

Agreement, the Sub-Contractor shall be entitled to rely upon any defence, right, limitation or exclusion under the Sub-Contract as though the Beneficiary were named as the MUDFA Contractor under it, except that:

8.4.1 the Beneficiary shall not be affected by any subsequent variation of the Sub-Contract which would adversely affect the obligations owed by the Sub-Contractor or the waiver, compromise or withdrawal of any claim made by the MUDFA Contractor; and

8.4.2 the Sub-Contractor shall not be entitled to exercise any right of set-off, retention or withholding against the beneficiary to which the Sub-Contractor may be entitled against the MUDFA Contractor.

9. CONSENT OF MUDFA CONTRACTOR

9.1 The MUDFA Contractor consents to the terms of this Agreement.

10. NOTICES

10.1 Any notice required to be given under this Agreement is to be hand delivered or sent by prepaid registered or recorded delivery post to the party concerned at its address set out in this Agreement or to such other addresses as may be notified by such party for the purposes of this clause.

10.2 Any notice given pursuant to this clause, if sent by special or recorded delivery, is deemed to have been received on proof of delivery.

11. RIGHTS OF THIRD PARTIES

11.1 A person who is not a party to this Agreement shall have no right to enforce any term of this Agreement.

12. INVALID TERMS

12.1 If any term of this Agreement shall be held to any extent to be invalid, unlawful or unenforceable:

12.1.1 that term shall to that extent be deemed not to form part of this Agreement;
and

12.1.2 the validity and enforceability of the remainder of this Agreement shall not be affected.

13. VARIATIONS AND WAIVERS TO BE IN WRITING

13.1 No variation, alteration or waiver of any of the provisions of this Agreement shall be effective unless it is in writing and signed by or on behalf of the Party against which the enforcement of such variation, alteration or waiver is sought.

14. WAIVER

14.1 Save where expressly stated, no failure or delay by either Party to exercise any right or remedy in connection with this Agreement shall operate as a waiver of it or of any other right or remedy nor shall any single or partial exercise preclude any further exercise of the same, or of some other right or remedy. A waiver of any breach of this Agreement shall not be deemed to be a waiver of any subsequent breach.

14.2 The Parties' rights and remedies under this Agreement are, except where provided otherwise in this Agreement, independent, cumulative and do not operate to exclude one another or any rights or remedies provided by law.

15. JURISDICTION AND LAW

15.1 This Agreement is governed by and is to be construed according to Scots law and the Scottish courts shall have jurisdiction in relation to all matters arising under it.

[[Include where the Beneficiary is tie]

15.2 The Parties agree that any dispute in relation to this Agreement shall be conducted in accordance with Clause 63 (*Dispute Resolution Procedure and Jurisdiction*) of the MUDFA and the provisions of the said Clause 63 and Schedule 10 (*Panels for the Dispute Resolution Procedure*) of the MUDFA are deemed to be incorporated mutatis mutandis in respect of this Agreement provided that any reference to "Parties" in the MUDFA shall be deemed to refer to the Beneficiary and the Sub-Contractor and the reference in the MUDFA to "Clause 74 (*Notices*)" shall mean clause 10 of this Agreement.]

IN WITNESS WHEREOF these presents on this and the preceding [◆] pages are executed as follows:

EXECUTED for and on behalf of **[SUB-CONTRACTOR]** at

on 200[◆] by:

Director/Authorised Signatory

Full Name

Witness Signature

Full Name

Address

EXECUTED for and on behalf of **[[tie LIMITED] OR [other third party beneficiary]** at

on 200[◆] by:

Authorised Signatory

Full Name

Witness Signature

Full Name

Address

EXECUTED for and on behalf of **[MUDFA-CONTRACTOR]** at

on 200[◆] by:

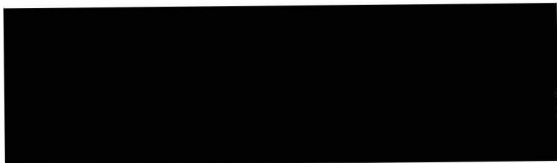
Director/Authorised Signatory

Full Name

Witness Signature

Full Name

Address



Director/Authorised Signatory
TIE LIMITED



Director/Authorised Signatory
ALFRED McALPINE INFRASTRUCTURE SERVICES LIMITED

**THIS IS SCHEDULE 7 REFERRED TO IN THE FOREGOING AGREEMENT
BETWEEN TIE AND THE MUDFA CONTRACTOR**

SCHEDULE 7

BONDS

PART A. PERFORMANCE BOND

(1) [◆] [SURETY]

- in favour of -

(2) tie

PERFORMANCE BOND

PERFORMANCE BOND

BETWEEN

- (1) [◆], a company incorporated in [◆] under company number [◆] whose registered office is at [◆] ("**the Surety**"); and
- (2) **TIE LIMITED**, a company incorporated in Scotland under number SC230949 and having its registered office at City Chambers, High Street, Edinburgh EH1 1YJ ("**tie**")

WHEREAS

- A. **tie** entered into a Multi-Utilities Diversion Framework Agreement (hereinafter referred to as the "**MUDFA**") dated [◆] with Alfred McAlpine Infrastructure Services Limited, a company incorporated under the Companies Act with registration number 00728599 and having its registered office at Kinnaird House, 1 Pall Mall, East London, SW1Y 5AZ (the "**MUDFA Contractor**") to undertake a light rapid transit system in Edinburgh known as the Edinburgh Tram Network.
- B. Clause 4 (*Performance Bond, Parent Company Guarantee and Collateral Warranty*) of the MUDFA obliges the MUDFA Contractor to deliver to **tie** an unconditional irrevocable Performance Bond on the conditions and in the form set out in Schedule 7 (*Bonds*) to the MUDFA, issued by a surety acceptable to **tie** and callable subject only to written notification by **tie** in terms of this Performance Bond.
- C. In consideration of **tie** accepting the Surety's obligations set out below in discharge of the MUDFA Contractor's undertaking to provide a performance bond under Clause 4 (*Performance Bond, Parent Company Guarantee and Collateral Warranty*) of the MUDFA, the Surety hereby irrevocably and unconditionally agrees and undertakes to pay to **tie** a sum not exceeding a total aggregate value of **£5,000,000.00** (FIVE MILLION POUNDS STERLING) (the "**Bonded Amount**") and the Surety accordingly covenants with **tie** and agrees as follows:
 1. The Surety hereby covenants with **tie** that following receipt by the Surety of a notice in writing from **tie** in the form set out in Appendix 1 ("**Demand Notice**") of default of the MUDFA Contractor in performance or observance of his obligations in respect of the MUDFA Works the Surety shall forthwith pay to **tie** in full and without any deductions whatsoever or any right of set-off, abatement or counterclaim, the sum due from the MUDFA

Contractor under the MUDFA as stated in the Demand Notice in immediately available funds by electronic transfer to the account nominated in the Demand Notice, not exceeding in aggregate the Bonded Amount.

2. **tie** shall only be entitled to issue a Demand Notice to make a claim under this Performance Bond if it has:
 - 2.1 provided the Surety with a written statement in the form set out in Appendix 2 (the "**Prior Written Notice**") which identifies the MUDFA Contractor's default; and
 - 2.2 given the MUDFA Contractor fifteen Business Days' (following receipt of the Prior Written Notice) to rectify its performance; and
 - 2.3 the MUDFA Contractor has failed to rectify its performance.
3. Any Demand Notice must be made in writing signed by an authorised representative of **tie** and a copy of the written statement identifying the default must accompany the Demand Notice.
4. Subject to clause 2 above, upon receipt by the Surety of a Demand Notice from **tie** the Surety shall not be entitled or obliged to make any enquiry or proof or contestation or impose any further conditions on **tie** (or the MUDFA Contractor) and **tie** shall not need to take any legal action against or to obtain the consent of the MUDFA Contractor. **tie** may make as many separate demands hereunder as **tie** thinks fit. **tie** shall not be obliged to exercise any other right or remedy **tie** may have before making a demand under this Performance Bond.
5. A Demand Notice received from **tie** in accordance with clause 1 above shall be conclusive evidence of the Surety's liability to pay to **tie** and of the amount of the sum or sums which the Surety is liable to pay. The Surety's obligation to make payment under this Performance Bond shall be a primary, independent and absolute obligation and the Surety shall not be entitled to delay or withhold payment for any reason. The Surety's obligation hereunder shall not be affected by any act, omission, matter or thing which, but for this provision, might operate to release or otherwise exonerate the Surety from the obligations hereunder in whole or in part, including without limitation and whether or not known to the Surety or to **tie**:
 - 5.1 any time or waiver granted to **tie** or to the MUDFA Contractor;
 - 5.2 the taking, variation, compromise, renewal or release of or the refusal or neglect to perfect or to enforce any rights, remedies or securities against **tie** or the MUDFA Contractor;

- 5.3 any legal limitation, disability or incapacity relating to **tie** or the MUDFA Contractor;
- 5.4 any variation of or amendment to the MUDFA (or related documentation) or the works or services to be performed thereunder or any other document or security so that references to the MUDFA in this Performance Bond shall include each such variation and amendment;
- 5.5 any unenforceability, invalidity or frustration of any rights or obligations of **tie** or the MUDFA Contractor under the MUDFA or any other document or security; and
- 5.6 any other fact, circumstance, provision of statute or rule of law which might, were the Surety's liability to be secondary rather than primary, entitle the Surety to be released or discharged in whole or in part from the Surety's undertaking.
6. Until such time as **tie** has recovered all amounts due to it under or in connection with the MUDFA, the Surety shall not, without the prior written consent of **tie**, in respect of any payment made or liability under this Performance Bond, claim, rank or vote as a creditor in the liquidation of the MUDFA Contractor in competition with **tie**, or enforce any security over the assets of the MUDFA Contractor in respect of any such payment or liability in competition with **tie**, but this clause 6 shall not limit or restrict the exercise or enforcement by the Surety of its rights against any other person after payment in full of the Bonded Amount.
7. The Surety shall hold in trust any sums recovered by the Surety contrary to the provisions of clause 6:
- 7.1 to pay to **tie** in full the unrecovered balance of any damages or other sums due from the MUDFA Contractor to **tie** under or in connection with the MUDFA, to the extent set out in clause 6; and
- 7.2 subject thereto, for the Surety's benefit.
8. **tie** shall be entitled to enforce the provisions of clauses 6 and 7 only so far as required to keep itself or to put itself in the position it would occupy if the Surety had no rights of recourse against the MUDFA Contractor or its assets in respect of any payment made or liability arising under this Performance Bond, but no further; and any consent required of **tie** under clause 6 above shall not be refused or delayed unreasonably.
9. The Surety's liability under this Performance Bond shall not be affected or reduced by the insolvency of the MUDFA Contractor or its liquidation, receivership or other like temporary or permanent status.

10. **tie** shall be at liberty to compromise, release, waive or neglect any security as it sees fit, without impairment of their rights under this Performance Bond.
11. This Performance Bond shall cease to have effect after the earlier of:
 - 11.1 the date on which the MUDFA Contractor provides a retention bond to **tie** in terms of the MUDFA;
 - 11.2 ninety days after the date of termination of the MUDFA; or
 - 11.3 ninety days after the date of issue of the Defects Correction Certificate in respect of the MUDFA Works;save in connection with any Demand Notice issued to the Surety in writing prior to the earliest of the expiry of the said periods.
12. **tie** shall be entitled to assign this Performance Bond without the consent of the Surety.
13. Any Prior Written Notice and any Demand Notice to be served by **tie** pursuant to this Performance Bond shall be sent by **tie** to the Surety, to the Surety's address at *[Insert Address]* (and if sent by special or recorded delivery shall be taken as having been received by the Surety on the date of receipt by the Surety as evidenced by the relevant certificate of delivery) or shall be delivered personally to the Surety at the address set out in this clause (and shall be deemed to have been received at the time of delivery).
14. This Performance Bond shall be governed by and construed in accordance with the Laws of Scotland and the Parties hereby agree to submit to the exclusive jurisdiction of the Court of Session over any claim arising out of this Performance Bond.
15. A person who is not a party to this Performance Bond shall have no right to enforce any of the terms of this Performance Bond.
16. For the avoidance of doubt in the event the rating of the Surety is downgraded then this shall not be viewed as a default of the MUDFA Contractor or the Surety. In the event of a down grading and no other surety has an A- or better rating then this shall not be viewed as a default of the MUDFA Contractor or the Surety. Furthermore such events shall not be deemed as grounds for a Demand Notice.
17. In this Performance Bond:

17.1 the words and expressions have the same meanings as in the MUDFA and we shall be deemed to have full knowledge of the terms and conditions of the MUDFA;

17.2 "person" includes any firm and any entity having legal capacity; and

17.3 the definitions given in the recitals apply to the rest of this Performance Bond.

IN WITNESS WHEREOF

EXECUTED for and on behalf of [**THE SURETY**] at

on _____ 2006 by:

Director/Authorised Signatory

Full Name

Witness Signature

Full Name

Address

EXECUTED for and on behalf of [**TIE LIMITED**] at

on _____ 2006 by:

Director/Authorised Signatory

Full Name

Witness Signature

Full Name

Address

Appendix 1 Demand Notice

Appendix 2 Prior Written Notice

PART B. RETENTION BOND

THIS GUARANTEE BOND is made **BETWEEN** the following parties whose names and registered office addresses are set out in the Schedule to this Bond ("the Schedule") :-

- (1) The "Contractor" as principal
- (2) The "Guarantor" as guarantor, and
- (3) The "Employer"

WHEREAS:

- (1) By a contract (the "Contract") entered into between the Employer and the Contractor particulars of which are set out in the Schedule the Contractor has agreed with the Employer to execute works (the "Works") upon and subject to the terms and conditions therein set out
- (2) The Employer has agreed to accept a retention bond in lieu of deducting retention money (the "Retention").
- (3) The Guarantor has agreed with the Employer at the request of the Contractor to guarantee the sum set out in the Schedule upon the terms and conditions of this Guarantee Bond subject to the limitation set out in clause 2

NOW IT IS HEREBY AGREED AS FOLLOWS:-

1. The Guarantor subject to the provisions of this Guarantee Bond guarantees to the Employer that if in breach of the contract by the contractor the Guarantor shall satisfy and discharge the damages sustained by the Employer as established and ascertained pursuant to and in accordance with the provisions of and by reference to the Contract and taking into account all sums due or to become due to the Contractor
2. The maximum aggregate liability of the Guarantor and the Contractor under this Guarantee Bond shall not exceed the sum set out in the Schedule (the "Bond Amount") but subject to such limitation and to clause 4 the liability of the Guarantor shall be co-extensive with the liability of the Contractor under the Contract
3. The Guarantor shall not be discharged or released by any alteration of any of the terms conditions and provisions of the contract or in the extent or nature of the Works and no allowance of time by the Employer under or in respect of the Contract or the Works shall in any way release reduce or affect the liability of the Guarantor under this Guarantee Bond
4. Whether or not this Guarantee Bond shall be returned to the Guarantor the obligations of the Guarantor under this Guarantee Bond shall be released and discharged absolutely upon the Expiry (as defined in the Schedule) save in respect of any breach of the Contract which has

occurred and in respect of which a claim in writing containing particulars of such breach has been made upon the Guarantor before Expiry.

5. The Contractor having requested the execution of this Guarantee Bond by the Guarantor undertakes to the Guarantor (without limitation of any other rights and remedies of the Employer or the Guarantor against the Contractor) to perform and discharge the obligations on its part set out in the Contract
6. For the avoidance of doubt in the event the rating of the Guarantor is downgraded then this shall not be viewed as a default of the MUDFA Contractor or the Guarantor. In the event of a down grading and no other guarantor has an A- or better rating then this shall not be viewed as a default of the MUDFA Contractor or the Guarantor. Furthermore such events shall not be deemed as grounds for a demand in terms of this Guarantee Bond.
7. This Guarantee Bond shall not be assigned without the prior written consent of the Guarantor and the Contractor
8. The parties to this Guarantee Bond do not intend that any of its terms will be enforceable, by any person not a party to it.
9. This Guarantee Bond shall be governed by and construed in accordance with the laws of Scotland and only the Court of Session shall have jurisdiction hereunder

IN WITNESS WHEREOF these presents on this and the preceding [◆] pages together with the Schedule which is annexed and signed as relative hereto are executed as follows:

EXECUTED for and on behalf of **[THE CONTRACTOR]** at

on [◆] by:

Director/Authorised Signatory

Full Name

Witness Signature

Full Name

Address

EXECUTED for and on behalf of **[THE GUARANTOR]** at

on [◆] by:

Director/Authorised Signatory

Full Name

Witness Signature

Full Name

Address

EXECUTED for and on behalf of **[THE EMPLOYER]** at

on [◆] by:

Director/Authorised Signatory

Full Name

Witness Signature

Full Name

Address

This is the Schedule referred to in the foregoing Retention Bond between the Contractor, the Guarantor and the Employer

THE SCHEDULE

The Contractor: **Alfred McAlpine Infrastructure Services Limited**, a company incorporated under the Companies Act with registration number 00728599 and having its registered office at Kinnaird House, 1 Pall Mall, East London, SW1Y 5AZ ("**MUDFA Contractor**") which expression shall include its personal representatives, successors and permitted assignees.


The Guarantor: **[◆]**

The Employer: **TIE LIMITED** a company incorporated under the Companies Act with registration number SC230949 and having its registered office at City Chambers, High Street, Edinburgh, Midlothian, EH1 1YJ which expression shall include its successors and permitted assignees.

The Contract: A contract dated the **[◆]** day of **[◆]** between the Employer and Contractor in the form known as the Multi Utilities Diversion Framework Agreement for the construction of works at Edinburgh for the original contract sum of **£ [◆]**

The Bond Amount: The sum of **£1,500,000(ONE MILLION FIVE HUNDRED THOUSAND POUNDS STERLING)**

Expiry: This Guarantee Bond shall become null and void upon the issue of the Defects Correction Certificate for the MUDFA Works (such appropriate certificate to be conclusive evidence for the purposes of this Guarantee Bond)



Director/Authorised Signatory
TIE LIMITED



Director/Authorised Signatory
ALFRED McALPINE INFRASTRUCTURE SERVICES LIMITED

**THIS IS SCHEDULE 8 REFERRED TO IN THE FOREGOING AGREEMENT
BETWEEN TIE AND THE MUDFA CONTRACTOR**

SCHEDULE 8

PROGRAMME

**THIS IS SCHEDULE 9 REFERRED TO IN THE FOREGOING AGREEMENT
BETWEEN TIE AND THE MUDFA CONTRACTOR**

SCHEDULE 9

DISPUTE RESOLUTION PROCEDURE

1. The Parties agree that this Schedule 9 (*Dispute Resolution Procedure*) shall have effect for the resolution of any Dispute.
2. Any Dispute shall, in the first instance, be referred to the Internal Resolution Procedure in accordance with paragraph 10.
3. Neither Party shall commence any court proceedings until the procedures in paragraphs 10 to 54 have been completed, under exception that the provisions of this Schedule 9 (*Dispute Resolution Procedure*) shall not apply so as to prevent either Party seeking an interim order, or interim relief, in the Scottish courts.
4. In the event that any court proceedings whatsoever are initiated by either Party against the other, the Parties agree that the Court of Session, Scotland, shall have exclusive jurisdiction.
5. Neither Party shall be entitled to suspend the performance of its undisputed obligations under this Agreement merely by reason of the reference of any Dispute to the Dispute Resolution Procedure contained in this Schedule 9 (*Dispute Resolution Procedure*).
6. Subject to tie's discretionary rights set out in paragraphs 55 to paragraph 57.2 to require that a Dispute and a Related Dispute (as defined in paragraph 55) be dealt with together at an appropriate stage of the Dispute Resolution Procedure, the provisions of this Schedule 9 (*Dispute Resolution Procedure*) are mandatory and binding upon the Parties.
7. Unless a Party refers a Dispute to the Dispute Resolution Procedure contained in this Schedule 9 (*Dispute Resolution Procedure*) within three months of the date on which the event, matter or situation giving rise to the Dispute first occurred, such Party shall be deemed to have irrevocably waived any right to refer such Dispute to the Dispute Resolution Procedure, under exception that if such Party was not aware, and could not with reasonable diligence have been aware, that such event, matter or situation had occurred, this paragraph 7 shall have effect as if for the reference herein to the date on which such event, matter or situation occurred, there was substituted a reference to the date when such Party first became, or could with reasonable diligence have become, aware that such event, matter or situation

had occurred. This paragraph 7 is without prejudice to the right of either Party to raise in defence to any Dispute any defence (including, without prejudice to the foregoing generality, any defence of retention, compensation or set-off) which would otherwise be available to it.

8. Except in relation to the matters provided for in paragraphs 15 to 54 and subject to the provisions of paragraph 9, in the event that either Party following the timeous referral of any Dispute in accordance with paragraph 7 then pursues such Dispute under the Dispute Resolution Procedure, and in the event that such Party fails to observe any time limit or timescale provided for in this Schedule 9 (*Dispute Resolution Procedure*) in relation to the pursuit or progression of such Dispute, such Party shall, immediately upon such failure occurring, be deemed to have irrevocably waived any right to pursue or progress such Dispute any further. In that event, such Party shall be deemed to have elected not to have referred such Dispute or to have withdrawn such Dispute from the Dispute Resolution Procedure and shall be deemed to have irrevocably waived any right to refer any Dispute arising from the same or substantially the same Dispute or similar circumstances to the Dispute Resolution Procedure and shall be liable for payment of the whole fees incurred by any mediator or adjudicator who has acted in respect of such Dispute. This paragraph 8 is without prejudice to the rights of either Party to raise in defence to any Dispute any defence (including, without prejudice to the foregoing generality, any defence of retention, compensation or set-off) which would otherwise be available to it.
9. Notwithstanding the provisions of paragraph 8, in the event that a Party who pursues any Dispute under the Dispute Resolution Procedure fails to observe any time limit or timescale provided for in this Schedule 9 (*Dispute Resolution Procedure*) in relation to the pursuit or progression of the Dispute, the other Party may elect to waive such failure, in which event the time limit or timescale to which such failure relates shall be extended at the discretion of such other Party and the Dispute shall progress in accordance with the Dispute Resolution Procedure, subject that all other time limits and timescales provided for in this Schedule 9 (*Dispute Resolution Procedure*) which are affected by such extension shall be deemed to have been extended to give effect to such extension of the time limit or timescale to which such failure relates.

Internal Resolution Procedure

10. The following procedure is the Internal Resolution Procedure referred to in paragraph 2:
 - 10.1 In the event of any Dispute arising, the MUDFA Contractor's Representative and tie's Representative shall seek to resolve the Dispute at a meeting to be convened within 3

Business Days of written notification by either Party to the other that it wishes to initiate the Internal Resolution Procedure in respect of that Dispute ("Notification"). Such Notification shall be given in accordance with the provisions of Clause 74 (*Notices*) of this Agreement.

- 10.2 Further meetings may follow the meeting referred to in paragraph 10.1, but in any event, if the Dispute is not resolved within 7 Business Days of Notification, each Party shall, before the expiry of the period of 10 Business Days from Notification, serve, in accordance with the provisions of Clause 74 (*Notices*) of this Agreement, a written position paper ("**Position Paper**") upon the other Party. Each Party's Position Paper shall state in reasonable detail that Party's position and required objectives in relation to the Dispute; any required redress, and, where possible, any comments on the other Party's position.
 - 10.3 Upon such service of a Position Paper by the Party initiating or pursuing the Dispute, the Chief Executive (or equivalent) of the MUDFA Contractor and the Chief Executive (or equivalent) of **tie** (or their respective deputies in the event of their unavailability) shall seek to resolve the Dispute by meeting in good faith to discuss and negotiate upon the Dispute without recourse to legal or other proceedings.
 - 10.4 In the event that resolution of the Dispute is achieved by the MUDFA Contractor's Representative and **tie's** Representative or by the Chief Executive (or equivalent) of the MUDFA Contractor and the Chief Executive (or equivalent) of **tie**, the resolution shall be reduced to writing and, once it is signed by the duly authorised representatives of both Parties, shall be binding on the Parties.
 - 10.5 Unless concluded by a written legally binding agreement, all discussions and negotiations connected with the Dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any future legal or other proceedings. Nor may such matters be produced or relied upon in evidence in any such proceedings.
11. In the event that any Dispute is not resolved by the Internal Resolution Procedure within a period of thirty Business Days from Notification (or longer if so agreed by the Parties) then the following provisions of this paragraph 11 shall apply;
- 11.1 The Chief Executive (or equivalent) of the MUDFA Contractor and the Chief Executive (or equivalent) of **tie** (or their respective deputies in the event of their unavailability) shall, within a further period of 5 Business Days, seek to agree that the Dispute shall be resolved by any one of the following procedures:

- 11.1.1 mediation in accordance with paragraphs 12 to 14; or
- 11.1.2 adjudication in accordance with paragraphs 15 to 54, in which event the Referring Party must give its Notice of Adjudication to the other Party within 5 Business Days of the date of expiry of the period of thirty five Business Days from Notification (or longer if so agreed by the Parties); or
- 11.1.3 litigation before the Court of Session, Scotland, in which event the Summons or Petition in any such litigation shall be signetted and served within 10 Business Days of the date of expiry of the period of thirty-five Business Days from Notification (or longer if so agreed by the Parties).

In the event that the Chief Executive (or equivalent) of the MUDFA Contractor and the Chief Executive (or equivalent) of **tie** (or their respective deputies in the event of their unavailability) are unable to agree that the Dispute be resolved by the procedures described in paragraphs 11.1.1, 11.1.2 or 11.1.3, the Party initiating or pursuing the Dispute shall refer the Dispute to mediation (and thereafter adjudication, if necessary) in accordance with paragraphs 12 to 14.

Mediation

12. The Parties shall attempt in good faith to resolve the Dispute by a procedure of mediation in accordance with the Centre for Effective Dispute Resolution mediation rules or Model Mediation Procedure in force at the commencement of the mediation, (or in the event that the Centre for Effective Dispute Resolution has ceased to exist as at the time of the commencement of the mediation, mediation rules or a model mediation procedure offered by any other body offering commercial mediation services which shall be selected by **tie**), which procedure shall be commenced within 5 Business Days of the date of expiry of the period of thirty-five Business Days from Notification (or longer if so agreed by the Parties). In the event that any provision of such mediation rules or model mediation procedure conflicts with any provision of this Schedule 9 (*Dispute Resolution Procedure*), the provisions of this Schedule 9 (*Dispute Resolution Procedure*) shall take precedence. In the event that any timescales contained in such mediation rules or model mediation procedure conflicts with the timescales referred to in this Schedule 9 (*Dispute Resolution Procedure*), the timescales contained in such mediation rules or model mediation procedure shall be amended accordingly such that the timescales referred to in this Schedule 9 (*Dispute Resolution Procedure*) shall be adhered to.

13. In the event that resolution of the Dispute is achieved in consequence of such mediation procedure, such resolution shall be reduced to writing and, once it is signed by the duly authorised representatives of both Parties, shall be binding on the Parties. Unless concluded by a written legally binding agreement, all discussions and negotiations connected with the mediation procedure referred to in paragraph 12 shall be conducted in confidence and without prejudice to the rights of the Parties in any future legal or other proceedings. Nor may such matters be produced or relied upon in evidence in any such proceedings.
14. If any Dispute to which this Schedule 9 (*Dispute Resolution Procedure*) relates is not resolved by the mediation procedure referred to in paragraphs 12 and 13 within a period of fifty five Business Days from Notification (or longer if so agreed by the Parties), the mediation procedure shall be terminated and, unless the Party initiating or pursuing the Dispute withdraws the Dispute, the Dispute shall within a further 5 Business Days, be referred to adjudication in accordance with paragraphs 15 to 54.

Adjudication

15. In the event that either Party refers a Dispute to adjudication in terms of paragraph 11.1.2 or 14, or exercises a statutory right available to it under the Housing Grants Construction and Regeneration Act 1996 to raise adjudication proceedings, such adjudication shall be conducted in accordance with paragraphs 15 to 54, wherein any reference to "days" is a reference to calendar days.

Notice of intention to seek adjudication

16. Either Party may give written notice (the "**Notice of Adjudication**") of its intention to refer the Dispute to adjudication and the Party giving such notice shall be the "**Referring Party**".
17. The Notice of Adjudication shall be given to the other Party and the Party receiving the Notice of Adjudication shall be the "**Responding Party**".
18. The Notice of Adjudication shall set out briefly:
 - 18.1 the nature and a brief description of the Dispute and of the parties involved;
 - 18.2 details of where and when the Dispute has arisen;
 - 18.3 the nature of the redress which is sought; and
 - 18.4 the names and addresses of the Parties (including the addresses which the Parties have specified for the giving of notices).

19. The adjudicator selected to consider the Dispute shall be selected from one of the panels ("**Panels**") appointed by the Parties in accordance with the following:
- 19.1 there shall be three Panels, one in respect of legal matters, ("**Legal Panel**") one in respect of construction matters ("**Construction Panel**"), and one in respect of financial matters ("**Financial Panel**").
- 19.2 each Panel shall be comprised of at least four members, who are listed in Schedule 10 (*Panels for the Dispute Resolution Procedure*) to the Agreement.
- 19.3 if any member of a Panel resigns or dies or becomes incapax or ill to the extent of being unable to reasonably discharge his duties as a member of the Panel, a replacement shall be appointed by the Parties as soon as practicable. Any such replacement shall be wholly independent of **tie**, any **tie** Party, the MUDFA Contractor, any MUDFA Contractor Party, City of Edinburgh Council or any Relevant Authority, any Approval Body, the Tram Supplier, the Infraco or any equipment supplier or any party associated with the Edinburgh Tram Network, and any successor to or subsidiary or parent of any of the aforementioned parties. If the Parties are unable to agree on the identity of such replacement(s), the President or Vice President for the time being of The Chartered Institute of Arbitrators (Scottish Branch) or the Institution of Civil Engineers shall appoint such replacement(s) within thirty days of any application for such appointment by either Party.
20. The Referring Party shall at the same time as giving the Notice of Adjudication to the Responding Party, send to each of the members of the relevant Panel a copy of the Notice of Adjudication and a request that each member of the relevant Panel advises both Parties within 3 days as to whether or not he is able and willing to act. The Parties shall attempt to agree within 2 further days as to which one of the members of the relevant Panel who responded indicating that they are able and willing to act shall be requested to act as adjudicator. In the event that such agreement is reached, the Referring Party shall, within a further period of one day, request the member of the relevant Panel upon whom agreement has been reached to act as adjudicator. In the event that such agreement is not reached, the Responding Party shall, within a further period of 2 days, select one of the members of the relevant Panel who responded indicating that they are able and willing to act and the Referring Party shall request that member to act as adjudicator.
21. If no member of the relevant Panel indicates that he is able and willing to act within 3 days of receiving a request to act as adjudicator, the Referring Party shall request the President or the

Vice President for the time being of The Chartered Institute of Arbitrators (Scottish Branch) or the Institution of Civil Engineers to select a person to act as adjudicator.

22. Any person appointed, requested or selected to act as adjudicator in accordance with paragraphs 20, 21 and 24 shall be a natural person acting in his personal capacity. A person appointed, requested or selected to act as an adjudicator shall be wholly independent of **the**, any **the** Party, the MUDFA Contractor, any MUDFA Contractor Party, City of Edinburgh Council or any Relevant Authority, any Approval Body, the Tram Supplier, the Infraco or any equipment supplier or any party associated with the Edinburgh Tram Network, and the MUDFA Contractor Parties and any successor to or subsidiary or parent of any of the aforementioned parties.
23. The requests referred to in paragraphs 20 and 21 shall be accompanied by a copy of the Notice of Adjudication.
24. The Chartered Institute of Arbitrators (Scottish Branch) or the Institution of Civil Engineers must communicate the selection of an adjudicator to the Referring Party within 3 days of receiving a request to do so.
25. If the Chartered Institute of Arbitrators (Scottish Branch) or the Institution of Civil Engineers fails to comply with paragraph 24, the Referring Party may:
 - 25.1 agree with the other Party to the Dispute to request a specified person to act as adjudicator; or
 - 25.2 request any other adjudicator nominating body to select a person to act as adjudicator. An "adjudicator nominating body" shall mean a body (not being a natural person and not being a Party to the Dispute) which holds itself out publicly as a body which will select an adjudicator when requested to do by a Referring Party.
26. The person requested to act as adjudicator in accordance with the provisions of paragraph 20 or 21 shall indicate whether or not he is willing to act within 2 days of receiving the request
27. Where an adjudicator has been selected and appointed in accordance with paragraph 20 or 21 within 7 days of the date of the Notice of Adjudication, then the Referring Party shall refer the Dispute in writing (the "**Referral**") to the adjudicator within that seven day period. Where an adjudicator has not been selected within and appointed within 7 days of the Notice of Adjudication, then the Referral shall be made immediately upon such selection and appointment. Any failure on the part of the Referring Party to make the Referral within 7

days of the date of the date of the Notice of Adjudication shall not invalidate the decision of the adjudicator.

28. The Referral shall be accompanied by copies of, or relevant extracts from the Agreement and such other documents as the Referring Party intends to rely upon.
29. The Referring Party shall, at the same time as he sends to the adjudicator the documents referred to in paragraphs 27 and 28, send copies of those documents to the Responding Party.
30. The adjudicator may, with the consent of the parties to those Disputes, adjudicate at the same time on more than one Dispute under the Agreement.
31. The Parties may agree to extend the period within which the adjudicator may reach a decision in relation to all or any of these Disputes.
32. An adjudicator may resign at any time on giving notice in writing to the Parties.
33. An adjudicator must resign where the Dispute is the same or substantially the same as one which has previously been referred to adjudication, and a decision has been taken in that adjudication.
34. Where an adjudicator ceases to act under paragraph 32 or 33, or dies or becomes incapax or ill to the extent of being unable to reasonably discharge his duties:
 - 34.1 the Referring Party may serve a fresh notice in accordance with paragraphs 16 to 18 and shall in accordance with paragraphs 19 to 29 request an adjudicator to act; and
 - 34.2 if requested by the new adjudicator, the Parties shall supply him with copies of all documents which they had made available to the previous adjudicator.
35. The Parties to a Dispute may at any time agree to revoke the appointment of the adjudicator and in such circumstances the fees and expenses of that adjudicator shall, subject to paragraph 36, be determined and payable in accordance with paragraphs 52 and 53.
36. Where the revocation of the appointment of the adjudicator is due to the default or misconduct of the adjudicator, the Parties shall not be liable to pay the adjudicator's fees and expenses.

