

A		B
1	DLA Risk Matrix - 29 August 2007 - Response to CDD Comments (where DLA Piper is (i) able to (ii) X not able to provide input)	
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3	REF	COMMENT
4		
5	A	
6	A2	Example would be if SDS design does not deliver run time. Design review by tie (without liability); post novation design is Infraco risk.
7	A4	CEC/tie responsible if temporary works areas (designated under Tram Acts) are required.
8	A5	Structures have been assessed by SDS. Deficient assessment would be breach of SDS duty of care to tie.
9	A6	tie/CEC risk if SDS is behind design programme pre-novation (recourse against SDS, not Infraco). Post novation design progress Infraco responsibility.
10	A7	Any changes introduced by tie/CEC are tie Change.
11	A9	Depends upon how change is caused through third party agreement. If instigated by CEC/tie, tie Change.
12	A10	Obligation to obtain building fixing is Infraco's. Pole option may require more engineering works.
13	A11	If CEC changes UTMC so that tram vehicle/signalling systems are no longer compatible, tie Change.
14	A12/14	Planning risks and approval/consents risk.
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16	B	
17	B1	X
18	B2	X
19	B3	tie owes no duty of care on Background Information. Express assignment of GI contract would create Infraco ability to rely on report.
20	B4	MUDFA delay causing Infraco delay is Compensation Event for Infraco.
21	B6	CEC interference would be a Compensation Event. Third party interference would be Infraco Risk, unless a specified Relief Event.
22	B7	On assumption that the contract is let as intended - lump sum fixed price - under-estimation would be bidder risk.
23	B8	RDA does not yet exist. Critical protocol to determine delineation of maintenance responsibility as between Roads Authority and the Project.
24	B9	Materiality is a test before claim is admissible.
25	B10	Reference to PI in comment not understood. tie responsible for GVD process.
26	B15	Infraco indemnifies tie/CEC against third party death and personal injury at all times.
27	B21	Detailed advice already provided to tie.
28	B22	Contract contains standard provisions for Compensation Event, unless surveys available made potential for finds foreseeable.
29	B23	If CEC requires distinction on human remains and archaeological finds, Infraco Contract requires amendment.
30	B30	Flooding is a Relief Event unless foreseeable or caused by Infraco party - in which case Infraco risk. Planned or unplanned events which are accompanied by CEC temporarily stopping up streets are a Compensation Event for Infraco.
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32	C	
33	C2	This risk is during operation. Design to be compatible with NV Policy.
34	C5	This is an operational risk, under DPOFA. Comments not understood.
35	C9	Comment not understood; TEL = CEC.
36	C10	Liability for result of change to planned works depends upon reason for change.
37	C12	X
38	C15	Material adverse effect must be shown.
39	C17	CEC takes legal title to assets to be incorporated into infrastructure of Project on payment. Uninsured loss borne by CEC unless due to Infraco breach.
40	C25	Site safety is Infraco responsibility. Indemnity to tie/CEC for injury or death.
41	C26	Any dispute over step-in would be covered by DRP in Infraco contract.
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43	D	
44	D3	Comment not understood. Novation is to transfer risk from CEC/tie to Infraco.
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46	General	
47		Transfer of risk: Infraco indemnifies tie/CEC against its breach or negligence causing claims against tie/CEC. Insolvency risk of Infraco cannot be laid off.
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49		Benchmark: There are four UK operating tram systems: Sheffield, Nottingham, Croydon and Manchester. The Edinburgh Contracts are bespoke drafting under tie instruction, with basis from ICE 5th/7th and the Croydon and Nottingham Concession Contracts.
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51		Cost Overrun: SDS liability is uncapped at £10m each and every claim (PI insurance reflects this). TSS liability is uncapped. PI is £10m each and every claim. TSS has had limited engagement to date.