



Terms and Conditions of Business

Please read these Terms and Conditions carefully. You are required to read and understand them before instructing Acquila Ltd or proceeding further with an order.

Where the context admits: "We", "Us" or "Our" includes Acquila Ltd whose registered office is The Dairy House, Moneyrow Green, Berkshire, SL6 2ND, United Kingdom or any party acting on Acquila Limited's implicit instructions. "You" includes the person purchasing the services or any party acting on the Client's instructions.

Unless otherwise expressly written and mutually agreed, the following conditions apply to all proposals, contracts and agreements made between Acquila Limited (trading as XPT Associates) and a Client Company.

Acquila Limited retains the right to refuse to sell to the Client Company any of the services described in its literature or on its web site.

English law shall govern all legal aspects of the relationship between Acquila Limited and the Client Company.

Definitions

"The Terms of Engagement" means any written proposal submitted to the client by Acquila Limited.

"Consultant" means a representative of Acquila Limited.

"The Assignment" means the Assignment referred to in the Terms of Engagement.

"The Terms of Reference" means the Terms of Reference referred to in the Terms of Engagement.

1.0 General

1.1 By ordering services you are agreeing to these Terms & Conditions.

1.2 We reserve the right to update these Terms and Conditions at any time without notice.

1.3 Handling complaints: Should you have any complaints regarding Services received from Us, please send an email to info@xptassociates.com detailing the nature of your complaint. We will acknowledge the complaint within 5 working days and provide a likely timescale for resolving the dispute while keeping you informed about progress. All complaints will be considered highly confidential, and be dealt with as soon as is possible.

Integrated solutions for engineering

Tel: 07704 970 218, email: mike@xptassociates.com

- 1.4 Nothing in these Terms and Conditions shall operate to exclude or limit Our liability for (a) death or personal injury caused by our negligence; or (b) any breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the supply of Goods and Services Act 1982; or (c) fraud; or (d) any other liability which cannot be excluded or limited under applicable law.
- 1.5 Subject to 1.4 immediately above, We will not be held liable or responsible for any direct or indirect loss or damages to Your business or that of any third party.
- 1.6 Subject to 1.4 and 1.5 immediately above, Our liability shall in no circumstances exceed the total sums paid to Us by You under the relevant contract.

2.0 **Ordering, Delivery and Invoicing**

2.1 All quotations are valid for 30 days.

2.2 VAT at the standard rate is applicable to all fees and expenses.

2.3 Before commencement of work, Acquila Limited requires a non-cancellable purchase order, dated and signed by an authorized signatory of the Client Company.

2.4 Expenses:

Acquila Limited will charge reasonable expenses when carrying out work for the Client Company. Expenses will be re-charged to the Client Company at cost.

2.5 Invoicing and Payment:

All invoices are payable within 30 days of receipt.

Acquila Limited reserves the right to charge interest on overdue accounts in accordance with section 6 of the Late Payment of Commercial Debts (Interest) Act 1998 with a minimum rate of 10% per annum.

2.6 Cancellation Policy:

Training courses, workshops or consultancy days cancelled or rescheduled by the Client Company within five working days of the commencement of work will be charged at the full rate. Substitutions are permitted at any time.

Acquila Limited reserves the right to cancel, reschedule, or relocate a training course six working days prior to a course start date. Any payment made for a cancelled course will be refunded or applied to another course.

All direct costs already incurred by Acquila Limited in relation to the assignment will be recharged in full to the client.

2.7 Special Offers:

All offers are at the discretion of Acquila Limited. Acquila Limited retains the right to change or withdraw any or all offers at any time and without prior notice.

When an offer ceases to be current Acquila Limited will endeavour to remove any such offer from its web site in a timely manner. Acquila Limited retains the right to refuse to sell to the Client Company the services or software products that make up an offer that has ceased to be current but remains on its web site

Acquila Limited retains the rights to charge reasonable expenses when carrying out work for the Client Company even if that work is part of a special offer.

In the event that Acquila Limited is to match a competitive quotation, written proof of the quotation will be required.

3.0 Analysis Consultancy Services

3.1 As part of the provision of Finite Element Analysis services Acquila Limited will provide to the Client Company or representative of the Client Company, upon request, a report detailing the results of the analysis and outlining our recommendations.

