



EVERSHEDS

Dated 15<sup>TH</sup> JULY 2010

- (1) SDI GROUP PLC
- (2) FSU INVESTMENTS LIMITED

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CONTINGENT CONSIDERATION AGREEMENT

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**THIS AGREEMENT** is made on 15<sup>TH</sup> JULY

2010

**BETWEEN**

- (1) SDI GROUP PLC (registered number 06081771) whose registered office is at 11 Jarman Way, Orchard Road, Royston, Hertfordshire SG8 5HW ("**SDI Group**"); and
- (2) FSU INVESTMENTS LIMITED (registered number 07168088) whose registered office is at Francis House, 112 Hills Road, Cambridge CB2 1PH ("**Bidco**").

**BACKGROUND**

- (A) The directors of Bidco and the Independent Directors of SDI Group have reached agreement on the terms of a recommended cash offer to be made by Bidco for the entire issued and to be issued share capital of SDI Group the details of which are set out in the final draft 2.5 Announcement attached as Schedule 1 to this Agreement (the "**Offer**").
- (B) The Offer includes an additional payment (conditional upon, amongst other things, the release of the Bonded Cash) of up to 0.8 pence per SDI Group Share (as calculated in accordance with the Contingent Consideration Calculation) (the "**Contingent Consideration**") for those shareholders who accept and do not waive their rights to this additional consideration (the "**Relevant Accepting Shareholders**").
- (C) This Agreement sets out the steps that Bidco and SDI Group will take to ensure that the Relevant Accepting Shareholders receive the Contingent Consideration as soon as reasonably practicable following the release of the Bonded Cash.

**OPERATIVE PROVISIONS**

**1. INTERPRETATION**

- 1.1 In this Agreement the following expressions have the following meanings unless inconsistent with the context:

**"Bonded Cash"** cash which is the property of the SDI Group Group which is currently deposited with the German Bank and held as security for overdrafts made available to Pep, amounting in aggregate to the sum of EUR€500,508.69

**"Business Day"** any day (other than a Saturday or Sunday or a public or bank holiday in England)

<b>"Business Hours"</b>	9.00 a.m. to 5.00 p.m. inclusive on any Business Day
<b>"Contingent Consideration Calculation"</b>	<p><math>CC = (OS-D)/N</math></p> <p>Where:</p> <p>OS is the net amount of Bonded Cash released by German Bank and paid to BidCo</p> <p>D is the aggregate amount of taxes to be deducted from the released Bonded Cash by BidCo (including (but not limited to) any corporation, withholding tax or other imposition that may be payable in relation to any transfer of the Bonded Cash to BidCo)</p> <p>CC is the amount of Contingent Consideration payable per SDI Group Share, up to a maximum of 0.8 pence</p> <p>N is the number of SDI Group Shares accepted to the Offer by a Relevant Accepting Shareholder</p>
<b>"CA 2006"</b>	the Companies Act 2006
<b>"German Bank"</b>	Dresdner Bank, the bankers to Pep
<b>"Independent Directors"</b>	Mark McMenemy, Steve Butler and Richard Arkle being those directors of SDI Group who are independent in relation to the Offer and who constitute the independent committee of the Board of directors of SDI Group
<b>"Pep"</b>	Pep Fordertechnik, a member of the SDI Group Group
<b>"SDI Group Group"</b>	SDI Group and its subsidiary undertakings (as defined in CA 2006) and where the context permits, each of them
<b>"SDI Group Shares"</b>	the existing issued and to be issued fully paid ordinary shares of 1 pence each in the capital of SDI Group which are the subject of the Offer

1.2 In this Agreement (except where the context otherwise requires) the masculine includes the feminine and the neuter, and the singular includes the plural and vice versa.

- 1.3 The expression "person" means any individual, firm, body corporate, unincorporated association.
- 1.4 The headings to the clauses of this Agreement are for convenience only and will not affect its interpretation.
- 1.5 References to any statute or statutory provision include, unless inconsistent with the context, a reference to that statute or statutory provision as modified, re-enacted or consolidated and in force from time to time whether before or after the date of this Agreement and any subordinate legislation made pursuant to it whether before or after the date of this Agreement provided that, as between the parties, no such modification, re-enactment or consolidation after the date of this Agreement will apply to the extent it substantively changes any provision which is relevant to this Agreement.
- 1.6 Any reference to this Agreement will be construed as a reference to this Agreement as it may have been, or may from time to time be, amended, varied, supplemented, substituted, novated or assigned.
- 1.7 In this Agreement, all covenants, agreements, undertakings, indemnities, representations and warranties by more than one person are entered into, given or made by such persons jointly and severally.
- 1.8 Any phrase in this Agreement introduced by the term "include", "including" "in particular" or any similar expression will be construed as illustrating and will not limit the sense of the words preceding that term.

