

Xact Consultancy and Training Limited

Terms and Conditions Policy

OUR TERMS

1. Definitions

1.1 When the following words with capital letters are used in these Terms, this is what they will mean:

Applicant: means an individual that completes qualifications by RPL and workplace evidence;

Booking Form: means the online purchase order form; in-house booking form; or other form provided by Us and completed by You and accepted by Us to book the Services;

Course: means a training course or courses provided on an open or in house basis by Us in the provision of the Services and as specified in the Order;

Course Materials: means any training materials or methods/exercises used for the delivery of the Course;

Delegate: means an individual that attends a Course and achieves qualifications from their course work;

Event Outside Our Control: is defined in clause 8;

Order: Your order for the Services as set out in the Booking Form You have completed and upon which You have confirmed You have read and agreed these Terms and Conditions;

RPL: recognition of prior learning

Services: the services that We are providing to You as set out in the Order;

Terms: the terms and conditions set out in this document; and

We/Our/Us: Xact Consultancy and Training Limited, 3 Abbey Lane Court, Evesham, Worcestershire WR11 4BY.

1.2 When We use the words "writing" or "written" in these Terms, this will include email unless We say otherwise.

2. Our contract with You

2.1 These are the terms and conditions on which We supply Services to You.

2.2 Please ensure that You read these Terms carefully, before You sign and submit the Order, or tick the box to confirm You accept these Terms when booking online. If You think that there is a mistake or require any changes, please contact Us to discuss. We will confirm any changes in writing to avoid any confusion between You and Us.

2.3 When You submit the Order to Us (whether completed by You online or completed by Us online as a result of an order received via telephone communication), this does not mean We have accepted Your order for Services. Our acceptance of the Order will take place as described in clause 4. If We are unable to supply You with the Services, We will inform You of this in writing and We will not process the Order.

2.4 These Terms will become binding on You and Us when We have accepted the Order and have booked You on the Course or other Service, at which point a contract will come into existence between You and Us and we will issue You with joining instructions.

2.5 Any special dietary, access or learning requirements must be notified to Us at the time You place the Order with Us.

2.6 If any of these Terms conflict with any term of the Order, the Order will take priority.

3. Changes to order or terms

3.1 We may revise these Terms from time to time due to changes in relevant laws and regulatory requirements or in line with industry best practice standards.

3.2 In certain circumstances We will accept a provisional Order. Such orders will only be held of ten working days or until We receive an order from another party for the same period.

3.3 If We have to revise these Terms under clause 3.1, We will give You at least one month's written notice of any changes to these Terms before they take effect. You can choose to cancel the contract in accordance with clause 9.3.

3.4 You may make a change to the Order for Services within five working days of placing an Order. Where this means a change in the total cost of the Services, We will notify You of the amended cost in writing. You can choose to cancel an Order for the Additional Services in accordance with clause 9.3 in these circumstances and if the revised total cost for the Services is not accepted by You.

3.5 If You wish to cancel an Order before it has been fulfilled, please see your right to do so in clause 9.1.

4. Providing services

4.1 We will supply the Services to You from the date set out in the Order or such other date agreed between Us verbally and then confirmed in writing and for the time it takes for Us to deliver the Services or the element of the Services constituting the Course, whichever is the longer.

4.2 We will make every effort to complete the Services on time. However, there may be delays due to an Event Outside Our Control. See clause 8 for Our responsibilities when an Event Outside Our Control happens.

4.3 We will need certain information from You that is necessary for Us to provide the Services. We will contact You about this when we receive the Order. If You do not, after being asked by Us, provide Us with this information, or You provide Us with incomplete or incorrect information, We may make an additional charge of a reasonable sum to cover any extra work that is required, or We may suspend the Services by giving You written notice. We will not be liable for any delay or non-performance where You have not provided this information to Us after We have asked. If We suspend the Services under this clause 4.3, You do not have to pay for the Services while they are suspended, but this does not affect the obligation to pay for any invoices We have already sent You or for Service performed and for which invoices have not yet been sent to You.

4.4 You must inform Us of any risk assessments, health and safety matters and requirements of which We need to be aware of or comply with in the provision of the Services at least ten days before the date booked for commencement of the Services.

4.5 Where the Services require the provision of an in-house Course, You are required to provide sufficient teaching resources as detailed in the Order.

