

FORM OF CALL-OFF CONTRACT

Framework Agreement Number: ICT12833

Call-Off Contract Number: ICT14224 – Arch FLM

THIS CALL-OFF CONTRACT is made 29/11/2022

BETWEEN:

- (1) Transport for London (the "**Contracting Body**"); and
- (2) Probrand Limited a company registered in England and Wales with registration number 2653446 and whose registered office is at 37-55 Camden Street, Birmingham, B1 3BP (the "**Service Provider**",
(each a "**Party**").

RECITALS:

- (A) Transport for London of 5 Endeavour Square, London, E20 1JN ("**TfL**") and the Service Provider have entered into an agreement dated 29/11/2022 which sets out the framework for the Service Provider to provide certain Goods and Services to the Contracting Body (the "**Framework Agreement**").
- (B) The Contracting Body wishes the Service Provider to provide the specific Services described in this Call-Off Contract pursuant to the terms of the Framework Agreement and this Call-Off Contract and the Service Provider has agreed to provide such Services on those terms and conditions set out in the Call-Off Contract.

THE PARTIES AGREE THAT:

1. CALL-OFF CONTRACT

- 1.1 The following provisions of the Framework Agreement shall be incorporated into this Call-Off Contract as if set out in full:
 - 1.1.1 clause 1 (Definitions and interpretation);
 - 1.1.2 clause 2 (Order of precedence);
 - 1.1.3 clause 3 (commencement and duration of this Framework Agreement and Call-Off Contracts);
 - 1.1.4 clause 5 (Mini-Competitions and Call-Off Contracts);
 - 1.1.5 clause 6 (List of Goods and Services);
 - 1.1.6 clause 7 (Substitution of Goods);
 - 1.1.7 clause 8 (The Parties' obligations);
 - 1.1.8 clause 9 (Service Provider Personnel);
 - 1.1.9 clause 10 (Charges, invoicing and payments);
 - 1.1.10 clause 11 (Source code, escrow and verification services);
 - 1.1.11 clause 12 (Delivery, storage, title, risk and testing);
 - 1.1.12 clause 13 (Governance and reporting);
 - 1.1.13 clause 14 (Performance and delay);
 - 1.1.14 clause 15 (Warranties and representations);
 - 1.1.15 clause 16 (Conflict of interest);
 - 1.1.16 clause 17 (Access to premises);
 - 1.1.17 clause 18 (Compliance with policies and Applicable Law);
 - 1.1.18 clause 20 (Records, audit and inspection);
 - 1.1.19 clause 21 (Insurance);
 - 1.1.20 clause 22 (TfL Group data);
 - 1.1.21 clause 23 (Intellectual Property Rights);

- 1.1.22 clause 24 (Exclusions and limitations of liability);
 - 1.1.23 clause 25 (Force majeure);
 - 1.1.24 clause 26 (Malicious Software and data security);
 - 1.1.25 clause 27 (Termination);
 - 1.1.26 clause 28 (Consequences of termination or expiry);
 - 1.1.27 clause 29 (Exit and transition of Call-Off Contracts);
 - 1.1.28 clause 30 (Declaration of ineffectiveness);
 - 1.1.29 clause 32 (Assignment, sub-contracting and change of ownership);
 - 1.1.30 clause 33 (Confidentiality and the transparency commitment);
 - 1.1.31 clause 34 (Freedom of information);
 - 1.1.32 clause 35 (Data protection);
 - 1.1.33 clause 36 (Amendment and change control procedure);
 - 1.1.34 clause 37 (Employees);
 - 1.1.35 clause 38 (Notices);
 - 1.1.36 clause 39 (Disaster recovery and business continuity);
 - 1.1.37 clause 41 (Dispute resolution);
 - 1.1.38 clause 42 (Rights of third parties);
 - 1.1.39 clause 43 (Security and guarantees);
 - 1.1.40 clause 44 (Entire agreement and reliance representations);
 - 1.1.41 clause 45 (Severability);
 - 1.1.42 clause 46 (Governing law);
 - 1.1.43 clause 47 (General);
 - 1.1.44 Schedule 1;
 - 1.1.45 Schedule 3;
 - 1.1.46 Schedule 4;
 - 1.1.47 Schedule 5;
 - 1.1.48 Schedule 6;
 - 1.1.49 Schedule 7;
 - 1.1.50 Schedule 10;
 - 1.1.51 Schedule 11;
 - 1.1.52 Schedule 12;
 - 1.1.53 Schedule 13; and
 - 1.1.54 Schedule 14.
- 1.2 In this Call-Off Contract the expressions defined in the Framework Agreement shall, unless the context otherwise requires, have the same meanings given in the Framework Agreement. In this Call-Off Contract references to Annexes and Attachments are, unless otherwise provided, references to the attachments of this Call-Off Contract.
2. **CALL-OFF CONTRACT TERM**
- This Call-Off Contract commences on 01/01/23, which is the Call-Off Contract Effective Date and shall continue in force until 31/12/25, plus one optional one year extension until 31.12.26. This is initially a three year non-cancellable non-refundable order.
3. **GOODS AND/OR SERVICES**
- 3.1 The Services to be supplied by the Service Provider pursuant to this Call-Off Contract are set out in Attachment 1.

