

Edinburgh Tram Network - Procurement of Infraco

Issues List

11 November 2007

Categories

- | | |
|--------------|---|
| A | - Key issue requiring significant work/time to close |
| B | - Important issue requiring discussion, negotiation and decision |
| C | - Minor issue or issue dependent upon resolution of other matters |
| Tech. | - Technical issue |

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
General	Due diligence reservation	References to DD to be removed from Contract and inserted into Issues List as far as is practicable	1	All	Agreed (7/11/07)	C
General	Clause references throughout Definitions to be checked for context ("Infraco Works" in particular)	Requires checking and refinement prior to execution	End Dec	DLAP	To be carried out following final clarifications	C
Contents	-	Removal of square brackets prior to execution.	End Dec	DLAP	To be carried out following final clarifications	C
Designation	FN1 - BBS requires CEC/Scottish Executive to	Remove FN once BBS has requisite comfort.	1	DLAP	DLAP provided draft to CEC (9/11/07). CEC to revert.	A

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	guarantee the financial obligations of tie Designation of BBS	BB UK and Siemens UK corporate details to be confirmed. BBS to confirm arrangements for Infrastructure Maintenance. Joint and several liability confirmed.	1	PM BBS	Agreed (7/11/07)	B
	tie authority to enter into the Contract	Operating Agreement to be forwarded to BBS	1	DLAP	To be forwarded when available.	A
4	Priority of Contract Documents - ERs over Infraco's Proposals	FN3 to remain as a reminder until ERs and IPs are finalised. Halfway house technical review required.	To ERs	tie /BBS	Agreed (7/11/07). To be finalised following ERs completion	B
5	Provision and Interpretation of Information	FN stating this is agreed subject to BBS ability to price for risk in existing structures.	1	All	Removal of footnote will follow final discussion on Clause 22.	C
5.1.10	Infraco satisfaction of third party land usage.	Note stating that 5.1.10 is not to cut across other provisions of the Contract	1	PM	DLAP advised PM that concerns are possibly dealt with at end of Clause 5 (8/11/07).	B

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					PM to revert.	
7.9 / 7.10 / 7.15	Background Information - no warranty from tie and Infraco confirms it has reviewed the BI for accuracy, completeness etc. Include Ground Condition Information.	FN9 - Subject to DD on the BI, review of land risk provisions and Infraco comfort on how the ERs are amended. 7.15 subject to DD on SDS.	End Nov	tie /BBS	Technical and legal due diligence requires completion.	A
8	System Integration - Infraco responsibility	Remove FN, to be resolved following technical discussions.	1	tie /BBS /TEL	Technical team to advise	Tech. C
9.1	Infraco to have possession of Spare Parts and Special Tools - and title is to pass on payment following achievement of milestones.	Drafting required to reflect agreed principle.	2	DLAP	Agreed (8/11/07)	C
9.8	Euro compliance of parts of the ETN	FN13 to be removed following technical discussions.	11	tie /BBS/T EL	Technical discussion are ongoing.	Tech. C
9.10	Delay or malfunction in free issue materials is to be a	Drafting to be finalised.	1	DLAP /PM	Principle agreed (7/11/07). PM provided drafting	C

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	Compensation Event				(7/11/07), DLAP have reverted. PM to comment.	
10.9	Cost of implementing the amended Deliverable to be a tie Change	Amend Clause 19.12	1	DLAP	Agreed (7/11/07)	B
11 / 12 / 13	Novation of SDS, TSA and TMA.	DD and alignment required on the novated agreements.	8	All	PM provided comments on SDS (7/11/07) - DLAP to revert. DLAP provided PM with TSA (1/11/07). PM to complete DD. DLAP provided TMA (11/11/07). PM to comment.	A
11.2.2	SDS Agreement Letter	SDS to warrant status of the design and other obligations.	1	DLAP /PM	PM to produce template. DLAP to list SDS information to be shared and contained within the letter.	A
12.8	Moratorium following tie withholding approval to terminate.	Wording to be finalised.	2	DLAP /PM	Principle agreed (7/11/07). To be discussed on 13/11/07.	A
15	Interface with CEC and Infraco's responsibilities as set out in the RD schedule of	Clause to be deleted and replaced with a Roads Demarcation schedule	2	tie/BBS TEL	Approach agreed (8/11/07). Draft RD matrix forwarded to	Tech. A

