

Our ref: 25.1.201/KDR/6729
Your ref: INF CORR 5764 and 5771

Bilfinger Berger-Siemens- CAF
Consortium

17 September 2010

BSC Consortium Office
9 Lochside Avenue
Edinburgh Park
Edinburgh
EH12 9DU
United Kingdom

tie limited
CityPoint
65 Haymarket Terrace
Edinburgh
EH12 5HD

Phone: +44 (0) 131 [REDACTED]
Fax: +44 (0) 131 [REDACTED]

For the attention of Steven Bell -- Project Tram Director

Dear Sirs

**Edinburgh Tram Network Infraco
Infraco Contract: Alleged Remediable Termination Notices (Princes Street)**

We refer to your letters INF CORR 5764 and INF CORR 5771 both dated 9 August 2010.

Both letters purport to enclose Remediable Termination Notices in respect of the same factual matters, citing largely the same alleged breaches of contract. Accordingly this response addresses both Notices, remarking on the differences between the alleged Notices where appropriate.

For the avoidance of doubt this letter does not nor is it intended to constitute a rectification plan. If and to the extent the Infraco considers it necessary or appropriate notwithstanding the views expressed in this letter such a plan will be sent under separate cover.

As at the date of writing you have served Remediable Termination Notices in respect of another 4 matters. None of these matters have been the subject of referrals to dispute resolution. It appears to us that tie has abandoned the contractual mechanism for resolution of disputes. This may be because every major issue of principle has been decided against tie in adjudication. However that is no justification for now abusing the termination provisions of the contract. It is clear that tie is now pursuing a policy of serving a Remediable Termination Notice in respect of each and every grievance it may have, regardless of the significance of each grievance and its implications for the Infraco Works. Whilst we will respond to each Remediable Termination Notice in turn, we object to tie's adoption of this policy.

We summarise our response to the Notices INF CORR 5764 and INF CORR 5771 as follows:

1. The Notices do not identify a breach or breaches of contract by Infraco.
2. The alleged breaches or breaches do not materially and adversely affect the carrying out and/or completion of the Infraco Works.
3. The Notices do not therefore identify an Infraco Default (a).
4. Your two letters do not therefore constitute valid Remediable Termination Notices.
5. Any attempt to terminate the Infraco Contract on the basis of these alleged Notices will be entirely without contractual basis.

Measures are being taken by Infraco to address matters which have arisen in connection with the Princes Street works. These measures were the subject of our letter to you dated 17 September 2010 (25.1.201/KDR/6728) in response to your letter dated 18 June 2010 (INF CORR 5400) and are not repeated here.

1. No Breach of Contract

As detailed in our letter of 17 September 2010 (25.1.201/KDR/6728), to the extent that the works at Princes Street fail to meet the required contractual standard, this has been caused by tie's insistence that the street be re-opened to traffic by 29 November 2009. We are satisfied, having taken expert advice, that our design, workmanship and choice of materials all meet our contractual obligations and that accordingly there has been no breach of contract on the part of Infraco.

We recognise that the defects in Princes Street (caused by tie's premature opening of the Street to traffic) do require to be remedied in order to meet the contractual requirements and have proposed a rectification plan which accompanies our letter of 17 September 2010 (25.1.201/KDR/6730).

2. Carrying out and/or Completion of the Infraco Works not materially and adversely affected

We have proposed a timetable within the rectification plan. This plan only affects Princes Street and does not adversely affect any other part of the Infraco Works nor does it adversely affect the carrying out and/or completion of the Infraco Works as a whole.

3. No Infraco Default (a)

It follows from the preceding paragraphs that the circumstances you narrate in your two Notices do not meet the definition of "Infraco Default (a)" in the Infraco Contract Schedule Part 1, contrary to your assertion.

4. Letters INF CORR 5764 and 5771 are not valid Remediable Termination Notices

As no Infraco Default has occurred, you have no right to serve any Remediable Termination Notices as you have purported to do.

5. No right to Terminate

No grounds for termination can arise from these alleged Notices.

MEASURES TO BE UNDERTAKEN AT PRINCES STREET

We have addressed the causes of the defects in Princes Street and the measures we intend to take to remedy them in our letters of 17 September 2010 (25.1.201/KDR/6728 and 6730).

To the extent that the purported Notice accompanying your letter INF COR 5771 "requires" Infraco to replace its engineering superintendence staff, we would advise you that you have no power to do so in terms of such a Notice.

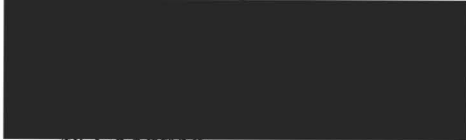
As is apparent from the foregoing, Infraco is acting entirely responsibly in investigating and ascertaining the cause of any apparent defects in work which has been carried out. Where appropriate, Infraco has proposed remedial works all of which will require to be carried out prior to completion and handover of the works.

No immediate hazard or disruption is caused to the members of the public by any of these matters, contrary to your unspecific and unsupported allegations. The remedial work will be carried out to ensure the minimum of disruption on Princes Street.

In conclusion, such matters as require attention in Princes Street are being attended to. In no way do these merit the instigation of a process to terminate the Infraco Contract. Such a course of action is wholly disproportionate to the matters in question. We assume that the Notices have been served to advance a tactical position on tie's part, rather than any genuine belief that these matters merit the termination of the Infraco Contract. This is entirely contrary to the parties' obligations at clause 6.1 of the Infraco Contract.

We invite you to withdraw your purported Notices served with letters INF CORR 5764 and 5771.

Yours faithfully



M Foerder
Project Director
Bilfinger Berger Siemens CAF Consortium

cc: R. Walker
M. Flynn
A. Campos
M. Berrozpe
A. Urriza

A handwritten signature in blue ink, appearing to be 'R. Walker', located in the bottom right corner of the page.