- 3.2 The Service Provider acknowledges that it has been supplied with sufficient information about this Call-Off Contract and the Services to be provided and that it has made all appropriate and necessary enquiries to enable it to provide the Services under this Call-Off Contract.
- 3.3 The Service Provider shall neither be entitled to any additional payment nor excused from any obligation or liability under this Call-Off Contract or the Framework Agreement due to any misinterpretation or misunderstanding by the Service Provider of any fact relating to the Services to be provided.
- 3.4 The Service Provider shall promptly bring to the attention of the Call-Off Co-ordinator and Commercial Manager any matter that is not adequately specified or defined in the Call-Off Contract or any other relevant document.
4. **SPECIAL DELIVERY REQUIREMENTS FOR ORDERED GOODS**
N/A
5. **WAREHOUSING OF ORDERED GOODS**
N/A
6. **CHARGES, INVOICING AND PAYMENT**
Attachment 1 specifies the Charges payable in respect of the Services provided under this Call-Off Contract. The Charges shall not increase during the Call-Off Contract Term, unless varied in accordance with the Change Control Procedure specified in Annex 2. The Service Provider shall submit invoices in accordance with the Framework Agreement and the Charges shall be paid in accordance with this Call-Off Contract.
7. **TFL OR THE CONTRACTING BODY ACCOUNT DETAILS**
N/A
8. **DETAILS OF THE CAPEX ITEM AND OPEX ITEM BREAKDOWN**
N/A
9. **IMPLEMENTATION PLAN, MILESTONES AND LIQUIDATED DAMAGES**
As per ICT12833 Reseller and Associated Services 2 framework terms and conditions.
10. **SERVICE LEVELS AND KEY PERFORMANCE INDICATORS**
As per ICT12833 Reseller and Associated Services 2 framework terms and conditions.
11. **SPECIAL CONDITIONS**
The following Special Conditions apply to this Call-Off Contract.
Intellectual Property Rights
- 11.1 Notwithstanding clause 24.5 of the Framework Agreement, the Service Provider's liability in relation to:
- 11.1.1 any breach of clause 35 in relation to data protection shall be limited to the amounts set out in clause 24.7 of the Framework Agreement
- 11.1.2 any wilful, deliberate or intentional breach of the provisions of this Call-Off Contract as a result of which the other Party suffer Loss shall be limited to the amounts set out in clause 24.7 of the Framework Agreement.
- 11.2 Notwithstanding clause 24.8 of the Framework Agreement, the Service Provider's maximum aggregate liability for Loss incurred by TfL for any Call-Off Contract Default arising under or in connection with this Call-Off Contract shall not exceed the amounts set out in clause 24.7 of the Framework Agreement
- 11.3 TfL acknowledges and agrees that clause 24.15 of the Framework Agreement does not apply.
- 11.4 TfL acknowledges that Service Provider is not the supplier of the Ordered Goods and Ordered Services and the only warranties offered are those of the Key Sub-Contractor, not the Service Provider. In purchasing the Ordered Goods and Ordered Services. TfL relies on the Key Sub-

Contractor's specifications only and clauses 15.3.3, 15.3.4, 15.3.7, 15.3.8, 15.3.12, 15.3.13, 15.3.15 and 15.3.13 shall not apply.

12. **SOURCE CODE, ESCROW AND VERIFICATION SERVICES**

Not used.

13. **DATA PROTECTION**

The following Special Conditions apply to this Call-Off Contract.

14. **CONFLICT OF INTEREST**

The Service Provider acknowledges and agrees that as at the Call-Off Contract Effective Date it does not have an interest in any matter where there is or is reasonably likely to be a conflict of interest with the Services provided to the Contracting Body under this Call-Off Contract.

15. **BUSINESS CONTINUITY AND DISASTER RECOVERY**

N/A

16. **CALL-OFF CO-ORDINATOR /COMMERCIAL MANAGER AND KEY PERSONNEL**

The Contracting Body's Call-Off Co-ordinator in respect of this Call-Off Contract is Jack Silvester, Commercial Manager.

The Service Provider's Key Personnel in respect of this Call-Off Contract is Paul Roman, Bid manager.

17. **KEY SUB-CONTRACTORS**

N/A

18. **TERMINATION RIGHTS**

As per ICT12833 Reseller and Associated Services 2 framework terms and conditions


19. **EXIT PLAN**

As per ICT12833 Reseller and Associated Services 2 framework terms and conditions

This Call-Off Contract has been signed by duly authorised representatives of each of the Parties.

SIGNED

For and on behalf of Transport for London

Signature:  _____
DocuSigned by: [Redacted]
624B145A10C3403...

Name:  _____

Title: Senior Category Manager _____

Date: 9/12/2022 | 09:26 GMT _____

SIGNED

For and on behalf of Probrand

Signature:

A black rectangular box redacting the signature.

Name:

A black rectangular box redacting the name.

