

[REDACTED]  
Edinburgh  
[REDACTED]  
[REDACTED]  
[REDACTED]

### **Submission to the Edinburgh Trams Enquiry**

#### **Background**

My name is William John Herbert, PhD, B.Vet Stud., DTVM (Edin), MRCVS of the above address where I have lived, alone, since 1989. I am presently 88 years old but, of course, was considerably younger when the Trams saga began!

My house (a first floor flat) is, situated at what became the chief 'pinch point' of the track construction.

#### **My comments and evidence will be presented under four headings**

1. Effects on me and my visitors during the construction period (including a suite of photographs taken from my house during the construction work).
2. A saga of the attachment (or, as it turned out non-) attachment of wires to my premises.
3. Comments on the design of the tram system.

[REDACTED]  
W.J.Herbert

3/8/2015



### Living in the TramWorks

From 2008 to 2013 (6 years) my house at [REDACTED] was at a 'pinch-point' of the Tramworks. I regularly, (but not systematically because never in my wildest dreams did I expect the disruption to last so long) took photographs and videos from my house. Sometimes not very good because of the dirt accumulating on my windows. A selection of the still pictures, grouped into years, is attached, more are available. All are taken from my front windows or front step.

The disruption to movement particularly reminded me of when I was sitting my School Certificate in 1944. The exams were held in the medieval crypt of the City of London Guildhall (the hall above had been destroyed) near the Bank of England building. Each day I had to get there either from my school on the Victoria Embankment or an underground station. But this was the time of flying bombs and rockets. Every day the route was different and one had to negotiate holes, rubble and debris directed by policemen and wardens. Very much like the Tramworks, but WW2 only lasted for four years, the war of the Tramworks lasted six.

Living in the Tramworks was rather similar because there were such frequent changes of barriers that routes and access could change from day to day. Rubble, material and heavy equipment would suddenly appear to block the way. Familiar bus routes became unfamiliar and it was sometimes necessary to walk a long distance to find a stop – which might have changed next time. I do not have a motor car but friends, particularly those unfamiliar with the area, coming either to visit or collect me had a terrible time. Anguished conversations (thank God for the existence of the mobile phone) as to how to get near me, or somewhere they could pick me up, would ensue. For motor owners it must have been even worse. When work was particularly intense round Haymarket station, if I was coming home by train I would disembark at Waverley and take a taxi to the nearest point accessible in Manor Place or Palmerston Place.

Two particular instances come to mind:

I had been invited to spend a family Christmas near Cambridge. I had two 'wheely' bags, one largely filled with the necessary presents. Leaving the house with ample time to reach Haymarket station I reached the pavement to find that it had been narrowed by barriers to about two person width, an overnight snowfall had not been cleared and there were many pedestrians – some also with wheely bags. Being over 80yo and somewhat unsteady on my feet I could not see how I would be able to negotiate the way to the station. I was about to return to my house and cancel the trip when a very kind friend turned up. Foreseeing that I might have difficulties he had shut up his shop in Morrison Street and come to help me. Taking one bag each, with his help I reached the station in time for the train.

The other occasion was worse, much worse. My Nigerian son Abubakar and grandson - 'Little Herbie', 5yo – were staying on a visit to this country and we decided – with a friend's help – to rebuild my kitchen. We visited the B&Q at Edinburgh Park (Little Herbie came to hate the B&Q!) chose floor tiles, kitchen units, a glass hob and built-in oven. To be delivered to my house. With the new material ordered, the old cabinets, floor tiling and old electric cooker were dismantled and disposed of ready for the delivery from the B&Q. B&Q rang to say that they were on their way to make the delivery which would be on pallets that would require space on the pavement to be unpacked. A little later there was a ring at the door which I assumed was to announce the delivery. But, unfortunately and unexpectedly, a major re-arrangement to the Tramwork barriers had been effected overnight. The delivery man had arrived at my door to say that he had found it impossible





to get near the premises and that the Tramworks personnel refused to help. That being the case he had been in touch with his Manager. The manager had agreed that the only thing to do was abandon the delivery, take everything back and give me a full refund of all payments.

This would leave the house without means of cooking and complete chaos in the kitchen with a visitor and child present. I sat down in shock and was about to weep but then rallied as I realized that Little Herbie never ever cried whatever happened (he would point and laugh at crying white children who had fallen), I couldn't let him see Grandpa cry!

So I and tall black Abubakar went down to the Tramworks and somehow – I am not sure how but it wasn't bribery! - persuaded them to move barriers and equipment sufficiently to allow the B&Q lorry to approach and unload. Then followed a great rush to empty the pallets – which were blocking the pavement – onto the entrance way outside my stair door.  
But such things happen in war and Tramworks!

