

## Devgen NV

Limited Liability Company  
Technologiepark 30  
9052 Gent-Zwijnaarde  
Register of Legal Persons – Enterprise number 0461.432.562

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### Report of the Board of Directors in accordance with articles 596 and 598 of the Belgian Company Code

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#### 1. Articles 596 and 598 of the Belgian Company Code

This special report has been prepared by the Board of Directors of the limited liability company (*naamloze vennootschap/société anonyme*) “Devgen” (the “Company”) in accordance with Article 596 of the Belgian Company Code. The report relates to the issuance and grant by the Extraordinary General Shareholders’ Meeting, of

- (i) 44,604 (naked) warrants, with cancellation of the preferential subscription right of the existing shareholders to the benefit of the permanent representative of the CEO, and
- (ii) 36,000 (naked) warrants, with cancellation of the preferential subscription rights of the shareholders of the Company to the benefit of (a) the non-executive directors who are physical persons and (b) the permanent representatives of the non-executive directors who are legal entities,

as per the warrant plan “Plan CEO & Directors 2010”.

In accordance with article 596 and article 598 of the Belgian Company Code, the Board of Directors explains the cancellation of the preferential subscription rights of the existing shareholders of the Company, the proposed issuance price of the warrants and the financial consequences of the transaction for the existing shareholders of the Company in the present report.

This report must be read together with the report that was prepared by the statutory auditor of the Company in accordance with article 596 and 598 of the Belgian Company Code relating to the proposed cancellation of the preferential subscription rights of the shareholders of the Company. It must also be read together with the special report of the Board of Directors in accordance with article 583 of the Belgian Company Code relating to the proposed issuance of the warrants.

#### 2. Proposed transaction

The Board of Directors proposes to issue 80,604 (naked) warrants. Each warrant shall give the right to subscribe to one new share of the Company, against payment of an exercise price in cash.

The proposed issuance of the warrants involves a capital increase under condition precedent since, to the extent the warrants are exercised, the share capital of the Company will be increased and new shares will be issued (see also below).

As set forth in the special report of the Board of Directors in accordance with article 583 of the Belgian Company Code, the proposed issuance of the warrants as per the Plan CEO & Directors 2010 by the Extraordinary General Shareholders’ Meeting shall immediately constitute an offer to the persons named below and such for the number of warrants mentioned alongside their names:

Mr. Thierry Bogaert	44,604 warrants
Mr. Orlando de Ponti	6,000 warrants
Mr. Jan Leemans	6,000 warrants
Mr. Rudi Mariën	6,000 warrants
Mr. Patrick Van Beneden	6,000 warrants
Mr. Remi Vermeiren	6,000 warrants
Mr. Alan Williamson	6,000 warrants

For a description of the proposed issuance and exercise conditions of the warrants reference is made to the special report of the Board of Directors in accordance with article 583 of the Belgian Company Code.

### **3. Justification of the transaction**

#### **3.1. Cancellation of the preferential subscription right**

The proposed cancellation of the preferential subscription right is necessary in order to be able to offer the warrants to the permanent representative of the CEO and to (the permanent representatives of) the non-executive directors of the Company. The Board of Directors is of the opinion that such cancellation is justified because the warrants are issued in the framework of a new warrant plan for the CEO and the directors of the Company. As further explained in its report in accordance with article 583 of the Belgian Company Code, the Board of Directors is of the opinion that this plan is in the interest of the Company.

#### **3.2. The exercise price of the warrants**

The exercise price of the warrants or the price per share at which new shares will be issued upon exercise of the warrants under the Plan CEO & Directors 2010 will be determined upon issuance (and simultaneous offer) of the warrants at the occasion of the Extraordinary Shareholders Meeting and will be equal to

- the average of the closing prices of the shares of the Company as listed on Euronext Brussels during the thirty (30) day period preceding the issuance of the warrants by the Extraordinary General Shareholders' Meeting of the Company.

### **4. Financial consequences of the transaction for the shareholders**

The financial consequences of the transaction for the existing shareholders of the Company are set forth below.

