

Additional clauses of order

All parties to this purchase order must act in the spirit of mutual trust and co-operation.

It is a requirement that all individuals working or involved with these works must be paid the London living wage, at the very minimum.

This purchase order is placed on the basis the following clauses are complied with:

Equality and Z3 diversity

Z3.1 Without limiting the generality of any other provision of the contract, the *Supplier*:

- complies with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;
- acknowledges that the *Employer* is under a duty by virtue of a direction under section 155 of the Greater London Authority Act 1999 in respect of section 404(2) of that Act to have due regard to the need to:
 - promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;
 - eliminate unlawful discrimination; and
 - promote good relations between persons of different racial groups, religious beliefs and sexual orientation,

and in Providing the Subcontract Works, the *Supplier* assists and co-operates with the *Buyer* and the *Employer* where possible to enable the *Employer* to satisfy its duty; and

- assists and co-operates with the *Buyer* and the *Employer* where possible to enable the *Employer* to comply with its duties under section 1 and section 149 of the Equality Act 2010 as and when section 1 and/or section 149 come into force, including any amendment or re-enactment of section 1 or section 149, and any guidance, enactment, order, regulation or instrument made pursuant to these sections.

Crime and disorder Z3.2 The *Supplier* acknowledges that the *Employer* is under a duty under Section 17 of the Crime and Disorder Act, 1998 to

- have due regard to the impact of crime, disorder and community safety in the exercise of the *Employer's* duties,
- where appropriate, identify actions to reduce levels of crime and disorder, and
- without prejudice to any other obligation imposed on the *Employer*, exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent,

crime and disorder in its area.

The Parties' use of Z8 material

Background Rights Z8A

- Z8A.1 The Background Rights shall remain the absolute unencumbered property of the owner of such rights at the date of this subcontract. No party will make any representation or do any act which may be taken to indicate that it has any right, title or interest in or to the ownership or use of any of the Background Rights of the other party except under the terms of this subcontract, and each party acknowledges that nothing contained in this subcontract shall give it any right, title or interest in or to the Background Rights of the other party save as granted in this subcontract.
- Z8A.2 (a) The *Supplier* confirms that it will be able to Provide the Subcontract Works without using or incorporating its Background Rights therein and that the *Buyer* will be able to use the *subcontract works* to develop, implement and operate the Programme both during the term of this subcontract and thereafter without needing a right to use any such Background Rights.
- (b) In the event that the *Buyer* consents to the use or incorporation of the *Supplier's* Background Rights to Provide the Subcontract Works, the *Supplier* grants the *Buyer* and its appointee a non-exclusive irrevocable and royalty free licence to copy and use the Background Rights of the *Supplier* for the purposes of the Programme. The licence shall include the right to grant sub-licences without the consent of the *Supplier*. The *Supplier* shall not be liable for any use of the Background Rights other than for their originally intended purpose.

Foreground Rights Z8B and Materials

- Z8B.1 All Foreground Rights and Materials shall vest in and be the property of the *Buyer* on their creation. To the extent that any such Foreground Rights or Materials vest in the *Supplier* or any subsupplier or supplier of any tier or other third party engaged by the *Supplier* in performing this subcontract, the *Supplier* hereby:
- (a) assigns to the *Buyer* (or shall procure that the *Buyer* is granted an assignment of) all such present and future Foreground Rights immediately upon creation; and
- (b) transfers to the *Buyer* (or shall procure that the relevant owner transfers) ownership in such present or future Materials immediately upon creation.
- Z8B.2 The *Supplier* shall in engaging or employing any subsupplier enter into an enforceable written contract with such party which provides that:
- (a) all Foreground Rights and Materials created by the subsupplier and subsupplier or supplier of any tier pursuant to such contract shall vest in and become the property of the *Buyer* immediately upon creation;
- (b) upon such vesting, the *Buyer* shall become entitled to exclusive perpetual and unrestricted rights of use and

