

## INFRACO CONTRACT – FINAL NEGOTIATION POINTS

### TIE REQUIRES:-

#### Contractual

1. Clause 17.31 – Require the DPOFA Indemnity to stand. BBS argue that following issue of the Reliability Certificate they have no liability for third party liabilities and that DPOFA is a third party. Tie position – The hand marked up proposal from BBS as accepted by Ian Lang specifically refers to the exclusion of “economic and consequential loss” only.
2. Clause 6? – Sectional Completion. BBS objecting to Consents being in place for final Section as a condition to issue of the Completion Certificate. As a compromise could offer following condition – “ all Consents shall be in place for each Section to the extent that they are required to enable the delivery of works within the successive Section and in the case of Section D to enable the commencement and continuation of passenger services.
3. Clause 77- a) Infraco require tie to indemnify it against claims from third parties where such claims arise as a consequence of their performance or non performance of the works b) BBS want the Network Rail Indemnity deleted. Tie may be able to accept this now that NR obligations are set out in clause 16.
4. Maintenance Performance Mechanism. BBS want to preclude tie from issuing a UWN for an unrelated performance failure where they are completing a remediation plan for a previous failure. Tie will accept a 2 month stay (i.e no more than 1 UWN in any 2 months) on issue of new UWNs relating to performance being below the minimum threshold

#### Pricing

1. Tie want BBS to bear additional costs of additional civils work due to change in trackform.
2. BBS want easier share of immunization cost over runs than tie are offering.
3. BBS want margin on SDS costs to go. Tie don't accept this.
4. tie need CEC Roads agreement to the proposed construction approach within Schedule 4.
5. Need agreement of ground conditions and utilities information to go in Schedule.

#### Phase 1b

1. BBS don't want a formula for setting Phase 1b costs. Arguing that it is too complicated and will take too long. Tie require this facility.

### **SDS Novation**

1. Tie want BBS to give up its requirement for a collateral warranty from Halcrow.
2. Output of SDS alignment exercises to be reviewed and actions instructed (SDS designs with ERs and SDS designs with Infraco Proposals)
3. SDS review of final contract and critical schedules – we don't want this to delay novation.

### **HSQE KPIs**

1. AFR to be agreed – BBS propose 2.5 tie want 2.0.

### **Key Personnel**

1. To be concluded and agreed between tie and BBS.

### **INFRACO WANTS**

#### **Milestone Payment Regime**

1. BBS want a payment profile that is less cash negative and one which is simpler

#### **Programme**

1. BBS want relaxations from CoCP

### **SDS Novation**

2. BBS want tie to pay for construction support.
3. BBS want changes to the Design Management Plan

