hold their shares at the beginning of March 25, 2010 (00:00 hrs CET).

Admission tickets

Following the timely receipt of the application for registration and the evidence of shareholding by the Company at the address (or fax number or e-mail address, respectively) stated above, admission tickets for the General Meeting will be sent to the share-

holders. To ensure that the admission tickets are received in time, we would request that shareholders register and send evidence of their shareholding to the Company as early as possible.

No restriction on disposals of shares

Shareholders who have registered for attendance at the General Meeting are not thereby prevented from freely disposing of their shares.

Voting by proxy

Shareholders who do not wish to attend the General Meeting in person may elect to have their voting rights exercised by a proxy, e.g. by a bank, a shareholders' association, by proxies designated by the Company or another proxy of their choice. Timely registration and evidence of shareholding are also required in this case (see "Conditions for attending the General Meeting and exercising voting rights" above). It is possible to appoint a proxy both prior to and during the General Meeting, and such proxy may also be appointed prior to registration. Proxies may be appointed by way of the shareholder making a declaration to the relevant proxy or to the Company. The proxy attending the General Meeting may in principle, i.e. insofar as neither the law nor the relevant shareholder or the proxy provides for any restrictions or other qualifications, exercise the voting right in the same way as the shareholder could.

In the event that the granting of proxy authorization does not fall within the scope of application of Section 135 AktG (i.e. if the proxy is not a bank, shareholders' association or other commercial entity or association which has the status of a bank according to Section 135 (8) AktG or according to Section 135 (10) in conjunction with Section 125 (5) AktG and the granting of proxy authorization does not fall within the scope of application of Section 135 AktG on any other grounds), the proxy authorization must be granted or revoked and evidence of the proxy authorization to be provided to the Company required under Section 134 (3) sentence 3 AktG must be provided in text form (Section 126 b of the German Civil Code (*Bürgerliches Gesetzbuch*, BGB)). No use is made of the authorization under the Statutes (Article 18 (4) sentence 3 of the Statutes) to specify requirements that are less strict than the text form. The special provisions set out below (in the next but one paragraph) additionally apply where authorization is granted to proxies designated by the Company.

In the event that the granting of proxy authorization falls within the scope of application of Section 135 AktG (i.e. if the proxy is a bank, shareholders' association or other commercial entity or association which has the status of a bank according to Section 135 (8) AktG or according to Section 135 (10) in conjunction with Section 125 (5) AktG or the granting of proxy authorization falls within the scope of application of Section 135 AktG on other grounds), text form is neither required pursuant to Section 134 (3) sentence 3 AktG, nor do the Statutes contain a specific provision governing such case. Banks, shareholders' associations and other commercial entities and associations which have the status of banks according to Section 135 (8) AktG or according to Section 135 (10) in conjunction with Section 125 (5) AktG may, therefore, use forms for the granting of proxy authorization which need only comply with the applicable statutory provisions, in particular those contained in Section 135 AktG. Reference is hereby made to the special procedure pursuant to Section 135 (1) sentence 5 AktG.

We offer our shareholders the option to authorize proxies designated by the Company and bound by instructions even prior to the General Meeting. Shareholders wishing to authorize the proxies designated by the Company may use the form on the admission ticket for the General Meeting to do so. To ensure that admission tickets are received in time, shareholders should register and provide evidence of their shareholding as early as possible. The proxies designated by the Company will in any event require instructions in order to exercise voting rights. If no such instructions are given, they will not exercise their authorization. The proxies designated by the Company are obligated to vote in accordance with the instructions given to them. Shareholders will receive further information together with their admission tickets. Authorizations and instructions for the proxies designated by the Company must, unless issued during the General Meeting, be received by the Company by the end of April 13, 2010, failing which they will not be taken into account for organizational reasons.

If authorization is granted by way of a declaration made to the Company, no additional evidence of proxy authorization is required. If, however, proxy authorization is granted by way of declaration to the proxy appointed, the Company may demand to see evidence of such authorization, unless otherwise provided for under Section 135 AktG (this applies in the event that the granting of proxy authorization does not fall within the scope of application of Section 135 AktG). It is possible to send the Company evidence of authorization even prior to the General Meeting. In accordance with Section 134 (3) sentence 4 AktG, the following means of electronic communication is available (to the shareholder or the proxy appointed) for sending the evidence of authorization:

The evidence of appointment of a proxy may be sent to the company by e-mail to hv@bilfinger.de. It will be ensured that Word, .pdf, .jpg, .txt and .tif documents sent as e-mail attachments will be taken into account (with the possibility of existing e-mails being forwarded). The Company is only able to draw the link between evidence of proxy authorization that is sent by e-mail and a specific application for registration if such authorization or the corresponding e-mail states either the name and address of the relevant shareholder or the admission ticket number.

If the shareholder appoints more than one proxy, the Company is entitled under Section 134 (3) sentence 2 AktG to refuse one or more of them.

Shareholders will receive a proxy form together with their admission tickets. A proxy form is also available on the internet at <http://www.bilfinger.de/hauptversammlung>. The use of these forms is not mandatorily required by applicable law, under the Statutes or otherwise. In the interests of problem-free processing we ask, however, that these forms be used for granting proxy authorization if proxies are appointed by way of declaration to the Company. Declarations to be made to the Company that are relevant for the appointment of proxies may in particular be submitted at the address, fax number or e-mail address stated for the application for registration.