#### **4.1. General – The exercise of the warrants**

Unless the Board of Directors provides for additional exercise periods, and except for the additional exercise period from March 31<sup>st</sup> 2015 to the end of the term of the warrants, warrants can only be exercised during their term, between March 16 and March 31 and between September 16 and September 30, provided and to the extent that they have become vested warrants and provided and to the extent that they have become exercisable as further explained in the special report of the Board of Directors in accordance with article 583 of the Belgian Company Code. Whether a warrant (that has become a vested warrant and has become exercisable) will eventually be exercised depends upon the decision of the holder of the warrant. The exercise of the warrant is not obliged, nor automatic. The exercise of the warrant will normally also depend upon the stock exchange price of the shares of the Company at the moment of exercise of the warrant, if any, since the holder of the warrant can in principle realize a capital gain only upon the exercise of the warrants if the stock exchange price of the shares of the Company at the moment of exercise is higher than the exercise price of the warrants (see also below, section 4.6).

#### 4.2. Evolution of the share capital

At the date of this report, the Company's share capital amounts to € 1,475,155.87 represented by 19.668.776 shares without nominal value. Furthermore, the Company has also a number of outstanding warrants.

If the warrants are exercised, the share capital shall be increased through the issuance of new shares in the company since, upon the exercise of a warrant, the share capital of the Company is increased by an amount equal to the exercise price of the warrants. To the extent the exercise price per share to be issued exceeds the fractional value of the then existing shares of the Company, the balance of the exercise price shall be booked as an issuance premium. The issuance premium, if any, will, to the same extent as the Company's share capital, serve as a guarantee for third parties and will be booked on an unavailable account that can only be decreased or booked away by means of a resolution of the general shareholder's meeting passed in the manner required for an amendment of the Company's Articles of Association.

The precise evolution of the capital as a result of the exercise of the warrants will depend upon whether the warrants will be exercised and upon the amount of the fractional value of the shares at the moment of the exercise of the warrants. As mentioned above, the exercise of warrants is not obliged, nor automatic. Therefore, there is no certainty whether the warrants will be exercised.

#### 4.3. Impact on the number of outstanding shares

The table below sets forth an overview of the financial instruments, whether or not representing the share capital, that have been issued by Devgen NV up to April 8, 2010 and are still outstanding. This overview must be read together with the notes set forth thereunder.

**Table 1 – Outstanding shares and other financial instruments on April 8, 2010**

	<u>Voting Rights</u>	<u>Notes</u>
<b>(A) Actual voting rights attached to:</b>		
Shares representing the share capital .....	19,668,776	
<b>(B) Potential future voting rights attached to shares representing the share capital, to be issued upon:</b>		
Exercise of warrants 2000	12,418	(1)
Exercise of warrants 2005	478,745	(1)
Exercise of warrants for employees, CEO and Consultants 2008	725,282	(2)
Exercise of warrants Directors 2008	8,793	
Exercise of warrants CEO 2009	300,000	(2)
Exercise of warrants Directors 2009	30,000	(3)
Subtotal	<u>1,555,238</u>	
<b>Total (A)+(B)</b>	<b>21,224,014</b>	

Notes:

- (1) Warrants 2000 and Warrants 2005: The Warrants 2000 have a term of 10 years as of their issuance on September 22, 2000. The Warrants 2005 have a term of 10 years as of their issuance on December 12, 2005. The warrants were created in the framework of a stock based incentive plan for employees, directors and consultants of the Company and its subsidiaries. When warrants are offered to a participant in the framework of the plan, the warrants are generally only definitively acquired ("vested") following a certain period after the grant and subject to certain conditions, such as that the participant has continued his mandate as director, or his employment or consultancy agreement. Subject to certain

conditions, warrants can lapse in the event of termination of the director's mandate or the employment or the consultancy agreement of the participant. Under certain conditions, the Company has a call option on vested warrants 2000 in the event of termination of the director's mandate or employment or consultancy agreement of the participant. The exercise price of the call option is equal to the warrant price. The call option is transferable. By decision of the Board of Directors of June 25, 2009, the duration of the 2005 Warrants was extended with 5 years, for the holders who were employees of the company at that date.

