

Red One Limited Terms and Conditions

Terms and Conditions for the Provision of the Use of the Road Circuit

Updated: 01 August 2023

1. Definitions

1.1. The following definitions apply in these Conditions:

Company

Means Red One Limited, company number 07379630, whose registered address is: Devon Transport Centre, Red One Offices, Westpoint, Clyst St Mary, Exeter, EX5 1DJ.

Conditions

The clauses, terms and conditions as provided herein.

Contract

Means the agreement between the Company and the Customer for the use of the Road Circuit, made up of the Contract Documentation.

Contract Documentation

Means:

- a) the Conditions; and
- b) any road Circuit use proposal/Quotation/estimate provided to the Customer by the Company.

Customer or You

Means the person, firm or company who wishes to use the Road Circuit pursuant to the Contract.

Data Protection Legislation

Means any applicable laws and regulations in any relevant jurisdiction relating to the use or processing of personal data including: (i) EU Regulation 2016/679 ("GDPR"); (ii) any laws or regulations ratifying, implementing, adopting, supplementing or replacing the GDPR (including, in the UK, the Data Protection Act 2018 ("DPA") and (to the extent in force) the UK GDPR as defined in The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 ("UK GDPR")); (iii) any laws and regulations implementing or made pursuant to EU Directive 2002/58/EC (as amended by 2009/136/EC) (including, in the UK, the Privacy and Electronic Communications (EC Directive) Regulations 2003); and (iv) any guidance or codes of practice issued by a governmental or regulatory body or authority in relation to compliance with the foregoing; in each case, as updated, amended or replaced from time to time

Highway Code

Means the Highway Code of the United Kingdom as updated from time to time.

Laws

Means any applicable law, statute, bye law, regulation, order, regulatory policy (including any requirement or notice of any regulatory authority), guidance or industry code of practice, rule of court or directives, delegated or subordinate legislation in force from time to time.

Party

Means either the Company or the Customer and 'Parties' shall be construed accordingly.

Road Circuit

Means the Company's driver training road circuit at Westpoint, Clyst St Mary, Exeter, EX5 1DJ.

VAT

Value added tax chargeable under English law for the time being and any similar additional tax.

Vehicle

Means any vehicle used by the Customer at the Road Circuit which may include cars, motorcycles, emergency service vehicles, HGV's and caravans.

2. Interpretation of Contract

2.1. If any dispute between the parties relating to any ambiguity or discrepancy between the Contract Documentation arises, the order of priority of the Contract Documentation shall be:

2.1.1 any proposal/Quotation/estimate provided to the Customer by the Company; then

2.1.2 these Conditions; and then

2.1.3 the information document and joining instructions.

2.2. In the Conditions, unless the context otherwise requires:

2.2.1. the masculine includes the feminine and the neuter and vice versa; the singular includes the plural and vice versa;

2.2.2. headings are included for ease of reference only and shall not affect the interpretation or construction of the Contract;

2.2.3. references to Clauses are unless otherwise provided, references to Clauses and Appendices within the Contract Conditions;

2.2.4. "Act of Parliament" or any Order, Regulation, Statute, Statutory Instrument, Code of Practice, Byelaw, Directive or the like, whether detailed expressly or incorporated by general reference, shall be deemed to include a reference to any amendment, re-enactment or replacement of it;

2.2.5. a reference to writing or written includes emails; and

2.2.6. the words "includes" or "including" shall be constructed without limitation.

3. Application of Conditions

3.1. These Conditions shall apply to and be incorporated into the Contract for the provision of use of the Road Circuit entered into by the Company with the Customer. By instructing the Company to proceed or accepting the Company's proposal/quotation/estimate, the Customer agrees to these Conditions to the exclusion of all other terms, conditions, warranties or representations (to the fullest extent permissible by law).

3.2 The Contract shall commence on the date of the Company's written acknowledgement of the Customer's purchase order or signed copy of the Company's Quotation, or the date on which the Customer first uses the Road Circuit, or when the Company submits an invoice if earlier.

3.3. To the fullest extent permissible by law, these Conditions prevail over any terms and conditions contained or referred to in the Customer's purchase order, confirmation of order, acceptance of quotation, acceptance of estimate or specification or other document supplied by the Customer, or implied by law, trade custom, practice or course of dealing.

4. Charges and Payment

4.1. The total price for use of the Road Circuit shall be paid to the Company by the Customer in full without any counterclaim, deduction, withholding or set-off (other than any deducting or withholding of tax as required by law).

4.2 Where the Customer is not an individual consumer, the Company shall, unless agreed otherwise in writing, invoice the Customer in advance of the session for the charges that are payable, together with expenses and VAT, where appropriate. The Customer shall pay each invoice submitted to it by the Company immediately upon receipt of the invoice and in advance of any use of the Road Circuit (unless agreed otherwise in writing) in full in cleared funds either, to the Company directly, or by BACS to a bank account nominated by the Company. The Customer's booking is not secured until payment is received unless otherwise agreed.

4.3 Where the Customer is an individual consumer, the Customer shall make payment upfront of the amount notified to the Customer prior to using the Road Circuit. The Company accepts debit and credit cards.