Other problems were in arranging to visit the Western General Hospital where I was undergoing diagnosis, consultation and treatment for prostate cancer. Where would I find a taxi? They used to pass the door, now it might mean walking to Haymarket. Where were the buses stopping today? Ordering a taxi was unwise as it sometimes led to confusion as to where they could find a place to stop. I had to do a reconnaissance before phoning up! Similar problems beset me when visiting my doctor at Murrayfield. The whole being compounded by wind, rain and snow.  
But such things happen in war and Tramworks!



**Attachment of wires to my house**  
**- but in the event no wires were attached to my house!**

I attach the various documents related to this sad saga with comments:

**Document A1. 21 May 2008**

A letter requesting my agreement to attach a wire to my house. I do not have a copy of the agreement I signed but it apparently had a photograph which I assume would be similar to that in Document A2.

**Document A2. 17 June 2008**

A letter acknowledging receipt of my agreement. On the reverse is a picture showing where the attachment is to be made. Note that this was only supplied for me to keep *after* I had agreed. It is only now that I realize the picture does not show my house but 1F West! If I had, maybe this saga would have been aborted at the start.

**Document B. 20 April 2009**

The building fixing agreement. Must have cost a large legal fee but text is quite clear. It binds me to all sorts of things which may cause confusion when my house is sold. The original was placed with my title deeds as suggested.

**Document C. 21 December 2009**

Announcement of imminent execution of the attachment work.

**Document D. 1 March 2010**

Details of how attachment work will be carried out. Some photographs of this are attached to the first section of the comments. Nothing was attached to my property.

**Document E. 2 October 2013**

Letter reminding me of the agreement I had entered into and my obligations under it.

**Document F. 7 October 2013**

My reply to document E. Attached photographs show that no attachment was made to my house therefore my agreement (Document B) must be void.

No reply was received.

A visual inspection shows that, indeed, a wire has been attached to flat 1F West exactly where shown in the photograph attached to document A2. Someone didn't know their east from their west! As all documents were addressed to me at 1F East I took it on trust that the wire was to be attached to my house.



AI

**This Notice affects your property. Please read it carefully. You may wish to seek legal advice before signing the Building Fixing Agreement attached to the Notice.**

To: William J Herbert  
Of: [REDACTED]

Ref: 418/1292

Date: Edinburgh  
EH [REDACTED]

Date: 21 May 2008

**Building Fixing Agreement – Formal Notice to Owners requesting consent**

**PLEASE NOTE:** If you are not the legal owner of the property(ies) listed in the Agreement enclosed with this Notice, then this Notice is not for you. Please advise us via the helpline number 0131 623 8787, and pass this package on as soon as possible to the legal owner or their agent.

We, The City of Edinburgh Council, are the authorised undertaker under the Edinburgh Tram (Line One) Act 2006 and the Edinburgh Tram (Line Two) Act 2006 (the Tram Legislation).

In terms of Section 16 of the Tram Legislation, we hereby request consent from you to attach Apparatus (as defined in the Agreement(s) enclosed with this Notice) to your property, listed in the Agreement, in connection with the works authorised under the Tram Legislation.

This package contains:

- A **Building Fixing Agreement** for you to sign together with a summary of its terms and instructions for signing.
- A **leaflet** providing background information on the tram project and building fixings.
- A **photograph** showing the general position of each Apparatus marked by a circle. Please note that the exact position of each Apparatus is subject to planning approval and a structural survey and that it may change as a consequence...
- A **prepaid envelope** for returning the signed Agreement.

The parties who will have to sign are you as owner, ourselves as the authorised undertaker of the Tram works, the Infraco who will be undertaking the work and the who are responsible for managing the tram works. Once you have signed, these other parties will sign the same Agreement, and a copy of the signed Agreement will be returned to you for your records.

IA

As explained in the leaflet, a fixing to support the overhead tram wires is required on or close to your property. If you refuse consent for a building fixing, the alternative is a pole to support the fixing and this will be erected outside your property. Please note that if you refuse your consent unreasonably, the Council has the right to challenge your refusal in Court, in accordance with the procedures contained in the Tram Legislation.

Please confirm your consent by returning to the undernoted address the Building Fixing Agreement duly signed in accordance with the instructions.

If you do not respond in writing to this Notice within 28 days of the date of the Notice your consent will be deemed to have been given without any conditions.



**Principal Solicitor  
City of Edinburgh Council  
c/o Dundas & Wilson  
Saltire Court  
20 Castle Terrace  
EDINBURGH EH1 2EN**

A2

**D&W**

Our ref JP/KG/TC/TRA040.0024 - 418  
Your ref

William John Herbert  
[REDACTED]

**DUNDAS & WILSON CS LLP**

Salute Court  
20 Castle Terrace  
Edinburgh EH1 2EN

Tel 0131 228 8000  
Fax 0131 228 8888  
Legal Post: LP2, Edinburgh 6

DX: DX553001 Edinburgh 18

Direct Line: 0131 2 [REDACTED]

17 June 2008

Dear Mr Herbert

**Building Fixings Agreement (the "Agreement")**

On behalf of the City of Edinburgh Council, we thank you for returning the signed Agreement. The Agreement will now be circulated to the remaining parties for signing and once fully signed a copy will be provided to you.

