

<p>[19.4] Failure to provide reasonable assistance and support to Infraco in obtaining and maintaining the consents for which it is responsible.</p>	✓				<p>[19.4] Failure to provide reasonable assistance and support to Infraco in obtaining and maintaining the consents for which it is responsible.</p>	✓		
<p>[19.5/19.6] Failure of the Infraco to obtain Design Stage Consent in respect of a design for which SDS is responsible provided that the Infraco has:</p> <ul style="list-style-type: none"> • the Infraco has informed tie of the reasons given by the Approval Body; • the Infraco has managed the SDS Provider; • such failure is not as a result of reprogramming the Infraco Works or reprioritising the design or late submissions; • the Infraco has mitigated the impact of such failure and afforded tie the opportunity to resolve matters with the Approval Body; • such failure is not as a result of SDS failure to perform in terms of quality 	✓				<p>[19.5/19.6] Failure of the Infraco to obtain Design Stage Consent in respect of a design for which SDS is responsible provided that the Infraco has:</p> <ul style="list-style-type: none"> • the Infraco has informed tie of the reasons given by the Approval Body; • the Infraco has managed the SDS Provider; • such failure is not as a result of reprogramming the Infraco Works or reprioritising the design or late submissions; • the Infraco has mitigated the impact of such failure and afforded tie the opportunity to resolve matters with the Approval Body; • such failure is not as a result of SDS failure to perform in terms of quality 	✓		

[19.7] Failure of the Infraco to obtain Design Stage Consent in respect of a design for which SDS is responsible where the Approval Body has required an unanticipated change to design or has not delivered the consent according to the Consents Programme.	✓				[19.7] Failure of the Infraco to obtain Design Stage Consent in respect of a design for which SDS is responsible where the Approval Body has required an unanticipated change to design or has not delivered the consent according to the Consents Programme.	✓		
[19.9] Responsibility for obtaining, maintaining or renewing Additional Consents that are Design Stage Consents or Construction and Maintenance Stage Consents.		✓			[19.9] Responsibility for obtaining, maintaining or renewing Additional Consents that are Design Stage Consents or Construction and Maintenance Stage Consents.		✓	
[19.9] Responsibility for obtaining, maintaining or renewing Additional Consents that are tie Consents or are not Design Stage Consents or Construction and Maintenance Stage Consents.	✓				[19.9] Responsibility for obtaining, maintaining or renewing Additional Consents that are tie Consents or are not Design Stage Consents or Construction and Maintenance Stage Consents.	✓		
[19.10] Responsibility for obtaining Network Rail Possessions.	✓				[19.10] Responsibility for obtaining Network Rail Possessions.	✓		

[19.10] Provision to tie of technical and design documentation as necessary to obtain the Network Rail Possessions.		✓			[19.10] Provision to tie of technical and design documentation as necessary to obtain the Network Rail Possessions.		✓		
[19.10] Cost of obtaining Network Rail Possessions save where due to the Infraco's default or delay.	✓				[19.10] Cost of obtaining Network Rail Possessions save where due to the Infraco's default or delay.	✓			
[19.10] Cancellation or alteration of possession dates, timings or durations.	✓				[19.10] Cancellation or alteration of possession dates, timings or durations.	✓			
[19.11] Failure to update the Consents Programme by each Reporting Period End Date and showing any Additional Consents to be obtained.		✓			[19.11] Failure to update the Consents Programme by each Reporting Period End Date and showing any Additional Consents to be obtained.		✓		
[19.12] Failure to notify Approval Bodies when required on Site and co-ordination of their works with the Infraco Works.		✓			[19.12] Failure to notify Approval Bodies when required on Site and co-ordination of their works with the Infraco Works.		✓		
[19.13] Failure to provide relevant documentation to tie where tie's authorisation or completion of such documentation is required by Law.		✓			[19.13] Failure to provide relevant documentation to tie where tie's authorisation or completion of such documentation is required by Law.		✓		
[19.14] Payment of fees to obtain any Consents, unless otherwise stipulated (e.g. Network Rail Possessions).		✓			[19.14] Payment of fees to obtain any Consents, unless otherwise stipulated (e.g. Network Rail Possessions).		✓		

[19.15] Failure to use reasonable endeavours to obtain written consent of adjoining or neighbouring landowners with regard to interference with their rights.		✓			[19.15] Failure to use reasonable endeavours to obtain written consent of adjoining or neighbouring landowners with regard to interference with their rights.		✓	
[19.16] Approval of change to Consents Programme where Infraco demonstrates to tie that this is to prevent or mitigate a tie Change, Relief Event, Compensation Event or a Notified Departure.	✓				[19.16] Approval of change to Consents Programme where Infraco demonstrates to tie that this is to prevent or mitigate a tie Change, Relief Event, Compensation Event or a Notified Departure.	✓		
[19.17] Refusal or unreasonable delay in granting Construction and Maintenance Stage Consent, where Infraco has used reasonable endeavours, acted in accordance with Good Industry Practice and provided all necessary information.	✓				[19.17] Refusal or unreasonable delay in granting Construction and Maintenance Stage Consent, where Infraco has used reasonable endeavours, acted in accordance with Good Industry Practice and provided all necessary information.	✓		
[20.1] Failure to submit the Proposals to tie at least 6 months prior to the date on which the Infraco proposes to install, maintain, modify or replace any relevant supporting infrastructure and to obtain tie consent to the Proposals		✓			[20.1] Failure to submit the Proposals to tie at least 6 months prior to the date on which the Infraco proposes to install, maintain, modify or replace any relevant supporting infrastructure and to obtain tie's consent to the Proposals		✓	

[20. 2 and 20.4] Failure to submit the necessary applications and obtain necessary Consents from the relevant Planning Authority or for temporary poles as an alternative (tie to take planning permission risk is under discussion).		✓		[20. 2 and 20.4] Failure to submit the necessary applications and obtain necessary Consents from the relevant Planning Authority or for temporary poles as an alternative (tie to take planning permission risk is under discussion).		✓	
[20.3] Failure to submit revised proposals where tie consent is withheld.		✓		[20.3] Failure to submit revised proposals where tie consent is withheld.		✓	
[20.3] tie to obtain Consents and Building Fixing Agreements	✓						
[20.5] Where a building fixing agreement is to be used, securing the consent of the Heritable Proprietor and any other relevant party to allow the Infraco to carry out a survey and securing the agreement of the Heritable Proprietor to allow the setting of such building fixings (both at Infraco cost)	✓			[20.5] Where a building fixing agreement is to be used, securing the consent of the Heritable Proprietor and any other relevant party to allow the Infraco to carry out a survey and securing the agreement of the Heritable Proprietor to allow the setting of such building fixings (both at Infraco cost)	✓		
[20.5] Failure to provide tie with the information it requires and to carry out the relevant survey.		✓		[20.5] Failure to provide tie with the information it requires and to carry out the relevant survey.		✓	

[20.7] Where necessary due to the Heritable Proprietor withholding its consent to building fixings, the responsibility for and cost of the procedure of application to the Sheriff Court pursuant to the Acts or submittal of alternative plans.	✓				[20.7] Where necessary due to the Heritable Proprietor withholding its consent to building fixings, the responsibility for and cost of the procedure of application to the Sheriff Court pursuant to the Acts or submittal of alternative plans.	✓			
[20.8] Failure to use all reasonable endeavours to assist tie in the procedure for application to the Sheriff Court pursuant to the Acts.		✓			[20.8] Failure to use all reasonable endeavours to assist tie in the procedure for application to the Sheriff Court pursuant to the Acts.		✓		
[20.9] Rejection of application by Sheriff Court or anticipated rejection, cost of submission by the Infraco of revised proposals.	✓				[20.9] Rejection of application by Sheriff Court or anticipated rejection, cost of submission by the Infraco of revised proposals.	✓			
[20.10] Cost of removal of a building fixing and installation of OLE pole	✓				[20.10] Cost of removal of a building fixing and installation of OLE pole	✓			
[20.11] Selection of method for supporting OLE where building cannot support the loadings of a building fixing		✓			[20.11] Selection of method for supporting OLE where building cannot support the loadings of a building fixing		✓		
[21.4] Failure to obtain any street works licence, road opening permit and any other consent, licence or permission (other than any Land Consents) that may be required for the Infraco Works.		✓			[21.4] Failure to obtain any street works licence, road opening permit and any other consent, licence or permission (other than any Land Consents) that may be required for the Infraco Works.		✓		

[21.5] Failure to give notice to a relevant authority of its proposal to commence any work and failure to provide assistance to tie to recover contributions from the utilities.		✓			[21.5] Failure to give notice to a relevant authority of its proposal to commence any work and failure to provide assistance to tie to recover contributions from the utilities.		✓		
[21.6] Third Party Works being carried out by a utility, roads authority or an authorised third party.	✓				[21.6] Third Party Works being carried out by a utility, roads authority or an authorised third party.	✓			
[22.1] Adverse physical conditions and artificial obstructions, subject to information being provided.		✓			[22.1] Adverse physical conditions and artificial obstructions, subject to information being provided.		✓		
[22.2/22.5] Discovery of unidentified utility apparatus, unexploded ordnance, contaminated land or adverse physical or ground conditions which was not listed in the Ground Condition and Utility Information or which could not have reasonably been foreseen from the use of such information.	✓				[22.2/22.5] Discovery of unidentified utility apparatus, unexploded ordnance, contaminated land or adverse physical or ground conditions which was not listed in the Ground Condition or Utility Information or which could not have reasonably been foreseen from the use of such information.	✓			
[23] Failure to provide tie and tie's Representative and any person authorised by tie or tie's Representative with access upon reasonable prior notice to any site, workshop or facility etc during normal working hours.		✓			[23] Failure to provide tie and tie's Representative and any person authorised by tie or tie's Representative with access upon reasonable prior notice to any site, workshop or facility etc during normal working hours.		✓		

[23] Failure to comply with rules and regulations when on such sites.	✓				[23] Failure to comply with rules and regulations when on such sites.	✓			
[24.1/24.2] Failure to execute the Depot Licence and comply with the terms thereof.		✓			[24.1/24.2] Failure to execute the Depot Licence and comply with the terms thereof.		✓		
[24.4] Condition or fitness for purpose of the Depot.		✓			[24.4] Condition or fitness for purpose of the Depot.		✓		
[24.5] Liability for death, injury, damage to property or any other liability resulting from use of the Depot.		✓			[24.5] Liability for death, injury, damage to property or any other liability resulting from use of the Depot.		✓		
[24.6] Disruption of the Infraco's performance by tie accessing the Depot.	✓				[24.6] Disruption of the Infraco's performance by tie or tie Parties accessing the Depot.	✓			

Risk : Sub-Contracting and Personnel	Allocation		
	Public Sector	Private Sector	Shared
[28.2/28.3] Sub-contracting of part of the Infraco Works without tie 's consent except in respect of the SDS Provider, Tram Supplier, Tram Maintainer and any approved sub-contractor and/or trades and failure to provide information to enable tie to make a decision.		✓	

Risk : Sub-Contracting and Personnel	Allocation		
	Public Sector	Private Sector	Shared
[28.2/28.3] Sub-contracting of part of the Infraco Works without tie 's consent except in respect of the SDS Provider, Tram Supplier, Tram Maintainer and any approved sub-contractor and/or trades and failure to provide information to enable tie to make a decision.		✓	

[28.3/28.10] Unacceptable safety record of Key Sub-Contractor or failure of it or Infraco to provide a collateral warranty.		✓		[28.3/28.10] Unacceptable safety record of Key Sub-Contractor or failure of it or Infraco to provide a collateral warranty.		✓	
[28.4] Failure to incorporate required contract terms into subcontracts to be entered into by agreed "Key Sub-Contractors" or where the terms of the subcontract would result in the Infraco not being able to perform its obligations.		✓		[28.4] Failure to incorporate required contract terms into subcontracts to be entered into by agreed "Key Sub-Contractors" or where the terms of the subcontract would result in the Infraco not being able to perform its obligations.		✓	
[28.5] Failure to provide such skilled technical assistants and labour as required for execution of the Infraco Works.		✓		[28.5] Failure to provide such skilled technical assistants and labour as required for execution of the Infraco Works.		✓	
[28.6] Misconduct, incompetence, negligence or non-compliance with safety precautions of any employee of the Infraco and/or a Sub-Contractor.		✓		[28.6] Misconduct, incompetence, negligence or non-compliance with safety precautions of any employee of the Infraco and/or a Sub-Contractor.		✓	
[28.7] Failure to use reasonable endeavours to provide Key Sub-Contractor collateral warranties to tie in favour of tie and/or in favour of CEC, BAA, TEL and Network Rail (any other party must be identified prior to Award).		✓		[28.7] Failure to use reasonable endeavours to provide Key Sub-Contractor collateral warranties to tie in favour of tie and/or in favour of CEC, BAA, TEL and Network Rail (any other party must be identified prior to Award).		✓	

[28.9] Failure in performance by the Infraco or Sub-Contractors in carrying out the Infraco Works.		✓		[28.9] Failure in performance by the Infraco or Sub-Contractors in carrying out the Infraco Works.		✓	
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Risk : Performance of the Works	Allocation		
	Public Sector	Private Sector	Shared
[25.1] Failure to observe the reasonable instructions of tie's Representative.		✓	
[25.1 and 25.7] Failure to monitor the Infraco Works and failure to inform Infraco of the identity of tie's Representative.	✓		
[26] Acts or omissions of the Infraco's Representative.		✓	
[26.1] Failure to provide sufficient superintendence to the Infraco Works.		✓	
[26.2/26.5/26.7] Failure to obtain/retain tie's approval of the Infraco's Representative or his deputy.		✓	
[26.3] Supervision, management and coordination of the Infraco Works to ensure completion of the Infraco Works.		✓	
[26.8] Replacement of the Infraco's Representative.		✓	

Risk : Performance of the Works	Allocation		
	Public Sector	Private Sector	Shared
[25.1] Failure to observe the reasonable instructions of tie's Representative.		✓	
[25.1 and 25.7] Failure to monitor the Infraco Works and failure to inform Infraco of the identity of tie's Representative.	✓		
[26] Acts or omissions of the Infraco's Representative.		✓	
[26.1] Failure to provide sufficient superintendence to the Infraco Works.		✓	
[26.2/26.5/26.7] Failure to obtain/retain tie's approval of the Infraco's Representative or his deputy.		✓	
[26.3] Supervision, management and coordination of the Infraco Works to ensure completion of the Infraco Works.		✓	
[26.8] Replacement of the Infraco's Representative.		✓	

[26.9/26.10] Failure to provide sufficient staff and involve the Key Personnel in the Infraco Works.		✓			[26.9/26.10] Failure to provide sufficient staff and involve the Key Personnel in the Infraco Works.		✓	
[26.12] Failure to ensure that there are no changes to the Key Personnel without tie's prior written consent and that any replacement persons shall be of at least equivalent status and ability to the person whom they replace.		✓			[26.12] Failure to ensure that there are no changes to the Key Personnel without tie prior written consent and that any replacement persons shall be of at least equivalent status and ability to the person whom they replace.		✓	
[26.13] Failure to use all reasonable endeavours to ensure the continuity of the personnel assigned to perform the Infraco Works and to carefully select Key Personnel having careful regard to their existing work load and other planned commitments.		✓			[26.13] Failure to use all reasonable endeavours to ensure the continuity of the personnel assigned to perform the Infraco Works and to carefully select Key Personnel having careful regard to their existing work load and other planned commitments.		✓	
[26.14] Failure to ensure that Key Personnel have the requisite level of skill, experience and authority and receive the necessary amount of training and supervision.		✓			[26.14] Failure to ensure that Key Personnel have the requisite level of skill, experience and authority and receive the necessary amount of training and supervision.		✓	