4.4. If the Customer fails to make payment accordance with these Conditions then the Company may:

4.4.1. charge interest on such sum from the due date for payment at the statutory rate accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgement; and

4.4.2. refuse admission and use of the Road Circuit.

4.5. All sums payable to the Company under the Contract shall become due immediately on its termination, despite any other provision to the contrary. This Condition is without prejudice to any right to claim interest under the law, or any such other right under the Contract.

4.6. All fees quoted are correct at the time of publication but the Company reserves the right to alter fees at any time with reasonable notice.

4.7. All amounts stated are exclusive of VAT (unless specifically stated to the contrary) and any other applicable taxes which will be charged in addition at the rate in force at the time the Customer is required to make payment.

5. Currency

5.1. The price to use the Road Circuit shall be paid in pounds sterling.

6. Customer's Obligations for our General Road Circuit Sessions

6.1. The Customer acknowledges and agrees the following:

6.1.1 the Customer shall provide a copy of their (or the relevant driver's) full and current driving licence;

6.1.2. if the Customer (or the relevant driver) is a learner driver, the Customer shall provide a copy of the Customer's (or the relevant driver's) provisional driving licence and a copy of the observing

driver's full and current driving licence (such observing driver to be at least 21 years old and have held a full licence for at least 3 years);

6.1.3. the Customer shall provide a copy of relevant insurance policy which must show that all drivers driving the Vehicle have fully comprehensive insurance (including a learner); and

6.1.4. it is the Customer's responsibility to arrive on-time for a session. In the event the Customer (or relevant driver) is late, the Company shall be under no obligation to permit access to the Road Circuit.

6.2. The Customer will be given a token that will grant entry to the Road Circuit. The Customer shall not, and shall ensure that any drivers associated with the Customer shall not tailgate other vehicles through the barrier.

6.3. The Customer shall, and shall ensure that any drivers associated with the Customer:

6.3.1. do not exceed the maximum speed limit on the Road Circuit of 30 miles per hour;

6.3.2. abide by the rules of The Highway Code at all times while on the Road Circuits;

6.3.3. observe all traffic signals (i.e. stop at a red light);

6.3.4. are mindful that other drivers of all abilities may be using the Road Circuit;

6.3.5. refrain from overtaking manoeuvres unless passing a stationary vehicle;

6.3.6. abide by all signs displayed at the Road Circuit and all instructions provided by the Company before and during the session;

6.3.7. comply with all Laws in relation to driving on the Road Circuit; and

6.3.8. stay on the tarmac track and do not drive across any grass areas.

6.4. Sessions will end swiftly at 11.30am, 2.00pm or 4.30pm. At the end of the session, the Customer shall, and shall ensure that any drivers associated with the Customer shall, exit the Road Circuit safely and immediately.

6.5. Vehicles will need to leave the Road Circuit via the exit barrier which will raise automatically on approach. The Customer shall not, and shall ensure that any drivers associated with the Customer shall not, tailgate other vehicles through the barrier.

6.6. In the event of an emergency, the Company may need to end the session early, in which case a checked flag will be displayed by the barriers. The Customer shall, and shall ensure that any drivers associated with the Customer responds and exits the Road Circuit safely and immediately.

6.7. Emergency service vehicles and motorcyclists may be using the track during your session. Please do not be alarmed if you see one of these vehicles on the circuit.

6.8. In the event of an accident, if required, contact the emergency services and then advise the Company on 01392 444773.

7. Limitation of Liability

The Company draws your attention to this clause 7.

7.1. The Company shall not be liable for death or personal injury except to the extent caused by the Company's negligence.

7.2 The Company shall not be liable for any damage to any personal belongings including, but not limited to, vehicles.

7.2. Except for any legal responsibility that we cannot exclude by law we will in no event be responsible for any loss of:

7.2.1. contracts;

7.2.2. opportunity;

7.2.3. business or goodwill;

7.2.4. profit; or

7.2.5. for any indirect or consequential damage (unless the Customer is an individual consumer), whatsoever arising under the Contract.

7.3. Subject to clauses 7.1 to 7.2, the Company's total liability to the Customer in respect of all events arising under the contract, whether in contract, tort (including negligence), for breach of statutory duty or otherwise, arising out of or in connection with the contract shall:

7.3.1. where the Customer is not an individual consumer, be limited to the price paid by the Customer under each Contract; and

7.3.2. where the Customer is an individual consumer, be limited to the price paid by the Customer under the Contract or, if higher, the sum of £20,000.

8. Force Majeure

8.1. The Company shall have no liability to the Customer under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying out its business by acts, events, omissions or accidents beyond its reasonable control, including industrial relations difficulties, strikes, lock-outs (whether involving the workforce of the Company or any other party), failure of a utility service or transport network, act of God, war, riot, strikes, accidents, pandemics, civil commotion, malicious damage, fuel shortage, compliance with any law or government order, rule or regulation or direction, breakdown of equipment, fire, flood, storm or default by suppliers or subcontractors.

9. Data Protection

9.1. Each Party shall comply with Data Protection Legislation in respect of any personal data processed under the Contract.