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
	obligations	in the ERs			PM (9/11/07). BBS to complete DD.	
16	Interface with NR	Subject to DD of APA and the Framework Agreement. BBS concerns with regards to their high level review of the APA.	9	PM	DLAP released initial draft to PM (9/11/07). PM to complete DD.	A
17	Interface with the Operator	Position reserved pending BBS DD of the DPOFA and its interface with the Infraco Contract	3	DLAP/P M TEL	DLAP to release latest version of DPOFA (12/11/07).	A
17.2.2	Infraco right to relief to be reduced to extent it contributed to the Operator Event.	Drafting required and subject to DD of DPOFA	3	DLAP /BBS TEL	Principle agreed, DLAP provided drafting (11/11/07). PM to comment.	B
17.4	Infraco to mitigate an Operator Event affecting the Infraco Works.	PM to confirm acceptability	1	PM	PM to revert	B
17.8	Design Input and Technical Requirements	Remove FN as subject to technical DD.	2	BBS	BBS to complete technical DD	Tech. C
17.9 / 17.11	Operation and Maintenance Procedures	FN36 - BBS requires to understand exactly which parts of the ETN are being maintained by the Operator. tie to engage with BBS	3	tie /BBS	For discussion on 13/11/07.	Tech. A

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
		<p>maintenance team to review and revert.</p> <p>Drafting to be discussed and agreed - DD required.</p>		TEL		
17.22	Infraco to liaise with the Operator regarding health and safety in accordance with the Depot Licence.	Remove FN37 following DD.	3	BBS/TEL	Technical team to advise on 13/11/07.	Tech. B
17.24	Operator Maintenance Plan to be submitted to the Infraco not less than 9 months prior to Planned Service Commencement.	PM to confirm BBS satisfaction with 9 months.	2	PM/BBS	Technical team to advise on 13/11/07.	Tech. C
17.25	Technical advice regarding operational deployment and integration of parts of the ETN to be provided by the Infraco.	<p>Charging mechanism for additional hours to be agreed.</p> <p>Detail number of hours of advice to be provided. BBS to propose, tie to consider.</p>	2	BBS	BBS to forward proposals.	Tech. C
17.31.3	System availability	Wording to be discussed and agreed.	3	BBS	Technical team to advise on 13/11/07.	Tech. B
18	Land Consents	DD required in relation to land and consents.	11	BBS	PM/BBS to complete land consents DD	A

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
18.1.1	"Designated Work Area"	Circular definition - DLAP to amend.	2	DLAP	Principle agreed; drafting proposed (11/11/07).	C
18.8	Infraco Possession of Temporary Site	Time periods to be checked with tie's land team.	11	tie	tie to revert	Tech. A
18.19	TPA compliance	Wording to be deleted and to be agreed that new TPAs which affect the works are to be a tie Change.	1	DLAP/ tie	Not agreed, pending BBS due diligence.	A
19	Consent and TROs	Consent responsibility to be agreed. Unobtainable Consent risk to be agreed.	1	All	Not agreed. Further discussion and actions to identify Consents (week commencing 12/11/07).	Tech. A
20	Building Fixing Agreements	Clause subject to DD. Drafting loop to be closed and tie Changes require to be captured in the drafting.	2	BBS/PM	BBS and PM to revert for 13/11/07.	B
21.5	Infraco to assist tie in recovering payments from utilities under NRSWA.	tie to provide a process for the management of diversionary works and DLAP to draft appropriate language.	2	tie /DLAP	Principles agreed; tie to propose process and responsibilities (week commencing 12/11/07).	B
22	Ground Conditions	Subject to sufficiency of Background Information - DD	2	All	Agreed (7/11/07)	A

