

SCANIA (GREAT BRITAIN) LIMITED – BUSINESS TO BUSINESS TERMS FOR DRIVER TRAINING SERVICES

1. DEFINITIONS

In these Terms the following expressions have the following meanings:

"we", "us" and "our" means Scania (Great Britain) Limited, Registered in England No. 831017, Registered Office: Delaware Drive, Tongwell, Milton Keynes, MK15 8HB.

"Authorised Signatory" means a person authorised by us to sign on our behalf.

"Contract" means the contract for the supply of the Services incorporating these Terms.

"Course Materials" means all materials, equipment, documents, information, data and software provided by us to you in relation to the Services;

"DVSA" means Driver and Vehicle Standards Agency;

"Services" means our provision of (i) HGV driver training; or (ii) Category C Licence Acquisition Training; or (iii) Category C+E Licence Acquisition Training; or (iv) any other driver training services as more particularly set out in the Specification or agreed in writing with the customer from time to time.

"Specification" means the description or specification for the Services provided in writing to the Customer;

"Terms" means these terms and conditions.

2. YOUR CONTRACT WITH US

2.1. We shall only contract with the customer (you) on these Terms and these Terms exclude any other terms and conditions, including any endorsed on, delivered with or contained in a purchase order, confirmation of order, specification or other document. All orders placed by you will be deemed to be placed subject to these Terms. These Terms constitute the entire agreement between you and us and no other statements, representations or terms form part of it unless they are in writing, are expressly stated to be variations or supplements to this Contract and are signed by an Authorised Signatory.

2.2. Reference to "you" encompasses any driver nominated by you to undertake any Services. You shall be responsible for the actions of your nominated drivers (whether employed by you or otherwise) to the same extent that you are responsible for your own performance under the Contract.

2.3. Any tender or quotation given by us will comprise an invitation to treat and in any event is valid for a period of 30 days only from the date of its issue, unless otherwise stated in the tender or quotation. Any order issued by you is subject to acceptance by us and no order submitted by you shall be deemed to be accepted by us unless and until confirmed in writing by an Authorised Signatory. Acceptance of the quotation for Services by you from us shall be deemed to be an offer by you to buy the Services subject to these conditions. We shall not be obliged to accept any order given by you.

2.4. We may withdraw any quotation at any time before it is incorporated into a Contract.

3. SERVICES

3.1. We will provide the Services to you, in consideration of the payment referred to in clause 4.1, under the Terms of this Contract.

3.2. We will supply the Services to you in accordance with the Specification in all material respects.

3.3. Upon enquiry, we will advise you of estimated lead times. Any lead times are estimates only and you cannot rely on such dates.

3.4. We shall use our reasonable endeavours to meet any performance dates outlined in the Specification, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services. If, at Scania's request, the Services are delayed or rearranged, we shall offer you an alternative date to take the Services.

3.5. No estimate or assessment of training time given by us shall be considered in any way a guarantee that you will be ready to take a test or will pass a test at the end of the suggested training time.

3.6. We shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, including substituting any previously named instructor or vehicle and we shall notify you in any such event.

3.7. The Services will only be provided to individuals who meet Scania's eligibility requirements, including but not limited to, a successful medical assessment, successful completion of any theory requirements and the attainment of the relevant provisional licence. If you or any nominated driver fails to meet such eligibility criteria, Scania may terminate all or part of the Services forthwith and without liability.

4. PRICE

4.1. The price of the Services shall be our quoted price. Unless otherwise stated all prices quoted are exclusive of VAT.

4.2. We reserve the right at any time prior to your assessment date to increase the price to take into account:

4.2.1. any change in delivery dates, quantities or specification for the Services which is requested by you; or

4.2.2. any change in the relevant DVSA fees.

4.3. You will pay for any retakes (theory or practical) and additional training where the same has been agreed between the parties.

4.4. Scania shall not be liable for any third party costs incurred by you in order to meet Scania's eligibility requirements, including but not limited to, medical assessment fees, DVSA fees and provisional license fees, unless otherwise agreed between the parties in writing.

5. TERMS OF PAYMENT

5.1. We will invoice you for the Services at the time of booking. We may issue staged invoices and/or additional invoices in respect of agreed fees outside of the initial Service delivery (for example retest fees).

5.2. You must make payment within 30 days of the date of invoice or such other payment terms as agreed between the parties in writing, but it is recommended that payment is made in full at the time of booking as until we receive payment in full, the training dates will not be confirmed.

5.3. If you fail to make any payment on the due date then, without prejudice to any other right or remedy available to us, we shall be entitled to:

5.3.1. cancel the Contract or suspend any further deliveries of the Services;

5.3.2. charge you interest at 4 per cent per annum above Barclays Bank plc base rate for the time being on the amount unpaid such interest being deemed to accrue on a day to day basis from the due date for payment until payment in full is made; and/or

5.3.3. suspend our performance of all or any of our contractual obligations under or in connection with any other contract with you.