[26.16] Contracting of or retention of as an adviser or consultant any person currently or previously employed or engaged in the previous 3 months by tie without the prior written approval by tie .		✓		[26.16] Contracting of or retention of as an adviser or consultant any person currently or previously employed or engaged in the previous 3 months by tie without the prior written approval by tie .		✓	
[26.17] Failure of Key Personnel and other staff to comply with regulatory requirements and tie's drug and alcohol policy.		✓		[26.17] Failure of Key Personnel and other staff to comply with regulatory requirements and tie's drug and alcohol policy.		✓	
[26.18] Allowing the consumption of, or work of under, the influence of alcohol or drugs or the giving, selling or bartering of the same.		✓		[26.18] Allowing the consumption of, or work of under, the influence of alcohol or drugs or the giving, selling or bartering of the same.		✓	
[27.1] Failure to employ careful, skilled and experienced staff or site supervisors with CSCS (or equivalent) certification.		✓		[27.1] Failure to employ careful, skilled and experienced staff or site supervisors with CSCS (or equivalent) certification.		✓	
[27.2] Misconduct, incompetence, negligence or non-compliance with safety precautions of any person employed on the Infracore Works.		✓		[27.2] Misconduct, incompetence, negligence or non-compliance with safety precautions of any person employed on the Infracore Works.		✓	

Risk : Construction

Allocation

Risk : Construction

Allocation

	Public Sector	Private Sector	Shared		Public Sector	Private Sector	Shared
[29.1 and 29.2] Errors in the position, levels, dimensions or alignment of any setting out of the Infraco Works during progress of Infraco Works until the issue of a Patent Defects Rectification Certificate..		✓			[29.1 and 29.2] Errors in the position, levels, dimensions or alignment of any setting out of the Infraco Works during progress of Infraco Works until the issue of a Patent Defects Rectification Certificate..	✓	
[29.3] Protection and preservation of items required for setting out.		✓			[29.3] Protection and preservation of items required for setting out.	✓	
[30.1] Failure to have full regard to safety of all persons entitled to be on Site and to keep the Site in an orderly state to avoid danger to such persons.		✓			[30.1] Failure to have full regard to safety of all persons entitled to be on Site and to keep the Site in an orderly state to avoid danger to such persons.	✓	
[30.2] Failure to provide required lights, guards, fencing etc.		✓			[30.2] Failure to provide required lights, guards, fencing etc.	✓	
[30.3] Failure to comply and use reasonable endeavours to ensure others comply with health and safety legislation and requirements.		✓			[30.3] Failure to comply and use reasonable endeavours to ensure others comply with health and safety legislation and requirements.	✓	

<p>[31.1 and 31.2] Failure to take full responsibility for the care of the Infraco Works from the Commencement Date until, in relation to each Section, the date of issue of a Certificate of Sectional Completion in relation to that Section and, in relation to Trams and Tram Related Equipment, the date of issue of a Certificate of Tram Commissioning including rectification for loss or damage.</p>	✓				<p>[31.1 and 31.2] Failure to take full responsibility for the care of the Infraco Works from the Commencement Date until, in relation to each Section, the date of issue of a Certificate of Sectional Completion in relation to that Section and, in relation to Trams and Tram Related Equipment, the date of issue of a Certificate of Tram Commissioning including rectification for loss or damage.</p>	✓		
<p>[32.1] Failure to comply with the Code of Construction Practice and Code of Maintenance Practice regarding maintenance of access to properties, bus stops and bus services and the closure of roads.</p>	✓				<p>[32.1] Failure to comply with the Code of Construction Practice and Code of Maintenance Practice regarding maintenance of access to properties, bus stops and bus services and the closure of roads.</p>	✓		
<p>[32.2] Failure to minimise nuisance, inconvenience or interference to the business or operations of the owners, tenants of properties on or in the locality of the Site, bus operators and to the public generally and failure to comply with the Code of Construction Practice and Code of Maintenance Practice in this regard.</p>	✓				<p>[32.2] Failure to minimise nuisance, inconvenience or interference to the business or operations of the owners, tenants of properties on or in the locality of the Site, bus operators and to the public generally and failure to comply with the Code of Construction Practice and Code of Maintenance Practice in this regard.</p>	✓		

[33.1] Failure to use reasonable means to prevent roads or bridges being subjected to extraordinary traffic by the Infraco.		✓		[33.1] Failure to use reasonable means to prevent roads or bridges being subjected to extraordinary traffic by the Infraco.		✓	
[33.1] Failure to select routes and use vehicles to as far as possible avoid unnecessary damage to roads and bridges.		✓		[33.1] Failure to select routes and use vehicles to as far as possible avoid unnecessary damage to roads and bridges.		✓	
[33.2] Strengthening bridges or altering or improving any highway connecting with the Site to facilitate installation of the Trams, the Infraco's Equipment or Temporary Works.		✓		[33.2] Strengthening bridges or altering or improving any highway connecting with the Site to facilitate installation of the Trams, the Infraco's Equipment or Temporary Works.		✓	
[33.2 and 33.3] Claims for damage to highways or bridges caused by the installation of Trams, Infraco's Equipment or Temporary Works.		✓		[33.2 and 33.3] Claims for damage to highways or bridges caused by the installation of Trams, Infraco's Equipment or Temporary Works.		✓	
[34.1] Failure to construct and complete the Infraco Works in strict accordance with the Agreement and in strict compliance with tie's instructions.		✓		[34.1] Failure to construct and complete the Infraco Works in strict accordance with the Agreement and in strict compliance with tie's instructions.		✓	
[34.2] Failure of the materials, Infraco's Equipment, labour, mode and manner of construction being in accordance with the Infraco Contract.		✓		[34.2] Failure of the materials, Infraco's Equipment, labour, mode and manner of construction being in accordance with the Infraco Contract.		✓	

[34.3] Time and cost (Compensation Event) if tie's instructions result in any delay or disruption or cost to the Infraco unless they result from the Infraco's default.	✓				[34.3] Time and cost (Compensation Event) if tie's instructions result in any delay or disruption or cost to the Infraco unless they result from the Infraco's default.	✓			
[39] Discovery of Fossils and Antiquities (including historical human remains) on Site.	✓				[39] Discovery of Fossils and Antiquities (including historical human remains) on Site.	✓			

Risk: Maintenance	Allocation			Risk: Maintenance	Allocation		
	Public Sector	Private Sector	Shared		Public Sector	Private Sector	Shared
Failure to carry out all maintenance, repair, renewals and remedial works to the ETN as is necessary to: <ul style="list-style-type: none"> • [52.1.1] maintain the ETN in accordance with the Maintenance Programme and the Maintenance Plan; • [52.1.2] ensure that the requirements of the Maintenance Specifications are met at all times; • [52.1.3] comply with the Operator Procedures; • [52.1.4] ensure that tie is informed of any adverse impact of design, redesign or modification to the Infraco Works; 		✓		Failure to carry out all maintenance, repair, renewals and remedial works to the ETN as is necessary to: <ul style="list-style-type: none"> • [52.1.1] maintain the ETN in accordance with the Maintenance Programme and the Maintenance Plan; • [52.1.2] ensure that the requirements of the Maintenance Specifications are met at all times; • [52.1.3] comply with the Operator Procedures; • [52.1.4] ensure that tie is informed of any adverse impact of design, redesign or modification to the Infraco Works; 		✓	

<ul style="list-style-type: none"> • [52.1.5] ensure that no maintenance or repair work shall prejudice to the Care for Safety; • [52.1.6] not prejudice the health or safety of or unreasonably interfere with the duties of the Operator and third parties or expose tie liability under health and safety legislation; • [52.1.7] maximise the extent to which the ETN is available and to minimise interruption to availability; • [52.1.8] sustain the functionality of the component parts of the ETN for not less than the design life; • [52.1.9] hand back the ETN in a condition consistent with the Infracore having complied with Clause 52 (<i>Maintenance</i> provided save for fair wear and tear or the expiry of working life. 	✓	✓			<ul style="list-style-type: none"> • [52.1.5] ensure that no maintenance or repair work shall prejudice to the Care for Safety; • [52.1.6] not prejudice the health or safety of or unreasonably interfere with the duties of the Operator and third parties or expose tie liability under health and safety legislation; • [52.1.7] maximise the extent to which the ETN is available and to minimise interruption to availability; • [52.1.8] sustain the functionality of the component parts of the ETN for not less than the design life; • [52.1.9] hand back the ETN in a condition consistent with the Infracore having complied with Clause 52 (<i>Maintenance</i>) provided save for fair wear and tear or the expiry of working life. 	✓	✓	✓
[52.2/52.3] Failure to work with Operator in respect of daily handover and handback.	✓				[52.2/52.3] Failure to work with Operator in respect of daily handover and handback.	✓		

[52.5] Failure to carry out Mobilisation Services on or before the appropriate Mobilisation Milestone Dates.		✓		[52.5] Failure to carry out Mobilisation Services on or before the appropriate Mobilisation Milestone Dates.		✓	
[52.6] Failure to carry out the Maintenance Services safely and efficiently and free of any reasonably avoidable risk of pollution, nuisance, interference or hazard.		✓		[52.6] Failure to carry out the Maintenance Services safely and efficiently and free of any reasonably avoidable risk of pollution, nuisance, interference or hazard.		✓	
[52.7] Failure to employ and train all staff necessary to perform the Maintenance Services in accordance with the Infraco Contract.		✓		[52.7] Failure to employ and train all staff necessary to perform the Maintenance Services in accordance with the Infraco Contract.		✓	
[52.8] Failure to provide and employ all staff necessary to perform the Mobilisation Services in accordance with the Infraco Contract.		✓		[52.8] Failure to provide and employ all staff necessary to perform the Mobilisation Services in accordance with the Infraco Contract.		✓	
[52.9] Failure to supply only new materials and goods (save where they have been repaired in accordance with Good Industry Practice) of a satisfactory quality.		✓		[52.9] Failure to supply only new materials and goods (save where they have been repaired in accordance with Good Industry Practice) of a satisfactory quality.		✓	

[52.10-52.11] The provision of all Spare Parts and Special Tools required for the Maintenance Services (including the provision of valid calibration certificates) and which meet the technical and safety requirements of the Maintenance Specification.		✓			[52.10-52.11] The provision of all Spare Parts and Special Tools required for the Maintenance Services (including the provision of valid calibration certificates) and which meet the technical and safety requirements of the Maintenance Specification. Failure to notify of breach of warranty or supply of defective spares by Tram Supplier or Tram Maintainer.		✓	
[52.12/52.14] Failure to manage and maintain adequate stocks for the Minimum Spare Parts Pool at the Depot, manage reorders and lead times and review of the level of Minimum Spare Parts Pool.		✓			[52.12/52.14] Failure to manage and maintain adequate stocks for the Minimum Spare Parts Pool at the Depot, manage reorders and lead times and review of the level of Minimum Spare Parts Pool.		✓	
[52.14] Review and variation of the Minimum Spare Parts Pool	✓				[52.14] Review and variation of the Minimum Spare Parts Pool	✓		
[52.15] Effecting repairs of all defects in, failures or damage to the ETN irrespective of cause, excluding the Free Issue Fare Collection Equipment, causing minimum disruption to the ETN.		✓			[52.15] Effecting repairs of all defects in, failures or damage to the ETN irrespective of cause, excluding the Free Issue Fare Collection Equipment, causing minimum disruption to the ETN.		✓	

[52.16] Cost of repairs referred to at 52.15 above to the extent that any damage to the ETN is caused by: 1) a breach of the Infraco Contract by Infraco or any Infraco Party or 2) any negligent act or omission by the Infraco or any Infraco Party.		✓			[52.16] Cost of repairs referred to at 52.15 above to the extent that any damage to the ETN is caused by: 1) a breach of the Infraco Contract by Infraco or any Infraco Party or 2) any negligent act or omission by the Infraco or any Infraco Party.		✓	
[52.17] Cost of repairs referred to at 52.15 above to the extent that any damage to the ETN is not caused by: 1) a breach of the Infraco Contract by Infraco or any Infraco Party or 2) any negligent act or omission by the Infraco or any Infraco Party.	✓				[52.17] Cost of repairs referred to at 52.15 above to the extent that any damage to the ETN is not caused by: 1) a breach of the Infraco Contract by Infraco or any Infraco Party or 2) any negligent act or omission by the Infraco or any Infraco Party.	✓		
[52.18] Failure to repair or replace the ETN to a condition which meets the requirements of the Maintenance Specification.		✓			[52.18] Failure to repair or replace the ETN to a condition which meets the requirements of the Maintenance Specification.		✓	
[52.19] Effecting temporary repairs and obtaining prior approvals.		✓			[52.19] Effecting temporary repairs and obtaining prior approvals.		✓	

[52.20/52.21] Failure to provide assistance, summary reports, information and advice as required by tie and the Operator in the case of incidents or failures affecting the ETN and reporting thereon.		✓		[52.20/52.21] Failure to provide assistance, summary reports, information and advice as required by tie and the Operator in the case of incidents or failures affecting the ETN and reporting thereon.		✓	
[52.21] Costs of complying with 52.20 where the incident is not the fault of the Infraco.	✓			[52.21] Costs of complying with 52.20 where the incident is not the fault of the Infraco.	✓		
[52.22] Failure to have competent resources available to carry out the repairs at the site of the failure where this is the most efficient manner of dealing with the failure.		✓		[52.22] Failure to have competent resources available to carry out the repairs at the site of the failure where this is the most efficient manner of dealing with the failure.		✓	
[52.23] Failure to report and propose a solution to defects where rectification falls within the scope of the Infrastructure Maintenance Services in the ETN which may prejudice safety or reliable operation of the ETN.		✓		[52.23] Failure to report and propose a solution to defects where rectification falls within the scope of the Infrastructure Maintenance Services in the ETN which may prejudice safety or reliable operation of the ETN.		✓	
[52.24] Failure to provide additional systems availability requested by tie following Infraco's confirmation of its ability to so provide.[1]		✓		[52.24] Failure to provide additional systems availability requested by tie following Infraco's confirmation of its ability to so provide.		✓	

[52.25] Failure to keep up to date and supply a maintenance manual, electronically and free of charge, to tie's representative.		✓		[52.25] Failure to keep up to date and supply a maintenance manual, electronically and free of charge, to tie's representative.		✓	
[52.26] Failure to provide and maintain the Control Room.		✓		[52.26] Failure to provide and maintain the Control Room.		✓	
[53] Use, handling, removal and disposal of Hazardous Materials and keeping an up to date register of same save to the extent tie stores hazardous materials at the Depot in which the Infraco is not experienced in handling.		✓		[53] Use, handling, removal and disposal of Hazardous Materials and keeping an up to date register of same save to the extent tie stores hazardous materials at the Depot in which the Infraco is not experienced in handling.		✓	
[54] Maintenance of Technical Records and Computer Systems.		✓		[54] Maintenance of Technical Records and Computer Systems.		✓	

Risk : Quality, Testing and Examination	Allocation		
	Public Sector	Private Sector	Shared
[35.1] Failure of the materials and workmanship to be as described in the Infraco Contract. Testing and examination of the quality, weight or quantity of any materials used before use in the Infraco Works.		✓	
[35.2] Costs of and supply of samples.		✓	
[35.3/41.2/44.2/47.2] Costs of any specified tests.		✓	

