

These Terms and Conditions (the “Terms”) apply to the Managed Service offered by Quicksilva Limited under Lot 3 of the G-Cloud 15. These Terms should be read in conjunction with the document “Quicksilva Consultancy Services - Service Definition”.

1 Definitions and interpretation

1.1 In these Terms, unless the context otherwise requires, the following words have the following meanings:

Definition	Interpretation
“Call Off Contract”	means the contract entered into by the Parties for the provision of services in the form contained in the document “Crown Commercial Services G-Cloud 15 Call-Off Contract”;
“Commencement Date”	means the Start Date specified in the Call-Off Contract, Part A – Order Form;
“Customer”	means the Buyer as described in the Call-Off Contract, Part A – Order Form;
“Data Protection Legislation”	means the data Protection Act 2018(UK), the General Data Protection Regulation (EU 2016/679) and/or any national implementing laws regulations and secondary legislation as amended or updated from time to time in the UK.
“Data Controller”	takes the meaning defined in the Data Protection Legislation;
“Data Processor”	takes the meaning defined in the Data Protection Legislation;
“Data Loss Event”	means any event that results or may result in unauthorised access to personal Data held by the Customer under these Terms;
"Documentation"	means all documents or other materials that may be provided by Quicksilva from time to time under these Terms as part of the Services;
“Intellectual Property Rights”	shall mean all patents, trade marks, designs, copyright, database rights, software coding, inventions, trade secrets and other confidential information, know-how, business names and all other intellectual property rights of a similar nature in any part of the world, whether registered, registrable or not and including all applications and the right to apply for any of the foregoing rights and the right to sue for past infringements of any of the foregoing rights;
“Party”, “Parties”	means Quicksilva Limited and the Customer wishing to purchase services through the G- Cloud Framework Agreement and “Party”, “Parties” shall mean either one or both as the context requires;
“Processing”	takes the meaning defined in the Data Protection Legislation;

Definition	Interpretation
"Pre-Existing Materials"	shall mean information, software, designs, reports, studies, manuals or other materials belonging to Quicksilva which existed before the commencement of the Services;
"Schedule of Work"	shall mean the Call Off Contract, Part A – Order Form associated with these Terms setting out the services to be provided by Quicksilva to the Customer and the Fees payable by the Customer;
"Service Definition"	means the document provided on the G-Cloud 15 Digital Marketplace entry for Quicksilva Limited entitled "Quicksilva Consultancy Services - Service Definition";
"Services"	shall mean the services to be provided by Quicksilva as set out in the Schedule of Work;

2 Commencement and Duration

2.1 Quicksilva shall provide the Services from the Start Date specified in the Call Off Contract, Part A – Order Form until expiry or termination of the Call Off Contract for any reason.

3 Obligations of Quicksilva

3.1 Quicksilva shall provide the Services with reasonable care and skill and use its reasonable endeavours to provide the Services in accordance with the Schedule of Work.

3.2 Quicksilva shall use reasonable endeavours to meet any time scales specified in the Schedule of Work but any such dates shall be estimates only.

3.3 Quicksilva shall use reasonable endeavours to ensure that its personnel have the necessary skills and expertise to perform the Services. For the avoidance of doubt, Quicksilva shall be free to substitute any personnel engaged in providing the Services to the Customer.

3.4 Quicksilva shall use reasonable endeavours to observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of Customer's premises and that have been communicated to it, provided that it shall not be liable under these Terms if, as a result of such observation, it is in breach of any of its obligations under these Terms.

4 Obligations of the Customer

4.1 The Customer shall provide, for Quicksilva and its personnel, in a timely manner, free and uninterrupted access to the Customer's premises, data, systems, applications, software and other facilities to enable Quicksilva to provide the Services as requested by Quicksilva and, where reasonably requested by Quicksilva the Customer shall procure access to any third party premises, data and other facilities;

- 4.2 The Customer shall provide, in a timely manner any information as Quicksilva may request in order to comply with its provision of the Services and the Customer shall ensure that it is true, accurate and complete in all material respects;
- 4.3 The Customer shall ensure that any information provided by the Customer to Quicksilva for use in the supply of the Services is free from any defamatory or unlawful content and that it does not infringe any rights (including any Intellectual Property Rights) of any third party;
- 4.4 The Customer shall inform Quicksilva of all health and safety rules and regulations and any other reasonable security requirements that apply at any of Customer's premises;
- 4.5 The Customer shall comply with and continue to comply with the Data Protection Act 1998 in supplying Quicksilva with any information and materials.
- 4.6 The Customer shall obtain and maintain all necessary licences and consents and comply with all relevant legislation to allow the provision of the Services by Quicksilva including the use of information and the use of the Customer's equipment in all cases before the date on which the Services are to start.
- 4.7 When Quicksilva's personnel attend at any of the Customer's premises in connection with the supply of the Services, the Customer shall:-
- 4.7.1 take all reasonable steps to ensure the health and safety of Quicksilva's personnel; and
 - 4.7.2 ensure that an adequate policy of insurance is in place in respect of any injury to or death of Quicksilva 's personnel.

