

PART A - A W Fire Ltd - Business Terms & Conditions for sale of Services

If you are a business customer, these business terms & conditions apply to your contract

1. Definitions

- i. *Additional Work* - means any additional or varied services which are not already covered by the Services set out in the Proposal, and which are instructed by the Client and agreed by the Supplier, as set out in clause 4.
- ii. *Business Day(s)* - a day other than a Saturday, Sunday, or public holiday in England, when banks in London are open for business.
- iii. *Client* - the company, firm or individual who purchases Services from the Supplier as specified in the Proposal.
- iv. *Client Materials* - any documents, data, text, building plans, sections, elevations, information, specifications, drawings and any other materials provided by the Client to the Supplier.
- v. *Commencement Date* - has the meaning given in Clause 3.2.
- vi. *controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures*: as defined in the Data Protection Legislation.
- vii. *Business Conditions* – these Part A business terms and conditions as amended from time to time in accordance with Clause 18.4.
- viii. *Contract* - the contract between the Supplier and the Client for the supply of Services in accordance with the Proposal and these Business Conditions.
- ix. *Data Protection Legislation* - all applicable data protection and privacy legislation in force from time to time in the UK, including the General Data Protection Regulation (EU) 2016/679 as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 ("UK GDPR"), the Data Protection Act 2018, the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC), the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) and any other similar national privacy law in force from time to time, along with any codes of practice or guidance issued by the applicable data protection regulators from time to time within the UK.
- x. *Deliverables* - the deliverables/output of the Services as set out in the Proposal produced by the Supplier for the Client.
- xi. *Fees* - the fees payable by the Client to the Supplier for the supply of the Services as set out in the Proposal and in accordance with Clause 8.
- xii. *Force Majeure* - any event, act, omission or accident beyond the reasonable control of the party claiming the force majeure event including acts of God, flood, earthquake, windstorm or other natural disaster; epidemic or pandemic; war, threat of or preparation for war, riot, civil commotion, terrorist activities; fire, explosion, collapse of building structure; or any prohibition or restriction by any governments or other legal authority which materially affects a party's ability to perform its obligations under this Contract and which is not in force at the date of this Contract.
- xiii. *Intellectual Property Rights* - any intellectual property right, including all patents, rights to interventions, 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 designs, rights in computer software, database 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 of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.
- xiv. *Order* - the Client's order for Services as set out in the Proposal or other instruction to proceed with the supply of Services offered in the Proposal issued by the Supplier to the Client.
- xv. *Premises (or part thereof)* – The location/s of the premises or proposed premises as defined in the Proposal and provided by the Client.
- xvi. *Proposal* – means the proposal or quotation for the Services setting out the Fees and details of the Services to be provided by the Supplier to the Client.
- xvii. *Purpose* - the purpose for which the Deliverables are produced or Services are prepared by the Supplier as set out in the Proposal.
- xviii. *Responsible Person* – as defined by Article 3 of the FSO (*as defined below*) and in accordance with Clause 17.2. Unless expressly stated otherwise in writing, the Client is to be regarded as the Responsible Person.
- xix. *Services* - the services, including the Deliverables, supplied by the Supplier to the Client as set out in the Proposal and as detailed/specified in Schedule 2 of the Proposal.
- xx. *Supplier* – A W Fire Ltd registered in England and Wales with company number 13542189.
- xxi. *Term* – the time from the commencement date (as per Clause 3.2) to completion of the Services.

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2. Interpretations

- 2.1 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- 2.2 The words include, includes, including and in particular shall be construed as if they were followed by the words “without limitation”. Words in the singular shall include the plural and vice versa and references to one gender include the other gender. Any reference to persons includes natural persons, firms, partnerships, limited liability partnerships, companies, corporations, unincorporated associations, local authorities, governments, states, foundations and trusts (in each case whether or not having separate legal personality) and any agency of any of the above.
- 2.3 A reference to writing or written includes fax and email.