3.2 Implementing the reported recommendations is entirely the responsibility of the Client Company.

3.3 Acquila Limited cannot be held responsible for anything related to the Client Company other than that contained in the written report.

3.4 Acquila Limited cannot be held responsible for the output of the analysis software and will only be responsible for the interpreted results as shown in our written report.

4.0 Assignment and Term of Reference

4.1 Acquila Limited agrees to carry out the contracted Assignment in accordance with the Terms of Reference specified by the Client and agreed with Acquila Limited.

4.2 The Client agrees to cooperate with Acquila Limited and any Consultant or other representative in the performance of the services and to give such support, facilities and information as may be reasonably required.

5.0 Confidentiality

5.1 Acquila Limited undertakes not at any time to divulge or allow to be divulged to any person any

confidential information relating to the business or affairs of the Client other than to subcontractors who have signed an appropriate secrecy undertaking or others where the Client has expressly or impliedly consented to the disclosure.

6.0 Delegation

- 6.1 Acquila Limited will consult with the Client before delegating any of its obligations hereunder.
- 6.2 Acquila Limited shall have discretion as to which subcontractors are assigned to perform its services but shall consult with the Client concerning any significant changes.

7.0 Intellectual Property

- 7.1 Acquila Limited undertakes not to cause or permit anything which may damage or endanger the intellectual property of the Client or the Client's title to it or assist or allow others to do so.
- 7.2 The Client undertakes not to cause or permit anything which may damage or endanger the intellectual property of Acquila Limited or Acquila Limited's title to it or assist or allow others to do so.

8.0 Liability and Insurance

- 8.1 Acquila Limited shall not be liable to the Client for loss or damage to the Client's property unless due to the negligence or other failure of the Consultant to perform their obligations under this agreement or the general law.
- 8.2 Acquila Limited shall have no liability to the Client for any indirect, special or consequential loss to the Client arising out of or in connection with the provision of any goods or services pursuant to this agreement (except in respect of death or personal injury resulting from negligence) (Ref 1.4) and the total liability of Acquila Limited for any other loss of the Client arising pursuant to this agreement in respect of any one event or series of connected events shall not exceed the indemnity cover (if any) arranged pursuant to the Terms of Engagement or if no such cover has been agreed between the Client and Acquila Limited the charges payable by the Client in respect of the Acquila Limited 's services hereunder.

9.0 Termination for Breach

The following obligations are conditions of this agreement and any breach of them shall entitle the party not in breach to terminate this agreement by immediate written notice and the rights and liabilities of the parties shall then be determined in accordance with clause 10:

- 9.1 Failure on the part of the Client to make punctual payment of all sums due to Acquila Limited under the terms of this agreement.
- 9.2 Failure on the part of Acquila Limited to remedy any breach of its obligations hereunder within a reasonable time following written notice from the Client which: refers to this clause; specifies the breach with full particulars; indicates how the breach is to be remedied and specifies the Client's opinion of a reasonable time for remedy.
- 9.3 The levying of distress or execution against the Client or the making by it of any composition or arrangement with creditors or the presentation of a petition for the Client's liquidation or bankruptcy or administration or the appointment of a receiver over any part of the Client's assets.
- 9.4 The doing or permitting of any act by which Acquila Limited's rights in any intellectual property may be prejudiced or put in jeopardy.
- 9.5 Any serious or persistent breach by the Client of its obligations hereunder.

10.0 Termination and Consequences

In the event of this agreement being terminated whether by effluxion of time, notice, breach or otherwise and without prejudice to any other remedy available to Acquila Limited the Client shall immediately pay to Acquila Limited:

- 10.1 Any sums due under the terms of this agreement and:
- 10.2 In the event of termination by reason of sub-clauses 9.1, 9.3, 9.4 or 9.5, any further sums which would but for the termination of this agreement have fallen due by the end of the engagement.

11.0 Outputs, Materials and Information arising from the Development of Training Courses

- 11.1 All intellectual property rights including copyright which are capable of existing in any documents, computer software or information or (without limit) other materials created or provided pursuant to this contract by Acquila Limited shall be and remain Acquila Limited's property.

