

**1**



LD7  
COMPANIES HOUSE

0273  
27/09/04

The assistance is for the purpose of [that acquisition] ~~reducing or discharging a liability incurred for the purpose of that acquisition~~ (note 1)

Please do not write in this margin

Please complete legibly, preferably in black type, or bold block lettering

The number and class of the shares acquired or to be acquired is: 2,478,000 ordinary shares  
of 10p each

The assistance is to be given to: (note 2) ETI Group Holdings Limited (Company Number  
5208642) whose registered office is at Unit 1, Pennypot Industrial Estate,  
Hythe, Kent CT21 6PE

The assistance will take the form of:

See paragraph 2 of the Appendix

The person who ~~[has acquired]~~ [will acquire]† the shares is:  
ETI Group Holdings Limited

† delete as appropriate

The principal terms on which the assistance will be given are:

See paragraph 3 of the Appendix

The amount (if any) by which the net assets of the company which is giving the assistance will be reduced by giving it is Nil

The amount of cash to be transferred to the person assisted is £ See Paragraph 4 of Appendix

The value of any asset to be transferred to the person assisted is £ Nil

Please complete legibly, preferably in black type, or bold block lettering

☒ We have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

- \* delete either (a) or (b) as appropriate
- (a) ☒ We have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date)\* (note 3)

(b) ~~It is intended to commence the winding-up of the company within 12 months of that date, and we have formed the opinion that this company will be able to pay its debts in full within 12 months of the commencement of the winding-up.\* (note 3)~~

And ☒ we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at Linklaters, Silk Street

Day	Month	Year
on 2	4	09 2004

before me Lin Chalkley

A Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor having the powers conferred on a Commissioner for Oaths.

Declarants to sign below



NOTES

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account - see section 156(3) of the Companies Act 1985.
- 4 The auditors report required by section 156(4) of the Companies Act 1985 must be annexed to this form.
- 5 The address for companies registered in England and Wales or Wales is:-

The Registrar of Companies  
Companies House  
Crown Way  
Cardiff  
CF14 3UZ

or, for companies registered in Scotland:-

The Registrar of Companies  
Companies House  
37 Castle Terrace  
Edinburgh  
EH1 2EB

## Appendix

### 1 List of Directors

The names and addresses of all the directors of the Company are as follows:

John Howard Fry	Kenneth MacLeod
Bryn Afon	19 Sandy View
Waen Isa	Biggleswade
Northop Flintshire	Bedfordshire
CH7 6DL	SG18 0HS
Gary Ward	Brian Smith
17 Beauchamp Road	24 Fieldside
East Molesley	Edenthorpe
Surrey	Doncaster
KT8 0PA	DN3 2JS
Richard Monaghan	Timothy Patrick Dewar
Stratford House	9 Fairflight Road
Academy Road	Hythe
Moffat	Kent
Dumfries and Galloway	CT21 4AD
DG10 9HR	

### 2 Form which assistance will take

**2.1** In this Statutory Declaration the following expressions have, unless otherwise defined, the following meanings:

**"Accession Letter"** means a document substantially in the form set out in Part II of Schedule 7 to the Facilities Agreement;

**"A Term Loan Facility"** means the £12,000,000 term loan facility made available to the Borrower under the Facilities Agreement to the extent not cancelled or reduced;

**"Acquisition"** means the acquisition of the entire issued share capital of ETI Group Limited by the Borrower on the terms of the Acquisition Agreements;

**"Acquisition Agreements"** means the sale and purchase agreement to be entered into between the Borrower and the Vendors, the acquisition disclosure letter to be entered into between the Borrower and Alistair Flanagan, the deed of covenant, the exercise documents and the share exchange agreement to be entered into between certain of the Executives, Alistair Flanagan and ETI Group Investment Limited;

**"Additional RCF Borrower"** means a company which becomes an RCF Borrower in accordance with Clause 23.5 of the Facilities Agreement;

**"B Term Loan Facility"** means the £2,000,000 term loan facility made available to the Borrower under the Facilities Agreement to the extent not cancelled or reduced;

**"Borrower"** means ETI Group Holdings Limited;

**"Debenture"** means a debenture to be executed by the Borrower in favour of the Lender;

**"Ducati Guarantee"** means the guarantee issued by the Lender in favour of Ducati Corse SRL.;

**"Existing Debenture"** means a debenture dated 24 July 2003 and made between the Financial Assistance Subsidiary and Lloyds TSB Bank plc;