3. Basis of Contract

- 3.1 The Order constitutes an offer by the Client to purchase Services in accordance with these Business Conditions.
- 3.2 The Order shall only be deemed to be accepted when the Client confirms the Proposal in writing, at which point the Contract shall come into existence (Commencement Date).
- 3.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 3.4 These Business Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 3.5 Any Proposal given by the Supplier shall not constitute an offer and is only valid for a period of 30 Business Days from its date of issue.

4. Supplier Obligations

- 4.1 The Supplier shall supply the Services, and deliver the Deliverables, to the Client in accordance with the Proposal and these Business Conditions in all material forms. The Supplier accepts no liability for any failure to provide a Deliverable or other Service in relation to any matter that falls outside the scope of the Contract with the Client, or for any failure by the Client to follow the Supplier's advice.
- 4.2 The Supplier warrants to the Client that the Services will be provided using reasonable care and skill.
- 4.3 The Supplier shall use all reasonable endeavours to meet any performance dates specified in the Proposal, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 4.4 The Supplier's Deliverables are based on the information provided at the time the Services were performed and the Supplier shall not be responsible for any deficiencies due to a lack of relevant information or due to subsequent changes being made to the Premises or the management of the Premises.
- 4.5 The Supplier is deemed to have no knowledge over those areas of the Premises to which the Supplier was not given access. If the Supplier is not given access to an area of the Premises, the Supplier will detail within the Deliverable that access to an area was requested but was subsequently denied by the Client. The Client may request that the Supplier revisit the Premises to assess the area where access was previously denied, however, the Supplier will be entitled to charge for the Additional Works in accordance with Clause 4.11.
- 4.6 The Supplier has no control over the following at any time and only has knowledge of the following matters at the time of a site visit at the Premises so far as could be reasonably established or if the Client has made the Supplier aware at the time of the site visit:
 - i. any changes made to the Premises;
 - ii. any faults in the equipment at the Premises forming part of the Services, including any equipment checked by the Supplier at the time of the site visit at the Premises in undertaking the Service, but not subsequently;
 - iii. any deterioration in the Premises or equipment;
 - iv. ongoing management of the Premises or of persons within the Premises;
 - v. moveable items brought into the Premises;
 - vi. staffing levels and or training that the Client gives to their staff; and
 - vii. implementation of any recommendations made by the Supplier.

If the Client makes the Supplier aware of any of the above matters after the site visit or otherwise informs the Supplier of any changes to any of the above matters, the Supplier may be required to undertake a new site visit and assessment to take into consideration such new matters. The Supplier reserves the right to charge the Client for any such additional site visit.

