



## REPAIR AND MAINTENANCE FOR BATTERY ELECTRIC VEHICLES

### GENERAL TERMS

#### 1. DEFINITION

1.1. The following expressions and phrases shall have the meaning as set out below next to them.

**Activation Letter** means a letter submitted by Scania to the Customer once the R&M Schedule has been executed, which confirms the identity of the Vehicle (VIN and registration numbers), R&M Commencement Date and any other details agreed between the Parties (including any Operator details);

**Ancillary Equipment** means the bodywork, fitted plant & equipment and other items referenced in the Ancillary Equipment section of the R&M Schedule, if any;

**Annual Ancillary Equipment Hours** means the annual figure listed as such in the R&M Schedule;

**Ancillary Services** shall mean services listed as such in the R&M Schedule, and as further specified separately by Scania from time to time in terms of content, exclusions and other terms and conditions applicable thereto (which, for avoidance of any doubt and in case of any conflict, shall take precedence over these General Terms for the purposes of such relevant Ancillary Services);

**Annual Mileage** shall mean the annual mileage per Vehicle as defined in the R&M Schedule;

**Breakdown** shall mean a Vehicle stand-still caused by a materially unforeseeable and urgent technical defect, rendering the Customer unable (whether in whole or in part) to perform its intended activities with the Vehicle;

**Breakdown Repairs** shall mean repairing of urgent technical defects that have led to a Breakdown;

**Charges** shall mean the agreed prices to be charged to the Customer as set forth in the R&M Schedule, or appendices thereto in respect of Ancillary Services;

**Connected Services Agreement** shall mean an agreement signed by the Customer covering fleet management, digital tachograph or any other connected services from Scania;

**Contract** shall mean these General Terms together with the R&M Schedule, Activation Letter and any appendices referred to;

**Customer** shall mean the contracting party identified as the Customer in, and signing, the R&M Schedule;

**Cycled Energy** shall mean the volume of electrical energy charged-in and recuperated from a Vehicle to its Propulsion Batteries plus the volume of the electrical energy discharged from the Propulsion Batteries (regardless of the purpose and the use of such discharged energy);

**Cycled Energy Per Km** shall mean the amount of Cycled Energy used by the Vehicle per km of operation as defined in the R&M Schedule;

**Data Protection Laws** means any applicable laws that apply to the Processing of Personal Data within the United Kingdom, the European Community and any other applicable jurisdiction to which Personal Data may be transferred in accordance with this Contract, including where applicable the guidance and codes of practice issued by the Information Commissioner or relevant supervisory authority from time to time;

**Excess Kilometre Charge** means the excess pence per kilometre as set out in the R&M Schedule;

**Excess Equipment Charge** means the excess Ancillary Equipment charge in pence per hour as set out in the R&M Schedule;

**Exclusions** shall mean those referred to in Clause 4 of these General Terms as well as any other exclusions that apply to Ancillary Services in accordance with terms and conditions communicated separately to the Customer by Scania;

**Flexible Maintenance Services** shall mean Vehicle maintenance that is not periodical as set out in a Vehicle-specific plan or schedule at the time of Vehicle delivery, but the content of which (as to required maintenance measures along with intervals for and timing thereof) instead dynamically evolves over time depending on the prevailing and potentially fluctuating operational conditions for the Vehicle;

**General Terms** shall mean these general terms and conditions for repair and maintenance of battery electric vehicles;



**Maintenance** shall mean maintaining a Vehicle according to its individualised program of scheduled maintenance;

**Maximum Gross Train Weight** shall mean the maximum weight of the Vehicle, including superstructure, load and towed vehicles (e.g. trailers and semitrailers) agreed in the R&M Schedule;

**Operator** shall mean a third party specified by the Customer in the relevant order and approved by Scania through confirmation in the Activation Letter, as intended to operate the Vehicle(s) instead of the Customer;

**Personal Data** has the meaning given to it in the Data Protection Laws;

**ProCare Service Commencement Date** means the date confirmed in an Activation Letter (or otherwise agreed in writing) for when ProCare services commence;

**Propulsion Batteries** shall mean electro-chemical cells and their blocks and packs (including hardware and software control and management systems), as installed in, and used as a source of energy for the operation of, Vehicles;

**Process/es/ing** have the meaning given to such terms in Data Protection Laws;

**R&M Commencement Date** means the date confirmed in an Activation Letter (or otherwise agreed in writing), for when the Repair & Maintenance Services commence in respect of a particular Vehicle (which for new vehicles shall be the date its factory warranty commences);