Powers of the Adjudicator

37. The adjudicator shall:

- 37.1 act impartially in carrying out his duties and shall do so in accordance with any relevant terms of the Agreement and shall reach his decision in accordance with Scots law; and
- 37.2 avoid incurring unnecessary expense.
38. The adjudicator may take the initiative in ascertaining the facts and the law necessary to determine the Dispute, and shall decide on the procedure to be followed in the adjudication. In particular, he may:
- 38.1 request either Party to supply him with such documents as he may reasonably require including, if he so directs, any written statement from either Party supporting or supplementing the Referral and any other documents given under paragraphs 28 and 29;
- 38.2 conduct the adjudication in the English language and decide whether a translation of any document is to be provided and, if so, by whom, by when, and at whose cost;
- 38.3 meet and question either Party and their representatives;
- 38.4 subject to obtaining any necessary consent from a third party or the Parties, make such site visits and inspections as he considers appropriate, whether accompanied by the Parties or not;
- 38.5 subject to obtaining any necessary consent from a third party or the Parties, procure the carrying out of any tests or experiments, and make directions as to the conditions for and responsibility for the cost of the same;
- 38.6 obtain and consider such representations and submissions as he requires, and, provided he has notified the Parties of his intention, appoint experts, assessors or legal advisers;
- 38.7 give directions as to the timetable for the adjudication, any deadlines, or limits as to the length of written documents or oral representations to be complied with; and
- 38.8 issue other directions relating to the conduct of the adjudication.
39. The Parties shall comply with any request or direction of the adjudicator in relation to the adjudication.

40. If, without showing sufficient cause, a Party fails to comply with any request, direction or timetable of the adjudicator made in accordance with his powers, fails to produce any document or written statement requested by the adjudicator, or in any other way fails to comply with a requirement under these provisions relating to the adjudication, the adjudicator may:
 - 40.1 continue the adjudication in the absence of that Party or of the document or written statement requested;
 - 40.2 draw such inferences from that failure to comply as may, in the adjudicator's opinion, be justified in the circumstances;
 - 40.3 make a decision on the basis of the information before him, attaching such weight as he thinks fit to any evidence submitted to him outside any period he may have requested or directed;
 - 40.4 disqualify any part or parts of that Party's submissions affected by the failure to comply; and
 - 40.5 grant the other Party proper opportunity to consider and respond to any evidence or representation made late.
41. Subject to any agreement between the Parties to the contrary, either Party may be assisted by, or represented by, such advisers or representatives (whether legally qualified or not) as he considers appropriate.
42. The adjudicator shall consider any relevant information submitted to him by either Party and shall make available to them any information to be taken into account in reaching his decision.
43. The adjudicator and the Parties shall not disclose to any other person any information or document provided in connection with the adjudication which the Party supplying it has indicated is to be treated as confidential, except to the extent that disclosure is required by law or is necessary for the purposes of, or in connection with, the adjudication, or the information is already in the public domain.

Adjudicator's Decision

44. Unless otherwise agreed in accordance with paragraph 56.1 or 57.1 the adjudicator shall reach his decision not later than:

- 44.1 twenty eight days after the date of the Referral mentioned in paragraph 27;
 - 44.2 forty two days after the date of the Referral if the Referring Party so consents; or
 - 44.3 such period exceeding twenty eight days after the Referral as the Parties may, after the giving of that notice, agree.
45. Where the adjudicator fails, for any reason, to reach his decision in accordance with paragraph 44;
- 45.1 either of the Parties to the Dispute may serve a fresh notice in accordance with paragraphs 16 to 18 and shall request an adjudicator to act in accordance with paragraphs 19 to 29; and
 - 45.2 if requested by the new adjudicator the Parties shall supply him with copies of all documents which they had made available to the previous adjudicator.
46. As soon as possible after he has reached a decision, the adjudicator shall deliver a copy of that decision to each of the Parties.
47. The adjudicator shall decide the matters in Dispute and may make a decision on different aspects of the Dispute at different times.
48. The adjudicator may take into account any other matters which the Parties agree should be within the scope of the adjudication or which are matters under the Agreement which he considers are necessarily connected with the Dispute and, in particular, he may
- 48.1 open up, review and revise any decision taken or any notice certifying payment given by any person referred to in the Agreement, unless the Agreement states that the decision or notice certifying payment is final and conclusive;
 - 48.2 decide that any of the Parties to the Dispute is liable to make a payment under the Agreement (whether in sterling or some other currency) and, subject to the terms of the Agreement, when that payment is due and the final date for payment;
49. The adjudicator shall provide written reasons for his decision.

Effect of the Decision

50. In his decision, the adjudicator may, if he thinks fit, order either or both of the Parties to comply peremptorily with his decision or any part of it. In the absence of any directions by

the adjudicator relating to the time for performance of his decision, the Parties shall be required to comply with any decision of the adjudicator immediately on delivery of the decision to the Parties in accordance with paragraph 46.

51. The decision of the adjudicator shall be binding on the Parties, and they shall comply with it, until the Dispute is finally determined by legal proceedings or by agreement between the Parties.
52. The adjudicator shall be entitled to the payment of such reasonable amount as he may determine by way of fees and expenses incurred by him and the Parties shall be jointly and severally liable to pay that amount to the adjudicator.
53. Without prejudice to the right of the adjudicator to effect recovery from either Party in accordance with paragraph 52, the Parties shall each be liable to pay one-half share of the adjudicator's fees and expenses.
54. The adjudicator shall not be liable for anything done or omitted in the discharge or purported discharge of his functions as adjudicator unless the act or omission is in bad faith, and any employee or agent of the adjudicator shall be similarly protected from liability.

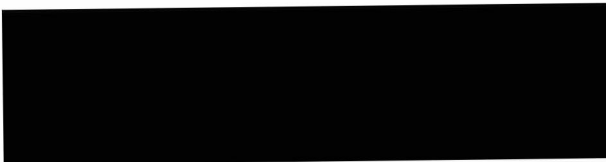
Related Disputes

55. Notwithstanding the terms of paragraphs 2, 3 and 6 to 9 above, in the event that a dispute or potential dispute under, or in connection with any contract associated with the Edinburgh Tram Network (referred to in this Schedule 9 (*Dispute Resolution Procedure*) as "**Related Contracts**"), has arisen or arises out of substantially the same issues of fact and/or law (as the case may be) as a Dispute under the Agreement (a "**Related Dispute**"), then providing that the Related Contract contains dispute resolution provisions in terms substantially the same as set out in this Schedule 9 (*Dispute Resolution Procedure*) (save for necessary changes), **tie** may require and direct that the Dispute and the Related Dispute be dealt with together at an appropriate stage of the Dispute Resolution Procedure.
56. In the event that a Related Dispute has already been referred to the decision of an adjudicator in accordance with the provisions of the Related Contract, and **tie** is of the opinion that a Dispute is to be (but has not yet been) referred to adjudication under this Schedule 9 (*Dispute Resolution Procedure*), **tie** may refer the Dispute, or may by notice in writing to the MUDFA Contractor require that the Dispute be referred (as the case may be) to the adjudicator appointed under the Related Contract to decide upon the Related Dispute, and:

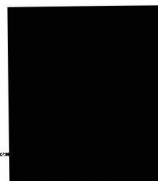
- 56.1 the adjudicator shall, if practicable, hear the Dispute at the same time as the Related Dispute and shall request such extension of time for producing his decision or award as he may require in order to reach a decision in respect of each of the Dispute and the Related Dispute at the same time. The Parties shall agree to such request for an extension of time, except in the event that the Dispute or the Related Dispute relates to "construction operations" within the meaning ascribed to that term by the Housing Grants, Construction and Regeneration Act 1996 (if applicable) (unless otherwise agreed by the Parties, all parties to the Related Dispute and the adjudicator);
- 56.2 except in the event that the Dispute or the Related Dispute relates to "construction operations" within the meaning ascribed to that term by the Housing Grants, Construction and Regeneration Act 1996 (if applicable) (unless otherwise agreed by the Parties, all parties to the Related Dispute and the adjudicator), the adjudicator shall have power (if so requested by **tie**) to make his decisions or awards in the Dispute and the Related Dispute in such a manner as if the rules applicable in the Court of Session, Scotland as to the joining of one or more defenders or third parties or conjoining actions were applicable to the Parties to the Dispute and the Related Dispute, and to the adjudicator; and
- 56.3 **tie** shall procure that, as soon as practicable, the other party or parties to the Related Dispute shall give the MUDFA Contractor copies of the Related Contract, the Referral Notice in the Related Dispute and any other documentation provided to the adjudicator by any party to the Related Dispute.
57. In the event that a Dispute has already been referred to the decision of an adjudicator, and **tie** is of the opinion that a Related Dispute is to be (but has not yet been) referred to adjudication, **tie** may refer the Related Dispute to the adjudicator appointed under this Schedule 9 (*Dispute Resolution Procedure*) to decide upon the Dispute, and:
- 57.1 the adjudicator shall, if practicable, hear the Related Dispute at the same time as the Dispute and shall request such extension of time for producing his decision or award as he may require in order to reach a decision in respect of each of the Dispute and the Related Dispute at the same time. The Parties shall agree to such request for an extension of time, except in the event that the Dispute or the Related Dispute relates to "construction operations" within the meaning ascribed to that term by the Housing Grants, Construction and Regeneration Act 1996 (if applicable) (unless otherwise agreed by the Parties, all parties to the Related Dispute and the adjudicator).

57.2 except in the event that the Dispute or the Related Dispute relates to "construction operations" within the meaning ascribed to that term by the Housing Grants, Construction and Regeneration Act 1996 (if applicable) (unless otherwise agreed by the Parties, all parties to the Related Dispute and the adjudicator), the adjudicator shall have power (if so requested by **tie**) to make his decisions or awards in the Dispute and the Related Dispute in such a manner as if the rules applicable in the Court of Session, Scotland as to the joining of one or more defenders or third parties or conjoining actions were applicable to the Parties to the Dispute and the Related Dispute, and to the adjudicator;

57.3 as soon as practicable, **tie** shall give to the MUDFA Contractor copies of the Related Contract, the Referral Notice in the Related Dispute and any other documentation provided to the adjudicator by any party to the Related Dispute



Director/Authorised Signatory
TIE LIMITED



Director/Authorised Signatory
ALFRED McALPINE INFRASTRUCTURE SERVICES LIMITED

**THIS IS SCHEDULE 10 REFERRED TO IN THE FOREGOING AGREEMENT
BETWEEN TIE AND THE MUDFA CONTRACTOR**

SCHEDULE 10

PANELS FOR DISPUTE RESOLUTION PROCEDURE

CONSTRUCTION

Alan Wilson

8 Somersby Avenue
Chesterfield
DERBYSHIRE
S42 7LY

Tony Canham

The Old School
School Lane
Thorpe St Andrew
NORWICH
NR7 0PE

Peter Chapman

Somersby House
Stokesheath Road
OXSHOTT
SURREY
KT22 0PS

Guy Cottam

2 Old Track
Upper Limply Stoke
BATH
BA3 WY

FINANCIAL

Nigel Lowe

Nigel Lowe Consulting Limited
27 Old Gloucester Street
LONDON
WC1N 3XX

Bryan Porter

1 Waterfoot Road
Newton Mearns
GLASGOW
G77 5RU

John Hunter

Hunter Consulting
Commercial Centre
Stirling Enterprise Park
STIRLING
FK7 7BF

Eric Mouzer

111 Hagley Road
Edgebaston
BIRMINGHAM
B11 8LB

LEGAL

Gordon Reid, QC

Blebo House
By St Andrews
FIFE
KY15 5TZ

Gordon Coutts, QC

6 Heriot Row
EDINBURGH
EH3 6HU

Robert Howie, QC

41A Fountainhall Road
EDINBURGH
EH9 2LN

Lord Dervaird (Prof. John Murray QC)

4 Moray Place
EDINBURGH
EH3 6TS



Director/Authorised Signatory
TIE LIMITED



Director/Authorised Signatory
**ALFRED McALPINE INFRASTRUCTURE
SERVICES LIMITED**

**THIS IS SCHEDULE 11 REFERRED TO IN THE FOREGOING AGREEMENT
BETWEEN TIE AND THE MUDFA CONTRACTOR**

SCHEDULE 11

REQUIRED INSURANCES

Part 1

Required insurances

1. PROFESSIONAL INDEMNITY INSURANCE

- Insured Party:** The MUDFA Contractor
- Coverage:** The legal liability of the MUDFA Contractor as a result of any negligent act, error, or omission in the performance of its professional activities and duties in connection with the MUDFA Works.
- Limit of Indemnity:** Minimum £10,000,000 on an each and every claim basis and in the annual aggregate; unlimited reinstatements of the limit.
- Period of Insurance:** From the Effective Date for 12 months and thereafter each further 12 month period until the earlier of 12 years from the issue of the last Certificate of Substantial Completion or 12 years from the date of termination of this Agreement.
- Extensions:** The insurance must include the following minimum extensions:
Indemnity to tie;
Liability for acts of subconsultants; or
Subconsultants to maintain insurance on same terms;
Dishonesty of employees;
Inclusion of directors/partners as Insured Parties
- Maximum Permitted Deductible:** £50,000 each and every claim.

2. THIRD PARTY LIABILITY INSURANCE

- Insured Party:** The MUDFA Contractor
- Coverage:** The legal liability of the MUDFA Contractor for death, injury, illness, disease contracted by third party persons or loss of or damage to property arising out of or in connection with the MUDFA Works.
- Limit of Indemnity:** Minimum of £10,000,000 on an each and every claim basis in respect of third party liability and £10,000,000 any one occurrence and in the aggregate in any one 12 month period of insurance in respect of products liability, pollution and contamination claims.

Period of Insurance:	From the Effective Date the until the earlier of the date of termination of this Agreement or the issue of the Pre-Construction Completion Certificate.
Minimum Extensions	The insurance must include the following minimum extensions: Contractual liability; Indemnity to principals; Cross liability; Liability for acts of subcontractors Financial loss £1,000,000
Maximum Permitted Deductible:	£50,000 each and every loss in respect of property damage claims, nil excess for bodily injury claims.

3. EMPLOYERS LIABILITY INSURANCE

Insured Party:	The MUDFA Contractor
Coverage:	The legal liability of the MUDFA Contractor for death, injury, illness, disease contracted by employees of the MUDFA Contractor caused by or arising out of or in connection with the MUDFA Works.
Limit of Liability	Minimum limit of indemnity of £10,000,000 any one occurrence or series of occurrences arising from one original cause or event.
Period of Insurance:	From the Effective Date for 12 months and thereafter each further twelve month period until the earlier of the end of the Defects Correction Period or the date of termination of this Agreement.
Minimum Extensions	The insurance must include the following minimum extensions: Indemnity to principals; Cross liabilities; Contractual liability; Definition to include as a minimum persons under a contract of service or apprenticeship, labour-only subcontractors, self-employed persons, labour masters or persons supplied by them, operators or drivers of hired-in plant
Maximum Permitted Deductible:	Nil

4. MUDFA CONTRACTOR'S PLANT

Insured Party:	The MUDFA Contractor
Coverage:	All loss or damage from whatsoever cause arising.
Limit of Liability	The reinstatement value of any MUDFA Contractor's Equipment.
Period of Insurance:	From the Effective Date until the earlier of the end of Defects

Correction Period or the date of termination of this Agreement.

Minimum Extensions The insurance must include the following minimum extensions:
Terrorism;
Principal/main contractor as joint insured

Maximum Permitted Deductible: £10,000

5. COMPREHENSIVE MOTOR INSURANCE/THIRD PARTY MOTOR INSURANCE WITH SELF-FUNDING ARRANGEMENTS FOR OWN DAMAGE

Insured Party: The MUDFA Contractor and tie

Coverage: Comprehensive in respect of loss or damage to Own Vehicles or self-funding mechanism.
Legal Liability for death, injury, illness or disease or loss of or damage to Third Party Property.

Limit of Liability Own Damage - Market Value/Cost of Repairs
Third Party: Bodily Injury - Unlimited.
Property Damage Cars £20,000,000 any one occurrence
Commercial Vehicles £5,000,000 any one occurrence unlimited in the aggregate

Period of Insurance: From the Effective Date for 12 months and thereafter each further twelve month period until the earlier of the end of the Defects Correction Period or the Termination Date.

Minimum Extensions The insurance must include the following minimum extensions:
Use of vehicles by tie employees / contractors / consultants / subcontractors / subconsultants or any other person engaged by tie;
Indemnity to principals;
Use on business and social, domestic and pleasure

Maximum Permitted Deductible: £250 in respect of own damage where insured;
Nil in respect of third party claims

Part 2

Form of Brokers Letter of Undertaking

To: [THE EMPLOYER]

Dear Sirs

We confirm in our capacity as insurance brokers that the Required Insurances specified in Clause 55 (*Required Insurances*) and Schedule 11 (*Required Insurances*) of the Agreement dated ◆ between ◆ (the "MUDFA Contractor") and **tie** as defined therein are, as at the date hereof, in effect in respect of the risks set out in the attached cover notes.

We have arranged the Required Insurances on the basis of the information and instructions given by the MUDFA Contractor. We have not made any particular or special enquiries regarding the Required Insurances beyond those that we would normally make in the ordinary course of arranging the insurances on behalf of our insurance broking clients.

The confirmations set out in this letter are given by reference to our state of knowledge at the date hereof.

Pursuant to instructions received from the MUDFA Contractor, we hereby undertake in respect of the interests of the MUDFA Contractor and **tie** in the Required Insurances referred to in the attached cover notes:

1. to use reasonable endeavours to have endorsed on each and every policy evidencing the Required Insurances when the same is issued, endorsements substantially in the form set out in Schedule 11 (*Required Insurances*) of the Agreement;
2. to advise **tie**:
 - 2.1 promptly after receiving notice of any insurer's cancellation or suspension of any of the Required Insurances or receiving notice of the intended cancellation or suspension of any of the Required Insurances;
 - 2.2 promptly upon our receipt from the MUDFA Contractor of any notice of any changes proposed to be made to the Required Insurances which, if effected, would result in a material reduction in limits or coverage (including in respect of extensions of cover) or in an increase in deductibles, exclusions or exceptions;
 - 2.3 of any default in the payment of any premium for any of the Required Insurances;
 - 2.4 at least twenty days prior to the expiry of any of the Required Insurances if we have not received written renewal instructions from the MUDFA Contractor or if we receive written instructions to renew, to advise **tie** of the details thereof; and
 - 2.5 on receipt of notice of any act or omission of the MUDFA Contractor or any Sub-Contractor which will invalidate or render unenforceable in whole or in part, any of the Required Insurances;
3. no later than 7 days (in respect of certificates) and as soon as reasonably practicable in respect of policies and other documents, to supply you and/or your insurance advisors (or your or their authorised representative) copies of all placing slips, certificates, cover notes, renewal receipts and confirmations of renewal and payment of premiums and all policy documents (or

confirmation of the terms of such policy documents where such policy documents cannot be made available) in respect of the Required Insurances, or upon request, to make available to you the originals of any or all such documents held by us;

4. to disclose to the insurers any fact, change of circumstance or occurrence is material to the risks insured against under the Required Insurances;
5. to treat as confidential all information in relation to the Required Insurances supplied to us by the MUDFA Contractor or any Sub-Contractor or **tie** and not to disclose, without the written consent of **tie**, such information to any third party other than the insurers under the Required Insurances, unless required to do so by law or any regulatory authority; and
6. to notify **tie** as soon as reasonably practicable prior to our ceasing to act as brokers to the MUDFA Contractor, unless impracticable because of circumstances beyond our control, in which case we shall notify **tie** as soon as reasonably practicable upon becoming aware that we shall cease, or have ceased, so to act.

Where insurers wish any of the Required Insurances to be cancelled for reasons of non-payment of premium, we will request those insurers to give you a reasonable opportunity of paying such amounts outstanding before issuing notice of cancellation on behalf of such insurers.

The above undertakings are given subject to our continuing appointment for the time being as insurance brokers to the MUDFA Contractor in relation to the Required Insurances concerned and the monitoring and handling of claims in relation to the MUDFA Contractor, and our obligations set out in this letter shall automatically cease upon termination of our appointment.

For the avoidance of doubt all undertakings and other confirmations given in this letter relate solely to the Required Insurances. They do not apply to any other insurances and nothing in this letter should be taken as providing any undertakings or confirmations in relation to any other such insurance that ought to have been placed or may at some future date be placed by other brokers.

This letter is given by us on the instructions of the MUDFA Contractor and with the MUDFA Contractor's full knowledge and consent as to its terms as evidenced by the MUDFA Contractor's signature below.

This letter shall be governed by and shall be construed in accordance with Scots Law and any dispute as to its terms shall be submitted to the exclusive jurisdiction of the courts of Scotland.

Yours faithfully

.....

For and on behalf of (Insurance Broker)

.....

For and on behalf of (The MUDFA Contractor)

Part 3

Insurance Questionnaire

1.0	PUBLIC & PRODUCTS LIABILITY	
1.1	Name & Address of Insurers	
1.2	Policy Number(s)	
1.3	Renewal Date	
1.4	Limits of Indemnity in respect of (Please state whether any one occurrence or in the aggregate)	
a.	Public Liability	£
b.	Products Liability	£
c.	Subsidence, Collapse, Vibration or Removal or Weakening of Support	£
d.	Fire & Explosion	£
e.	Pollution	£
f.	Any other "inner" limit	£
1.5	Is the policy subject to a heat warranty or condition of any sort and/or any height or depth restrictions. If so attach copies?	YES/NO
1.6	Is Contractual Liability included?	YES/NO
1.7	Does the policy include liability for damage to premises temporarily occupied for the performance of works therein or thereon?	YES/NO
1.8	Does the policy include a cross liability provision and a General Indemnity to Principals/Main Contractors Clause?	YES/NO
1.9	What limitations apply in respect of cover for loss or damage due to defective design, workmanship or materials?	
1.10	What excess(es) are applicable?	
1.11	Is the policy extended to include financial loss?	YES/NO (If YES state limit £)
1.12	Does the policy:	
a)	include liability for acts of sub-contractors	YES/NO
b)	Respond to judgements made outside the UK	YES/NO
1.13	Is cover subject to any material exclusions or limitations? (If YES please supply copies thereof)	YES/NO

1.14	Have you ever undertaken or are you currently undertaking work on behalf of Network Rail or British Airports Authority ? (if yes please state which or both)	YES/NO
1.15	Does your policy extend to include the minimum insurance requirements of either Network Rail or British Airports Authority? (if yes please state which or both)	YES/NO
1.16	If you are required to work on/around British Airports Authority property, will your Public Liability Policy provide you with a minimum level of cover of £50 million	YES/NO
1.17	If you are required to work on/around Network Rail property, will your Public Liability Policy provide you with a minimum level of cover of £155 million	YES/NO
2.0	EMPLOYERS LIABILITY	
2.1	Name & Address of Insurers	
2.2	Policy Number(s)	
2.3	Renewal Date	
2.4	Limit of Indemnity	£
2.5	Is the policy subject to a heat warranty or condition of any sort and/or any height or depth restrictions? If so attach copies.	YES/NO
2.6	Is Contractual Liability included?	YES/NO
2.7	What is the definition of "employee"?	
2.8	Does the policy include a cross liability provision and a General Indemnity to Principals/Main Contractors Clause?	YES/NO
2.9	Does the policy respond to judgements made outside UK?	YES/NO
3.0	PROFESSIONAL INDEMNITY	
3.1	Name & Address of Insurers	
3.2	Policy Number(s)	
3.3	Renewal Date	
3.4	Limit of Indemnity	i. any one event £ ii. in the aggregate £
3.5	Scope of professional duties insured as stated in the policy. Please confirm that all of the Investigation Works required under the Terms and Conditions of Contract are covered by your professional indemnity insurance.	

3.6	What excess(es) are applicable?	
3.7	Is cover included for sub-consultants?	YES/NO
3.8	Is cover included for the costs of mitigation of loss	YES/NO
3.9	Does the policy include a General Indemnity to Principals/Main Contractors Clause?	YES/NO
3.10	Is cover subject to any material exclusions or limitations? (If YES please supply copies thereof)	YES/NO
3.11	Does the policy respond to judgements made outside UK	YES/NO
4.0	CONTRACTORS PLANT ALL RISKS INSURANCE	
4.1	Name & Address of Insurers:	
4.2	Policy Number:	
4.3	Renewal Date:	
4.4	Sum Insured for Contractors Plant, Tools & Equipment?	YES/NO
4.5	Is cover subject to any material exclusions or limitations? (If YES please supply copies thereof). In particular are there any restrictions on working at heights or depth?	YES/NO
4.6	Is the Principal/Main Contractor named as a Joint Insured?	YES/NO
4.7	Is full Terrorism cover provided?	YES/NO
5.0	COMPREHENSIVE MOTOR INSURANCE	
5.1	Name & Address of Insurers	
5.2	Policy Number(s)	
5.3	Renewal Date	
5.4	Limits of Indemnity in respect of (Please state whether any one occurrence or in the aggregate)	£
	a. Third Party Property Damage	£
	b. Third Party Bodily Injury (if any)	£
5.5	Is the policy subject to a Deductible or excess? If so please provide details.	YES/NO
5.6	Are there any restrictions on usage or types of drivers? If so please provide details.	YES/NO
5.7	Please confirm that your policy will name tie as an additional insured.	YES/NO

DECLARATION:

We confirm that the foregoing details are accurate and that the above policies are subject to no special terms, conditions and exceptions other than those referred to above. We also confirm that all premiums due to date have been paid.

Signed

Position

Name

Date

For and on behalf of

.....
.....
.....

This form should be completed by your Insurers or your Registered Insurance Brokers ONLY.

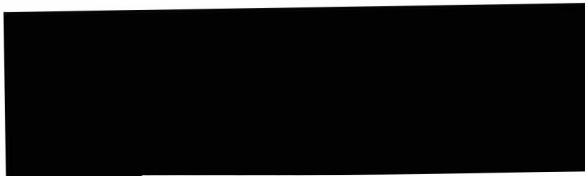
The above information is agreed on behalf of the MUDFA Contractor by the MUDFA Contractor's authorised representative:

Name

Signed

For and on behalf of

Date



Director/Authorised Signatory
TIE LIMITED



Director/Authorised Signatory
**ALFRED McALPINE INFRASTRUCTURE
SERVICES LIMITED**

**THIS IS SCHEDULE 12 REFERRED TO IN THE FOREGOING AGREEMENT
BETWEEN TIE AND THE MUDFA CONTRACTOR**

SCHEDULE 12

KEY PERSONNEL

Graham Gould	Project Director
Mike Beirne	Operations Manager
Pamela Dease	Customer Care Manager
Keith Gourlay	Commercial Manager
Rob Palin	Design and Programme Manager
Graeme Strachen	QuEnSH Manager



Director/Authorised Signatory
TIE LIMITED



Director/Authorised Signatory
**ALFRED McALPINE INFRASTRUCTURE
SERVICES LIMITED**

**THIS IS SCHEDULE 13 REFERRED TO IN THE FOREGOING AGREEMENT
BETWEEN TIE AND THE MUDFA CONTRACTOR**

SCHEDULE 13

THIRD PARTY AGREEMENTS

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 1 - FORTH PORTS PLC

- 1.1 In this Section 1 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Drawings" means parliamentary drawings allocated sheet numbers 6 to 12 inclusive as annexed to the Edinburgh Tram (Line One) Act 2006;

"Forth Ports" shall mean Forth Ports plc, a company incorporated under the Companies Act (company number SC134741) and having its registered office at 1 Prince of Wales Dock, Leith, Edinburgh EH6 7DX and its successors and assignees as proprietors of property on the Site;

"Forth Ports Agreement" means the agreement entered into between Forth Ports and CEC in respect of the withdrawal of Forth Ports objection to the Edinburgh Tram (Line One) Bill and dated 10 and 15 February 2006;

"Licence" means a licence to be entered into between CEC and Forth Ports pursuant to the Forth Ports Agreement relating to access onto the Site for the purposes of carrying out the MUDFA Works;

"Licence Site" means the plot of ground which is the subject of each respective Licence;

"Site" means those areas of ground in the City of Edinburgh identified on the Drawings as either LLAU or LOD and which are as at the last date of execution of the Forth Ports Agreement within the ownership of Forth Ports;

"Utilities" means services of gas, electricity, water, drainage, telecommunications and the cables, conduits, pipes and others provided or in place for the delivery of the same.

- 1.2 The MUDFA Contractor shall carry out and/or procure the carrying out of the MUDFA Works strictly in accordance with any site specific code of construction practice which may be in place from time to time in respect of the Site as notified to the MUDFA Contractor by **tie**. The MUDFA Contractor will provide **tie** with all

reasonable assistance requested by **tie** in relation to the negotiation and agreement of any such code with Forth Ports.

1.3 Prior to completion of the MUDFA Works at each Licence Site, the MUDFA Contractor shall provide **tie** with notice in respect of each Licence Site specifying:

1.3.1 the estimated date upon which the MUDFA Works at the relevant Licence Site are due to be completed; and

1.3.2 the estimated date upon which possession of the relevant Licence Site will be returned to **tie**:

provided that such notice shall be provided to **tie** having regard to the need to facilitate an inspection of the relevant Licence Site pursuant to paragraph 1.4 below.

1.4 The MUDFA Contractor shall facilitate the carrying out of an inspection of the relevant Licence Site by Forth Ports and a representative of CEC and/or **tie**, such inspection to be carried out on a date to be specified by **tie**, declaring that the relevant date will be at least 5 days before the estimated date of return of possession of the relevant Licence Site to **tie**.

1.5 In carrying out the MUDFA Works, the MUDFA Contractor will act always in accordance with the Construction Programme relevant to any element of the MUDFA Works at the Licence Site and will have due and proper regard to the requirement of Forth Ports to be able to access their property and all parts of it at all times in order to carry on their business activities and the like requirement of Forth Ports' tenants and occupiers to go about their respective business activities.

1.6 The MUDFA Contractor shall ensure that any disturbance of any access route at the Site will be in place for the minimum period reasonably practicable. In intimating any proposed programme for MUDFA Works in respect of any Licence Site to **tie** the MUDFA Contractor shall provide in each instance its best estimate of any period of disruption of access rights and routes. Without prejudice to the foregoing generality the MUDFA Contractor shall give **tie** reasonable prior notice of any proposed disconnection of any Utilities at the Site as may be required to carry out the MUDFA Works.

1.7 Where there is disruption to normal routes and rights of access, the MUDFA Contractor shall ensure that such disruption is kept to the minimum. In particular, the

MUDFA Contractor shall ensure that where an existing access route is disturbed at the Site, alternative and suitable access and egress arrangements are made and the original access/egress route is restored to an equivalent standard as existed prior to the commencement of the MUDFA Works at the Site by a date not later than that set out in the Construction Programme.

- 1.8 The MUDFA Contractor shall ensure so far as reasonably practicable that Utilities remain in service and only disturbed to the minimum.
- 1.9 The MUDFA Contractor shall facilitate access for Forth Ports to the East breakwater adjacent to and forming part of Granton Harbour (as highlighted by the letter "W" on the Site Specific Plans) for pedestrian and vehicular purposes to facilitate inspection and repair works by Forth Ports at such times as may be specified by **tie**.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 2 - ALEXANDER LATTO (1986) LIMITED

- 2.1 In this Section 2 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Secure Car Parking Area" means a designated parking area, the location and extent of which will be determined by **tie** in due course;

"Property" means the motor recovery and service premises at 111-115 Constitution Street, Edinburgh EH6 7AE;

- 2.2 Prior to commencing any MUDFA Works at or around the Property and following the provision by **tie** to the MUDFA Contractor of details concerning the location and extent of the Secure Car Parking Area, the MUDFA Contractor shall, at its own cost provide and maintain security measures for the Secure Car Parking Area including all lights, guards, fencing and watching.
- 2.3 Insofar as **tie** provides the Secure Car Parking Area pursuant to an agreement between **tie** and/or CEC and Alexander Latto (1986) Limited to compensate for disruption of access to the Property during the MUDFA Works, the MUDFA Contractor shall at all times ensure 24 hour access to the Secure Car Parking Area for a reasonable number of vehicles, including recovered vehicles.
- 2.4 Subject to Paragraph 2.5 below, in carrying out the MUDFA Works in the vicinity of the Property, the MUDFA Contractor shall at all times ensure 24 hour access to the Property.
- 2.5 Vehicle access to the Property may be disrupted for up to one weekend approximately whilst MUDFA Works are being carried out directly outside the Property.
- 2.6 The MUDFA Contractor shall provide **tie** with reasonable and adequate notice prior to the commencement of any MUDFA Works in the vicinity of the Property.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 3 - TRILLIUM (PRIME) PROPERTY GP LIMITED AND LAND SECURITIES TRILLIUM LIMITED

3.1 In this Section 3 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Noise and Vibration Policy" means the noise and vibration policy referred to in section 66 of each of the Edinburgh Tram (Line One) Act 2006 and the Edinburgh Tram (Line Two) Act 2006 as the same may be amended and/or updated from time to time;

"Plan" means the plan forming Appendix 1 of Schedule 13;

"Property" means the area shown hatched on the Plan comprising 0.202 hectares or thereby (0.5 acres or thereby) from Haymarket Terrace towards Rosebery Crescent, known as and forming Haymarket House together with a car park to the rear; and

Trillium" means Trillium (Prime) Property GP Limited, a company incorporated under the Companies Act with registered number 03424587 and having its registered office at Bastion House, 140 London Wall, London EC2Y 1BN and its successors and assignees.

3.2 In advance of the MUDFA Works commencing in the vicinity of the Property, the MUDFA Contractor shall provide **tie** with such assistance as it may require in relation to any discussion between **tie** and Trillium regarding the specific measures to be adopted to protect the Property and its users.

3.3 The MUDFA Contractor shall comply with the Noise and Vibration Policy in respect of the carrying out of the MUDFA Works at or in the vicinity of the Property.

3.4 In the event that any assessments or surveys carried out by or on behalf of **tie** or CEC prior to and after completion of the MUDFA Works disclose that damage has been caused to the Property by the MUDFA Works, the MUDFA Contractor will take all steps necessary to repair the Property and make good any defects and damage as soon

as reasonably practicably possible causing the least possible disruption reasonably practicable to Trillium and any other occupiers of the Property at that time.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 4 - TRUSTEES OF THE CITY POINT UNIT TRUST

- 4.1 In this Section 4 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Citypoint" means ALL and WHOLE the subjects known as and forming Citypoint 65-67 Haymarket Terrace, Edinburgh at the corner of Haymarket Terrace and Haymarket Yards shown outlined in red on the Plan;

"CPUT" means City Point Unit Trust;

"Drawing" means parliamentary drawing number 22 as annexed to the Edinburgh Tram (Line One) Act 2006;

"Licence" means a licence to be entered into between CEC and the Trustees relating to access onto the Site for the purposes of carrying out the MUDFA Works;

"Licence Period" means the period of a Licence from the Entry Date (as defined in the Licence) to the date of expiry of the Licence;

"Plan" means the plan forming Appendix 2 to this Schedule 13.

