

PRECOGNITION

of

RICHARD JEFFREY,

Chief Executive

tie Limited, Citypoint, 65 Haymarket Terrace,
Edinburgh, EH12 5HD

1. My name is Richard *[insert middle names]* Jeffrey. I am *[insert age]* years old. I am the Chief Executive of **tie Limited** and work in **tie's** principal offices at Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD.
2. **tie Limited** is a private limited company and a wholly owned subsidiary of the City of Edinburgh Council, responsible for the delivery of the Edinburgh Trams. I have been the Chief Executive since I was appointed on *[insert date of appointment]*. As Chief Executive, my main duties and responsibilities are *[insert note of role, including main duties in respect of the tram project and the management staff who report to you]*.
3. On 6 July 2009 a meeting took place in my office at 11.30am. In attendance at the meeting were Dr Keysberg, *[insert position held]*, Bilfinger Berger AG, Dr Schnependahl *[insert position held]*, Siemens AG and myself. *[was there a reason why CAF was not represented at the meeting?]*. *[insert details of who arranged the meeting and the proposed agenda]*.
4. I recall specifically that Dr Keysberg sat to my *[left/right]* and Dr Schnependahl sat to my *[left/right]* and we had the meeting over a sandwich lunch. It lasted *[♦]*.
5. I made written notes during the meeting and recollect that Dr Keysberg did most of the talking.
6. During the meeting a number of issues were discussed concerning Extension of Time 1 and 2, especially the MUDFA delays *[expand this section by inserting a sentence about each of the extensions sought, and what delays you are referring to]*. Dr Keysberg stated the following points (in order):
 - 6.1 He felt **tie** knew that we were liable for 80% of the issues and that we were arguing over the final 20%.
 - 6.2 Unless **tie** and the consortium reached agreement on issues soon to get the project moving, Bilfinger Berger would have to consider partial demobilisation.
 - 6.3 They had undertaken team changes in order to re-build the relationship between BSC and **tie**, but **tie** had not reciprocally done this. He considered that personalities of the team members in **tie** were a big part of the problem.
 - 6.4 Throughout the procurement of the project **tie** had been under enormous time pressure and that I had to understand the pressures on **tie** to sign the Infraco contract.
 - 6.5 As a result this was a great contract for BSC as it allows BSC to hold **tie** and CEC to ransom. *[Did he expand on what he was referring to in terms of Clause 80 of the project]*.

6.6 We discussed the use of Clause 80 [*tie Changes*] in preference to Clause 65 [*Compensation Events*], and Dr Keysberg stated that BSC did not need to use Clause 65 [*because - expand*] and the contract meant that Bilfinger Berger did not need to progress the works. [*insert detail of how Dr Keysberg arrived at this opinion and insert your own opinion*].

6.7 In his view, at the previous week's mediation, the mediator's view supported BSC's view of the contract.

6.8 That **tie** were fully aware of the extra costs expected on the contract, even at the time of signature. He thought that if **tie** were to deny that now **tie** would be acting dishonourably.

6.9 That **tie** had to agree to the Revision 2 programme [*expand - what is it and what are the implications of agreeing it*], agree to the 17.5% uplift on prelims [*expand on meaning*], and agree to BSC's view of the contract.

6.10 That **tie's** continued request of further information illustrated a weakness in **tie's** team and that it was simply creating more delays.

6.11 That the '*value engineering nonsense*' was another example of where **tie** were being dishonourable and that **tie** and BSC knew that it was just a process to get the headline price down. [*explain what this means and your position*].

6.12 That **tie's** only option was to agree with BSC or they would commence litigation.

7. [*Was this the final position reached at the end of the meeting?*]

8. [*provide a link between the meeting above and the subsequent recollection*]. On [insert date] I met David Darcy [*insert details regarding Mr Darcy's position*] for a dinner meeting. Mr Darcy related a conversation that had taken place between himself and Dr Keysberg at a [BSC] board meeting in Germany [*insert any further information relating to this meeting*].

9. Mr Darcy explained that during their conversation, Dr Keysberg had used the phrase '*this is a great contract for us; it allows us to hold the client to ransom*' and that he had corrected Dr Keysberg by explaining that it was a terrible contract because it was putting BSC in conflict with their client.

10. I sent an email to David Darcy on 9 December 2009 in which I confirmed Dr Keysberg's use of the phrase '*holding to ransom*'. To put this phrase into context, the relevant part of the email is the following paragraph:

'Additionally, our research from around the world suggests to me that non co-operation (or to use Dr Keysberg's words 'holding the client to ransom') may not be unique to this project.'

I can produce a copy of this email in its entirety.

[Signed:

Full Name:

Address:

Date:

Witnessed by:

Full Name:

Address:

Date: [[Drafting Note: signing block to be checked]]