- 4.7 The Supplier reserves the right to amend the Proposal if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Client in any such event.
- 4.8 If the Supplier identifies clear and obvious risks that pose a danger to relevant persons at a Premises and the nature of the risks falls unequivocally within the scope of the Services as set out in the Proposal, the Supplier will endeavour to highlight these to the Client in writing although it may not be an exhaustive list (e.g. where risks are mentioned in general (rather than specific) terms or where risks posed are hidden or comprised of factors the Supplier could not have known about at the time of the assessment). However, with regards to risks outside the scope of the Services as set out in the Proposal, the Supplier is under no contractual obligation whatsoever to identify the aforementioned risks, therefore, identification of risks outside the scope of the Services as set out in the Proposal does not represent an obligation under Article 5(3) and/or 5(4) of the Fire Safety Order 2005. Furthermore, the Supplier is in no way liable or responsible for rectifying/remediating any risks.
- 4.9 The Supplier's assessment forming part of the Services does not include advice/information relating to The Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR).
- 4.10 The Supplier has a duty to inform the local authority fire service if at any material time during the delivery of the Services, conditions at the Premises are considered to be immediately dangerous to relevant persons and cannot be remedied or significantly improved to reduce the risk to a tolerable level at the material time.
- 4.11 The Supplier shall notify the Client in writing as soon as it becomes aware that any Additional Work will be required, because of:
- i. changes in the design, size, scope or complexity of the Project as set out initially in the Proposal;
 - ii. changes in the timing or program of the Project as set out initially in the Proposal;
 - iii. a failure by the Client to comply with its obligations under these Business Conditions; and/or
 - iv. additional meetings and/or visits and/or other work is required.
- 4.12 The Fee(s) for Additional Work shall be calculated on the basis of the time spent by the Supplier in performing the Services at the rates provided in the Proposal.
- 4.13 The Client acknowledges and agrees that the Services and Deliverables are provided and prepared for the exclusive use and benefit of the Client and solely for the Purpose for which it is provided and no other purpose. Except where stated in the Proposal or otherwise in writing (such as per Clause 18.9), no part of the Deliverables should be reproduced, distributed or communicated to any third party. The Supplier does not accept any liability if the Deliverables are used for an alternative purpose from which they are intended, nor to any third party in respect of the Deliverables. To the fullest extent permitted by law the Supplier accepts no responsibility and disclaims all liability to any third party who purports to use or rely for any reason whatsoever on the Deliverables. Accordingly, any reliance placed on the Deliverables, by any third party is entirely at their own risk.
- 4.14 The Supplier will use reasonable care and skill to ensure the Deliverables provided are as accurate as possible, however, the Supplier's Services and its advice in its Deliverables is based solely on the information and other Client Materials supplied by the Client or which came to the Supplier's attention during the provision of the Services and while on site at the relevant Premises. The Supplier shall not be responsible, nor have any liability to the Client or any third party, for checking the accuracy of any information and other Client Materials provided by the Client to the Supplier. It is the Client's responsibility to carry out any implementation actions identified by the Supplier. Advice given is not legal advice and the Client should obtain its own legal advice where required.

5. Contractors and Sub-Contractors

- 5.1 The Supplier may subcontract any part of the Services and any Additional Work, with the prior approval of the Client, not to be unreasonably withheld or delayed.
- 5.2 Except for a subcontractor of the Supplier appointed pursuant to Clause 5.1, the Supplier shall not be responsible for the supervision of any other contractor or subcontractor (nor any other person), nor shall the Supplier have any liability for ensuring the competence, performance or adequate standard of workmanship of any contractor or subcontractor (or other person).
- 5.3 The Supplier is wholly independent and does not receive any referral fees from any person and, where any contractor/specialist are recommended to perform remedial services flowing from the Services, it is the Client's ultimate decision as to whether to choose to engage such recommended contractor/specialist and the Supplier accepts no responsibility or liability whatsoever, whether in contract or negligence, for these recommendations.

6. Client Obligations

- 6.1 The Client shall:
- i. ensure that the terms of the Order and any information, documents and other Client Materials supplied to the Supplier are complete and accurate;
 - ii. co-operate with the Supplier in all matters relating to the Services;
 - iii. provide the Supplier, its employees, officers, agents, consultants and subcontractors, in a timely manner and at no charge, with access to the Client's Premises, office accommodation and other facilities as reasonably required by the Supplier, including any such access required as set

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out in the Proposal and to provide the Services;