"Site" means that area of ground at Citypoint identified as Plot 424 on the Drawing insofar as falling within the Limits of Deviation;

"Trustees" means the trustees of CPUT being Walbrook Trustees (Jersey) Limited, a company incorporated under the laws of Jersey (registered number 12781) and Walbrook Properties Limited, a company incorporated under the laws of Jersey (registered number 45279), both companies having their registered office at PO Box 238, Lord Coutanche House, 66/68 Esplanade, St Helier, Jersey JE4 5PS;

- 4.2 Upon completion of the MUDFA Works, the Site shall be reinstated to a condition no worse than that in which the Site was found prior to the commencement of the MUDFA Works.

- 4.3 The MUDFA Contractor shall, in carrying out the MUDFA Works at and around Citypoint, comply with any directions reasonably given by **tie** so that the impact on the normal operation of the tenants' business at Citypoint and any building thereon is minimised as far as reasonably practicable having regard to the scope and nature of the MUDFA Works.
- 4.4 Without prejudice to any other terms of this Agreement, the MUDFA Contractor shall make good all damage caused to Citypoint as a result of the MUDFA Works to the reasonable satisfaction of **tie**.
- 4.5 The MUDFA Contractor shall ensure that throughout the carrying out of the MUDFA Works continuous vehicular access to, and egress from, the car park and each car parking space at Citypoint will be capable of being taken to and from the nearest public road.
- 4.6 The MUDFA Contractor shall ensure that pedestrian access to and egress from Citypoint will be available at all times.
- 4.7 Upon imminent completion of the MUDFA Works the MUDFA Contractor shall serve written notice on **tie** specifying the date upon which the MUDFA Works are due to be completed and the date upon which possession of the Site will be returned to **tie**.
- 4.8 From the Entry Date (as defined in the relevant Licence) relevant to a Licence and during the relevant Licence Period, subject to the other terms of this Agreement the MUDFA Contractor's occupation of that part of the Site it occupies will be at the MUDFA Contractor's risk.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 5 - OCEAN TERMINAL LIMITED

- 5.1 In this Section 5 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Drawing" means parliamentary drawing allocated sheet number 7 as annexed to the Edinburgh Tram (Line One) Act 2006;

"Licence" means a licence to be entered into between CEC and Ocean Terminal relating to access onto the Site for the purposes of carrying out the MUDFA Works;

"Licence Site" means the plot of ground which is the subject of each respective Licence;

"Ocean Terminal" means Ocean Terminal Limited, a company incorporated under the Companies Act with registered number SC178696 and having its registered office at 1 Prince of Wales Dock, Leith, Edinburgh, EH6 7DX and its successors and assignees as proprietors of the Site;

"Site" means those areas of ground in the City of Edinburgh registered in the Land Register of Scotland under Title Number MID 11162 and comprising various plots on the Drawing;

"Utilities" means services of gas, electricity, water, drainage, telecommunications and the cables, conduits, pipes and others provided or in place for the delivery of the same;

- 5.2 Whilst carrying out MUDFA Works at the Site, the MUDFA Contractor shall not impede the availability of coach parking facilities, which shall be of no lesser scale than that currently enjoyed by Ocean Terminal Limited at the Site.
- 5.3 The MUDFA Contractor shall carry out and/or procure the carrying out of the MUDFA Works strictly in accordance with any site specific code which may be in place from time to time in respect of the Site as notified to the MUDFA Contractor by **tie**. The MUDFA Contractor will provide **tie** with all reasonable assistance requested

by **tie** in relation to the negotiation and agreement of any such code with Ocean Terminal.

5.4 Prior to completion of the MUDFA Works at each Licence Site, the MUDFA Contractor shall provide **tie** with notice in respect of each Licence Site specifying:

5.4.1 the estimated date upon which the MUDFA Works at the relevant Licence Site are due to be completed; and

5.4.2 the estimated date upon which possession of the relevant Licence Site will be returned to **tie**:

provided that such notice shall be provided to **tie**, having regard to the need to facilitate an inspection of the relevant Licence Site pursuant to paragraph 5.5.

5.5 The MUDFA Contractor shall facilitate the carrying out of an inspection of the relevant Licence Site by Ocean Terminal and a representative of CEC and/or **tie**, such inspection to be carried out on a date to be specified by **tie** declaring that the relevant date will be at least 5 days before the estimated date of return of possession of the relevant Licence Site to **tie**.

5.6 In carrying out the MUDFA Works at the Site, the MUDFA Contractor will act always in accordance with the Construction Programme relevant to any element of the MUDFA Works at the Licence Site and will have due and proper regard to the requirement of Ocean Terminal to be able to access their property and all parts of it at all times in order to carry on their business activities and the like requirement of Ocean Terminal's tenants and occupiers to go about their respective business activities. The MUDFA Contractor shall ensure that any disturbance of any access route at the Site will be in place for the minimum period reasonably practicable.

5.7 In intimating any proposed programme for MUDFA Works in respect of any Licence Site to **tie** the MUDFA Contractor shall provide in each instance its best estimate of any period of disruption of access rights and routes. Without prejudice to the foregoing generality the MUDFA Contractor shall give **tie** reasonable prior notice of any proposed disconnection of any Utilities at the Site as may be required to carry out the MUDFA Works

5.8 Whilst carrying out the MUDFA Works at the Site, the MUDFA Contractor shall take all reasonable and proper steps to ensure that any disruption to normal routes and

rights of access is kept to the minimum and in particular that at all times where an existing access route is disturbed that an alternative and reasonably suitable access route will be provided and the original access way returned to operation at a date not later than that disclosed in the Construction Programme for the relevant element of the MUDFA Works.

- 5.9 The MUDFA Contractor shall ensure that at all times during the carrying out of the MUDFA Works at the Site, access is available by Ocean Terminal and members of the public to Ocean Terminal's premises by way of the main central access doorway by at least half the total width of the doorway referred to.
- 5.10 The MUDFA Contractor shall ensure that the fire safety requirements of Ocean Terminal and its operation of its shopping centre will have priority so that at all times wholly sufficient routes of access and egress will be provided for fire escape purposes along with either no disruption to the existing fire muster safety areas or the substitution of wholly suitable alternate fire muster safety areas so that Ocean Terminal can at all times operate safely and in accordance with fire regulations and requirements.
- 5.11 Whilst carrying out the MUDFA Works at the Site, the MUDFA Contractor shall ensure so far as reasonably practicable that Utilities remain in service and only be disturbed to the minimum.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 6 - NORMAN, DOWNIE & KERR

- 6.1 In this Section 6 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Property" means the offices of Norman, Downie & Kerr at 130 Constitution Street Edinburgh EH6 6AJ.

- 6.2 Vehicular access to the Property may only be disrupted for up to one weekend approximately whilst MUDFA Works are being carried out directly outside the Property.

- 6.3 Subject to paragraph 6.2 above, the MUDFA Contractor shall ensure that access is available to the Property throughout the construction of the MUDFA Works.

- 6.4 The MUDFA Contractor shall provide **tie** with reasonable and adequate notice prior to the commencement of any MUDFA Works in the vicinity of the Property.

- 6.5 The MUDFA Contractor shall ensure that disruptions to services provided by utility service providers to the Property are limited.

- 6.6 During the course of the MUDFA Works, if any services provided by utility service providers to the Property are disrupted, the MUDFA Contractor shall ensure that alternative supplies are provided for the Property.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 7 - THE ROYAL YACHT BRITANNIA TRUST

- 7.1 In this Section 7 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Drawing" means parliamentary drawing allocated sheet number 7 as annexed to the Edinburgh Tram (Line One) Act 2006;

"Ocean Terminal Limited" means Ocean Terminal Limited, a company incorporated under the Companies Act with registered number SC 178696 and having its registered office at 1 Prince of Wales Dock, Leith, Edinburgh, EH6 7DX and its successors and assignees as proprietors of the Site;

"Ocean Terminal Building" means the retail and leisure centre belonging to Ocean Terminal Limited and known as and forming Ocean Terminal, Ocean Drive, Leith, Edinburgh;

"RYB" means The Royal Yacht Britannia Trust, a company incorporated under the Companies Acts with registered number SC 185443 and having its registered office at Princes Exchange, 1 Earl Grey Street, Edinburgh, EH3 9EE;

"RYB Agreement" means the agreement entered into between RYB and CEC in respect of the removal of RYB's objections to the Edinburgh Tram (Line One) Bill and dated 14 and 23 February 2006;

"Site" means those areas of ground in the City of Edinburgh identified on the Drawing as either LLAU or LOD and which are within the ownership of Ocean Terminal Limited as at the last date of signing of the RYB Agreement;

- 7.2 Whilst carrying out the MUDFA Works at the Site, the MUDFA Contractor shall not impede the availability of coach parking facilities, which shall be of no lesser scale than that currently enjoyed by RYB at the Site.
- 7.3 The MUDFA Contractor shall carry out and/or procure the carrying out of the MUDFA Works strictly in accordance with any site specific code which may be in place from time to time in respect of the Site as notified to the MUDFA Contractor by

tie. The MUDFA Contractor will provide **tie** with all reasonable assistance requested by **tie** in relation to the negotiation and agreement of any such code with RYB.

- 7.4 In carrying out the MUDFA Works at the Site, the MUDFA Contractor will act always in accordance with the Construction Programme relevant to any element of the MUDFA Works at the Site and will have due and proper regard to the requirement of RYB to be able to access their property and all parts of it at all times in order to carry on their business activities including the requirement for suitable and sufficient coach parking and drop off facilities. The MUDFA Contractor shall ensure that any disturbance of any access route at the Site will be in place for the minimum period reasonably practicable. The MUDFA Contractor shall notify **tie** of its best estimate of any period of disruption of access rights and routes.
- 7.5 Whilst carrying out the MUDFA Works at the Site, the MUDFA Contractor shall take all reasonable and proper steps to ensure that any disruption to normal routes and rights of access is kept to the minimum and in particular that at all times where an existing access route is disturbed that an alternative and reasonably suitable access route will be provided and the original access way returned to operation at a date not later than that disclosed in the Construction Programme for the relevant element of the MUDFA Works.
- 7.6 The MUDFA Contractor shall ensure that at all times during the carrying out of the MUDFA Works at the Site, access is available by RYB and members of the public to RYB's premises and that coaches are allowed to park in the immediate vicinity of the entrance doorway to RYB's facility.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 8 - HAYMARKET YARDS LIMITED

- 8.1 The MUDFA Contractor shall ensure that occupation of sites 405, 406 and 407 as identified on the plans attached to the Edinburgh Tram (Line One) Act 2006 and sites 519, 520 and 521 on the plans attached to the Edinburgh Tram (Line Two) Act 2006 will be for the shortest reasonable time possible during the carrying out of the MUDFA Works.
- 8.2 The MUDFA Contractor shall comply with any instructions provided to it by **tie** in respect of the maintenance of appropriate access arrangements in respect of the sites referred to in paragraph 8.1 above and land to the north of such sites which is in the ownership of Haymarket Yards Limited. Without prejudice to the foregoing generality, the MUDFA Contractor shall give **tie** at least 35 days notice of any requirement to put in place any alternative access arrangements and shall assist **tie** with regard to any consultation and negotiation relating to access restrictions to the sites referred to in this paragraph 8.2.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 9 - WEST CRAIGS LIMITED (FORMERLY MEADOWFIELD DEVELOPMENTS LIMITED)

9.1 In this Section 9 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Drawings" means parliamentary sheets numbered 15 and 16 as annexed to the Edinburgh Tram (Line Two) Act 2006;

"MDL Land" means ALL and WHOLE the subjects at Wester Barnton and Meadowfield Farm, Edinburgh, being the subjects registered in the Land Register for Scotland under Title Number MID34648;

"Site" means those parts of the MDL Land which for the purposes of the Edinburgh Tram (Line Two) Act 2006 comprise Plot numbers 249, 250, 260, 261, 263, 265, 273 to 275, 286, 291 to 295, part of 296, part of 297, 298 and part of 299 as shown on the Drawings;

9.2 The MUDFA Contractor shall make good to the reasonable satisfaction of **tie** any damage caused in the carrying out of the MUDFA Works to as to ensure that the Site is left in no worse condition that it was prior to the carrying out of the MUDFA Works.

9.3 The MUDFA Contractor shall carry out and/or procure the carrying out of the MUDFA Works in such a way as to ensure that the MUDFA Works will have no detrimental impact on the field drainage of the MDL Land.

9.4 Upon imminent completion of the MUDFA Works at the Site, the MUDFA Contractor shall serve written notice on **tie** specifying the estimated date upon which the MUDFA Works are due to complete and the estimated date upon which possession of the Site will be returned to **tie**.

9.5 The MUDFA Contractor acknowledges that the Site is affected by a high pressure gas pipeline and agrees to comply with the terms of a deed of servitude granted in favour of Scotland Gas Networks Limited in respect thereof.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 10 - FSH NOMINEES LIMITED

- 10.1 In this Section 10 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Drawing" means sheet number 20 as annexed to the Edinburgh Tram (Line Two) Act 2006;

"Site" means ALL and WHOLE that plot or area of ground extending to 4.092 hectares (40,920 square metres) or thereby lying to the east of Eastfield Road, Edinburgh in the County of Midlothian, which subjects are shown delineated in red and hatched red and cross hatched red and blue and cross hatched red and green on Plan 1 (which subjects are also shown as aforesaid for identification purposes on Plan 2) both plans annexed and signed as relative to Disposition by New Ingliston Limited in favour of IBIS (598) Limited dated fifth and recorded in the General Register of Sasines for the County of Midlothian on tenth both days of October two thousand and which for the purposes of the Edinburgh Tram (Line Two) Act 2006 comprises Plot 327 on the Drawing.

- 10.2 The MUDFA Contractor shall ensure that no part of the Site, the New Limits or Plots 317 and 320 of sheet number 19 as annexed to the Edinburgh Tram (Line Two) Act 2006 shall be used to provide compensatory floodwater storage in connection with the MUDFA Works.
- 10.3 The MUDFA Contractor shall ensure that no detrimental impact is caused to the Site field drainage as a result of and/or during the MUDFA Works.
- 10.4 Upon imminent completion of the MUDFA Works at the Site, the MUDFA Contractor shall serve written notice on **tie** specifying the estimated date upon which the MUDFA Works are due to complete and the estimated date upon which possession of the Site will be returned to **tie**.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 11 - FIRST SCOTRAIL LIMITED

- 11.1 In this Section 11 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"First" means First Scotrail Limited, a company incorporated under the Companies Act with registered number SC 185018 and having its registered office at 395 King Street, Aberdeen AB24 5RP;

"First Agreement" means the agreement entered into by **tie**, CEC and First dated 27th October and 1st November 2005 in respect of the removal of First's objection to the Edinburgh Tram (Line Two) Bill;

"Haymarket Depot" means the Haymarket Passenger Light Maintenance Depot, Edinburgh currently owned by Network Rail Infrastructure Limited and leased to and operated by First and being currently configured as shown on the plan set out in Appendix 3 to Schedule 13.

- 11.2 **tie** shall provide the MUDFA Contractor with the profile of First's typical current and anticipated future seven day access and egress requirements as provided to **tie** by First in accordance with clause 2.1 of the First Agreement. At all times during the carrying out of the MUDFA Works, the MUDFA Contractor shall safeguard and ensure access and egress for First to and from Haymarket Depot. Without prejudice to the foregoing generality, the MUDFA Contractor shall not carry out any MUDFA Works at or in the vicinity of any operational entrance to or exit from Haymarket Depot at such times and dates as may be notified in advance to the MUDFA Contractor by **tie**. The MUDFA Contractor shall comply with any extraordinary access requirements for heavy load vehicles notified to it by **tie**.
- 11.3 The MUDFA Contractor shall comply with such amendments to its construction methodology as may be required by First and notified to the MUDFA Contractor by **tie** in relation to of the continuity of access to and egress from Haymarket Depot.

- 11.4 At all times during the carrying out of the MUDFA Works, the MUDFA Contractor shall ensure that the continuous operation of train fuelling equipment fed by the fuel tanks located within Haymarket Depot is not adversely affected.
- 11.5 At all times during the carrying out of the MUDFA Works, the MUDFA Contractor shall ensure safe and unrestricted access to the fuel tanks at Haymarket Depot by First for all necessary purposes (including without limitation the supply of fuel to the tanks and maintenance operations).
- 11.6 In the event that fuel tanks located within Haymarket Depot require to be relocated, the MUDFA Contractor shall ensure that there is uninterrupted access to alternative fuel tanks whilst the relevant fuel tanks are being relocated.
- 11.7 Before the commencement of any MUDFA Works at Haymarket Depot, the MUDFA Contractor shall provide a notice to **tie** specifying the projected commencement date of the MUDFA Works at Haymarket Depot and the period of notice it shall endeavour to provide to **tie** of its intention to commence the MUDFA Works in the vicinity of Haymarket Depot.
- 11.8 In carrying out the MUDFA Works, the MUDFA Contractor shall take due cognisance of First's need to ensure the safe and full continued operation of the facilities at Haymarket Depot.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 12 - STAKIS LIMITED

- 12.1 In this Section 12 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Drawing" means the parliamentary drawing allocated sheet number 20 as annexed to the Edinburgh Tram (Line Two) Act 2006;

"Letting Documentation" means (1) lease between Edinburgh Airport Limited and Stakis plc dated 10 March and 5 April and recorded in the Division of the General Register of Sasines applicable to the County of Midlothian as in the Books of Council and Session on 21 April, both months in the year 1995, and (2) Minute of Variation of Lease between Edinburgh Site No. 1 (CI) Limited and Stakis Limited dated 27 November and 19 December both months in the year 2003, and recorded in the Division of the General Register of Sasines applicable to the County of Midlothian as in the Books of Council and Session on 14 April 2004;

"Plan 1" means Faber Maunsell Drawing Number 30894/C283 Rev G as set out in Appendix 4 to Schedule 13;

"Property" means ALL and WHOLE the subjects let by virtue of the Letting Documentation, and which subjects are shown outlined in green for indicative purposes on Plan 1;

"Site" means those subjects forming part of the Property and which, for the purposes of the Edinburgh Tram (Line Two) Act 2006 comprise Plot numbers 329, 330, 333 and 334 on the Drawing but only to the extent that the same are let to Stakis by virtue of the Letting Documentation;

"Stakis" means Stakis Limited, a company incorporated under the Companies Act with registered number SC022163 and having its registered office at 4 Cadogan Square, Cadogan Street, Glasgow G2 7PH and its successors and assignees;

- 12.2 During the carrying out of the MUDFA Works at the Site, the MUDFA Contractor shall only enter upon those parts of the Site that are shown as hatched blue and/or

cross hatched in red on Plan I, unless the MUDFA Contractor is instructed otherwise by **tie** in accordance with this Agreement.

- 12.3 The MUDFA Contractor shall carry out the MUDFA Works at the Site in accordance with such instructions as may be provided by **tie** with a view to ensuring that the impact on the normal operation of Stakis' business at the Site is minimised so far as reasonably practicable having regard to the scope and nature of the MUDFA Works.
- 12.4 Without prejudice to the preceding provisions of this Section 12, the MUDFA Contractor shall at all times throughout the carrying out of the MUDFA Works at the Site, consult with local hotel management on the issue of fire alarm congregation points.
- 12.5 The MUDFA Contractor shall ensure that the carrying out of the MUDFA Works at the Site shall not prevent continual access to and from the Property such that the ability of Stakis to operate the hotel at the usual business level will not be adversely affected.
- 12.6 Without prejudice to the generality of the terms of paragraph 12.5 above, the MUDFA Contractor shall ensure that:-
- 12.6.1 access for the purposes of carrying out the MUDFA Works will not be taken via that stretch of Eastfield Road in so far as the same lies adjacent to the Property, but rather by a haul road which will be located in a position lying generally to the south of the Property; and
- 12.6.2 no construction compound in relation to the MUDFA Works shall be located adjacent to the Property.
- 12.7 Upon imminent completion of the MUDFA Works at the Site, the MUDFA Contractor shall serve written notice on **tie** specifying the estimated date upon which the MUDFA Works are due to complete and the estimated date upon which possession of the Site will be returned to **tie**.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 13 - UNIVERSITIES SUPERANNUATION SCHEME LIMITED

13.1 In this Section 13 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Accommodation Works" means (a) any MUDFA Works to or in the Gyle Car Park so far as outwith the New Limits; (b) without prejudice to but not limited by (a) aforesaid, works to ensure no reduction in available car parking spaces and circulation path standards consequent upon the Works generally or the works specified at (a) aforesaid; and (c) similarly without prejudice or limitation as aforesaid, all necessary associated restoration works, all of which works referred to at (a), (b) and (c) aforesaid will be described in the Accommodation Works Method Statement;

"Accommodation Works Method Statement" means the method statement to be developed by the MUDFA Contractor pursuant to paragraph 13.5 as the same may be amended pursuant to this Section 13 of Schedule 13.

"Drawing" means plans numbered 14 and 15 as attached to the Edinburgh Tram (Line Two) Act 2006;

"Licence" means a licence to be entered into by CEC in respect of access to the Site to allow the carrying out of *inter alia* the MUDFA Works;

"Licence Site" means the subject of a Licence;

"Method Statements" means the Accommodation Works Method Statement and the Works Method Statement as the context may require;

"Plan" means the plan set out in Appendix 5 to Schedule 13;

"Site" means that area of ground known as and forming the Gyle Shopping Centre together with the car park, access roads and all ancillary services being the subjects described in the Feu Contract between The City of Edinburgh Council and Marks & Spencer plc and Safeway Stores plc recorded in the Division of the General Register

of Sasines for the County of Midlothian on 10 January 1997 and comprising Plot Numbers 478, 479, 480, 481, 482, 483, 484 and 486 as shown on the Drawing;

"**USS**" means Universities Superannuation Scheme Limited, a company incorporated under the Companies Act with registered number 01167127 and having its registered office at Royal Liver Building, Liverpool L3 1PY and its successors and assignees;

"**Works**" means Work No 8 and Work No 9 insofar as in the vicinity of the Site as described in Schedule 1 to the Edinburgh Tram (Line Two) Act 2006, being works required in respect of the construction of the Edinburgh Tram Network, but specifically excluding any works required in the future to maintain the Edinburgh Tram Network;

"**Works Method Statement**" means the method statement to be developed by the MUDFA Contractor pursuant to paragraph 13.3 as the same may be amended pursuant to this Section 13 of Schedule 13.

- 13.2 In carrying out or procuring the carrying out of the MUDFA Works at the Site, the MUDFA Contractor shall not encroach upon any land outwith the area shown hatched blue on the Plan unless instructed otherwise by **tie** in accordance with this Agreement.
- 13.3 The MUDFA Contractor shall provide all required assistance to **tie** in respect of the drafting of a Works Method Statement in respect of the MUDFA Works to be carried out in the vicinity of the Site. The Works Method Statement will deal specifically with *inter alia* specified working hours, specified time of year and peak retailing periods when working will be avoided, mitigation measures to minimise adverse impact on service and customer access including measures to reconfigure the car park if necessary, mitigation measures to avoid dust/vibration/noise having an adverse effect on trading, restoration of any Licence Site (including landscaping and signage) insofar as applicable to the Works in the vicinity of the Site and where applicable will mirror the terms of Schedule 2 (*Technical Requirements*).
- 13.4 Those elements of the Works which constitute MUDFA Works shall not be commenced until the Works Method Statement has been finalised by **tie**.
- 13.5 The MUDFA Contractor shall provide all required assistance to **tie** in relation to the drafting of an Accommodation Works Method Statement in respect of the MUDFA

Works. The Accommodation Works Method Statement shall deal specifically with *inter alia* specified working hours, specified times of the year and peak retailing periods when working will either cease or be avoided, mitigation measures to minimise adverse impact on service and customer access including measures to reconfigure the car park if necessary, mitigation to avoid dust/vibration/noise having an adverse effect on trading, restoration of any Licence Site (including layout of the car park, landscaping and signage) insofar as applicable to the Accommodation Works to the extent that they constitute MUDFA Works and where applicable will mirror the terms of Schedule 2 (*Technical Requirements*).

- 13.6 Those elements of the Accommodation Works which constitute MUDFA Works shall not be commenced until the Accommodation Works Method Statement has been finalised by **tie** and USS. The MUDFA Contractor shall provide **tie** with all reasonable assistance requested by **tie** in relation to the negotiation and agreement of the Accommodation Works Method Statement between **tie** and USS.
- 13.7 The MUDFA Contractor shall carry out or procure the carrying out of the relevant MUDFA Works at the Licence Site strictly in accordance with the terms of the finalised Method Statements.
- 13.8 Those elements of the Works which constitute the MUDFA Works will be carried out in a good and workmanlike manner so that impact on the normal operation of USS business is minimised so far as is reasonably practical in accordance with the finalised Method Statements.
- 13.9 Prior to completion of the Accommodation Works on each Licence Site the MUDFA Contractor shall serve notice on **tie** specifying the estimated date upon which the Accommodation Works on that particular Licence Site are due to be completed and the estimated date upon which possession of the Licence Site will be returned to **tie**, provided that such notice shall be provided to **tie** having regard to the need to facilitate an inspection of the relevant Licence Site pursuant to paragraph 13.10.
- 13.10 The MUDFA Contractor shall facilitate the carrying out of an inspection of the relevant Licence Site by USS and a representative of CEC and/or **tie**, such inspection to be carried out on a date to be specified by **tie** declaring that the relevant date will be at least 5 days before the estimated date of return of possession of the relevant Licence Site to **tie**.

- 13.11 Any interference with access to any part of the Site proposed by the MUDFA Contractor in pursuance of the MUDFA Works shall only be given effect, whether as to route or other locational factors, or as to timing and duration, after due consultation with and approval thereto from **tie**.
- 13.12 The MUDFA Contractor shall ensure that there is two-way traffic flow along Glasgow Road within half a mile in each direction from Gogar Roundabout at all times during the carrying out of the MUDFA Works.
- 13.13 In carrying out the MUDFA Works, the MUDFA Contractor shall ensure that it does not at any time connect to any of the adopted or unadopted drains located within the Site.
- 13.14 Further to any obligations under this Agreement to investigate and survey land at the Site, the MUDFA Contractor shall consult with **tie** in relation to the location and timing of such surveys and use reasonable endeavours to minimise any disruption and shall make good any damage and leave the Site in no worse condition as existed prior to the carrying out of such surveys and investigations.
- 13.15 With regard to the location of any signage, the MUDFA Contractor shall consult with **tie** in relation to the location of such signs so as to ensure any such signage does not interfere in any material or misleading way with the normal operation of the Gyle Shopping Centre.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 14 - SAFEWAY STORES LIMITED AND WM MORRISONS SUPERMARKET PLC

14.1 In this Section 14 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Accommodation Works" means (a) any MUDFA Works to or in the Gyle Car Park so far as outwith the New Limits; (b) without prejudice to but not limited by (a) aforesaid, works to ensure no reduction in available car parking spaces and circulation path standards consequent upon the Works generally or the works specified at (a) aforesaid; and (c) similarly without prejudice or limitation as aforesaid, all necessary associated restoration works, all of which works referred to at (a), (b) and (c) aforesaid will be described in the Accommodation Works Method Statement;

"Accommodation Works Method Statement" means the method statement to be developed by the MUDFA Contractor pursuant to paragraph 14.5 as the same may be amended pursuant to this Section 14 of Schedule 13;

"Drawing" means plans numbered 14 and 15 as attached to the Edinburgh Tram (Line Two) Act 2006;

"Licence" means a licence to be entered into by CEC in respect of access to the Site to allow the carrying out of *inter alia* the MUDFA Works;

"Licence Site" means the subject of a Licence;

"Method Statements" means Accommodation Works Method Statement and/or the Works Method Statement as the context may require;

"Morrisons" means Wm Morrisons Supermarket PLC, a company incorporated under the Companies Act with registered number 00358949 and having its registered office at Hilmore House, Thornton Road, Bradford, West Yorkshire BD8 9AX and its successors and assignees;

"Plan" means the plan set out in Appendix 6 to Schedule 13;

"Proprietors" means Safeway and Morrisons;

"Safeway" means Safeway Stores Limited, a company incorporated under the Companies Act with registered number 00746956 and having its registered office at Hilmore House, Thornton Road, Bradford, Yorkshire, BD8 9AX;

"Site" means that area of ground known as and forming the Gyle Shopping Centre together with the car park, access roads and all ancillary services being the subjects described in the Feu Contract between The City of Edinburgh Council and Marks & Spencer plc and Safeway Stores plc recorded in the Division of the General Register of Sasines for the County of Midlothian on 10 January 1997 and for the purposes of the Bill Amendment comprising Plot Numbers 478, 479, 480, 481, 482, 483, 484 and 486 as shown on the Drawing;

"Works" means Work No 8 and Work No 9 insofar as in the vicinity of the Site as described in Schedule 1 of the Edinburgh Tram (Line Two) Act 2006, being works required in respect of the construction of the Edinburgh Tram Network but specifically excluding any works required in the future to maintain the Edinburgh Tram Network;

"Works Method Statement" means the method statement to be developed by the MUDFA Contractor pursuant to paragraph 14.3 as the same may be amended pursuant to this Section 14 of Schedule 13.

- 14.2 In carrying out or procuring the carrying out of the MUDFA Works at the Site, the MUDFA Contractor shall not encroach upon any land outwith the area shown hatched blue on the Plan unless instructed otherwise by **tie** in accordance with this Agreement.
- 14.3 The MUDFA Contractor shall provide all required assistance to **tie** in respect of the drafting of a Works Method Statement in respect of the MUDFA Works to be carried out at the Site. The Works Method Statement will deal specifically with *inter alia* specified working hours, specified time of year and peak retailing periods when working will be avoided, mitigation measures to minimize adverse impact on service and customer access including measures to reconfigure the car park if necessary, mitigation measures to avoid dust/vibration/noise having an adverse effect on trading, restoration of any Licence Site (including landscaping and signage) insofar as

applicable to the MUDFA Works at the Site and where applicable will mirror the terms of Schedule 2 (*Technical Requirements*).

- 14.4 Those elements of the Works which constitute MUDFA Works shall not be commenced until the Works Method Statement has been finalised by **tie**.
- 14.5 The MUDFA Contractor shall provide all required assistance to **tie** in respect of the drafting of an Accommodation Works Method Statement in respect of the MUDFA Works. The Accommodation Works Method Statement shall deal specifically with *inter alia* specified working hours, specified times of the year and peak retailing periods when working will either cease or be avoided, mitigation measures to minimise adverse impact on service and customer access including measures to reconfigure the car park if necessary, mitigation to avoid dust/vibration/noise having an adverse effect on trading, restoration of any Licence Site (including layout of the car park, landscaping and signage) insofar as applicable to the Accommodation Works to the extent that they constitute MUDFA Works and where applicable will mirror the terms of Schedule 2 (*Technical Requirements*).
- 14.6 Those elements of the Accommodation Works which constitute MUDFA Works shall not be commenced until the Accommodation Works Method Statement has been finalised by **tie** and Morrisons. The MUDFA Contractor shall provide **tie** with all reasonable assistance requested by **tie** in relation to the negotiation and agreement of the Accommodation Works Method Statement between **tie** and Morrisons.
- 14.7 The MUDFA Contractor shall carry out or procure the carrying out of the relevant MUDFA Works at the Licence Site strictly in accordance with the terms of the finalised Method Statement.
- 14.8 Those elements of the Works which constitute the MUDFA Works will be carried out in a good and workmanlike manner so that impact on the normal operation of the Proprietors business is minimised so far as is reasonably practical in accordance with the finalised Method Statements.
- 14.9 Prior to completion of the Accommodation Works on each Licence Site the MUDFA Contractor shall serve notice on **tie** specifying the estimated date upon which the Accommodation Works on that particular Licence Site are due to be completed and the estimated date upon which possession of the Licence Site will be returned to **tie**,

provided that such notice shall be provided to **tie** having regard to the need to facilitate an inspection of the relevant Licence Site pursuant to paragraph 14.10.