ownership of such Foreground Rights and Materials;
and

- (c) the *Buyer* or its nominee shall be able to enforce the rights of the *Supplier* against such Subsupplier and subsupplier or supplier of any tier pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999;
- Z8B.3 The *Supplier* shall provide a copy of any contract proposed pursuant to clause Z8B.2 to the *Buyer* for approval and authorisation prior to entry into or execution of the same.
- Z8B.4 The *Supplier* agrees to provide to the *Buyer* or any person nominated by the *Buyer* immediate access to all Materials in whatever form requested by the *Buyer* (including without limitation the source code of any software that is not commercially available) at any time but at the latest on termination or expiry of this subcontract. The *Supplier* shall upon the written request of the *Buyer* enter into a deposit and/or source code escrow contract with the *Buyer* and a third party nominated by the *Buyer* in respect of such Materials in such form as the *Buyer* may require.

Third Party Rights Z8C

- Z8C.1 The *Supplier* shall be responsible for obtaining all necessary consents, authorities or approvals required to use any Third Party Rights necessary for performing its obligations under this subcontract.
- Z8C.2 The *Supplier* shall ensure that the *Buyer* has all Third Party Rights necessary to enable the *Buyer* to develop, implement and operate those parts of the Programme which are the subject of this subcontract and/or use Materials during the term of this subcontract and thereafter.
- Z8C.3 The *Supplier* shall use its best endeavours to ensure that it is a condition of any licence into which the *Supplier* or any subsupplier or supplier of any tier enters with a third party that the *Buyer* shall be entitled to a royalty free, irrevocable copyright licence in respect of such Third Party Rights, such licence to be capable of assignment and sub-licence and to allow use of the Third Party Rights for any purpose connected with the development and operation of the Programme.
- Z8C.4 All licences in respect of Third Party Rights used by the *Supplier* in connection with the *subcontract works* shall continue for a period of 24 months from expiry or termination of this subcontract. The *Supplier* shall use its best endeavours to ensure that all licences for Third Party Rights that are not commercially available may be extended at the request of the *Buyer* thereafter on the same terms. Where the *Buyer* requires an extended right of use of any Third Party Rights used by the *Supplier* in connection with the *subcontract works* (or any part thereof) that is not commercially available, the *Buyer* shall pay or procure the payment of, in accordance with terms agreed between the parties, a reasonable licence fee for any such use for the extended period. In determining whether or not any licence fee is reasonable regard shall be had to the nature and use made of the Third Party Rights, licence fees charged to the *Supplier* or subsupplier or supplier of any tier by their licensors for such Third Party Rights, industry practice and the licence fees for the Third Party Rights normally charged by the *Supplier* or subsupplier or supplier of any tier in similar circumstances.

Licence from the Z8D Buyer

The *Buyer* hereby grants to the *Supplier* for the term of this subcontract and free of charge a non-exclusive, royalty-free licence to use such of the *Buyer's* data, reports, drawings, specifications, plans, software, designs, inventions and/or other material of the *Buyer* as are required by the *Supplier* to Provide the Subcontract Works and to fulfil its other obligations pursuant to this subcontract and which relate to the *subcontract works*. This licence is limited to use of such materials for the purpose of, and solely as necessary for, the *subcontract works* during the term of this subcontract. To the extent that any modifications or enhancements to materials licensed by the *Buyer* to the *Supplier* under this clause Z8D are carried out by or on behalf of the *Supplier* in Providing the Subcontract Works, the *Supplier* hereby assigns (or shall procure that the *Buyer* is granted an assignment of) all present and future Intellectual Property in those modifications and enhancements. By virtue of this clause Z8D all such Intellectual Property rights shall vest in the *Buyer* on their creation.

Warranties and Z8E Indemnity

Z8E.1 The *Supplier* warrants that:

- (a) it is the beneficial owner of its Background Rights; and
- (b) the *Buyer's* and the *Employer's* use of the *Supplier's* Background Rights or any Foreground Rights developed or supplied by the *Supplier* pursuant to this subcontract will not infringe Intellectual Property owned by any third party.