**R&M Schedule** means the separate document signed by the Parties to confirm all commercial details relating to the repair and maintenance of battery electric vehicles (and Ancillary Equipment, if applicable), including Customer information, scope and purpose, operational conditions and characteristics and the Charges);

**R&M Year** means the 12 month period commencing on the R&M Commencement Date and each successive twelve month period thereafter;

**Region** shall mean the country or other area, where the Vehicle will be operated as defined in the R&M Schedule;

**Repairs** shall mean repairing of regular defects occurring in a Vehicle, to the extent that such defects are not already covered by a Scania warranty;

**Scania** shall mean the Scania entity detailed in the R&M Schedule;

**Scania Assistance** shall mean Scania's online, roadside and other aid and product support services known as "Scania Assistance";

**Scania Workshop** shall mean a workshop authorised to represent the Scania brand for the supply of aftermarket goods and services in the United Kingdom;

**Services** shall mean the services selected in the R&M Schedule, which may include Maintenance, Repairs, Breakdown Repairs and/or Ancillary Services;

**Vehicle(s)** shall mean the Scania vehicle(s) that are covered by Services, as defined in the R&M Schedule and subsequently identified in the Activation Letters; and

**Vehicle Excise Duty** or **VED** means vehicle excise duty as may be levied on Vehicles at such rate as may apply from time to time.

## 1.2. In these General Terms:

1.2.1. a reference to "**Party**" shall mean either Scania or the Customer (as the context requires), and "**Parties**" shall be both Scania and the Customer;

1.2.2. any phrase introduced by the words "**including**", "**includes**", "**in particular**" or "**for example**" or similar shall be construed as illustrative and are deemed to have the words "**without limitation**" following them; and

1.2.3. unless a right or remedy of a Party is expressed to be an exclusive right or remedy, the exercise of it by a Party is without prejudice to that Party's other rights and remedies.

## 2. SCANIA OBLIGATIONS



- 2.1. Provided that: (i) no Charges are outstanding; (ii) no Exclusions apply; and (iii) the Customer has entered into a Connected Services Agreement with Scania in respect of the Vehicle(s), Scania shall carry out the Services for the purpose of maintaining the Vehicle(s) in a good and serviceable working order.
- 2.2. All Services shall be:
  - 2.2.1. carried out at such Scania Workshop (save for any roadside measures carried out by Scania Assistance) as notified by Scania from time to time, with consideration to the then-current state of the Vehicle(s) and distance from the Customer;
  - 2.2.2. performed during the nominated Scania Workshop's opening hours (save for any roadside measures carried out by Scania Assistance) and at such times as agreed between the Parties;
  - 2.2.3. performed using Scania original (or OEM) parts except that Scania reserves the right to use alternatives (at its discretion) provided that Scania is satisfied with the quality of such alternative parts; and
  - 2.2.4. performed in a professional and workman-like manner, and in the manner prescribed by the manufacturer.
- 2.3. The Scania Workshop performing the relevant Services will determine (at its own discretion) what works shall be required to a Vehicle and Ancillary Equipment in order to fulfil Scania's obligations in this Contract, and no priority is given to the Customer or Operator in respect of such work.
- 2.4. Where any Service (or part of a Service) is:
  - 2.4.1. contained within the Exclusions; or
  - 2.4.2. performed outside the Scania Workshop's normal opening hours (as agreed between the Parties from time to time),such work shall be charged to the Customer separately by Scania according to its normal price lists as applicable from time to time.
- 2.5. Services will be activated for Vehicles individually on their R&M Commencement Date.
- 2.6. If not already confirmed, the Customer accepts and confirms inclusion of a Vehicle as covered by the Contract and Services and the Customer's liability for Charges connected therewith by paying the first invoiced Charges for that Vehicle.
- 2.7. Scania shall use its reasonable endeavours to plan all requirements for Repairs, Maintenance and Ancillary Services in a timely manner and to provide reasonable notifications of the same to the Customer to enable the Customer to deliver the Vehicles to the relevant Scania Workshops at the appropriate time.
- 2.8. Scania shall carry out annual MOT tests for which a Vehicle is required to be submitted including payment of the application fee and collection and delivery of the Vehicle to the testing station.
- 2.9. All Breakdown Repairs shall be carried out in accordance with the "Scania MAX 24 Terms and Conditions", available on request or found on Scania's website (as updated from time to time):  
<https://www.scania.com/uk/en/home/admin/misc/legal/business-with-scania.html>
- 2.10. For Flexible Maintenance Services:
  - 2.10.1. the Vehicle-specific Maintenance schedule(s) will vary depending on evaluation by Scania or Scania Workshops of changes in the operational conditions of the Vehicle(s);
  - 2.10.2. any evaluations made pursuant to Clause 2.10.1 shall be recorded in Scania's Maintenance planning system and/or as notified by Scania to the Customer from time to time;
  - 2.10.3. the relevant Scania Workshop shall endeavour to notify the Customer that the Vehicle or Ancillary Equipment is due planned Maintenance at least ten (10) days in advance of the due date for such Service;
  - 2.10.4. the Customer shall ensure that each Vehicle is delivered to the relevant Scania Workshop according to the notice provided in Clause 2.10.3; and
  - 2.10.5. in the event of any conflict, the date of the last planning system record or communication from Scania shall prevail.