- 14.10 The MUDFA Contractor shall facilitate the carrying out of an inspection of the relevant Licence Site by Morrisons and a representative of CEC and/or **tie**, such inspection to be carried out on a date to be specified by **tie** declaring that the relevant date will be at least 5 days before the estimated date of return of possession of the relevant Licence Site to **tie**.
- 14.11 Any interference with access to any part of the Site proposed by the MUDFA Contractor in pursuance of the MUDFA Works shall only be given effect, whether as to route or other locational factors, or as to timing and duration, after due consultation with and approval thereto from **tie**.
- 14.12 The MUDFA Contractor shall ensure that there is two-way traffic flow along Glasgow Road within half a mile in each direction from Gogar Roundabout at all times during the carrying out of the MUDFA Works
- 14.13 In carrying out the MUDFA Works, the MUDFA Contractor shall ensure that it does not at any time connect to any of the adopted or unadopted drains located within the Site.
- 14.14 Further to any obligations under this Agreement to investigate and survey land at the Site, the MUDFA Contractor shall consult with **tie** in relation to the location and timing of such surveys and use reasonable endeavours to minimise any disruption and shall make good any damage and leave the Site in no worse condition as existed prior to the carrying out of such surveys and investigations.
- 14.15 With regard to the location of any signage, the MUDFA Contractor shall consult with **tie** in relation to the location of such signs so as to ensure any such signage does not interfere in any material or misleading way with the normal operation of the Gyle Shopping Centre.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 15 - NEW INGLISTON LIMITED AND HIGHLAND PROPERTIES (SCOTLAND) LIMITED

15.1 In this Section 15 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Above Ground Level Grade Separated Crossing" means a road crossing at above ground level finished to an adoptable standard, extending in length over the whole of the CPO Site at the point of crossing sufficient to accommodate a dual carriageway of 16.6 metres in width or such other width as accords with the then current standard for a dual carriageway at the time of construction or such smaller road crossing as determined by NIL together with associated bus lanes and cycle and pedestrian ways and verges on either side;

"At Grade Crossings" means the First Crossing and the Second Crossing, being road crossings at rail level finished to an adoptable standard, extending in length over the whole of the CPO Site at the point of crossing sufficient to accommodate a dual carriageway of 16.6 metres in width or of such other width as accords with the then current standard for a dual carriageway at the time of construction together with associated bus lanes and cycle and pedestrian ways and verges on either side;

"Below Ground Level Grade Separated Crossing" means a road crossing at below ground level finished to an adoptable standard, extending in length over the whole of the CPO Site at the point of crossing sufficient to accommodate a dual carriageway of 16.6 metres in width or such other width as accords with the then current standard for a dual carriageway at the time of construction or such smaller road crossing as determined by NIL together with associated bus lanes and cycle and pedestrian ways and verges on either side;

"CPO Site" means each and every part of the Site which is compulsorily acquired by CEC for the purposes of the Edinburgh Tram Network;

"Drawings" means parliamentary sheets numbered 16, 17, 18 and 19 as annexed to the Edinburgh Tram (Line Two) Act 2006;

"First Crossing" means the crossing envisaged within the area hatched orange in Plan 1;

"Grade Separated Crossings" means each Above Ground Level Grade Separated Crossing and/or each Below Ground Level Grade Separated Crossing, as the context so permits;

"Highland" means Highland Properties (Scotland) Limited, a company incorporated under the Companies Act with registered number SC 165975 and having its registered office at Gogar Mains Estate Office, Gogar Mains Farm Road, Edinburgh EH12 9BP;

"Limits of Deviation" means insofar as they relate to the Site, the limits within which the Edinburgh Tram Network will be constructed and which limits are shown on the Drawings;

"New Limits" means, subject to the provisions of paragraph 15.3, the restricted Limits of Deviations from those shown on the Drawings to the new Limits of Deviation as shown outlined in blue on Plan 1;

"New LLAUs" means, subject to the provisions of paragraph 15.2, the new limits of land to be acquired or used shown outlined in green on Plan 1;

"NIL" means New Ingliston Limited, a company incorporated under the Companies Act with registered number SC 157185 and having its registered office at Gogar Mains Estate Office, Gogar Mains Farm Road, Edinburgh EH12 9BP and its successors and assignees;

"NIL Agreement" means the agreement entered into by CEC, NIL and Highland dated 8th November 2005 and 9th November 2005 in respect of the removal of the objections to the Edinburgh Tram (Line Two) Bill lodged on behalf of NIL and Highland;

"Plan 1" means the plan set out in Part 1 of Appendix 7 to Schedule 13;

"Plan 3" means the plan set out in Part 2 of Appendix 7 to Schedule 13;

"Second Crossing" means the crossing envisaged within the area hatched red on Plan 1;

"Sewer" means the private sewer which serves the steading belonging to Highland and the office accommodation developed by Highland at the steading and which sewer is shown by way of a red line on Plan 1;

"Site" means ALL and WHOLE that area of ground partly edged red and partly shaded purple on Plan 3;

"Utilities" means services of gas, electricity, water, drainage, telecommunications and others and the cables, conduits, pipes and others provided or to be provided or in place for the delivery of the same;

- 15.2 The MUDFA Contractor shall only use or possess such part or parts of the Site within the New LLAUs insofar as is reasonably required in relation to the MUDFA Works.
- 15.3 The MUDFA Contractor shall as soon as reasonably practicable after the completion of the MUDFA Works at the Site make good any damage caused so as to ensure that the Site is left in no worse condition than it was prior to the carrying out of the MUDFA Works.
- 15.4 In the event that NIL construct At Grade Crossings prior to the carrying out of the MUDFA Works by the MUDFA Contractor, the MUDFA Contractor shall comply with the terms of any servitude or other right in favour of NIL in respect of such crossing (as the same shall be notified to the MUDFA Contractor by **tie**) and shall minimise so far as reasonably practicable the extent of any period of interruption or impediment of access over any such At Grade Crossings and shall at all times while carrying out the MUDFA Works provide at its own cost alternative vehicular and pedestrian access of a suitable standard and of at least half the pre-existing capacity of the At Grade Crossings across the CPO Site to and from the surrounding road network. The MUDFA Contractor undertakes to minimise as far as reasonably practicable the extent of and the period of such interruption or impediment.
- 15.5 The MUDFA Contractor shall, if requested to do so by **tie**, facilitate the construction by NIL of:
- 15.5.1 as many Above Ground Level Grade Separated Crossings as NIL may require; and
- 15.5.2 as many Below Ground Level Grade Separated Crossings as NIL may require.

- 15.6 The MUDFA Contractor shall comply with any servitude or other rights over Grade Separated Crossings as may be notified by **tie** from time to time.
- 15.7 In the event that NIL construct Grade Separated Crossings prior to the carrying out of the MUDFA Works by the MUDFA Contractor, the MUDFA Contractor shall minimise so far as reasonably practicable the extent of any period of interruption or impediment of access over any such Grade Separated Crossings and shall at all times while carrying out the MUDFA Works, provide at its own cost alternative vehicular and pedestrian access of a suitable standard and of at least half the pre-existing capacity of the Grade Separated Crossings across the CPO Site to and from the surrounding road network. The MUDFA Contractor undertakes to minimise as far as reasonably practicable the extent of and the period of such interruption or impediment.
- 15.8 During the carrying out of the MUDFA Works at the Site, the MUDFA Contractor shall ensure that Utilities as far as practicable remain in service and are only disturbed to the minimum.
- 15.9 In carrying out or procuring the carrying out of the MUDFA Works at the Site, the MUDFA Contractor shall ensure that at all times there is access to Gogar Mains House by Gogar Mains Farm Road.
- 15.10 The MUDFA Contractor shall not encroach upon, use or possess temporarily or compulsorily Gogar Mains Farm Road or any part thereof for the purposes of carrying out the MUDFA Works unless instructed otherwise by **tie** in accordance with this Agreement.
- 15.11 The MUDFA Contractor shall not prevent NIL from upgrading Gogar Mains Farm Road.
- 15.12 In carrying out or procuring the carrying out of the MUDFA Works at the Site, the MUDFA Contractor shall not damage or make use of the Sewer as part of the MUDFA Works.
- 15.13 The MUDFA Contractor shall provide **tie** with all required assistance with regard to agreeing the system of badger mitigation required in respect of the Edinburgh Tram Network at the Site. In the event that badger mitigation is required for the badger setts currently located within the New Limits or the New LLAUs, then the MUDFA

Contractor shall implement the scheme of mitigation agreed or determined between CEC and NIL pursuant to the NIL Agreement.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 16 - EDINBURGH AIRPORT LIMITED

16.1 In this Section 16 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Drawings" means parliamentary drawings sheet numbers 15, 20, 21 and 22 as annexed to the Edinburgh Tram (Line Two) Act 2006;

"EAL" means Edinburgh Airport Limited, a company incorporated under the Companies Act with registered number SC 096623 and having its registered office at St Andrews Drive, Glasgow Airport, Paisley PA3 2SW;

"EAL Agreement" means the agreement entered into by CEC and EAL dated 14th September 2005 in respect of the removal of the objections to the Edinburgh Tram (Line Two) Bill lodged on behalf of EAL;

"Guidance" means

- (1) CAP 168: Licensing of Aerodromes;
 - (2) CAP 680: Aerodrome Bird Control;
 - (3) CAA Safeguarding of Aerodromes Advice Note 1 (Safeguarding - An Overview);
 - (4) CAA Safeguarding of Aerodromes Advice Note 2 (Lighting near Aerodromes);
 - (5) CAA Safeguarding of Aerodromes Advice Note 3 (Potential Bird Hazards from Amenity Landscaping and Building Design);
 - (6) CAA Safeguarding of Aerodromes Advice Note 4 (Cranes and Other Construction Issues);
 - (7) CAA Safeguarding of Aerodromes Advice Note 5 (Potential Bird Hazards from Landfill Sites);
 - (8) CAA Safeguarding of Aerodromes Advice Note 6 (Pre-Application Advice);
- and

(9) BAA Standard Conditions for Aerodrome Safeguarding;

"Licence" means a licence granted by EAL to CEC pursuant to the EAL Agreement in respect of the Site or part thereof in order to enable the carrying out of the MUDFA Works;

"Method Statement" means a site specific method statement which sets out the construction methodologies in respect of the MUDFA Works at the Site so as to protect the reasonable concerns of EAL as regards the safe and efficient operation of Edinburgh Airport;

"Site" means those areas of ground at Edinburgh Airport being land identified for the purposes of the Edinburgh Tram (Line Two) Act 2006 as Plots 256, 257, 258, 328, 330 - 353 inclusive, and 360 inclusive, on the Drawings in so far as owned by EAL.

- 16.2 The MUDFA Contractor shall provide all required input to **tie** in respect of the development of the Method Statement and shall carry out and/or procure the carrying out of the MUDFA Works strictly in accordance with the finalised Method Statement.
- 16.3 The MUDFA Contractor shall comply with the requirements of EAL as may be notified to the MUDFA Contractor by **tie** in relation to aerodrome safeguarding, including those requirements envisaged by the Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) (Scotland) Direction 2003 (SEDD Circular 2/2003) and set out more fully in the policies and advice notes published by the Civil Aviation Authority and the guidance produced by BAA plc all as set out in the Guidance.
- 16.4 Upon imminent completion of the MUDFA Works at the Site, the MUDFA Contractor shall serve written notice on **tie** specifying the estimated date upon which the MUDFA Works are due to complete and the estimated date upon which possession of any licenced part of the Site will be returned to **tie**.
- 16.5 Upon completion of the MUDFA Works at the Site, the MUDFA Contractor shall provide full and vacant possession of the Site to **tie**, reinstated to no worse than its original condition prior to the grant of the relevant Licence.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 17 - VERITY TRUSTEES LIMITED

17.1 In this Section 17 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Drawings" means the parliamentary drawing allocated sheet number 4 as annexed to the Edinburgh Tram (Line One) Act 2006 and the parliamentary drawing allocated sheet numbers 4 as annexed to the Edinburgh Tram (Line Two) Act 2006;

"Plan 1" means the plan which forms part of Verity's Land Certificate Title Number MID4503 which is marked as Plan 1 and is set out in Part 1 of Appendix 8 to Schedule 13;.

"Plan 3" means Mott MacDonald Drawing Number 203011/EDIN/0973 Rev P4, which is marked as Plan 3 and is set out in Part 2 of Appendix 8 to Schedule 13;

"Property" means ALL and WHOLE the subjects at 19 Haymarket Yards, Edinburgh, being the subjects registered in the Land Register for Scotland under Title Number MID4503, which subjects are shown delineated in red on Plan 1, part of which subjects comprise the Site;

"Site" means those subjects forming part of the Property and which, for the purposes of the Edinburgh Tram Acts comprise the following Plot Numbers:-

Edinburgh Tram (Line One) Act 2006: Plots 413 to 418, and 292a; and

Edinburgh Tram (Line Two) Act 2006 : Plots 508 to 513 and 41a

all as identified on the Drawings;

"Verity" means Verity Trustees Limited, a company incorporated under the Companies Act with registered number 00744017 and having its registered office at Verity House, 6 Canal Wharf, Leeds, West Yorkshire LS11 5BQ;

- 17.2 Upon completion of the MUDFA Works at the Site Plot 292a/41a of the Site shall be reinstated and returned to **tie** in no worse condition than that in which Plot 292a/41a was found prior to the commencement of the MUDFA Works.
- 17.3 Upon completion of the MUDFA Works at the Site Plots 416, 417 and 418/510, 509 and 508 of the Site shall be reinstated and returned to **tie** in no worse condition than that in which Plots 416, 417 and 418/510, 509 and 508 were found prior to the commencement of the MUDFA Works.
- 17.4 During the carrying out of the MUDFA Works at the Site, the MUDFA Contractor shall comply with any particular conditions on working agreed between CEC and Verity and notified to the MUDFA Contractor by **tie**, and the MUDFA Contractor shall ensure that any impact on the normal operation of Verity's business is minimised so far as this is reasonably practicable having regard to the scope and nature of the MUDFA Works. If requested to do so by **tie**, the MUDFA Contractor shall consult with **tie** and Verity with regard to the carrying out of the MUDFA Works on Verity's business.
- 17.5 During the carrying out of the MUDFA Works in and around the Site, the MUDFA Contractor shall ensure that connections from the Site:
- 17.5.1 to the electricity sub-station located in the area shown coloured green on Plan 3; and
- 17.5.2 over a two metre strip for foul sewer in connection with the Property, which strip is located on Plots 409, 410 and 411/517, 516 and 515
- shall be maintained. In the event that the connections referred to above necessarily require to be severed, the MUDFA Contractor shall secure alternative arrangements.
- 17.6 With regard to the carrying out of the MUDFA Works in and around the Site, the MUDFA Contractor shall
- 17.6.1 use reasonable endeavours to ensure that the MUDFA Works are carried out either during the weekend or outwith normal business hours;
- 17.6.2 ensure that continuous vehicular access to and egress from the Property is capable of being taken to and from the public road Monday through Friday during normal business hours; and

- 17.6.3 ensure that pedestrian access to and egress from the Property will be available at all times.
- 17.7 Upon imminent completion of the MUDFA Works at the Site, the MUDFA Contractor shall serve written notice on **tie** specifying the date on which the MUDFA Works are due to be completed and the date upon which possession of the Site will be returned to **tie**.
- 17.8 The MUDFA Contractor shall as soon as reasonably practicable after the completion of the MUDFA Works at the Site reinstate the Site to the condition in which it was found prior to the commencement of the MUDFA Works.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 18 - ADM MILLING LIMITED

- 18.1 In this Section 18 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"ADM" means ADM Milling Limited, a company incorporated under the Companies Act with registered number 02445197 and having its registered office at ADM International Limited, Church Manorway, Erith, Kent DA8 1DL;

"Plan" means the plan set out in Appendix 9 to Schedule 13;

"Site" means the flour milling facility at Chancelot Mill, Western Harbour, Leith Docks, Edinburgh outlined in red on the Plan;

- 18.2 In carrying out or procuring the carrying out of the MUDFA Works at the Site, the MUDFA Contractor shall ensure that at all times ADM and their customers have continued vehicular and pedestrian access to, and egress from, the Site for all reasonable purposes in connection with ADM's flour milling business at all times.
- 18.3 The MUDFA Contractor shall carry out and/or procure the carrying out of the MUDFA Works strictly in accordance with any site specific code of construction practice which may be in place from time to time in respect of the Site as notified to the MUDFA Contractor by **tie**. The MUDFA Contractor shall provide **tie** with all assistance required in relation to the negotiation and agreement of any such site specific code.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 19 - NORWICH UNION LIFE AND PENSIONS LIMITED

- 19.1 In this Section 19 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Noise and Vibration Policy" means the noise and vibration policy referred to in section 66 of each of the Edinburgh Tram (Line One) Act 2006 and the Edinburgh Tram (Line Two) Act 2006 as the same may be amended and/or updated from time to time;

"NULAP" means Norwich Union Life and Pensions Limited, a company incorporated under the Companies Act with registered number 03253947 and having its registered office at 2 Rougier Street, York YO90 1UU and having an interest in Rosebery House;

"Rosebery House" means the subjects known as Rosebery House and situated at Haymarket Terrace, Edinburgh.

- 19.2 If requested to do so by **tie**, the MUDFA Contractor shall participate in consultation with **tie** and NULAP in relation to the potential impacts of, and programme for the MUDFA Works that will take place adjacent to Rosebery House, having regard to the operation of NULAP's business. Such consultation may be prior to and/or during the carrying out of the MUDFA Works.
- 19.3 Wherever reasonably practicable the MUDFA Works at or around Rosebery House shall be carried out in a single pass without any significant periods of inactivity.
- 19.4 The MUDFA Contractor undertakes to comply with the Noise and Vibration Policy in carrying out the MUDFA Works in the vicinity of Rosebery House.
- 19.5 The MUDFA Contractor shall provide **tie** with all reasonable assistance in relation to the carrying out of a noise and vibration assessment at and in the vicinity of Rosebery House.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 20 - NATIONAL GRID PROPERTY HOLDINGS LIMITED, PORT GREENWICH LIMITED AND WM MORRISON SUPERMARKETS PLC

20.1 In this Section 20 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Greenwich" means Port Greenwich Limited, incorporated under the Companies Act (company number 02392867) and having its registered office at 1-3 Strand, London, WC2N 5EH and its successors and assignees;

"Larger Subjects" means subjects at West Granton Road, Edinburgh being the whole subjects registered in the Land Register of Scotland under Title Number MID15716;

"Limits of Deviation" means, in so far as they relate to the Site, the limits within which the Edinburgh Tram Network will be constructed;

"Morrisons" means Wm Morrison Supermarkets Plc, a company incorporated under the Companies Acts (company number 00358949) and having its Registered Office at Hilmore House, Thornton Road, Bradford, West Yorkshire, BD8 9AX and its successors and assignees;

"National Grid" means National Grid Property Holdings Limited (formerly known as Secondsite Property Holdings Limited having changed its name conform to certificate of incorporation on change of name dated 10 October 2005), incorporated under the Companies Act (Company Number 03797578) and having its registered office at 1-3 Strand, London, WC2N 5EH and its successors and assignees;

"New Limits" means the Limits of Deviation as amended and restricted to the new limits of deviation as shown shaded green on the Plan;

"Plan" means the White Young Green Drawing No. 173 Revision E set out in Part 1 of Appendix 10 to Schedule 13;

"Site" means that area of ground shown coloured green on the Plan which area forms part and portion of the Larger Subjects;

"Supermarket Plan" means the White Young Green Drawing Number A007183/115/Revision I set out in Part 2 of Appendix 10 to Schedule 13;

"Supermarket Site" means that area of ground lying generally to the north of West Granton Road, Edinburgh extending to 7.01 acres or 2.84 hectares or thereby shown delineated in red and marked "Retail Site" on the Supermarket Plan;

"Utilities" means services of gas, electricity, water, drainage, telecommunications and the cables, conduits, pipes and others provided or in place for the delivery of the same.

- 20.2 The MUDFA Contractor shall carry out and/or procure the carrying out of the MUDFA Works strictly in accordance with any site specific code of construction practice which may be in place from time to time in respect of the Site as notified to the MUDFA Contractor by **tie**. The MUDFA Contractor shall provide **tie** with all assistance required in relation to the negotiation and agreement of any such site specific code.
- 20.3 Prior to the completion of the MUDFA Works on the Site, the MUDFA Contractor shall serve a notice on **tie** specifying the estimated date upon which the MUDFA Works at the Site are due to complete and the estimated date upon which possession of the Site will be returned to **tie**, provided that such notice shall be provided to **tie** having regard to the need to facilitate an inspection of the Site pursuant to paragraph 20.4.
- 20.4 The MUDFA Contractor shall facilitate access to the Site to allow Greenwich and **tie** to inspect the MUDFA Works. Such inspection shall take place at least 5 days prior to the completion of the MUDFA Works at the Site.
- 20.5 At all times during the carrying out of the MUDFA Works, the MUDFA Contractor shall have due and proper regard to the requirements of National Grid, Greenwich and Morrisons to be able to access their property and all parts of it (including the Supermarket Site) at all times in order to carry out business activities and the like requirements of Greenwich and National Grid's successors, assignees, tenants and occupiers to go about their respective business activities.
- 20.6 At all times during the carrying out of the MUDFA Works, the MUDFA Contractor shall ensure that any disturbance of any access rights and routes will be in place for

the minimum period reasonably practicable. The MUDFA Contractor shall provide to **tie** its best estimate for any period of disruption of access rights and routes.

- 20.7 At all times during the carrying out of the MUDFA Works, the MUDFA Contractor shall take all reasonable and proper steps to ensure that that disruption to normal routes and rights of access will be kept to the minimum and in particular that at all times where an existing access route is disturbed that an alternative and reasonably suitable access route will be provided and the original access way returned to operation at a date not later than that disclosed in the Construction Programme for the relevant element of the MUDFA Works.
- 20.8 Notwithstanding the preceding provisions of this Section 20, at all times during the carrying out of the MUDFA Works, the MUDFA Contractor shall ensure that access is maintained for customers and their vehicles to and from the local centre development to be erected on the Supermarket Site and for the drop off and collection of deliveries to and from the proposed local centre development.
- 20.9 At all times during the carrying out of the MUDFA Works at the Site and the Supermarket Site, Utilities should as far as reasonably practicable remain in service and only be disturbed to the minimum.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 21 - INSTITUTE OF CHARTERED ACCOUNTANTS

- 21.1 In this Section 21 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"**ICAS**" means the Institute of Chartered Accountants in Scotland, having a place of business at CA House, 21 Haymarket Yards, Edinburgh, Midlothian EH12 5BH;

"**ICAS Agreement**" means the agreement entered into between CEC and ICAS relating to the protection of the parties interests and the removal of the objection lodged by ICAS in relation to the Edinburgh Tram (Line Two) Bill; and

"**Site**" means CA House, 21 Haymarket Yards, Edinburgh, Midlothian EH12 5BH.

- 21.2 The MUDFA Contractor shall, if requested by **tie**, participate in discussions with ICAS in relation to developing mitigation measures in respect of the noise and vibration produced by the MUDFA Works at or around the Site. The MUDFA Contractor shall comply with any noise and/or vibration mitigation measures agreed between CEC and ICAS pursuant to the ICAS Agreement.
- 21.3 The MUDFA Contractor shall engage and participate in regular consultations with **tie** and (if requested by **tie**) with ICAS in relation to the Construction Programme for MUDFA Works to be carried out at and adjacent to the Site. In particular the MUDFA Contractor shall discuss with ICAS the specific timing of any major works to be undertaken adjacent to the Site. The MUDFA Contractor shall use all reasonable endeavours to ensure that such works are carried out over the shortest time period practicable.
- 21.4 The MUDFA Contractor shall, if requested by **tie**, consult and co-operate with ICAS in relation to carrying out the MUDFA Works at and around the Site, including in relation to the temporary acquisition of land owned by ICAS.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 22 - SERVISAIR (UK) LIMITED

22.1 In this Section 22 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Drawing" means parliamentary drawing number 20 as annexed to the Edinburgh Tram (Line Two) Act 2006;

"Site" means SUK's operating base and associated land in the vicinity of Edinburgh Airport;

"SUK" means Servisair (UK) Ltd, a subsidiary of Penauille Servisair UK Limited, such holding company being incorporated under the Companies Acts with registered number 00509585 and having its registered office at Atlantic House, Atlas Business Park, Simonsway, Manchester M22 5PR.

22.2 Whilst carrying out MUDFA Works at the Site on Eastfield Road, Edinburgh over Plots 337 and 338 as shown on the parliamentary drawing 20 attached to the Edinburgh Tram (Line Two) Act 2006, the MUDFA Contractor shall ensure that he does not preclude other road users taking access across these plots.

22.3 Whilst carrying out MUDFA Works at the Site, the MUDFA Contractor shall ensure that the MUDFA Works shall have no direct impact upon Turnhouse Road.

22.4 Whilst carrying out MUDFA Works at the Site the MUDFA Contractor shall ensure that the MUDFA Works will not require the closure of the A8 trunk road.

22.5 Whilst carrying out MUDFA Works at the Site insofar as traffic restrictions may be imposed affecting the A8 trunk road, the MUDFA Contractor shall ensure that these will be confined to the vicinity of the Gogar roundabout, and all reasonable endeavours will be taken to maintain two lanes of traffic to pass in both easterly and westerly directions, either via the main carriageways of the A8 or via the sliproads to and from the junction with the City of Edinburgh Bypass.

22.6 The MUDFA Contractor shall assist and participate if and when requested by **tie** in any consultation carried out by **tie** with SUK in relation to the proposed traffic

management arrangements in the vicinity of Gogar roundabout and shall give **tie** not less than 35 days' prior notice of each new or altered restriction affecting traffic on the A8 trunk road.

- 22.7 The MUDFA Contractor acknowledges and accepts that the remaining Plots on Eastfield Avenue and Gogar Bridge Road (as shown on the Drawing) shall only be used on a temporary basis in order to ensure that access to carry out the MUDFA Works is achieved.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 23 - ROYAL MAIL GROUP PLC AND POST OFFICE LIMITED

23.1 In this Section 23 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Post Office Limited" means a company registered under the companies acts with registered number 02154540 and having its registered office at 80-86 Old Street, London EC1V 9NN;

"Postal Services" means in relation to Royal Mail Group PLC the delivery and collection by Royal Mail Group PLC of letter and parcel post including handling letters, postal packets and high value (registered) packets and in respect of Post Office Limited the operation of the national network of Post Office Counter offices and the delivery and collection of cash, stock, and other valuable items from the national network of Post Office Counter offices;

"Post Box" includes a pouch box, and for this purpose pouch box means a receptacle belonging to RMPO used for the storage of postal packets and materials required for the collection of postal packets from post boxes;

"Protected Premises" means those delivery offices, post offices and sub post offices located within 100 metres of any works to be undertaken by or on behalf of CEC under the Tram Legislation and specified as follows: -

- (a) Royal Mail PLC Sorting and Delivery Office, Russell Road, Edinburgh
- (b) St James' Centre DMB, St James' Centre, Edinburgh;
- (c) Frederick Street DMB, Frederick Street, Edinburgh;
- (d) Tallents House, 21 South Gyle Crescent, Edinburgh;
- (e) The Edinburgh Mail Centre, Cultins Road, Edinburgh; and
- (f) Parcel Force Depot, 100 Bankhead Crossway North, Edinburgh;

"RMPO" means in any case whichever of Royal Group PLC or Post Office Limited is affected in that case, or if both are affected, each of them;

"Royal Mail Group PLC" means a company registered under the companies acts with registered number 04138203 and having its registered office at 148 Old Street, London EC1V 9HQ;

"Specified Work" means any part of the MUDFA Works that is within 10 metres (measured in any direction) of a Post Box or of premises occupied or operated by RMPO

23.2 As requested by **tie**, the MUDFA Contractor shall assist **tie** in relation to any required consultation with RMPO with a view to carrying out the Specified Work in such a way as to:

23.2.1 avoid where reasonably practicable the removal or relocation of Post Boxes;

23.2.2 minimise disruption to Postal Services and interference with access to Post Boxes.

23.3 In compliance with paragraph 23.2 above, the MUDFA Contractor shall, at **tie's** request, assist **tie** in specifying the Post Boxes that will require to be moved to enable construction of the MUDFA Works to be carried out and shall assist **tie** in supplying to RMPO such plans and other details relating to the MUDFA Works as RMPO may reasonably require in order to assess how its Postal Services, including Post Boxes, may be affected by the MUDFA Works.

23.4 The MUDFA Contractor shall not commence construction of any Specified Work that involves the removal of any Post Box or prevents reasonable and necessary access to any Post Box until such plans, drawings and other details referred to in paragraph 23.3 have been approved by RMPO and such approval has been notified accordingly by **tie** to the MUDFA Contractor.

23.5 In carrying out the Specified Work and due to an emergency, or for some other unforeseen and immediate reason, if the MUDFA Contractor requires to relocate or close a Post Box, it shall give **tie** 4 days notice of its intention to do so.

- 23.6 The MUDFA Contractor shall not prevent or substantially inhibit vehicular or pedestrian access to or egress from any of the Protected Premises, either temporarily or permanently.
- 23.7 In the event that a Post Box is specified for removal (other than in the event of an emergency or other unforeseen and immediate reason) and the approval for such removal has been intimated to the MUDFA Contractor by **tie**, the MUDFA Contractor acknowledges that such removal shall be carried out by Royal Mail Group PLC. If the removal has not been carried out within 28 days of RMPO's approval being intimated to the MUDFA Contractor by **tie**, the MUDFA Contractor may, subject to **tie's** approval, itself remove the Post Box.
- 23.8 The MUDFA Contractor shall not alter or remove any Post Box belonging to the Royal Mail Group PLC except in accordance with the provisions of this Section 23 of Schedule 13.
- 23.9 During the construction of the MUDFA Works, the MUDFA Contractor shall use all reasonable endeavours to minimise disruption to Postal Services.
- 23.10 The MUDFA Contractor acknowledges and agrees that, unless it is otherwise instructed by **tie** in accordance with this Agreement, it shall not obtain access to RMPO's Russell Road site in order to carry out the MUDFA Works.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 24 - NEW EDINBURGH LIMITED AND EDINBURGH PARK (MANAGEMENT) LIMITED

24.1 In this Section 24 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Access Road" means that length of road from Hermiston Gait roundabout to the New Limits as shown hatched black on Plan 2;

"Drawings" means parliamentary drawing numbers 12, 13 and 14 as annexed to the Edinburgh Tram (Line Two) Act 2006;

"Edinburgh Park" means that area of ground indicatively outlined in red on Plan 1;

"EPML" means Edinburgh Park (Management) Limited, a company incorporated under the Companies Acts with registered number 137394 and having its registered office at Miller House, 2 Lochside View, Edinburgh Park, Edinburgh, EH12 9DH and its successors and assignees;

"Ground Works" means the MUDFA Works which are the main heavy works of excavation, utilities, backfilling and making safe accordingly;

"Hermiston Gait" means that area of ground indicatively outlined in blue and green on Plan 1;

"Hotel Site" means that part of Hermiston Gait indicatively outlined in green on Plan 1;

"LLAU" means insofar as they relate to Edinburgh Park or Hermiston Gait, the limits of land that may be acquired and used for the purposes of the Edinburgh Tram Network;

"NEL" means New Edinburgh Limited, a company incorporated under the Companies Acts with registered number 126384 and having its registered office at Miller House, 2 Lochside View, Edinburgh Park, Edinburgh EH12 9DH and its successors and assignees;

"**New Limits**" shall have the meaning assigned to that term by paragraph 24.2 of this Section 24;

"**Plan 1**" means Halcrow Drawing Number 04-4582-PODEPL-102-9011 and forming Part 1 of Appendix 11 to this Schedule 13;

"**Plan 2**" means Faber Maunsell Drawing Number 30894/C210, Rev.M and forming Part 2 of Appendix 11 of this Schedule 13;

"**Plan 3**" means Faber Maunsell Drawing Number 04-4582-PODEPL-102-9010, Rev.C and forming Part 3 of Appendix 11 of this Schedule 13;

- 24.2 The LLAU shall be deemed to be amended from those shown on the Drawings and shall be restricted, insofar as they relate to Edinburgh Park and/or Hermiston Gait, to the extent shown by the broken purple line on Plan 2 and, shall for the purposes of this Section 24, be called the "**New Limits**". For the avoidance of any doubt, save as aforementioned, the New Limits shall otherwise be as shown by the broken red lines on Plans 2 and 3.
- 24.3 The MUDFA Contractor shall assist **tie**, as required, in supplying to the directors or relevant employees of NEL or EPML such information regarding the MUDFA Works as NEL or EPML may from time to time reasonably request.
- 24.4 Upon request from **tie**, the MUDFA Contractor shall make available for examination to NEL or EPML copies of all insurance policies taken out by the MUDFA Contractor in respect of the MUDFA Works and evidence that the premiums payable thereunder have been paid to date and that the insurances are in full force and effect.
- 24.5 The MUDFA Contractor shall use all reasonable endeavours to ensure that such of the Ground Works which are to be constructed:
- 24.5.1 to the north of the point marked "B" on Plan 2 are completed within 12 months of their commencement; and
- 24.5.2 to the south of the point "B" on Plan 2 are completed within 24 months of their commencement.
- 24.6 Before commencing the execution of the MUDFA Works at Hermiston Gait or Edinburgh Park, the MUDFA Contractor shall give notice in writing to **tie** of the

works intended, accompanied by plans of those works showing the manner in which and the materials with which they are to be constructed, together with details of the proposed timescale and any further information NEL and EPML reasonably require as notified to the MUDFA Contractor by **tie**.

24.7 In this paragraph 24.7 "**construction site**" means any parcel of land in Edinburgh Park or Hermiston Gait which the MUDFA Contractor may use for the purpose of carrying out the MUDFA Works in accordance with this Agreement.

24.7.1 Subject to the provisions of this Section 24, the MUDFA Contractor shall not use any road or way within Edinburgh Park in connection with the construction of the Edinburgh Tram Network without the prior written consent of **tie**.

24.7.2 The MUDFA Contractor may use the ways within Edinburgh Park designated as Roads 1 and 8 in connection with the placing of all facilities ancillary to the construction of the junction between the Edinburgh Tram Network and the road or way designated as Road 8.

24.7.3 Nothing in this paragraph affects the MUDFA Contractor's ability to;

- (a) use any land in respect of which CEC/**tie** has secured access by virtue of the Tram Legislation or any other right or agreement; or
- (b) to gain access to and egress from any such land from and to any public highway.

24.7.4 In the carrying out of the MUDFA Works, no motor vehicles shall be parked outwith any construction site.

24.7.5 Any motor vehicle of the MUDFA Contractor that breaks down whilst in Edinburgh Park and going to or from a construction site shall be dealt with by or on behalf of the MUDFA Contractor in an efficient and timely manner.

24.7.6 No offloading or loading of construction materials shall be made by the MUDFA Contractor outwith the construction sites. All noxious refuse on a construction site shall be stored so as to avoid so far as is reasonably practicable unsightly visual impact, airborne debris and noxious smells, and shall be removed from Edinburgh Park at regular intervals.

On completion of the MUDFA Works, all debris, rubble, waste and refuse not required for landscaping of the MUDFA Works shall be removed by the MUDFA Contractor from Edinburgh Park.

- 24.7.7 During the carrying out of the MUDFA Works, a 20 mph speed limit shall apply to all construction vehicles within Edinburgh Park.
- 24.7.8 The MUDFA Contractor shall report any damage caused by it to property in Edinburgh Park outwith the construction sites in writing to **tie** as soon as reasonably practicable after it has become aware of that damage. Any such damage caused by the MUDFA Contractor shall be repaired by the MUDFA Contractor to the reasonable satisfaction of EPML and NEL (as confirmed to the MUDFA Contractor by **tie**) at the MUDFA Contractor's expense. In the event of failure by the MUDFA Contractor to comply with this requirement within a period of 30 working days, or such longer period as NEL shall reasonably allow (as notified to the MUDFA Contractor by **tie**), the MUDFA Contractor acknowledges that NEL or EPML may effect such repairs to its reasonable satisfaction and the MUDFA Contractor shall pay the proper and reasonable costs of doing so to **tie** or (if requested by **tie**) directly to NEL or EPML.
- 24.7.9 All litter and accidental spillages outwith the construction sites shall be removed by the MUDFA Contractor as soon as possible from the areas affected. In the event of failure to comply with this requirement, the MUDFA Contractor acknowledges that EPML may undertake that removal to its reasonable satisfaction and the MUDFA Contractor shall pay the reasonable costs of doing so to **tie** or (if requested by **tie**) directly to NEL or EPML.
- 24.7.10 During dry weather conditions, the MUDFA Contractor shall dampen roads in the construction sites in order to minimise airborne dust.
- 24.7.11 The MUDFA Contractor shall use reasonable endeavours to minimise noise created by the MUDFA Works.
- 24.7.12 The MUDFA Contractor shall not discharge any surface water into any of the lochans in Edinburgh Park.

24.7.13 The MUDFA Contractor shall ensure that the wheels of all motor vehicles leaving the construction sites are properly cleaned at or near their point of egress.

24.7.14 The MUDFA Contractor shall ensure that all roads in Edinburgh Park to and from the construction sites are kept free of mud and dust as far as reasonably practicable. In the event of failure by the MUDFA Contractor to keep all such roads clean to the reasonable satisfaction of NEL or EPML, the MUDFA Contractor acknowledges that NEL or EPML may effect such cleaning to its reasonable satisfaction and the MUDFA Contractor shall pay the reasonable costs of doing so to **tie** or (if requested by **tie**) directly to NEL or EPML.

24.7.15 The MUDFA Contractor shall provide to **tie** the following contacts in respect of the MUDFA Works being carried out at Edinburgh Park and Hermiston Gait, including their respective telephone numbers:

- (a) project manager;
- (b) site foreman;
- (c) site security officer;
- (d) site health and safety officer; and
- (e) three out-of-hours emergency contact numbers and contact details.