Z8E.2 The *Supplier* will indemnify and hold harmless the *Buyer* against any and all liability, loss, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the *Buyer* (whether direct or consequential) in respect of any claim or action that the *Buyer's* use of:

- (a) Intellectual Property rights licensed by the *Supplier* to the *Buyer* under this clause Z8; or
- (b) the Foreground Rights developed or supplied by the *Supplier* under this subcontract;

infringes the Intellectual Property rights of any third party.

Infringements Z8F

The *Supplier* shall exercise good commercial discretion in watching for Intellectual Property rights and the publication of any applications for the registration of Intellectual Property rights owned or controlled by third parties which may be relevant to the intentions of the *Buyer* and the *Supplier* as expressed in this subcontract. Should any such Intellectual Property rights of a third party come to the notice of the *Supplier*, then the *Supplier* shall inform the *Buyer* promptly and the parties shall decide jointly what action is to be taken. In the event of an agreement not being reached by the *Buyer* and the *Supplier*, the *Buyer* shall make the final decision. The *Buyer* and the *Supplier* shall at all times have regard when making their decision to the Patents Act 1977 and any subsequent amendment or enactment of such legislation and any other Applicable Law.

Copyright and Z8G publication

Z8G.1 The *Buyer* shall be the proprietor of the copyright in this

subcontract and any data relating to this subcontract. The *Buyer* reserves the right to determine whether the results of the *subcontract works* shall be published and if so on what conditions. The *Supplier* shall provide any reports that the *Buyer* shall request and shall enclose with the report the following disclaimer:

*"The authors of this report are employed by [].
The work reported herein was carried out under a deed placed on [date of this contract] by Crossrail Limited and should not be relied upon as authoritative by any third party.
This report shall not be copied or reproduced in whole or in part except with the express consent of Crossrail Limited."*

Z8G.2 The following copyright statement shall be included by the *Supplier* on all copyright items intended for reproduction including final reports:

"© Crossrail Limited"

Further assurances Z8H

Z8H.1 The *Supplier* shall (at its own cost) upon the request of the *Buyer* promptly execute all documents and do all acts and things which may be necessary to bring into effect or confirm any assignment or the terms of any of the licences contained or referred to in this clause Z8.

Z8H.2 The Parties shall, when appropriate, execute a formal licence or licences for the purpose of registering any licences granted pursuant to this clause Z8 in such form as may be necessary to give effect to this subcontract and to conform with the laws for the time being existing in respect of Intellectual Property rights. Such licence or licences shall be subject to all the terms and conditions of this subcontract.

General Z8I

Z8I.1 The *Supplier* shall not sell, copy or use the Intellectual Property referred to in this clause Z8 if this might compromise the *subcontract works* and/or Materials (or any part thereof) or the *Buyer's* or the *Employer's* use of them.

Z8I.2 The *Supplier* shall notify any proposed assignee of this subcontract of the licences granted to the *Buyer* under or in accordance with this subcontract.

Z8I.3 Not used.

Z8I.4 The *Supplier* agrees to provide all assistance requested by the *Buyer* on termination or expiry of this subcontract to handover the Materials and/or the provision of the *subcontract works* to a third party nominated by the *Buyer*.

Publicity Z9

Z9.1 The *Supplier* shall not and shall procure that subsuppliers and suppliers of any tier shall not, except with the consent of the *Buyer*, make any press announcements or publicise this subcontract or the Programme in any way unless the purpose of such disclosure is to allow compliance with a requirement to disclose information concerning this subcontract as required by law or the requirement of the stock exchange. The provisions of this clause shall not apply to any information relating to this subcontract, which is or which pursuant to this clause Z9 is public knowledge (otherwise than by breach of this clause) or which is limited to the fact of the *Supplier* being a party to this subcontract.