Risk : Quality, Testing and Examination	Allocation		
	Public Sector	Private Sector	Shared
[35.1] Failure of the materials and workmanship to be as described in the Infraco Contract. Testing and examination of the quality, weight or quantity of any materials used before use in the Infraco Works.		✓	
[35.2] Costs of and supply of samples.		✓	
[35.3/41.2/44.2/47.2] Costs of any specified tests.		✓	

[35.3/35.4] Costs of tests not identified in the Infraco Contract but requested by tie, save where required because of Infraco's breach.	✓				[35.3/35.4] Costs of tests not identified in the Infraco Contract but requested by tie save where required because of Infraco's breach.	✓			
[36.1] Failure to give 48 hours notice to allow examination of work prior to covering up.		✓			[36.1] Failure to give 48 hours notice to allow examination of work prior to covering up.		✓		
[36.2] Cost of uncovering where Infraco Works are found to be in accordance with Agreement.	✓				[36.2] Cost of uncovering where Infraco Works are found to be in accordance with Agreement.	✓			
[36.2] Cost of uncovering where Infraco Works are found not to be in accordance with Agreement.		✓			[36.2] Cost of uncovering where Infraco Works are found not to be in accordance with Agreement.		✓		
[37.1] Removal and replacement of unsatisfactory workmanship or materials.		✓			[37.1] Removal and replacement of unsatisfactory workmanship or materials.		✓		
[37.5] Costs of opening up and testing for unsatisfactory work and materials following repeated non-compliance.		✓			[37.5] Costs of opening up and testing for unsatisfactory work and materials following repeated non-compliance.		✓		
[37.5] Relief Event where opening up shows workmanship to be in accordance with the Infraco Contract.	✓				[37.5] Relief Event where opening up shows workmanship to be in accordance with the Infraco Contract.	✓			

[38.3] Urgent repairs carried out by tie which the Infraco was liable to carry out at its own expense under the Agreement and which in the opinion of tie's Representative, acting reasonably, is necessary by reason of emergency or an immediate threat to health and safety.		✓			[38.3] Urgent repairs carried out by tie which the Infraco was liable to carry out at its own expense under the Agreement and which in the opinion of tie's Representative, acting reasonably, is necessary by reason of emergency or an immediate threat to health and safety.		✓		
[38.4] Cost of urgent repairs carried out by the Infraco (except to the extent such work results from Infraco's default).	✓				[38.4] Cost of urgent repairs carried out by the Infraco (except to the extent such work results from Infraco's default).	✓			
[40] Rectification of errors or omissions in the Infraco Works.		✓			[40] Rectification of errors or omissions in the Infraco Works.		✓		
[40] Rectification of errors or omissions in the Infraco Works where caused by a Notified Departure, Compensation Event or Relief Event.	✓				[40] Rectification of errors or omissions in the Infraco Works where caused by a Notified Departure, Compensation Event or Relief Event.	✓			
[41 and 42] Completion and Certification of Milestones.	✓	✓			[41 and 42] Completion and Certification of Milestones.	✓	✓		
[43] Appointment of Tram Inspector and compliance with obligations in the Tram Inspector Agreement and cooperation regarding related matters.	✓	✓			[43] Appointment of Tram Inspector and compliance with obligations in the Tram Inspector Agreement and cooperation regarding related matters.	✓	✓		
[43.10] Costs of appointment and services of the Tram Inspector.	✓				[43.10] Costs of appointment and services of the Tram Inspector.	✓			

[44.1/45.1/47.1] Failure to inspect the Infraco works on the dates specified.	✓			[44.1/45.1/47.1] Failure to inspect the Infraco works on the dates specified.	✓		
[44.2/45.2/47.2] Costs of tests including necessary repetitions.		✓		[44.2/45.2/47.2] Costs of tests including necessary repetitions.		✓	
[44.3/45.3/46.4/47.3] Failure to issue certificates on completion of works.	✓			[44.3/45.3/46.4/47.3] Failure to issue certificates on completion of works.	✓		
[44/45/46/47] Failure to complete works in accordance with the Infraco Contract.		✓		[44/45/46/47] Failure to complete works in accordance with the Infraco Contract.		✓	
[46] Carrying out and completion of Snagging List works and rectification of Patent Defects.		✓		[46] Carrying out and completion of Snagging List works and rectification of Patent Defects.		✓	
[47.2/47.4] Failure to complete T5 and to satisfy tie that T5 is complete and that a Reliability Certificate should be issued.		✓		[47.2/47.4] Failure to complete T5 and to satisfy tie that T5 is complete and that a Reliability Certificate should be issued.		✓	
[48] Tests, surveys, trials or searches at tie's request where the defect or fault is one for which the Infraco is not liable under the Agreement.	✓			[48] Tests, surveys, trials or searches at tie's request where the defect or fault is one for which the Infraco is not liable under the Agreement.	✓		
[48] Tests, surveys, trials or searches at tie's request where the defect or fault is one for which the Infraco is liable under the Agreement.		✓		[48] Tests, surveys, trials or searches at tie's request where the defect or fault is one for which the Infraco is liable under the Agreement.		✓	

					[55.2] Failure to remedy defective maintenance performance.		✓	
[55.3] Costs associated with surveys and audits which do not show non-compliance by the Infraco.	✓							
[55.3] Failure to use reasonable endeavours to minimise disruption to the provision of the Maintenance Services when carrying out a survey or audit.	✓							
[55.4] Costs associated with surveys and audits which show a non-compliance by the Infraco.		✓						
[55.5/55.6] Failure to carry out rectification in agreed timescales and to the required standard.		✓						
[56.1] Failure to comply with Schedule 6 Maintenance Payment Regime.		✓			[56.1] Failure to comply with Schedule 6 Maintenance Payment Regime.		✓	
[56.2] Failure to provide required personnel for Maintenance Services performance meetings.		✓			[56.2] Failure to provide required personnel for Maintenance Services performance meetings.		✓	
[56.3-56.5] Failure to submit Service Quality Reports, Annual Service Reports and Self-Monitoring Plans (and failure to comply with such plan) at the required times.		✓			[56.3-56.5] Failure to submit Service Quality Reports, Annual Service Reports and Self-Monitoring Plans (and failure to comply with such plan) at the required times.		✓	

[56.6] Failure to inform tie where the Maintenance Services have not been delivered and failure to assist tie in inspecting and observing the monitoring procedures.		✓		[56.6] Failure to inform tie where the Maintenance Services have not been delivered and failure to assist tie in inspecting and observing the monitoring procedures.		✓	
[56.8] Costs of and conducting of increased monitoring as a result of Underperformance Warning Notices being issued.		✓		[56.8] Costs of and conducting of increased monitoring as a result of Underperformance Warning Notices being issued.		✓	
[105.1.2] Failure to operate a quality management system in accordance with BS EN ISO 9001:2000.		✓		[105.1.2] Failure to operate a quality management system in accordance with BS EN ISO 9001:2000.		✓	

Risk : Programme	Allocation			Risk : Programme	Allocation		
	Public Sector	Private Sector	Shared		Public Sector	Private Sector	Shared
[60.1/60.9/62.1] Failure to progress Infracore Works with due expedition and in a timely and efficient manner in accordance with the Programme and to mitigate any delays.		✓		[60.1/60.9/62.1] Failure to progress Infracore Works with due expedition and in a timely and efficient manner in accordance with the Programme and to mitigate any delays.		✓	

[60.4/60.6] Deemed acceptance of a revised programme due to failure by tie's Representative to accept, reject or request further information within 10 Business Days in respect of revised programmes proposed by the Infraco.	✓				[60.4/60.6] Deemed acceptance of a revised programme due to failure by tie's Representative to accept, reject or request further information within 10 Business Days in respect of revised programmes proposed by the Infraco.	✓			
[60.2/60.3/60.5/60.7] Failure to update, submit changes to and provide further information in respect of the revised programme proposed by Infraco.		✓			[60.2/60.3/60.5/60.7] Failure to update, submit changes to and provide further information in respect of the revised programme proposed by Infraco.		✓		
[61] Acceleration of progress to achieve Planned Sectional Completion Dates.		✓			[61] Acceleration of progress to achieve Planned Sectional Completion Dates. Incentivisation bonus on Sectional Completion.		✓		
[61] Cost in accelerating progress where tie requires an earlier completion date or where there has been stoppages preventing completion in time for the Planned Sectional Completion Date.	✓				[61] Cost in accelerating progress where tie requires an earlier completion date or where there has been stoppages preventing completion in time for the Planned Sectional Completion Date.	✓			
[62] Late completion of any Section resulting in LADs, save where attributable to a tie Change or other situation outwith the Infraco's control.		✓			[62] Late completion of any Section resulting in LADs, save where attributable to a tie Change or other situation outwith the Infraco's control.		✓		

[62] Failure to issue a Tram with a Tram Commissioning Certificate by the Agreed Commissioning Date.		✓		[62] Failure to issue a Tram with a Tram Commissioning Certificate by the Agreed Commissioning Date.		✓	
[62.6] Tram exceeding Maximum Tram Weight.		✓		[62.6] Tram exceeding Maximum Tram Weight.		✓	
[62.11] Rejection of or failure to respond to a request to increase the LADs cap.		✓		[62.11] Rejection of or failure to respond to a request to increase the LADs cap.		✓	
[87.1] Time and cost of suspension of the works where necessary save where this is because of Infraco breach and for health and safety reasons.	✓			[87.1] Time and cost of suspension of the works where necessary save where this is because of Infraco breach and for health and safety reasons.	✓		
[87.1] Suspension by reason of Infraco breach affecting in respect of health and safety of persons and property.		✓		[87.1] Suspension by reason of Infraco breach affecting in respect of health and safety of persons and property.		✓	
[87.1] Failure to properly protect and secure the works during a suspension, as required by tie.		✓		[87.1] Failure to properly protect and secure the works during a suspension, as required by tie.		✓	
[87.2] Occurrence of abandonment or omission of Infraco Works if permission to resume not granted by tie within 6 months.	✓			[87.2] Occurrence of abandonment or omission of Infraco Works if permission to resume not granted by tie within 6 months.	✓		

Risk : Relief Events (time) and Compensation Events (time and/or costs)	Allocation		
	Public Sector	Private Sector	Shared

Risk : Relief Events (time) and Compensation Events (time and/or costs)	Allocation		
	Public Sector	Private Sector	Shared
[Definition of Compensation Event] Pricing Assumption does not hold good	✓		

					[Definition of Compensation Event] Delay in issuing tie Change order following a Notified Departure	✓				
[Definition of Compensation Event] tie failure to give possession or access including refusal of third party to permit Infraco to exercise occupation rights.	✓				[Definition of Compensation Event] tie failure to give possession or access including refusal of third party to permit Infraco to exercise occupation rights.	✓				
[Definition of Compensation Event] Occurrence of any delay caused by CEC stopping up streets.	✓				[Definition of Compensation Event] Occurrence of any delay caused by CEC stopping up streets.	✓				
[Definition of Compensation Event] Execution of Utilities Works or MUDFA works.	✓				[Definition of Compensation Event] Execution of Utilities Works or MUDFA works.	✓				
[Definition of Compensation Event] Breach by tie or any tie Party which adversely affects the performance of the Infraco Works.	✓				[Definition of Compensation Event] Breach by tie or any tie Party which adversely affects the performance of the Infraco Works.	✓				
[Definition of Compensation Event] Discovery of unexploded ordnance, unidentified utility apparatus or contaminated land.	✓				[Definition of Compensation Event] Discovery of unexploded ordnance, unidentified utility apparatus or contaminated land.	✓				
[Definition of Compensation Event] Instructions from tie which result in disruption or cost to the Infraco.	✓				[Definition of Compensation Event] Instructions from tie which result in disruption or cost to the Infraco.	✓				

[Definition of Compensation Event] Failure by tie to obtain any Land Consent, Building Fixing Agreement, Consent, land agreement or TRO.	✓				[Definition of Compensation Event] Failure by tie to obtain any Land Consent, Building Fixing Agreement, Consent, land agreement or TRO.	✓			
[Definition of Compensation Event] Protestor Action which lasts for more than 14 days or more than one day in respect of protestor action affecting the Tram Supplier's performance.	✓				[Definition of Compensation Event] Protestor Action which lasts for more than 14 days or more than one day in respect of protestor action affecting the Tram Supplier's performance.	✓			
[Definition of Compensation Event] Vandalism impacting ETN.	✓				[Definition of Compensation Event] Vandalism impacting ETN.	✓			
[Definition of Compensation Event] Operator Events.	✓				[Definition of Compensation Event] Operator Events.	✓			
[Definition of Compensation Event] Any breach by Network Rail of the Asset Protection Agreement or the Network Rail Agreement.	✓				[Definition of Compensation Event] Any breach by Network Rail of the Asset Protection Agreement or the Network Rail Agreement.	✓			
[Definition of Compensation Event] Malfunction or non-interoperability of free issue material.	✓				[Definition of Compensation Event] Malfunction or non-interoperability of free issue material.	✓			
[Definition of Compensation Event] A breach by the Tram Inspector of the Tram Inspector Agreement.	✓				[Definition of Compensation Event] A breach by the Tram Inspector of the Tram Inspector Agreement.	✓			
[Definition of Compensation Event] Suspension of the Works where not due to Infraco breach.	✓				[Definition of Compensation Event] Suspension of the Works where not due to Infraco breach.	✓			

[Definition of Compensation Event] Carrying out of rescheduled tests or inspections where tie failed to attend the scheduled test.	✓				[Definition of Compensation Event] Carrying out of rescheduled tests or inspections where tie failed to attend the scheduled test.	✓			
[Definition of Compensation Event] Disruption to the Infracore Works caused by tie exercising its right of access at the Depot.	✓				[Definition of Compensation Event] Disruption to the Infracore Works caused by tie exercising its right of access at the Depot.	✓			
[Definition of Compensation Event] Compensation Event under the Tram Supply Agreement resulting from a Relief Event which causes a 3 month delay to the delivery of the Depot.	✓				[Definition of Compensation Event] Compensation Event under the Tram Supply Agreement resulting from a Relief Event which causes a 3 month delay to the delivery of the Depot.	✓			
[Definition of Compensation Event] Failure of the SDS Provider to achieve Issue for Construction of any Design Package by the due date (less LADs recoverable from the SDS Provider).	✓				[Definition of Compensation Event] Failure of the SDS Provider to achieve Issue for Construction of any Design Package by the due date (less LADs recoverable from the SDS Provider).	✓			
					[Definition of Compensation Event] Operator actions under Clause 17.34	✓			
					[Definition of Compensation Event] Delay on Consent for Building Fixing Agreement	✓			

[Definition of Relief Event] Occurrence of any referable delay caused by orders or directions from tie's Representative in respect of the removal of unsatisfactory work or materials	✓				[Definition of Relief Event] Occurrence of any referable delay caused by orders or directions from tie's Representative in respect of the removal of unsatisfactory work or materials	✓			
[49.1/49.3] Failure to remove materials and equipment at the correct time.		✓			[49.1/49.3] Failure to remove materials and equipment at the correct time.		✓		
[Definition of Relief Event] Protestor Action against tie that last for less than 14 days or against any unconnected third party.	✓				[Definition of Relief Event] Protestor Action against tie that last for less than 14 days or against any unconnected third party.	✓			
[Definition of Relief Event] Acts of terrorism.	✓				[Definition of Relief Event] Acts of terrorism.	✓			
[Definition of Relief Event] UK strike, lockout, go-slow or industrial dispute affecting Infracore or Tramco workforce.	✓				[Definition of Relief Event] UK strike, lockout, go-slow or industrial dispute affecting Infracore or Tramco workforce.	✓			
[Definition of Relief Event] Force Majeure Event.	✓				[Definition of Relief Event] Force Majeure Event.	✓			
[Definition of Relief Event] Fire, explosion, lightning, tempest, flood (other than flood caused by bursting or overflowing of apparatus or pipes), storm, ionising radiation, riot, civil commotion or earthquakes.	✓				[Definition of Relief Event] Fire, explosion, lightning, tempest, flood (other than flood caused by bursting or overflowing of apparatus or pipes), storm, ionising radiation, riot, civil commotion or earthquakes.	✓			

