



## 3SFire Terms and Conditions for the Provision of Training

### 1. Definitions

The following definitions apply in these terms and contract conditions

Company Equipment	Any equipment, including laptops, computers, projectors, screens, cabling, tools, systems, facilities, PPE and operational and other training equipment provided by the Company or its subcontractors for use directly or indirectly in the supply of the training.
Company	Means 3SFire whose registered address is: Hampshire & Isle of Wight Fire & Rescue Service, Leigh Road, Eastleigh, SO50 9SJ.
Conditions	Means the conditions set out in the Contract.
Contract	The agreement between the Company and the Client for the supply of the Training. The Client's purchase order and the Authorities acceptance of it or the Client's acceptance of a proposal / quotation / estimate for training by the Company under 3.2.
Contract Documentation	a) Means The Conditions (clauses of the Contract) b) The Training proposal/quotation/estimate c) The Training information document and joining instructions
Course Director	Course organiser responsible for managing organisational and candidate issues of the Training.
Client	The person, firm or company who purchases training from the Company.
Client's Equipment	Any equipment, systems, PPE or operational and training equipment or facilities used directly or indirectly in the supply of training provided by the Client including laptops, computers, projectors, screens, cabling including tools provided by the Client and used directly or indirectly in the provision of the Training.
Default Notice Intellectual Property Rights	Means a notice issued by the Company in relation to a breach of the Contract. All patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in design, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions for such rights, and all similar or equivalent rights or forms of protection in any part of the world.
Lead Officer	Means the Lead Officer of the Company
Party	Means either the Company or the Client and 'Parties' shall be construed accordingly.

PPE	Means Personal Protective Equipment.
Proposal	The Proposal for the Training executed by or on behalf of the Company and the Client.
Training	Means the Training to be provided by the Company under this Contract as set out in the proposal / quotation / estimate.
Training Academy	Means the Training Academy of the Company.
Training Materials	All documents, information, visual and audio materials, presentations, demonstrations, course notes, handouts, reports, products, materials in any form provided by the Company or its agents, subcontractors, consultants and employees in relation to the Training.
Training Officer	Means the Officer of the Company with responsibility for delivery of the Training.
VAT	Value added tax chargeable under English law for the time being and any similar additional tax.

## 2. Interpretation of Contract

- 2.1. Except as otherwise expressly provided, all elements of the Contract Documentation are to be taken as mutually explanatory of one another.
- 2.2. Any ambiguities or discrepancies between the parties shall be referred in the first instance to the Lead Officer who will provide clarification.
- 2.3. In the Conditions of Contract;
- 2.3.1. The masculine includes the feminine and the neuter and vice versa; the singular includes the plural and vice versa;
  - 2.3.2. headings are included for ease of reference only and shall not affect the interpretation or construction of the Contract;
  - 2.3.3. references to Clauses are unless otherwise provided, references to Clauses and Appendices within the Contract Conditions;
  - 2.3.4. "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;
  - 2.3.5. A reference to writing or written includes faxes and emails.

## 3. Application of Conditions

- 3.1. These Conditions shall apply to and be incorporated into the Contract for the provision of Training entered into by the Company with the Client. By instructing the Company to proceed or accepting the Authorities proposal/quotation/estimate, the Client agrees to these terms and conditions to the exclusion of all other terms, conditions, warranties or representations. These terms and conditions prevail over any terms and conditions contained or referred to in the Client's purchase order, confirmation of order, acceptance of quotation, acceptance of estimate or specification or other document supplied by the Client, or implied by law, trade custom, practice or course of dealing.
- 3.2. The Client's purchase order, or the Client's acceptance of a quotation or estimate for Training, constitutes an offer by the Client to purchase the Training specified in it on these Conditions. No offer placed by the Client shall be accepted other than by written acknowledgement issued and executed by the Company or (if earlier) by providing the Training, when a contract for supply and purchase of the Training on these Conditions will be established. The Client's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other document shall not govern the Contract.

3.3. Proposals quotations and estimates are provided on the basis that no contract shall come into existence except in accordance with condition 3.1 and 3.2 above. Any quotation or estimate is valid for a period of 30 days from its date, provided that the Company has not previously withdrawn or made a contract variation.