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
		<p>required. Remove note.</p> <p>Clause requires to be broken down to reflect different treatment of utility apparatus, ground conditions, physical conditions and existing structures.</p> <p>Drafting required to replace "analysis" with that which could have been interpolated from the ground condition information.</p> <p>Unforeseen ground conditions requires to be stated as a Compensation Event.</p> <p>Technical schedule of utility apparatus and ground condition information to be developed and inserted in ERs.</p>				
24	Use of the Depot	Subject to DD on Depot Licence.	2	PM	Due diligence to be completed.	C
28.7	Definition of Key-Subcontractors.	<p>Remove FN45 - suggested list in the definitions to be finalised.</p> <p>Drafting to reflect agreed principles.</p>	1	DLAP	Agreed (8/11/07) subject to drafting.	Tech. C

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
30.5 - 30.9	Passes and procedures on the Site.	Practicalities to be agreed at PB. To convert responsibilities into a Schedule.	11	tie/BBS	Technical team to advise	Tech. C
31	Care of the Infraco Works	In respect of rectification of loss to Trams, this is subject to DD on TSA/TMA to ensure backed off against CAF.	7	BBS /PM	Legal due diligence to be carried out.	C
32.3	Interference with rights of adjoining landowners and obtaining of their agreement.	Delete footnotes 52 when Consents and land risks have been clarified.	1	tie/BBS	FN to remain until clarification of Consents risk.	C
33.2	Infraco's responsibility for strengthening bridges.	FN54 - Agreed subject to DD of Tramco.	6	BBS	Legal due diligence to be carried out.	C
35.1	Testing and quality of materials.	FN55 and 56 - Agreed subject to inclusion of testing Schedule and interface with Trams and consistency between this and the novated contracts. DD required.	6	tie/BBS	Technical and legal due diligence to be carried out.	C
37.5	Removal of unsatisfactory works	Delete note. Reference to be made to 37.4.	1	tie/BBS	Agreed (8/11/07)	C

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
41	Construction and Critical Milestones	Subject to further review of Milestones during PB/DD.	2	tie/BBS	Technical team to advise	Tech. C
41.1	Failure of tie to attend test	To be specifically a Compensation Event.	2	DLAP	Agreed (8/11/07)	C
41.3	New mechanism for certification of milestone completion	Drafting required to reflect agreed principles - no formal issue of certificate and Infracore to advise of completion and to self-certify. tie then certifies the completion.	3	DLAP	Agreed (8/11/07)	C
41.4	Achievement of milestones is conditional upon all Consents being obtained and in full force and effect.	Subject to provision of required suite of Consents in relation to each milestone. Consents are to be in relation to critical milestones and must be relevant to that milestone.	2	tie/BBS	Principles agreed (8/11/07). Technical team to advise.	Tech. C
42	Tram Milestones	Drafting to follow after re-issued TSA.	6	tie/BBS	For discussion at meeting 6	B
43	Tram Inspector	Remove FN61 following DD.	2	PM	PM to forward commentary on TIA.	B
44.3	Certificate of Substantial Completion	Delete Clause 44.3.1 following agreement on requirements for completion of Depot.	2	tie/BBS	Technical team to advise	Tech. C

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
44.5 / 45.5	Issue of Certificate of Sectional Completion / Service Commencement is conditional upon all Consents being obtained and in full force and effect.	Subject to provision of required suite of Consents.	2	tie/BBS	tie/BBS to develop a list of Consents required for each Section.	Tech. A
46	Snagging	BBS to propose snagging protocol.	2	BBS/TEL	BBS to propose snagging protocol.	C
47.5	Issue of Network Certificate / Reliability Certificate is conditional upon all Consents being obtained and in full force and effect.	Subject to provision of required suite of Consents.	2	tie/BBS TEL	tie/BBS to develop a list of Consents required for each Section.	Tech. A
50	CDM Regulations	Subject to review for compliance with new regulations.	1	PM	DLAP provided mark-up (2/11/07). PM to respond.	C
52	Maintenance	Clauses 52-57 are subject to amendment to reflect IMA obligations.	3	All TEL	To be discussed at Maintenance meeting (12/11/07).	A
52.1.3	Infraco is to comply with the Operator Procedures that apply	Position reserved until review of these procedures.	3	BBS	Technical due diligence required.	Tech. B