[Definition of Relief Event] Failure by any Utility to carry out works or provide services which they would ordinarily provide.	✓				[Definition of Relief Event] Failure by any Utility to carry out works or provide services which they would ordinarily provide.	✓			
[Definition of Relief Event] Any accidental loss of or damage to a material part of the Infraco Works.	✓				[Definition of Relief Event] Any accidental loss of or damage to a material part of the Infraco Works.	✓			
[Definition of Relief Event] Power failure or bursting or overflowing of apparatus or pipes save where caused by the Infraco.	✓				[Definition of Relief Event] Power failure or bursting or overflowing of apparatus or pipes save where caused by the Infraco.	✓			
[64.2/65.2] Failure to notify tie within 20 Business Days of awareness of relief event/compensation event and to notify in the prescribed manner.		✓			[64.2/65.2] Failure to notify tie within 20 Business Days of awareness of relief event/compensation event and to notify in the prescribed manner.		✓		
[64.8/65.9] Failure to identify long lead time works or enabling works; to manage interface with CEC, any Approval Body or third party; or to identify instructions required from tie.		✓			[64.8/65.9] Failure to identify long lead time works or enabling works; to manage interface with CEC, any Approval Body or third party; or to identify instructions required from tie.		✓		
[64.9/65.10] Any other cause of delay not being a Relief Event or Compensation Event or caused by Infraco breach.		✓			[64.9/65.10] Any other cause of delay not being a Relief Event or Compensation Event or caused by Infraco breach.		✓		
[80.14] Delay/costs due to a tie Change (save where the Infraco could have prevented the need for the tie change).	✓				[80.14] Delay/costs due to a tie Change (save where the Infraco could have prevented the need for the tie change).	✓			

Risk : Payment and Measurement	Allocation		
	Public Sector	Private Sector	Shared
[41.1] Failure to attend testing relevant to Milestone achievement.	✓		
[41.3] Failure to notify tie in relation to the achievement of a milestone (including a critical milestone).		✓	
[66] Payment of Contract Price.	✓		
[67/68] Submission of applications for payment within required timescales and provision of required information.		✓	
[67/68] Payment of Infraco applications for payment and certification of sums approved.	✓		
[67/68] Failure to adhere to requirement to procure collateral warranties prior to payment.		✓	
[69.1] Interest on Late Payment at Base Rate + 2%.	✓		
[69.2] Set-off of amounts due to tie from the Infraco.		✓	

Risk : Payment and Measurement	Allocation		
	Public Sector	Private Sector	Shared
[41.1] Failure to attend testing relevant to Milestone achievement.	✓		
[41.3] Failure to notify tie in relation to the achievement of a milestone (including a critical milestone).		✓	
[66] Payment of Contract Price.	✓		
[66.6] Failure to submit all payment applications within 3 months of final account		✓	
[67/68] Submission of applications for payment within required timescales and provision of required information.		✓	
[67/68] Payment of Infraco applications for payment and certification of sums approved.	✓		
[67/68] Failure to adhere to requirement to procure collateral warranties prior to payment.		✓	
[69.1] Interest on Late Payment at Base Rate + 2%.	✓		
[69.2] Set-off of amounts due to tie from the Infraco.		✓	

[69.3] Failure to issue a notice of withholding within the prescribed time period.	✓		
[70.1] Payment of tax on any taxable supplies to tie.		✓	
[70.2] Payment of VAT properly chargeable by the Infraco on the supply to tie of any goods/services under the Infraco Contract.	✓		
[70.3] Provision of support in relation to VAT disputes.	✓	✓	
[70.5] Reimbursement of VAT element of reimbursement or indemnification.	✓	✓	

[69.3] Failure to issue a notice of withholding within the prescribed time period.	✓		
[70.1] Payment of tax on any taxable supplies to tie.		✓	
[70.2] Payment of VAT properly chargeable by the Infraco on the supply to tie of any goods/services under the Infraco Contract.	✓		
[70.3] Provision of support in relation to VAT disputes.	✓	✓	
[70.5] Reimbursement of VAT element of reimbursement or indemnification.	✓	✓	

Risk : Warranties	Allocation		
	Public Sector	Private Sector	Shared
[75] Breach of corporate warranties given to the best of each Infraco Member's knowledge, information and belief.		✓	

Risk : Warranties	Allocation		
	Public Sector	Private Sector	Shared
[75] Breach of corporate warranties given to the best of each Infraco Member's knowledge, information and belief.		✓	

Risk : Required Insurances	Allocation		
	Public Sector	Private Sector	Shared
[76.1] Failure to obtain and maintain Required Insurances.		✓	

Risk : Required Insurances	Allocation		
	Public Sector	Private Sector	Shared
[76.1] Failure to obtain and maintain Required Insurances.		✓	

[76.11/76.14] Failure to comply with the terms of the Required Insurances or OCIP Insurances.		✓		[76.11/76.14] Failure to comply with the terms of the Required Insurances or OCIP Insurances.		✓	
[76.12] No availability of Required Insurances at commercially reasonable rates or maintenance of Required Insurances is at above commercially reasonable rates.			✓	[76.12] No availability of Required Insurances at commercially reasonable rates or maintenance of Required Insurances is at above commercially reasonable rates.			✓
[76.18] Excesses/deductibles under OCIP Insurances or Additional Insurances where not the fault of tie or the Infraco (not agreed during the maintenance phase).			✓	[76.18] Excesses/deductibles under OCIP Insurances or Additional Insurances where not the fault of tie or the Infraco (during the maintenance phase only up to Sectional Completion).			✓
[76.16] Excesses/deductibles under OCIP Insurances or Additional Insurances where the fault of Infraco.		✓		[76.16] Excesses/deductibles under OCIP Insurances or Additional Insurances where the fault of Infraco.		✓	
[76.17/19A] Excesses/deductibles under OCIP Insurances or Additional Insurances where the fault of tie or where tie has altered the level.	✓			[76.17/19A] Excesses/deductibles under OCIP Insurances or Additional Insurances where the fault of tie or where tie has altered the level.	✓		
[76.19] Failure to obtain and maintain OCIP Insurances	✓			[76.19] Failure to obtain and maintain OCIP Insurances	✓		
[76.20] Failure to obtain and maintain Additional Insurances.		✓		[76.20] Failure to obtain and maintain Additional Insurances.		✓	

[76.20] Failure to notify tie of claims under the Required Insurances or Additional Insurances.		✓			[76.20] Failure to notify tie of claims under the Required Insurances or Additional Insurances.		✓		
[76.24] Unavailability of Additional Insurances at commercially reasonable rates.	✓				[76.24] Unavailability of Additional Insurances at commercially reasonable rates.	✓			

Risk : Indemnities, liability and sole remedy	Allocation		
	Public Sector	Private Sector	Shared
[49.2] Loss or damage to Infraco's Equipment, Temporary Works, goods or materials, Trams, engineers works vehicles, Spare Parts, Special Tools, save for death, injury or damage to property caused by tie or CEC.		✓	
[77.1][2] The Infraco to indemnify the Indemnified Parties from and against any and all claims, suits, losses, liabilities damages, penalties, fines, forfeitures, and the costs and expenses incident thereto (including without limitation any legal costs of defence) as a result of the Infraco's negligence or breach of the Agreement.		✓	

Risk : Indemnities, liability and sole remedy	Allocation		
	Public Sector	Private Sector	Shared
[49.2] Loss or damage to Infraco's Equipment, Temporary Works, goods or materials, Trams, engineers works vehicles, Spare Parts, Special Tools, save for death, injury or damage to property caused by tie or CEC.		✓	
[77.1] The Infraco to indemnify the Indemnified Parties from and against any and all claims, suits, losses, liabilities damages, penalties, fines, forfeitures, and the costs and expenses incident thereto (including without limitation any legal costs of defence) as a result of the Infraco's negligence or breach of the Agreement.		✓	

[77.2] Death, injury or damage to property caused by tie or CEC.	✓		
[77.4-77.7] Loss resulting from claims made by Forth Ports, Stakis or Network Rail.[3]		✓	
[77.8] Death, injury or fraud.	✓	✓	
[77.10] Indirect Losses.	✓	✓	
[77.14] Payment of tonnage, royalties rent for stone, gravel, clay or other necessary materials.		✓	
[77.15] Failure to take any measure to ensure tie is not committing an offence where the Infraco has caused tie to commit an offence.		✓	
[77.17] Liability for Latent Defects up to 12 years from issue of the Reliability Certificate.		✓	

Risk : Changes	Allocation		
	Public Sector	Private Sector	Shared

[77.2] Death, injury or damage to property caused by tie or CEC.	✓		
[77.4] Failure to indemnify Infraco against uninsured claims arising out of Infraco Works as unavoidable consequence of compliant execution	✓		
[77.5] Failure to obtain approval from Network Rail		✓	
[77.10] Indirect Losses.	✓	✓	
[77.14] Payment of tonnage, royalties rent for stone, gravel, clay or other necessary materials.		✓	
[77.13] Failure to take any measure to ensure tie is not committing an offence where the Infraco has caused tie to commit an offence.		✓	
[77.15] Liability for Latent Defects up to 12 years from issue of the Reliability Certificate.		✓	

Risk : Changes	Allocation		
	Public Sector	Private Sector	Shared

[79.2] Failure to maintain a change control register and provide a copy (and updates) to tie .		✓			[79.2] Failure to maintain a change control register and provide a copy (and updates) to tie .		✓		
[80] tie Changes and Mandatory tie Changes.	✓				[80] tie Changes, Mandatory tie Changes and Notified Departures	✓			
[80] Failure to comply with Estimate requirements and time limits		✓			[80] Failure to comply with Estimate requirements and time limits		✓		
[80.7] Failure to include attempt to minimise costs, need for, and impact of the tie Change		✓			[80.7] Failure to include attempt to minimise costs, need for, and impact of the tie Change		✓		
[80.8] Failure to demonstrate that it is appropriate to subcontract for the tie Change and obtain best value for money		✓			[80.8] Failure to demonstrate that it is appropriate to subcontract for the tie Change and obtain best value for money		✓		
[80.8] Failure to agree the Estimate				✓	[80.8] Failure to agree the Estimate				✓
[80.12] Refusal to implement tie change on grounds as set out.	✓				[80.12] Refusal to implement tie change on grounds as set out.	✓			
[80.13] Withdrawal of tie Notice of Change	✓				[80.13] Withdrawal of tie Notice of Change	✓			
[80.14] Deemed withdrawal of a tie Change due to failure to issue tie Change Order within 28 days of agreement on Estimate.	✓				[80.14] Deemed withdrawal of a tie Change due to failure to issue tie Change Order within 28 days of agreement on Estimate.	✓			

[80.19] EoT or Costs if Infraco could have foreseen the need for or materially reduced the scope of the tie charge (not agreed for during the maintenance phase).		✓		[80.19] EoT or Costs if Infraco could have foreseen the need for or materially reduced the scope of the tie charge		✓	
[80.20/80.21] Failure by the Infraco to notify tie within set periods of matters which may constitute a tie Change.		✓		[80.20/80.21] Failure by the Infraco to notify tie within set periods of matters which may constitute a tie Change.		✓	
[80.22] Requirement of Infraco to comply with Third Party Agreements outwith as set out in the Infraco Contract.	✓			[80.22] Requirement of Infraco to comply with Third Party Agreements outwith as set out in the Infraco Contract.	✓		
[81] Infraco Changes.		✓		[81] Infraco Changes.		✓	
[81.1] Failure to notify tie of matters which may constitute an Infraco Change.		✓		[81.1] Failure to notify tie of matters which may constitute an Infraco Change.		✓	
[81.2.1] Reduction in Contract Price if Infraco Change results in lower costs.		✓		[81.2.1] Reduction in Contract Price if Infraco Change results in lower costs.		✓	
[81.2.2] Increase in costs to Infraco if such increased costs result from an Infraco Change.		✓		[81.2.2] Increase in costs to Infraco if such increased costs result from an Infraco Change.		✓	
[81.3] Proposal of a change which might result in a saving of more than £20,000.		✓		[81.3] Proposal of a change which might result in a saving of more than £20,000.		✓	

[81.4/82.6/83.5] Failure to update programme, pricing schedules, maintenance services performance plan and other Deliverables as required.		✓		[81.4/82.6/83.5] Failure to update programme, pricing schedules, maintenance services performance plan and other Deliverables as required.		✓	
[82.3] Failure to take reasonable steps to minimise the duration of any Small Works.		✓		[82.3] Failure to take reasonable steps to minimise the duration of any Small Works.		✓	
[82.4] Failure to carry out and complete any Small Works in accordance with Small Works Cost Notice.		✓		[82.4] Failure to carry out and complete any Small Works in accordance with Small Works Cost Notice.		✓	
[82.5] Payment of Small Works.	✓			[82.5] Payment of Small Works.	✓		
[83.2] Failure to take reasonable steps to minimise the duration of any Accommodation Works.		✓		[83.2] Failure to take reasonable steps to minimise the duration of any Accommodation Works.		✓	
[83.3] Failure to carry out and complete any Accommodation Works in accordance with Accommodation Works Cost Notice.		✓		[83.3] Failure to carry out and complete any Accommodation Works in accordance with Accommodation Works Cost Notice.		✓	
[83.5] Payment of Accommodation Works.	✓			[83.5] Payment of Accommodation Works.	✓		
[84] Time and cost implications of Qualifying Changes in Law (in excess of the thresholds).	✓			[84] Time and cost implications of Qualifying Changes in Law (in excess of the thresholds).	✓		

[84.1/84.2] Agreement and discussion on effects and mitigation measures relating to Qualifying Changes in Law.	✓	✓			[84.1/84.2] Agreement and discussion on effects and mitigation measures relating to Qualifying Changes in Law.	✓	✓		
[84.2] Failure to use all reasonable endeavours to minimise increase in costs, to mitigate effects and to implement changes in the most cost effective manner.		✓			[84.2] Failure to use all reasonable endeavours to minimise increase in costs, to mitigate effects and to implement changes in the most cost effective manner.		✓		
[84.3] Extension of time and costs resulting from any Change in Law.	✓				[84.3] Extension of time and costs resulting from any Qualifying Change in Law.	✓			
[84.3] Failure to implement the change in all circumstances (except to the extent that such change is not necessary to implement the Qualifying Change in Law)		✓			[84.3] Failure to implement the change in all circumstances (except to the extent that such change is not necessary to implement the Qualifying Change in Law)		✓		
[84.4.1] Payment in respect of Qualifying Changes in Law which exceed in aggregate £150,000.	✓				[84.4.1] Payment in respect of Qualifying Changes in Law which exceed in aggregate £150,000.	✓			
[84.4.2] Where the limit of £150,000 in aggregate has been exceeded, payment in respect of SDS Qualifying Changes in Law which exceed in aggregate £15,000 in respect of each and every event.	✓				[84.4.2] Where the limit of £150,000 in aggregate has been exceeded, payment in respect of SDS Qualifying Changes in Law which exceed in aggregate £15,000 in respect of each and every event.	✓			