- 11.2 The Client undertakes to keep all materials, documents and information provided to it by Acquila Limited confidential to itself and its employees and not to distribute any product of the services provided hereunder to any third party without Acquila Limited's prior written consent.
- 11.3 Any materials produced or supplied to the Client by Acquila Limited in which intellectual property rights are capable of subsisting shall be licensed to the Client for internal use only in connection with the purposes of the terms of reference and such license shall forthwith terminate if notice is given by Acquila Limited terminating this contract pursuant to clause 9.
- 11.4 The Client and Acquila Limited undertake with each other during the course of this contract not to infringe the intellectual property rights of any third party.

12.0 Outputs, Materials and Information arising from Consultancy Services

- 12.1 All intellectual property rights including copyright which are capable of existing in any documents, computer software or information or (without limit) other materials created or provided pursuant to this contract by Acquila Limited shall be and remain the property of the Client.
- 12.2 The Client and Acquila Limited undertake with each other during the course of this contract not to infringe the intellectual property rights of any third party.

13.0 References to Client

- 13.1 Subject to clause 5 (Confidentiality) Acquila Limited shall be entitled to refer to its provision of services to the Client for any purpose in connection with Acquila Limited's business provided that prior to any published reference to the Client Acquila Limited shall give the Client an opportunity to object to such reference and in the event of objection upon reasonable grounds shall not refer to the Client as proposed.

14.0 Miscellaneous

- 14.1 Warranty

Each of the parties warrants its power to enter into this agreement and has obtained all necessary approvals to do so.



14.2 Whole agreement

Each party acknowledges that this agreement (as varied) and the conditions contain the whole agreement between the parties and that it is not relied upon any oral or written representations made to it by the other or its employees or agents and has made its own independent investigations into all matters relevant to it.

14.3 Change of address

Each of the parties shall give notice to the other of the change or acquisition of any address or telephone, telex or similar numbers at the earliest possible opportunity but in any event within 24 hours of such change or acquisition.

14.4 Notices

Any notice to be served on either of the parties by the other shall be sent by pre-paid recorded delivery or registered post to the address of the relevant party shown at the head of this agreement or such other address substituted in writing under clause 14.3 (and if more than one address any such address) or by facsimile transmission or by electronic mail or by telex and shall be deemed to have been received by the addressee within 72 hours of posting or 24 hours if sent by facsimile transmission or by electronic mail or by telex to the correct facsimile number or electronic mail number of the addressee (with correct answer back).

14.5 Proper law and jurisdiction

14.5.1 This agreement shall be governed by English law in every particular including formation and interpretation and shall be deemed to have been made in England.

14.5.2 Any proceedings arising out of or in connection with this agreement may be brought in any court of competent jurisdiction in England or Wales.

14.5.3 The submission by the parties to such jurisdiction shall not limit the right of Acquila Limited to commence any proceedings arising out of this agreement in any other jurisdiction it may consider appropriate.

14.5.4 Any notice of proceedings or other notices in connection with or which would give effect to such proceedings may without prejudice to any other method of service be served upon any party in accordance with clause 14.4.

14.6 Waiver

Failure by either party to enforce at any time or for any period any one or more of the terms or conditions of this agreement shall not be a waiver of them or the right at any time subsequently to enforce all terms and conditions of this agreement.

15.0 Force Majeure

Both parties shall be released from their respective obligations in the event of national emergency, war, prohibitive governmental regulation or if any other cause beyond the reasonable control of the parties or either of them renders the performance of this agreement impossible, whereupon all money accrued due under this agreement shall be paid.

16.0 Mediation

In the event of any dispute arising between the parties in connection with this agreement, the parties will in good faith seek to resolve that dispute through mediation. The mediator shall be agreed upon within fourteen days of one party requesting mediation.

Unless otherwise agreed, the parties shall share equally the costs of the mediation. If the dispute is not resolved within 30 days or one of the parties refuses to participate in mediation, the dispute shall be resolved by way of litigation. Nothing in this clause shall prevent either party seeking a preliminary injunction or other judicial relief at any time if in its judgment such action is necessary nor shall the Consultant be precluded from issuing proceedings or taking any other step in relation to the non-payment of monies due.