The MUDFA Contractor shall notify **tie** as soon as reasonably practicable, of any changes in the information previously provided.

24.7.16 Prior to commencing the relevant MUDFA Works at any construction site, the MUDFA Contractor shall erect a hoarding to the specifications, and at locations, shown on Plan 3 around that site and the MUDFA Contractor shall maintain the hoarding to a reasonable standard throughout the period of construction. On completion of the MUDFA Works, the MUDFA Contractor shall remove the hoarding to the reasonable satisfaction of NEL and EPML as confirmed to the MUDFA Contractor by **tie**.

In the event of failure by the MUDFA Contractor to hoard the site in accordance with this provision to the reasonable satisfaction of NEL or

EPML after having been called upon to do so, and having failed to do so within a reasonable period, NEL or EPML may effect such hoarding to its reasonable satisfaction and recover the proper and reasonable costs of doing so from the MUDFA Contractor.

- 24.8 The MUDFA Contractor shall ensure that all workmanship is at least to the standard of workmanship which has been applied in Edinburgh Park.
- 24.9 The MUDFA Contractor shall ensure that the effects of construction of the Edinburgh Tram Network on noise and vibration and other environmental impacts on buildings within Edinburgh Park constructed and occupied as at the date of this Agreement shall not at any time be significantly worse than the levels envisaged by the Environmental Statement.
- 24.10 The MUDFA Contractor will advise **tie** fully in relation to the construction programme in relation to the MUDFA Works at Edinburgh Park and Hermiston Gait and shall provide **tie** with a monthly update of such programme with a written explanation of all material alterations to the programme.
- 24.11 The MUDFA Contractor acknowledges that NEL or EPML shall be entitled to impose such barriers/control systems or other regulation on the Access Road as they may deem necessary (acting reasonably) from time to time in order to regulate and control the flow, access and egress of vehicular traffic to and from Edinburgh Park provided always that the said barriers/control systems or other regulations shall not at any time prevent pedestrian and vehicular access with or without construction traffic of the MUDFA Contractor to and from Edinburgh Park and Hermiston Gait for the purposes of carrying out the MUDFA Works.
- 24.12 Upon imminent completion of the relevant part of the MUDFA Works, the MUDFA Contractor shall serve written notice on **tie** specifying the estimated date upon which the relevant part of the MUDFA Works are due to complete and the estimated date upon which possession of the relevant site will be returned to **tie**.
- 24.13 Unless otherwise instructed by **tie** in accordance with this Agreement, the MUDFA Contractor shall make no use of Plots 192 and 194 as shown on the Drawings where such use shall at any time prevent the use of the roundabout in question by NEL, EPML and any relevant third parties.

- 24.14 With regard to Plots 212, 213, 214 and 216 as shown on the Drawings, the MUDFA Works shall be carried out so as to cause as little practicable interference as possible with the existing services, conducting media, traffic management equipment, CCTV, traffic light controls and counters, EPML switchgear or the like.
- 24.15 With regard to Plot 219 as shown on the Drawings, the MUDFA Works shall be carried out in a manner so as to ensure no damage to the lochan liners and shall in the event of any damage arising, make good all direct and indirect damage as soon as reasonably practicable.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 25 - STANLEY CASINOS LIMITED

- 25.1 In this Section 25 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Drawing" means drawing number 6 as annexed to the Edinburgh Tram (Line One) Act 2006;

"Existing Planning Consent" means application reference 99/02128/FUL in respect of which a decision notice was granted on 21 October 1999;

"Site" means that area of Ocean Drive, Leith identified as Plots 40, 45 and 46 on the Drawing;

"Stanley" means Stanley Casinos Limited, a company incorporated under the Companies Acts (Registered Number 1519689) and having its registered office at Stanley House, 151 Dale Street, Liverpool, L2 2JW, together with its successors and assignees;

- 25.2 The MUDFA Contractor shall consult with **tie** and (if requested by **tie**) with Stanley as regards the impact of the carrying out of the MUDFA Works in the vicinity of the Site on the operation of Stanley's business. The MUDFA Contractor shall comply with any agreement reached between **tie** and Stanley in relation to the timing of the carrying out of the MUDFA Works so that the impact on the normal operation of Stanley's business is minimized so far as reasonably practicable having regard to the scope and nature of the MUDFA Works.

- 25.3 The MUDFA Contractor shall ensure that during the carrying out of the MUDFA Works at or in the vicinity of the Site, there is available for use at all times at least 50% of the number of car parking spaces currently available in terms of the Existing Planning Consent.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 26 - NETWORK RAIL INFRASTRUCTURE LIMITED

26.1 In this Section 26 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Access Agreement" has the meaning given to it in section 83 of the Railways Act 1983;

"Authorised Works" means any works authorised to be carried out under the Tram Legislation insofar as the same constitute MUDFA Works;

"HMRI" means Her Majesty's Railway Inspectorate;

"Operator Costs" means costs, direct losses and expenses payable by Network Rail to a Train Operator pursuant to an Access Agreement;

"Network" means that part of the railway network of which Network Rail is the facility owner (as defined in section 17(6) of the Railways Act 1993 (as amended by the Transport Act 2000) which is situated in England, Wales and Scotland;

"Network Rail" means Network Rail Infrastructure Limited, a company incorporated under the Companies Acts with registered number 2904587 and having its registered office at 40 Melton Street, London, NW1 2EE, together with its successors and assignees;

"Network Rail Agreement" means the protective provisions agreement entered into between **tie**, CEC and Network Rail dated 17 and 21 June 2005

"Network Rail Company Standards" means a standards document issued by Network Rail for its own use in relation to the Network as a whole which applies to the works authorized by the Tram Legislation (or such updated or amended document as may be issued from time to time);

"Protective Work" means any work which Network Rail specifies should be carried out before the commencement of construction of any Authorised Work (as the same is notified to the MUDFA Contractor by **tie**) to ensure the safety or stability of Railway Property or the continuation of safe and efficient operation of the Network or the services of Train Operators;

"Railway Group Standards" means (i) technical standards to which railway assets or equipment used on or as part of the Network must conform; and (ii) operating procedures with which the operators of railway assets must comply, in each case as issued by the Rail Safety and Standards Body Limited and authorized pursuant to the Railway Group Standards Code;

"Railway Property" means any property belonging to Network Rail and forming part of the Network including any railway infrastructure, station, depot, buildings, lands, works, apparatus and equipment belonging to Network Rail or a relevant associated company connected therewith and includes any land held or used by Network Rail, including any servitude or other property interest held or used by Network Rail for the purposes of such railway, Network, station, depot, buildings, lands, works, apparatus or equipment;

"Relevant Work" means:

- (a) so much of the Authorised Works as is situated upon, across, under or over, (i) Railway Property; or (ii) within 15 metres of Railway Property; or (iii) which may in any way adversely affect Railway Property; and
- (b) to the extent that it is not Authorised Works, any Protective Work constructed or to be constructed by the MUDFA Contractor;

"Train Operator" means any person who operates trains in accordance with a licence under section 8 of the Railways Act 1993 or an exemption under section 7 of the Railways Act 1993;

26.2 The MUDFA Contractor shall not permit pedestrian or vehicular access on to any Railway Property unless such action has been expressly approved by **tie** in writing.

26.3 Works carried out by the MUDFA Contractor to all new or existing overbridges and underbridges, including footbridges, will comply with Railway Group Standards, Network Rail Company Standards and the requirements of HMRI.

26.4 The MUDFA Contractor shall indemnify and keep indemnified **tie** in relation to any liability incurred by **tie** under the Network Rail Agreement in respect of :

26.4.1 the carrying out of the MUDFA Works by the MUDFA Contractor, including any activities associated with Relevant Work; or

26.4.2 any act or omission of the MUDFA Contractor or of its employees, agents or contractors or other others whilst engaged upon the MUDFA Works.

26.5 If any:

26.5.1 damage to Railway Property; or

26.5.2 interference with the conduct of rail traffic on the Network or obstruction of the Network;

is caused by or is a consequence of the MUDFA Works, including any Relevant Work, the MUDFA Contractor shall:

- (a) make good such damage; and
- (b) pay **tie** an amount equal to **tie's** liability to pay Operator Costs to Network Rail pursuant to the Network Rail Agreement.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 27 - MARKS & SPENCER PLC

27.1 In this Section 27 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Accommodation Works" means (a) any MUDFA Works to or in the Gyle Car Park so far as outwith the New Limits; (b) without prejudice to but not limited by (a) aforesaid, works to ensure no reduction in available car parking spaces and circulation path standards consequent upon the Works generally or the works specified at (a) aforesaid; and (c) similarly without prejudice or limitation as aforesaid, all necessary associated restoration works, all of which works referred to at (a), (b) and (c) aforesaid will be described in the Accommodation Works Method Statement;

"Accommodation Works Method Statement" means the method statement to be developed by the MUDFA Contractor pursuant to paragraph 27.5 as the same may be amended pursuant to this Section 27 of Schedule 13.

"Drawing" means plans numbered 14 and 15 as attached to the Edinburgh Tram (Line Two) Act 2006;

"Licence" means a licence to be entered into by CEC in respect of access to the Site to allow the carrying out of *inter alia* the MUDFA Works;

"Licence Site" means the subject of a Licence;

"M&S" means Marks and Spencer Plc, a company incorporated under the Companies Act with registered number 00214436 and having its registered office at Waterside House, 35 North Wharf Road, London, W2 1NW and its successors and assignees;

"Method Statements" means the Accommodation Works Method Statement and the Works Method Statement as the context may require;

"Plan" means the plan set out in Appendix 12 to Schedule 13;

"Site" means that area of ground known as and forming the Gyle Shopping Centre together with the car park, access roads and all ancillary services being the subjects described in the Feu Contract between The City of Edinburgh Council and Marks & Spencer plc and Safeway Stores plc recorded in the Division of the General Register of Sasines for the County of Midlothian on 10 January 1997 and comprising Plot Numbers 478, 479, 480, 481, 482, 483, 484 and 486 as shown on the Drawing;

"Works" means Work No 8 and Work No 9 insofar as in the vicinity of the Site as described in Schedule 1 to the Edinburgh Tram (Line Two) Act 2006, being works required in respect of the construction of the Edinburgh Tram Network, but specifically excluding any works required in the future to maintain the Edinburgh Tram Network;

"Works Method Statement" means the method statement to be developed by the MUDFA Contractor pursuant to paragraph 27.3 as the same may be amended pursuant to this Section 27 of Schedule 13.

- 27.2 In carrying out or procuring the carrying out of the MUDFA Works at the Site, the MUDFA Contractor shall not encroach upon any land outwith the area shown hatched blue on the Plan unless instructed otherwise by **tie** in accordance with this Agreement.
- 27.3 The MUDFA Contractor shall provide all required assistance to **tie** in respect of the drafting of a Works Method Statement in respect of the MUDFA Works to be carried out in the vicinity of the Site. The Works Method Statement will deal specifically with *inter alia* specified working hours, specified time of year and peak retailing periods when working will be avoided, mitigation measures to minimise adverse impact on service and customer access including measures to reconfigure the car park if necessary, mitigation measures to avoid dust/vibration/noise having an adverse effect on trading, restoration of any Licence Site (including landscaping and signage) insofar as applicable to the Works in the vicinity of the Site and where applicable will mirror the terms of Schedule 2 (*Technical Requirements*).
- 27.4 Those elements of the Works which constitute MUDFA Works shall not be commenced until the Works Method Statement has been finalised by **tie**.
- 27.5 The MUDFA Contractor shall provide all required assistance to **tie** in relation to the drafting of an Accommodation Works Method Statement in respect of the MUDFA

Works. The Accommodation Works Method Statement shall deal specifically with *inter alia* specified working hours, specified times of the year and peak retailing periods when working will either cease or be avoided, mitigation measures to minimise adverse impact on service and customer access including measures to reconfigure the car park if necessary, mitigation to avoid dust/vibration/noise having an adverse effect on trading, restoration of any Licence Site (including layout of the car park, landscaping and signage) insofar as applicable to the Accommodation Works to the extent that they constitute MUDFA Works and where applicable will mirror the terms of Schedule 2 (*Technical Requirements*).

- 27.6 Those elements of the Accommodation Works which constitute MUDFA Works shall not be commenced until the Accommodation Works Method Statement has been finalised by **tie** and M&S. The MUDFA Contractor shall provide **tie** with all reasonable assistance requested by **tie** in relation to the negotiation and agreement of the Accommodation Works Method Statement between **tie** and M&S.
- 27.7 The MUDFA Contractor shall carry out or procure the carrying out of the relevant MUDFA Works at the Licence Site strictly in accordance with the terms of the finalised Method Statements.
- 27.8 Those elements of the Works which constitute the MUDFA Works will be carried out in a good and workmanlike manner so that impact on the normal operation of M&S business is minimised so far as is reasonably practical in accordance with the finalised Method Statements.
- 27.9 Prior to completion of the Accommodation Works on each Licence Site the MUDFA Contractor shall serve notice on **tie** specifying the estimated date upon which the Accommodation Works on that particular Licence Site are due to be completed and the estimated date upon which possession of the Licence Site will be returned to **tie**, provided that such notice shall be provided to **tie** having regard to the need to facilitate an inspection of the relevant Licence Site pursuant to paragraph 27.10.
- 27.10 The MUDFA Contractor shall facilitate the carrying out of an inspection of the relevant Licence Site by M&S and a representative of CEC and/or **tie**, such inspection to be carried out on a date to be specified by **tie** declaring that the relevant date will be at least 5 days before the estimated date of return of possession of the relevant Licence Site to **tie**.

- 27.11 Any interference with access to any part of the Site proposed by the MUDFA Contractor in pursuance of the MUDFA Works shall only be given effect, whether as to route or other locational factors, or as to timing and duration, after due consultation with and approval thereto from **tie**.
- 27.12 The MUDFA Contractor shall ensure that there is two-way traffic flow along Glasgow Road within half a mile in each direction from Gogar Roundabout at all times during the carrying out of the MUDFA Works.
- 27.13 In carrying out the MUDFA Works, the MUDFA Contractor shall ensure that it does not at any time connect to any of the adopted or unadopted drains located within the Site.
- 27.14 Further to any obligations under this Agreement to investigate and survey land at the Site, the MUDFA Contractor shall consult with **tie** in relation to the location and timing of such surveys and use reasonable endeavours to minimise any disruption and shall make good any damage and leave the Site in no worse condition as existed prior to the carrying out of such surveys and investigations.
- 27.15 With regard to the location of any signage, the MUDFA Contractor shall consult with **tie** in relation to the location of such signs so as to ensure any such signage does not interfere in any material or misleading way with the normal operation of the Gyle Shopping Centre.

SCHEDULE 13

THIRD PARTY AGREEMENTS

SECTION 28 - MISCELLANEOUS

28.1 In this Section 28 of Schedule 13, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Authorised Car Park" means the car park shown outlined in red on the indicative plan set out in Appendix 13 to this Schedule 13;

"Police Box Coffee Bar" means the police box coffee bar situated on the pedestrian area to the east of St Mary's RC Cathedral, close to the junction with Little King Street at Picardy Place;

"Premises" means the properties known as Inchkeith House, 139 Leith Walk, Edinburgh and Allander House, 141 Leith Walk, Edinburgh;

"Property" means the flats at Rennie's Isle, Leith and the car park forming part thereof;

28.2 During the carrying out of the MUDFA Works, the MUDFA Contractor shall ensure that there is continued access to Shrub Place Lane, Edinburgh.

28.3 During the carrying out of the MUDFA Works, the MUDFA Contractor shall ensure that the utility services which feed into the Police Box Coffee Bar are not unduly disrupted. The MUDFA Contractor shall also ensure that pedestrian access and egress to and from the Police Box Coffee Bar is maintained at all times during the carrying out of the MUDFA Works.

28.4 Throughout the period of the MUDFA Works, the MUDFA Contractor shall use all reasonable endeavours to ensure that access to and egress from the Property and, in particular, access to and egress from the car park forming part of the Property, via Ocean Drive, to and from the road network, shall be maintained at all times throughout the period of the MUDFA Works.

28.5 Notwithstanding the provisions of paragraph 28.4 above, where usual access to and egress from the car park referred to in paragraph 28.4 cannot be maintained, the

MUDFA Contractor shall ensure that alternative temporary access is provided to allow access to and egress from the car park.

- 28.6 Prior to the commencement of any MUDFA Works in the vicinity of the Property, the MUDFA Contractor shall assist **tie**, as required, in any consultation with third parties regarding the likely duration of the MUDFA Works in the vicinity of the Property and the impact of such MUDFA Works.
- 28.7 The MUDFA Contractor shall not encroach upon the Authorised Car Park in relation to the carrying out of the MUDFA Works.
- 28.8 The MUDFA Contractor acknowledges that Lothian Primary Care NHS Trust (and its successors) (the "**Trust**") requires a continuous right of access to and egress from the Authorised Car Park and the Premises during the course of the MUDFA Works. If the MUDFA Works prevent such access being taken by the means current at the date that the construction commences, the MUDFA Contractor shall provide an alternative access route of a nature and in a location acceptable to the Trust (as notified to the MUDFA Contractor by **tie**).



SCHEDULE 13

INDEX OF APPENDICES

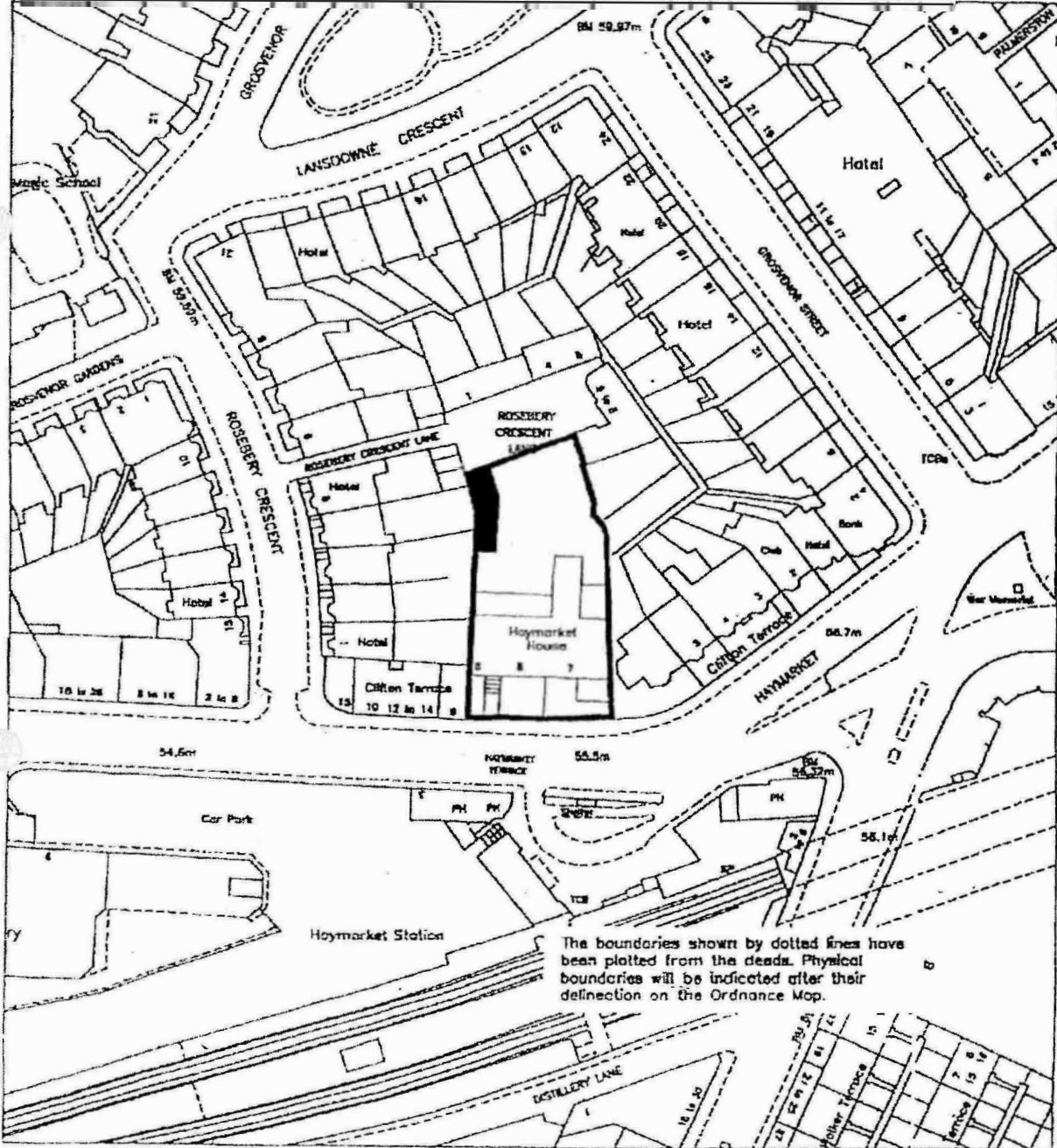
1. Appendix 1 - Trillium (Prime) Property GP Limited and Land Securities Trillium Limited
 - 1.1 Part 1 (Plan)
 - 1.2 Part 2 (Route Plan)
 2. Appendix 2 - Trustees of the City Point Unit Trust
 - 2.1 Part 1 (Plan 1)
 - 2.2 Part 2 (Plan 2)
 3. Appendix 3 - First Scotrail Limited
 - 3.1 Plan
 4. Appendix 4 - Stakis Limited
 - 4.1 Part 1 (Plan 1)
 - 4.2 Part 2 (Plan 2)
 5. Appendix 5 - Universities Superannuation Scheme Limited
 - 5.1 Plan
 6. Appendix 6 - Safeway Stores Limited and WM Morrisons Supermarket plc
 - 6.1 Plan
 7. Appendix 7 - New Ingliston Limited and Highland Properties (Scotland) Limited
 - 7.1 Part 1 (Plan 1)
 - 7.2 Part 2 (Plan 3)
 8. Appendix 8 - Verity Trustees Limited
 - 8.1 Part 1 (Plan 1)
 - 8.2 Part 2 (Plan 3)
 9. Appendix 9 - ADM Milling Limited
 - 9.1 Plan
 10. Appendix 10 - National Grid Property Holdings Limited, Port Greenwich Limited and WM Morrison Supermarkets plc
-

- 10.1 Part 1 (Plan)
- 10.2 Part 2 (Supermarket Plan)
- 11. Appendix 11 - New Edinburgh Limited and Edinburgh Park (Management) Limited
 - 11.1 Part 1 (Plan 1)
 - 11.2 Part 2 (Plan 2)
 - 11.3 Part 3 (Plan 3)
- 12. Appendix 12 - Marks & Spencer Plc
 - 12.1 Plan
- 13. Appendix 13 - Miscellaneous
 - 13.1 Authorised Car Park

Appendix 1

 LAND REGISTER OF SCOTLAND	Officer's ID / Date 3569 18/8/2004	TITLE NUMBER MID60865
	 ORDNANCE SURVEY NATIONAL GRID REFERENCE NT2373SE NT2473SW	Scale 1/1250 Survey Scale 1/1250

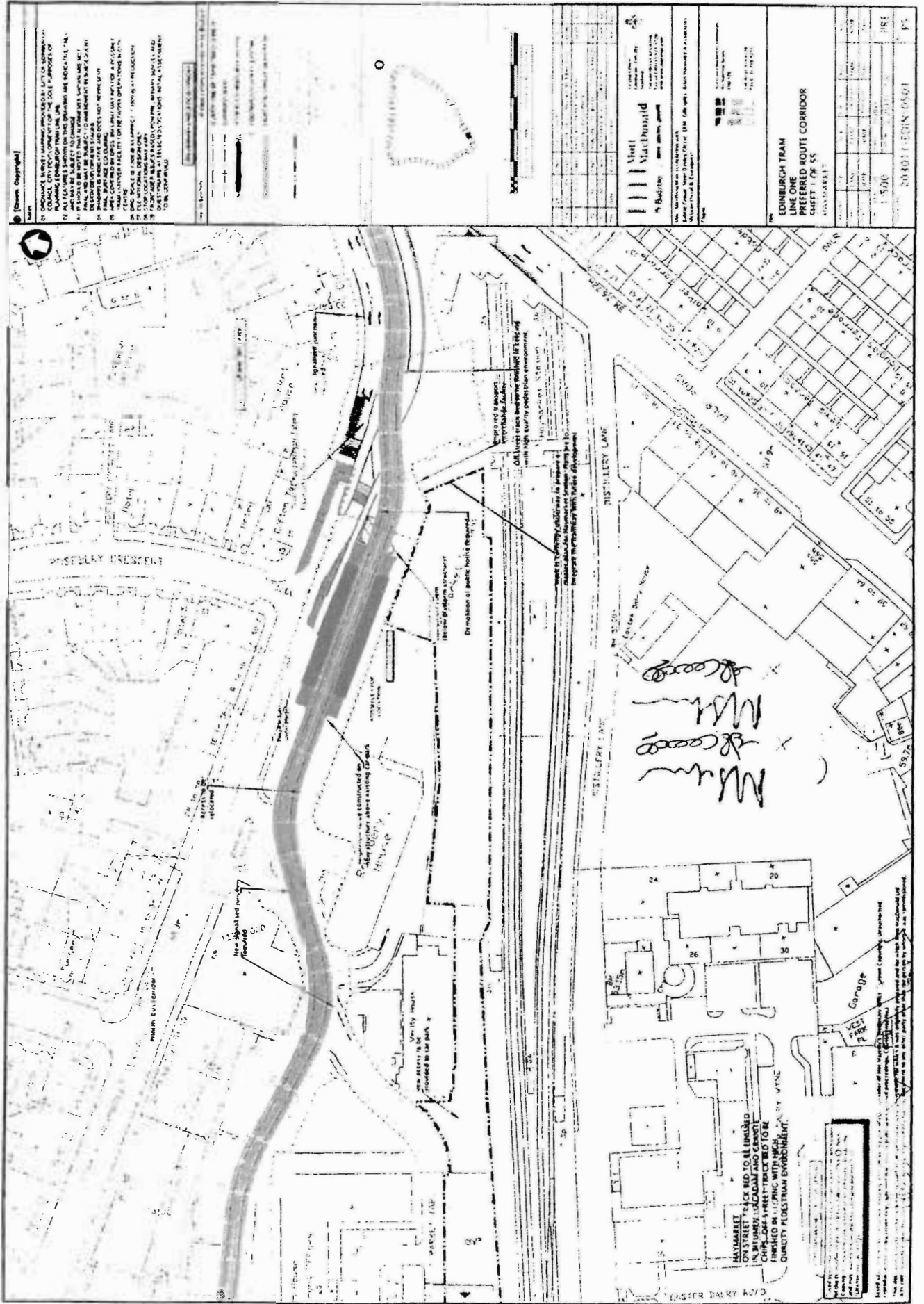
ORDNANCE SURVEY © - This copy has been produced from the OS Digital Mapping System on 18/08/2004 and was made with the authority of Ordnance Survey pursuant to Section 47 of the Copyright, Designs and Patents Act 1988. Unless that act provides a relevant exception to copyright, the copy must not be copied without the prior permission of the copyright owner.



This is the Plan referred to in the foregoing Agreement between the City of Edinburgh Council, Trillium (Prime) Property GP Limited and Land Securities Trillium Limited

[Handwritten signature]

This is the Route Plan forming Part 2 of Appendix 2 referred to in paragraph 3.1 of Section 3 of Schedule 13



This is the Route Plan referred to in the foregoing Agreement between the City of Edinburgh Council, Trillium (Prime) Property GP Limited and Land Securities Trillium Limited

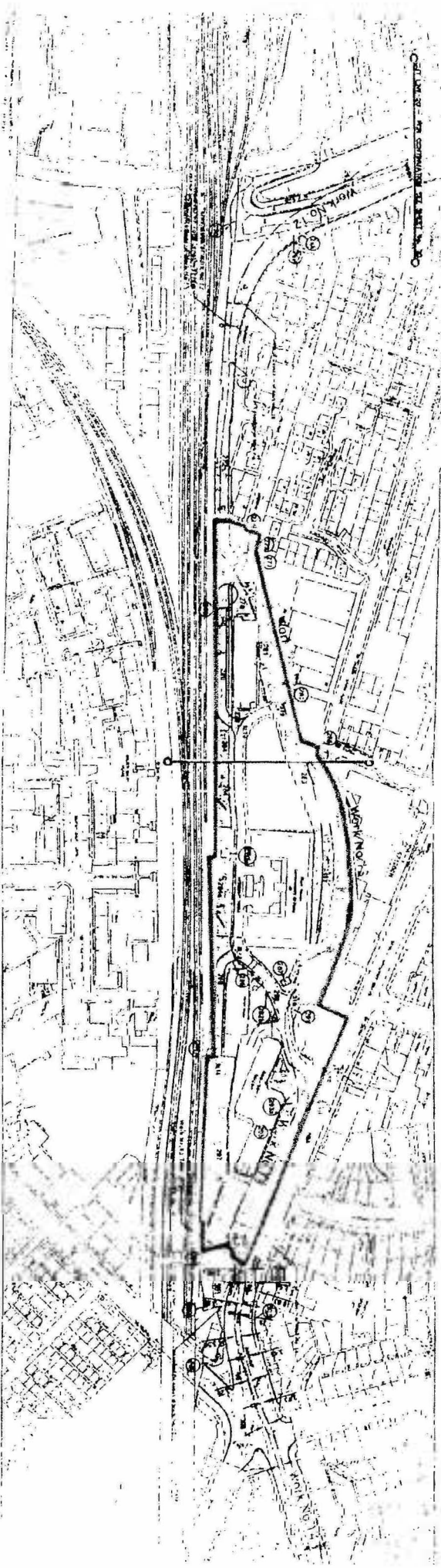
Appendix 2

This is Plan 1 forming part 1 of Appendix 3 as referred to in paragraph 4.1 of Section 4 of Schedule 13

CITY OF EDINBURGH EDINBURGH TRAM (LINE ONE) PLAN

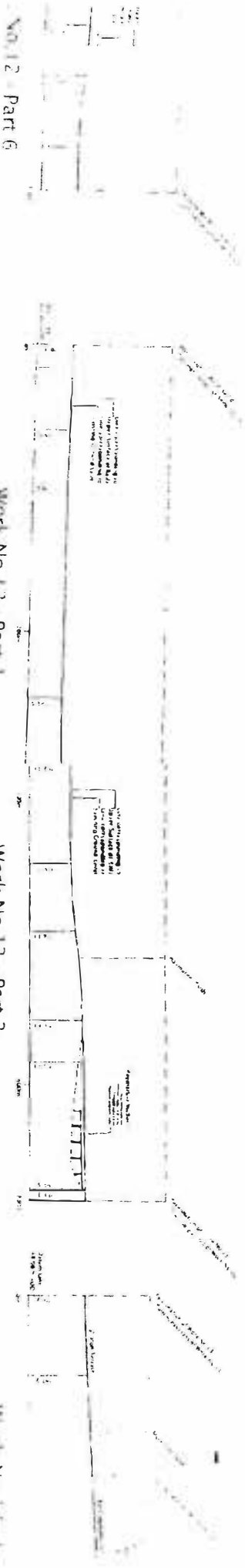
CITY OF EDINBURGH EDINBURGH TRAM (LINE ONE) PLAN

PLAN 3/



SECTIONS

SECTIONS

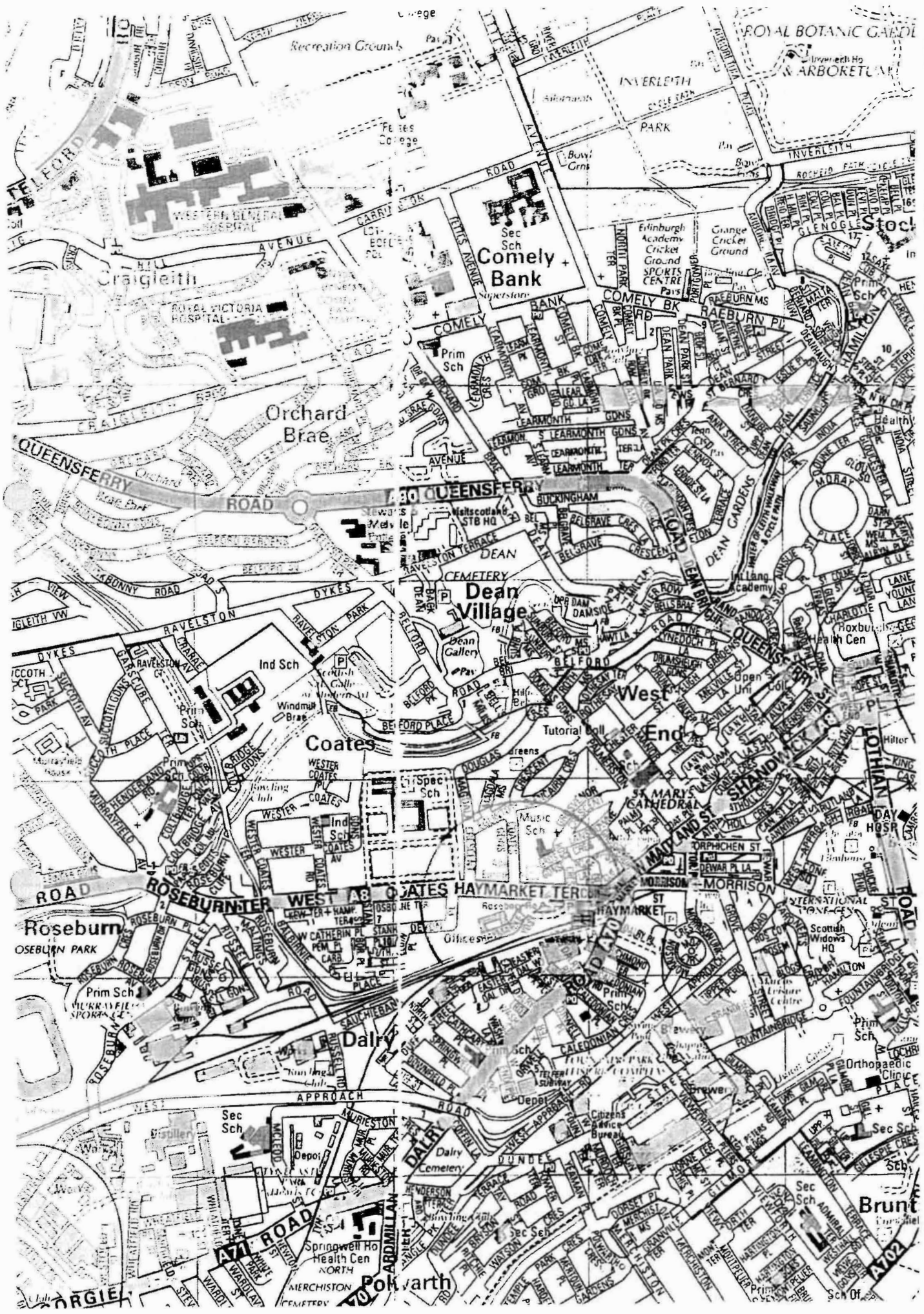


Work No. 12 - Part 6

Work No. 13 - Part 1

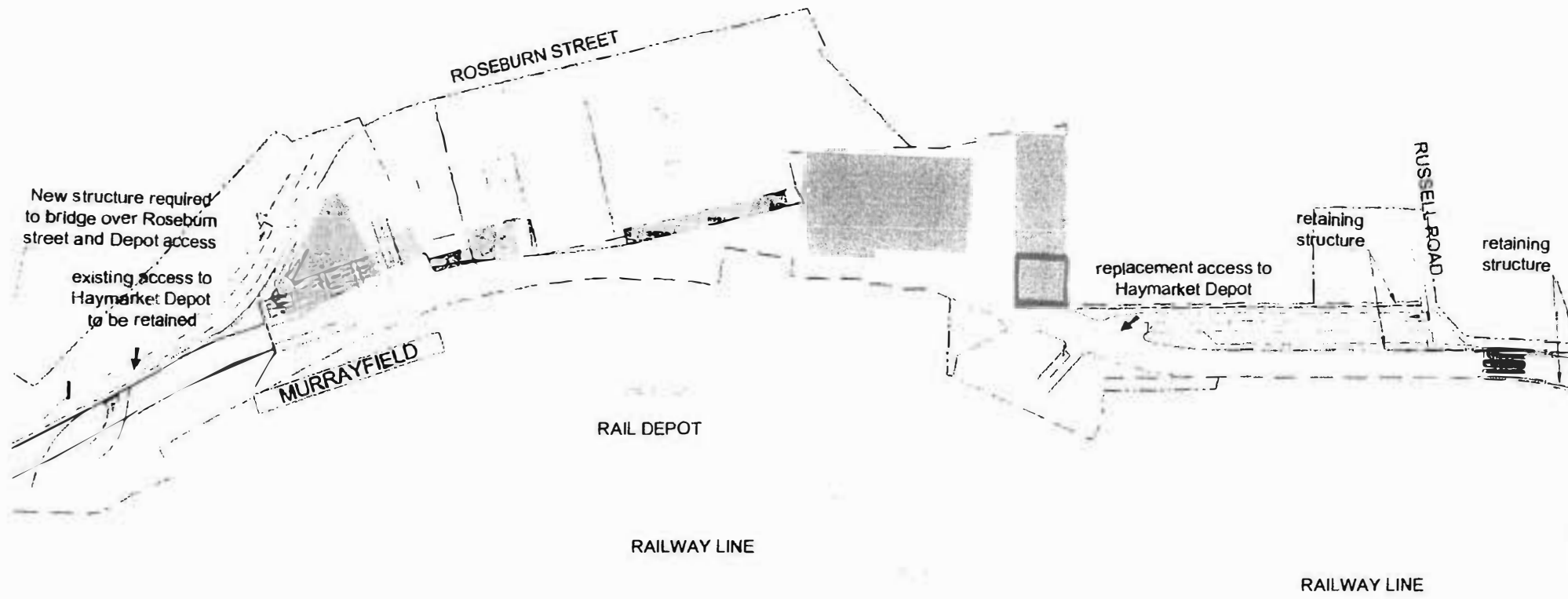
Work No. 13 - Part 2

Work No. 14 - Part 1



Appendix 3

This is the Plan referred to in paragraph 11.1 of Section 11 of Schedule 13.