## 2. **CONDITION PRECEDENT**

- 2.1 The obligations set out in **clauses 3, 4 and 5** of this Agreement are conditional upon the Offer being declared unconditional in all respects.

## 3. **RELEASE OF BONDED CASH**

- 3.1 Bidco and SDI Group undertake to one another and to the Independent Directors to take, and procure the taking of, all reasonable steps to procure the release and repayment of the Bonded Cash by the German Bank to Pep as soon as reasonably practicable.
- 3.2 The release and repayment of the Bonded Cash is not expected to take place before 31 March 2011 and Bidco will procure the making by Pep of an application for the release and repayment of the Bonded Cash ("**Pep Application**") as soon as reasonably practicable.
- 3.3 Bidco will or will procure that SDI Group or Pep immediately notify the Independent Directors of the release and repayment of the Bonded Cash when it occurs.

#### **4. MECHANISM FOR PAYMENT OF CONTINGENT CONSIDERATION**

- 4.1 Bidco will procure the passing of board and shareholder resolutions of SDI Group to re-register SDI Group as a private limited company and to apply for the cancellation of the admission of the shares to trading on AIM as soon as reasonably practicable after the Offer has been declared unconditional in all respects.
- 4.2 Bidco will procure the Bonded Cash released to Pep will forthwith upon release be advanced to Bidco by way of intercompany loan in substantially the form attached as Schedule 2 to this Agreement.
- 4.3 Bidco will immediately upon receipt of the intercompany loan under **clause 4.2** pay the Contingent Consideration to the Relevant Accepting Shareholders pursuant to the terms of the Offer.
- 4.4 Notwithstanding the provisions of **clauses 4.2** and **4.3**, the Contingent Consideration (if any) shall be paid within 14 Business Days of receipt by SDI Group or Pep of confirmation by the German Bank that the Pep Application has been accepted.

#### **5. SUPERVISION BY INDEPENDENT DIRECTORS AND BIDCO'S UNDERTAKINGS**

- 5.1 Bidco hereby confirms that the Independent Directors are appointed to oversee the payment of any Contingent Consideration to Relevant Accepting Shareholders.
- 5.2 Bidco undertakes to each of SDI Group and the Independent Directors that in the period from the date that the offer is declared unconditional in all respects up to the date that the Contingent Consideration is paid (if at all) to Relevant Accepting Shareholders, it will:
- 5.2.1 ensure that all intercompany money due to be paid to Pep will be paid in the normal course of business and not unreasonably withheld;
  - 5.2.2 use all reasonable endeavours to collect all third party debts as they fall due;
  - 5.2.3 make available to Pep all cash resources of SDI Group and other companies in the SDI Group Group to the extent legally permissible, such cash resources not to be unreasonably withheld, in order to mitigate any shortfall that may exist between the Bonded Cash and the cash resources available to Pep to enable the making of the intercompany loan under **clause 4.2**;

5.2.4 allow the Independent Directors in their role of supervisors of this process to have access to all cash reports, on a weekly and monthly basis, cash forecasts by SDI Group and Pep, and any correspondence between the German Bank and any company in the SDI Group Group.

## 6. **WARRANTY**

At the date of, and subject as set out in, this Agreement, Bidco warrants to SDI Group and each of the Shareholders that it is not aware of any reason why payment of the Contingent Consideration should not be paid to the Relevant Accepting Shareholders.

## 7. **LAPSE AND TERMINATION**

This Agreement and all obligations hereunder shall cease (save for any antecedent breaches) in the event that the Offer is withdrawn or lapses.

## 8. **ANNOUNCEMENTS**

8.1 No announcement, circular, advertisement or other publicity in connection with this Agreement, its subject matter or any ancillary matter will be made or issued by or on behalf of the parties to this Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed).