10. Termination

10.1. The Company has the following cancellation and rescheduling policy for general Road Circuit bookings:

10.1.1. The Customer will receive a full refund less an administration fee of £5 plus VAT if the cancellation is not less than 48 hours before the start time of the session. If the cancellation is less than 48 hours before, no refund will be given.

10.1.2. The Customer may reschedule free of charge at any point prior to the start time of session.

10.1.3. The Customer shall not be entitled to a refund in the event of non-attendance on the scheduled date of the session.

10.2. The Company has the following cancellation and rescheduling policy for exclusive use bookings of the Road Circuit:

10.2.1. the Customer will receive a full refund less an administration fee of £25 plus VAT if the cancellation is not less than 14 days before the date of the session. If the cancellation is less than 14 days before the date of the session, the Customer will not be entitled to a refund and the Company shall be entitled to recover payment in full;

10.2.2. rescheduling up to 14 days before the date of the session: the Customer may reschedule once free of charge, with any subsequent rescheduling incurring an administration fee of £25 plus VAT;

10.2.3. rescheduling less than 14 days but more than 48 hours before the date of the session -- the Customer may reschedule their booking for an administration fee of 25% plus VAT of the full booking fee; and

10.2.4. rescheduling less than 48 hours before the date of the session – the Customer will not be entitled to a refund and the Company shall be entitled to recover payment in full.

10.3. The Customer shall not be entitled to a refund in the event of non-attendance on the scheduled date of the session.

10.4. This clause 10 does not affect your statutory rights if you are an individual consumer.

10.5. Without prejudice to any other rights or remedies which the Parties may have, either Party may terminate the Contract on giving notice to the other if:

10.5.1. the other Party is in breach of any of the terms of the Contract or;

10.5.2. the other Party repeatedly breaches any of the conditions of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract; or

10.5.3 the other party suspends, or threatens to suspend payment of its debts or is deemed unable to pay its debts within the meaning of section 123(1), Insolvency Act 1986; or

10.5.4. the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or

10.5.5. a petition is presented, or a resolution is passed, or an order is made, for the winding up, provisional winding up, or bankruptcy of the other party, other than for the sole purpose of a solvent amalgamation or solvent reconstruction of that other party; or

10.5.6. a receiver, administrative receiver, administrator, compulsory manager or any similar officer is appointed in respect of the other party or any of its assets, or any step is taken towards the appointment of any such officer; or

10.5.7. the other party commences negotiations in relation to, or enters into, any arrangement, compromise, assignment or composition with its creditors or any class of them (with or without first having sought or obtained a moratorium); or

10.5.8. enforcement of any security over any assets of the other party; or

10.5.9. any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10.5.3-10.5.8 inclusive.

11. Consequences of termination

11.1. All rights and obligations of the Parties shall cease to have effect immediately on termination or expiry of the Contract except that termination shall not prejudice or affect:

11.1.1. the accrued rights and obligations of the parties at the date of termination;

11.1.2. the right to claim damages for losses whenever they occur provided they arise out of an event occurring on or before termination of the Contract; and

11.1.3. the continued existence and the validity of the rights and obligations of the parties under any clauses the survival of which is necessary for the interpretation or enforcement of the Contract.

12. Right to Set Off

12.1. The Company reserves its right to set-off against its indebtedness to the Customer any debt owed to it by the Customer and any liability, damage, loss, costs, charges and expenses which it has incurred in consequence of any breach by the Customer of the Contract or any other contract with the Company. The Customer shall have not right to set-off any amounts under the Contract.

13. The Contracts (Rights of Third Parties) Act 1999

13.1 Unless expressly provided in the Contract, no term of the Contract is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

14. Notice and Timescales

14.1. Any notice to be given by either Party to the other may be served by email, personal service or by post to the address of the other Party or such other address as such Party may from time to time have communicated to the other in writing and if sent by email shall unless the contrary is proved be deemed to be received on the same working day it was sent (or if sent on a day which is not a working day, the next working day), if sent by letter shall be deemed to have been delivered in the ordinary course of the post within two working days or to have been served at the time at which the letter was delivered personally. Proof of postage will be required.

15. Entire Agreement

15.1. The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. The Contract supersedes all prior agreements, representations, understandings or arrangements between the Parties (oral or written) in relation to such subject matter. Each party acknowledges that:

15.1.1. upon entering into the Contract, it does not rely, and has not relied, upon any representation (whether negligent or innocent), statement or warranty made or agreed to by any person (whether a party to the Contract or not) except those expressly set out in the Contract; and

15.1.2. the only remedy available in respect of any misrepresentation or untrue statement made to it shall be a claim for breach of contract under the Contract.

15.2 Nothing in this clause 15 shall limit or exclude any liability for fraud.

16. Severance

16.1. If any term or provision of the Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, the relevant provision will be severed and the remaining provisions will continue in full force and effect.

17. Governing Law and Jurisdiction

17.1. The Contract and any dispute or claim (whether contractual or non-contractual) arising out of or in connection with it, its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

17.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with the Contract, its subject matter or formation.