3.4. The invalidity or unenforceability of any term, or any right arising pursuant to the Contract shall not in any way affect any remaining terms or rights of either Party.

#### **4. Role of the Officers**

4.1. The Company shall appoint a nominated Lead Officer. Only the Lead Officer shall have the rights and powers conferred by the Company to act on its behalf and may direct or vary any part of the Contract Conditions

4.2. The Company shall appoint nominated Course Directors to manage organisational and candidate issues related to the Training.

#### **5. Forbearance and Waiver**

5.1. No forbearance, indulgence or relaxation on the part of the Company, Training Academy, the Lead Officer, or any Training Officer, shown or granted to the Client in respect of its obligations under this Contract, shall in any way affect, restrict or diminish the rights and powers of the Company under the Contract, or operate as, or be deemed, a waiver of any breach of the Contract.

5.2. Any failure or delay of the Company to enforce or to exercise, at any time for any period of time, any term of or any right, power or privilege arising pursuant to the Contract does not constitute and shall not be construed as a waiver of such term or right and shall in no way affect either party's right later to enforce or exercise it nor shall any single or partial exercise of any remedy, right, power or privilege preclude any further exercise of the same or the exercise of any other remedy, right, power or privilege whatsoever.

#### **6. Charges and Payment**

6.1. The total price for the Training shall be paid to the Company by the Client without deduction or set-off. The Company shall, unless agreed otherwise, invoice the Client in advance of the Training for the charges that are payable, together with expenses, the costs of Training Materials and VAT, where appropriate.

6.2. Any fixed price and daily rate quoted excludes (unless stated otherwise) the cost of accommodation, subsistence, travelling, Training Materials and any other ancillary expenses reasonably incurred by individuals or by third parties whom the Company engages in connection with the Training. Such expenses and materials arising from any third party training shall be invoiced by the Company including VAT, which the Company shall add to its invoices to the Client at the appropriate rate.

6.3. The Client shall pay each invoice submitted to it by the Company immediately upon receipt of the invoice and in advance of the delivery of any Training (unless stated otherwise) in full in cleared funds either, to the Company direct, or by BACS to a bank account nominated by the Company.

6.4. If the Client fails to pay any invoice or payment of any invoice is not received in accordance with these Conditions then the Company may:

a) charge interest on such sum from the due date for payment at either the annual rate of 4% above the Bank of England base rate from time to time in force, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgement or interest under the Late Payment of Commercial Debts (interest) Act 1998 whichever is the greater; and

b) Refuse admission of the Client's personnel to the Training

c) Suspend all Training until payment has been made in full

6.5. 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.

6.6. 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.

6.7. Time for payment of the invoiced sum for the Training shall be of the essence.

6.8. The Company and or persons/companies acting on its behalf or as its agents reserve the right to charge and recover all costs incurred in connection with the pursuance and/or recovery of any outstanding sums.

6.9. All amounts stated are exclusive of VAT and any other applicable taxes which will be charged in addition at the rate in force at the time the Client is required to make payment.

## **7. Currency**

7.1. The price of the Training shall be paid in pounds sterling.

## **8. Commencement and Duration**

8.1. Subject to these Conditions the Company shall use all reasonable endeavors to provide the Training in accordance and in all material respects with the Training proposal, quotation or estimate issued to the Client. Any times for the provision of Training shall not be of the essence of the Contract.

8.2. In the event that the Company cancels the Contract in advance of the Training, the Company shall provide the Client, where practicable with prior reasonable notice in writing and shall offer to rebook the Client on to an alternative Training course date, if available. If this Training course date is not acceptable to the Client, the Company shall provide the Client with a full refund of any Training fees paid. Any refund shall be limited to the invoice amount paid by the Client. The Company shall not be liable for any costs, charges, or losses sustained or incurred by the Client arising directly or indirectly from such cancellation.

## **9. Client's Obligations**

9.1. The Client shall co-operate with the Company in a timely manner in all matters relating to the provision of the Training and in particular provide such forms, information and documentation which is accurate in all material respects as the Company may reasonably request or require.