Data Protection Z10

Z10.1 The *Supplier*

- (a) collects the Construction Data as required by the Subcontract Works Information in accordance with the Crossrail Data Policy
- (b) ensures that all individuals whose Personal Data are collected by the *Supplier* in accordance with the Crossrail Data Policy are provided with a copy of the information statement specified in the Crossrail Data Policy setting out how their Personal Data will be Processed
- (c) transfers the Construction Data to the *Buyer* as required by the Subcontract Works Information, at which point the *Buyer* becomes the Data Controller of such Personal Data and such Personal Data shall become Buyer Data. For the avoidance of doubt the Buyer Data shall comprise of Personal Data collected from a number of sources and shall not be limited to the Construction Data.

Z10.2 The *Supplier* may retain a copy of the Construction Data for its own purposes provided that it remains responsible at all times for all Processing other than that which is undertaken on behalf of the *Buyer*.

Z10.3 Unless the *Buyer* takes appropriate steps to widen the Processing which can be undertaken by it, the *Buyer* shall only Process the Buyer Data for the purposes specified in the information statement specified in the Crossrail Data Policy setting out how their Personal Data will be Processed.

Z10.4 The Buyer Data may be processed by the *Supplier* to enable the *Supplier* to undertake the Processing specified in the Crossrail Data Policy. In such circumstances the *Supplier*

- (a) complies with the requirements of the DPA and any equivalent applicable legislation in any other country and in accordance with good industry practice. In particular, the *Supplier* complies with the provisions of the DPA in respect of the Processing of the Buyer Data as if it were a Data Controller
- (b) collects, compiles, manipulates and stores or otherwise processes the Buyer Data only as instructed in writing in advance by the *Buyer*. The *Supplier* does not carry out any other processing, use or disclosure of the Buyer Data and
- (c) where and when requested by the *Buyer*, provides a copy of all or any part of the Buyer Data which has been collected by the *Supplier* or provided to the *Supplier* by the *Buyer* or a third party, to the *Buyer*.

Z10.5 The *Buyer* may request by written notice that any specific item of data contained in the Buyer Data held by the *Supplier* be amended or deleted by the *Supplier* and the *Supplier* immediately fulfils such a request.

Z10.6 The *Supplier* in particular but without limiting its obligations under Z10.4 above:

- (a) maintains comprehensive registrations or notifications under the DPA or equivalent legislation in any other country in relation to the processing of Personal Data by the *Buyer*

- (b) is aware at all times of the registerable particulars of the *Employer* under the DPA, and ensures that it does not use, disclose or process the Buyer Data in any way that is outside the scope of those particulars, provided that the *Buyer* notifies the *Supplier* of any alterations in those registerable particulars
 - (c) keeps the Buyer Data fully up to date on a timely basis at all times during the continuance of this contract
 - (d) assists the *Buyer* or *Employer* to respond to any request for information under Section 7 of the DPA made by an individual which complies with the requirements of the DPA
 - (e) at all times has in place appropriate technical, procedural and organisational security measures, to protect the Buyer Data including but not limited to the protection of:
 - (i) database software and equipment;
 - (ii) the Buyer Data against unauthorised or unlawful processing and against accidental loss or destruction of, or damage to the Buyer Data
 - (f) ensures that any employees, Data Processors or sub-Data Processors involved in the Processing of the Buyer Data are bound by the security measures specified in Z10.6(e);
 - (g) provides details of the security measures specified in Z10.6(e) to the *Buyer* in writing within 10 days of a written request from the *Buyer*; and
 - (h) notifies the *Buyer* immediately if it receives any notice of non-compliance with, or a request for information under the DPA or any equivalent legislation in any other country.
- Z10.7 The *Buyer* may, at its discretion and on reasonable written notice, require access to the *Supplier* premises and the provision of sufficient relevant information in order to assess the adequacy of the *Supplier's* security measures.
- Z10.8 If any of the Contractor Data or the Construction Data collected by or in the sole possession of the *Supplier* are either lost or sufficiently degraded to be unusable, the *Supplier* provides replacement and or corrected data within three working days.
- Z10.9 The *Supplier* agrees and undertakes to indemnify the *Buyer* and hold the *Buyer* harmless against all and any costs, liabilities and losses whatsoever incurred by the *Buyer* arising out of any action or inaction of the *Supplier* that results in the *Buyer* being in breach of any of its obligations or duties under the DPA or equivalent applicable legislation in any other country or of any term of the Main Contract.
- Z10.10 The *Supplier* may not, in any circumstances, transfer any of the Buyer Data to any country or territory outside the European Economic Area without the *Buyer's* prior written consent, which may be withheld in its absolute discretion.
- Z10.11 Upon the termination of this subcontract for whatever reason, the *Supplier*, unless notified otherwise by the *Buyer* or required by law, immediately ceases all processing of the Buyer Data and, as requested by the *Buyer*, destroys, sends, or returns to the *Buyer* on suitable media all copies of the Buyer Data held in whatever form by the *Supplier* or any sub-Data Processor.