### 3. CUSTOMER OBLIGATIONS



- 3.1. The Customer shall:
- 3.1.1. use each Vehicle & Ancillary Equipment only in accordance with the operational conditions and characteristics set out in the R&M Schedule, and in compliance with all relevant statutory or regulatory requirements. Any changes in the operational conditions and characteristics must be reported by the Customer to Scania without undue delay;
  - 3.1.2. use and maintain each Vehicle & Ancillary Equipment with due and diligent care as according to applicable operating manuals and other instructions by the manufacturer or Scania, including regular functionality checks, charging procedures and conditions, topping up of operational fluids and other ordinary maintenance measures;
  - 3.1.3. ensure that each Vehicle is driven, handled and otherwise operated by authorised, qualified and competent personnel;
  - 3.1.4. inform Scania in writing without undue delay if a Vehicle is no longer owned or operated by the Customer or a designated Operator, has been sublet, claimed by a creditor under lease or similar arrangement, or made available to unauthorised third parties, is stolen, involved in an accident, destroyed due to accident or fire;
  - 3.1.5. not tamper, modify and/or alter the Vehicle & Ancillary Equipment in respect of speedometers, tachographs, ECU's, communicator units, or other vehicle internal management systems, software, technical features, identification number(s), factory settings, Propulsion Batteries or seals, other than as explicitly permitted by the Contract or consistent with written instructions from the Vehicle & Ancillary Equipment manufacturer or Scania;
  - 3.1.6. provide all relevant information about each Vehicle's actual mileage reading, as requested from Scania from time to time;
  - 3.1.7. inform Scania (without undue delay and in writing) if a Vehicle can no longer give accurate odometer readings (for whatever reason), along also with its best estimates for: (i) the date of failure of such system; and (ii) travelled distance since the date of failure;
  - 3.1.8. provide (or procure) reasonable access to each Vehicle for Scania to verify use and technical condition of such Vehicle and compliance with this Contract, as required and notified in advance by Scania from time to time;
  - 3.1.9. ensure that the Vehicle is made available to the Scania Workshop without undue delay once the need for Repairs or adjustments has been identified during daily checks, inspections or Routine Maintenance, or whilst the Vehicle is being used, or after a defect has been reported or notified;
  - 3.1.10. ensure that the Services are effected only by a Scania Workshop unless agreed otherwise in writing between the Parties; and
  - 3.1.11. ensure that each Vehicle is delivered to the relevant Scania Workshop on such date and time as agreed between the Parties from time to time.
- 3.2. Without prejudice to any other rights or remedies, Scania reserves the right to charge the Customer separately for any costs incurred by Scania as a result of the Customer's (or Operator's):
- 3.2.1. failure to keep to an appointment in respect of Services;
  - 3.2.2. failure to deliver the Vehicle to the agreed location for Services to be carried out by Scania; or
  - 3.2.3. request that the Services (or any part thereof) be done urgently.

#### **4. EXCLUSIONS**

- 4.1. All warranty repairs shall be carried out in accordance with the applicable terms and conditions for warranty, available on request or found on Scania's website (as updated from time to time):
- <https://www.scania.com/uk/en/home/admin/misc/legal/business-with-scania.html>
- 4.2. Scania shall not be liable for any loss of earnings, usage disruption costs, public charges and fees, or other downtime costs incurred by the Customer or Operator and arising in connection with the Services (whether or not such losses are considered to be direct, indirect or consequential), or for any replacement vehicles during such time (other than in accordance with Scania Max 24).



