



**Document Management Sheet – Minutes of BBS Legal Meeting**

0.1	Draft Version	10/04/07	VC		
<b>Version</b>	<b>Summary</b>	<b>Date</b>	<b>Modified</b>	<b>Checked</b>	<b>Approved</b>

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# tie Limited

## Minutes of Meeting: BBS Contract/Legal Meeting

Date: 10<sup>th</sup> April 2007

Time: 1pm

Venue: Board Room, Verity House

In attendance:	Scott McFadzen	BBS
	Ian Roscoe	BBS
	Tom Murray	BBS
	Steve Wright	BBS
	Bob Dawson	tie
	Sharon Fitzgerald	tie
	Val Clementson	DLA

Item	Comments	Action
1.	BBS stated they are still looking for form of guarantee	BD
2.	BBS wanted clarification of who the contract would be novated under	BD
3.	Clause 4 Schedules will be completed. Bills as finally agreed. Once preferred bidder is chosen a lot of time will be spent ensuring the wording of the contract is acceptable. BBS stated they would not be able to provide completed Compliance Matrix by 8 <sup>th</sup> May.	
4.	Clause 5 Water table queries. Depot and A8 underpass, BBS asked if are there any permanent measures in place to deal with existing groundwater issues – TQ has been issued to tie but no reply to date.	
5.	Clause 5.16 Quality of existing structures. BBS stated they will limit undertaking only work in SDS drawings, they will put this in their mark up. Side impact issues – could mean substantial cost implications. Can carry out pre-condition survey but not till they get access to site. Subject to Due Diligence.	
6.	Clause 7.3.6 tie and CEC Policies. Reference to contain schedule 32. Changes to CEC policy to be treated as tie change, BBS didn't think this was reflected here. Dealt with in Definition of Guidance – to include tie and CEC policies. Qualifying change in law.	

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7.	<p>Clause 7.3.19 Proposed Mark-up in indemnity clause Transfer of title, Novation of SDS Agreement – need lawyer to lawyer discussions. BBS will have to list out issued they have (not just say subject to lawyers).</p> <p>SDS Design option/problem – Infraco liable for design regardless of sub-contractors.</p> <p>BBS looking for SDS to take on roll as design manager – <b>tie</b> needs to understand proposed scope.</p> <p>BBS stated they would use subcontractors for sub-structures mainly to secure programme. They do not have a high level of confidence in SDS. Basis alignment still from SDS. BBs will put down a likely plan.</p> <p>Employers’ Requirements - consents and approvals, access and land acquisition – BBS expected it all to be in place and asked if <b>tie</b> has any concerns with building fixings. The obligation is still on Infraco to obtain consents.</p> <p>BBS concerned that the programme will be affected by a delay in getting building fixing consents (potentially a years delay). BBS will put their case to <b>tie</b> prior to including in their mark-up.</p> <p>TMA – Workshop to understand what the maintenance agreement will be.</p> <p>Areas of information required from each party to enable maintenance. General system integration – will Alstom or CAF be willing to give this information?</p> <p>Exposing all concerns to date so Due Dilligence can be carried out.</p> <p>Clause 41 BBS mark-up reflects partial payments, happy to accept optional variants. Payment drawdown.</p> <p>Critical milestones – would propose 4 or 5 in a month.</p> <p>Major milestones (above certain value) payment for partial completion. Minor milestones (below certain value) payment for full completion BBS will consider this option. Confirmation to be issued on table, Bob to simplify table.</p> <p>Clause 62.2 Outstanding info on LD’s.</p> <p>Clause 64 Relief Events. Fossils subject to <b>tie</b> change – in original drafting (clause 39.6). BBS to provide drafting if they feel necessary.</p> <p>Clause 65 Compensation Events. <b>tie</b> to look at SDS approval programme (cl. 18.20) Network Rail. <b>tie</b> did not agree to this.</p> <p>Clause 76 Insurances. Bob reminded BBS that <b>tie</b> were still awaiting their Insurance Questionnaire before meeting would take place.</p>	

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	<p>Clause 74 BBS submitted proposals referring to protection methods. Indemnities under Tramco – BBS understanding is that liabilities are restricted only to Liquidated Damages. (10% Tramco value) BBS to propose drafting.</p> <p>Clause 79.1.8 Accommodation Works. Will know how much SDS work will be, no longer provisional sum. Some element may still be provisional. Minor drafting?</p> <p>Clause 82 Small Works Changes. Only proposing to reimburse part of costs – BBS questioning this. Pre-agreed schedule of plant rates? <b>tie</b> to check Schedule 5.</p> <p>Infrastructure Maintenance (comments from Nicola) Clause 24 - “term” – Is it concurrent with the signature of the Infraco? Design, construct, install, maintain – no definite boundaries.</p> <p>24.1.3 Operators Procedures – have BBS had sight of these? SF will ask AR for this.</p> <p>24.1.4 Is the maintainer expected to do any design with regards to this clause? If something isn’t working as it should then there may be some redesign involved.</p> <p>24.1.6 Obligation to “protect” – if BBS want to propose another word then <b>tie</b> will review.</p> <p>24.1.8 Design Life Obligation</p> <p>24.1.9 Risk of Technical Obsolescence</p> <p>24.2/24.4 Fairly wide clauses – would like it stated what the obligations are (24.4) May be difficult to price on such a wide statement</p> <p>24.16.2 &amp; 3 Delete as duplicate of 24.16.1?? BBS can propose alterations in mark-up.</p> <p>24.20 “Incident” or “failure” needs to be defined</p> <p>24.24 Should say “Infrastructure Maintainer” not “Infraco” How are costs provided?</p> <p>25. Party carrying out maintenance should know the properties of hazardous materials in use. Should be qualified parties.</p> <p>26.5 Commitment that all computer systems are bug free – BBS will propose wording</p> <p>29. Performance Review – Financial condition should not be subject to review. Comparable price is not relevant. BBS will propose wording.</p> <p>74. Transition on termination or expiry. BBS will propose wording.</p> <p>Schedule 6 Payment regime – Payment on punctuality of trams, technical and QS looking at this – will come back with wording.</p>	

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	Information release document MUDFA Works – If not in Infraco scope then would be considered a <b>tie</b> change so Infraco do not need to price it. ER's – recent draft quite widespread – strong hint that MUDFA not moving everything – Sharon to pick up on this.	

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