4.6 Unless otherwise notified to You, the teaching day for a Course is from 09.00 to 17.00 between Monday and Friday.

- 4.7 You are responsible for informing Us at least ten days before the commencement of Our delivery of the Services of any Delegate or Applicant who has mobility, visual, hearing or cognitive impairment or condition which may affect their learning, so that We can work with You and the individual concerned to identify ways in which We can support learning. We refer You to our Reasonable Adjustment Policy for further details of the action we may take to reduce the effect of any such impairment or condition upon the individual.
- 4.8 You must provide a Delegate with copies of the Course reference documents both prior to and after the completion of the Course.
- 4.9 A Delegate or Applicant is expected to dress professionally and appropriately when attending courses and premises managed by Us and to act in a professional and courteous manner in communication between the Delegate or Applicant and Us. An inappropriately dressed Delegate or Applicant will be asked to leave and delegates are expected to behave professionally at all times when attending a Course and premises managed by Us. Any Delegate or Applicant behaving inappropriately will be asked to leave and a Delegate or Applicant failing to act in a professional and courteous manner in communications will entitle Us to suspend the Services. We refer You to our Standards of Appearance Policy for further details.
- 4.10 Where an assessment is part of our service, costs to You include one re-submission of evidence. Additional fees will be payable if any subsequent re-submission, support, mentoring, additional learning or development is required.
- 4.11 We have to comply with requirements of organisations such as Awarding Bodies and OFQUAL. Compliance with these requirements will be deemed to take precedence over other matters and therefore We are permitted to treat compliance with requirements to maintain Our status as approved assessment centre as taking precedence over other matters.
- 4.12 We may have to suspend the Services if We have to deal with technical problems, or to make improvements agreed between You and Us in writing to the Services. We will contact You to let You know in advance where this occurs, unless the problem is urgent or an emergency. You do not have to pay for the Services while they are suspended under this clause 4.12 but this does not affect your obligation to pay for any invoices We have already sent You or will be sending You.
- 4.13 If You do not pay Us for the Services when You are supposed to as set out in clause 6, We may suspend the Services with immediate effect until You have paid Us the outstanding amounts (except where You reasonably dispute an invoice). We will contact You to tell You this. This does not affect Our right to charge You interest under clause 6.8.
- 4.14 If We design the Course or any Course Materials for You or We use our own designs for the provision of the Services, We will own the copyright, design right and all other intellectual property rights in the Course and Course Materials and any drafts, drawings or illustrations We make in connection with the Course for You.
- 4.15 You agree that we entitled to assume that any person booking our Services on behalf of You have the requisite authority to make such a booking.

5. If there is a problem with the services

- 5.1 In the unlikely event that there is any problem with the Services:
 - a) please contact Us and tell Us as soon as reasonably possible;
 - b) please give Us a reasonable opportunity to repair or fix any problem; and
 - c) We will use every effort to repair or fix the problem as soon as reasonably practicable.

You will not have to pay for Us to repair or fix a defect with the Services under this clause 5.1.
- 5.2 Where We provide You with the Services as a consumer, You have legal rights in relation to Services not carried out with reasonable skill and care, or if the materials We use are faulty or not as described. Advice about legal rights available from a local Citizens' Advice Bureau or Trading Standards office. Nothing in these Terms will affect these legal rights.
- 5.3 Clause 5.2 will not apply in situations where We provide You with the Services to You where You received the Services as a business.

6. Cost and payment

- 6.1 The cost of the Services will be set out in Our cost list in force at the time We confirm the Order. Our costs may change at any time, but cost changes will not affect Orders that We have confirmed with You.
- 6.2 These costs do not include VAT, which will be added to the cost at the time We invoice You and which will be at the time of acceptance of the Order. If You are entitled to claim an exemption from being charged VAT, You must provide us with evidence that this has been granted e.g. a copy of a valid VAT Relief Certificate from HM Revenue and Customs.
- 6.3 Invoices for open-courses are payable thirty calendar days before the commencement of the delivery of the Services (or upon presentation if the Course is booked less than thirty calendar days before commencement of the Course) for a Course booked on an open basis (whichever is the sooner). Orders and places on a Course and cannot be accepted or confirmed until payment is received in full.
- 6.4 Invoices for RPL applications are payable before the commencement of the Services. Orders for RPL applications cannot be accepted or confirmed until payment is received in full.
- 6.5 Subject to clauses 6.6 and 6.7, where the Services include the provision of an in house Course or We specifically agree to invoice You after the completion of the Course, We will invoice You on the last day of the Course and invoices must be paid within thirty calendar days of the completion of the Course.
- 6.6 Where the provision of Services includes the provision of a consultancy service, We are entitled to invoice at regular monthly intervals and these monthly invoices will be payable within thirty calendar days of presentation.
- 6.7 We may, at Our absolute discretion, determine that invoices for a Course must be payable before commencement of the Course in circumstances where We determine that it is reasonable for Us to decline credit for payment of the invoice or on the first occasion upon which We are engaged to provide Services to You.
- 6.8 We reserve the right to cancel any Order if payment is not received within times specified in clauses 6.
- 6.9 If You do not make any payment due to Us by the due date for payment, and without prejudice to other remedies available to Us, We may charge interest to You on the overdue amount at the rate of 8% per annum above the base lending rate of Bank of England from time to time, together with an administration fee. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay Us interest together with any overdue amount.