- 4.3. Unless otherwise agreed by the Parties in writing, the following elements shall not form part of the Services:
- 4.3.1. daily maintenance (including cleaning);
  - 4.3.2. battery charging (of any kind);
  - 4.3.3. repair, renewal or replacement of any Propulsion Battery or management system: (i) due to capacity loss caused by natural degradation (i.e. electro-chemical reactions in the cell as a result of long-term use); or (ii) that meets or exceeds its "Propulsion Batteries Coverage Limit" or "Technical Life Length" (each as contained in the R&M Schedule);
  - 4.3.4. any repair or other cost directly or indirectly caused by use of Propulsion Batteries already excluded from the Contract;
  - 4.3.5. consumables, such as anti-freeze, oil and other operational fluids or lubricants used between Services;
  - 4.3.6. corrosion repairs or paintwork;
  - 4.3.7. repair or replacement of, and software updates to, communication electronics (including satnav systems, telephones, on-board computers, infotainment and entertainment systems, vehicle and dashboard cameras except for software updates related to Maintenance, Repairs, Breakdown Repairs, or Scania safety or quality-related campaigns);
  - 4.3.8. repair or replacement of accessories or components (including any bodywork and/or any fitted plant and equipment unless such items are referenced in the Ancillary Equipment section of the R&M Schedule) that were not fitted by the manufacturer or Scania, or of factory or Scania fitted accessories or components (including any bodywork and/or any fitted plant and equipment, unless included in the R&M Schedule) that were damaged or became defective as a result thereof;
  - 4.3.9. replacement of missing parts and accessories that are required by law (including fire extinguishers and first-aid kits);
  - 4.3.10. requirements imposed by law after the date that this Contract is signed by both Parties;
  - 4.3.11. repair or replacement of toolboxes, jacks and other loose equipment;
  - 4.3.12. repair or replacement of glassware (including mirrors, headlights covers, taillights, reflectors, any signalling lights together with their holding structures and/or supports);
  - 4.3.13. repair, replacement or cleaning of any upholstery (including seat belts, cab interiors bezels, covers, floor mats and headliners)
  - 4.3.14. repair, replacement or balancing of tyres, wheels and fastening components;
  - 4.3.15. repair or maintenance of superstructures or trailers;
  - 4.3.16. Scania authorised parts, accessories or any other item ordered over the counter;
  - 4.3.17. batteries (except for Propulsion Batteries not explicitly excluded as above);
  - 4.3.18. light bulbs (except for Xenon or LED exterior lights installed by factory);
  - 4.3.19. repair or replacement of interior and exterior plastics (including side skirts, mudguards and any related supports and/or fixings); and
  - 4.3.20. cabin structure, latches and shock absorbers for front grills or hoods, stirrups, fenders, glass rubber sealings and insulation, door locks, ignition locks, and identification, registration or reflective plates.
- 4.4. Unless otherwise agreed by the Parties in writing, the Services will not cover defects in, damages to or depreciation of a Vehicle or any Ancillary Equipment, nor for consequential costs, when arising as a direct or indirect result of, or otherwise caused by;
- 4.4.1. misuse or reckless use of a Vehicle or any Ancillary Equipment in conflict with relevant driver manuals (including daily maintenance requirements) exceeding weight restrictions, not adequately responding to dashboard warning indications, fluid and lubricant levels, temperatures or pressures, engine functioning, chemical contamination or off-road use;



- 4.4.2. usage of improper Propulsion Battery charging devices or sockets, or not respecting the charging procedures and conditions as described in Vehicle operation instructions or the driver manual;
  - 4.4.3. the tampering, removal or re(installation) of the Propulsion Battery by unauthorised parties;
  - 4.4.4. the Propulsion Battery coming into direct contact with open fire or with excessive amounts of water (including through cleaning with high pressure cleaners or liquids being applied directly to the Propulsion Battery);
  - 4.4.5. using the Vehicle out of the Region;
  - 4.4.6. exceeding the Maximum Gross Train Weight;
  - 4.4.7. excessively low or high temperatures in the operation environment of the Vehicle;
  - 4.4.8. ignoring of required maintenance intervals or invitations from Scania Workshops (whether for the carrying out of campaigns or for other measures) as communicated to the Customer by Scania;
  - 4.4.9. incorrect repair by an independent repairer (including where a Scania original (or OEM) part is used);
  - 4.4.10. changes to or tampering with the Vehicle (including any of its parts or components) or Ancillary Equipment software;
  - 4.4.11. accessories, superstructures and/or trailers including vehicle-to-trailer tubing, cables or connectors;
  - 4.4.12. traffic or other accidents, fire or excessive heat, electro-magnetic pulse, radiation, UV rays, excessive weather, strike of lightning, vandalism (or other intentional act of the Customer, Operator or other third party), theft, strikes, floods, earthquakes or other natural disasters; or
  - 4.4.13. failure to provide a defective or damaged Vehicle (or Vehicle in need of a repair or preventative maintenance) to a Scania Workshop without undue delay for repair after notification of such defect, maintenance requirement or incurrence of such damage.
- 4.5. Additional Exclusions may apply to Ancillary Services in accordance with any Scania terms and conditions governing them, available on request or found on Scania's website (as updated from time to time):
- <https://www.scania.com/uk/en/home/admin/misc/legal/business-with-scania.html>
- 4.6. If, in Scania's sole opinion, any Service has been necessitated or contributed to by any act or default of the Customer or Operator (or is an Excluded Item), Scania may refuse to carry out all or any part of such Service. If Scania does arrange for all or part of such Service to be carried out, it may charge the Customer or Operator for that Service in accordance with Clause 2.4.