If you have any queries in the meantime, please do not hesitate to contact [REDACTED] on [REDACTED]

Yours sincerely  
[REDACTED]

Partner, for and on behalf of Dundas and Wilson CS LLP

CH/130/938B



Strange, that looks very like me standing at the steps!

Not shown.



B

Copy

D&W

Our ref 416  
Your ref

William J Herbert

[REDACTED]

Edinburgh  
EH [REDACTED]

DUNDAS & WILSON CS LLP

Saltire Court,  
25 Castle Terrace  
Edinburgh EH1 2EN

Tel 0131 228 8000  
Fax 0131 228 8888  
Legal Post: LP2, Edinburgh 6

**STRICTLY PRIVATE AND CONFIDENTIAL**

20 April 2009

Dear Mr Herbert

**Edinburgh Tram - Building Fixing Agreement**

[REDACTED]

Edinburgh  
[REDACTED]

On behalf of the City of Edinburgh Council we refer to:-

- (i) the Formal Notice which was served upon you by the City of Edinburgh Council requesting your consent as owner to the attachment of Apparatus to your property in connection with the works authorised under the Tram Legislation; and
- (ii) the Agreement that you signed and returned to us confirming your consent.

The remaining parties to the Agreement have now all signed the Agreement, and so as stated in the Formal Notice, we enclose a copy of the fully signed Agreement for your records. We suggest that you arrange for this document to be placed with the title deeds for your property, and if you have any queries in relation to the Agreement, we would advise you to contact your solicitor.

} done

If you have any further queries in the matter please contact the City of Edinburgh Council as undernoted

Yours faithfully

[REDACTED]

Partner, for and on behalf of Dundas and Wilson CS LLP

**BUILDING FIXING AGREEMENT**

**between**

**(1) William John Herbert**

**and**

**(2) Bliffinger Berger UK Limited and Siemens plc (the Infraco)**

**and**

**(3) tle Limited**

**and**

**(4) The City of Edinburgh Council**

**relating to**

**the affixing of building fixing apparatus in  
respect of the Edinburgh Tram Network**

**upon**

**the property(ies) or building(s) defined in clause 1.1 in the Agreement**

## **AGREEMENT**

### **AMONG**

- (1) William John Herbert ("Building Owner"); and**
- (2) (i) BILFINGER BERGER UK LIMITED**, a company incorporated in England and Wales under number 02418086 and having its registered office at 150 Aldersgate Street, London EC1A 4EJ (which expression shall include its successors, permitted assignees and transferees); and **(ii) SIEMENS PLC**, a company incorporated in England and Wales under number 00727817 and having its registered office at Faraday House, Sir William Siemens Square, Frimley, Camberley, Surrey GU16 8QD (which expression shall include its successors, permitted assignees and transferees) and which together are hereinafter referred to as **"the Infraco"**; and
- (3) tie LIMITED**, a company incorporated in Scotland under number SC230949 and having its registered office at City Chambers, High Street, Edinburgh EH1 1YJ (hereinafter referred to as **"tie"**, which expression shall include its successors, permitted assignees and transferees as CEC's agent in respect of the Edinburgh Tram Network); and
- (4) THE CITY OF EDINBURGH COUNCIL**, constituted under the Local Government Etc. (Scotland) Act 1994 and having its principal office formerly at Council Headquarters, Wellington Court, Waterloo Place, Edinburgh, EH1 3EG and now at City Chambers, High Street, Edinburgh, EH1 3YJ (hereinafter referred to as **"CEC"**, which expression shall include its statutory successors as authorised undertaker under the Tram Legislation).

### **BACKGROUND**

- (A) CEC** is empowered by Section 16 of each Act comprising the Tram Legislation to affix Apparatus to any building or structure as required in connection with the Edinburgh Tram Network subject to obtaining the consent of the owner (or failing that, the consent of the sheriff as appropriate);
- (B) tie** is a wholly owned subsidiary of CEC and acts as CEC's authorised agent in procuring the design, construction, installation, commissioning and maintenance of the Edinburgh Tram Network;

- (C) **tie** has by virtue of the Infraco Contract appointed the Infraco to, subject to the terms of the Infraco Contract, inter alia design, construct and maintain the Edinburgh Tram Network and affix Apparatus to relevant buildings or structures;
- (D) The Building Owner is the heritable proprietor of the Building and has agreed to allow the Infraco to affix Apparatus to the Building, to allow the Apparatus to remain affixed to and supported by the Building and to occupy air space taken up by such Apparatus upon the terms set out below.