5 Intellectual Property Rights

- 5.1 In providing the Services Quicksilva may create, adapt or modify reports, studies, manuals, processes, designs, software and other code or other materials (the "**Works**").
- 5.2 The Works and the Pre-Existing Materials, together with all Intellectual Property Rights subsisting on, in or in relation to the Works and the Pre-Existing Materials, will belong (as between Quicksilva and the Customer) to Quicksilva absolutely, and no rights in the Works or the Pre-Existing Materials are granted to the Customer save for a non-exclusive licence to use such of the Works and the Pre-Existing Materials as are reasonably necessary for the purposes contemplated by these Terms.
- 5.3 The licences referred to at Clause 5.2 above are granted strictly subject to the condition that the Customer will not decompile, copy, adapt or modify any software comprised in the Works or the Pre-Existing Materials.
- 5.4 The Customer shall, at the expense of Quicksilva, execute all documents and provide such information and assistance as Quicksilva may require for the purpose of vesting in Quicksilva all right, title and interest in the Intellectual Property Rights described in Clause 5.2.

6 Data Protection Legislation

- 6.1 Each Party undertakes to comply with any relevant obligations imposed on it under Data Protection Legislation.
- 6.2 The Parties agree that the Customer is the Data Controller and Quicksilva is the Data Processor.

6.3 The Customer authorises Quicksilva to carry out all Processing necessary to fulfil its obligations under these Terms unless the Law requires otherwise, in which case Quicksilva shall promptly notify the Customer of any additional Processing if permitted by Law.

6.4 Each Party shall notify the other immediately if it receives any communication from a third party relating to the Parties' obligations under Data Protection Legislation or it becomes aware of a Data Loss Event and will provide the other Party with reasonable ongoing assistance in relation to each Parties obligations under Data Protection Legislation within a reasonable timescale.

6.5 Customer requests for Quicksilva assistance required to facilitate an audit of the Customer by the Information Commissioner in accordance with Data Protection Legislation shall be at the cost of the Customer and shall be charged at Quicksilva's current day rate tariff on a time and materials basis.

7 Termination

7.1 Quicksilva may terminate these Terms immediately by serving written notice to the Customer if at any time one or more of the following events occurs:

7.1.1 the Customer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) enters administration or goes into liquidation (otherwise than for the purposes of solvent amalgamation or reconstruction); or

7.1.2 a security holder takes possession, or a receiver or administrative receiver is appointed, over all or any material part of the property or assets of the Customer; or

7.1.3 anything analogous to any of the foregoing occurs to the Customer under the law of any jurisdiction; or

7.1.4 the Customer ceases, or threatens to cease, to carry on business; or

7.1.5 the Customer commits any material breach of any of the provisions of these Terms and in the case of a breach capable of remedy, fails to remedy the same within 45 days after receipt of a written notice of the breach and requiring it to be remedied.

7.2 Quicksilva may suspend or terminate these Terms:

7.2.1 immediately in the event that Quicksilva becomes aware that the Customer has allowed the use of the Services by persons other than End Users, Quicksilva notifies the Customer of the same and the Customer allows the use of the Services by persons other than End Users to persist for a period of 5 days from such notification;

7.2.2 where it is required to do so by law; or

7.2.3 if Quicksilva loses any licence which Quicksilva requires to provide the Services or if Quicksilva is unable (having used all reasonable endeavours) to obtain or maintain the supply of hosting services necessary to provide the Services.

8 Non-Solicitation

8.1 The Customer shall not, for the duration of these Terms and for a period of 12 months following termination, directly or indirectly induce or attempt to induce any employee of Quicksilva who has been engaged in the provision, review or management of the Support Services or otherwise in connection with these Terms to leave the employment of Quicksilva.

9 Publicity

9.1 Quicksilva shall make all reasonable efforts to have any marketing communication involving the Customer, including advertisements, direct mail, or press releases, approved in advance by the Customer. The Customer shall not unreasonably deny or delay such approval. Any such materials will be reviewed by the Customer within 21 days of receipt. If the Customer does not respond to a request for approval within 21 days of receipt, it will be deemed to have approved the relevant materials. Quicksilva may, without advance approval of the Customer, include the Customer's name on Quicksilva's customer list.