9.2. Where Training is to be on the Client's premises the Client shall:

- a) Provide the Company, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with access to the Client's premises and other such facilities as may reasonably be required by the Company.
- b) Provide to the Company in a timely manner, such in-put material and other information as the Company may reasonably require and ensure that it is accurate in all material respects;
- c) Be responsible, at its own cost, for preparing and maintaining the relevant Client's premises for the supply of the Training;
- d) Inform the Company of all health and safety requirements that apply at the Client's premises;
- e) Ensure that all Client Equipment and PPE is in good working order and suitable for the purposes for which it is used in relation to the Training and conforms to all relevant United Kingdom statutory standards regulations or requirements.

9.3. Where Training may involve physical exertion in conditions of exposure then the Client must ensure that all candidates are physically fit and able to carry out the tasks expected of them. It is the responsibility of the Client to ensure that those attending the Training have no specified contraindications or any medical conditions which would make the Training a danger to health

9.4. If the Company's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Client, whether by individuals, agents, subcontractors, consultants or employees, the Company shall not be liable for any costs, charges or losses sustained or incurred by the Client arising directly or indirectly from such delay.

9.5. The Client shall be liable to pay to the Company, on demand, all reasonable costs, charges or losses sustained or incurred by the Company including without limitation any direct, indirect or consequential losses, arising from any loss of profit, loss or damage to property, injury to or death of any person arising directly or indirectly from the Client's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Company confirming such costs, charges and losses to the Client in writing.

9.6. In the event that the Client cancels the Contract in advance of the Training the Client shall unless agreed otherwise between the Parties pay to the Company a sum representing the Company's anticipated losses as follows:

- a) Cancellation within 4 weeks of the agreed date for delivery of Training the full cost of the Training
- b) Cancellation within 4-8 weeks of the agreed date for delivery of Training 50% of the full costs
- c) Cancellation more than 8 weeks of the agreed date for delivery of Training 25% of the full costs

For the avoidance of doubt the Client agrees that this condition 9.6 represents a genuine pre-estimate of loss on the part of the Company.

## **10. Limitation of Liability**

10.1. This Condition sets out the entire financial liability of the Company (including any liability for the acts of its employees, agents, consultants or sub-contractors) to the Client in respect of any;

- a) breach of the Contract;
- b) use made by the Client of the Training or the Training Materials or any part of them; and
- c) representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

10.2. All warranties, conditions and other terms implied by statute or common law are to the fullest extent permitted by law, excluded from the Contract.

10.3. In no event shall the Company be liable to the Client for any loss of business, loss of opportunity or loss of profits or for any other indirect or consequential loss or damage whatsoever. This shall apply even where such a loss was reasonably foreseeable or the Company had been made aware of the possibility of the Client incurring such a loss.

10.4. Nothing in these Conditions limits or excludes the liability of the Company for death or personal injury resulting from negligence or for any damage or liability incurred by the Client as a result of fraud or fraudulent misrepresentation by the Company or that of its employees, agents or sub-contractors.

10.5. Except in respect of death or personal injury due to negligence for which no limit applies, the entire liability to the Client in respect of any claim whatsoever or breach of this Agreement, whether or not arising out of negligence, shall be limited to the price paid for the Training by the Client to which the claim relates.

## **11. Variation to Contract**

11.1. The Company reserves the right to vary the Conditions or the terms of performance of the Training from time to time without notice in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Training. Where practicable the Company will give the Client prior notification of any change in writing.

## **12. Force Majeure**

12.1. The Company shall have no liability to the Client 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 (without limitation) 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, 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.

### **13. Temporary Suspension of Service**

13.1 During any period of exceptional emergency, the Company, through the nominated Lead Officer shall have the right, at any time, to suspend the normal service provision of this Contract. 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 Training is unable to be performed due to the Training Officer being required to isolate (either through the display of symptoms or being contacted by the Test and Track programme). The Company will arrange for any missed Training to be undertaken as soon as possible. For the avoidance of doubt, if any Training is suspended in accordance with this clause, the Company shall not be liable to the Client for any costs incurred by them in relation to the Training including (but not limited to) accommodation or travel costs.