- iv. provide the Supplier in a timely manner with such documents, plans, information and other Client Materials as the Supplier may reasonably require in order to supply the Services, and ensure that they are complete and accurate in all material respects;
 - v. inform the Supplier of all health and safety and security requirements that apply at any of the Client's Premises;
 - vi. for existing buildings, the Client will notify the Supplier of any fire safety details that the Client deems relevant to conducting the Services and/or that the Supplier has requested;
 - vii. obtain and maintain all necessary licences, permissions and consents and comply with all relevant legislation (including, but not limited to health and safety laws) and as required to enable the Supplier to provide the Services, the use of the Client Materials and use of any of the Client's equipment, in all cases before the date on which the Services are to start;
 - viii. unless otherwise specified in the Proposal the Client shall be responsible for obtaining any parking permits and making any local authority applications, arranging access and equipment or other arrangements as may be necessary in respect of the Service unless specifically covered in the Proposal; and
 - ix. be responsible for the on-going management of the Premises. The decision to allow the Premises to be used for its present purpose remains (within an existing building) with the Responsible Person, not the Supplier unless the Proposal stipulates otherwise.
- 6.2 If the Supplier's performance of its obligations under this Contract is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation, or by any act or omission by the Client's agents, officers, subcontractors, suppliers, employees professional advisor or any other personnel or failure by such personnel to perform any relevant obligations, this will be deemed a "Client Default". In the case of Client Default, without prejudice to any other right or remedy it may have, the Supplier shall:
- i. without limiting or affecting any other right or remedy available to it, have the right to suspend performance of the Services until the Client remedies the cause of Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations in each case to the extent the Client Default prevents or delays the Supplier's performance of any of its obligations;
 - ii. be allowed an extension of time to perform its obligations equal to the delay caused by the Client; and
 - iii. not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this Clause 6.2.
- 6.3 The Client shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Client Default.

7. Delivery of Deliverables

- 7.1 The Supplier reserves the right to increase the Fees if there are changes to the agreed format and number of Deliverables.
- 7.2 Where the Deliverables are to be delivered electronically, the Client acknowledges that:
- i. electronic delivery is not a completely secure medium of communication and that an unauthorised third party may intercept, tamper with, or delete the Deliverables delivered electronically; and
 - ii. electronic delivery may involve reliance upon third party providers and data carriers over which the Supplier has no control.
- 7.3 The Supplier shall not be responsible for and shall have no liability to the Client or any third party for:
- i. any delay in delivery or non-receipt of any Deliverables delivered electronically;
 - ii. any loss or damage (including loss of data) that results from any person gaining unauthorised access to the Deliverables delivered electronically;
 - iii. use or disclosure of any data obtained by any third party as a result of that third party gaining unauthorised access to any Deliverables delivered electronically; and
 - iv. any loss or damage resulting from any malfunction of or the introduction of any viruses, worms, logic bombs, time locks, time bombs, trojan horses and/or bugs to any equipment and/or software used to affect and/or receive any Deliverables delivered electronically.

8. Fees and Payments

CHARGES AND PAYMENT

- 8.1 In consideration of the provision of the Services, the Client will pay the Fees to the Supplier as set out in the Proposal. All Fees payable are non-refundable (unless due to an error of the Supplier).
- 8.2 Subject to the fixed fee specified in the Proposal, the Fees for the Services shall be calculated on a time spent basis by reference to the Supplier's

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hourly fee rates as set out in the Proposal.

- i. The Supplier shall be entitled to charge the Client for any expenses reasonably incurred by it and any other the third parties whom the Supplier engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials. These costs will be set out in the Proposal.
 - ii. The Supplier shall be entitled to charge the Client the full cost of any additional professional indemnity insurance taken out specifically to accord with the Client's requirements.
- 8.3 The Supplier shall invoice the Client on completion and release of the Deliverables and each invoice is payable on delivery in pounds sterling.
- 8.4 The Client shall pay each invoice submitted by the Supplier in full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract.
- 8.5 All amounts payable by the Client under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time ("VAT"). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Client, the Client shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 8.6 If the Client fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies, the Client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this Clause 8.6 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 8.7 The Client must give a minimum of 48 hours' notice to the Supplier in writing for postponement/cancellation of meetings or site visits. The Supplier reserves the right to charge the Client payment in full if the Client does not adhere to the stipulations of this Clause.
- 8.8 All amounts due under the Contract 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).