## **5. SERVICE CHARGES AND PAYMENT**

- 5.1. The Operator will pay to the Company by direct debit on the same day each month (or such other payment period as is agreed), the Charges, VED or other service charges or fees due from time to time as specified in the R&M Schedule. The first payment is to be paid on the signing of the Contract.
- 5.2. Scania shall, unless agreed otherwise, invoice the Customer, or its nominated Operator, monthly (or according to the separate invoicing routines applied by Scania from time to time, as communicated separately to the Customer), provided always that the Customer remains fully responsible for ensuring that Operators comply with this Contract as if they were a Party to it. The Customer shall remain primarily liable for all debts arising under this Contract, even where invoices are raised to, and payments are made by its Operator.
- 5.3. Without prejudice to any of Scania's termination rights, Scania shall be entitled to amend the Charges where it is notified of any change in the operational conditions and characteristics defined in the R&M Schedule.
- 5.4. Scania may adjust the Charges annually (calculated with reference to the start date of the Contract) if increases in the UK Consumer Price Index during the 12 months prior to the relevant anniversary date exceed 5% or more, as follows:

If the UK Consumer Price Index in the relevant period exceeds 5% Scania may, upon written notice to the Customer, increase the Charges from the relevant anniversary date by the applicable percentage



rate, less 3. For illustration purposes only, if the Consumer Price Index for the relevant period is 6%, Scania may increase the Charges by up to 3% from the relevant anniversary date. Such changes may be made retrospectively.

- 5.5. Scania shall notify the Customer (or Operator) of the amount of the adjustment and the date on which such adjustment is to take effect and the Customer (or Operator) shall pay the adjusted rate from such date.
- 5.6. Scania may change the Charges, or other contractual rates at any time, on written notice, to account for increased costs resulting from changes to legislation, taxation, import duties, customs charges or any increase in the costs of delivering the Services outside of Scania's reasonable control.
- 5.7. Scania may draw up a reconciliation of accounts for each Vehicle if (1) the actual Vehicle mileage does not align to any agreed mileage allowance according to relevant odometer readings for the period concerned and/or (2) the actual hours of use of Ancillary Equipment exceeds the agreed Annual Ancillary Equipment Hours for the period concerned, calculated on an annual basis with reference to the R&M Commencement Date, or an anniversary thereof. Where applicable, this reconciliation will be performed once per calendar year and on expiry or termination of the Contract, and in accordance with the following:
  - 5.7.1. excess mileage shall be invoiced to the Customer (or Operator, where relevant) at the agreed Excess Kilometre Charge per km;
  - 5.7.2. excess Ancillary Equipment hours shall be invoiced to the Customer (or Operator, where relevant) at the agreed Excess Equipment Charge per hour; and
  - 5.7.3. where the reconciliation is calculated with reference to the termination date of the Contract it shall be done on a pro-rata basis.
- 5.8. If at the end of a R&M Year:
  - 5.8.1. the actual mileage for the Vehicle in that year (according to relevant odometer readings) exceeds the applicable Annual Mileage by more than ten (10) per cent;
  - 5.8.2. the Vehicle exceeds the Annual Ancillary Equipment Hours by more than ten (10) per cent;
  - 5.8.3. the Contract and the Services have been inactive for an aggregate period of six (6) months;
  - 5.8.4. the actual value of Cycled Energy Per Km for the Vehicle exceeds the contracted value of Cycled Energy Per Km; and/or
  - 5.8.5. actual Vehicle operation deviates or has deviated from that which is stated in the R&M Schedule,Scania shall, without prejudice to any other rights or remedies available to it under the Contract, be entitled to review and vary the applicable Charges for the remaining Contract term so as to reasonably reflect such change in conditions.
- 5.9. Notwithstanding any other right or remedy available to it, in the event that the Customer (or Operator):
  - 5.9.1. fails to make payment of any monies payable under the Contract on the due date, Scania may charge an administration fee of twenty-five pounds (£25) for every occasion on which Scania is unsuccessful in a reasonable attempt to collect payment from the Customer (or Operator); or
  - 5.9.2. requests a change to the Contract, for example with regard to distance, operation, use, additions, uprates, downrates or any other change, Scania may charge an administration fee of twenty-five pounds (£25) for dealing with each such request.
- 5.10. Interest shall apply to late payments at a rate of four percent (4%) above the Bank of England's lending rate. Such interest shall be payable from the first day of payment delay.
- 5.11. The Customer shall, on demand, pay all amounts due under the Contract, notwithstanding that the Operator has been invoiced. The Customer shall be entitled to raise only those objections against such payment that the Operator would be entitled to raise (if any).
- 5.12. If the Customer fails to timely pay any amounts due according to this Contract (such as, but not limited to, Charges or guaranteed amounts), Scania shall in addition to any other rights and remedies set forth herein, be entitled at its own discretion to temporarily discontinue all Services for any Vehicle until such time as full payment has been received in cleared funds.