## 1. DEFINITIONS

- 1.1 In this Agreement, the following terms shall, unless the context otherwise requires, have the following meanings:

**"Agreement"** means this building fixing agreement and any written amendment thereto all as entered into between the parties hereto;

**"Apparatus"** means all and any brackets, cables, wires, insulators and other apparatus required to be affixed to the Building pursuant to the carrying out of the Infraco Works, and requiring to remain in place following completion of the Infraco Works to facilitate the effective operation of the tram;

**"Apparatus Ancillary Works"** means all works necessary to inspect, fix, use, maintain, repair, alter, protect, enlarge, renew, reinstate, replace, remove or dismantle the Apparatus from time to time;

**"Apparatus Attachment Works"** means all works necessary for the attachment of the Apparatus to the Building;

**"Building"** means each of the following property or properties: [REDACTED]  
[REDACTED]

**"Consents"** means without limitation, all permissions, consents, approvals, non objections, certificates, permits, licences, agreements, statutory agreements and authorisations, Planning Permissions, temporary traffic regulation orders, building control approvals, building warrants, and all other necessary consents and agreements whether required by Law or the Tram Legislation or under contract;

**"Edinburgh Tram Network"** means the tramway which is authorised by the Tram Legislation;

**"Infraco Contract"** means the agreement dated 14 May 2008 between tie and the Infraco;

**"Infraco Works"** means all works carried out by the Infraco pursuant to the Infraco Contract, and in particular the attaching of apparatus to support OLE for the Edinburgh Tram Network and the regular maintenance of such apparatus;

**"OLE"** means the overhead lines forming part of the Edinburgh Tram Network;

**"Planning Permission"** means any planning permission, planning approval, approval of reserved matters, listed building consent and/or conservation area consent;

**"Repairs Notice"** means a written notice specifying:

- (a) the anticipated commencement date for the Repair Works provided always that this shall be at least three months after the date on which the notice is served in order that the Infraco can make alternative arrangements to ensure that the Edinburgh Tram Network can continue to operate;
- (b) the anticipated completion date for the Repair Works;
- (c) the nature and extent of the Repair Works; and
- (d) those parts of the Apparatus which, in the reasonable opinion of the Building Owner, are required to be temporarily removed to enable the Repair Works to be effected;

**"Repair Works"** means any works of repair or redecoration intended to be carried out to the Building by the Building Owner which reasonably requires the temporary removal of the Apparatus to enable such works to be carried out;

**"Redevelopment Notice"** means a written notice specifying:

- (a) the anticipated commencement date for the Redevelopment Works provided always that this shall be not less than three months after the date on which the notice is served in order that the Infraco can make alternative arrangements to ensure that the Edinburgh Tram Network can continue to operate;
- (b) the anticipated completion date for the Redevelopment Works;

- (c) the nature and extent of the Redevelopment Works; and
- (d) those parts of the Apparatus which, in the reasonable opinion of the Building Owner, are required to be temporarily removed to enable the Redevelopment Works to be effected;

**"Redevelopment Works"** means works by the Building Owner to reconstruct, demolish or undertake major structural works which reasonably require the removal of the Apparatus from the Building; and

**"Tram Legislation"** means the Edinburgh Tram (Line One) Act 2006 and the Edinburgh Tram (Line Two) Act 2006 which received Royal Assent on 8 May 2006 and 27 April 2006.

## **2. THE GRANT**

The Building Owner hereby:

- 2.1 grants to the Infraco, its agents, contractors, workmen and others employed or authorised by the Infraco the right to enter in and onto the Building (together with any necessary equipment including scaffolding) in order to:
  - 2.1.1 survey the Building and ascertain its suitability for the Apparatus Attachment Works and (as ancillary thereto) the right to examine all available drawings and information relating to the structure and condition of the Building which are in the possession or control of the Building Owner; and
  - 2.1.2 carry out and complete the Apparatus Attachment Works;
- 2.2 grants to the Infraco the right to carry out and complete the Apparatus Ancillary Works at all reasonable times and upon not less than 14 days notice; and
- 2.3 grants to the Infraco the right, notwithstanding the terms of Clause 2.2 to enter the Building at any time without giving notice in the case of emergency in order to carry out any works to the Apparatus authorised by this Agreement.

## **3. THE OBLIGATIONS OF THE INFRACO**

- 3.1 In the exercise of the rights granted by Clause 2.1 above, the Infraco shall at all times:
  - (a) comply with the terms of all necessary Consents for the Apparatus Attachment Works and shall further comply with the provisions of the Tram Legislation and all other applicable legislation governing the exercise of such rights;
  - (b) carry out the Apparatus Attachment Works to the Building in a good and workmanlike manner and at its own expense;
  - (c) carry out all Apparatus Attachment Works in such a way as to use reasonable endeavours to minimise interference and inconvenience to the Building Owner; and

- (d) make good any damage caused to the Building by the Apparatus Attachment Works so far as reasonably practicable provided always that the Infraco shall not be required to make good any damage which is caused by or results from general deterioration or wear and tear to the Building which is not solely attributable to the Apparatus Attachment Works.