[84.4.3], Where the limit of £150,000 in aggregate has been exceeded, payment in respect of Tram Supply Qualifying Changes in Law which exceed in aggregate £30,000 in respect of each and every event.	✓				[84.4.3], Where the limit of £150,000 in aggregate has been exceeded, payment in respect of Tram Supply Qualifying Changes in Law which exceed in aggregate £30,000 in respect of each and every event.	✓		
[84.4.4] Payment for 5 years following Service Commencement in respect of Tram Maintenance Qualifying Changes which exceed in aggregate £15,000 in respect of each and every event up to an aggregate of £150,000 and thereafter to be treated as a Mandatory tie Change..	✓				[84.4.4] Payment for 5 years following Service Commencement in respect of Tram Maintenance Qualifying Changes which exceed in aggregate £15,000 in respect of each and every event up to an aggregate of £150,000 and thereafter to be treated as a Mandatory tie Change..	✓		
[84.4.5] Where the limit of £150,000 in aggregate has been exceeded, payment in respect of Infrastructure Maintenance Qualifying Changes in Law which exceed in aggregate £75,000 in respect of each and every event.	✓							
[84.4] Payments in respect of Qualifying Changes in Law within the thresholds.		✓			[84.4] Payments in respect of Qualifying Changes in Law within the thresholds.		✓	

[84.5] General Change In Law, subject to Infraco's entitlement to benchmark after 3 years following Service Commencement and thereafter once in any 3 year period.		✓		[84.5/84.10] General Change In Law, subject to Infraco's entitlement to benchmark after 3 years following Service Commencement and thereafter once in any 3 year period.		✓	
[85.1] The cost of any Phase 1b option.	✓			[85.1] The cost of any Phase 1b option.	✓		
[86.2] Failure to provide the services as requested by tie in relation to any Network Expansion.		✓		[86.2] Failure to provide the services as requested by tie in relation to any Network Expansion.		✓	
[86.2] The cost of Infraco providing services in relation to any Network Expansions.	✓			[86.2] The cost of Infraco providing services in relation to any Network Expansions.	✓		

Risk : Termination	Allocation			Risk : Termination	Allocation		
	Public Sector	Private Sector	Shared		Public Sector	Private Sector	Shared
[87] Suspension of Work (unless necessary by reason of default on the part of Infraco and for health and safety reasons) for more than 6 months.	✓			[87] Suspension of Work (unless necessary by reason of default on the part of Infraco and for health and safety reasons) for more than 6 months.	✓		
[88] Termination on tie Default: agreement terminates 30 days after tie receives Infraco notice specifying default. tie has 30 days to rectify, if capable of rectification.	✓			[88] Termination on tie Default: agreement terminates 30 days after tie receives Infraco notice specifying default. tie has 30 days to rectify, if capable of rectification.	✓		
[tie Default definition]	✓			[tie Default definition]	✓		

<ul style="list-style-type: none"> • Failure to pay an amount in excess of £250,000 for more than 30 days following the final date for payment; • breach of tie's material obligations frustrating or making it impossible for Infraco to perform for continuous period of 45 Business Days; • tie Insolvency Event; • tie breach of assignment provisions; and • Change in Law make Infraco Works impossible or illegal. 					<ul style="list-style-type: none"> • Failure to pay an amount in excess of £250,000 for more than 30 days following the final date for payment; • breach of tie's material obligations frustrating or making it impossible for Infraco to perform for continuous period of 45 Business Days; • tie Insolvency Event; • tie breach of assignment provisions; and • Change in Law make Infraco Works impossible or illegal. 				
[88.5] Failure to remove Infraco Equipment following termination.		✓			[88.5] Failure to remove Infraco Equipment following termination.		✓		
[88.8] tie Default termination payments: all works carried out as valued; prelims; supplies/materials committed under contract; demobilisation costs; subcontractor breakage costs; loss of profit; in respect of termination after Service Commencement an amount representing one month's payment.	✓				[88.8] tie Default termination payments: all works carried out as valued; prelims; supplies/materials committed under contract; demobilisation costs; subcontractor breakage costs; loss of profit; in respect of termination after Service Commencement an amount representing one month's maintenance payment.	✓			
[88.9] Suspension of works for non-payment by tie or CEC in accordance with the CEC Guarantee.	✓				[88.9] Suspension of works for non-payment by tie or CEC in accordance with the CEC Guarantee.	✓			

<p>[89] Voluntary Termination by tie following three years after the issue of the Certificate of Service Commencement and equivalent payment provisions to termination for tie Default.</p>	✓	✓			<p>[89] Voluntary Termination by tie following three years after the issue of the Certificate of Service Commencement and equivalent payment provisions to termination for tie Default.</p>	✓	✓	
<p>[90] Termination due to Infraco default unless a rectification plan is agreed and adhered to in respect of rectifiable defaults.</p>		✓			<p>[90] Termination due to Infraco default unless a rectification plan is agreed and adhered to in respect of rectifiable defaults.</p>		✓	
<p>[Infraco default definition]</p> <ul style="list-style-type: none"> • Infraco Insolvency Event (rectifiable); • Infraco breach of an obligation under the Infraco Contract which materially and adversely affects the Infraco Works (rectifiable); • Infraco does not confirm its acceptance of an increase in LADs cap; • Infraco's unremedied failure to take out and maintain the Required Insurances; 		<ul style="list-style-type: none"> ✓ ✓ ✓ ✓ 			<p>[Infraco default definition]</p> <ul style="list-style-type: none"> • Infraco Insolvency Event (rectifiable); • Infraco breach of an obligation under the Infraco Contract which materially and adversely affects the Infraco Works (rectifiable); • Infraco does not confirm its acceptance of an increase in LADs cap; • Infraco's unremedied failure to take out and maintain the Required Insurances; 		<ul style="list-style-type: none"> ✓ ✓ ✓ ✓ 	

<ul style="list-style-type: none"> • failure to achieve Sectional Completion Date or the Service Commencement Date on or before the date falling 12 months after the Planned Service Commencement Date or Planned Sectional Completion Date except as a result of a Compensation Event, Relief Event, Force Majeure Event, tie Change, Accommodation Works Change, Change in Law or Suspension; 	✓				<ul style="list-style-type: none"> • failure to achieve Sectional Completion Date or the Service Commencement Date on or before the date falling 12 months after the Planned Service Commencement Date or Planned Sectional Completion Date except as a result of a Compensation Event, Relief Event, Force Majeure Event, tie Change, Accommodation Works Change, Change in Law or Suspension; 	✓		
<ul style="list-style-type: none"> • change in legal status or control of the Infraco which is materially prejudicial to carrying out and completing the Infraco Works (rectifiable); 	✓				<ul style="list-style-type: none"> • change in legal status or control of the Infraco which is materially prejudicial to carrying out and completing the Infraco Works (rectifiable); 	✓		
<ul style="list-style-type: none"> • Infraco's failure to commence Works within 90 days of Commencement Date; 	✓				<ul style="list-style-type: none"> • Infraco's failure to commence Works within 90 days of Commencement Date; 	✓		
<ul style="list-style-type: none"> • Infraco's suspension of works without cause for 15 Business Days after receipt of a written notice to proceed; 	✓				<ul style="list-style-type: none"> • Infraco's suspension of works without cause for 15 Business Days after receipt of a written notice to proceed; 	✓		
<ul style="list-style-type: none"> • the issue of 4 or more Underperformance Warning Notices in any 12 month period; 					<ul style="list-style-type: none"> • the issue of 4 or more Underperformance Warning Notices in any 12 month 			

[91] Termination for Force Majeure (payments to be made as per tie Default).	✓	✓	
[92] Termination if Infraco or Sub Contractor commits a Prohibited Act (payments to mirror Infraco Default payments).		✓	
[93] Infraco's persistent breach of its obligations, save for termination of sub-contractors and wipe clean.		✓	

[91] Termination for Force Majeure (payments to be made as per tie Default).	✓	✓	
[92] Termination if Infraco or Sub-Contractor commits a Prohibited Act (payments to mirror Infraco Default payments).		✓	
[93] Infraco's persistent breach of its obligations, save for termination of sub-contractors and wipe clean.		✓	

Risk : Miscellaneous	Allocation		
	Public Sector	Private Sector	Shared
[50.3] Compliance with CDM responsibilities.			✓
[51.1] Failure to report accidents to tie and HSE or ORR as appropriate.		✓	
[51.2] Failure to liaise with the Emergency Services.		✓	
[58] TUPE responsibilities.	✓	✓	
[58.9] Costs of compliance with TUPE provisions.	✓		
[59.5] Reasonable and demonstrable costs arising from a step-in for Health and Safety and Environmental reason or from Infraco taking actions as required under the Step-In provisions.		✓	

Risk : Miscellaneous	Allocation		
	Public Sector	Private Sector	Shared
[50.3] Compliance with CDM responsibilities.			✓
[51.1] Failure to report accidents to tie and HSE or ORR as appropriate.		✓	
[51.2] Failure to liaise with the Emergency Services.		✓	
[58] TUPE responsibilities.	✓	✓	
[58.9] Costs of compliance with TUPE provisions.	✓		
[59.5] Reasonable and demonstrable costs arising from a step-in for Health and Safety and Environmental reason or from Infraco taking actions as required under the Step-In provisions.		✓	

[71.2] Employment related and land fill tax fluctuations where tie is informed of such increase within 3 months.	✓				[71.2] Employment related and land fill tax fluctuations where tie is informed of such increase within 3 months.	✓			
[71.2] Tax fluctuations where tie is not informed of such increase within 3 months.		✓			[71.2] Tax fluctuations where tie is not informed of such increase within 3 months.		✓		
[72] Failure to provide and to procure that sub-contractors provide details of labour as requested by tie .		✓			[72] Failure to provide and to procure that sub-contractors provide details of labour as requested by tie .		✓		
[73] Failure to secure continuous improvement in the Infracore Works and to provide reasonable assistance to tie in respect of best value performance and improvement including the preparation of an Annual Service Report.		✓			[73] Failure to secure continuous improvement in the Infracore Works and to provide reasonable assistance to tie in respect of best value performance and improvement including the preparation of an Annual Service Report.		✓		
[94.4] Failure to return the Deliverables and any information following termination or expiry.		✓			[94.4] Failure to return the Deliverables and any information following termination or expiry.		✓		
[95] Failure to provide the Handback Package, to secure continuity in services and assist in the handover following termination.		✓			[95] Failure to provide the Handback Package, to secure continuity in services and assist in the handover following termination.		✓		
					[96] Failure to carry out maintenance to required standard		✓		
					[96.4.3] Failure to provide defects rectification bond		✓		

[98] Unauthorised Assignment.	✓	✓		[98] Unauthorised Assignment.	✓	✓	
[100.1] Creation of Security Interest over the ETN, the Assets or the Infraco Contract.		✓		[100.1] Creation of Security Interest over the ETN, the Assets or the Infraco Contract.		✓	
[100.2] Disposal of any right in any Asset if doing so has a material adverse effect on the ETN or the rights of CEC in such Assets.		✓		[100.2] Disposal of any right in any Asset if doing so has a material adverse effect on the ETN or the rights of CEC in such Assets.		✓	
[101] Unauthorised disclosure of and inadequate safeguarding of confidential information.	✓	✓		[101] Unauthorised disclosure of and inadequate safeguarding of confidential information.	✓	✓	
[101.7] Breach of terms of ministerial guidance in relation to FOISA.	✓			[101.7] Breach of terms of ministerial guidance in relation to FOISA.	✓		
[101.7] Failure to provide to tie assistance in compliance with FOISA obligations.		✓		[101.7] Failure to provide to tie assistance in compliance with FOISA obligations.		✓	
[102.2] Failure to properly assign IPR or grant appropriate licences to tie.		✓		[102.2] Failure to properly assign IPR or grant appropriate licences to tie.		✓	
[102.9] Failure to use reasonable endeavours to procure licences of Third Party Software and commercially available software for tie.		✓		[102.9] Failure to use reasonable endeavours to procure licences of Third Party Software and commercially available software for tie.		✓	
[102.10] Failure to ensure back up and storage of Deliverables in accordance with Good Industry Practice.		✓		[102.10] Failure to ensure back up and storage of Deliverables in accordance with Good Industry Practice.		✓	

[102.12] Failure to provide source code, object code and documentation in relation to Third Party Software to tie.		✓		[102.12] Failure to provide source code, object code and documentation in relation to Third Party Software to tie.		✓	
[102.14] Failure to ensure auditable records and specifications are developed in relation to Infraco Software and that its design and development to industry standard so that a qualified person could verify its performance in relation to equipment and functional requirements.		✓		[102.14] Failure to ensure auditable records and specifications are developed in relation to Infraco Software and that its design and development to industry standard so that a qualified person could verify its performance in relation to equipment and functional requirements.		✓	
[102.15] Failure to provide coding and ancillary programs to generate code in relation to the Infraco Software.		✓		[102.15] Failure to provide coding and ancillary programs to generate code in relation to the Infraco Software.		✓	
[102.16] Failure to place and the cost of placing source code of the Infraco Software in escrow.		✓		[102.16] Failure to place and the cost of placing source code of the Infraco Software in escrow.		✓	
[102.17/102.18] Failure to create, maintain, report on, update, hand over and allow access to the Technical Library.		✓		[102.17/102.18] Failure to create, maintain, report on, update, hand over and allow access to the Technical Library.		✓	
[103] Breach of data controller obligations and other prescribed obligations in relation to personal data.		✓		[103] Breach of data controller obligations and other prescribed obligations in relation to personal data.		✓	

[104.1-104.2] Failure to keep all Deliverables, invoices, timesheets and expense claims in accordance with Good Industry Practice and in good order and to make the same available for inspection.		✓		[104.1-104.2] Failure to keep all Deliverables, invoices, timesheets and expense claims in accordance with Good Industry Practice and in good order and to make the same available for inspection.		✓	
[104.3-104.5] Failure to provide further information as requested by tie , to comply with storage, usage or processing requests or to provide required assistance.		✓		[104.3-104.5] Failure to provide further information as requested by tie , to comply with storage, usage or processing requests or to provide required assistance.		✓	
[104.6] Failure to provide information to the Infraco to allow it to perform its obligations under the Infraco Contract.	✓			[104.6] Failure to provide information to the Infraco to allow it to perform its obligations under the Infraco Contract.	✓		
[105] Failure to operate, audit, review and comply with the HSQE system.		✓		[105] Failure to operate, audit, review and comply with the HSQE system.		✓	
[105.3] Defect in the Infraco Works caused by non-compliance of a Deliverable with the HSQE System.		✓		[105.3] Defect in the Infraco Works caused by non-compliance of a Deliverable with the HSQE System.		✓	
[107] Failure to do any act or execute any document to give effect to the Infraco Contract.	✓	✓		[107] Failure to do any act or execute any document to give effect to the Infraco Contract.	✓	✓	
[110] Acting as tie's agent where not authorised to do so.		✓		[110] Acting as tie's agent where not authorised to do so.		✓	
[115] Unlawful discrimination.		✓		[115] Unlawful discrimination.		✓	

[118] Failure to act reasonably when exercising discretion.		✓	
[119] Failure to mitigate losses.	✓	✓	
[17] Failure to arrange interface with operator.	✓		



[118] Failure to act reasonably when exercising discretion.		✓	
[119] Failure to mitigate losses.	✓	✓	
[17] Failure to arrange interface with operator.	✓		

[1] [Discussions as to payment of additional availability ongoing.](#)
 [2] [Subject to negotiation on OCIP cap re damage to property or the Infraco Works.](#)