## 6. DATA PROCESSING



- 6.1. For the purpose of this Clause, unless defined elsewhere in these General Terms, defined terms shall bear the meanings given to them in Data Protection Laws.
- 6.2. Each Party shall Process the other Parties' business contact details (data that is used in the ordinary course of business) for the purpose of giving full effect to the rights and obligations under the Contract and in accordance with that Party's privacy policy.
- 6.3. Each Party may be required to share the other Party's business contact details with relevant parties, within or outside the country of origin, in order to carry out the rights and obligations under this Contract, but in doing so, each Party shall ensure that the sharing and use of such information is, at all times, compliant with applicable Data Protection Laws.
- 6.4. Given the nature of this Contract, the Parties do not envisage that any Party will Process any Personal Data for or on behalf of the other Party acting as a "processor", under or in connection with this Contract. Where, and to the extent that in undertaking the obligations set out in this Contract, either Party anticipates that the other Party will Process any Personal Data on its behalf acting as a "processor", it shall notify the other Party and the Parties shall agree a variation to this Contract to incorporate appropriate provisions required by Data Protection Laws.

## **7. CONFIDENTIALITY**

- 7.1. Both the Customer and Scania undertake to refrain from disclosing the other Party's Confidential Information to any unauthorised recipient, unless the information is already available in the public domain, developed independently from Confidential Information or obtained from a third party who, to the best of the receiving Party's knowledge, had accessed it without breach of any confidentiality undertakings.
- 7.2. For purposes hereof, Confidential Information shall mean such information as has been received or observed in connection with this Contract or the Services, and which is either marked or indicated as confidential or otherwise manifestly of confidential nature.

## **8. LIABILITY**

- 8.1. Scania may not be held liable:
  - 8.1.1. to fulfil any obligations under or in connection with the Contract for as long as they are prevented by force majeure, defined as circumstances that are beyond Scania's reasonable control (including war, natural disasters, labour strikes, epidemic or pandemic, and shortage of supply of goods, labour and material);
  - 8.1.2. for Services being impaired for reasons attributable to changes in technical and/or other system standards available either within Scania or in connection with the appointment of external service providers; or
  - 8.1.3. environmental damages arising as a result of Breakdowns or other incidents involving a Vehicle when operated by, or in the possession of, the Customer (or Operator).
- 8.2. Nothing in this Contract shall limit or exclude a Party's liability for death or personal injury caused by its negligence, fraud or fraudulent misrepresentation, wilful misconduct or for anything else which may not be excluded or limited by law.
- 8.3. Neither Party shall be liable to the other for indirect, consequential or contingent losses or damages, including loss of profits, penalties, fines or other similar payment obligations to third parties.
- 8.4. Neither Party shall be liable to the other for loss of profits, revenue or vehicle downtime howsoever caused and whether such loss is considered a direct or indirect loss.
- 8.5. If the Customer becomes aware of any default in performance of this Contract by Scania, it shall notify Scania of the default and give Scania a reasonable opportunity to remedy such default. If Scania remedies the default, the Customer (or Operator) shall not have any claim against Scania for the consequences of such default.
- 8.6. Unless the Customer notifies Scania that it intends to make a claim in respect of an event giving rise to a claim under or in connection with this Contract within the notice period, Scania shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire 12 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.