9. Data Protection

- 9.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Clause 9 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this Clause 9, Domestic UK Law means the UK Data Protection Legislation and any other law that applies in the UK.
- 9.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the controller and the Supplier is the processor.
- 9.3 Without prejudice to the generality of Clause 9.1, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of personal data to the Supplier for the Term and purposes of the Contract.
- 9.4 Without prejudice to the generality of Clause 9.1, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under the Contract:
- i. process that personal data only on the documented written instructions of the Client unless the Supplier is required by Domestic Law to otherwise process that personal data. Where the Supplier is relying on Domestic Law as the basis for processing personal data, the Supplier shall promptly notify the Client of this before performing the processing required by the Domestic Laws unless those Domestic Laws prohibit the Supplier from so notifying the Client;
 - ii. ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
 - iii. not transfer any personal data outside of the United Kingdom and European Economic Area unless the prior written consent of the Client has been obtained and the following conditions are fulfilled:
 - a. the Client or the Supplier has provided appropriate safeguards in relation to the transfer;
 - b. the data subject has enforceable rights and effective legal remedies;
 - c. the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - d. the Supplier complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the personal data;
 - iv. assist the Client, at the Client's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - v. notify the Client without undue delay on becoming aware of a personal data breach;
 - vi. at the written direction of the Client, delete or return personal data and copies thereof to the Client on termination of the Contract unless required by Applicable Law to store the personal data;

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- vii. maintain complete and accurate records and information to demonstrate its compliance with this Clause 9 and allow for audits by the Client or the Client's designated auditor provided that the Client has given the Supplier at least 20 Business Days written notice in advance and no more than once per year and on a mutually agreed schedule that will minimise the audit's impact on the Supplier's operations; and
 - viii. promptly inform the Client if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.
- 9.5 Each party shall ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures.
- 9.6 The Client hereby consents to the appointment of all third-party processors of personal data that have been appointed by the Supplier as of the Commencement Date in order to assist the Supplier in complying with its obligations as a processor under the Contract (each, a "Sub-Processor"). The Supplier has, or as the case may be, will enter into written agreements with each Sub-Processor that it appoints incorporating terms which are substantially similar to those set out in this Clause 9. The Supplier shall inform the Client of any intended changes concerning the addition or replacement of its Sub-Processors by way of notice, with such change to be effective 10 (ten) Business days following the delivery of this notice, unless the Client raises an objection to the proposed change during that notice period. Where such consent is not provided, either party may terminate this Contract on 30 days' written notice to the other. The Supplier shall remain fully liable for all acts or omissions of any Sub-Processor appointed by it pursuant to this Clause 9.
- 9.7 Either party may, at any time on not less than 30 days' notice, revise this Clause 9 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).

10. Insurance

- 10.1 The Supplier shall, provided it is available at commercially reasonable rates, maintain professional indemnity insurance and public liability insurance at the level which in the Supplier's reasonable opinion is sufficient to cover the amounts set out in Clause 11.1, subject to any limitations, exceptions and/or exclusions from cover as are commonly included in professional indemnity insurance and public liability insurance policies.

11. Limitations of Liability - THE CLIENT'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

- 11.1 Subject to the terms of this Clause 11, the Supplier's liability to the Client arising under or in connection with the Contract shall not exceed:
- i. £1,000,000 per claim (for any one event or series of connected events, facts or circumstances) for loss or damage to property caused by the negligence of the Supplier (or its employees or agents); provided that the aggregate liability of the Supplier in respect of such claims shall be limited to a maximum amount of £2,000,000;
 - ii. £2,000,000 per claim (for any one event or series of connected event, facts or circumstances) in respect of any direct loss or damage from or in connection with any Service(s) which the Supplier has provided or failed to provide under the Contract in any circumstances whatsoever; provided that the aggregate liability of the Supplier in respect of such claims shall be limited to a maximum amount of £2,000,000; and
 - iii. 10 times the Fees paid under the Contract for all other loss, damage or other liability which does not fall within subclauses 11.1i-ii or 11.6 iii
- 11.2 The restrictions on and references to liability in this Clause 11 apply to every liability arising under or in connection with the Contract including (but not limited to) liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 11.3 Neither party may benefit from the limitations and exclusions set out in this Clause in respect of any liability arising from its deliberate default.
- 11.4 The Supplier has given commitments as to compliance of the Services with relevant specifications in Clause 4. In view of these commitments, the terms implied in Sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 11.5 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
- i. death or personal injury caused by negligence;
 - ii. fraud or fraudulent misrepresentation and;
 - iii. breach of the terms implied by Section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 11.6 This Clause 11.6 sets out specific heads of excluded loss and exceptions from them:
- i. Subject to Clause 11.5, Clause 11.3, 11.4 and Clause 11.6iv, the types of loss listed in Clause 11.6iii are wholly excluded by the parties, but the types of loss and specific losses listed in Clause 11.6iv are not excluded.
 - ii. If any loss falls into one or more of the categories in Clause 11.6iii and also falls into a category, or is specified, in Clause 11.6iv, then it is not excluded.