### **14. Intellectual Property Rights, Copyright and Confidentiality**

14.1. All Intellectual Property Rights with regards to documents, presentations audio and visual demonstrations, materials, lesson plans, handouts, course notes and books, products, marketing materials and any other Training Materials in whatever form shall be owned by the Company and the Company licenses all such rights to the Client free of charge and on a non-exclusive, worldwide basis to such extent as necessary to enable the Client to make reasonable use of the documents and materials in relation to the provision of the Training. Upon expiry of the Contract this license shall automatically terminate.

14.2. All Intellectual Property Rights produced from or arising as a result of the performance of this Contract shall, so far as not already vested, become the absolute property of the Company, and the Client shall do all that is reasonably necessary to ensure that such rights vest in the Company by if necessary the execution of appropriate instruments or the making of agreements with third parties.

14.3. The Client acknowledges that where the Company does not own any Training Materials that the Client's use of rights in those Training Materials will be conditional on the Company obtaining at reasonable cost to the Company a written license from the relevant third party licensor or licensors on such terms as will entitle the Company to license such rights to the Client.

14.4. The Client shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives, business Clients, suppliers or associated companies, personal data which are of a confidential nature and have been disclosed to the Client by the Company, its employees, agents, consultants or sub-contractors and any other confidential information concerning the Authorities business or its products and services which the Client may obtain during the course of Training.

14.5. The Client may disclose such confidential information to its employees, officers, representatives, advisers, agents or sub-contractors who need to know such information for the purposes of carrying out the Client's obligations under the Contract; and as may be required by law, or through court order or any governmental or regulatory Company.

14.6. The Client shall ensure that its employees, officers, representatives, advisers, agents or sub-contractors' to whom it discloses such confidential information are made aware of and agreed to comply with this Condition.

14.7. All Training Materials, presentations, handouts and course literature is the copyright of the Company and may not be reproduced by the Client without prior permission of the Company.

14.8. Only with the prior written permission of the Company shall the Client be permitted to use the name of the Company for promotional purposes.

14.9. Only with the prior written permission of the Company shall photography within the Training Academy and on Training courses be permitted.

14.10. The provisions contained in this Condition shall survive the expiry or termination of this Contract howsoever caused and shall continue thereafter in full force and effect.

### **15. Data Protection Act 1998 (the DPA) and Freedom of Information Act 2000 (the FOIA)**

15.1. Both Parties will duly observe all their obligations under the DPA, which arise in connection with the Contract.

15.2. The Client acknowledges and agrees that details of the Client's name, address and payment record may be submitted to a credit reference agency and personal data will be processed by and on behalf of the Company in connection with the Training.

15.3. In particular, and without limitation, the Client shall ensure staff and agents do not publish, disclose or divulge any Company Personal Data as defined in the DPA to any third parties unless directed in writing to do so by the Company.

15.4. The provisions of this clause shall survive the expiry or termination of this Contract howsoever caused and shall continue hereafter in full force and effect.

## **16. Equal Opportunities and Fairness at Work**

16.1. The Company has a duty to comply with the Equality Act 2010. The Authorities 'Fairness at Work' policy and 'Client Charter' are to encourage a positive attitude towards fairness of treatment and opportunity. Where the Client, its agents or staff are required to work on the Company's premises or alongside the Company's employees or any other employees on any other premises, the Client shall at all times comply with the Company's Codes of Practice relating to Fairness at Work.

16.2. The Company does not accept bullying and harassment in any form.

16.3. The Client shall notify the Company, in writing, as soon as it becomes aware of any incident or investigation of or proceeding which may be brought against the Company.

## **17. Assistance in Legal Proceedings**

17.1. Where the Client or any of its staff or the Company or any of its staff become aware of any incident, maladministration, accident or other matter which may give rise to an enquiry, claim or legal proceedings in respect of the provision or failure to provide the Training, it shall notify the Course Director immediately in writing. Such notification shall include all relevant information to enable the Course Director to investigate the matter fully.

17.2. Such information provided or assistance rendered pursuant to the above obligation, in whatever form, shall be at no cost to the Company.

17.3. Any liability which the Company incurs as a result of willful or negligent failure by the Client shall be recoverable from the Client.