8.7. Subject to Clauses 8.1 to 8.6, Scania's total aggregate liability arising under or in connection with this Contract in any year of the Contract, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise howsoever, shall in all circumstances be limited to the Charges payable for that year.

## 9. TERM AND TERMINATION

9.1. The Contract enters into force on the date of last signature once both Parties have signed the R&M Schedule ("**Commencement Date**"), and shall continue in full force and effect for the "service duration" stated in the R&M Schedule.

9.2. The Contract may at any time be terminated by either Party for convenience by giving no less than three (3) months prior written notice to the other Party.

9.3. Scania may also at any time terminate this Contract (or alternatively, any part of the Services) with immediate effect through written notice to the Customer:

9.3.1. if the Customer fails to timely pay the applicable Charges or any other payments due under the Contract;

9.3.2. if, in respect of a Vehicle:

9.3.2.1. actual mileage according to relevant odometer readings exceeds the applicable Annual Mileage by more than ten (10) percent;

9.3.2.2. the actual value of Cycled Energy Per Km exceeds the contracted value of Cycled Energy Per Km by more than ten (10) percent;

9.3.2.3. the Vehicle exceeds the Annual Ancillary Equipment Hours by more than ten (10) percent;

9.3.2.4. it is used repeatedly out of the Region;

9.3.2.5. the Maximum Gross Train Weight is repeatedly exceeded;

9.3.2.6. it is operated outside of the operational conditions and characteristics defined in the Contract, or in conflict with statutory legal requirements;

9.3.2.7. it has been tampered with, modified or altered in conflict with this Contract, regardless of whether such misconduct was successful or only attempted;

9.3.2.8. it has been involved in an accident where vital parts were damaged (e.g. the steering column, brake systems, or driveshaft etc.) and repairs thereof by someone other than a Scania Workshop were, in Scania's reasonable opinion, not carried out in a workman-like manner in accordance with all applicable manufacturer instructions and recommendations;

9.3.2.9. it is destroyed due to accident or fire, sold, stolen, claimed by a creditor under lease or similar arrangement, sublet or made available to unauthorised third parties;

9.3.2.10. the Customer (or Operator, if applicable) has used substantially incorrect oils, or other lubricants or otherwise failed to adhere to applicable Scania or manufacturer instructions and recommendations for daily vehicle maintenance; or

9.3.2.11. in connection with Flexible Maintenance Services, the Customer fails to present it to a Scania Workshop within a reasonable period following Scania's planning communications;

9.3.3. if the Customer has committed any other material breach of the Contract and failed to remedy, if remediable, such breach within seven (7) days of receipt of a notice to that effect;

9.3.4. if an Operator has failed to honour payment obligations for Charges according to the Contract, regardless of whether or not the Customer has covered such non-payments;

9.3.5. if Scania is entitled to vary the Charges as envisaged in these General Terms, and a price variation is not, as determined by Scania at its own discretion, a sufficient remedy of the changed circumstances for the Services; or



- 9.3.6. if the Customer: (i) is subject to a petition presented against it for its winding-up, administration or bankruptcy; (ii) proposes a voluntary arrangement; (iii) enters into a deed of arrangement; (iv) has a Receiver or Administrative Receiver appointed; (v) passes a resolution for voluntary winding-up; or (vi) convenes a meeting of or comes to any arrangement with its creditors.
- 9.4. In case of early termination of the Contract by Scania according to any of the provisions of this Clause 9 (or as a result of the Customer exercising its right under Clause 9.2 - termination for convenience), Scania shall (in addition to any other remedy available to it) be entitled to:
- 9.4.1. compensation from the Customer for either:
- 9.4.1.1. the difference between the amount expended by Scania on Services performed to the Vehicle up to the date of termination and the total amount received from the Customer in Charges; or
- 9.4.1.2. the balance of the Charges remaining to the original expiry date of the Contract; whichever is the lesser, provided always that this shall not result in there being a balance due to the Customer;
- 9.4.2. recover all outstanding Charges and any other sum due and arising under this Contract (together with any interest accrued);
- 9.4.3. recover an amount in respect of any Charges incurred in a broken monthly period, such apportionment to be calculated on a monthly basis up to the date of termination;
- 9.4.4. if applicable, recover a sum representing any remaining unused part month of Vehicle Excise Duty on the Vehicle. The Customer shall allow Scania to collect any unused whole months of Vehicle Excise Duty and Scania shall be entitled to charge the Customer (and the Customer shall be liable to pay) an administration fee of twenty-five pound sterling (£25.00).