[3] [Currently under discussion.](#)

Risk : Dispute Resolution	Allocation		
	Public Sector	Private Sector	Shared
Failure to proceed with process after 90 day warning notice			✓

Risk : General Obligations Clauses 14-12-07	Allocation			Risk : General Obligations Clauses 12-05-08	Allocation		
	Public Sector	Private Sector	Shared		Public Sector	Private Sector	Shared
				6.9 Failure to notify tie of demand on performance surety of Tram Supplier and/or Tram Maintainer held by Infraco		✓	
• [7.3.2] so as to enable the ETN to be designed, constructed, installed, tested and commissioned, and thereafter operated and maintained;		✓		• [7.3.2] so as to enable the ETN to be designed, constructed, installed, tested and commissioned, and thereafter operated and maintained;		✓	✓ (design)
[7.5.4] Failure to use reasonable endeavours to safeguard the efficiency in the obtaining of Consents.		✓		[7.5.4] Failure to use reasonable endeavours to safeguard the efficiency in the obtaining of Consents.		✓	✓ (design)
Parent Company Guarantees Bonds (Performance Bond, Retention Bond, defects bond)				Parent Company Guarantees Bonds (Performance Bond, Retention Bond, defects rectification bond)		✓	
Collateral Warranties		✓		Collateral Warranties (to third parties and to CEC and TEL)CEC Guarantee (of payment only)		✓	
CEC Guarantee (of payment only)	✓	✓		Advance Payment Bond (Trams)	✓	✓	
[10.10] Failure to provide Deliverables in accordance with the Infraco Contract.		✓		[10.10] Failure to provide Deliverables in accordance with the Infraco Contract.		✓	✓ (design)

[20.3] tie to obtain Consents and Building Fixing Agreements	✓							
					[55.2] Failure to remedy defective maintenance performance.		✓	
[55.3] Costs associated with surveys and audits which do not show non-compliance by the Infraco.	✓							
[55.3] Failure to use reasonable endeavours to minimise disruption to the provision of the Maintenance Services when carrying out a survey or audit.	✓							
[55.4] Costs associated with surveys and audits which show a non-compliance by the Infraco.			✓					
[55.5/55.6] Failure to carry out rectification in agreed timescales and to the required standard.			✓					
					[Definition of Compensation Event] Pricing Assumption does not hold good	✓		
					[Definition of Compensation Event] Delay in issuing tie Change order following a Notified Departure	✓		
					[Definition of Compensation Event] Operator actions under Clause 17.34	✓		

					[Definition of Compensation Event] Delay on Consent for Building Fixing Agreement	✓		
					[66.6] Failure to submit all payment applications within 3 months of final account		✓	
[77.8] Death, injury or fraud.	✓	✓						
					[77.13] Failure to take any measure to ensure tie is not committing an offence where the Infraco has caused tie to commit an offence.		✓	
[77.17] Liability for Latent Defects up to 12 years from issue of the Reliability Certificate.		✓						
[84.4.5] Where the limit of £150,000 in aggregate has been exceeded, payment in respect of Infrastructure Maintenance Qualifying Changes in Law which exceed in aggregate £75,000 in respect of each and every event.	✓							
					[96] Failure to carry out maintenance to required standard		✓	
					[96.4.3] Failure to provide defects rectification bond		✓	



The Edinburgh Tram Network
Owner Controlled Insurance Programme
Tracey Kinloch, **tie** Insurance Manager

Agenda

- “It will never happen to me”
- Why buy Insurance?
- Why should **tie** arrange an OCIP?
- Who is covered under the Construction OCIP?
- What is the Construction OCIP?
- Where does it cover?
- How do claims work?
- What covers do the contractor’s buy?

“It Will Never happen to me” –Dublin



“It Will Never happen to me” –Zurich



“It Will Never happen to me” –Midlands



“It Will Never happen to me” –Edinburgh



“It Will Never happen to me” –Glasgow 1959



“It Will Never happen to me” – Or Will It?

Nottingham

- City Suffers first tram fatality when pedestrian collided with tram
- Pedestrian Trapped in Tram Crash between platform and tram and suffered serious leg injuries
- Mother worried by tram door scare when doors shut on 9 year old son, no injuries
- Two trams involved in near miss travelling towards each other on same track
- Man hurt in tram collision during trail running

Why buy Insurance?

- Money available in the event of a loss
- Transfer risk
- Peace of Mind for all Stakeholders
- Known Prices
- Contractual requirement
- Types of Project Insurances:-
 - CCIP – Contractor Controlled Insurance Programme
 - OCIP – Owner Controlled Insurance Programme
(Construction & Operational)

Why should tie arrange an OCIP?

- To benefit from :-
 - Securing cover for the duration of the project
 - Cost savings
 - Controlling the insurance procurement process
 - Bespoke and tailor made
 - Wider coverage and no gaps
 - All parties being fully protected

Why should tie arrange an OCIP?

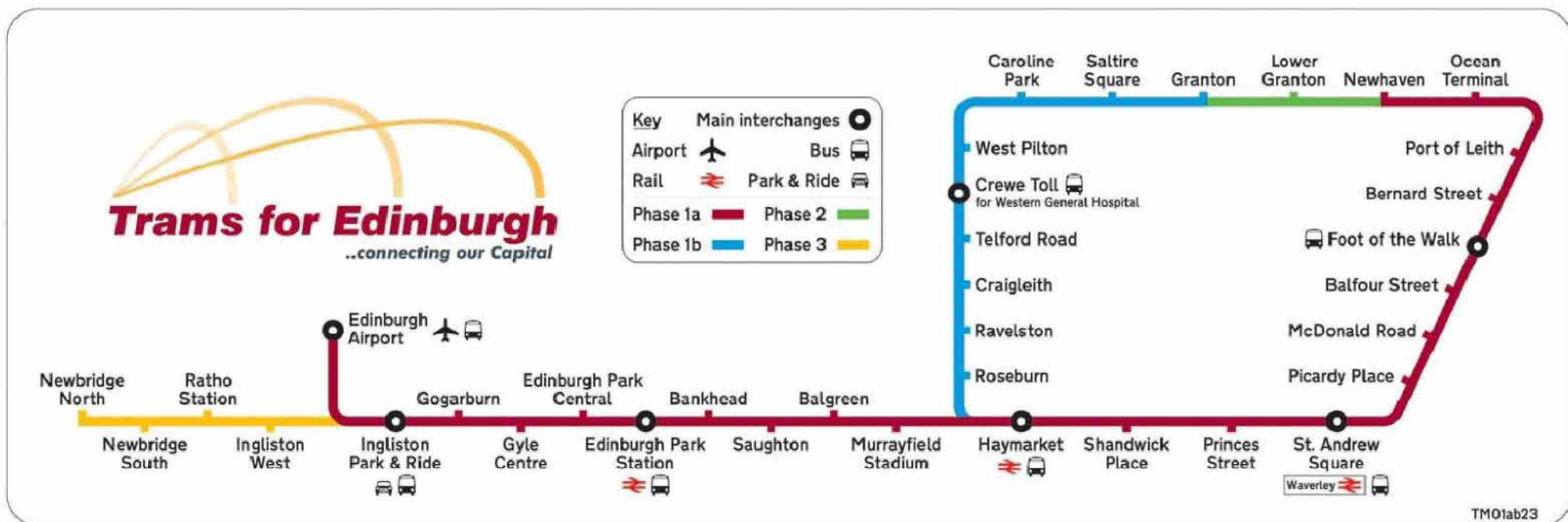
- Control the claims process, cost and manage PR
- Delivering risk management to tie standards
- A Waiver of Subrogation on the policies
- Being able to insure anticipated loss of revenue and standing charges
- Value for money

Who's covered under the Construction OCIP?

- **tie** as Principal Insured
- TEL and Transdev
- Stakeholders
 - CEC, Transport Scotland, Scottish Ministers
- Contractors
 - INFRACO, TRAMCO, MUDFA
 - Sub-contractors, Trade Contractors, Other Utilities
 - Other Consultants (On-site activities only)

What is the Construction OCIP?

- Edinburgh Tram activities – Phase 1a only
- Can extend for 1b – additional premium



What is the Construction OCIP?

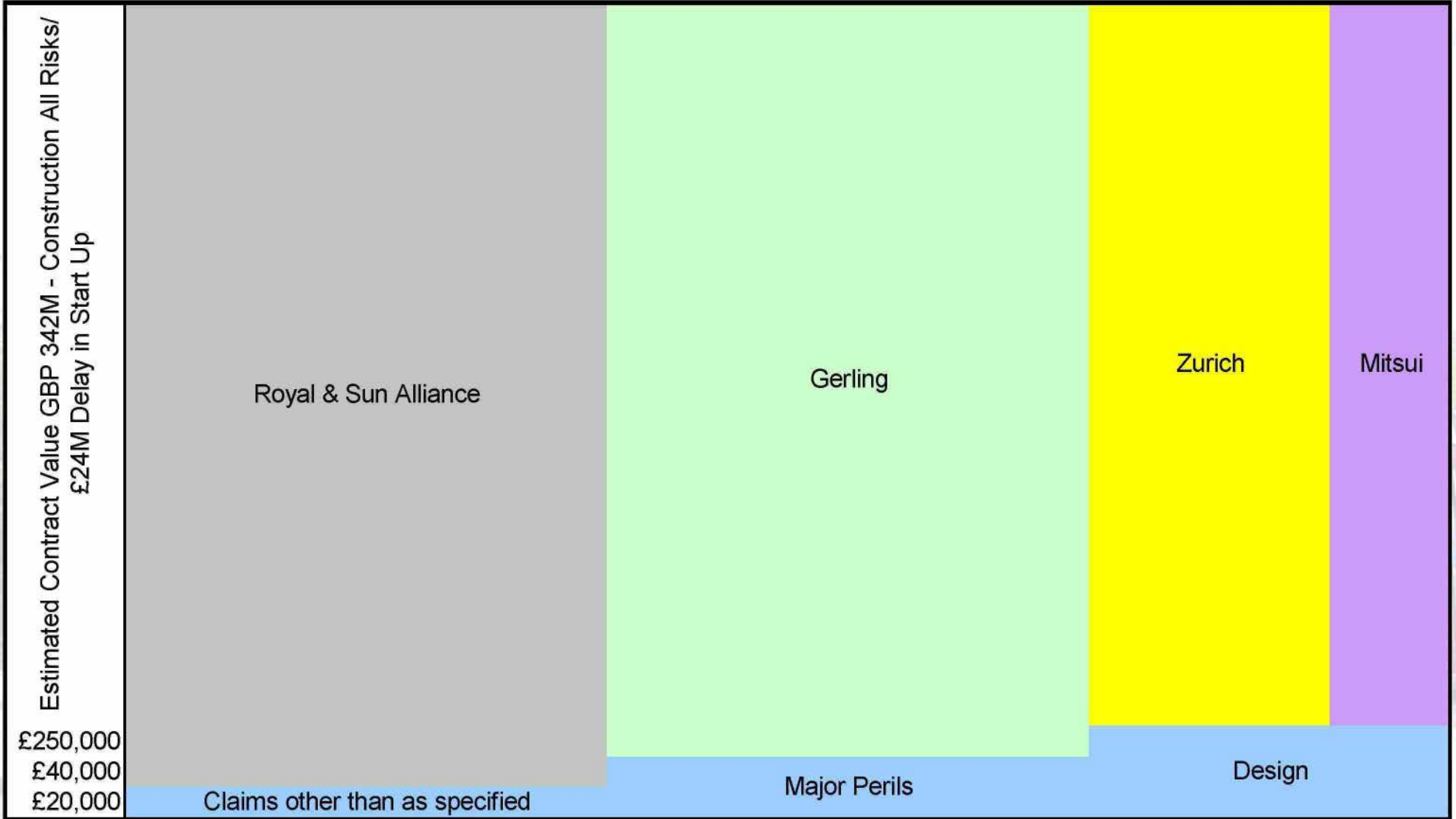
- Construction All Risks
 - All works, design, engineering, demolition, fabrication, construction, erection, installation, testing, commissioning, trial running and defects maintenance
 - Phased Hand-over / Passenger Operation Date
 - Excludes contractor's plant and equipment
 - Reinstatement Value of work £341.9m
 - From Manufacturer's site in transit to ports in Europe, from ports in UK to site (Excludes marine risks)
 - Physical Loss or Damage

What is the Construction OCIP?

- Delay in Start Up
 - Anticipated Lost Revenue expected for 24 months after Passenger Operation Date - £24m
 - tie, TEL and Transdev
 - Increased Cost of Working
 - Follows Damage under CAR
- Third Party (Public and Products) Liability
 - Legal Liability for death or bodily injury or physical damage to property
 - Nuisance, Trespass, Obstruction

CAR / DSU Programme

Limit



TPL Programme

£155M	ACE	DAC	Liberty	DA Constable Bodily injury under Road Traffic Acts	
£100M	DA Constable		ACE		Liberty
£50M	QBE	Liberty	Mitsui		
£5M	DA Constable				
£10,000	All claims for bodily injury and damage to material property				

Deductibles

- Responsibility for the deductibles depends on the contract conditions agreed
- Generally contractor responsible for cost if negligent
- Can claim another contractor if deductible cost down to its fault
- Loss adjuster will help ascertain liability or contribution
- Contractors deductibles generally outwith project costs
- Insurance has budget for tie deductibles, although recharging to project may be considered

Key Clauses

- When Phases handed over risks pass to the Operational OCIP
- Treated as Individual Insured subjects to Sum Insured's / Limits of Indemnity
- Vitiating acts of one party will not prejudice indemnity to others
- Damage occurring within 12 Months Defects Period or on site within 24 Months

Exclusions

- Gradual Pollution / Clean Up costs
- Wear and Tear
- Inventory Losses
- Redesign Costs
- Contractual agreed risks
- Liquidated Damages / Penalties / Fines

Claims Procedure

- COM Project Controls 385
- Defines responsibilities and does and don'ts
- Summaries Cover and insured parties
- tie (Risk Department) to will handle all claims above and below excess
- Garwyn used to deal with TP claim above £1,000
- Cunningham Lindsay CAR claims above excesses
- Delays to claim notifications may be a problem
- OCIP Claims Provision based on similar projects

Claims Controls

- Establish causes and learn the lessons
- Loss Adjusters Approved by Insurers / **tie**
- Claims Procedures covers all parties
- Loss Adjuster Reports to be shared if appropriate
- Claims / Incidents Database
- Period End Report issued to PD
- Bi-monthly Contractor meetings

Claims Requirements

- Reasonable care must be taken to prevent a loss
- No admission of liability to be given
- Notify **the** Insurance or Loss Adjuster as soon as reasonably possible
- Pass documentation to Insurance unanswered
- Work with loss adjusters and insurers during investigation and throughout claim negotiations.

The cost of an accident / incident

- Repairs / Replacements Costs (Parts / Labour)
- Compensation for injury / third party damage
- Legal fees
- Medical fees / care costs
- Loss of future earnings
- Down time / delays / lost earnings
- **tie** and Contractor's staff's time in investigating and handling incident / claim

What covers do the Contractor's buy?

- Statutory Covers:-
 - Employer's Liability
 - Motor Third party Liability
- Professional Indemnity (Except Siemens)
- Contractor's Plant
- Marine Cargo

Questions





EDINBURGH TRAM PROJECT

INFRACO CONSTRUCTION PROGRAMME

We the undersigned having been involved in the review process and party to the discussions and decisions taken on the construction sequencing, methodology and proposed traffic diversionary routes associated with the construction activities required to build the tram infrastructure, accept in principle the Bilfinger-Berger-Siemens programme and construction strategy submitted initially on 4th December 2007 and again on 12th December 2007 and the discussion held in relation to programme on 16th January which delivers Revenue Service for Line 1a in March 2011, and one month earlier in February 2011 should the installation of OHLE be sanctioned through the recognised embargo period at Picardy Place and the constraints around Tower Place Bridge Utility diversions be removed.