3.2 In the exercise of the rights granted by Clause 2.2 above, the Infraco shall at all times:

3.2.1 (subject to the Building Owner complying with its obligations under Clause 5 below) keep and maintain the Apparatus in good and safe working order and shall comply with all relevant health and safety legislation;

3.2.2 carry out all Apparatus Ancillary Works in such a manner as to use reasonable endeavours to minimise interference and inconvenience to the Building Owner;

3.2.3 make good any damage caused to the Building in the course of carrying out the Apparatus Ancillary Works so far as reasonably practicable provided always that the Infraco shall not be required to make good any damage which is caused by or results from general deterioration or wear and tear to the Building which is not solely attributable to the Apparatus Ancillary Works.

#### **4. CEC INDEMNITY AND BUILDING OWNER'S REMEDIES**

4.1 Subject to Clause 5 below, CEC hereby undertakes to the Building Owner to keep the Building Owner indemnified from and against any loss, damage, actions, claims, demands or liability suffered by the Building Owner and directly arising out of damage or destruction of the Building directly caused by the negligence of the Infraco.

4.2 the Building Owner accepts and agrees that Clause 4.1 shall be in lieu of any and all remedies which the Building Owner shall be or become entitled to against the Infraco.

4.3 Any rights, obligations and liabilities as between the Infraco, the and CEC shall be dealt with in accordance with the Infraco Contract.



## **5. THE BUILDING OWNER'S OBLIGATIONS**

- 5.1 The Building Owner hereby undertakes to CEC and separately undertakes to each of tie and the Infraco that the Building Owner will not either personally or by way of authorising, causing, enabling or inviting third parties (including by way of illustration but not limitation tenants, sub-tenants, agents, contractors, sub-contractors, employees, maintenance persons and the like) to touch or otherwise damage or interfere with the Apparatus whilst it remains attached to the Building.
- 5.2 The Building Owner hereby accepts that neither the Infraco nor tie nor CEC shall be liable or responsible for loss, damage or injury caused or suffered by any person or property which arises as a result of a breach of the undertaking in Clause 5.1.

## **6. REPAIR WORKS**

In the event that the Building Owner intends to carry out Repair Works:

- 6.1 the Building Owner shall serve a Repairs Notice on tie, the Infraco and CEC;
- 6.2 the Building Owner will carry out the Repair Works as expeditiously as possible;
- 6.3 the Infraco shall, subject to Clause 6.4 prior to the expiry of the notice period specified in the Repairs Notice (which, for the avoidance of doubt, will not be less than three months), remove such parts of the Apparatus as are specified in the Repairs Notice;
- 6.4 the Infraco shall be entitled, as required, to support the OLE at that location by erecting a temporary pole provided that the Infraco has obtained necessary Consents in relation thereto which the Infraco shall use reasonable endeavours to obtain as expeditiously as possible. The Infraco's obligations under Clause 6.3 shall not apply unless and until such Consents have been granted;
- 6.4 the Building Owner shall immediately upon completion of the Repair Works in respect of which the Repairs Notice was served notify the Infraco and CEC and shall afford the Infraco such rights and facilities as are required to

remove the temporary pole and reinstate the Apparatus removed under this Clause 6;

- 6.5 service of a Repairs Notice shall amount to a temporary modification of the provisions of this Agreement only and shall not terminate or prejudice the continuing effect of this Agreement; and
- 6.6 the Building Owner undertakes that in the event that the Building Owner serves a Repairs Notice upon the Infraco, the and CEC in accordance with Clause 6.1, it or any third party acting on the Building Owner's behalf will not make any objection to the erection of a temporary pole or other means of support for the OLE necessitated by the temporary removal of the Apparatus from the Building.

## **7. REDEVELOPMENT WORKS**

- 7.1 In the event that the Building Owner:
  - 7.1.1 intends to carry out Redevelopment Works; and
  - 7.1.2 has obtained all necessary Planning Permissions and other Consents for those Redevelopment Works;

the Building Owner shall serve a Redevelopment Notice upon the Infraco, the and CEC, enclosing copies and details of such necessary Planning Permissions and other Consents.
- 7.2 The Infraco shall subject to Clause 7.3 prior to the expiry of the notice period given in the Redevelopment Notice (which, for the avoidance of doubt, will not be less than three months), remove the Apparatus from the Building.
- 7.3 The Infraco shall be entitled as required to support the OLE at that location by erecting a temporary pole provided that Infraco has obtained the necessary Consents in relation thereto which the Infraco shall use reasonable endeavours to obtain as expeditiously as possible. The Infraco's obligations under Clause 7.2 shall not apply unless and until such Consents have been granted.
- 7.4 The Building Owner shall carry out the Redevelopment Works as expeditiously as possible and shall, immediately upon completion of the

Redevelopment Works in respect of which the Redevelopment Notice was served, notify the Infraco, the and CEC and shall afford the Infraco such rights and facilities as are required to remove the temporary pole and to reinstate the Apparatus removed under this Clause 7.

7.5 Service of the Redevelopment Notice shall amount to a temporary modification of the provisions of this Agreement only and shall not terminate or prejudice the continuing effect of this Agreement.