## **18. Insurance**

18.1. The Company shall maintain and shall ensure that its sub-contractors maintain the following insurances:

18.1.1. Public Liability insurance with a minimum limit of £5 million, in respect of any one act or occurrence or series of acts or occurrences arising from one cause;

18.1.2. Employers' liability insurance to comply with statutory requirements with a minimum limit of £10 million;

18.1.3. Professional indemnity insurance with a minimum limit of £5 million, in respect of any one act or occurrence or series of acts or occurrences in any one year; such insurance shall have a minimum duration of a 7 years period from the date of completion of the Training.

## **19. Termination**

19.1. 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:

a) The Client fails to pay any amount due under the Contract on the due date for payment or

b) The other Party is in breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that Party being notified in writing of the breach by the other Party or

c) 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

d) The Client makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a Company) becomes subject to an administration order or goes into liquidation or passes a resolution for winding up (other than for purposes of solvent amalgamation or reconstruction) or a court of competent jurisdiction makes an order to that effect; or

e) The Client threatens or ceases to carry on the whole or part of its business.

f) The other Party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

19.2. On termination of the Contract for any reason, the Client shall immediately pay the Company all outstanding invoices and interest and the Company shall invoice for any Training supplied where no invoice has been submitted which shall become payable immediately on receipt.

## **20. Dispute Resolution**

20.1. Any dispute concerning either Party's material non-conformance with its obligations under the Contract shall be referred to the first management level (Course Director) for discussion and resolution at or by a meeting to take place within five (5) working days of the written request by the requesting party.

20.2. If the dispute is not resolved at this level at the meeting, the dispute shall be referred to the second management level (Lead Officer), who must meet within five (5) working days of the referral to attempt to resolve the dispute.

20.3. If the unresolved dispute is having a material adverse effect on either Party then the Parties shall use their respective reasonable endeavors to reach a timely resolution of the dispute.

20.4. If any of the above officers/representatives are unable to attend a meeting, a substitute shall attend and such substitute will have at least the same seniority and be authorised to settle the unresolved dispute.

20.5. If the dispute remains unresolved after the above process has been followed, the dispute shall then be referred to mediation under the auspices of the CEDR (Centre for Dispute Resolution). Neither Party shall seek to refer the dispute to an Expert or to the Courts unless the mediation process fails to resolve the dispute.

## **21. Non-solicitation of Employees**

21.1. The Client covenants with the Company that it shall not within a period of twelve months from the termination of any Contract with the Company directly or indirectly entice away from the Company and any subsidiary, associated or affiliated body any person who has during the previous 12 months been employed by the Company and any subsidiary, associated or affiliated body to provide the Training except with the consent in writing of the Company.

21.2. Should the Client be in breach of Clause 22.1 it shall pay to the Company a fee equivalent to 13 weeks remuneration of the employee concerned.

## **22. Right to set off**

22.1. The Company reserves its right to set-off against its indebtedness to the Client any debt owed to it by the Client and any liability, damage, loss, costs, charges and expenses which it has incurred in consequence of any breach by the Client of this Contract or any other contract with the Company.

## **23. The Contracts (Rights of Third Parties) Act 1999**

23.1. No person who is not a Party to the Contract (including without limitations any employee, officer, agent, representative or sub-contractor or either the Company or the contractor) shall have any right to enforce any term of the Contract, which expressly or by implication, confers a benefit on him without the prior agreement in writing of both Parties. This Clause does not affect any right or remedy of any person, which exists or is available otherwise than pursuant to that Act.

## **24. Notice and Timescales**

24.1. Any notice to be given by either Party to the other may be served by email, fax, 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 day it was sent, if sent by fax shall be deemed to be served on receipt of an error free transmission report, 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.



## **25. Assignment**

- 25.1. The Client shall not be entitled to assign its rights or obligations or delegate its duties under this Contract without the prior written consent of the Company.
- 25.2. The Company shall be entitled to; assign, novate or otherwise dispose of its rights and obligations under this Contract or any part thereof to any Public Company, any other body established by the Crown under statute, or any private sector body which will substantially perform any of the functions that had previously been performed by the Company provided that any such assignment, novation or other disposal shall not increase the burden of the Client's obligations under this Contract.

## **26. Entire Agreement**

- 26.1. The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. The Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other whether written or oral.

## **27. Governing law and jurisdiction**

- 27.1. The Contract and any claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of England and Wales.

**To accept these Terms and Conditions please click [HERE](#)**