- (2) Warrants employees, CEO and Consultants 2008 and Warrants Directors 2008: The warrants have a term of 10 years (for Employees, CEO and Consultants) and of 5 years (for Directors) as of June 20, 2008. The warrants were created in the framework of a stock based incentive plan for employees, directors and consultants of the Company and its subsidiaries. When warrants are offered to a participant in the framework of the plan, the warrants are generally only definitively acquired ("vested") following a certain period after the grant and subject to certain conditions, such as that the participant has continued his mandate as director, or his employment or consultancy agreement. Depending on certain conditions warrants can expire when the directors mandate or the employment or consultancy agreement of the participant are terminated.
- (3) Warrants CEO 2009 & Warrants Directors 2009: The warrants have a term of 5 years as of July 24, 2009. The warrants were created in the framework of a stock based incentive plan for the CEO and the Directors of the Company. When warrants are offered to a participant in the framework of the plan, the warrants are generally only definitively acquired ("vested") following a certain period after the grant and subject to certain conditions, such as that the participant has continued his mandate as director, or his management agreement. Depending on certain conditions warrants can expire when the directors mandate or the management agreement of the participant is terminated.

Upon the exercise of the warrants, an additional number of shares will need to be issued. The dilution of each of the existing shares as to its voting rights and of its rights to participate in the profits of the Company, if any, such as preferential subscription rights, liquidation rights, and other rights, is illustrated below in Table 2. It is assumed that all new warrants will be exercised.

**Table 2 – Simulation of dilution**

	<b>Based on the number of outstanding shares prior to the exercise of existing warrants</b>	<b>Based on the number of outstanding shares after the exercise of all existing warrants</b>
Outstanding shares on April 8, 2010	19,668,776	21,224,014
Shares upon exercise of all Warrants CEO & Directors 2010	80,604	80,604
Total.....	19,749,380	21,304,618
Total dilution .....	0.41%	0.38%

#### **4.4. Evolution of certain rights attached to the shares**

Currently, each share entitles the holder thereof to one vote and all shares participate equally in the profits of the Company, if any, in the same proportion. Furthermore, every share gives the right on an equal basis to a preferential subscription right in case of a capital increase in cash (if this preferential subscription right is not cancelled or limited) and a right to participate equally in the liquidation proceeds in case of liquidation of the Company. To the extent that new shares are issued upon the exercise of the warrant, these shares will have the same voting rights, dividend rights, preferential subscription rights and liquidation rights as the existing shares. As a consequence, there will be a dilution of the relative value of each of the voting rights, dividend

rights, preferential subscription rights and liquidation rights of the existing shares. See also the simulation in Table 2 above.

#### 4.5. Evolution of the participation in the accounting net equity

The statutory net equity of the Company on December 31, 2009 amounted to € 51,655,559 and the consolidated net equity of the Company on the same date amounted to € 47,014,632. Since the Company had 19,648,951 outstanding shares on the above-mentioned date, the participation of each share in the statutory net equity (calculated as the amount of the statutory net equity divided by the number of outstanding shares) on December 31, 2009 amounted to (rounded) € 2.63 and the participation of each share in the consolidated net equity (calculated as the amount of the consolidated net equity, divided by the number of outstanding shares) amounted to (rounded) € 2.39.

Without taking into account the changes in the statutory, respectively consolidated net equity of the Company since December 31, 2009, the following can be noted. If the exercise price of the warrants under the Plan CEO & Directors 2010 is higher than the participation of each share in the statutory, respectively consolidated net equity of the Company, then the exercise of a warrant under the plan will result, from a pure accounting point of view, in an immediate financial dilution to the benefit of the existing shareholders. On the other hand, if the exercise price of the warrants under the plan is lower than the participation of each share in the statutory, respectively consolidated net equity of the Company, then the exercise of a warrant will result, from a pure accounting point of view, in an immediate financial dilution to the detriment of the existing shareholders. If the exercise price of the warrants under the plan is equal to the participation of each share in the statutory, respectively consolidated net equity of the Company, hypothetically, no financial dilution occurs.