Z10.12 The Buyer Data and any rights subsisting in them, including without limitation any database rights, are and shall remain at all times the property of the *Buyer*, and the *Supplier* assigns to the *Buyer* the copyrights, database rights and all other rights of a like nature in the Buyer Data conferred under the laws of the United Kingdom and all other countries of the world that will be created by the *Supplier* during the term of this subcontract for the full term during which those rights and any renewals or extensions subsist.

Z10.13 The *Supplier* warrants that it:

- (a) has maintained and will continue to maintain comprehensive registrations under the DPA or equivalent legislation in any other country in relation to the Processing of Personal Data by the *Supplier*;
- (b) has not received any notice of non-compliance with, or a request for information under the DPA;
- (c) has in place adequate technical and organisational security measures, including database software and equipment, governing the Processing of the Buyer Data and any employees involved in such Processing; and
- (d) shall carry out the Processing of the Buyer Data with due skill and care.

Access to Z11 information

Z11.1 The *Supplier* shall free of charge disclose to the *Buyer* and allow the *Buyer*, the *Employer* and/or those nominated by the *Buyer* to inspect and take away copies of all information relating to the *subcontract works* (including without prejudice to the generality of the foregoing accounts and records) as the *Buyer* shall require in order to satisfy itself that the provisions of this subcontract are being observed and performed, and/or in order to facilitate the operation of this subcontract, and the *Supplier* shall provide all reasonable assistance required by the *Buyer* and/or those nominated by him in order to obtain such information and shall ensure that the *Buyer* and/or those nominated by him have full and free access (including access to the *Supplier's* premises) and licence to use such information in order to facilitate the operation of this clause but the *Supplier* shall not be obliged to supply any information which would be treated as privileged in any proceedings.

Freedom of Z12 information

Z12.1 The *Supplier* acknowledges that the *Employer* is subject to the FOI Legislation and agrees to assist and co-operate with the *Buyer* to discharge his obligation to assist the *Employer* to comply with its obligations under the FOI Legislation. The foregoing shall not preclude the *Supplier* from objecting to a disclosure of Supplier Information.

Z12.2 The *Employer* is responsible for determining whether Supplier Information is exempt information under the FOI Legislation and for determining what Supplier Information will be disclosed in that respect to an Information Request in accordance with the FOI Legislation. The *Supplier* shall not itself respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so by the *Buyer*.

Z12.3 The *Supplier* acknowledges that the *Buyer* may be obliged due to its obligations under Main Contract to disclose Supplier Information to the *Employer* to enable the *Employer* to

discharge its obligations under the FOI Legislation.