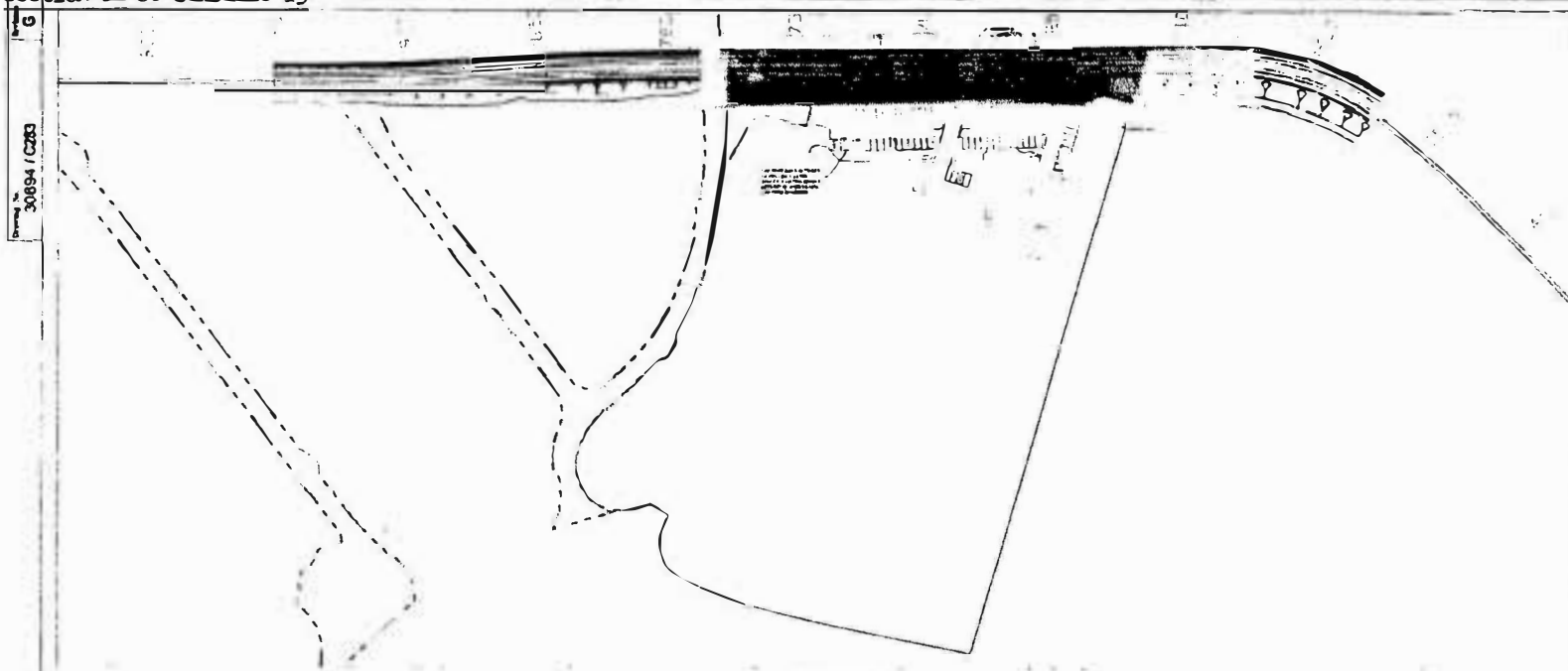
EDINBURGH TRAM LINES 1 & 2 HAYMARKET DEPOT	Scale: 1:1250	DEPOT PLAN
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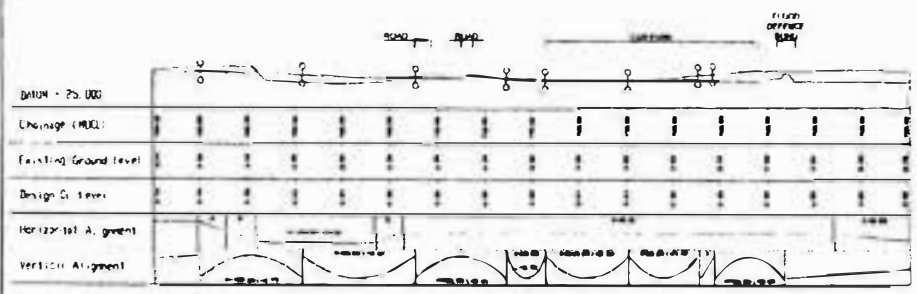
Appendix 4

This is Plan 1 forming Part 1 of Appendix 7 to Schedule 13 as referred to in paragraph 12.1 of Section 12 of Schedule 13

THIS IS PLAN 1 REFERRED TO IN THE FOREGOING MINUTE OF PROCEEDING AMONG THE CITY OF EDINBURGH COUNCIL AND STAGE LIMITED.



PLANS CAUTIONS



LONGSECTION - SCALE H x 1/1000, V x 1/500 @ A1

Alan G. MacKenzie



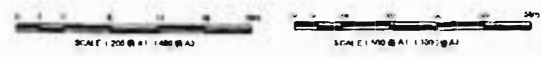
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DATUM + 27.000



CROSS SECTION B-B SCALE 1/200 @ A1

DATUM + 27.000



KEY

LIMITED.

	EXISTING FLOOD DEFENCE
	LAND ACQUIRED FOR PERMANENT ACQUISITION (100% INTEREST - 1 YEAR PERIOD)
	LAND ACQUIRED FOR TEMPORARY ACQUISITION (50% INTEREST - 1 YEAR PERIOD)

THIS DOCUMENT IS A REPRESENTATION OF THE LAND ACQUIRED FOR THE PURPOSES OF THE PROJECT. IT DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

NO.	DESCRIPTION OF WORK	DATE	BY	CHKD BY
1	TRAM'S EXISTING PARKING BAY DETAIL	2008	AS	AS
2	LAND ACQUIRED & PARKING BAY WITHIN STATION BOUNDARY	2008	AS	AS
3	STATION BOUNDARY ADDED	2008	AS	AS
4	ADDITIONAL PERMANENT LAND ACQUIRED	2008	AS	AS
5	ADDITIONAL TEMPORARY LAND ACQUIRED	2008	AS	AS
6	ADDITIONAL PERMANENT LAND ACQUIRED	2008	AS	AS
7	ADDITIONAL TEMPORARY LAND ACQUIRED	2008	AS	AS
8	ADDITIONAL PERMANENT LAND ACQUIRED	2008	AS	AS
9	ADDITIONAL TEMPORARY LAND ACQUIRED	2008	AS	AS



EDINBURGH TRAM LINE TWO

Designed by	TME	FABER MACANISELL
Drawn by	BJP	
Checked by	MKG	
Approved by	AS	

STATION HOTEL CAR PARK ALIGNMENT ALTERNATIVE RETAINING WALL OPTION

Scale: AS SHOWN Date: 20.08.08
 Status: PRELIMINARY
 Drawing No: 30894 / C283

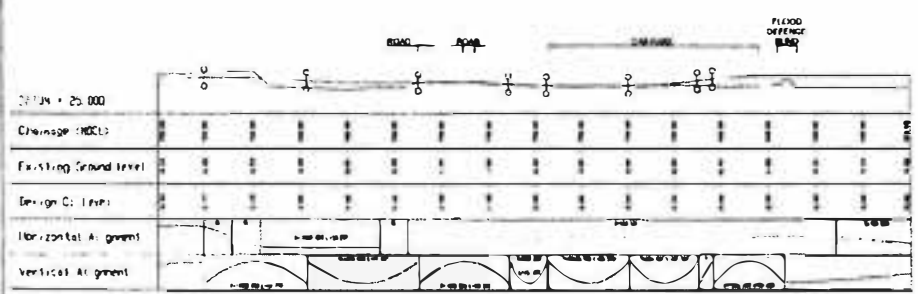
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This is Plan 2 forming Part 2 of Appendix 7 to Schedule 13 as referred to in paragraph 12.1 of Section 12 of Schedule 13

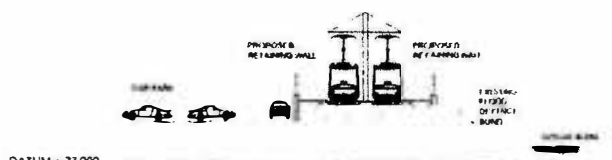
PLAN 2 REFERRED TO IN THE FOREGOING MINUTE OF AGREEMENT
BETWEEN THE CITY OF EDINBURGH COUNCIL AND STAVIS LIMITED



PLAN N.T.S.



LONG SECTION - SCALE H = 1:1000, V = 1:500 @ A1



CROSS SECTION A-A SCALE 1:200 @ A1

DATUM = 27.000



CROSS SECTION B-B SCALE 1:200 @ A1

DATUM = 27.000

KEY

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- EXISTING SPACES (75% PERMEABILITY)
- EXISTING SPACES (100% PERMEABILITY)
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- EXISTING SPACES (950% PERMEABILITY)
- EXISTING SPACES (1000% PERMEABILITY)

REVISION	DATE	BY	CHKD	APP	DATE
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2					
3					
4					
5					
6					
7					
8					
9					
10					



EDINBURGH TRAM LINE TWO

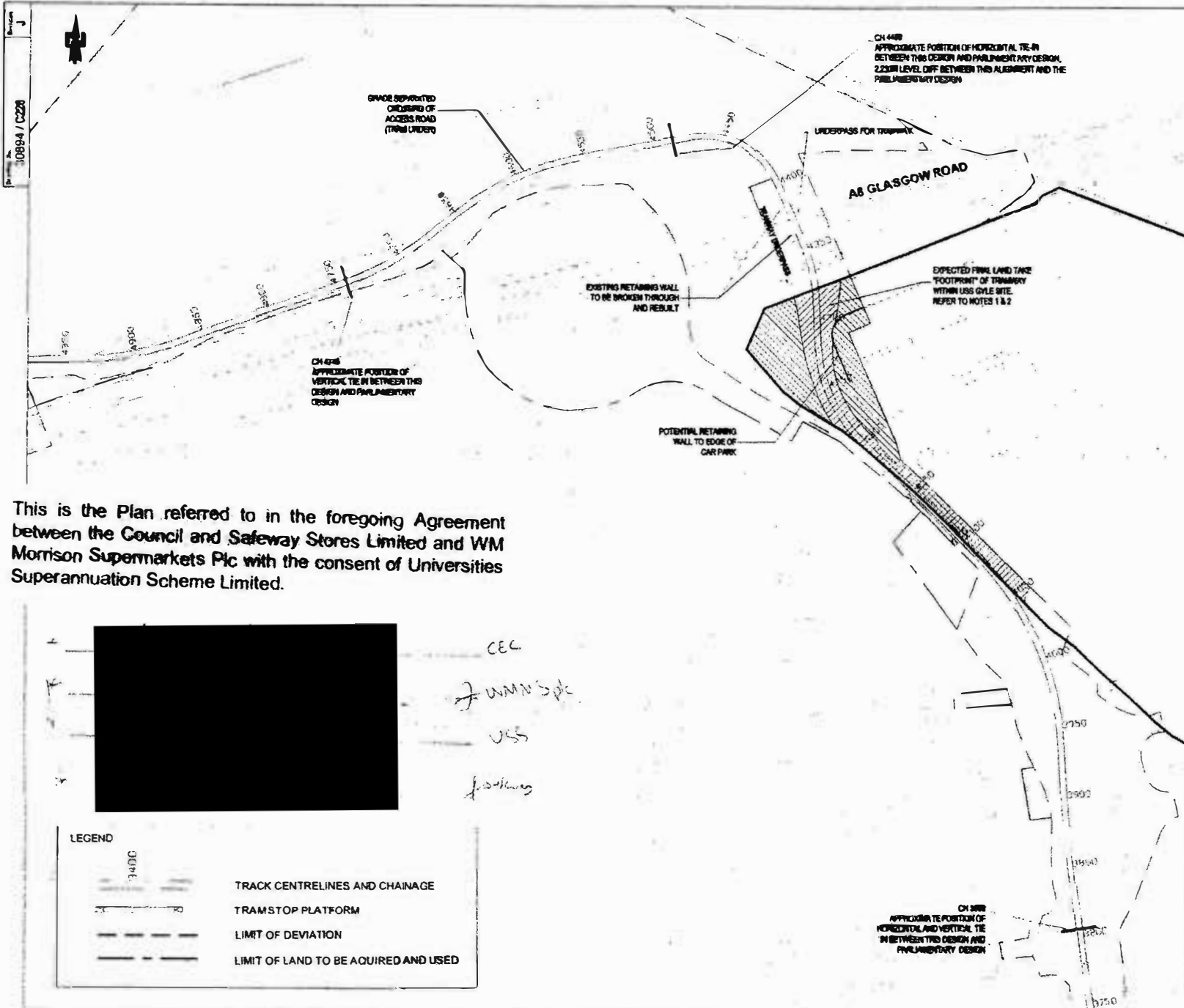
Designed	TMF	FABER MAIRFSELL
Drawn	AC	
Checked	AS	
Approved	AS	

Project No: 1-0001-0000
 Date: 12/09/08
 Scale: 1:200 @ A1
 Drawing No: 30894/C208

STAVIS HOTEL CAR PARK ALIGNMENT ALTERNATIVE RETAINING WALL OPTION - PARKING		
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Date:	12/09/08	Date:
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Author:	PHIL BARNETT	Author:
Checker:		Checker:
Approver:		Approver:
Client:		Client:

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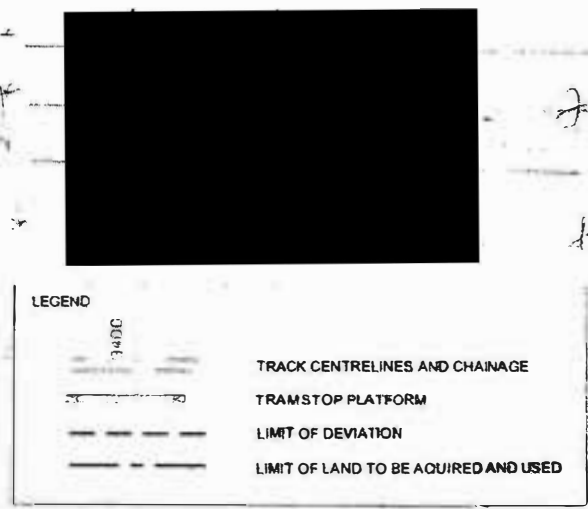
Appendix 5



- NOTES**
- 1 THE EXPECTED FINAL LAND TAKE 'FOOTPRINT' WILL PROVIDE FOR A BASIC CORRIDOR OF 10m WIDTH WITH ADDITIONAL WIDTH FOR CUT AND EMBANKMENT SLOPES WHERE THESE ARE REQUIRED.
 - 2 NOTWITHSTANDING NOTE 1 ABOVE, THE ACTUAL ALIGNMENT OF THE TRAMWAY IS SUBJECT TO ALTERATION WITHIN THE LOD. HOWEVER SUCH ALTERATION WOULD BE MINOR AND UNDERTAKEN IN KEEPING WITH THE UNDERSTANDING THAT THE FINAL SCHEME WILL BE SYMPATHETIC TO THE NEEDS OF USBS AND THEIR TENANTS.

- LEGEND**
- POSSIBLE EXTENT OF LAND REQUIRED PERMANENTLY
 - POSSIBLE EXTENT OF LAND REQUIRED DURING CONSTRUCTION
 - THE GYLE BOUNDARY

This is the Plan referred to in the foregoing Agreement between the Council and Safeway Stores Limited and WM Morrison Supermarkets Plc with the consent of Universities Superannuation Scheme Limited.



CEC
 J WAIN'S PL
 USBS
 J. S. H. H.

Rev	Description of revision	Date	Drawn	Checkd	App	Issue
1	TIME OVER BOUNDARY ADDED					
2	LAND TAKE FOOTPRINT ADDED					
3	DEPOT REMOVED					
4	ON TAIL CORRECTIONS TO LOD					
5	LOD & LLAU MODIFIED					
6	LOD MODIFIED					
7	ABSTRACTION CHANGED					
8	DEPOT LAYOUT ADDED & LOD MODIFIED					
9	FIGURE REF CHANGED TO 3.4					
10	OPTION REF CHANGED TO 3					
11	VERTICAL TIE IN POSITION AND CHAINAGE CHG					
12	FACT SHEET					



Project: EDINBURGH TRAM LINE TWO

Designed	TMF	FABER MALINGELL
Drawn	MT	
Checked	SJP	
Reviewed	GM	

Client: USBS
 Date: 1. 2009 2010 2011
 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025

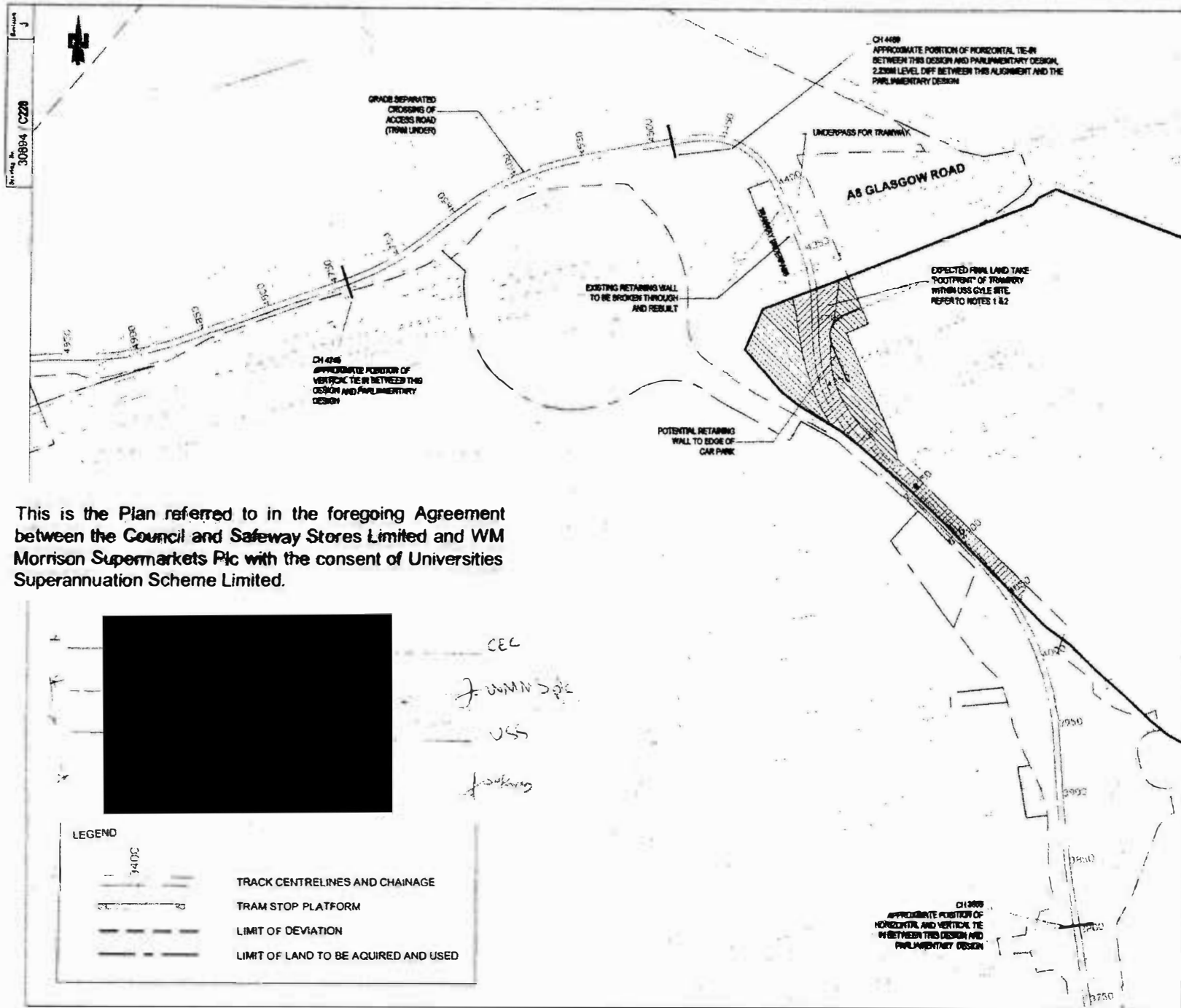
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FIGURE 3.4
 OPTION 3

Scale: A1 1:1250 @ A1 Date: Mar '08
 Status: DRAFT
 Drawing No: 30894 / C226

CAR00000300_0425

Appendix 6



- NOTES**
- 1 THE EXPECTED FINAL LAND TAKE 'FOOTPRINT' WILL PROVIDE FOR A BASIC CORRIDOR OF 10m WIDTH WITH ADDITIONAL WIDTH FOR CUT AND EMBANKMENT SLOPES WHERE THESE ARE REQUIRED.
 - 2 NOTWITHSTANDING NOTE 1 ABOVE, THE ACTUAL ALIGNMENT OF THE TRAMWAY IS SUBJECT TO ALTERATION WITHIN THE LOD. HOWEVER SUCH ALTERATION WOULD BE AMPHIBIOUS AND UNDERTAKEN IN KEEPING WITH THE UNDERSTANDING THAT THE FINAL SCHEME WILL BE SYMPATHETIC TO THE NEEDS OF USS AND THEIR TENANTS.

- LEGEND**
- POSSIBLE EXTENT OF LAND REQUIRED PERMANENTLY
 - POSSIBLE EXTENT OF LAND REQUIRED DURING CONSTRUCTION
 - THE GYLE BOUNDARY

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H	LAND TAKE FOOTPRINT ADJUST DEPOT REMOVED	AM	AM	AS	2008
G	DETAIL CORRECTIONS TO COST PLAN	SM	SM	AS	2008
F	LOD & L&L MODIFIED	PM	SM	AS	2008
E	LOD MODIFIED	PM	SM	AS	2008
D	ABBREVIATION CHANGED	AM	SM	AS	2008
C	DEPOT LAYOUT ADDED & LOG REVIEWED FOURSE REF CHANGED TO 34 CORRIDOR REF CHANGED TO 3	PM	SM	AS	2008
B	VERTICAL TIE-IN POSITION ADJUSTED TO CHANGING 4765	SM	SM	AS	2008
A	FAST TRACK	SM	SM	AS	2008



Project: **EDINBURGH TRAM LINE TWO**

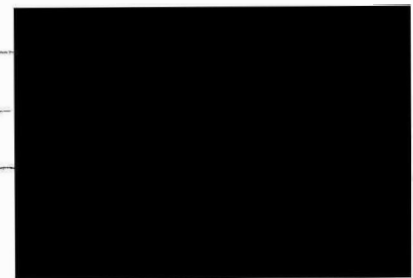
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Drawn	MT	
Checked	SJP	
Client	GM	

CAP Designer: [Signature]

**FIGURE 3A
OPTION 3**

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Status	DRAFT			
Drawing No.	30894 / C228			
Revision	3			

This is the Plan referred to in the foregoing Agreement between the Council and Safeway Stores Limited and WM Morrison Supermarkets Plc with the consent of Universities Superannuation Scheme Limited.



CEL
J. WAINMAN
USS
[Signature]

LEGEND

[Symbol]	TRACK CENTRELINES AND CHAINAGE
[Symbol]	TRAM STOP PLATFORM
[Symbol]	LIMIT OF DEVIATION
[Symbol]	LIMIT OF LAND TO BE ACQUIRED AND USED

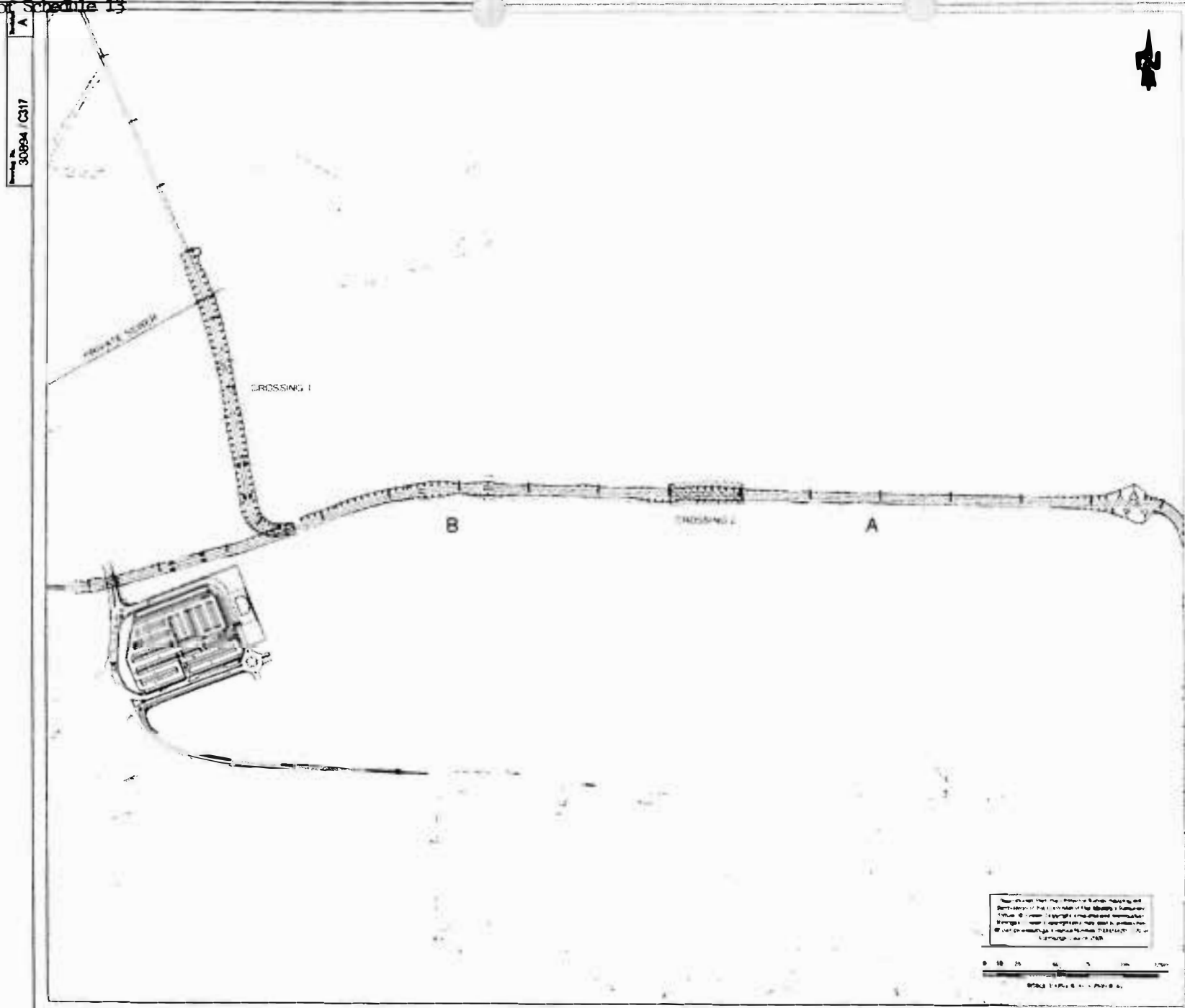
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Appendix 7

C

C

This is Plan 1 forming Part 1 of Appendix 9 to Schedule 13 as referred to in paragraph 15.1 of Section 15 of Schedule 13



NOTES:
 THIS IS THE ORIENTATION TO THE
 ADJUTMENT ALONG THE NEW ROUTE
 TO THE OLD AND EXISTING ROUTE

NEW LINE
 EXISTING LINE
 PRIVATE ROAD

No.	Description of Revision	Drawn/Checked/By	Date



EDINBURGH TRAM
 LINE TWO

Designer	SJP	FABER MAUNSELL
Drawn	PM	
Checked	TMF	
Approved	MCG	
		South West 10 Riverside Terrace Edinburgh EH1 1YF Tel: 0131 552 2000 Fax: 0131 552 2001 www.faber-maussell.com

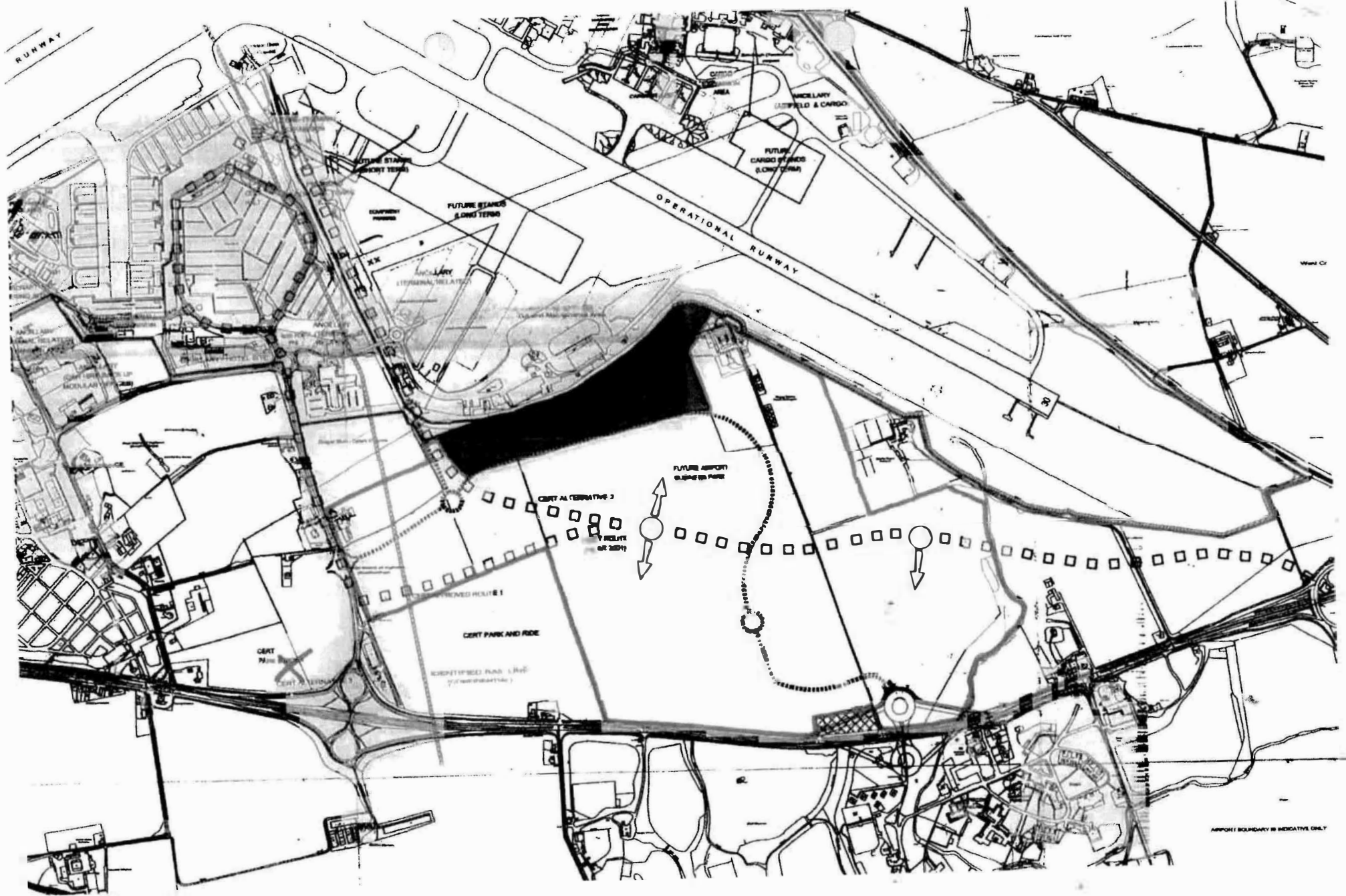
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PLAN 1

Scale: A1 Sheet 1/2000 Date: 04.11.05

Drawing No. 30894/C317

CAR00000300_0429



This is Plan 3 forming Part 3 of Appendix 9 to Schedule 13 as referred to in paragraph 15.1 of Section 15 of Schedule 13
 Ownership Boundary

h



CAR00000300_0430

Appendix 8

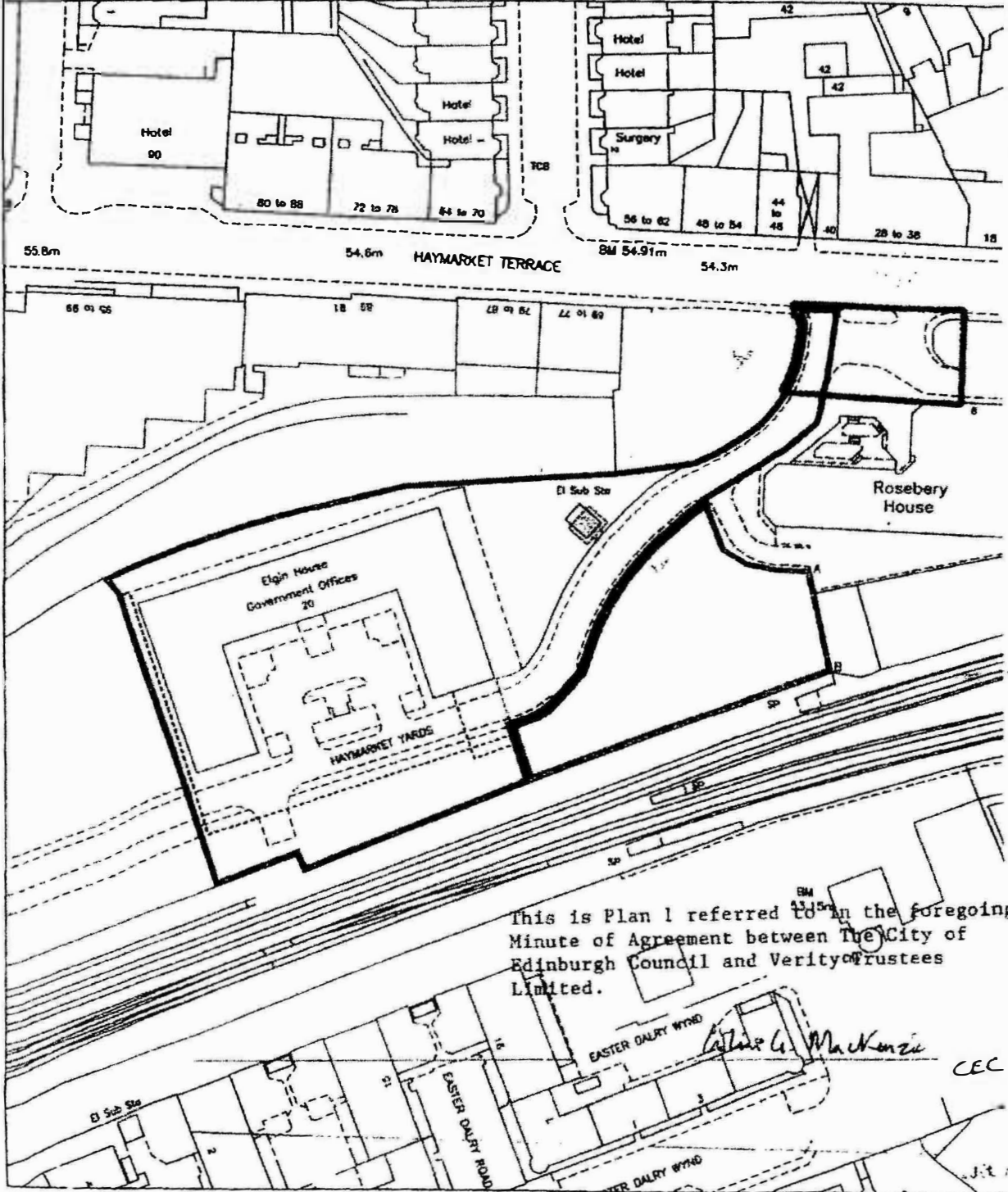
C

C

This is Plan 1 referred to in paragraph 17.1 of Section 17 of Schedule 13.