- iii. Subject to Clause 11.6(i), the following types of loss are wholly excluded:
 - a. loss of profits.
 - b. loss of sales or business.
 - c. loss of agreements or contracts.
 - d. loss of anticipated savings.
 - e. loss of use or corruption of software, data or information.
 - f. loss of or damage to goodwill or reputation; and
 - g. indirect or consequential loss.
- iv. The following types of loss and specific loss are not excluded:
 - a. wasted expenditure.
- 11.7 Save in respect of death or personal injury, the Client acknowledges and agrees that it may make a claim or bring any proceedings only against the Supplier and it may not bring a claim personally against the Supplier's staff, including its directors, or any other personnel. The Client agrees that none of the Supplier's personnel shall have any personal liability to the Client in respect of the provision of the Service.
- 11.8 This Clause 11 shall survive termination of the Contract.

12. Intellectual Property Rights

- 12.1 In relation to the Supplier's materials existing prior to the Commencement Date, the Supplier:
 - i. and its licensors shall retain ownership of all Intellectual Property Rights owned by it and/or such third party licensors, whether or not incorporated into the Deliverables; and
 - ii. grants the Client, or shall procure the direct grant to the Client of, a fully paid-up, worldwide, non-exclusive, royalty-free, non-transferable, non-sublicensable licence to copy the pre-existing materials for the purpose of receiving and using the Services and the Deliverables in the Client's business during the Term.
- 12.2 In relation to the Client Materials, the Client:
 - i. and its licensors shall retain ownership of all Intellectual Property Rights in the Client Materials.
 - ii. grants to the Supplier, or shall procure the direct grant to the Client of, a fully paid up, worldwide, royalty free, non-exclusive, non-transferable and non-sub-licensable license to copy, modify and use the Client Materials to enable the Supplier to provide the Services contemplated by this Contract during the Term.
- 12.3 The Client shall not make any variation to a Deliverable without the prior written consent of the Supplier. No variation to any Deliverable shall be valid unless it is in writing and agreed in writing on behalf of both the Client and the Supplier in accordance with Clause 18.4.
- 12.4 In relation to the Deliverables, the Supplier retains all Intellectual Property Rights in the Deliverables excluding the Client Materials until the Client has paid in full for the Services.
- 12.5 Following payment in full of the Fees in accordance with Clause 8 and compliance with these Business Conditions, in relation to the Deliverables:
 - i. the Supplier and its licensors shall retain ownership of all Intellectual Property Rights in the Deliverables, excluding the Customer Materials;
 - ii. the Supplier grants the Client, or shall procure the direct grant to the Client of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and use the Deliverables (excluding the Customer Materials) for the purpose of receiving and using the Services and the Deliverables for the Purpose; and
 - iii. the Client shall not sub-license, assign or otherwise transfer the rights granted directly above.
- 12.6 The Supplier may with the prior written consent of the Client use the Deliverables for agreed purposes after termination of this Contract provided that the Deliverables are redacted to protect the identity of the Client and any commercially sensitive information is deleted.
- 12.7 The Client shall on demand indemnify, hold harmless and keep indemnified the Supplier against all liability, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim made against the Supplier for actual or alleged infringement of a third party's Intellectual Property Rights or other rights arising out of, or in connection with the use of the Client Materials or any materials provided by a third party acting on behalf of the Client.