6. CANCELLATION

6.1. Cancellation of Services requested by you for whatever reason, are made subject to the following terms:

6.1.1. Notice of cancellation received in writing more than 28 days before the start of the course – 100% refund or transfer onto another course date;

6.1.2. Notice of cancellation received in writing between 7-28 days before the start of the course – 50% refund;

6.1.3. Notice of cancellation received in writing 7 days or less before the start of the course – 0% refund.

6.2. At our sole discretion, you may substitute a nominated driver candidate. You must provide a suitable replacement candidate that can be named on DVSA systems within DVSA timeframes. You must provide to us notice of any intended substitution at least 2 working days prior to any DVSA deadline. We will not charge a cancellation or substitution fee in respect of any substitution but you will be responsible for any resultant charges which may arise.

6.3. We reserve the right to cancel or change the Services and where reasonably possible we agree to provide reasonable notice of such cancellation or change to you. In such event, we shall offer you an alternative date to take the Services. You shall not be entitled to any refund, costs or damages arising from such cancellation or change.

6.4. We reserve the right to terminate the Services at any time where you are considered at our sole discretion (or that of any instructor) to (i) not meet Scania's eligibility and/or insurance requirements; (ii) at any time be under the influence of alcohol or drugs; (iii) are considered to be a hazard or danger to our instructor, yourself, other road users, property or our vehicle; or (iv) you provide incorrect or falsified information. In the event we exercise our rights under this clause 6.4, the Services will immediately be terminated and any fees paid by you will be forfeited and test dates cancelled.

7. YOUR RESPONSIBILITIES

7.1. You shall (and shall ensure any nominated learner drivers):

7.1.1. provide us with such information and materials as we may reasonably require in order to supply the Services, and ensure that such information is accurate and complete in all material respects;

7.1.2. obtain or hold all necessary licences, permissions, qualifications and consents which may be required by Scania or any relevant authority before the date on which the Services are to start;

7.1.3. provide photographic identification and a current and valid driving licence (with less than 6 penalty points) on all days of training and the day of the test;

7.1.4. cooperate with us and comply with all reasonable instructions in all matters relating to the Services; and

7.1.5. not dispose of or use the Course Materials other than in accordance with our written instructions or authorisation.

7.2. If our performance of any of our obligations under this Agreement is prevented or delayed by any act or omission by you or your failure to perform any relevant obligation ("Customer Default"):

7.2.1. we shall without limiting our other rights or remedies have the right to suspend performance of the Services until you remedy the Customer Default, and rely on the Customer Default to relieve us from the performance of any of our obligations;

7.2.2. we shall not be liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure or delay to perform any of our obligations; and

7.2.3. you shall reimburse us on written demand for any costs or losses sustained or incurred by us arising directly or indirectly from the Customer Default.

8. CONTENT OF THE SERVICES

8.1. We make no statement about the suitability of the Services for a given situation and you acknowledge that it is your sole responsibility to determine and ensure that the Services are relevant for your particular needs.

8.2. The Services instructor will endeavor to cover all the topics outlined in the Specification, but we accept no liability for failure to cover all or any part of the Specification and reserve the right to vary the course content at any time without reference or notification to you.

8.3. Neither the statement of objectives nor any other matter contained in the course information definition shall constitute a representation, condition or warranty by us that you will achieve the objectives stated or otherwise achieve a particular level of knowledge or competence.

8.4. You acknowledge that the opinions expressed by the Services instructors are those of the individual instructor and are not necessarily ours.

9. TERM AND TERMINATION

9.1. We have the right at any time and for any reason to terminate the Contract in whole or in part by giving you written notice whereupon all work on the Contract shall be discontinued.

9.2. We may terminate this Agreement immediately at any time by written notice to you if you:

9.2.1. become insolvent or unable to pay your debts within the meaning of the insolvency legislation applicable to you; or

9.2.2. a person (including the holder of a charge or other security interest) is appointed to manage or take control of the whole or part of your business or assets, or notice of an intention to appoint such a person is given or documents relating to such an appointment are filed with any court; or

9.2.3. the ability of your creditors to take any action to enforce their debts is suspended, restricted or prevented or some or all of your creditors accept by agreement or pursuant to a court order, an amount of less than the sums owing to them in satisfaction of those sums; or

9.2.4. any process is instituted which could lead to your business being dissolved and its assets being distributed to its creditors, shareholders or other contributors (other than for the purposes of solvent amalgamation or reconstruction); or

9.2.5. fail punctually to make payment of any sum which may from time to time become due under this Contract, whether legally demanded or not; or

9.2.6. commit any material breach of your obligations under this contract which (if remediable) is not remedied within 7 days after service of written notice specifying the breach and requiring it to be remedied.