The following caveats exist:

1. A8 Underpass construction sequencing agreed but start to be delayed until after the Royal Highland Show finishes on 22nd June 2008.
2. Guided busway construction works to commence in February 2009
3. On the understanding that the construction sequencing, methodology and proposed traffic diversionary routes are yet to be confirmed by signed-off, "*for construction*" detailed design dimensions, proven traffic modelling and physical design of temporary traffic management measures, to the satisfaction of the Traffic Management Review Panel.
4. Interaction of construction works on 1b at Roseburn, Ravelson, Queensferry Road and Telford Road Terrace to be revisited to ensure smooth TM.





Reviewed by	Title	Representing	Signed	Date
Duncan Fraser	Strategic Services Manager			17/1/08
Andrew Conway	Tram Co-ordinator Strategic Services			22/1/08
Alan Bowen	Senior Professional Officer,			22/1/08
Bill Campbell	Operations Director			22/1/08
John White	Engineering Manager			7/2/8
Scott McFadzen	Project Director			
Stephen Sharp	Programme Manager			25/1/08
Sergeant Caroline Mackay	Traffic Management Officer			29/1/08
Steven Bell	Engineering Safety & Procurement Director			17/1/08
Susan Clark	Deputy Project Director,			17/1/08
Tom Hickman	Programme Manager			17/1/8



PHASE 1A - BUDGET AT FINANCIAL CLOSE

Period		04/05/06	06/07	07/08	08/09	09/10	10/11	11/12	12/13	AFC
Period end		31/03/06	31/03/07	31/03/08	31/03/09	31/01/10	31/03/11	31/03/12	31/03/13	31/03/14
FORECAST THIS PERIOD										
T01.01	Project management Staff Costs	1,456,289	3,351,338	6,632,444	6,371,577	4,799,068	3,079,001	1,007,954	0	26,697,670
T01.02	Recruitment Fees	38,612	103,326	132,974	73,120	37,485	39,359	41,327	0	466,203
T01.03	Travel & Subsistence / Conferen	25,629	46,143	65,970	69,398	67,803	70,583	10,688	0	356,214
T01.04	Allocations from central O/H	910,014	1,696,202	1,168,599	525,359	480,743	504,783	295,129	0	5,580,828
T01.05	IT & Software Costs / fitout	214,592	561,387	732,096	522,000	522,000	367,000	190,000	0	3,109,075
T01.06	Citypoint - rent,rates,s/c	29,174	260,634	534,867	591,997	297,308	303,200	154,693	0	2,171,873
T01.07	Recovered from SDS	0	0	0	0	0	0	0	0	0
T01.08	Short Term Contractors	85,542	111,262	0	0	0	0	0	0	196,804
T01.09	City Point Overheads	0	19,595	5,676	0	0	0	0	0	25,271
T01.10	Active Risk Manager	0	69,885	13,780	0	0	0	0	0	83,665
T01.11	Archaeological supervisor	0	0	24,000	161,769	43,046	39,064	0	0	267,879
T01.12	MUDFA Site Overheads	0	0	9,958	3,500	0	0	0	0	13,458
T01.20	Period Adjustments	0	0	0	0	0	0	0	0	0
T01	Total tie PM costs	2,759,851	6,219,772	9,320,363	8,318,719	6,247,453	4,402,990	1,699,791	0	38,968,939

PHASE 1A - BUDGET AT FINANCIAL CLOSE

		FBC	Infraco Award	Tramco Award	Other Costs	Inc in Risk Allow	FIN CLOSE	To Go -April 08
TT01	Total Project management	65,359,972	0	0	800,251	0	66,160,223	31,952,096
TT02	Total other resources	6,379,058	0	0	471,628	0	6,850,686	930,151
TT03	Total design	23,683,186	0	0	677,808	0	24,360,994	2,401,828
TT04	Total traffic management and modelling	2,323,215	0	0	329,994	0	2,653,209	702,477
TT05	Total 3rd party interfaces	316,664	0	0	0	0	316,664	0
TT06	Total land and other compensation claims	20,643,290	0	0	-61,906	0	20,581,384	3,235,218
TT07	Total Insurance	4,507,468	0	0	0	0	4,507,468	3,994,507
TT08	Total MUDFA / Utilities	51,527,336	-3,000,000	0	0	0	48,527,336	30,155,360
TT09	Total Infraco	222,975,444	20,806,649	0	0	0	243,782,093	201,955,457
TT10	Total Tramco	51,370,225	0	5,608,775	0	0	56,979,000	45,471,649
T44	Total Risk	48,974,000	-17,806,649	-5,608,775	-2,217,775	9,940,142	33,280,943	33,280,943
T999	Total	498,059,858	0	0	0	9,940,142	508,000,000	354,079,687

Risk Allowance Analysis:

Infraco / Tramco Procurement	17,526,000	0
Infraco/Tramco Delivery	4,030,000	6,872,314
Design & Consents	4,313,000	3,301,992
MUDFA	11,447,000	8,644,277
General Programme Delay	3,131,000	6,653,659
Land compensation	4,296,000	1,087,563
TROs	3,208,000	935,765
Network Rail	624,000	318,058
Other	399,000	124,220
QRA Total	48,974,000	27,937,847
Non-delivery of VE included in Infraco price	0	2,000,000
Extent of Road Reinstatement	0	2,000,000
Unspecified Risks (Contingency)		1,343,096
	48,974,000	33,280,943

INFRACO BUDGET RECONCILIATION

	At Preferred Bidder ie FBC	Weisbaden		Rutland SQ		Final (31/3/08)		Final Final (10/4/08)		Comment on final deltas
		Deltas	Weisbaden	Deltas	Total	Deltas	Total	Deltas	Total	
INFRACO										
Firm Prices	159,120,890	54,789,452	213,910,342	3,800,000	217,710,342	10,617,000	228,327,342	(1,330,000)	226,997,342	Removal of power for commissioning -tie procure direct
Provisional Prices	49,579,452	(49,579,452)	0		0		0		0	
VE taken into price- with conditions		(13,818,006)	(13,818,006)		(13,818,006)	83,000	(13,735,006)	800,000	(12,935,006)	£500k re joint resources initiative, £300k re commissioning power savings
Premium for firm price for previously provisional items		8,000,000	8,000,000		8,000,000	(8,000,000)	0		0	
	<u>208,700,342</u>	<u>(608,006)</u>	<u>208,092,336</u>	<u>3,800,000</u>	<u>211,892,336</u>	<u>2,700,000</u>	<u>214,592,336</u>	<u>(530,000)</u>	<u>214,062,336</u>	
Infraco Normalisation (provisional cums)	17,803,222	(7,633,132)	10,170,090		10,170,090	9,275,238	19,445,328		19,445,328	
Negotiated Infraco Contract Price	226,503,564	(8,241,138)	218,262,426	3,800,000	222,062,426	11,975,238	234,037,664	(530,000)	233,507,664	
Provisional sums to be funded by 3rd parties (Forth Ports and RBS)						(3,050,000)	(3,050,000)		(3,050,000)	
Other Items or possible adjustments to price post close:										
EAL - Burnside Road		1,000,000	1,000,000		1,000,000		1,000,000		1,000,000	
Maintenance Mobilisation & Spare Parts		2,397,000	2,397,000		2,397,000	174,762	2,571,762	223,619	2,795,381	Net increase in final negotiated figures
SDS construction support						1,000,000	1,000,000		1,000,000	
Tapered poles type						400,000	400,000	(223,619)	176,381	
Power for commissioning							0	1,030,000	1,030,000	Now to be procured by tie
Provisional sum included above for remaining SDS design				(2,000,000)	(2,000,000)	2,000,000	0		0	
Employers Requirements additions since V3.1				1,600,000	1,600,000	(1,600,000)	0		0	
Value Engineering	(19,708,389)	19,708,389								
Contingency against conditions on VE not being realised	4,442,000	(442,000)	4,000,000		4,000,000	(2,000,000)	2,000,000	(500,000)	1,500,000	£500k joint resources VE initiative - set against contingency for now and trf to resources budget later
Budget Allowance for Infraco (BBS) contract	211,237,175	14,422,251	225,659,426	3,400,000	229,059,426	8,900,000	237,959,426	0	237,959,426	
Items included in Infraco budget but not procured through BBS										
Non-Infraco works	16,502,332	(9,732,648)	6,769,684	300,000	7,069,684	(2,500,000)	4,569,684		4,569,684	
Advance works by others					0		0		0	
Depot excavation	4,808,041		4,808,041	630,946	5,438,987		5,438,987		5,438,987	
Minor contracts	374,000		374,000		374,000		374,000		374,000	
	<u>21,684,373</u>		<u>11,951,725</u>		<u>12,882,671</u>		<u>10,382,671</u>		<u>10,382,671</u>	
Value Engineering	(9,946,100)	5,386,100	(4,560,000)		(4,560,000)		(4,560,000)		(4,560,000)	
Net Non-Infraco Items	11,738,273		7,391,725		8,322,671		5,822,671		5,822,671	
Total £ included in Infraco Budget Line	222,975,448		233,051,151		237,382,097		243,782,097		243,782,097	
Increase on Infraco line in the FBC Budget		10,075,703	10,075,703	4,330,946	14,406,649	6,400,000	20,806,649	0	20,806,649	
Less: Utilities (MUDFA) scope included in Infraco			(3,000,000)		(3,000,000)		(3,000,000)		(3,000,000)	Including Picardy Place
Transfer from Risk Allowance Required			7,075,703		11,406,649		17,806,649		17,806,649	

Tram Supply Figure Calculation

Date:- Based on hedged figures at 25th March 2008

	Recommended Final Deal w/ currency hedge 26/02/08	Tram Price	Depot Equipment	Capital Maintenance mobilisation	Additional Trams
BAFO figure (€77,604,671)	£53,780,037.00	£53,780,037.00			£7,623,000.00
Omit figure for final design work negotiated in discussions with CAF	£721,491.00	£721,491.00			£0.00
Revised figure	£53,058,546.00	£53,058,546.00			£7,623,000.00
Add mandatory variants (these are all savings)					
Mandatory Variant MV 5 flange lubrication (for 6 trams)	£0.00	£0.00			£0.00
Mandatory Variant MV 4 Exterior Displays with Shape Route (for 27 trams)	£68,744.21	£68,744.21			£10,184.33
Revised price confirmed 11th March 2008	£68,744.21	£68,744.21			£10,184.33
Mandatory Variant MV 6 Passenger Counting system (for 6 trams)	£-456,236.55	£-456,236.55			£-86,902.20
Sub total	£52,671,053.66	£52,671,053.66			£7,546,282.13
Maintenance Mobilisation (now below as not subject to discount)	£0.00			£0.00	£0.00
Sub Total	£52,671,053.66	£52,671,053.66		£0.00	£7,546,282.13
Add options in variant bid that should be in base bid (these are all savings)					
CAF Variant CAF V2 complianc ewith EN standards instead of BS regarding smoke and fire	£-425,544.27	£-425,544.27			£-63,043.60
CAF Variant Spare parts saving	£-203,202.00	£-203,202.00			£0.00
Additional cab moulding agreed by tie	£10,026.32	£10,026.32			£0.00
CAF Variant saving to Mock up	£0.00	£0.00			£0.00
Sub Total	£52,052,333.71	£52,052,333.71		£0.00	£7,483,238.53
Discount for 20% first milestone (Tram Supply only) 1.00%	£-520,523.34	£-520,523.34		£0.00	£0.00
	£51,531,810.38	£51,531,810.38		£0.00	£7,483,238.53
Depot Equipment - Firm See below Depot Equipment - Provisional see below					
Maintenance Mobilisation	£2,130,686.00			£2,130,686.00	
Sub Total	£53,662,496.38	£51,531,810.38	£0.00	£2,130,686.00	£7,483,238.53
Currency fluctuation	BAFO £/Euro 0.693 Hedged £/Euro 0.7362 % change 6.23%	£3,345,194.58	£3,212,372.59	£0.00	£132,821.98
Sub total	£57,007,690.96	£54,744,182.97	£0.00	£2,263,507.98	£7,949,726.13
Depot equipment (includes hedging at 0.7399 as revised figures in Euros)	BAFO £/Euro 0.7362 Hedged £/Euro 0.7399 % change 0.50%	£286,509.72	£275,133.76	£0.00	£11,375.96
Revised method for sanding (proposed saving)	£739,709.11		£739,709.11		
Adjusted for CAF share of currency risk Half of 1% on supply, mobilisation, currency fluctuation but not on depot equipment	0.50%	£0.00	£0.00	£0.00	£0.00
Total	£58,033,909.78	£55,019,316.74	£739,709.11	£2,274,883.94	£7,949,726.13
Other items Model (will be paid separately)	£6,000.00				
Total Price	£58,039,909.78	£55,019,316.74	£739,709.11	£2,274,883.94	£7,949,726.13

Summary

1. Tram	£55,019,316.74
2. Depot equipment	£739,709.11
3. Capital maintenance	£2,274,883.94
Total for contract	£58,033,909.78
4. model (paid separately but has to be included in budget)	£6,000.00
Grand Total	£58,039,909.78

Note: Discounts applied to additional trams
Additional tram cost for reference only
Not included in calculation of total cost

In Euros at 0.7399
€ 78,434,801.71

Note: Although hedging in place. Currency figures at time of contract signing to be used

Note: Although in the overall cost calculation, the cost of the will be paid separately

Note: No Adjustment for CAF on share of currency risk now has changed

e model

w as Depot equipment has changed.