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
	to the Maintenance Services.					
52.8	Infraco responsibility for Mobilisation Services.	BBS require definition of the Mobilisation Services.	3	tie TEL	Technical team to advise	Tech. C
52.10	Title in Spare Parts and Special Tools	Remove note	2	DLAP	Agreed (8/11/07)	A
52.17	Damage to the ETN not caused by Infraco is to be at tie's cost.	BBS proposes to agree a pricing schedule for standard repairs.	2	BBS	Technical team to advise	Tech. C
53	Hazardous Materials	Clarification on who is to maintain the register required.	2	tie	Technical team to advise	Tech. C
54	Records and Computer Systems	Subject to review of the maintenance services meeting the Infraco Contract.	3	BBS TEL	Technical due diligence requires completion.	Tech. B
54.4	Storing of Technical Records	Format to be specified by BBS.	3	BBS	Technical team to advise	Tech. C
55	Surveys of the ETN and Audits of Maintenance Procedures	Subject to review of the maintenance services meeting the Infraco Contract.	3	BBS TEL	Technical due diligence requires completion.	Tech. B

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
56	Service performance and quality monitoring	Subject to review of the maintenance services meeting the Infraco Contract.	3	BBS TEL	Technical due diligence requires completion.	Tech. B
57	Performance Review	Subject to review of the maintenance services meeting the Infraco Contract.	3	BBS TEL	Technical due diligence requires completion.	Tech. B
57.3	Criteria for performance review	Criteria requires to be set out	3	tie/BBS TEL	Technical team to advise.	Tech. B
58	TUPE	Subject to review and agreement at PB. Specialist input required.	3	DLAP/P M/BB	DLAP to forward mark-up.	C
60.1	Infraco to progress the Infraco Works in accordance with the Programme.	Remove FN. Accepted subject to review of MUDFA dates regarding Newhaven, Ocean Terminal and Picardy Place.	1	BBS	Technical due diligence requires completion.	Tech. C
62.2	Liquidated Damages	Precise mechanism and figures to be agreed and captured in the drafting.	1	DLAP	Agreed (8/11/07) subject to drafting and new LAD figures.	A

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
62	LDs for Delay	Subject to DD to confirm these are flowed down to TS. Confirmation required on LDs for late delivery of Trams. Missing wording at 62.6 to be confirmed.	6	All	Legal due diligence requires completion. tie to advise.	B
62.11	LDs for Weight	To check these mirror the TSA.	6	BBS	Legal due diligence requires completion.	B
63	Protestor Action	Principles have been agreed, drafting to be amended to reflect this.	2	BBS /PM	PM to provide drafting proposal.	C
64 / 65	Relief Events / Compensation Events	Subject to flow through from TSA / TMA. Principles have been agreed, drafting to be amended to reflect this.	6	BBS /PM /DLAP	Legal due diligence requires completion. DLAP to finalise drafting.	B
Part 13	Payment and Taxation	All payment clauses are subject to detailed agreement at PB. Payment of milestones will be on completion of all activities as defined in the Milestone Schedule,	1	tie /BBS	Agreed (8/11/07)	A

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
		not substantial completion.				
67	Milestone Payments	BBS requires 28 day payment period. Delete reference to 3 business days at 67.6. 67.1.3 to be deleted. 67.11/12/13 to be deleted. Delete concept of Certificates (see Clause 41).	2	BBS	Agreed (8/11/07)	A
67.2	Application for Milestone Payments	Drafting to be revised by tie to reflect "Infraco - Protection Measures".	2	tie /DLAP	Technical team to advise.	Tech. B
67.5	Deduction from Construction Interim Certificate value due to the Infraco's failure to achieve KPIs.	Subject to review of wording and definition of KPIs. Definition to be refined.	3	tie/BBS TEL	Technical team to advise.	Tech. B
67.14	Provision of sub-contractor collateral warranties as a CP to payment.	BBS to confirm acceptable.	2	BBS	BBS to advise	A
68.4	If tie's Representative fails to issue a Maintenance Services Interim Certificate, it shall be deemed to have issued it for the	Delete subject to flow through of interest provisions in TSA / TMA.	3	tie/BBS	Due diligence requires completion.	C