## 10. VEHICLE EXCISE DUTY

- 10.1. If specified in the R&M Schedule and/or as may be agreed between the Parties from time to time, Scania shall obtain VED for a Vehicle and effect all necessary renewals, and shall be entitled to charge the Customer an administration charge calculated as a percentage of the cost of VED for this service.
- 10.2. In the event of an increase in VED, the Customer (or Operator) shall be responsible for paying for that increase and Scania shall be entitled to charge the Customer an administration charge equal to six and a half percent (6.5%) of such increase.
- 10.3. Where:
- 10.3.1. Scania arranges VED for extra weeks over and above a twelve (12) month VED period;
- 10.3.2. a change in VED occurs due to any regulatory or legislative changes; or
- 10.3.3. the Vehicle's registration number or plated weight changes at the request of the Customer (or Operator),

the Customer (or Operator) shall be responsible for any costs incurred by Scania as a result.

## 11. DUTIES, FEES, FINES CLAIMS AND OPERATOR'S LICENCE

- 11.1. Scania shall be entitled to disclose the Customer's (or Operator's) name and address, as it deems appropriate, in respect of any penalty charge notice ("PCN") or request for information made by a regulatory or supervisory authority (for example, the Police) made against a Vehicle.
- 11.2. The Customer (or Operator) shall be liable for all costs and charges incidental to the use of the Vehicle (including PCNs) notwithstanding that the Vehicle may be registered in Scania's name for VED purposes.
- 11.3. Scania may (at its sole discretion) pay any PCN received on the Customer (or Operator's) behalf and the Operator shall repay Scania for such PCN plus a sixty-five pounds sterling (£65) administration fee. The Operator will provide a purchase order number for such charges within forty-eight (48) hours of such request from Scania.
- 11.4. The Operator shall indemnify (and keep indemnified) Scania against:
- 11.4.1. all claims, damages and liabilities arising from any failure by the Customer (or Operator) to instruct a Scania Workshop to carry out any Service (whether or not the same falls within the terms of the Contract) recommended by the Company; and



11.4.2. any fine, penalty or cost, including legal costs, which Scania may incur as a result of any failure by the Customer (or Operator) to comply with any applicable laws or the terms of this Contract.

## **12. MISCELLANEOUS**

- 12.1. The Contract shall succeed and prevail over any previous agreements or understandings between the Parties in the subject matter of repair and maintenance services for the Vehicles.
- 12.2. Scania may at any time transfer its rights and obligations of the Contract (whether in whole or in part) to another Scania Workshop or a Scania Group company, without any further procedural requirements. No other transfers of rights and/or obligations under this Contract is permitted for either Party without the prior written consent of the other.
- 12.3. Scania may at any time change the contents of the Contract (including these General Terms), and undertakes to inform the Customer thereof in writing and without undue delay. Such changes shall take effect thirty (30) days after sending of the relevant notice to that effect, unless prior thereto a written termination notice has been received by Scania from the Customer in which case the Contract content shall continue to apply unchanged for the duration of the applicable notice period.
- 12.4. Subject to clause 12.3, no part of the Contract may be amended or modified unless agreed between the Parties in writing.
- 12.5. If any clause of any part of the Contract is declared null and voided and can no longer be enforced, the other clauses of the Contract shall remain in full force and effect with such modification only as is reasonable taking into account the impact (if any) of nullity as aforesaid.
- 12.6. Any notice or communication required or permitted under this Contract may be:
- 12.6.1. in writing to the Parties at the addresses contained in this Contract or at such other address as may be given in writing by either Party to the other and shall be deemed to have been received by the addressee: (i) if given by hand, immediately upon receipt; (ii) if given by overnight courier service, the first business day following dispatch; or (iii) if given by registered or certified mail, postage prepaid and return receipt requested, the second business day after such notice is deposited in the mail; or
- 12.6.2. by email to such representative as notified from time to time by each Party, and (in the case of the Customer) provided always that: (i) the email address "purchasingmk@scania.com" is included in copy (in cc) in the same email; and (ii) the email is sent by a person with appropriate authority to issue and give full legal effect to such notice or similar communication, or the email includes such authority as an attachment or within its chain/trail/conversation.
- 12.7. This Contract and any dispute arising out of or in connection to it shall be governed by and construed in accordance with the laws of England and Wales and each Party irrevocably agrees that the English courts shall have exclusive jurisdiction to settle any such dispute.

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