7.6 The Building Owner undertakes that in the event that the Building Owner serves a Redevelopment Notice upon the Infraco, the and CEC in accordance with Clause 7.1, it or any third party acting on the Building Owner's behalf will not make any objection to the erection of a temporary pole or other means of support for the OLE necessitated by the temporary removal of the Apparatus from the Building.

#### **8. HERITABLE CREDITORS AND OTHERS**

The Building Owner hereby warrants that it is the heritable proprietor of the Building (or its part of the Building) and that it has obtained all relevant Consents relating to the Building (or its part of the Building) from any heritable creditor or other parties with an interest in the Building (or relevant part thereof) at the date of the Building Owner's execution of this Agreement.

#### **9. NOTICES**

All notices in relation to this Agreement shall be sent by recorded delivery or delivered by hand to the parties at their respective addresses given above or as otherwise notified to each other from time to time in writing.

#### **10. STEP-IN**

10.1 From the date of termination, disposal or expiry of the Infraco Contract, CEC shall undertake the rights and obligations of the Infraco in relation to this Agreement.

10.2 From the date of termination, disposal or expiry of the Infraco Contract referred to under Clause 10.1, this Agreement shall continue and:

10.2.1 the Building Owner shall, where it owes obligations to the Infraco under this Agreement, owe such obligations to CEC; and

10.2.2 CEC shall assume the rights and obligations of the Infraco under this Agreement, but without prejudice to any liability of the Infraco or CEC to the Building Owner arising prior to the date of the termination, disposal or expiry of the Infraco Contract referred to under Clause 10.1.

## **11. ASSIGNATION**

11.1 Neither the Infraco nor the Building Owner may assign, novate or otherwise transfer the whole or any part of the Agreement without the prior written agreement of the other parties to the this Agreement (not to be unreasonably withheld or delayed).

11.2 Both tie and CEC may assign, novate or transfer their partIn this Agreement, with such assignation, novation or transfer becoming effective on notice being issued to the other parties to this Agreement in accordance with its terms.

## **12. ALIENATION BY BUILDING OWNER**

In the event of the Building Owner alienating (whether by sale, lease or otherwise) its interest in the Building, in whole or in part, it shall:

12.1 Take the person to whom such whole or part interest is alienated bound (and that expressly for the benefit of the Infraco, tie and CEC) to enter into an agreement with the Infraco, tie and CEC in terms mutatis mutandis with the terms of this Agreement; and

12.2 Immediately notify the Infraco, tie and CEC of the nature and extent of such alienation and the name and address of the person to whom such alienation has been made.

## **13. VARIATIONS**

No variation or alteration of any of the provisions of this Agreement shall be effective unless it is in writing and signed by all parties to this Agreement.

**14. THIRD PARTY RIGHTS**

Subject to any other express provisions of this Agreement, a person who is not a party to this Agreement shall have no right to enforce any term of this Agreement. There shall not be created by this Agreement a jus quaesitum tertio in favour of any party whatsoever.

**15. APPLICABLE LAW**

15.1 This Agreement and any matters arising from this Agreement shall be governed by and construed in accordance with Scots Law.

15.2 The parties hereto irrevocably submit to the exclusive jurisdiction of the Scottish Courts in relation to this Agreement and any matters arising from this Agreement.

**IN WITNESS WHEREOF** there presents typewritten on this and the preceding ten pages are executed as follows:

They are subscribed for and on behalf of the said **tie Limited** follows:

At EDINBURGH On 20 MARCH 2009

By Director/Secretary/Authorised Signatory  
(delete as appropriate) full name:

- Signature

By Director/Secretary/Authorised Signatory  
(delete as appropriate) full name:

- Signature

In the presence of Witness, full name

- Signature

Witness Address

[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
Citypoint  
65 Haymarket Ter  
Edinburgh

They are subscribed for and on behalf of the said the Infracore as follows:

Bilfinger Berger UK Limited

At ..... EDINBURGH .....

On ..... 20 MARCH 2009 .....

By Director/Secretary/Authorised Signatory  
(delete as appropriate) full name:

- Signature

By Director/Secretary/Authorised Signatory  
(delete as appropriate) full name:

- Signature

In the presence of Witness, full name

- Signature

Witness Address

Citypoint  
65 Haymarket Ter  
Edinburgh

Siemens plc

At ..... EDINBURGH .....

On ..... 20 MARCH 2009 .....

By Director/Secretary/Authorised Signatory  
(delete as appropriate) full name:

- Signature

By Director/Secretary/Authorised Signatory  
(delete as appropriate) full name:

- Signature

In the presence of Witness, full name

- Signature

Witness Address

Citypoint  
65 Haymarket Ter  
Edinburgh

They are subscribed for and on behalf of the said **The City of Edinburgh Council** as follows:

At Edinburgh

On ..... 3 SEPTEMBER 2008 .....

By a Proper Officer, full name:

..... [REDACTED] .....