8.2 This clause does not apply to any announcement, circular or disclosure required by law (or, to the extent relevant, the regulations of any stock exchange or listing authority or the Panel on Takeovers and Mergers), or any other government or regulatory organisation provided, if practicable, the party required to make it first consults and takes into account the reasonable requirements of the other party.

## 9. **COSTS**

Except where expressly stated in the Agreement otherwise, each of the parties will pay their own costs and expenses incurred in connection with the negotiation, preparation, execution, completion and implementation of this Agreement.

## 10. **ASSIGNMENT**

10.1 Neither party may assign, charge, transfer or deal in any other manner with the benefit of, or any or all of its rights under, this Agreement nor sub-contract any or all of its obligations under this Agreement without the prior written consent of the other party, who may in its absolute discretion refuse consent.

10.2 In the event of the death of a Shareholder before payment of the Contingent Consideration, that Shareholder's right to payment of the Contingent

Consideration shall pass to his estate and the rights of such Shareholder in accordance with this Agreement will pass accordingly.

## 11. **NOTICES**

- 11.1 Any notice, demand or communication in connection with this Agreement will be in writing and may be delivered by hand, first class post or facsimile (but not by e-mail), addressed to the recipient at its registered office or its address, or facsimile number as the case may be as stated in this Agreement and will be marked for the attention of the Board of Directors (or such other address, or facsimile number or person which the recipient has notified in writing to the sender in accordance with this **clause 11**, to be received by the sender not less than 7 Business Days before the notice is despatched).
- 11.2 The notice, demand or communication will be deemed to have been duly served:
- 11.2.1 if delivered by hand, at the time of delivery;
  - 11.2.2 if delivered by first class post, 2 Business Days after being posted or in the case of airmail 7 Business Days after being posted;
  - 11.2.3 if delivered by facsimile, at the time of transmission,
- 11.3 provided that, where in the case of delivery by hand or transmission by facsimile, such delivery or transmission occurs either after 4.00 pm on a Business Day, or on a day other than a Business Day, service will be deemed to occur at 9.00 am on the next following Business Day.
- 11.4 For the avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connection with those proceedings.

## 12. **GENERAL**

- 12.1 Each party will do or procure the doing of all acts and things and execute or procure the execution of all such documents as any other party reasonably considers necessary to give full effect to the terms of this agreement.
- 12.2 Failure or delay by any party in exercising any right or remedy under this Agreement will not in any circumstances operate as a waiver of it, nor will any single or partial exercise of any right or remedy in any circumstances preclude any other or further exercise of it or the exercise of any other right or remedy.
- 12.3 The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of The Contracts (Rights of Third Parties) Act 1999 by any person not a party to it, save that all its terms shall be enforceable by the Independent Directors against Bidco and SDI Group.

12.4 No variation of this Agreement will be valid unless it is in writing and signed by or on behalf of each of the parties.

**13. GOVERNING LAW AND JURISDICTION**

13.1 This Agreement and any non-contractual obligations arising out of or in connection with it will be governed by English law.

13.2 The courts of England and Wales will have exclusive jurisdiction to settle any dispute which arises out of or in connection with this Agreement (including (without limitation) in relation to any non-contractual obligations). The parties irrevocably agree to submit to that jurisdiction.

**14. COUNTERPARTS**

This Agreement may be executed and delivered in any number of counterparts, each of which when executed will be an original, but together will constitute one and the same agreement.

This document is executed as a deed and delivered on the date stated at the beginning of this Agreement.

**EXECUTED AS A DEED**

by SDI GROUP PLC  
acting by a director

)  
)  
) *Leece Bell*

**Director**

in the presence of:

Witness Signature: *Gordon R. Smith*

Witness Name: *GORDON SMITH*

Witness Address: *59a Town Green Rd Orwell Herts*

Witness Occupation *CEO*

**EXECUTED AS A DEED**

by FSU INVESTMENTS LIMITED  
acting by a director

)  
)  
) *Gordon R Smith*

**Director**

in the presence of:

Witness Signature: *Leece Bell*

Witness Name: *STEVE BUTLER*

Witness Address: *75 Woodchester Rd, Dorridge, Solihull B93 8BZ*

Witness Occupation *CFO*

**SCHEDULE 1**

**Final Draft 2.5 Announcement**

## **SCHEDULE 2**

### **Form of Inter-Company Loan**