

Driver Training and Education Pty Ltd

(ABN 43 077 289 813) trading as RAC DTEC

Terms and Conditions

By signing a Purchase Order, the parties agree that they will be party to an agreement on the following terms and conditions:

1 Formation of agreement

- (a) The following documents constitutes the entire agreement between the parties (Agreement):
- the Purchase Order;
 - these "Terms and Conditions"; and
 - any other documents referred to or attached to the Purchase Order.
- (b) In the event of any inconsistency, ambiguity or discrepancy between the documents listed in clause 1(a), the documents must be interpreted in accordance with the order set out above.

2 Engagement

The Customer engages RAC DTEC, and RAC DTEC accepts the engagement, to provide the Services in accordance with the terms of this Agreement.

3 Standard of services

In performing the Services, RAC DTEC must:

- comply with any timing requirements specified in the Purchase Order;
- exercise the skill, care and diligence expected of a professional contractor performing Services of a similar nature;
- comply with all recognised and relevant Australian standards and applicable Laws; and
- ensure RAC DTEC's Personnel who perform the Services are suitably qualified and experienced, and have all the necessary skills, training and qualifications to carry out the Services.

4 Customer's obligations

- (a) The Customer and the Customer's Personnel must:
- comply with any policies, procedures, training requirements and directions given by RAC DTEC, including in relation to health, safety and environment and the use of Equipment;
 - act in a safe manner and in a way that does not prejudice the safety of property or other people at the Site; and
 - not cause, and must take all necessary precautions to prevent harm, damage or nuisance to the environment.
- (b) The Customer must ensure that each of its Personnel who participate in the Services signs a Participant Registration and Disclaimer Form before participating in the Services.

5 Customer's acknowledgements

- RAC DTEC retains all title to and risk in the Equipment used to perform the Services.
- The Customer acknowledges and agrees that RAC DTEC may refuse to provide the Services to any of the Customer's Personnel who do not sign a Participant Registration and Disclaimer Form.

6 Price and payment

- The Customer must pay the Fees to RAC DTEC in accordance with this clause 6.
- Upon completion of the Services or upon earlier termination of this Agreement pursuant to clause 12, RAC DTEC must issue the Customer with a GST Act compliant tax invoice for the Fees.
- The Customer must pay the Fees without deduction to RAC DTEC by cash, cheque or by electronic funds transfer within 30 days of receipt of a valid tax invoice pursuant to clause 6(b).

7 Intellectual Property

The parties acknowledge and agree:

- nothing in this Agreement affects the ownership of either parties' Background Intellectual Property; and
- all Intellectual Property rights (including patentable inventions, industrial designs, circuit layouts, trade secrets and copyright works) created by or for RAC DTEC for the purposes of performing the Services vest in RAC DTEC upon creation.

8 Confidentiality

A party (Receiving Party) must not, without the prior written consent of the other party (Disclosing Party), use any Confidential Information or disclose any Confidential Information of the Disclosing Party

other than to any of the Receiving Party's Personnel who need the information to perform the Services, to the Receiving Party's professional advisors (on a confidential basis) or where disclosure is required by Law.

9 Indemnity

The Customer must indemnify and keep indemnified RAC DTEC against, all Loss RAC DTEC suffers or incurs as a result of any act or omission of the Customer or the Customer's Personnel in connection with this Agreement, except to the extent that the Loss is caused or contributed to by the negligent acts or omissions of RAC DTEC.

10 Limitation of liability

To the maximum extent permitted by Law and subject always to the Australian Consumer Law:

- RAC DTEC's aggregate liability for Loss sustained by the Customer or the Customer's Personnel in connection with this Agreement is limited to the Fees paid by the Customer for the Services; and
- RAC DTEC excludes liability for any loss of profit, loss of revenue, loss of data and loss of goodwill.

11 Insurance

- RAC DTEC must take out and maintain public liability insurance for a minimum of \$10 million per claim for the duration of this Agreement.
- The Customer must take out and maintain:
 - where it provides any vehicles, machinery or equipment for the Services, comprehensive motor vehicle insurance and compulsory third party insurance (or equivalent) that covers all drivers or users of the vehicles, machinery or equipment;
 - where it owns or leases the Site, public liability insurance for a minimum of \$10 million per claim;
 - worker's compensation insurance in accordance with the Worker's Compensation and Injury Management Act 1981 (WA); and
 - any other policy of insurance required by the documents forming this Agreement, for the duration of the Term of this Agreement.
- Prior to commencing the Services, the Customer must, if requested by RAC DTEC, provide evidence of the insurances in clause 11(b) to RAC DTEC.
- The Customer must promptly:
 - rectify anything which might prejudice any policy of insurance and reinstate the policy of insurance if it lapses; and
 - notify RAC DTEC immediately if an event occurs which gives rise or might give rise to a claim under a policy of insurance or which could prejudice a policy of insurance, or if any policy of insurance is cancelled.

12 Termination

- This Agreement commences on the Commencement Date and continues for the Term, subject to any earlier termination in accordance with this clause 12.
- Either party may terminate this Agreement immediately by written notice to the other party if the other party:
 - suffers an Insolvency Event;
 - materially breaches this Agreement and does not remedy such breach within 7 days' notice of such breach; or
 - is guilty of wilful misconduct which might tend to injure the reputation or business of the other party.
- If this Agreement is terminated the Customer must immediately pay RAC DTEC any outstanding Fees for Services without deduction.