Information on shareholder rights pursuant to Section 122 (2), Section 126 (1), Section 127 and Section 131 (1) AktG

Requests for additional agenda items pursuant to Section 122 (2) AktG

Under Section 122 (2) AktG, shareholders collectively holding at least one twentieth of the capital stock or at least EUR 500,000.00 in total (the latter corresponding to 166,667 shares) may request that additional items be added to the agenda and made public. Each new item must be accompanied by the corresponding grounds or a resolution proposal. Such requests must be made in writing (Section 126 BGB) to the Company's Executive Board and must have been received by the Company by no later than Monday, March 15, 2010, 24:00 hrs (CET). The address of the Executive Board is: Bilfinger Berger AG, Executive Board, Carl-Reiss-Platz 1-5, 68165 Mannheim, Germany. Section 142 (2) sentence 2 AktG, which provides that shareholders requesting additional agenda items must provide evidence of having held their shares for at least three months prior to the date of the General Meeting and of continuing to hold their shares up to the date on which a decision on their request is taken, applies *mutatis mutandis*, i.e. this provision will apply subject to the corresponding adjustments.

Any additions to the agenda which require publication and were not published with the calling notice will be published in the electronic version of the German Federal Gazette (*elektronischer Bundesanzeiger*) as soon as they have been received by the Company and will be forwarded for publication to media which can be expected to publish the information across the entire European Union. Any requests for additional items to be added to the agenda which are received by the Company once the General Meeting has been convened will also be made available on the internet at <http://www.bilfinger.de/hauptversammlung> and communicated to the shareholders as soon as they have been received by the Company.

Counter-motions and nominations pursuant to Section 126 (1) and Section 127 AktG

At the General Meeting, shareholders may make applications and, where appropriate, nominations relating to particular agenda items and the rules of procedure without any notice, publication or other special action being required prior to the General Meeting.

Counter-motions within the meaning of Section 126 AktG and nominations within the meaning of Section 127 AktG, together with the shareholder's name, the corresponding grounds (which are not required in the case of nominations) and any statement by the corporate bodies of the Company, will be published on the internet at <http://www.bilfinger.de/hauptversammlung> provided they have been received by the Company by no later than Wednesday, March 31, 2010, 24:00 hrs (CEST), at the following address:

Bilfinger Berger AG
CEO-Office
Carl-Reiss-Platz 1-5
68165 Mannheim
Germany

or by **fax** to no.: +49 (0) 621 459-2221
or by **e-Mail** at: hv@bilfinger.de

and all other conditions requiring the Company to publish such information under Section 126 and Section 127 AktG have been met.

Shareholders' right to information pursuant to Section 131 (1) AktG

Under Section 131 (1) AktG, any shareholder who makes a corresponding oral request at the General Meeting must be given information by the Executive Board relating to the Company's affairs, including its legal and business relations to an affiliate, the financial position of the group and the companies included in the group financial statements, provided such information is necessary in order to make an informed judgement in respect of an agenda item and the Executive Board does not have the right to refuse such information.

Further notices

Further information on the shareholders' rights pursuant to Section 122 (2), Section 126 (1), Section 127 and Section 131 (1) AktG, in particular information relating to additional requirements above and beyond compliance with the relevant deadlines, is available on the internet at <http://www.bilfinger.de/hauptversammlung>.

Further information and advice relating to the General Meeting

Documents relating to the General Meeting, website offering information pursuant to Section 124 a AktG

The content of the calling notice, together with a statement of why no resolution is to be passed in respect of Agenda Item 1, the documents to be made available to the General Meeting, the total number of shares and voting rights existing on the date of the calling notice, a form for granting proxy authorization, and any requests for additional agenda items within the meaning of Section 122 (2) AktG are available on the internet at <http://www.bilfinger.de/hauptversammlung>.

On March 8, 2010, the calling notice, together with the full agenda and the resolution proposals of the Executive Board and the Supervisory Board, was published in the electronic version of the German Federal Gazette and forwarded for publication to media which can be expected to publish the information across the entire European Union.

Total number of shares and voting rights

The total number of issued shares of Bilfinger Berger AG, each of which carries one vote, existing on the date of the calling notice is 46,024,127 (information according to Section 30 b (1) sentence 1 no. 1 2nd option WpHG, with this total including the 1,884,000 treasury shares held at the time the calling notice was issued, which do not, however, attribute any rights to the Company in accordance with § 71 b AktG).

Mannheim, March 2010

Bilfinger Berger AG
The Executive Board

Corporate Headquarters

Carl-Reiss-Platz 1-5
68165 Mannheim, Germany
Phone +49 (0) 621-459-0
Fax +49 (0) 621-459-2366
www.bilfinger.com

Chairman of the Supervisory Board

Dr h. c. Bernhard Walter

Executive Board

Herbert Bodner, Chairman
Joachim Müller
Klaus Raps
Kenneth D. Reid
Prof. Hans Helmut Schetter
Thomas Töpfer

Corporate Headquarters and Place of Registration

Mannheim
District Court Mannheim
Register of Companies HRB 4444

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(Wertpapier-Kenn-Nr.) 590 900