9.3. Termination of this Contract in accordance with its provisions shall be without prejudice to any claim which we may have against you for sums due and payable or damages for breach pursuant to these Terms, including any claim for interest.

9.4. On termination you shall return all of the Course Materials which have not been fully paid for. Until they have been returned, you shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Agreement.

9.5. On termination the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

10. WARRANTY AND LIABILITY

10.1. Each of the parties warrants to the other that it has full power and authority to enter into and perform this Agreement.

10.2. We shall use reasonable endeavours to ensure that the Services are provided with reasonable skill and care and in accordance with practices consistent with the professional standards in the industry.

10.3. Nothing in these Terms shall limit or exclude our liability for: death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors; or fraud or fraudulent misrepresentation.

10.4. The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Agreement.

10.5. Any claims for damage made by you must be confirmed in writing to us within 3 months of the alleged cause of damage becoming apparent to you.

10.6. Our total liability for any actual damages for any cause whatsoever regardless of the form of the action arising in any year of this Agreement shall be strictly limited to the payments made by you for the relevant Services provided in that year.

10.7. In no event (death or personal injury excepted) will we be liable to you for any indirect, incidental or consequential damages, or loss of profit arising out of the performance of the Services, even if we had been advised of the possibility of such damages.

10.8. You indemnify us against any damages, claims, losses, costs or expenses resulting from:

10.8.1. your improper access, use or misuse of the Services;

10.8.2. any provision by you of incorrect or falsified information or documents;

11. FORCE MAJEURE

11.1. We shall not be liable to you or deemed to be in breach of the Contract by any delay in performing or failure to perform any of our obligations in relation to the Services arising from any cause beyond our reasonable control.

11.2. If we are unable to perform our obligations under this Agreement due to a cause beyond our reasonable control, we shall give you written notice of this fact as soon as reasonably practicable after discovering it.

11.3. If our inability to perform our obligations under this Contract due to a cause beyond our reasonable control continues for four weeks after you receive our notice then either you may or we may give written notice without liability to the other to terminate any unperformed element of this Contract.

12. INTELLECTUAL PROPERTY RIGHTS

12.1. All intellectual property rights and all other rights in the Course Material provided by us to you shall be owned by us.

12.2. We hereby grant you a non-exclusive non-transferable licence to use the Course Material to such extent as is necessary to enable you to receive and make reasonable use of the Services.

12.3. You shall not reproduce, copy or translate in whole or in part the Course Materials without our prior written consent or delete, amend, alter or deface any confidentiality or proprietary notices on the Course Materials.

13. DATA

13.1. We may collect data in a lawful manner, live or stored, relating to the Services. We may process any data in order to provide statistical analysis, promotion, product evaluation, advice, marketing or for other purposes. We may provide this information to group companies.

13.2. You acknowledge and agree that your name, address and payment record may be submitted to a credit reference agency, and your personal data may be processed by and on behalf of us in connection with the Services.

13.3. If you provide any such data as referred to in Condition 13.1 which may be personal data you warrant that it will comply with all laws, regulations or other legal requirements relevant to personal data. You will ensure that it obtains all requisite consents to the processing of such personal data. You will indemnify us in full for all losses and costs arising from any breach of this warranty and for any other unlawful transmission of data.

14. GENERAL

14.1. Any notice to be given or required or permitted to be given by either party to the other under this Agreement or these Terms shall be in writing and shall be deemed to have been duly given if sent or delivered to the party concerned at its registered office or such other address as that party may from time to time notify in writing.

14.2. We reserve the right to use a sub-contractor or third party (without notice to you) to comply with our obligations pursuant to this Agreement. We further reserve the right to transfer our rights according to these Terms to a third party at our sole discretion upon reasonable notice to you.

14.3. You may not assign, subcontract, delegate or sub-licence this Contract or any of your rights or obligations under this Contract without our prior consent in writing.

14.4. You and your employees, contractors, advisors and agents will not engage in any conduct which could contravene the Bribery Act 2010 and you will maintain adequate procedures to prevent any such conduct.

14.5. If any provision of this Contract or these Terms shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Contract or these Terms as applicable.

14.6. Our rights shall not be prejudiced or restricted by any indulgence or forbearance extended by us to you and no waiver by us in respect of any breach of this Contract or these Terms shall operate as a waiver in respect of any subsequent breach of the same or any other provision.

14.7. Irrespective of where the Services are delivered the validity construction and performance of this Contract and these Terms shall be governed by English Law. You agree to submit to the non-exclusive jurisdiction of the English Courts.

14.8. A person who is not a party to this Contract has no rights under the Contract (Right of Third Parties) Act 1999 to enforce any term of this Contract or these Terms but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

14.9. Each right or remedy that we have under this Contract is without prejudice to any other right or remedy that we may have, whether under this Contract or not.

These terms and conditions, including any revisions are available on our website, www.scania.co.uk/legal/business-with-scania/