- Signature

..... [REDACTED] .....

In the presence of Witness, full name

..... [REDACTED] .....

- Signature

..... [REDACTED] .....

Witness Address

..... GARTER COURT .....

..... 20 CASTLE TERRACE .....

..... ED: 1306111 .....

..... EH1 2AD .....

They are subscribed for and on behalf of the said **Building Owner** as follows:

At .....Edinburgh,..... On .....28<sup>th</sup> May 2008.....  
Full Name .....WILLIAM JOHN HERRERT.....  
- Signature .....  
In the presence of Witness, full name .....  
- Signature .....  
Witness Address .....  
.....  
.....

At ..... On .....  
Full Name .....  
- Signature .....  
In the presence of Witness, full name .....  
- Signature .....  
Witness Address .....  
.....  
.....  
.....  
.....





William John Herbert

Edinburgh

21 December 2009

Dear Mr Herbert

**Fixing Ref(s): CH/130/ 938 B**

**Property Address(es):**

Following our previous correspondence in April and May 2008 we are writing to you regarding the installation of building fixings to your property, which is essential for the operation of Edinburgh Trams. As you will be aware from those communications, these works are authorised by the Parliamentary Tram Acts and the fixing locations have been identified following engineering assessment and consultation with the planning authority, the World Heritage Trust and Historic Scotland.

Since writing to you in 2008, significant progress has been made on the construction of the trams and we are now in a position to commence the Overhead Line Equipment (OLE) works. This work is planned to take place between January and April 2010 and will consist of drilling an 18mm hole, 190mm deep (approximately ¾ by 7.5 inches) in the locations detailed in the photographs you received in 2008. These were approved by the council planning department through prior approval.

The work will be managed by our contractor, Siemens, and carried out by a sub-contractor who are very experienced in this type of work. This work will be carried out in accordance with a carefully defined method statement, which will ensure it is completed safely and efficiently. It is expected that the fixing will be undertaken from either a mobile equipment working platform or specifically erected scaffold, which will only be erected once appropriate traffic and pedestrian safety measures have been installed. All work will be carried out externally, avoiding the need to gain access to your property.

In order to provide you with the most accurate information, a further communication will be sent to you fourteen days prior to the work starting. Also attached is a building fixing leaflet, which provides more information.

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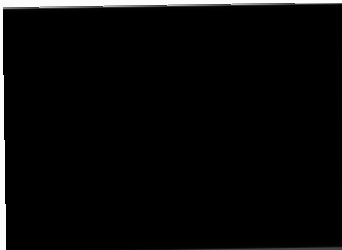
Citypoint 65 Haymarket Terrace Edinburgh EH12 5HD  
tel: +44(0)131 622 8300 fax: +44(0)131 622 8301 web: [www.edinburghtrams.com](http://www.edinburghtrams.com)  
Registered in Scotland No: 230949 at City Chambers, High Street, Edinburgh EH1 1YJ

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Thank you for your patience throughout all works connected with the construction of Edinburgh Trams. If you require any further information please do not hesitate to contact our helpline on 0800 328 3934 or email [info@edinburghtrams.com](mailto:info@edinburghtrams.com).

Yours sincerely,



Project Director, Edinburgh Trams



William J Herbert

Edinburgh

1 March 2010

Dear Mr Herbert

**Fixing Ref(s): CH/130/ 938 B**

**Property Address(es):**

**Edinburgh**

The work to install building fixings to your property, in connection with Edinburgh Trams, is programmed to take place during the two weeks commencing Monday 11 March 2010. This is part of the Overhead Line Equipment (OLE) works.

This work will be carried out externally, avoiding the need to gain access to your premises. All works will be carried out in accordance with a carefully defined method statement which will ensure the works are completed safely and efficiently. The following outlines the normal process which is to be employed:

- Contractor arrives and sets up work platform (mobile or scaffold) including any necessary traffic and pedestrian management measures (within this process you will be contacted by the contractor to ensure any disruption to yourself is minimised);
- The correct fixing location will be measured from co-ordinates on the design drawings;
- A power drill will be employed to drill an 18mm diameter hole 190mm (approximately ¾ by 7.5 inches) into the wall. Should the building suffer any deterioration during the drilling process then works will cease immediately and the building will be made secure. Works will stop until a safe and effective remedy has been identified. In this instance there will be further communication with yourself to keep you appraised of the situation;
- Once the hole has been drilled and prepared a resin will be inserted into which the anchor will be fixed;
- The site will be tidied and the resin left to cure;
- Following a suitable "curing" period a "pull out" test will be conducted (again having established a safe system of work). This will ensure that the fixing is sufficiently robust to maintain a load well in excess of the working load which has been calculated to be applied to that fixing;
- At a later date the OLE cables will be attached to the fixing.

tie limited

Citypoint 65 Haymarket Terrace Edinburgh EH12 5HD

tel: +44(0)131 622 8300 fax: +44(0)131 622 8301 web: [www.edinburghtrams.com](http://www.edinburghtrams.com)

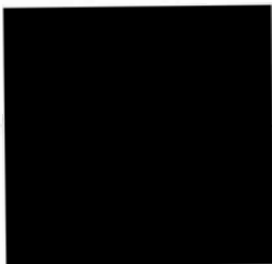
Registered in Scotland No: 230949 at City Chambers, High Street, Edinburgh EH1 1YJ

delivering transport projects

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Thank you for your patience throughout all works connected with the construction of Edinburgh Trams. If you require any further information please do not hesitate to contact our helpline on 0800 328 3934 or email [info@edinburghtrams.com](mailto:info@edinburghtrams.com).