Title: Tenders Manager

8/12/2022 | 17:12 GMT

Date:

ATTACHMENT 1 TO THE CALL-OFF CONTRACT
SERVICE PROVIDER SOLUTION

Product Detail	Item Cost	Line Total
ARCH - FLM Maintenance & Support renewal for TFL - year one - Year one paid before 31/12/2022 - 01.01.23 to 31.12.23 Qty: 1		
ARCH - FLM Maintenance & Support renewal for TFL - year one - Year one paid before 31/12/2022 - 01.01.24 to 31.12.24 Qty: 1		
ARCH - FLM Maintenance & Support renewal for TFL - year three - Year three paid before 31/12/2024 - 01.01.25 to 31.12.25 Qty: 1		

Probrand are a reseller of ARCH and ARCH terms and conditions apply to this tender.

Please note – ARCH pricing is based on a 3 year non cancellable non refundable order and they require a PO upfront for all 3 years, which we will bill to TFL annually over the 3 years.

This pricing protects TFL from RPI increases year on year during this 3 year contract.

All prices are in GB Pounds and exclude VAT. TOTAL: 129,194.07

ANNEX 1 TO THE CALL-OFF CONTRACT
LICENCE TERMS AND CONDITIONS

Probrand are a reseller of Arch Consulting Ltd and Arch Consulting Ltd standard terms and conditions apply to TFL for this order.

This is a 3 year non cancellable non refundable order, in order to lock in this reduced special pricing.

Please note there is a 90 day cancellation notice period required to be given by TFL on this order if you do not wish to renew this order from automatically renewing for one further year at the end of this contract period.

ANNEX 2 TO THE CALL-OFF CONTRACT

CALL-OFF CONTRACT CHANGE PROCEDURE

1. **PRINCIPLES**

- 1.1 If the Contracting Body requests, or the Service Provider recommends, to change any of the Goods and/or Services or an amendment to the terms of this Call-Off Contract, then the Parties shall follow the formal Change Control Procedure as set out in this Annex 2.
- 1.2 The Service Provider shall not unreasonably withhold its agreement to any change to the Goods and/or Services or any amendments to the terms of this Call-Off Contract requested by the Contracting Body.
- 1.3 Until such time as a change to the Goods and/or Services or an amendment to the terms of this Call-Off Contract is made in accordance with this Change Control Procedure, the Contracting Body and the Service Provider shall, unless otherwise agreed in writing, continue to perform the rights and obligations under this Call-Off Contract in compliance with its terms prior to such change or amendment.
- 1.4 Any discussions which may take place between the Contracting Body and the Service Provider before a change to the Goods and/or Services or an amendment to the terms of this Call-Off Contract shall be without prejudice to the rights of either Party.
- 1.5 Any work undertaken by the Service Provider which has not been agreed in accordance with the Change Control Procedure or otherwise agreed by the Contracting Body in writing, shall be undertaken entirely at the expense and liability of the Service Provider.

2. **PROCEDURES**

- 2.1 Discussions between the Contracting Body and the Service Provider concerning a change to the Goods and/or Services or an amendment to the terms of this Call-Off Contract may result in any one of the following:
 - 2.1.1 no further action being taken;
 - 2.1.2 a request to change to the Goods and/or Services or an amendment to the terms of this Call-Off Contract by the Contracting Body; or
 - 2.1.3 a recommendation to change to the Goods and/or Services or an amendment to the terms of this Call-Off Contract by the Service Provider.
- 2.2 If the Parties agree to change to the Goods and/or Services or an amendment to the terms of this Call-Off Contract, the parties shall draft and agree a contract change note (a "**CCN**"). If one Party signs a CCN, then the CCN shall remain valid for a limited period of twenty (20) Business Days and if the CCN is not signed by the other Party within that time, the CCN lapses and has no further effect (and this Call-Off Contract is not amended by the CCN), even if the other Party later signs the lapsed CCN (unless the Parties separately and expressly agree otherwise in writing).
- 2.3 Each CCN shall contain:
 - 2.3.1 the title of the amendment;
 - 2.3.2 the originator and date of the request or recommendation for the amendment;
 - 2.3.3 the reason for the amendment;
 - 2.3.4 full details of the amendments to the drafting of this Call-Off Contract;
 - 2.3.5 the effective date of the amendments to the drafting of this Call-Off Contract;
 - 2.3.6 the Charges, if any, for the amendment;
 - 2.3.7 a timetable for implementation together with any proposals for acceptance of the amendment;
 - 2.3.8 a schedule of payments of the Charges, if appropriate; and
 - 2.3.9 provision for signature by the Contracting Body and by the Service Provider.

- 2.4 The Contracting Body and the Service Provider may prepare an impact assessment of the likely impact of the changes rendered by a CCN to the provision of the Goods and/or Services and the Parties' rights and obligations under this Call-Off Contract. The impact assessment shall have no effect on the CCN or this Call-Off Contract.
- 2.5 Until a CCN is signed by both Parties, it shall have no effect and shall not amend the drafting of this Call-Off Contract.