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
	full amount claimed.					
74	Bond, PCG and Collateral Warranties	Discuss comments on form of Bond, PCG and Collateral Warranties.	3	DLAP /PM	For discussion on 13/11/07.	A
74.1/74.2 / 74.3	Bond amounts	74.1 and 74.2 to be deleted. To be expressed as percentages up to execution. Bond to be available at execution. DLAP to draft accordingly.	1	DLAP	Agreed (8/11/07)	A
74.3.7	Date that the Bond is to fall away	Link to Clause 96. DLAp to draft.	2	DLAP	Agreed (8/11/07)	B
74.5	Note regarding commercially reasonable rates and bonding market.	Remove this note following discussion. Confirm whether bond was priced for 15 year duration or annual renewal.	1	BBS	BBS to revert following engagement with bondsman and internal team re PCG	A
74.6	Provision of replacement PCG or credit enhancement instrument.	tie to confirm this is required. Provision within 7 days and the surety to be acceptable to tie is not agreed.	1	tie / BBS	tie to confirm Mechanics not agreed.	A

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74.7	Infraco to execute a collateral warranty in favour of NR.	Subject to review of APA. BBS acknowledge a warranty will be provided.	9	tie/BBS	PM to complete legal due diligence.	A
75.1	Infraco Members' warranties	Infraco Members are to warrant for itself, not the other. DLAP to draft.	1	DLAP	Agreed (8/11/07)	B
75.1.4	Warranting not involved in disputes	Drafting to be refined.	2	DLAP	Agreed (8/11/07)	C
75.1.8	Audited Accounts	Latest audited accounts prior to execution to be inserted.	2	DLAP	Agreed (8/11/07)	C
75.4	Warranty as to the incorporation of the Infraco.	Drafting required to reflect that the jurisdiction is the UK.	2	BBS	Agreed (8/11/07)	C
76.16	OCIP Insurances	Agreed that tie pays for reinstatement where not Infraco's fault. OCIP policy to be reviewed and drafting to be agreed.	2	DLAP/P M/BB	Not agreed	B
76.17	OCIP Insurances	DLAP to draft using 76.1 language	2	DLAP	Agreed (8/11/07)	B
76.18	Additional Insurances and uninsurability	Drafting required to reflect agreed principles.	2	DLAP	Agreed (8/11/07)	C

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
77.1 (b) and (c)	Indemnity for loss to Infraco Works or any property	FN102 - subject to review of OCIP. Liability to be capped at OCIP level. Possible circularity in current wording.	1	tie/BBS	Principle agreed, DLAP to review.	C
77.1 (e)	Indemnity for breach of TPAs etc	Remove note once Infraco comfortable that tie Change mechanism allows risk to be priced. To amend reference to RDA. Subject to review of TPAs.	1	tie/BBS	Agreed subject to PM reverting once reviewed TPAs.	A
77.4 - 77.7	Infraco indemnity in respect of Forth Ports, Stakis and NR.	Subject to DD of agreements contracts and the OCIP.	4	BBS	BBS to complete DD and revert	A
77.9	Indemnity cap	Include NR and TEL claims. Remove references to Adjudication Bond.	1	DLAP	Agreed (8/11/07)	B
80	tie Changes	DLAP to incorporate PM proposals of 5/11/07 that have been agreed as at 7/11/07. Ability to price for risk is not agreed.	1	tie/BBS	Not agreed; tie and BBS to reconsider "future proofing" cost implication.	A
80.13	Exercise of reasonable foresight and diligence to prevent need for tie Change.	DLAP to incorporate PM proposals of 5/11/07	1	PM/BB	Agreed (8/11/07)	C

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82 / 83	Small Works Changes and Accommodation Works Changes	DLAP to revert following PM mark-up (5/11/07).	2	BBS	Principle agreed (8/11/07) that Small Works and Accommodation Works Changes clauses remain; DLAP to revise.	B
84	Qualifying Changes in Law	Indexation mechanism to be agreed. Benchmarking to be drafted. Subject to DD on novated agreements.	3	DLAP/BB S	Principles agreed. Drafting to be finalised by DLAP.	B
85	Phase 1B Option	Date for notification and commencement date confirmed.	1	tie	Agreed (8/11/07). Drafting to be finalised.	C
87	Suspension of Works	To be included in the definition of Compensation Events. Late delivery and defects in free issue materials to be agreed as a Compensation Event.	2	DLAP	Agreed (7/11/07).	C
90	Termination on Infraco Default	Subject to review of definitions working in the intended context in particular "Infraco Contract" as this includes the service element. Bondsman may seek separate	4	DLAP/P M/BB	To be discussed; not agreed that a surety can influence contracting terms.	A