EDINBURGH TRAM PROJECT
P80 Risk Allocation Report

Current Period End **01-Mar-08**

Sim Run P80 1A+1B **30965.44** £k

Risk Mean Sum
22336.45 £k

Total Allocation
Phase 1A
27937.85

WBS Item	Allocated Risks			Impact Assessment 08 Feb 2008	Exposure Period		Sim Run Risk Mean	P80 Risk Allocation	P80 Risk Allocation 1A					
	Risk ID	Cause	Risk Event		Effect	Current Impact Assessment								
						Prob					Min	Most Likely	Max	
11.1 Construction	994	The design for the lighting has yet to be approved by CECs Street Lighting section	Additional time or cost could be incurred in relation to the street lighting works	Compliance with their requirements may incur abortive works resulting in additional cost and delay to programme	17.50%		12.5		29-Aug-07	31-Oct-08	2.19	3.03	2.43	Design & Consents
2 PROCUREMENT CONSULTANT	44	SDS contractor does not deliver the required prior approval consents before novation	Late prior approval consents	Delay to programme with additional resource costs and delay to Infraco. procurement. Impact upon risk balance.	50.00%	900	1800	2700	30-Jun-06	30-Nov-08	897.11	1243.68	1119.32	Design & Consents
3 DESIGN	336	Adequate scope and extent of noise and vibration prevention measures/requirements are not provided to SDS; Specifications relating to Tram noise provided by Tramco are optimistic.	Design assumptions lead to Tram noise and vibration measures being inadequate during operation	Tram design requires to be re-worked. Post construction elements need to be adjusted or re-constructed or additional noise and vibration measures need to be incorporated.	10.00%	100		1000	01-Jan-07	31-Jan-11	53.22	73.79	59.03	Design & Consents
5 PARLIAMENTARY PROCESS/ APPROVALS	271	Inadequate quality of submission of approval. Partial submission of package. Programme compression. Lack of CEC resources.	Failure to process prior approvals applications within 8 weeks	Delay and disruption to Infraco programme	80.00%	750	750	1000	03-Jan-06	29-Aug-08	667.20	924.95	924.95	Design & Consents
5 PARLIAMENTARY PROCESS/ APPROVALS	990	SDS are behind programme with design review certificates and tie have decided not to extend programme period to account for this.	CEC carry financial impact of uncertified designs provided to Infraco	Modifications required to the designs post-contract award resulting in additional costs	50.00%	500	750	1000	13-Aug-07	31-May-08	375.52	520.59	416.47	Design & Consents
7.3 Infraco	279		Third party consents including Network Rail, CEC Planning, CEC Roads Department, Historic Scotland, Building Fixing Owner consent is denied or delayed	Delay to programme; Risk transfer response by bidders is to return risk to tie; Increased out-turn cost if transferred and also as a result of any delay due to inflation.	50.00%		1250		03-Jul-06	31-Dec-09	625.00	866.45	779.80	Design & Consents
1 GENERAL/OVERALL	169	Concurrent major projects in Edinburgh	Other major projects in Edinburgh interface with Tram	Delay in sequence in certain areas, Additional interface project management costs.	50.00%	100	300	500	01-Mar-07	31-Dec-10	150.08	208.05	166.44	General Programme Delay
1.7 Miscellaneous	343	General delay to programme with various causes e.g. failure to obtain approvals on time, parliamentary processes, delays due to lack of prioritisation of BAA agreement with new owners	Delay to completion of project	Inflation at 5% causes increased out-turn cost due to delay plus revenue loss	40.00%	6000	15000	23000	31-Dec-10	31-Dec-11	5849.32	8109.02	6487.21	General Programme Delay
7.1.3 Depot	974	Inaccurate Topo Survey results	Increase in levels of Spoil Excavation	Increased Cost & Programme extension	25.00%	100	300	500	14-May-07	24-Aug-08	75.04	104.03	104.03	Infraco Delivery
7.1.3 Depot	981	Existing Spoil Site Unable to accept future spoil	Increase in the Lothian Valuation Joint Board rateable value of the spoil site	New Landfill site will have to be found and agreements reached. Possibility of increased costs	80.00%	0	25	50	19-Jul-07	31-Mar-08	19.95	27.66	27.66	Infraco Delivery
7.1.3 Depot	876	Agreement with SEPA to use Gravity Drain Proposal	Gravity Drain Proposal	Cost & time saving	79.50%	12.5	12.5	12.5	19-Mar-08	08-Jul-08	9.94	13.78	13.78	Infraco Delivery
7.3 Infraco	952	Scope of works relating to Wide Area Modelling (WAM) have not been agreed with SDS because they consider this to be out with the scope of their contract.	Uncertainty about extent of construction works required on road network relating to Wide Area Modelling issues.	Potential claim from SDS to deal with additional design work. Potential construction costs to deal with WAM issues (difficult to quantify without design) over and above those already included.	95.00%	0		3000	03-Jul-06	24-Sep-08	1421.78	1971.05	1971.05	Infraco Delivery
7.3 Infraco	931	Utilities assets uncovered during construction that were not previously accounted for; unidentified abandoned utilities assets; known redundant utilities; unknown live utilities; unknown redundant utilities.	Unknown or abandoned assets impacts scope of Infraco work	Re-design and delay as investigation takes place and solution implemented. Increase in Capex cost as a result of additional works.	90.00%	500		1000	01-Oct-07	31-Jul-10	674.25	934.73	747.78	Infraco Delivery
7.3 Infraco	172	Area of possible contamination and unstable ground (unlicensed tip) has been highlighted during desk study immediately to east of Gogar Burn - investigation for CERT project indicates that this consists of building rubble and domestic waste.	Tramway runs through area of possible contamination and special foundation is required to cope with unstable ground	Increase in costs to provide special foundation solution	95.00%	100	200	300	01-Jan-07	31-Jul-08	190.18	263.65	263.65	Infraco Delivery
7.3 Infraco	105	Encountering archaeological finds/burials/munitions during construction	Exhumation of archaeological finds/burials	Delay in construction programme	85.00%	0	150	500	28-Sep-07	31-Jul-10	184.74	256.11	230.50	Infraco Delivery
7.3 Infraco	318	Failure to make arrangements with Utilities for the phasing of necessary connections; Utility Company operational constraints	Utility connections cannot proceed as planned.	Potential delay to start of Infraco works in certain sections	50.00%	100		500	04-Apr-07	31-Jan-09	149.81	207.69	166.15	Infraco Delivery
7.3 Infraco	173	Uncertainty over extent of contaminated land/hazardous materials on route	Tramway runs through area of previously unidentified contamination/hazardous materials and material requires to be removed and replaced (dig and dump).	Increase in costs to remove material to special and other tip.	50.00%	1500	6000	8000	29-Sep-06	31-Jul-10	2599.25	3603.39	3243.05	Infraco Delivery

EDINBURGH TRAM PROJECT
P80 Risk Allocation Report

Current Period End **01-Mar-08**

Sim Run P80 1A+1B **30965.44** £k

Risk Mean Sum **22336.45** £k
 Total Allocation Phase 1A **27937.85**

WBS Item	Allocated Risks				Impact Assessment 08 Feb 2008				Exposure Period		Sim Run Risk Mean	P80 Risk Allocation	P80 Risk Allocation 1A	
	Risk ID	Cause	Risk Event	Effect	Prob	Current Impact Assessment			Start	End				
						%	Min	Most Likely						
7.3 Infraco	865	Buildings contain asbestos that was not uncovered during surveys	Asbestos found during demolition works and excavations for construction	Cost and delay during investigation and removal	90.00%	60		150	01-Jan-08	31-Mar-09	94.39	130.85	104.68	Infraco Delivery
1.1 Land & Property	352	Increase in land values	Higher land compensation claims than anticipated	Additional uplift on compensation claims	30.00%	0		4500	05-Mar-07	31-Dec-10	684.66	949.15	949.15	Land compensation
1.1 Land & Property	10	Costs of obtaining access rights are unknown	Cost associated with obtaining wayleaves	Increased legal costs relating to obtaining wayleaves	40.00%	50	200	500	02-Apr-07	25-Oct-08	99.84	138.41	138.41	Land compensation
7.2 MUDFA/Utilities	164	Utilities assets uncovered during construction that were not previously accounted for; unidentified abandoned utilities assets; asbestos found in excavation for utilities diversion; unknown cellars and basements intrude into works area; other physical job	Unknown or abandoned assets or unforeseen/contaminated ground conditions affect scope of MUDFA work.	Re-design and delay as investigation takes place and solution implemented; Increase in Capex cost as a result of additional works.	95.00%	1000	3000	6000	02-Apr-07	31-Dec-08	3171.30	4396.43	4176.61	MUDFA
7.2 MUDFA/Utilities	139	Utilities diversion outline specification only from plans	Uncertainty of Utilities location and consequently required diversion work/ unforeseen utility services within LoD	Increase in MUDFA costs or delays as a result of carrying out more diversions than estimated	90.00%	0	1200	2400	02-Apr-07	31-Dec-08	1081.92	1499.89	1424.90	MUDFA
7.2 MUDFA/Utilities	342	Tram alignment at A8 crossing at Gogar co-incides BT data nests/cable (main coms link between Glasgow and Edinburgh) and sewer	A8 crossing tunnel requires special design or BT data nests/cables require to be moved or solution to sewer to be engineered		80.00%	1000	1250	1500	04-Apr-07	30-Sep-08	1000.85	1387.22	1387.22	MUDFA
7.2 MUDFA/Utilities	914	Required approval/acceptance turnaround time does not reflect SUC standard practice; SUCs do not have enough resource or process capability to achieve 20 day turnaround	Statutory Utility Companies unable to meet design approval/acceptance turnaround time to meet programme	Additional period required for design approval/acceptance turnaround	95.00%		880		02-Mar-07	31-Dec-08	836.00	1158.96	1101.01	MUDFA
7.2 MUDFA/Utilities	911	Scottish Power own and maintain a cable tunnel in the vicinity of Leith Walk that may or may not interfere with Tram construction and operation; exact location and depth of tunnel is unknown; condition of tunnel is unknown.	Presence of Scottish Power tunnel in Leith Walk requires radical solution	Tunnel may have to be decommissioned and re-laid in a more suitable location; tram alignment may require to be adjusted; special foundation solution e.g. cantilever may be required; increased capex; potential for tunnel collapse during operation and	80.00%	400	500	600	02-Apr-07	31-Oct-08	400.00	554.53	554.53	MUDFA
1.3.1 NR Immunisation Project	932	Information handed over in draft format as part of continual design development; Downstream Tram design change that impacts on requirements; Zone of interference not defined adequately	SDS gives wrong or insufficient information to Network Rail	Network Rail design their works inappropriately for final Tram requirements; Network Rail are unable to complete their design in time to meet programme; Cost to change design; Delay during redesign; Final works are not suitable and consequently Tram cannot	5.00%	100	300	500	02-Apr-07	30-Oct-09	15.53	21.53	21.53	Network Rail
7.3 Infraco	134	Network Rail possessions over and above that estimate are required	Compensation paid to Train Operating Companies	Increased compensation paid to Train Operating Companies	5.00%	500	2000	4000	01-Oct-07	31-Jan-09	108.67	150.66	150.66	Network Rail
7.3 Infraco	115	Network Rail cancels planned possessions	Planned work at interface with Network Rail is delayed	Time delay and resulting cost increase	10.00%	350	750	2000	01-Oct-07	31-Jan-09	105.23	145.88	145.88	Network Rail
11.1 Construction	993	Due to a terrorism event relating to Edinburgh Airport or due to the mitigation of the risk of such an event occurring traffic restrictions introduced in the vicinity of the airport cause unacceptable delays for vehicles accessing and exiting from the site.	Free access cannot be guaranteed to the P&R site	Delays to construction vehicles could have impact on completion date and cost of construction, delays for car park users or buses could detract from usefulness and viability of facility	2.50%		12.5		01-Oct-07	31-Mar-09	0.31	0.43	0.43	Other
2 PROCUREMENT CONSULTANT	337	Unsuccessful tenderer challenges procurement process (Tramco or Infraco)	OJEU procurement process is challenged	Possible retender; Delays; Legals costs to deal with challenge	5.00%	0		100	12-Jan-07	30-Oct-08	2.47	3.43	3.43	Other
2 PROCUREMENT CONSULTANT	76	Introduction of TEL as client	Change of client during works	Delay and cost during re-negotiation of DPOF contract and additional approvals process	5.00%	12.5		12.5	03-Jul-06	30-Oct-06	0.63	0.87	0.69	Other
2.1 tie Resources	58	Poor performance (quality) by Infraco during construction; poor materials; latent defects	Infraco fails to deliver construction quality; latent defects occur during or after Infraco maintenance period	Rework, stakeholder criticism, negative PR, programme delay if quality issue occurs during construction, operations affected by rework, project management costs to deal with issues	10.00%	25	62.5	100	31-Dec-10	30-Dec-16	6.16	8.54	6.83	Other
2.2 Transdev	888	Design, construction and/or testing does not meet Transdev requirements and gain approval from the ROGS Competent Person	Transdev refuse to operate system on safety ground or apply overly restrictive procedures that are not directly the responsibility of Infraco (ROGS Competent Person agrees with this)	Delay to commencement of service, additional cost both for delay and rectification of the issue	2.00%	3000	4500	6000	30-Jun-09	31-Dec-10	91.28	126.54	101.23	Other

EDINBURGH TRAM PROJECT
P80 Risk Allocation Report

Current Period End 01-Mar-08

Sim Run P80 1A+1B 30965.44 £k

Risk Mean Sum 22336.45 £k
 Total Allocation Phase 1A 27937.85

WBS Item	Allocated Risks				Impact Assessment 08 Feb 2008			Exposure Period		Sim Run Risk Mean	P80 Risk Allocation	P80 Risk Allocation 1A		
	Risk ID	Cause	Risk Event	Effect	Prob	Current Impact Assessment		Start	End					
						%	Min							Most Likely
2.9 TEL	889	Unsuccessful negotiation. TEL believes costs inflated too much.	Target operating costs for Phase D are not agreed.	TEL Business Case becomes undeliverable. Potential to undertake Dispute Resolution to gain agreement.	1.00%		300	04-Jan-10	06-Jan-19	3.00	4.16	3.33	Other	
3 DESIGN	104	Delay in design information release from specialist tram manufacturer	Delay in detailing of stops, trackway, OLE etc for Phase 1B	Time delay and consequent costs	15.00%	0	25	83	01-Jan-07	30-Sep-08	5.45	7.56	0.00	Other
3 DESIGN	162	Land is not acquired yet	Gaining access to land prior to purchase for advanced works	Increased management costs and delays to design	10.00%	0		30	02-Apr-07	28-Sep-08	1.46	2.03	1.62	Other
7.1.1 Invasive Species	869	Surveying team unable to obtain access to Network Rail, BAA and other privately owned land because they were not cleared to access this land (including PTS).	Extent of Invasive Species Area Exceeds Estimate from Survey	Underestimating the extent of works; leads to an increase in cost	17.50%		20		17-Apr-07	01-Apr-09	3.50	4.85	4.85	Other
7.1.1 Invasive Species	879	Contractor is unable to get access to worksite due to access route being outside LOD and owned by others	Access to land to eradicate invasive species is not available when required	Programme Delay; contractor refuses to take ownership of risk 869 or includes high contingency in tender to allow for.	10.00%	0	10	20	12-Mar-07	01-Apr-09	0.96	1.34	0.04	Other
7.1.2 Badger Relocation	894	Ineffective/Inappropriate Proposals: new setts must be built before old ones can be closed and licenses will not be issued until nearer time of closure; animals must have settled in new home before closure of old one can take place	Roseburn Badger Proposals for closure of old setts not approved by SNH	Delay in accessing land to construct Tram works and hence in Programme	17.50%	0	12.5	25	01-Oct-06	28-Nov-08	2.19	3.03	0.00	Other
7.1.2 Badger Relocation	883	Ineffective/Inappropriate Proposals: new setts must be built before old ones can be closed and licenses will not be issued until nearer time of closure; animals must have settled in new home before closure of old one can take place	Gogarburn Badger/Otter Proposals for closure of old setts not approved by SNH/SEERAD	Delay in accessing land to construct Tram works and hence in Programme	10.00%	0	12.5	25	01-Oct-07	30-Oct-08	1.27	1.76	1.76	Other
5 PARLIAMENTARY PROCESS/ APPROVALS	977	Legal challenge. Extension of statutory consultation process. Large number of objections. TRO process is subject to a public hearing process.	Delay in achievement of TROs) due to a large number of public objections and/or a legal challenge to using a TTRO to construct Infraco.	Requirement to start construction using TTROs	90.00%		750		18-Jun-07	31-Dec-09	675.00	935.76	935.76	TROs

22336.45
 Mean Sum = p50

27,938

5419.33
 2620.24
 6489.88
 5999.40
 784.50
 675.00
 229.43
 118.68
 -

6872.31
 3301.99
 8644.28
 6653.66
 1087.56
 935.76
 318.06
 124.22
 -

Infraco Delivery
 Design & Consents
 MUDFA
 General Programme Delay
 Land compensation
 TROs
 Network Rail
 Other
 Unspecified Risks (Contingency)

22,336

27,938