 LAND REGISTER OF SCOTLAND	Officer's ID / Date 3649 30/8/2001	TITLE NUMBER MID4503
	 ORDNANCE SURVEY NATIONAL GRID REFERENCE	Scale 1/1250
NT2372NW NT2372NE NT2373SW NT2373SE		Survey Scale 1/1250

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This is Plan 1 referred to in the foregoing Minute of Agreement between The City of Edinburgh Council and Verity Trustees Limited.

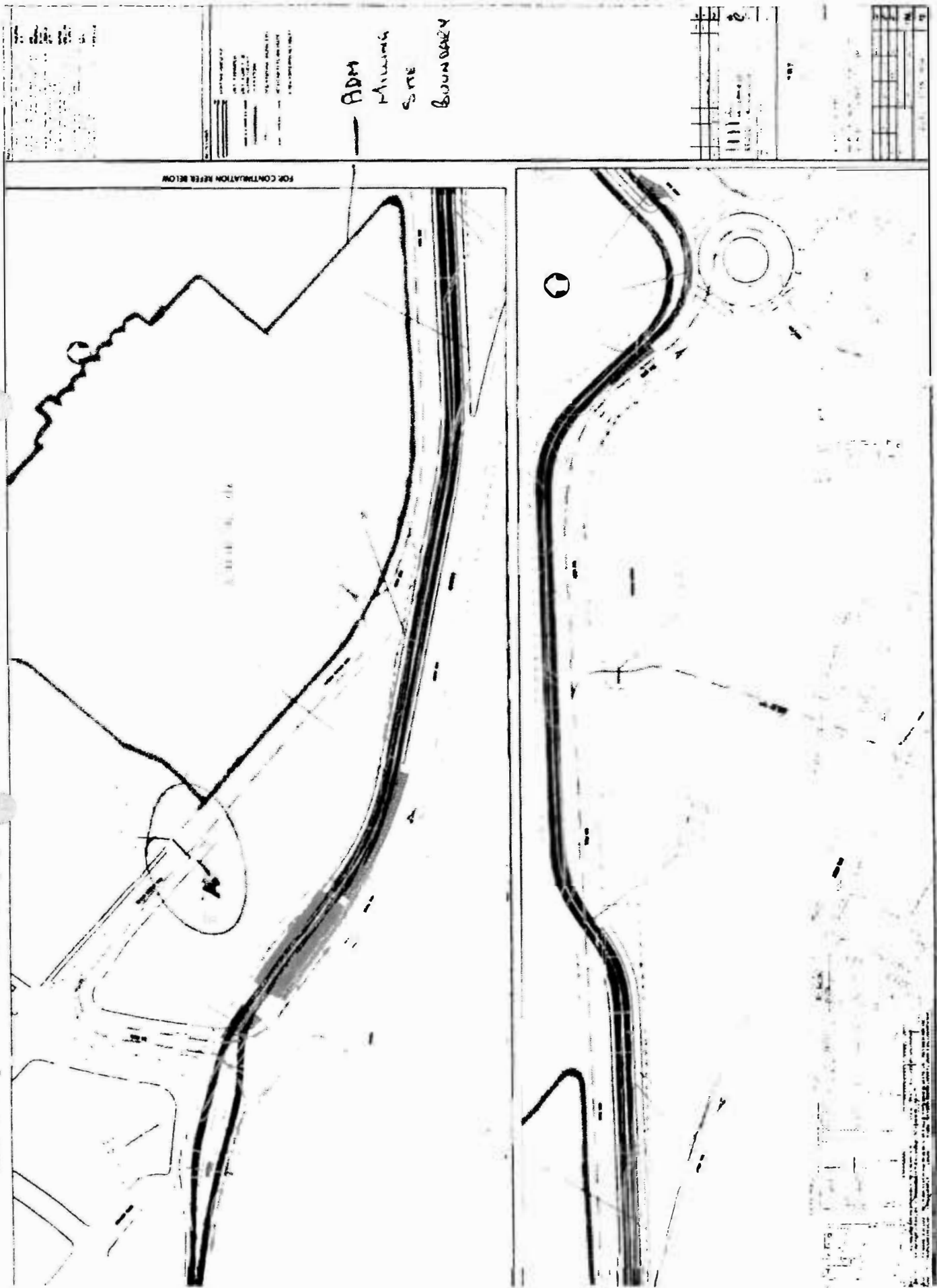
Alister G. Mackenzie

CEC

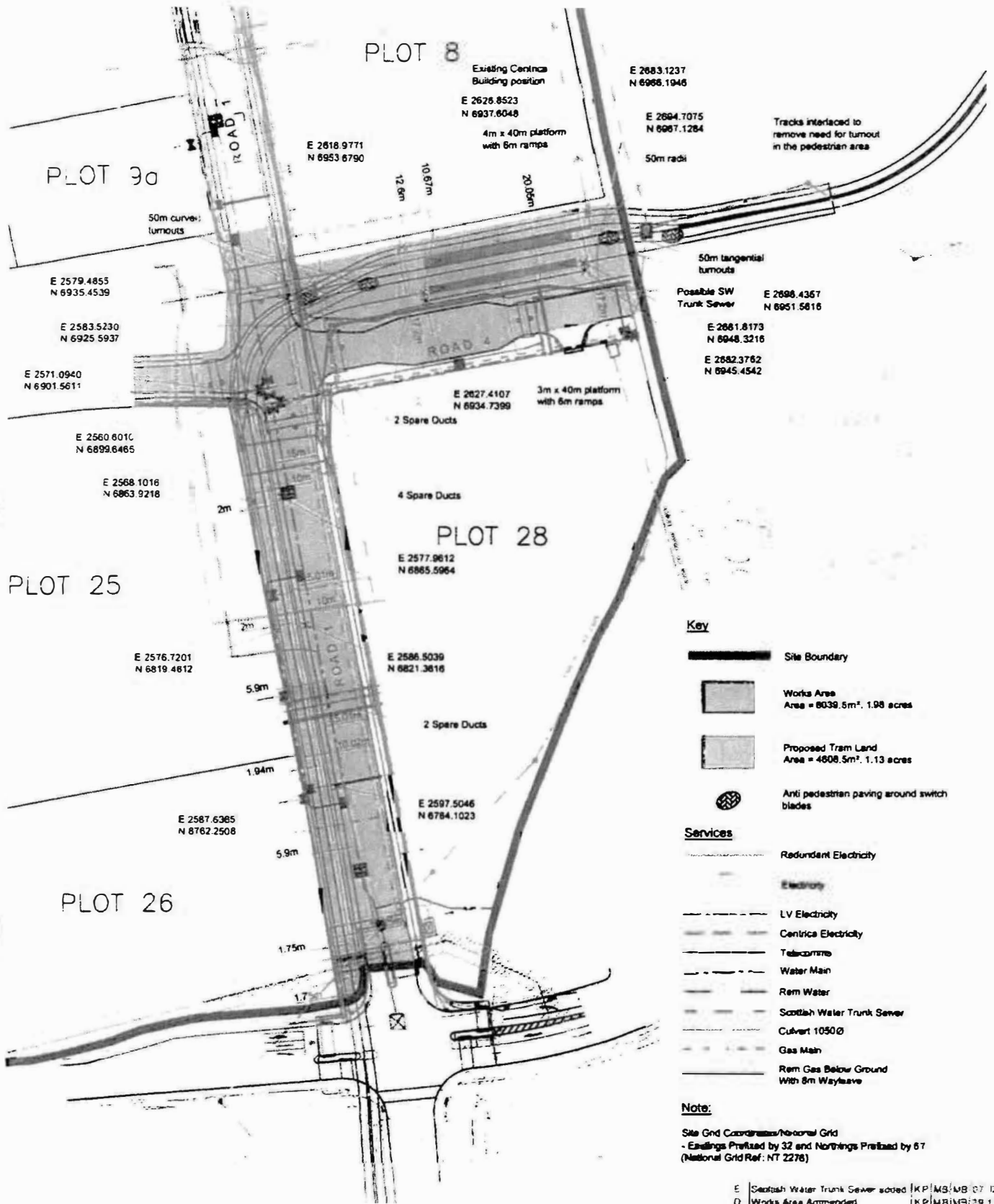
Appendix 9



This is the plan referred to in paragraph 10 of Section 18 of Schedule 13.



Appendix 10



Key

- Site Boundary
- Works Area
Area = 8039.5m², 1.98 acres
- Proposed Tram Land
Area = 4808.5m², 1.13 acres
- Anti pedestrian paving around switch blades

Services

- Redundant Electricity
- Electricity
- LV Electricity
- Centrica Electricity
- Telecomm
- Water Main
- Rem Water
- Scottish Water Trunk Sewer
- Culvert 1050Ø
- Gas Main
- Rem Gas Below Ground With 8m Wayleave

Note:

Site Grid Coordinates/National Grid
- Eastings Prefixed by 32 and Northings Prefixed by 67
(National Grid Ref: NT 2278)

E	Scottish Water Trunk Sewer sited	KP/MS/MB/07/05
D	Works Area Amended	KP/MS/MB/09/05
C	Works Area Amended	KP/MS/MB/23/05
B	Services added	KP/MS/MB/04/05
A	Shading and Areas Added	KP/MS/MS/16/08/05

Cringlear House
77 Craigmount Bree
Edinburgh
EH12 6XF

Tel: 0131 338 5454
Fax: 0131 317 7246
e-mail: edinburgh@wyg.com



Consulting Engineers

Civil Structural Mechanical Electrical Process Rail Traffic Environmental Project Management

Project:
GRANTON WORKS
EDINBURGH

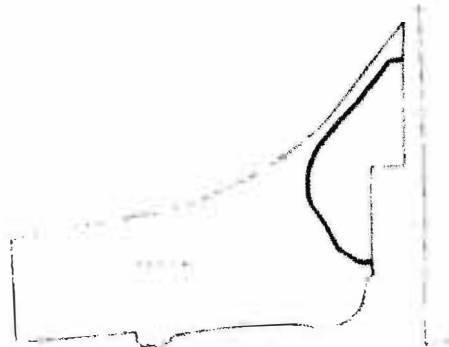
Client:
SecondSite Property

Project No:
PROPOSED TRAM ROUTE

Issue No.	Drawn By	Check By	Checked By	Date	Approved By	Date
1285	JP	LSP/JS	MP	1.08.05	MP	1.07.05
Project No.	Sheet	Type	Drawing No.	Revision		
A007183	31	CS	173			

APPROVAL INFORMATION DESIGN CONTRACT CONSTRUCTION

Appendix 11



This plan is referred to in the planning agreement entered into between the City of Edinburgh Council, New Edinburgh Limited and Edinburgh Bus (Management) Ltd.

*NEW EDINBURGH LTD
Lan Han
Lan Han
Lan Han*

FOR CONSULTATION

EDINBURGH PARK/HERMISTON GAIT TRAM 2

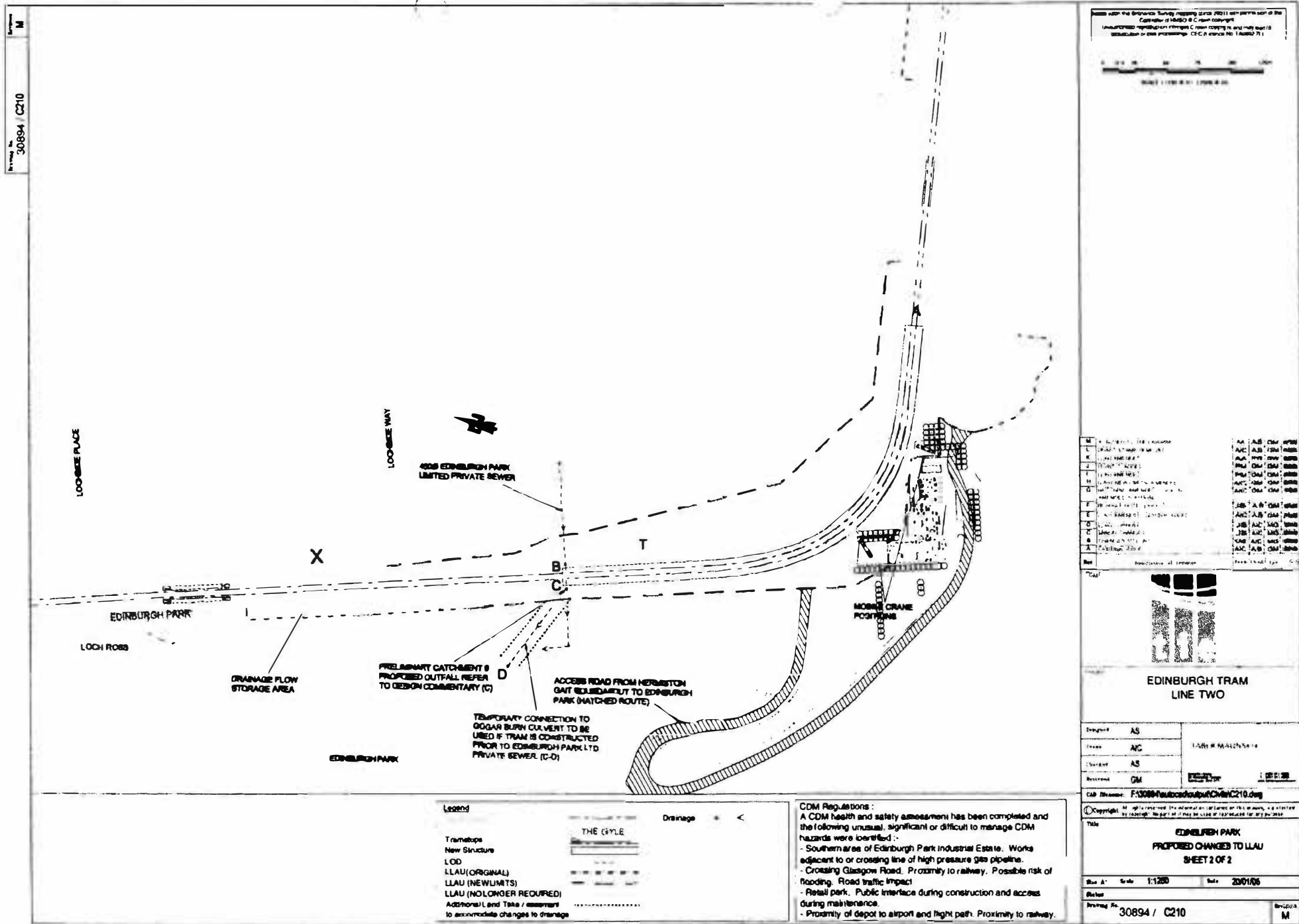
NEW EDINBURGH LTD

Halcrow

IDENTIFICATION OF SITE BOUNDARIES

04-4582-PDDEPL-102-9011

CAR00000300_0439



Drawing No: 30894 / C210
 M

This drawing is the property of the Contractor and shall remain the property of the Contractor. It is to be used for the purposes only for which it is issued and is not to be used for any other purpose without the written consent of the Contractor.



M	1:1000	AS	AS	AS	AS	AS	AS	AS	AS
L	1:1000	AS	AS	AS	AS	AS	AS	AS	AS
K	1:1000	AS	AS	AS	AS	AS	AS	AS	AS
J	1:1000	AS	AS	AS	AS	AS	AS	AS	AS
I	1:1000	AS	AS	AS	AS	AS	AS	AS	AS
H	1:1000	AS	AS	AS	AS	AS	AS	AS	AS
G	1:1000	AS	AS	AS	AS	AS	AS	AS	AS
F	1:1000	AS	AS	AS	AS	AS	AS	AS	AS
E	1:1000	AS	AS	AS	AS	AS	AS	AS	AS
D	1:1000	AS	AS	AS	AS	AS	AS	AS	AS
C	1:1000	AS	AS	AS	AS	AS	AS	AS	AS
B	1:1000	AS	AS	AS	AS	AS	AS	AS	AS
A	1:1000	AS	AS	AS	AS	AS	AS	AS	AS



EDINBURGH TRAM LINE TWO

Designed	AS	Drawn	AS
Checked	AS	Reviewed	AS
Approved	AS	CDM Approved	AS

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EDINBURGH PARK PROPOSED OUTFALL TO LLAU SHEET 2 OF 2

Scale: 1:1250
 Date: 20/1/06
 Drawing No: 30894 / C210
 M

Legend

- Tramways
- New Structure
- LOD
- LLAU (ORIGINAL)
- LLAU (NEW LIMITS)
- LLAU (NO LONGER REQUIRED)
- Additional Land Take / easement to accommodate changes to drainage

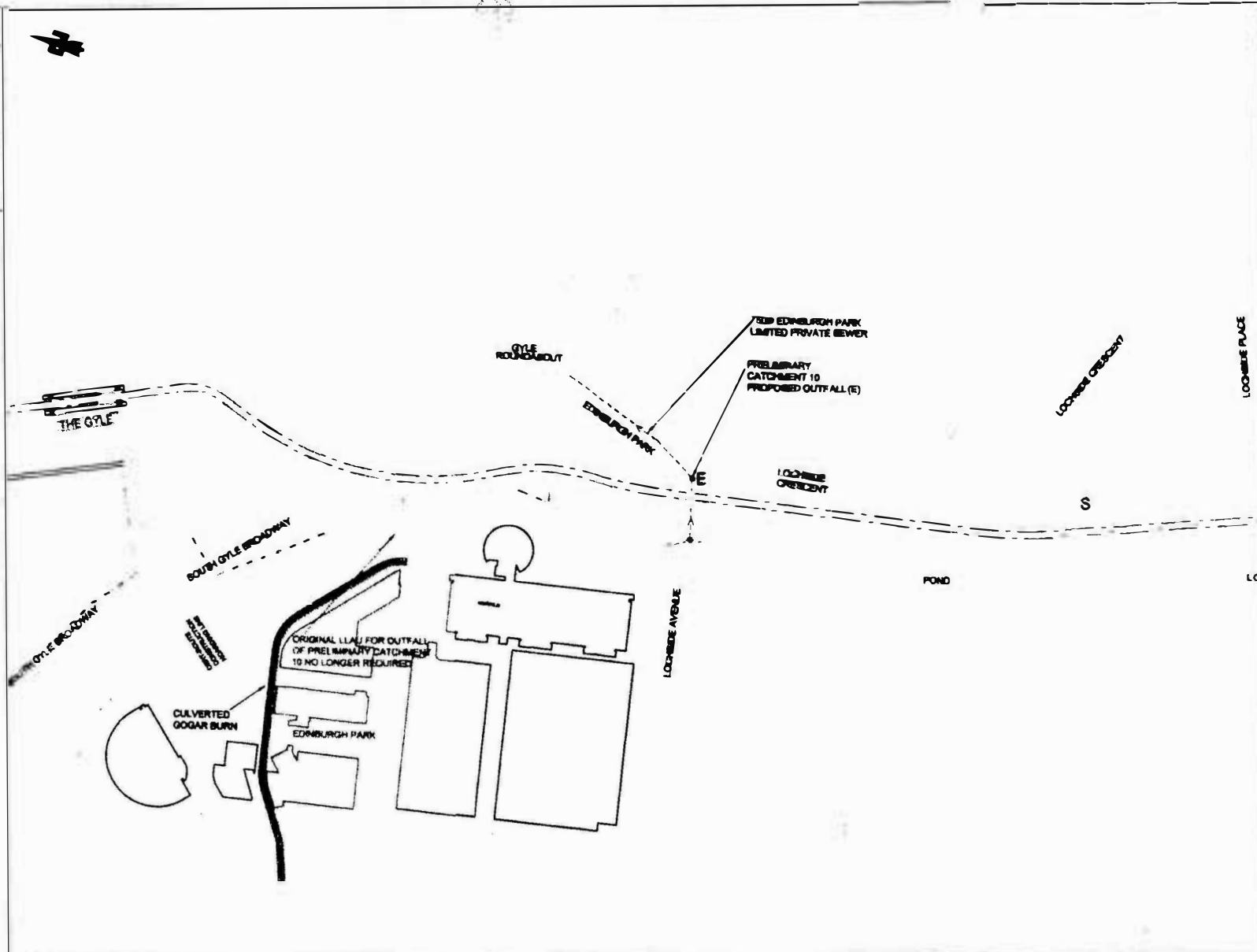
THE STYLE

Drainage

CDM Regulations:
 A CDM health and safety assessment has been completed and the following unusual, significant or difficult to manage CDM hazards were identified:
 - Southern area of Edinburgh Park Industrial Estate. Works adjacent to or crossing line of high pressure gas pipeline.
 - Crossing Glasgow Road. Proximity to railway. Possible risk of flooding. Road traffic impact.
 - Retail park. Public interface during construction and access during maintenance.
 - Proximity of depot to airport and flight path. Proximity to railway.

CAR00000300_0440

Drawing No. 30894 C208



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SCALE 1:1250 @ A1 1:2500 @ A3

Author	AS	AS	AS	AS	AS	AS	AS	AS	AS
Drawn	AC	AC	AC	AC	AC	AC	AC	AC	AC
Checked	AS	AS	AS	AS	AS	AS	AS	AS	AS
Reviewed	GM	GM	GM	GM	GM	GM	GM	GM	GM



Project
EDINBURGH TRAM LINE TWO

Author	AS	AS	AS	AS	AS	AS	AS	AS	AS
Drawn	AC	AC	AC	AC	AC	AC	AC	AC	AC
Checked	AS	AS	AS	AS	AS	AS	AS	AS	AS
Reviewed	GM	GM	GM	GM	GM	GM	GM	GM	GM

Client: Fife Council
 Title: EDINBURGH PARK PROPOSED CHANGES TO LLAU SHEET 1 OF 2

Author	AS	AS	AS	AS	AS	AS	AS	AS	AS
Drawn	AC	AC	AC	AC	AC	AC	AC	AC	AC
Checked	AS	AS	AS	AS	AS	AS	AS	AS	AS
Reviewed	GM	GM	GM	GM	GM	GM	GM	GM	GM

Scale: 1:1250 Date: 10.02.05
 Drawing No: 30894 C208

Legend

- Track (dashed line)
- Formwork
- New Structure
- GDE
- LLAU (ORIGINAL)
- LLAU (NEW LIMITS)
- LLAU (NO LONGER REQUIRED)
- Additional Limits Assessment
- Also see moderate changes to drainage

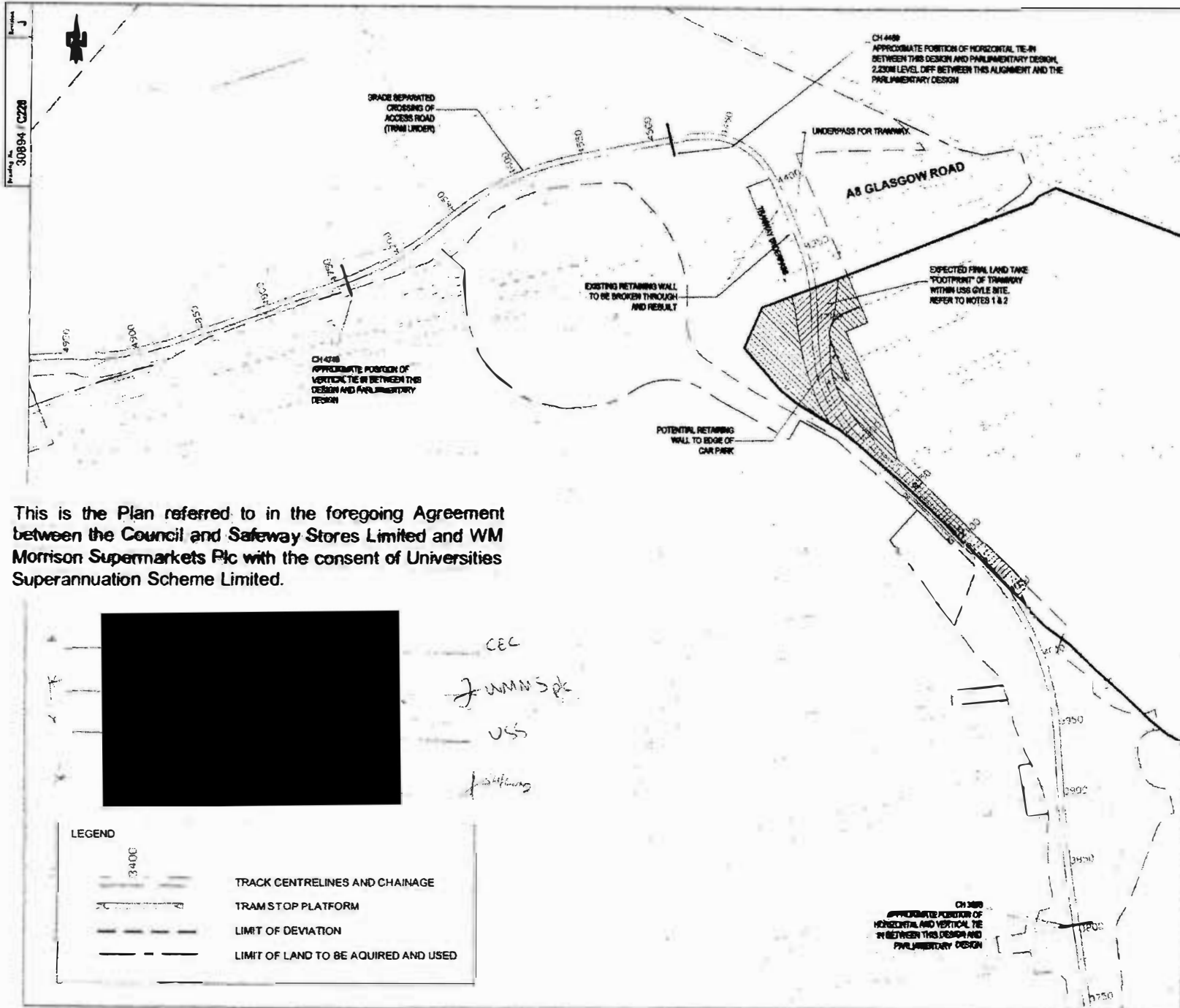
THE GYLE

COM Regulations:
 A COM health and safety assessment has been completed and the following unusual, significant or difficult to manage COM hazards were identified:

- Southern area of Edinburgh Park Industrial Estate. Works adjacent to or crossing line of high pressure gas pipeline
- Crossing Glasgow Road. Proximity to railway. Possible risk of flooding. Road traffic impact
- Retail park. Public interface during construction and access during maintenance
- Proximity of depot to airport and flight path. Proximity to railway

CAR00000300_0441

Appendix 12



NOTES

- THE EXPECTED FINAL LAND TAKE FOOTPRINT WILL PROVIDE FOR A BASIC CORRIDOR OF 10m WIDTH WITH ADDITIONAL WIDTH FOR CUT AND EMBANKMENT SLOPES WHERE THESE ARE REQUIRED.
- NOTWITHSTANDING NOTE 1 ABOVE, THE ACTUAL ALIGNMENT OF THE TRAMWAY IS SUBJECT TO ALTERATION WITHIN THE LOD. HOWEVER SUCH ALTERATION WOULD BE MINOR AND UNDERTAKEN IN KEEPING WITH THE UNDERSTANDING THAT THE FINAL SCHEME WILL BE SYMPATHETIC TO THE NEEDS OF USS AND THEIR TENANTS.

LEGEND

- POSSIBLE EXTENT OF LAND REQUIRED PERMANENTLY
- POSSIBLE EXTENT OF LAND REQUIRED DURING CONSTRUCTION
- THE GYLE BOUNDARY

J	THE GYLE BOUNDARY REDUCED	REV	DATE	BY
H	LAND TAKE FOOTPRINT ADDED DETAIL REFINED	REV	DATE	BY
G	DETAIL CONNECTIONS TO L&E	REV	DATE	BY
F	LOD & L&E MODIFIED	REV	DATE	BY
E	LOD MODIFIED	REV	DATE	BY
D	LAND TAKE FOOTPRINT CHANGED	REV	DATE	BY
C	TRAMWAY LAYOUT CHANGED TO LOD	REV	DATE	BY
B	FOOTPRINT REF CHANGED TO 3.4 OPTION REF CHANGED TO 3	REV	DATE	BY
A	VERTICAL TIE TO PROPOSED L&E CHANGED 475	REV	DATE	BY
A	FIRST ISSUE	REV	DATE	BY



EDINBURGH TRAM LINE TWO

Design	THF	FABER MAUNSELL Chartered Accountants 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100
Drawn	MT	
Checked	SJP	
Reviewed	OM	

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FIGURE 3A OPTION 3

Site A1 Scale: 1:1250 @ A1 Date: May 10
 Status: DRAFT
 Drawing No: 30894 / C226
 Revision: 3

This is the Plan referred to in the foregoing Agreement between the Council and Safeway Stores Limited and WM Morrison Supermarkets Plc with the consent of Universities Superannuation Scheme Limited.