13. Retention of Documents

- 13.1 The Client acknowledges and agrees that the Supplier will retain all files and documents (including but not limited to the Client Materials) relating to the provision of the Service for a reasonable period after the termination of this Contract which in any event will not be more than

7 years (or as otherwise required pursuant to applicable law and regulation). The Client agrees that the Supplier may destroy all files and documents relating to the Service at the end of that period.

- 13.2 The Supplier shall securely store and file any documents referred to in Clause 13.1 during the storage period. If during the storage period, the Client wishes the Supplier to retrieve or make copies of any documents then the Supplier may make a reasonable charge for its time and expense in doing so.

14. Disputes and Complaints

- 14.1 If the Client is not satisfied with the Supplier's performance of the Services or any Additional Work, the Client shall advise the Supplier promptly in writing and set out the nature of the concern. The Supplier will consider the matter and respond as soon as practicable.
- 14.2 If the concern is not able to be resolved to the mutual satisfaction of both parties privately, the parties have the option but not the obligation (i.e., the parties may still go to court) to seek alternative resolution such as by mediation if each party agrees.

15. Termination

- 15.1 Without affecting any other right or remedy available to it, either party may terminate the Contract by giving the other party 1 month's written notice. If the Client terminates the Contract but fails to give 1 month's written Notice, the Client will be liable to pay for the full amount of the Fees specified in the Contract.
- 15.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- i. the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of that party being notified in writing to do so;
 - ii. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business [or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction];
 - iii. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - iv. the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 15.3 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Client if:
- i. the Client fails to pay any amount due under the Contract on the due date for payment; or
 - ii. there is a change of control of the Client.
- 15.4 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services under the Contract or any other contract between the Client and the Supplier if the Client fails to pay any amount due under the Contract on the due date for payment, the Client becomes subject to any of the events listed in Clause 15.2ii to Clause 15.2iv, or the Supplier reasonably believes that the Client is about to become subject to any of them.

16. Consequences of Termination

- 16.1 On termination or expiry of the Contract:
- i. the Client shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Client immediately on receipt;
 - ii. the Client shall return all of the Supplier Materials and any Deliverables which have not been fully paid for. If the Client fails to do so, then the Supplier may enter the Client's premises and take possession of them. Until they have been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 16.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 16.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

17. Liability under the Regulatory Reform (Fire Safety) Order 2005 ("The FSO"), the

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Building Regulations etc. (Amendment) (England) Regulations 2023 (“the Regulations”) and the Building Safety Act (“BSA”)

17.1 This Clause 17 applies only when the Services provided by the Supplier to the Client are undertaken for the purposes of compliance with the Regulatory Reform (Fire Safety) Order 2005 and/or the Building Safety Act 2022.

17.2 THE RESPONSIBLE PERSON

i. The Client acknowledges that at no time the Supplier is the ‘Responsible Person’ as defined by Article 3 of the FSO. Unless expressly stated otherwise in writing the Client is to be regarded as the Responsible Person.

17.3 EXTENT OF THE SUPPLIER’S CONTROL, DUTIES AND OBLIGATIONS

i. The Supplier shall only be considered to be liable under Article 5(3) and/or Article 5(4) of the FSO in relation to matters that fall within his control pursuant to the terms of the Contract between the Client and the Supplier.

ii. The extent of matters within the Supplier’s control and his obligations for the purposes of Articles 5(3) and/or 5(4) shall be specified in Schedule 3 of the Proposal.

iii. The Supplier shall not be deemed the Principal Designer for the purposes of the BSA or the Regulations unless the Supplier agrees in writing to be appointed as the Principal Designer.

