



## 3SFire Limited Terms and Contract Conditions for Fire Engineering

### 1. Legislation and Regulation

This Agreement incorporates:

- The Association of Consultant Engineers Conditions of Engagement 1995 second edition 1998 Agreement D (“the Ace Conditions”) except as varied by this Agreement which shall have precedence in case of any conflict. All definitions and references to terms in this Agreement shall be deemed to have the meaning and refer to the provisions of the Ace Conditions;
- Building Regulations 2010 (as amended);
- Regulatory Reform (Fire Safety) Order 2005;
- Building Act 1984 (as amended);
- Applicable local acts.

The Building Regulations 2010 include provisions for fire safety within certain classes of buildings. Part B of Schedule 1 to the Building Regulations includes five functional requirements:

- Regulation B.1 Means of warning and escape.
- Regulation B.2 Internal fire spread (Linings).
- Regulation B.3 Internal fire spread (Structure).
- Regulation B.4 External fire spread.
- Regulation B.5 Access and facilities for the fire service.

### 2. Charges and Payment

The Client shall pay VAT at the appropriate rate.

The Client shall pay each invoice submitted to it by 3SFire, in full and in cleared funds, within 30 days of receipt to a bank account nominated in writing by 3SFire.

Upon 7 day’s written notice to the Client, 3SFire may suspend all Services until payment has been made in full.

All sums payable to 3SFire under this agreement at the date of termination shall be paid in accordance with the payment provisions of the ACE Conditions.

All amounts due under this agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

### **3. Obligations**

3SFire shall not act as a “planning supervisor” as defined in the Construction (Design and Management) Regulations 1994 (“the CDM Regulations”) for the Services and Additional Services.

The Client shall be responsible for preparing the health and safety plan and health and safety file and obtaining all necessary approvals for the installation of Services.

3SFire shall not be responsible for the preparation or checking of details, specifications, drawing or revisions thereto unless specifically instructed by the Client as part of the Services or Additional Services in which event the Client shall pay 3SFire’s fee agreed at that time.

### **4. Liability**

3SFire shall not be liable to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement for any indirect or consequential loss.

3SFire shall not exclude its liability for any claim or claims arising out of or in connection with:

- (a) pollution;
- (b) contamination;
- (c) death;
- (d) personal injury;
- (e) fraud.

For all other claims whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement 3SFire’s total aggregate liability shall not exceed £250,000 or the total sum of the fees paid by the Client whichever is the lower.

The period of the 3SFire’s liability to the Client is six years from the date of completion of the Services.

### **5. Warranties**

In delivering the Services, 3SFire shall employ properly qualified and competent Consultant Fire and Safety Engineers which shall exercise reasonable skill care and diligence of experienced Consultant Fire and Safety Engineers in the provisions of the Services.

### **6. Assignment and Novation**

6.1 The parties shall not be entitled to assign the benefit or the burden of this Agreement without the prior written consent of the other party.

## **7. Force Majeure**

7.1 3SFire shall have no liability to the Client under this Agreement if it is prevented from, or delayed in performing, its obligations under this Agreement or from carrying out its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) industrial relations difficulties, strikes, lock-outs (whether involving the workforce of 3SFire or any other party), failure of a utility service or transport network, act of God, war, riot, 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 subcontracts.

7.2 During any period of exceptional emergency, 3SFire shall have the right, at any time, to suspend the normal service provision of this Agreement. The suspension shall be deemed to be an event of Force Majeure – including (but not limited to) Covid-19. This shall include (but not be limited to) a situation where the Services are unable to be performed due to the Consultant Fire and Safety Engineer(s) being required to isolate (either through the display of symptoms or being contacted by the Test and Track programme). 3SFire will arrange for any missed Services to be undertaken as soon as possible. For the avoidance of doubt, if any Services are suspended in accordance with this clause, 3SFire shall not be liable to the Client for any costs incurred by them in relation to the Services including (but not limited to) accommodation or travel costs.

## **8. General**

8.1 No one other than a party to this Agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.

This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

All variations, alterations and or waivers to this Agreement shall be agreed by the parties and evidenced in writing.

If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable.

Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties or constitute any party the agent of another party.

All intellectual property rights and all other rights arising in connection with the provision of the Services shall remain in the ownership of 3SFire and the Client is hereby granted a royalty-free licence to copy and use the documents prepared by, or on behalf of 3SFire, exclusively in relation to the delivery of the Services (as detailed in schedule 1).

The parties shall not disclose or use confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement except as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control.

Each party agrees this Agreement shall be governed by and construed in accordance with the law of England and Wales and that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement.

## **Invoicing**

An invoice will be provided upon delivery.

Regarding the provision of on-going support throughout the design, this will only be charged upon the request to provide additional support and will be invoiced monthly, but will not exceed £2,000 per month without prior authorisation from the client.

All fees will be payable within 30 days of issue of the invoice.

To enable us to commence works an email confirmation of appointment is required, which must be accompanied by a Purchase Order where necessary.

**To accept these terms and conditions please click [here](#).**

## **PROJECT TEAM**

### **1. About 3SFire**

3SFire pride themselves on being one of the few totally independent consultancies of Fire Safety Engineers, which means focusing entirely on developing solutions around client needs. 3SFire offer a wide range of services covering:

- Fire safety design and engineering
- Fire and smoke modelling
- Fire safety management and risk assessment
- Education and training

### **2. Team Members**

All 3SFire staff undertaking fire engineering activities will be registered with the UK Engineering Council.

Where Appropriate all fire engineering work will be reviewed by a second Fire Engineer.

3SFire reserves the right to substitute any Team Member of the Project Team at any time. In the event of making such substitution, 3SFire shall provide the Client with details of the new Team Member and their Project Role as soon as reasonably possible.