**Confidential Z13
information**

- Z13.1 Subject to the other provisions of and as expressly permitted by this clause Z13, the *Supplier*:
- (a) may not use any Confidential Information for any purpose other than the performance of its obligations under this subcontract;
 - (b) may not disclose any Confidential Information to any person except with the prior written consent of the *Buyer*; and
 - (c) shall make every effort to prevent the use or disclosure of the Confidential Information.
- Z13.2 Notwithstanding clause Z13.1, the *Supplier* may disclose any Confidential Information to the following parties in the following circumstances:
- (a) to any officer or servant of the *Supplier* or any person engaged in the provision of goods or services to or for him if disclosure is necessary to enable the *Supplier* to Provide the Subcontract Works or to enforce its rights under this subcontract, upon obtaining an undertaking of strict confidentiality from such officer, servant or person;
 - (b) to the extent required by any Applicable Law, the rules of any stock exchange or regulatory body or any written request of any taxation authority; and
 - (c) pursuant to the order of any court or tribunal of competent jurisdiction.
- Z13.3 The provisions of clause Z13.1 above shall not apply to any Confidential Information which:
- (a) is at the date of this subcontract or any time thereafter becomes publicly known other than by breach of this subcontract or of an obligation of confidence;
 - (b) can be shown by the *Supplier* to the *Buyer's* satisfaction to have been known by the *Supplier* before disclosure by the *Buyer*.
- Z13.4 Before disclosure of any Confidential Information, the *Supplier* shall ensure that the recipient is made aware of and complies with the *Supplier's* obligations of confidentiality under this subcontract as if the recipient was a party to this subcontract.
- Z13.5 Without prejudice to any other rights or remedies which the *Buyer* may have, the *Supplier* acknowledges and agrees that in the event of breach of this clause Z13 the *Buyer* shall, without proof of special damage, be entitled to an injunction or other equitable remedy for any threatened or actual breach of the provisions of this clause in addition to any damages or other remedies to which it may be entitled.
- Z13.6 If this subcontract is terminated, the *Supplier* shall, return to the *Buyer* all of the Confidential Information then within its possession or control or destroy such Confidential Information using a secure and confidential method of destruction and furnish to the *Buyer* sufficient evidence of such destruction, save that the *Supplier* may retain one copy of the Confidential Information if required to do so by law.

Conflict of interest Z17

- Z17.1 The *Supplier* confirms that as at the date of this subcontract neither it nor any subsupplier or supplier of any tier has any interest in any matter and does not act and has not acted for any party in respect of any matter which would (in either case) create a conflict of interest in Providing the Subcontract Works. The *Supplier* will undertake ongoing conflict of interest checks and will notify the *Buyer* immediately if any conflict or potential conflict of interest arises (including notification of any instructions from a party with whom the *Buyer* has or has had any dealings with respect to the Programme).
- Z17.2 To the extent that an actual or potential conflict may arise involving the *Buyer*, the *Supplier* shall where required continue to act for and advise the *Buyer* and if required will cease to act for any other party where to act so would constitute a conflict of interest.

Best value Z18

- Z18.1 The *Supplier* acknowledges that TfL is a best value authority for the purposes of the Local Government Act 1999 and as such the *Employer* is required to make arrangements to secure continuous improvement in the way it exercises its functions having regard to a combination of economy, efficiency and effectiveness. The *Supplier* assists the *Employer* and the *Buyer* to discharge the *Employer's* duty where possible, and in doing so, inter alia carries out any reviews of the Project or the Programme requested by the *Buyer* or the *Employer* from time to time.

Transparency Z24

- Defined terms Z24.1** (1) Subcontract Information means (i) this subcontract in its entirety (including from time to time agreed changes to the subcontract) and (ii) data extracted from applications for payment and/or invoices submitted pursuant to this subcontract which shall consist of the *Supplier's* name, the expenditure account code, the expenditure account code description, the SAP document number, the clearing date and the invoice amount.
- (2) Transparency Commitment means the transparency commitment stipulated by the UK government in May 2010 (including any subsequent legislation) in accordance with which the *Employer* is committed to publishing its contracts, tender documents and data from applications for payment and/or invoices received.

- Data transparency Z24.2** The *Supplier* acknowledges that the *Employer* is subject to the Transparency Commitment. Accordingly, notwithstanding any other provision of this subcontract, the *Supplier* hereby gives its consent for the *Employer* to publish the Subcontract Information to the general public.

- Z24.3 The *Employer* may in its absolute discretion redact all or part of the Subcontract Information prior to its publication. In so doing and in its absolute discretion the *Employer* may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation. The *Employer* may in its absolute discretion consult with the *Supplier* regarding any redactions to the Subcontract Information to be published pursuant to clause Z24.2. The *Employer* makes the final decision regarding publication and/or

redaction of the Subcontract Information.