7. Our liability to You

- 7.1 If We fail to comply with these Terms, We are responsible for loss or damage You suffer that is a foreseeable result of Our breach of the Terms or Our negligence, but We are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if they were an obvious consequence of Our breach or if they were contemplated by You and Us at the time we entered into this contract.
- 7.2 If We are providing Services in your property or a premises rented by You for the purposes of the delivery of the Services, We will make good any damage to your property or the premises caused by Us in the course of performance of the Services. However, We are not responsible for the cost of repairing any pre-existing faults or damage to your property or the premises that We discover in the course of performance of the Services by Us.
- 7.3 Course Materials are produced for use as training aids and should only be used in conjunction with the Course. No warranty is implied or given as to the suitability or fitness for purpose of the Course Materials for uses other than for the teaching of the Course and anyone making use of the Course Materials for any other purposes does so at his or her own risk.
- 7.4 We do not exclude or limit in any way Our liability for:
 - a) death or personal injury caused by Our negligence or the negligence of Our employees, agents or subcontractors;
 - b) fraud or fraudulent misrepresentation; or
 - c) breach of the terms implied by section 13 of the Supply of Goods and Services Act 1982.
- 7.5 We carry public liability insurance and professional indemnity insurance to a minimum level of £5 million and these are available for inspection, upon request.

8. Events Outside Our Control

- 8.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of Our obligations under these Terms that is caused by an Event Outside Our Control.
- 8.2 An Event Outside Our Control means any act or event beyond Our reasonable control, including without limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks or cancellation or suspension of public transport.
- 8.3 If an Event Outside Our Control takes place that affects the performance of Our obligations under these Terms:
- 8.4 We will contact You as soon as reasonably possible to notify You; and
- 8.5 Our obligations under these Terms will be suspended and the time for performance of Our obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects Our performance of Services to You, We will restart the Services as soon as reasonably possible after the Event Outside Our Control is over.
- 8.6 You may cancel the contract if an Event Outside Our Control takes place and You no longer wish Us to provide the Services. Please see the cancellation rights under clause 9. We will only cancel the contract if the Event Outside Our Control continues for longer than four weeks in accordance with Our cancellation rights in clause 10.

9. Your rights to cancel and applicable refund

- 9.1 If You cancel and Order before We begin to provide the Services, We will try to fill the place on the Course however You will be responsible for compensating Us for any losses We suffer as a result of the cancellation, which will include but not be limited to the costs of the Course.
- 9.2 No refund will be given for non-attendance at a Course that We provide as part of the Services.
- 9.3 You have the right to cancel an Order for Services where You choose to cancel because We are affected by an Event Outside Our Control or if We change these Terms under clause 3.1 to your material disadvantage.
- 9.4 Where You cancel an Order for Services for any other reason than those specified in clause 9.3, You will need to pay the following cancellation fees:
 - a) Cancellation 8-16 weeks before the date upon which the provision of the Services is to commence, a cancellation charge 25% of the cost of the Services;
 - b) Cancellation 4-8 weeks before the date upon which the provision of the Services is to commence, a cancellation charge 50% of the cost of the Services;
 - c) Cancellation 2-4 weeks before the date upon which the provision of the Services is to commence, a cancellation charge 75% of the cost of the Services;
 - d) Cancellation 0-2 weeks before the date upon which the provision of the Services is to commence, a cancellation charge 100% of the cost of the Services.
- 9.5 Once We have begun to provide the Services to You, any cancellation will result if You being liable to pay Us the full cost for the Services.

10. Our rights to cancel and applicable refund

- 10.1 If We have to cancel an Order for Services before the Services start:
 - a) We may have to cancel an Order before the start date for the Services, due to an Event Outside Our Control or the unavailability of key personnel or key materials without which We cannot provide the Services. We will promptly contact You if this happens.
 - b) If We have to cancel an Order under clause a) and You have made any payment in advance for Services that have not been provided to You, We will refund these amounts to You.
 - c) Where We have already started work on the Order for Services by the time We have to cancel under clause a), We will not charge You for any part of the Services that we are unable to complete.
- 10.2 Once We have begun to provide the Services to You, We may cancel the contract for the Services at any time by providing You with at least thirty calendar days' notice in writing. If You have made any payment in advance for Services that have not been provided to You, We will be entitled to retain such sums as are necessary to compensate us for costs and expenses we have incurred as a result of You cancelling the contract for the Services.