**"Executives"** means Gary Ward, John Fry, Richard Monaghan, Kenny McLeod, Brian Smith and Tim Dewar;

**"Facilities"** means the A Term Loan Facility, the B Term Loan Facility and the Revolving Loan Facility;

**"Facilities Agreement"** means a £16,500,000 facilities agreement to be entered into between amongst others the Borrower and the Lender;

**"Finance Document"** means the Facilities Agreement, any Accession Letter, the Hedging Letter, each Hedging Agreement, each Security Document, the Intercreditor Agreement, the Intra Group Funding Deed, any counter indemnity given by a Group member to the Lender in respect of the Newline Letter of Credit and the Ducati Guarantee, any working capital facility letter between the Lender and a Group member from time to time and any other document designated as such by the Lender and the Borrower;

**"Group"** means ETI Group Investments Limited and its Subsidiaries for the time being and each a **"Group member"**;

**"Guarantee"** means an omnibus guarantee and set-off agreement to be entered into between the Obligors and the Lender;

**"Hedging Agreement"** means any agreement entered into by the Borrower for the purpose of implementing the hedging strategy set out in the Hedging Letter;

**"Hedging Letter"** means the letter dated on or about the date of the Facilities Agreement between the Borrower and the Lender setting out the hedging strategy agreed in relation to the Facilities;

**"Intercreditor Agreement"** means the intercreditor agreement to be entered into between the Lender, the Vendors, the Executives, ETI Group Investments Limited, the Original Investor and the Obligors;

**"Intra Group Funding Deed"** means a deed to be entered into between ETI Group Limited, Elec-Track Installations Limited, Electrification Training and Fabrication Ltd and the Borrower;

**"Junior Documents"** means each of the Loan Note Instruments, the Loan Notes and the Junior Subordination Deed;

**"Junior Lenders"** means Alistair Flanagan, Gary Ward, John Fry, Richard Monaghan, Kenny McLeod, Brian Smith, Tim Dewar, the trustees of the Alistair Flanagan Discretionary Settlement and the trustees of the Christine Joan Flanagan Discretionary Settlement;

**"Junior Subordination Deed"** means a deed to be entered into between ETI Group Holdings Limited and the Junior Lenders;

**"Keyman Assignment"** means an assignment by way of security of a Keyman Policy in the agreed form by the Borrower in favour of the Lender;

**"Keyman Policy"** means the insurance policies referred to in the Facilities Agreement;

**"Lender"** means Lloyds TSB Bank plc;

**"Loan Note Instruments"** means the Series A Loan Note Instrument, the Series B Loan Note Instrument and the Series C Loan Note Instrument;

**"Loan Notes"** means the Series A Loan Notes, the Series B Loan Notes and the Series C Loan Notes;

**"Newline Letter of Credit"** means the letter of credit dated 29 July 2004 issued by the Lender in favour of Newline Underwriting Management Limited;

**"Obligors"** means the Borrower, ETI Group Limited, Elec-Track Installations Limited, Electrification Training and Fabrication Ltd and ETI Group Investments Limited;

**"Original Investor"** means Hermes Private Equity Partners I L.P.;

**"Revolving Loan Facility"** means the £2,500,000 revolving loan facility made available to the RCF Borrowers under the Facilities Agreement, to the extent not cancelled or reduced;

**"RCF Borrowers"** means the original RCF Borrowers and any Additional RCF Borrower;

**"Security"** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

**"Security Document"** means the Debenture, the Guarantee, each Keyman Assignment, and each other Security or guarantee entered into by any person in favour of the Lender;

**"Senior Documents"** means the Facilities Agreement, the Security Documents, the Intercreditor Agreement and each other document designated a Finance Document pursuant to the Facilities Agreement;

**"Senior Lender"** means Lloyds TSB Bank plc;

**"Series A Loan Note Instrument"** means the loan note instrument to be entered into by ETI Group Holdings Limited, and constituting £10,283,142 fixed rate unsecured loan notes;

**"Series B Loan Note Instrument"** means the loan instrument to be entered into by ETI Group Holdings Limited, and constituting £2,158,487 fixed rate unsecured loan notes;

**"Series C Loan Note Instrument"** means the loan instrument to be entered into by ETI Group Holdings Limited, and constituting £1,000,000 fixed rate unsecured loan notes;

**"Series A Loan Notes"** means the loan notes constituted by the Series A Loan Note Instrument;

**"Series B Loan Notes"** means the loan notes constituted by the Series B Loan Note Instrument;

**"Series C Loan Notes"** means the loan notes constituted by the Series C Loan Note Instrument;

**"Subsidiary"** means a subsidiary with the meaning of Section 258 of the Companies Act 1985;

**"Vendors"** means Alistair Flanagan and others;

- 2.2** Pursuant to the Acquisition, the share capital of ETI Group Limited will be acquired by the Borrower. The Financial Assistance Subsidiary will provide certain financial assistance as

described in paragraph 2.3 in respect of facilities provided under the Facilities Agreement provided to fund that Acquisition.