CEC
 J. WAIN'S PL
 USS
 Edinburgh

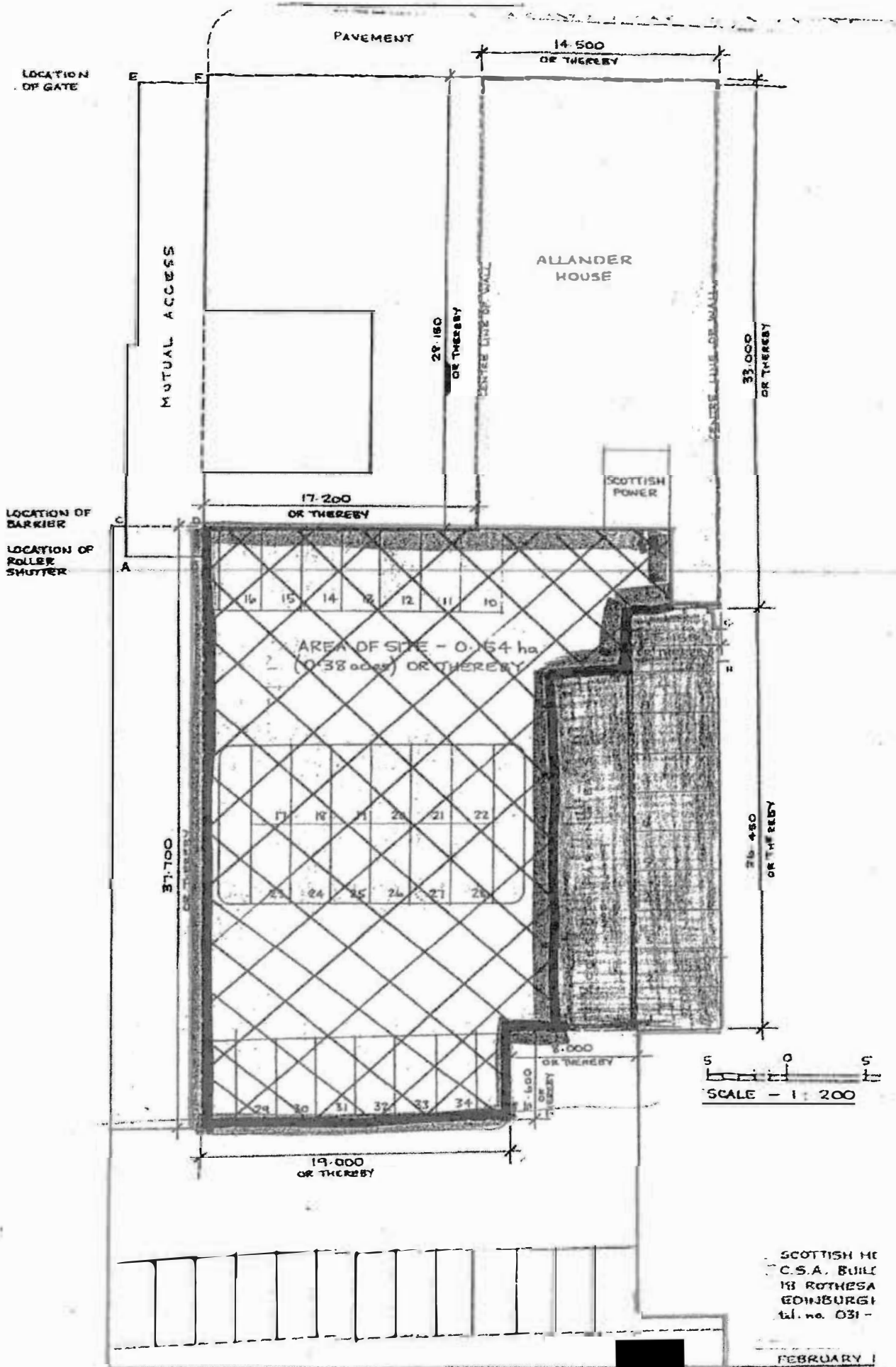
LEGEND

3400	TRACK CENTRELINES AND CHAINAGE
[Symbol]	TRAM STOP PLATFORM
[Symbol]	LIMIT OF DEVIATION
[Symbol]	LIMIT OF LAND TO BE ACQUIRED AND USED

CAR00000300_0443

Appendix 13

PLAN ONE



tie Limited

AIRPORT INCLUDING INFRASTRUCTURE SERVICES LIMITED

CAR00000300_0445

**THIS IS SCHEDULE 14 REFERRED TO IN THE FOREGOING AGREEMENT
BETWEEN TIE AND THE MUDFA CONTRACTOR**

SCHEDULE 14

PARENT COMPANY GUARANTEE

_____ 2006

[]

- and -

[]

PARENT COMPANY GUARANTEE

This DEED is made this ____ day of _____ 2006

BETWEEN

1. [] (hereinafter referred to as the “**Employer**”) of the one part;

And

2. [] (hereinafter referred to as the “**Guarantor**”) of the other part.

WHEREAS:

- A. The Guarantor is the ultimate owner of [] (hereinafter referred to as the “**Company**”).
- B. The Guarantor has been notified of the execution of an agreement dated [] between the Employer and the Company regarding [] (hereinafter called the “**Contract**”).
- C. A copy of the Contract as executed has been provided to the Guarantor and the Guarantor is fully aware of the terms thereof.
- D. The Guarantor, as the ultimate parent of the Company, has agreed to guarantee in the manner hereinafter set forth the due performance by the Company of its obligations (including payment obligations) under the Contract.
- E. The Guarantor is satisfied that the giving of this Guarantee is in the interests of the Guarantor and this Guarantee has been duly authorised by all necessary corporate action on the part of the Guarantor.

NOW THIS DEED WITNESSETH AS FOLLOWS:

1. **DEFINITIONS AND INTERPRETATIONS**

In this Deed:

- 1.1.1 the expression “**Obligations**” shall mean (i) all or any indebtedness, moneys, obligations and liabilities which may be now or at any time hereafter due, owing or incurred from or by the Company to the Employer under the Contract, and (ii) all terms, conditions and covenants binding upon or on the part of the Company under the Contract;
- 1.1.2 ¹capitalised words and phrases which are not expressly defined herein, shall have the meanings given to them in the Contract; and
- 1.1.3 the clause headings are included for convenience only and will not affect the construction or interpretation of this Agreement.

¹ Deleted - Insolvency Event is defined in MUDFA nad therefore 1.1.3 covers this issue.

- 2.1.2 guarantees to the Employer payment by the Company of any losses, damages, costs and expenses that become due and payable according to the terms of the Contract for which the Company is otherwise liable to the Employer by reason or in consequence of any failure to perform or observe any Obligations and the amount of such losses, damages, costs, and expenses is the amount which the Employer is entitled to recover from the Company under or in connection with the Contract, provided always that (save where an Insolvency Event has occurred) the Employer shall be obliged before exercising its rights against the Guarantor under this Clause 2.1.2, to first make a claim (such claim to be in writing and to detail the sums due and payable) under or in connection with the Contract from the Company (but making such claim from the Company shall not require the Employer to commence or have commenced proceedings against the Company in respect of such payment).

3. **NON-EXONERATION**

- 3.1 The liability of the Guarantor hereunder shall not be affected, impaired or discharged by reason of:
- 3.1.1 any time or other indulgence granted by the Employer to the Company;
 - 3.1.2 any arrangement entered into by the Company modifying (by operation of law or otherwise) the rights or remedies of the Employer;
 - 3.1.3 any delay, omission, neglect or forbearance on the part of the Employer to enforce any of its rights against any third party;
 - 3.1.4 any act, omission, matter or thing whatsoever whereby the Guarantor as guarantor only would or might have been released (in whole or in part) or which would or might have afforded the Guarantor any legal or equitable defence;
 - 3.1.5 any legal limitation, disability, irregularity, defect or informality or any fact or circumstance on the part of or in relation to the Company (whether known to the Employer or not) which would or might render any sum or sums of money irrecoverable from the Company or all or any of the Obligations unenforceable or any want of power or capacity of or by or on the part of the Employer or want of authority of any director, manager, officer or other person appearing to be acting for the Company in relation to the Obligations;
 - 3.1.6 the Employer taking, accepting, varying, dealing with, enforcing, abstaining from enforcing, surrendering or releasing any security for the Obligations or claiming, proving for, accepting or transferring any payment in respect of the same in any composition by or bankruptcy, individual insolvency, liquidation or winding up of the Company or any third party or abstaining from so claiming, proving, accepting or transferring;
 - 3.1.7 the Company ceasing to exist or the Contract or any of the liabilities of the Company thereunder being disclaimed or any change in constitution or loss of corporate identity by the Company, the Guarantor or the Employer;
 - 3.1.8 the giving of any consent to assignment, transfer or novation or the making of any assignment, transfer or novation of the Contract (or any part thereof); or
 - 3.1.9 any other act, neglect, event, or omission which would or might but for this provision operate to impair, discharge or modify the Guarantor's liability hereunder in whole or in part.

4. **LIABILITY**

- 4.1 The Deed shall be effective from the date hereof and shall remain in operation until each and every part of the Obligations shall have been performed, observed, paid and discharged in full.
- 4.2 Notwithstanding any other provision in this Deed:
- 4.2.1 in no circumstances shall the liability and/or obligation of the Guarantor to the Employer (whether as to extent or duration) exceed the contractual liability of the

Company to the Employer under the Contract. The Guarantor shall not be liable to the Employer under this Deed for any damages, debts, interest, costs, loss or expense to the extent that the same has already been recovered by the Employer from the Company;

- 4.2.2 for the avoidance of doubt, the maximum aggregate liability of the Guarantor to the Employer under, pursuant to or arising from this Guarantee shall not exceed the maximum aggregate liability of the Company under, pursuant to or arising from the Contract (except in relation to any proper and reasonable costs incurred in enforcing this Guarantee).

5. CLAIM MECHANISM

- 5.1 Subject to Clause 5.3, prior to making a claim under Clause 2.1.1:
- 5.1.1 the Employer shall serve a written notice on the Guarantor and the Company that the Company is in Default (a "**First Notice**"), identifying the Default to a reasonable level of detail; any such notice shall be issued without prejudice to the terms of the Contract and the Employer's rights thereunder;
- 5.1.2 not less than 12 days nor more than six months after service of the First Notice, the Employer may serve a further written notice on the Guarantor (a "**Second Notice**") indicating that the Employer intends to bring a claim against the Guarantor under Clause 2.1.1 in respect of that Default.
- 5.2 Any claim under Clause 2.1.1:
- 5.2.1 subject to Clause 5.3, may not be served prior to three Business Days after service of the Second Notice;
- 5.2.2 shall identify to a reasonable level of detail:
- (a) the Default in question;
 - (b) the efforts made by the Employer to enforce its rights directly against the Company; and
 - (c) why, in its reasonable opinion, it is necessary to invoke its rights pursuant to this Deed.
- 5.3 The Employer shall not be required to serve a First Notice or a Second Notice prior to making a claim under Clause 2.1.1 where an Insolvency Event has occurred.
- 5.4 Service of the First Notice on the Company shall be effected in accordance with the provisions in the Contract regulating the service of notices.

6. **NOTICES**

- 6.1 Any claim or notice under this Deed shall be in writing and delivered personally, or by post, to the registered office of the Guarantor for the time being. Any such claim or notice delivered (i) personally, shall be deemed to have been received immediately upon delivery, or (ii) by post, shall be deemed to have been received on the second Business Day following the day on which it was posted.

7. **USE OF THIRD PARTIES**

- 7.1 The Employer understands and agrees that the Guarantor may, in the performance of the Obligations, engage the services of third parties who must meet or exceed industry standards and the requirements of the Contract. Any such performance of the Obligations by a third party shall not in any way diminish the Guarantor's obligations under Clause 2 above.

8. **PROCEEDINGS**

- 8.1 The Guarantor shall be entitled in any actions or proceedings arising hereunder to raise or rely upon the same defences, limitations of liability, counterclaims and set offs as the Company may be entitled to raise and rely under or pursuant to the Contract or otherwise or by law.
- 8.2 From the date or dates upon which any claim is properly made against the Guarantor under this Guarantee until the amount so claimed is paid under the Contract, the Guarantor shall not:
- 8.2.1 exercise any right of contribution, set-off, counterclaim or indemnity between the Guarantor and the Company or exercise any other rights or legal remedies, including claiming or recovering by the institution of proceedings or the threat of proceedings or otherwise against the Company, any such sum from the Company;
 - 8.2.2 claim or prove as creditor or otherwise in competition with the Employer in respect of any money owing to it by the Company for or on account of the Guarantor's liability under this Guarantee, in the event of any bankruptcy, liquidation or other insolvency proceedings relating to the Company.

9. **ASSIGNMENT**

- 9.1 Subject to Clause 9.2, this Deed is personal to the Guarantor and is not capable of assignment by the Guarantor and shall enure to the benefit of the successors and permitted assigns of the Employer.
- 9.2 In the event that the Guarantor ceases to be the ultimate parent of the Company, the Guarantor's obligations under this Guarantee shall remain in full force and effect unless and until a replacement guarantee is provided:
- 9.2.1 from a replacement guarantor which: (i) is the successor ultimate parent of the Company, and (ii) in the reasonable opinion of the Employer, is of equivalent financial standing to the Guarantor, and (iii) has the technical capability, to be approved by the Employer, such approval not to be unreasonably withheld, to perform, or procure the performance of, the Obligations of the Company; and
 - 9.2.2 on the same terms as this Guarantee insofar as they apply to the Guarantor.
- 9.3 On the date on which any replacement guarantee becomes effective (the "**Replacement Date**"), the Guarantor shall be released from all its obligations and liabilities under this Guarantee, other than in respect of liabilities which arise and have been notified to the Guarantor prior to the Replacement Date for which the Guarantor shall remain liable in accordance with the terms of this Guarantee, unless the Employer agrees otherwise.

10. **VARIATIONS TO THE CONTRACT**

- 10.1 ²The liability of the Guarantor under this Deed shall not be released, impaired, diminished or affected by any variation whatsoever in the Contract with or without the consent of the Guarantor (and whether or not such variation shall increase the liabilities of the Company under the Contract or of the Guarantor hereunder) and the obligations on the part of the Guarantor contained in this Deed shall subsist in relation and by reference to the Contract and the Obligations as varied from time to time.

11. **ASSIGNMENT**

- 11.1 Subject to having served prior notice on the Guarantor, the Employer shall be entitled to assign the benefit of this Deed to any party to whom the Employer lawfully assigns the benefit of the Contract.

12. **SETTLEMENT**

- 12.1 Unless expressly subsequently agreed in writing between the Guarantor and the Employer, no settlement or discharge between the Guarantor and the Company shall be or remain effective if any payment to the Employer in respect of the Obligations by the Company is avoided or reduced by virtue of any provision or enactment relating to bankruptcy, insolvency, liquidation, or similar laws of general application from time to time and if such payment is avoided or reduced the Employer shall be entitled to recover from the Guarantor the amounts of such payments as the Guarantor would have been liable to make, as if such settlement or discharge had not occurred.
- 12.2 The Obligations shall not be considered satisfied, settled or terminated by the Employer giving any approvals, or taking delivery of any goods, or accepting any performance under the Contract and no single, cumulative or partial exercise by the Employer of any remedy under or arising from this Guarantee shall prevent any further exercise.

13. **THIRD PARTY RIGHTS**

- 13.1 Nothing in this Deed is intended to confer on any person any right to enforce any provision of this Deed which that person would not have but for the Contracts (Rights of Third Parties) Act 1999.

14. **GOVERNING LAW AND JURISDICTION**

- 14.1 This Deed shall be governed and construed in accordance with the laws of England and the Guarantor and the Employer irrevocably submit to the jurisdiction of the English Courts.
- 14.2 The Guarantor shall be bound by all court judgements or arbitration awards relating to the Contract or any dispute or matter between the Employer and the Company in connection with the Contract.

² Deletion as does not make sense and is inconsistent with clause 9.2

In witness whereof the Guarantor has caused executed and delivered this Guarantee as a Deed on the day and year first before written.

EXECUTED and DELIVERED as a Deed by

[]

acting by two Directors or a Director

and the Secretary:

)

)

)

)

Director

Director/Secretary

EXECUTED and DELIVERED as a Deed by

[]

acting by two Directors or a Director

and the Secretary:

)

)

)

) Director

Director/Secretary

[Redacted Signature]

Director/Authorised Signatory
TIE LIMITED

[Redacted Signature]

Director/Authorised Signatory
**ALFRED McALPINE
INFRASTRUCTURE SERVICES
LIMITED**

**THIS IS SCHEDULE 15 REFERRED TO IN THE FOREGOING AGREEMENT
BETWEEN TIE AND THE MUDFA CONTRACTOR**

SCHEDULE 15

MUDFA CONTRACTOR COLLATERAL WARRANTY

(1) [MUDFA CONTRACTOR]

- and -

(2) [*THIRD PARTY BENEFICIARY*]

**COLLATERAL WARRANTY IN
FAVOUR OF [*THIRD PARTY
BENEFICIARY*] FROM [THE MUDFA
CONTRACTOR]
relating to
THE PROVISION OF MUDFA WORKS
FOR THE EDINBURGH TRAM
NETWORK**

AGREEMENT

BETWEEN

- (1) **Alfred McAlpine Infrastructure Services Limited**, a company incorporated under the Companies Act with registration number 00728599 and having its registered office at Kinnaird House, 1 Pall Mall East, London, SW1Y 5AZ ("**the MUDFA Contractor**"); and
- (2) [**THIRD PARTY BENEFICIARY**] (company number [◆]) whose registered office is at [◆] ("**Beneficiary**") which expression shall include its successors and permitted assignees.; and

BACKGROUND

- A By an agreement in writing dated [◆] (the "**MUDFA**"), **tie** appointed the MUDFA Contractor to provide the MUDFA Works (as hereinafter defined) in connection with the Edinburgh Tram Network.
- B It is a term of the MUDFA that the MUDFA Contractor shall enter into this Agreement with the Beneficiary.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

In this Agreement:

- 1.1 the following words and expressions have the following meanings, unless the context requires otherwise:

"Agreement" means this document (as amended from time to time pursuant to clause 13);

"Deliverables" means all documents, information, reports, diagrams, records, method statements, risk assessments, manuals, schedules, databases, photographs, formulae, plans, designs, specifications, drawings, details, calculations, models and simulations, the outputs and reports based on any models, programmes and all other material created and/or provided by the MUDFA Contractor (or any other third party) in the performance of the MUDFA Works and the MUDFA Contractor's other obligations under the MUDFA;

"Edinburgh Tram Network" means Line One and Line Two of the Edinburgh Tram Network as described in the Tram Legislation, and as may be amended from

time to time together with any modification, line extension, spur, interconnection, and any additional line;

"Good Industry Practice" means using standards, practices, methods and procedures conforming to law and exercising that degree of skill, care, diligence, prudence and foresight that would reasonably be expected from a large, reputable, professionally qualified, competent and skilled organisation experienced in carrying out activities of a similar nature, scope and complexity to those comprised in the MUDFA Works, and seeking in good faith to comply with its contractual obligations and all duties owed by it;

"Insurance Period" means the period of 12 years from the date of issue of the last certificate of substantial completion in respect of the MUDFA Works, as established pursuant to and for the purposes of the MUDFA (or, if sooner, 12 years after termination of the employment of the MUDFA Contractor under the MUDFA);

"Intellectual Property Rights" means any rights in or to any patent, design right, utility model, trade mark, brand name, service mark, trade name, business name, logo, invention (whether registered or unregistered), domain name, semi-conductor right, topography right, software designs and/or other materials, source code, copyright, moral right, know-how, or rights in databases and any other rights in respect of any industrial or intellectual property, whether capable of being registered or not, including all rights to apply for any of the foregoing rights or for an extension, revival or renewal of any of the foregoing rights and any similar or analogous rights to any of the above, whether arising or granted under the law of Scotland or of any other jurisdiction;

"Party" means each and any of the parties to this Agreement and **"Parties"** shall be construed accordingly;

"Statutory Requirements" means all general or local Acts of Parliament and the regulations and Bye-laws of any local or other statutory authority which may be applicable to the MUDFA Works, together with any accompanying code of practice or guidance, and the rules and regulations of all public bodies and companies whose property or rights are or may be affected in any way by the MUDFA Works;

"MUDFA Works" means the works and services to be undertaken by the MUDFA Contractor under the MUDFA;

"**Tram Legislation**" means the Edinburgh Tram (Line One) Act 2006 and the Edinburgh Tram (Line Two) Act 2006, and such other legislation relative to the Edinburgh Tram Network as may be enacted from time to time; and

1.2 unless the context requires otherwise:

1.2.1 words importing:

1.2.1.1 the singular include the plural and vice versa; and

1.2.1.2 one gender include all other genders.

1.2.2 a reference to:

1.2.2.1 persons includes firms, companies, corporations, partnerships, trusts, authorities and other incorporated and/or unincorporated bodies; and

1.2.2.2 a clause is a reference to a clause in this Agreement.

1.3 The list of contents and clause headings in this Agreement are included for convenience only and do not affect its interpretation.

1.4 Where a party comprises two or more persons:

1.4.1 any obligations on the part of that party contained or implied in this agreement are deemed to be joint and several obligations on the part of those persons; and

1.4.2 references to that party shall include references to each and any of those persons.

2. **STANDARD OF CARE**

2.1 The MUDFA Contractor warrants and undertakes to the Beneficiary that it has carried out and shall carry out the MUDFA Works and its other duties and obligations under the MUDFA subject to and in accordance with the terms thereof.

2.2 In addition to and without derogation from clause 2.1, the MUDFA Contactor warrants to the Beneficiary that:

2.2.1 in the performance of the MUDFA Works and its other obligations under the MUDFA it shall exercise a reasonable level of professional skill, care and

diligence to be expected of a properly qualified and competent contractor experienced in carrying out works and services similar to the MUDFA Works in connection with projects of a similar type, nature and complexity;

2.2.2 any design produced by the MUDFA Contractor will satisfy in every respect any relevant performance specification or any requirement included or referred to in the MUDFA and will be suitable in every respect for the purposes included in or reasonably to be inferred from the MUDFA; and

2.2.3 any design produced by the MUDFA Contractor will fully comply with Statutory Requirements.

2.3 The MUDFA Contractor shall owe a duty of care to the Beneficiary in carrying out its duties and obligations under the MUDFA.

3. MATERIALS

3.1 The MUDFA Contractor warrants to the Beneficiary that it has not and shall not use any materials which at the time of use:

3.1.1 are known to be deleterious in the particular circumstances in which they are used (either to health and safety or to the durability of any works on which the MUDFA Contractor is employed by **tie**); or

3.1.2 contravene any relevant standard or code of practice issued from time to time by the BSI Group or under a European directive relating to standards; or

3.1.3 do not accord with the guidelines contained in the edition of the publication "Good Practice in Selection of Construction Materials" (Ove Arup & Partners) current at the date of specification of use; or

3.1.4 contravene Good Industry Practice.

4. COPYRIGHT LICENCE

4.1 The MUDFA Contractor hereby grants to the Beneficiary a non-exclusive, perpetual, irrevocable and royalty-free licence to use such Intellectual Property Rights in the Deliverables as may be necessary for the Beneficiary to use in connection with the [Beneficiary's rights and obligations under this Agreement or otherwise in connection with the Edinburgh Tram Network]. This licence shall carry the right to grant sub-licences, and be freely transferable to third parties.

- 4.2 In so far as ownership of the copyright and any other Intellectual Property Rights in any Deliverable prepared or provided by the MUDFA Contractor in connection with the Edinburgh Tram Network is vested in any person other than the MUDFA Contractor, the MUDFA Contractor shall procure for the Beneficiary the benefit of such a licence as is referred to in clause 4.1 for the purposes referred to therein.
- 4.3 The MUDFA Contractor shall, if so requested at any time, execute such documents and perform such acts as may be required fully and effectively to assure to the Beneficiary or any third party the rights referred to in this clause 4.
- 4.4 The MUDFA Contractor shall provide to the Beneficiary a copy of any of the Deliverables as soon as reasonably practicable after receipt by the MUDFA Contractor of a written request from the Beneficiary to do so.
- 4.5 The MUDFA Contractor undertakes to the Beneficiary that the use by the Beneficiary of any of the Deliverables for any purpose provided for in this clause 4 shall not infringe the rights of any third party in relation to the Deliverables.

5. REQUIRED INSURANCES

5.1 The MUDFA Contractor undertakes that:

5.1.1 it has maintained and shall maintain during the performance of its obligations under the MUDFA and the Insurance Period each of the insurances as follows:

5.1.1.1 professional indemnity insurance with an insurer authorised to carry out insurance business in the United Kingdom for an amount not less than £[◆] on an each and every claim basis and £[◆] on an aggregate basis in respect of pollution and contamination claims and date recognition claims, in respect of the legal liability of the MUDFA Contractor as a result of any negligent act, error or omission in the performance of the professional activities and duties in connection with the MUDFA Works and in the performance of its obligations under the MUDFA; and

5.1.1.2 [◆] [*Detail any further insurances held by the MUDFA Contractor in terms of the MUDFA*]

- 51.2 cover under the professional indemnity insurance is extended to include the MUDFA Contractor's liabilities under this Agreement;
 - 5.1.3 this Agreement has been disclosed to the MUDFA Contractor's current professional indemnity insurers or brokers (as the case may be) and shall be disclosed to any future professional indemnity insurers or brokers providing the insurance required by this Agreement; and
 - 5.1.4 the MUDFA Contractor shall abide by the terms and conditions of insurance and not do or omit to do anything that might prejudice the cover or its right to make a claim.
- 5.2 As and when reasonably required by the Beneficiary, the MUDFA Contractor shall produce for inspection documentary evidence that such insurance is being properly maintained.
- 5.3 If the insurer makes or attempts to make any material alteration or purports to withdraw the MUDFA Contractor's professional indemnity cover, or if the MUDFA Contractor is unable to obtain professional indemnity insurance, the MUDFA Contractor shall promptly give notice of this to the Beneficiary.

6. ASSIGNATION

- 6.1 The MUDFA Contractor shall not assign, novate or otherwise transfer the whole or any part of this Agreement without the prior written agreement of the Beneficiary.
- 6.2 The Beneficiary shall be entitled to assign, novate or otherwise transfer the whole or any part of this Agreement:
- 6.2.1 without the consent of the MUDFA Contractor to any person provided that no more than two such assignments will be permitted. Any assignments by the Beneficiary to a subsidiary or associated company of the Beneficiary or a member of the same group of companies will not count as an assignment;
 - 6.2.2 with the prior written consent of the MUDFA Contractor (such consent not to be unreasonably withheld or delayed).
- 6.3 The MUDFA Contractor undertakes to the Beneficiary not to contend in any court proceedings under this Agreement that any person to whom the Beneficiary assigns or has assigned its rights under this Agreement or any of them in accordance with the

foregoing provisions of this clause is to be precluded from recovering any loss resulting from any breach of this Agreement (whenever happening) by reason that such person is an assignee and not the original contracting party under this Agreement or by reason that the Beneficiary is named under this Agreement or any intermediate assignee of the Beneficiary escaped loss resulting from such breach by reason of the disposal of its interest in the same.

7. LIABILITY OF THE MUDFA CONTRACTOR

- 7.1 No provision of this Agreement is intended to exclude any obligation or liability which would otherwise be implied whether by the law of contract, delict or otherwise.
- 7.2 The responsibility of the MUDFA Contractor under this Agreement is not to be reduced or in any way released or limited by any enquiry or inspection by or on behalf of any person notwithstanding that such enquiry or inspection may give rise to a claim by the Beneficiary against a third party.
- 7.3 The rights and benefits conferred upon the Beneficiary by this Agreement are in addition to any other rights and remedies that the Beneficiary may have against the MUDFA Contractor including (without prejudice to the generality of the foregoing) any remedies in delict.
- 7.4 Subject to the other provisions of this Agreement, the liability of the MUDFA Contractor to the Beneficiary is to be determined in all respects in accordance with the terms of the MUDFA and, in the event of any claim by the Beneficiary under this Agreement, the MUDFA Contractor shall be entitled to rely upon any defence, right, limitation or exclusion under the MUDFA as though the Beneficiary were named as **tie** under it, except that:
- 7.4.1 the Beneficiary shall not be affected by any subsequent variation of the MUDFA which would adversely affect the obligations owed by the MUDFA Contractor or the waiver, compromise or withdrawal of any claim made by **tie**; and
- 7.4.2 the MUDFA Contractor shall not be entitled to exercise any right of set-off, retention or withholding against the beneficiary to which the MUDFA Contractor may be entitled against **tie**.

9. NOTICES

- 9.1 Any notice required to be given under this Agreement is to be hand delivered or sent by special delivery, prepaid registered or recorded delivery post to the party concerned at its address set out in this Agreement or to such other addresses as may be notified by such party for the purposes of this clause.
- 9.2 Any notice given pursuant to clause 9.1 shall be deemed to have been received upon proof of delivery.

10. RIGHTS OF THIRD PARTIES

- 10.1 A person who is not a party to this Agreement shall have no right to enforce any term of this Agreement.

11. INVALID TERMS

- 11.1 If any term of this Agreement shall be held to any extent to be invalid, unlawful or unenforceable:
- 11.1.1 that term shall to that extent be deemed not to form part of this Agreement;
and
 - 11.1.2 the validity and enforceability of the remainder of this Agreement shall not be affected.

12. VARIATIONS AND WAIVERS TO BE IN WRITING

- 13.1 No variation, alteration or waiver of any of the provisions of this Agreement shall be effective unless it is in writing and signed by or on behalf of the Party against which the enforcement of such variation, alteration or waiver is sought.

13. WAIVER

- 13.1 Save where expressly stated, no failure or delay by either Party to exercise any right or remedy in connection with this Agreement shall operate as a waiver of it or of any other right or remedy nor shall any single or partial exercise preclude any further exercise of the same, or of some other right or remedy. A waiver of any breach of this Agreement shall not be deemed to be a waiver of any subsequent breach.

13.2 The Parties' rights and remedies under this Agreement are, except where provided otherwise in this Agreement, independent, cumulative and do not operate to exclude one another or any rights or remedies provided by law.

14. **JURISDICTION AND LAW**

14.1 This Agreement is governed by and is to be construed according to Scots law and the Scottish courts shall have jurisdiction in relation to all matters arising under it.

IN WITNESS WHEREOF these presents on this and the preceding [◆] pages are executed as follows:

EXECUTED for and on behalf of **[THE MUDFA CONTRACTOR]** at

on 200[◆] by:

Director/Authorised Signatory

Full Name

Witness Signature

Full Name

Address

EXECUTED for and on behalf of **[third party beneficiary]** at

on 200[◆] by:

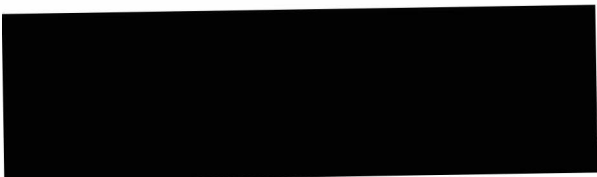
Authorised Signatory

Full Name

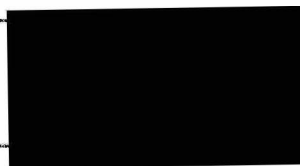
Witness Signature

Full Name

Address



Director/Authorised Signatory
TIE LIMITED



Director/Authorised Signatory
ALFRED McALPINE INFRASTRUCTURE SERVICES LIMITED

**THIS IS SCHEDULE 16 REFERRED TO IN THE FOREGOING AGREEMENT
BETWEEN TIE AND THE MUDFA CONTRACTOR**

SCHEDULE 16

DEMARICATION DRAWINGS

The Demarcation Drawings are contained in the CD signed as relative hereto

**THIS IS SCHEDULE 17 REFERRED TO IN THE FOREGOING AGREEMENT
BETWEEN TIE AND THE MUDFA CONTRACTOR**

SCHEDULE 17

TIE POLICIES

tie's Drugs and Alcohol Policy



Edinburgh Tram Project Drugs & Alcohol Policy Statement

Policy Statement

tie, as a responsible organisation, will not ignore the presence of drugs or unauthorised alcohol in the workplace. **tie** recognises the effect misuse of drugs and alcohol can have on workplace safety, job performance, efficiency and productivity. **tie** has no desire to interfere with a person's personal life or social behaviour. However, the person should understand the psychological and physical effects of alcohol and drugs that could affect behaviour and safety in the workplace.

Policy

Any person breaching the terms of this policy may be subject to disciplinary procedures which may result in their termination of involvement in the Edinburgh Tram project.

The term **"drugs"** means a chemical substance other than alcohol and tobacco taken apart from medical need. **"workplace"** means any location where work activities on the Edinburgh Tram project are being undertaken. **"project"** means the Edinburgh Tram project. **"person"** means an individual engaged in the delivery of the Edinburgh Tram project, including **tie** employees and parties under contract with **tie**, irrespective of grade or status.

The following rules will be strictly enforced and apply to all persons (including those with an alcohol dependency). Persons shall not: -

- Report or try to report for work when unfit due to alcohol, drugs (whether illegal or not) or substance abuse (whether or not the alcohol or drugs were consumed outside working hours). Whether the person is fit for work is a matter for the reasonable opinion of **tie**.
- Be in possession of alcohol or illegal drugs in the workplace.
- Consume alcohol or illegal drugs or abuse any substance during working hours whether in or outwith the workplace. The definition of working hours includes, but is not limited to, the person's normal hours of work, meal breaks and business lunches.

Bring any alcohol onto the workplace at any time or carry alcohol in any company vehicle or on a person whilst engaged on work activities for the project or during working hours.

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Edinburgh Tram Project Drugs & Alcohol Policy Statement

tie makes it clear that where there is evidence that the law has been broken at a workplace, the police will be informed. If substances found are recognised as or suspected to be drugs, then they will be handed over to the police for analysis and disposal.

Alcohol and drugs management controls

All persons should be aware of the symptoms of excessive alcohol use, such as change in demeanour, frequent absenteeism, poor timekeeping and deterioration in work performance.

Any reasonable suspicion that a colleague is under the influence of alcohol or drugs should be reported in confidence to their management.

If the suspicion of being under the influence of drugs or alcohol is upheld, the person will not be permitted to start or continue work and will be suspended until further notice. The person may also be subject to the testing procedures set out below.

Arrangements must be in place to ensure that the person leaves the workplace as soon as possible, and that they do not drive a motor vehicle.

When being prescribed medicines, persons must advise the person prescribing them of the nature of their work. If they are advised that they cannot work safely whilst taking the medicines, they must advise their line manager before they next start work.

Testing for the presence of drugs or alcohol will be performed as required by tie's Occupational Health Advisor. Results will be provided to tie and forwarded to the person's employer in confidence.

Compliance

tie reserves the right to report any person to their employer, if found or suspected to be under the influence of drugs or alcohol.

Testing Procedures

tie views the need to ensure health and safety of persons as paramount in the transport sector. Requiring a person suspected of being under the influence of drug or alcohol use during working hours to submit to testing procedures is a robust deterrent to breach of this policy. We do not believe that testing should be

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Edinburgh Tram Project Drugs & Alcohol Policy Statement

limited by reference to a person's duties. This is because we believe that all persons engaged in the transport sector should set an example to each other and be subject to consistent testing and enforcement procedures.

Persons suspected of being under the influence of drugs or alcohol during working hours may be sent immediately to the Occupational Health Advisor for testing or if necessary tested onsite. Results will be provided to the Occupational Health Advisor and forwarded to the person's employer in confidence.

Full details of the test procedures will be made known to the person before any test is performed.

As a precaution the person will be suspended from working on the project until the confirmation of the results are obtained.

Persons may be asked to take an alcohol or drugs test:

1. After an accident, incident or near miss. (This may be necessary as part of an investigation into the causes of an accident so that liability can be established or preventative measures can be put in place for the future);
2. If it is suspected that the person may be under the influence of alcohol or drugs or have an alcohol or drugs problem; or
3. After selection for a random test.

Persons found to have a level of alcohol exceeding the breath equivalent of 29mg of alcohol per 100ml of blood will be deemed to be under the influence of alcohol for the purposes of this policy.

Records that relate to drugs and alcohol testing will remain confidential. Any information which has no bearing on the ability of the person to undertake their work activities safely will not be recorded; however this may be affected by a requirement of the law.

Signed:



Andie Harper, Acting Project Director

Dated 13th June 2006



ALFRED MCALPINE
INFRASTRUCTURE SERVICES
LIMITED



the LIMITED

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