On the date of this report, the exercise price of the warrants is not yet known since it will be determined at the moment of the offer of the warrants. In addition, it is not certain that all warrants will be exercised. Consequently, it is currently not possible to calculate accurately the impact of the exercise of the warrants, under the Plan CEO & Directors 2010 on the participation of each share in the (statutory or consolidated) net equity of the Company.

Nevertheless, for information purposes only, the evolution of the statutory and consolidated net equity has been simulated in Table 3 below on the basis of a hypothetical exercise price of the warrants of € 10,00. This simulation has to be read together with the respective notes set forth under the table.

**Table 3 – Simulation of the impact on net equity on December 31, 2009**

	<u>Statutory Net Equity</u>	<u>Consolidated Net Equity</u>
<b>Net equity and outstanding shares on December 31, 2009:</b>		
Net Equity	€ 51,655,559	€ 47,014,632
Number of outstanding shares	19,648,951	19,648,951
Participation of each share in the net equity	€ 2.63	€ 2.39

### Issuance of all warrants under the Plan

#### CEO & Directors 2010 :

Increase of Net Equity	€ 806,040	€ 806,040
Net Equity	€ 52,461,599	€ 47,820,672
Number of issued shares	80,604	80,604
Number of outstanding shares	19,729,555	19,729,555
Participation of each share in the net equity	€ 2.66	€ 2.44

#### Notes:

- (1) The issuance of the shares and the results as of December 31, 2009 of the Company and of the group to which the Company belongs, were not taken into account. The possible effects of a capital increase upon the exercise of the existing outstanding warrants have also not been taken into account.
- (2) As mentioned above, the calculation of the increase in net equity upon exercise of the warrants that are the subject of this report is based on a hypothetical exercise price of € 10.00. This exercise price is used for illustration purposes only. This exercise price does not reflect any opinion of the Board of Directors with respect to the current stock exchange price of the Company's shares. There is no guarantee that the final exercise price will be at the level of the aforementioned exercise price.
- (3) It is assumed that the warrants that are the subject of this report will be exercised immediately upon their issuance, regardless of the applicable conditions. If the warrants are exercised at a later moment, the changes of the net equity of the Company after December 31, 2009 should also be taken into account.

#### 4.6. Other forms of dilution

Finally, at the moment of exercise of the warrants, a certain "financial dilution" could occur.

Since the warrants will normally only be exercised if the stock exchange price of the shares of the Company at the moment of exercise is higher than the exercise price of the warrants, the holder of the warrants shall normally be able to realize a (hidden) capital gain upon the exercise of the warrants, equal to the difference between the stock exchange price of the share at the moment of exercise of the warrants and the exercise price of the warrants. This difference can be considered a form of financial dilution at the expense of the existing shareholders.

Hereinafter, for illustration purposes only, an example of this potential financial dilution is given. If, in accordance with what is determined in article 6.2 of the issuance conditions of the warrants, the exercise price of the warrants would for instance be equal to (for illustration purposes only) € 10.00, then the holder of the warrants will normally only exercise the warrants if the stock exchange price of the shares of the Company is higher than € 10.00 at the moment of exercise. Only then, the holder of the warrants will have an immediate financial incentive to exercise the warrants. However, if the stock exchange price of the Company is equal to or lower than € 10.00 when the warrants can be exercised, the holder of the warrants will normally not exercise the warrants because no immediate financial gain can be realized upon exercise of the warrants.

It needs to be emphasized that aforementioned example is an illustration only. Furthermore, the illustration is based on the assumption that the warrants can actually be exercised. Furthermore, the taxes that will be due are to be taken into account. It should also be noted that an actual capital gain exists only if it can actually be realized through sale of the acquired shares. An actual capital gain can only be realized by the holder of the warrants if the capital gain which he could realize through sale of the shares acquired is higher than the total sum of the taxes that will be due.

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Done at Ghent, on....., 2010.

On behalf of the Board of Directors,

By: \_\_\_\_\_

Remi Vermeiren  
Chairman of the Board of Directors

By: \_\_\_\_\_

Thierry Bogaert BVBA,  
Managing Director  
represented by Thierry Bogaert