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		elements.				
90.1	Rectification plan	PM to comment on DLAP proposal.	3	PM	PM to provide comments.	B
90.2	tie's right to complete the Infraco Works	This should be restricted to the construction phase.	3	DLAP	To be discussed	B
90.3	Sale of Infraco Equipment on insolvency.	Requires consideration as Infraco is a JV.	2	DLAP/P M/BB	To be discussed	C
90.11	Interim certificates as a debt to tie on termination for Infraco default.	Clause requires to be accepted by Bondsman.	3	BBS	Subject to BBS dialogue with bondsman.	A
90.14	Insolvency	German statute to be confirmed.	2	DLAP	To be confirmed by BBS.	C
93	Persistent Breach	Principles agreed but consideration as to whether it should apply from Section C onwards is required. Drafting to be finalised. Third party and Infraco breaches to be distinct. Subject to flowdown.	1	tie /DLAP	Principles agreed. Drafting to be finalised.	B
94.6	Effect of Termination or Expiry - clauses to remain in effect.	List is subject to final review of clauses prior to execution.	11	DLAP/P M/BB	To be confirmed prior to execution	C
95	Transition on Termination or	Subject to technical review at PB.	2	BBS/TEL	BBS to complete technical	Tech.

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
	Expiry.				DD	C
95.1.1 / 4 / 5 / 6	Handback Package	Subject to tie's review of its requirements.	2	tie/TEL	tie to review. TEL input required.	Tech. B
95.8	Handover of Assets to CEC.	FN114 - Subject to review of "Assets" definition.	2	PM/TEL	To be discussed	C
96	Surveys on Expiry - release of Infraco from the Handback Bond.	Delete references to "Adjudication"	2	DLAP	Agreed (8/11/07)	C
96.7	Surveys on Expiry - release of Infraco from the Handback Bond.	Subject to clarification on technical terms (i.e. "in date", "workbank" and "stable and routine"). Third party work that is paid for by the Infraco is subject to refinement at PB.	3	tie/TEL	To be discussed	A
98.1	Assignment from BB AG to BB UK	FN117 - This is to be pre-approved. To be discussed.	2	tie/BBS	To be discussed	A
101	Confidential Information	Subject to DD at PB.	2	BB	BBS to complete DD	C
104.5	Recording of information to be in accordance with HSQE	Subject to technical DD	2	BBS	BBS to complete technical DD	Tech. C
111	Notices	Contact details to be filled in.	11	BBS	BBS to confirm	C

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114.2	Consents and Approvals	Clauses where tie seeks to take action after expiry of time limit for objecting to any matter to be stated.	2	DLAP/ tie	DLAP to review	A
118	Duty to act reasonably	tie to state where it requires complete discretion.	2	DLAP/ tie	DLAP to review	A
121	Interface with the Operator	Subject to DD on alignment with DPOFA.	3	BBS	BBS to complete DD	A
Execution	Infraco details	To be confirmed.	11	BBS	BBS to confirm	C
Definitions and Interpretation						
1	"Adjudication Bond"	To be finalised	2	tie	To be discussed but to be reserved if retained since no Adjudication Bond is required at contract close.	C
1	"Agreement"	To be agreed PB	2	tie /BBS	To be discussed	C
1	"Application for Milestone Payment"	Clause reference to be filled in.	2	DLAP	To be discussed	C
1	"Assets"	Subject to review at PB	2	DLAP/P M/BB	To be discussed	C

