

Bilfinger Berger–Siemens– CAF  
Consortium

Our ref: **25.1.201/MRH/1884**

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11 March 2009

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**tie** limited  
CityPoint  
65 Haymarket Terrace  
Edinburgh  
EH12 5HD

**For the attention of Steven Bell – Tram Project Director**

Dear Sirs,

**Edinburgh Tram Network Infraco  
Notification of a Compensation Event  
Failure of the SDS Provider to achieve the release of issued for Construction Drawings by the  
dates identified in the Programme – Section 2A – Roads, Kerbs, Footways, Paved Areas and  
Drainage**

We are aware that a Compensation Event has caused or is likely to cause delay, has adversely affected or will adversely affect the performance of our obligations, and has caused or will cause us to incur additional costs:

We give to **tie** a notice of a claim for an extension of time and/or costs and relief from performance of our obligations.

Full details of the nature of the Compensation Event are the failure by the SDS Provider to issue IFC drawings by the dates identified in the Programme as shown on the spreadsheet appended. The drawings show, inter alia, changes to the design principle, shape, form and outline specification of the works which will require to be fully assessed. The timing of issue of the IFC drawings and the changes thereon will have an impact on the Programme, our construction methodology and sequencing of our works.

The date of occurrence is as set out in the spreadsheet and its likely duration cannot be assessed until the issue by the SDS Provider of IFC drawings is complete.

The IFC drawings, when issued, will take a considerable period of time to assess in order that the Infraco can ascertain the full extent of the implications of the timing of their issue and the changes detailed therein.

For the reasons described above we are unable to provide full details of the extension of time and relief required and/or any costs claimed including:

our estimate of the likely effect of such delay upon the Programme (if any) or the adverse effects on the performance of its obligations under this Agreement,

details of the costs or losses which are not Indirect Losses;

mitigation measures adopted and why unsuccessful; and

any acceleration or other measures which we could take to mitigate the effects of such delay or non-performance and, where applicable, an estimate of the costs thereof;

In accordance with Clause 65.2.2 of the Infraco Contract, this Compensation Event has a continuing effect and we are unable to determine whether the effect of the Compensation Event will actually cause us not to be able to comply with our obligations under this Agreement, such that it is not practicable for us to submit full details in accordance with this Clause 65.2.

We have submitted to **tie** a statement to that effect with reasons, together with interim written particulars of the items referred to at Clause 65.2.2 insofar as such items are available (including details of the likely consequences of the Compensation Event on our ability to comply with our obligations under this Agreement and an estimate of the likelihood and likely extent of the delay or non-performance and the costs incurred).

We undertake to provide further interim written particulars as set out in Clause 65.2.2(b) until the actual delay caused and costs incurred or non-performance are ascertainable, whereupon we shall as soon as reasonably practicable, submit to **tie** the items referred to in Clause 65.2.2.

We confirm that:

subject to Clause 65.12, we and the Infraco Parties could not reasonably have avoided such occurrence or consequences by steps which we might reasonably be expected to have taken;

the Compensation Event is the direct cause of the delay, inability to perform and/or the additional costs; and

We are using reasonable endeavours to perform our obligations under this Agreement.

We request your response to this notification in accordance with Clause 65.2A1 of the Infraco Contract

Yours faithfully,



**M Foerder**  
Project Director  
Bilfinger Berger Siemens CAF Consortium

Activity ID	F2a	Sub-Section	Document/Drawing Number	Drawing Title			Rev.	V31 Due Date	IFC Received Date	Status	Source
SDS28510	Roads, SI Lighting, Landscaping, Drainage 2A	2A	ULE80130-02-HRL-00001	ROAD SCHEME LAYOUT PLAN	SECTION 2A		9	11/08/2008	06/03/2009	IFC	Transmittal
SDS28510	Roads, SI Lighting, Landscaping, Drainage 2A	2A	ULE80130-02-HRL-00901	KERBS, FOOTWAYS AND PAVED AREAS	SECTION 2A		7	11/08/2008	06/03/2009	IFC	Transmittal
SDS28510	Roads, SI Lighting, Landscaping, Drainage 2A	2A	ULE80130-02-DNE-00001	DRAINAGE PLAN	SHEET 1 OF 3	(SUB SECTION 2A)	9	11/08/2008	06/03/2009	IFC	Transmittal