**2.3** The financial assistance referred to in paragraph 2.2 will take the form of the execution, delivery and performance by the Financial Assistance Subsidiary of:

- 2.3.1 a Guarantee;
- 2.3.2 an Intercreditor Agreement;
- 2.3.3 an Intra Group Funding Deed; and
- 2.3.4 the continuance of the Existing Debenture which secures the obligations of the Financial Assistance Subsidiary under the Guarantee.

**3 Principal terms of the assistance given**

All capitalised terms in this paragraph 3 shall, unless contrary indication appears, have the meanings given to them in paragraph 2.1.

**3.1** By executing the Guarantee as a guarantor, the Financial Assistance Subsidiary will, among other things,:

- 3.1.1 jointly and severally guarantee the payment of all monies owed by each other Obligor at any time to the Lender;
- 3.1.2 undertake with the Lender that whenever any Obligor does not pay any amount when due to the Lender, to pay on demand that amount as if it were the principal obligor;
- 3.1.3 indemnify the Lender against all loss incurred by the Lender in specific circumstances;
- 3.1.4 make certain representations and gives a number of warranties to the Lender; and
- 3.1.5 permit the Lender at any time to combine or consolidate all or any of the Obligors' bank accounts and transfer all or any sums standing to the credit of any such bank accounts in or towards satisfaction of all or any of the Obligors' liabilities to the Lender.

**3.2** By executing the Intercreditor Agreement, the Financial Assistance Subsidiary agrees, amongst other things, that any sum owed by it or any other member of the Group to the Junior Lenders under the Junior Documents will be subordinated to sums owed by it or any other member of the Group to the Senior Lender under the Senior Documents.

**3.3** By entering into the Intra Group Funding Deed, the Financial Assistance Subsidiary may lend funds at any time to the Borrower to allow the Borrower to meet its debt service requirements in respect of the Acquisition and to discharge any costs and expenses incurred by the Borrower in connection with the Acquisition.

**3.4** When the Financial Assistance Subsidiary entered into the Existing Debenture, the Financial Assistance Subsidiary created a fixed and floating charge over all its assets and undertaking in order to secure the payment and discharge of all monies, liabilities and obligations at any time owing by it to the Lender, and following the execution of the Guarantee, the Existing Debenture provides security in respect of the Financial Assistance Subsidiary's obligations under the Guarantee.

**4 Amount of cash to be transferred to the person assisted**

Such sums, if any, as are due under the Intra Group Funding Deed.

**5 Date on which the assistance is to be given**

On any date prior to eight weeks from the date of this Statutory Declaration.





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The Directors  
ETI Group Limited  
Unit 1  
Pennypot Industrial Estate  
Hythe  
Kent CT21 6PE

Your ref

Our ref sm/am

Contact Stephen Miller  
020 7311 1605

24 September 2004

Dear Sirs

**Auditors' report to the directors of ETI Group Limited pursuant to Section 156(4) of the Companies Act 1985**

We have examined the attached statutory declaration of the directors dated 24 September 2004 in connection with the proposal that Elec-Track Installations Limited, of which this company is a holding company, should give financial assistance for the purchase of 2,478,000 of this company's ordinary shares.

This report is made solely to the company's directors as a body in accordance with section 156(4) of the Companies Act 1985. Our work has been undertaken so that we as the company's auditors might state to the company's directors those matters we are required to state to them in a report under section 156(4) of that Act and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company and the company's directors as a body for our work under section 156(4) of that Act or for this report.

We have enquired into the state of the company's affairs in order to review the bases for the statutory declaration.

We are not aware of anything to indicate that the opinion expressed by the directors in their declaration as to any of the matters mentioned in Section 156(2) of the Companies Act 1985 is unreasonable in all the circumstances.

Yours faithfully

12/11/04 LLL

KPMG LLP

Registered Auditor



KPMG LLP,  
KPMG LLP, a UK limited liability partnership,  
is a member of KPMG International, a Swiss  
cooperative

Registered in England No OC301540  
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