DTEC Terms & Conditions

13 Force Majeure

- (a) To the extent that Force Majeure prevents a party from performing its obligations under this Agreement, then that obligation is suspended for as long as the Force Majeure subsists.
- (b) For the purposes of clause 13(a), "Force Majeure" means an event or circumstance which is beyond the reasonable control of a party, including any act of God, fire, flood, earthquake, explosion, cyclone, war, terrorism, revolution, third party industrial dispute or governmental restraint.

14 GST

- (a) Any amounts payable under this Agreement or referred to in this Agreement which are relevant in determining a payment to be made by one party to the other, are calculated or expressed exclusive of GST (unless otherwise expressly stated).
- (b) If GST is or becomes payable by a party for a supply under this Agreement, the recipient must pay to the supplier an amount equal to the GST payable on that supply. If an invoice has not been correctly prepared in accordance with the requirements of the GST Act, then the recipient of that tax invoice may request the other party to cancel that invoice and issue a new invoice that has been correctly prepared in accordance with the requirements of the GST Act.
- (c) A tax invoice for an amount payable under this clause must be provided by the supplier to the recipient before the recipient is obliged to make such payment.

15 Law

These terms are governed by the laws of Western Australia. The Customer and RAC DTEC submit to the non-exclusive jurisdiction of the courts of Western Australia.

16 Disputes

- (a) If a party notifies the other party that a dispute has arisen in connection with this Agreement, senior representatives of each party must meet within 10 Business Days after such notice and attempt to resolve the dispute.
- (b) If a dispute is not resolved within 30 days after a notice is given under clause 16(a) (or such further period agreed between the parties), any party may refer the dispute to litigation.
- (c) In the event of a dispute, the parties must continue to perform their obligations under this Agreement.
- (d) Nothing in this clause 16 prevents either party from commencing proceedings seeking urgent or interlocutory relief.

17 Notices

Any notice or other communication relating to this Agreement must be in writing in English, signed by the sender or its agent, and either hand delivered, sent by pre-paid post or pre-paid airmail or faxed to a party at the address or fax number set out in the Purchase Order.

18 General

- (a) Survival of terms: Each party's obligations under clauses 7, 8, 9, 10, 11 and 15 to 20 survive the termination of this Agreement.
- (b) Variations: This Agreement may only be varied by written agreement between the parties.
- (c) Assignment and subcontracting: RAC DTEC may assign its interest in or subcontract the provision of the Services pursuant to this Agreement at any time. The Customer must not assign or novate this Agreement without the prior written consent of RAC DTEC.
- (d) Relationship of the parties: RAC DTEC and its Personnel, in providing the Services, are independent contractors and not the agents or employees of the Customer.
- (e) Prohibition, enforceability and severance: If any provision of this Agreement is invalid under the Law of any jurisdiction, the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not, except where this would materially affect the nature or effect of the parties' obligations under this Agreement.

19 Definitions

In this Agreement:

Background Intellectual Property in relation to a party means Intellectual Property rights owned by the party prior to the commencement of this Agreement or which did not come into existence by reason of the provision of the Services.

Business Day means a day on which banks are open for general banking business in Perth, Western Australia excluding a Saturday, Sunday or public holiday.

Commencement Date means the date on which the Purchase Order is finalised and signed by the parties.

Confidential Information means all information regardless of its form which is disclosed directly or indirectly by the Disclosing Party to the Receiving Party and treated or designated as confidential by the Disclosing Party or the Receiving Party knows, or ought to know, is confidential.

Customer means the customer specified in the Purchase Order.

Equipment means the equipment used to facilitate the performance of the Services

Fees means the fees for the Services specified in the Purchase Order.

GST means the tax levied on goods and services under the GST Act.

GST Act means the A New Tax System (Goods and Services Tax) Act 1999 (Cth) (as amended) and any other act, ordinance, regulation, public binding ruling, or subordinate legislation relating to the imposition of GST.

Insolvency Event in relation to a party means:

- (a) the bankruptcy, winding up or insolvency of that party;
- (b) that party enters into any scheme of arrangement or composition; or
- (c) a receiver or administrator is appointed to any property of that party.

Intellectual Property means all intellectual and industrial property rights, including trade marks, copyright (including future copyright), inventions, patents, designs, circuits and other eligible layouts and database rights, including any application or right to apply for registration of any of these rights.

Law means any law in force in Australia, whether common law, equity or any law under any statute, ordinance or code and includes subordinate legislation.

Loss means any cost, claim, expense, loss, damage, or other liability or indebtedness, present or future, contingent or actual.

Participant Registration and Disclaimer Form means the form with the same name, available from RAC DTEC on request.

Personnel means all employees, agents and contractors of the relevant party.

Purchase Order means RAC DTEC's purchase order for the Services.

RAC DTEC means Driver Training and Education Pty Ltd (ABN 43 077 289 813) trading as RAC DTEC.

Services means the services to be provided by RAC DTEC as specified in the Purchase Order.

Site means the site/s where the Services will be performed.

Term means the term (if any) which is specified in the Purchase Order or, if no term is specified, the period until completion of the agreed Services.

20 Interpretation

In this Agreement, unless the context requires otherwise, the singular includes the plural and the plural includes the singular; words of any gender include all genders; a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; a reference to a party to a document includes that party's successors and permitted assigns; and specifying anything in this Agreement after the word "includes" or "for example" or similar expressions does not limit what else is included unless there is express wording to the contrary.

