



For The Attention of Martin Foerder  
Project Director  
Bilfinger Berger Siemens CAF Consortium  
9 Lochside Avenue  
Edinburgh Park  
Edinburgh EH12 9DJ

Our Ref: INF CORR 4069

Date: 11<sup>th</sup> February 2010

Dear Martin,

**Edinburgh Tram Network – Infraco  
MUDFA Rev. 8 Dispute Lifting of Suspension**

Your letter of 5<sup>th</sup> February 2010 (ref: 25.1.201/KDR/4579) refers.

We note your satisfaction with recent progress in the “draft” Programme (Revision 3). Whilst we are also satisfied that both parties engaged effectively in the workshop on 3<sup>rd</sup> February 2010, we were disappointed in the respect of:

- The lack of Step 3 programme against which we can compare the draft “mitigated” Step 4 programme, and
- The extent of mitigation which was incorporated into the Step 4 programme before it was submitted to us on 1<sup>st</sup> February 2010.

However, we hope that once you have reviewed the ideas generated at the workshop you will be able to make a much more comprehensive effort to incorporate mitigations as you are obliged under the Infraco Contract. We look forward to seeing this revised Step 4 programme and await your feedback on which proposals will be incorporated.

We note your acknowledgement that the “apportioning of culpability” for delays between the parties has not started.

Our view is clear. BSC have an obligation to prepare and submit a mitigated Programme for tie’s acceptance under Clause 60.

As you have still to complete your Programme incorporating further mitigation measures which were discussed on 3<sup>rd</sup> February 2010, it is premature to make the assertion that any contract path is “without doubt” still driven by the complete Utilities works.

tie limited

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You will recall that following a meeting on 2<sup>nd</sup> November 2009 held with Richard Jeffrey and David Darcy, a proposal was made regarding the issue of an Extension of Time as laid out in my letter of 5<sup>th</sup> November 2009 (INF CORR 2773) and confirmed in our letter of 13<sup>th</sup> November 2009 (INF CORR 2785).

Consequently, with respect, the meaning of your third paragraph is not clear to us.

We also note that you have not accepted this offer of Extension of Time – does the fact that you wish to revert to mediation mean that this offer is not acceptable to you? Perhaps you could clarify your intent so that both parties understand the reason for proceeding further with mediation.

For any such mediation to be effective, **tie** will require you to provide visibility and justification for your INTC 429. As we have explained on several occasions, it is very difficult for **tie** to assess your entitlement for extension of time without you providing the substantiation and detailed particulars as required under Clause 64, 65 and 80 of the Infraco Contract to demonstrate that you have taken all reasonable steps to mitigate all delays.

Yours sincerely



Steven Bell  
**Project Director – Edinburgh Tram**