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- 10.3 We may cancel the contract for Services at any time with immediate effect by giving You written notice if:
- You do not pay Us when You are supposed to as set out in clause 6. This does not affect Our right to charge You interest under clause 6.9; or
 - You break the contract in any other material way and You do not correct or fix the situation within five working days of Us asking You to in writing.
- 10.4 Where Services provided to You as a Consumer and We receive instructions from You, without meeting You in person at our business premises, or where the Services are to be provided other than at our business premises and are not for the provision of Services that are time specific (e.g. a fixed date for attendance at a course), You will be entitled under Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 to cancel this agreement within 14 calendar days of signing unless You have instructed Us to commence the Services we provide immediately. In such circumstances You will be deemed to have waived your right to cancel this agreement.

11. Information about us and how to contact us

- 11.1 We are a company registered in England and Wales. Our company registration number is 05295715 and Our registered office is at 3 Abbey Lane Court, Evesham, Worcestershire, WR11 4BY. Our registered VAT number is GB 855457004.
- 11.2 We will provide You with contact information prior to the commencement of the Service. This information will include basic company information and contact details, together with our bank details and basic insurance information, where requested. We will not answer requests for additional information about Us and which has, or will, be provided elsewhere in documentation We issue during the term of this contract. In particular, we will not complete data capture forms issued by You.
- 11.3 If You have any questions, enquiries, complaints or appeals, please contact Us in the following ways:
- 11.3.1 For General enquires, please contact info@xact.org.uk.
 - 11.3.2 For Course enquiries, please contact courses@xact.org.uk.
 - 11.3.3 For Qualification enquires, please contact qualifications@xact.org.uk.
 - 11.3.4 For Complaints, please refer to our Complaints Policy and email complaints@xact.org.uk.
 - 11.3.5 For Appeals (regarding assessment process), please refer to our Appeals Policy email appeals@xact.org.uk.
 - 11.3.6 For Data enquiries, please refer to our Data Management Policy and email datacontroller@xact.org.uk.
- 11.4 You can ALSO contact Us by telephoning Our customer service team at 01386 277980 or If You wish to contact Us in writing, or if any clause in these Terms requires You to give Us notice in writing (for example, to cancel the contract), You can send this to Us by email, by hand, or by pre-paid post to Xact Consultancy and Training Limited at 3 Abbey Lane Court, Evesham, Worcestershire, WR11 4BY. We will confirm receipt of this by contacting You in writing. If We have to contact You or give You notice in writing, We will do so by email, by hand, or by pre-paid post to the address You provide to Us in the Order.

12. How we may use personal information provided by You

- 12.1 We will use the personal information You provide to Us to assist us in the provision of the Services and in processing payments for the Services.
- 12.2 Full details of the ways in which we use any personal information is contained within our Data Management Policy.

13. Website

- You agree to the following specific Terms relating to the use of Our Website:
- 13.1 All information and publications on our Website are protected by copyright and belong to Us.
- 13.2 Save as expressly permitted by Us in writing the copying and reproduction of any material from our Website or any incorporation of the same into any other material in any media or format of any kind is strictly prohibited. All rights are reserved.
- 13.3 We make no representations warranties or guarantees of any kind in respect of any information and publication made available to You on our Website. To the maximum extent permitted by law We expressly exclude all representations warranties obligations and liabilities arising out of or in connection with all such information and publication on our Website.
- 13.4 All information and publication which are available to You on Our Website is general information only and correct at the time of writing.
- 13.5 We are committed to protecting and respecting your privacy and details or the ways in which we achieve this are set out in our Website Privacy Policy.

14 Other important terms

- 14.1 We may transfer Our rights and obligations under these Terms to another organisation, and We will always notify You in writing if this happens, but this will not affect your rights or Our obligations under these Terms.
- 14.2 We seek to continually improve the Services and therefore We reserve the absolute right to make changes to any part of the Services at our discretion and without such changes constituting a breach of these Terms. Where changes occur, those affected will be notified as soon as possible.
- 14.3 We own the copyright and intellectual property rights in the Services and Course Materials. We acknowledge and accept that all material made available to Us by You for the provision of the Services remains your property and will not be used or disclosed without the prior written consent of You. However, You shall not assume the copyright or intellectual property rights in Our own copyright material or intellectual property through provision of training services.
- 14.4 This contract is between You and Us. No other person shall have any rights to enforce any of its terms.
- 14.5 Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- 14.6 If We fail to insist that You perform any of your obligations under these Terms, or if We do not enforce Our rights against You, or if We delay in doing so, that will not mean that We have waived Our rights against You and will not mean that You do not have to comply with those obligations. If We do waive a default by You, We will only do so in writing, and that will not mean that We will automatically waive any later default by You.
- 14.7 These Terms, and the documents referred to in them, constitute the entire agreement between You and Us and are governed by English law. You and We both agree to submit to the non-exclusive jurisdiction of the English courts.
- 14.8 Please see our website for copies of our Policies.