Yours sincerely,



Project Director, Edinburgh Trams

William John Herbert

Edinburgh

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Date: 2 October 2013  
Ref: 418

Dear Mr Herbert

**Edinburgh Tram**

**Building Fixing Agreement - Edinburgh**

We refer to the above.

As you will recall, you entered into an Agreement with the Council and various other parties in relation to the installation and ongoing maintenance of a building fixing to your building, which is required in connection with the Edinburgh Tram project.

We are writing to provide you with further detail in relation to the maintenance regime for the building fixings. They will be routinely inspected every two years, unless emergency works are required. Routine maintenance will not require access to your property but there may be machinery and workmen outside your property for a short time to carry out maintenance.

We would also take this opportunity to remind you of one of the important obligations in the Agreement which you must adhere to as the building owner.

**If you sell or lease or otherwise dispose of your interest in the building you must do the following:-**

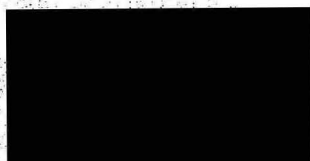
- ensure that the purchaser or tenant is bound to enter into the same agreement with the Council, on the same terms as your agreement; and
- notify the Council, tie and the Infracore (as detailed in the Agreement) of the nature and extent of the sale or lease and the name and address of the person to who you are selling or leasing your interest.

It is extremely important that you adhere to these requirements so if you are selling or leasing your property then please notify [redacted] on 013 [redacted] or at [redacted]@edinburghtrams.com

If you have any queries regarding the above, then please do not hesitate to contact [redacted]

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Yours faithfully



*Interface Manager*  
**Edinburgh Trams**  
City of Edinburgh Council  
*Waverley Court*  
*4 East Market Street*  
*Edinburgh*  
*EH8 8BG*







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[Redacted]  
Edinburgh  
[Redacted]  
[Redacted]  
[Redacted]

7<sup>th</sup> October 2013

[Redacted]  
Interface Manager, Edinburgh Trams  
City of Edinburgh Council  
Waverley Court  
4 East Market Street  
EH8 8BG

Dear [Redacted]

**Building Fixing Agreement – [Redacted]**  
**Your ref 418**

With reference to your letter of 2 October 2013. It is true that I signed the above agreement but, in the event, it was not needed. As you will see from the enclosed photographs, nothing was fixed to my property but only to that next to mine, presumably [Redacted].

It appears therefore that I have no need to inform future owners or lessees about this agreement and its obligations, indeed to do so may cause confusion!

Yours sincerely

(Dr William John Herbert)

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## The Design of the Tram System

### The overhead wires.

In what must have been about 2006 the public were invited to comment on the proposed Tram system. I wrote a letter and received a reply. Unfortunately I am not presently able to locate either but I am sure they can be found!

In my letter I pointed out that since the removal of the original tram system from Princes Street the Corporation had worked hard to clear away all central obstructions such as lamp posts and had placed the street lighting on the buildings to the north. In this way they had produced a magnificent uncluttered street looking south to the gardens, castle, far away High Street and to the National Monument to the east. This had produced one of the finest streetscapes in the world. But now it was proposed to destroy this by erecting posts and electric wires down its length. In my letter I suggested that instead of overhead wires a 'third rail' system should be used such as I had seen when a boy in London and other cities.

In reply I received a letter explaining why this could not be done – the usual sort of letter one receives on such occasions.

I have since learned that such a problem has been overcome – probably *had* already been overcome - in other cities with scenic tram routes that it was not wished to defile with overhead wires, such as, I am told, the *Corniche* in Nice. There the trams change to electric traction over short distances such as the length of Princes Street and re-charge their batteries in sections with overhead wires. Moreover, I understand that our trams carry batteries for use if power supplies fail. There is, also, only one stop in Princes Street so that the question of power for starting is not significant.

I believe this bears investigation – what was the real reason for using overhead wires to destroy a famous street scene? To save money?!

### Design of the tram stops.

I, and most people I have spoken to find these to be terrible. So poor in fact that they should be replaced. Compared to the City bus stops they provide very little protection from the weather. There may be little space but, at some places, for instance at Haymarket much better provision could be made. Did the people who approved these ever travel by bus let alone did they stand out in the rain wind and snow waiting for buses whilst the Tramworks were in progress?