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1	"Base Case RPIX"	Date of index to be filled in.	2	tie/BBS	To be discussed	C
1	"Certificate of Tram Commissioning"	Clause reference to be filled in.	2	tie/BBS	To be discussed	C
1	"Change in Control"	To be discussed.	2	tie/BBS	To be discussed	B
1	"Change in Law"	Date of submission of final pricing proposals to be filled in.	2	tie/BBS	To be discussed	A
1	"Compensation Event"	To be finalised to list out all Compensation Events.	2	DLAP	Agreed	C
1	"Consents"	Consents to be clarified at PB. Delete FN128.	2	tie/BBS	To be discussed	A
1	"Construction Milestone" / "Critical Milestone"	Clause references to be filled in.		tie/BBS	To be discussed	C
1	"DPOFA Infracore Event"	BBS's position is reserved pending review of the revised DPOFA.	3	BBS	BBS to complete DD	B
1	"ETN"	Subject to DD review.	3	BBS	BBS to complete DD	C
1	"Formal Offer"	To be defined.	2	DLAP/P M/BB	To be discussed	C
1	"Ground Condition"	Link to Background Information so that warranting, for example, is	3	DLAP	To be discussed	B

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	Information"	covered.				
1	"Infraco Construction Price"	To be defined.	1	DLAP/P M/BB	DLAP provided drafting (11/11/07), PM to respond.	A
1	"Indirect Losses"	Requires to be closed out.	2	tie/BBS	To be discussed	B
1	"Infraco Default" - Insolvency Event and UWNs	Subject to DD of structure of contracts. Also subject to discussion on JV implications. (i) Wilful detraction from image of CEC requires addressing. (l) Agreed subject to review of timescales.	2	BBS	To be discussed	A
1	"Infraco Works"	Subject to checking where used and its applicability in the context.	2	DLAP	Review of Contract required.	C
1	"Insolvency"	Reference to German statute to be confirmed	2	BBS	To be confirmed by BBS.	C
1	"Key Sub-Contractor"	List to be agreed.	11	tie/BBS	To be listed prior to execution	Tech. B
1	"Late Tram"	Redefinition to be agreed subject to technical review.	3	tie/BBS	To be discussed	Tech.

Clause reference	Issue description	Action / comments	Meeting	Party	Status	Category
						C
1	"Liability Cap Basis"	Figures to be confirmed and inserted. To decide whether maintenance amounts are to be aggregated over the term or if it is to be an annual figure. Phase 1b (increase in ETN installation cost) implications to be resolved.	1	tie/BBS	TEL maintenance team to revert for 13/11/07. BBS to consider increase in cap.	A
1	"Mobilisation Milestone"	Clause reference to be filled in.	3	tie/BBS	To be discussed	C
1	"Mobilisation Period"	End date to be filled in.	3	tie/BBS	To be discussed	Tech. C
1	"Operator Procedures"	Schedule reference to be inserted and subject to review at DD.	3	BBS	To be discussed	Tech. C
1	"Planned Sectional Completion Date" / "Planned Service Commencement Date"	Dates to be inserted as per successful tenderer's Tender Submission.	3	tie/BBS	To be discussed	C
1	"Project IPR"	Review of definition in light of Clause 102 required.	2	PM/BBS	BBS to confirm	C

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1	"Protestor Action"	Definition to be removed subject to approval of Clause 63 (Protestor Action).	2	tie/BBS	BBS to provide its comments (week commencing 12/11/07).	B
1	"Relief Event"	To be finalised by listing out Relief Events.	2	DLAP	Drafting to be completed week commencing 12/11/07.	C
1	"SDS Milestone"	Clause reference to be inserted.		tie/BBS	To be discussed	C
1	"SDS Letter Agreement"	Date to be filled in and definition required.	1	DLAP/P M	See 11.2.2; principle agreed on content. Discussed that it should be part of the novation agreement.	C
1	"Sectional Completion Tests"	To be defined in the ERs.	2	tie/BBS	To be discussed	C
1	"tie Default"	Close out remaining issues at (b) length of time tie's action stops Infracore performing before termination right is triggered - 60 or 30 days; and (e) inclusion of "Services" may be necessary.	2	DLAP/P M/BB	To be discussed (minor issue)	C
1	"Traffic Regulation Orders"	To be defined.	2	DLAP	TROs need to be listed as a Schedule.	Tech. A
1	"Tram Milestone"	Clause reference to be inserted.	2	tie/BBS	To be discussed	B

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2.15	"cost"	To be reviewed for consistency throughout the agreement.	2	PM/BB	To be discussed	C