17.4 PERIOD OF VALIDATION OF A FIRE RISK ASSESSMENT

i. The Fire Risk Assessment is only valid for a maximum period of 24 months from the date of the report. However, the actual period of validation will be stated in the Fire Risk Assessment itself. Under Article 9(3)(b) of the FSO the Responsible Person is under a duty to review the Fire Risk Assessment regularly so as to keep it up to date and particularly if there is reason to suspect that it is no longer valid; or there has been a significant change in the matters to which it relates including when the premises, special, technical and organisational measures, or organisation of the work undergo significant changes, extensions or conversions, and where changes to an assessment are required as a result of any such review, the Responsible Person must make them.

17.5 SIGNIFICANT FINDINGS/ACTION PLAN SUMMARY

i. The Supplier’s recommendations are outlined in their Findings/Action Plan Summary. The Client is responsible for the implementation of the recommendations unless the Contract stipulates otherwise.

17.6 CO-OPERATION AND CO-ORDINATION

i. Both the Supplier and the Client will co-operate and co-ordinate in order to comply with their respective obligations as per the Contract and in order to satisfy the FSO and BSA.

17.7 FIRE SAFETY TRAINING

i. Where the Supplier provides fire safety training as part of the Proposal, the Supplier is in no way liable if the Client or an Employee of the Client does not carry out tasks relating to Fire Safety in connection with the Premises in accordance with the specialist training provided by the Supplier or carries out such tasks not in accordance with the specialist training provided by the Supplier.

18. General

18.1 FORCE MAJEURE

i. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from Force Majeure events, circumstances or causes beyond its reasonable control (“**Force Majeure Event**”). If either party is unable to perform its duties and obligations under this Contract as a result of a Force Majeure Event that party will give written notice to the other of the inability stating the reason in question. The operation of this Contract will be suspended during the period (and only during the period) during which the Force Majeure Event continues.

18.2 ASSIGNMENTS AND DEALINGS

i. The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

ii. The Client shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.

18.3 CONFIDENTIALITY

i. Each party undertakes that it shall not at any time during the Contract, and for a period of five years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Clause 18.3ii.

ii. Each party may disclose the other party's confidential information:

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- a. to its employees, officers, representatives, suppliers, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, suppliers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this Clause 18.3;
- b. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority; and
- c. as may be required for audits of quality assurance of the Supplier as conducted by external quality assurance or industry bodies from time to time.
- iii. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
- iv. In the event of any inconsistency between this Clause 18.3 and Clause 9 in respect of personal data, the relevant provisions of Clause 9 shall prevail.

18.4 VARIATION

- i. Except as set out in these Business Conditions, no variation of the Contract shall be effective unless it is in writing and agreed in writing by the parties (or their authorised representatives).

18.5 WAIVER

- i. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

18.6 SEVERANCE

- i. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause 18.6 shall not affect the validity and enforceability of the rest of the Contract. This will be notified to the Client in writing.

18.7 NOTICES

- i. Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by fax to its main fax number or sent by email to the address specified in the Proposal.
- ii. Any notice or communication shall be deemed to have been received:
 - a. if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and
 - b. if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
 - c. if sent by fax or email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this Clause 18.7iic, business hours means 9.30am to 5.30pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- iii. This Clause 18.7 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

18.8 WARRANTIES

- i. Each party represents, warrants and undertakes that it has capacity to enter into this Contract and to grant the rights and licenses it purports to grant under this Contract.
- ii. Save in this Contract where it is stated to be the responsibility of the Client, the Supplier warrants to the Client that it shall at all times have and maintain all necessary licenses and consents and comply with all relevant laws in relation to the provision of the Service.

18.9 THIRD PARTIES

- i. No-one has any right to enforce any term of this contract under the Contracts (Rights of Third Parties) Act 1999. It is agreed and acknowledged that the Supplier shall not be required to enter into any collateral warranties with any third parties, provide any letters of reliance and/or grant any rights to any third parties under or in connection with this Contract.
- ii. The parties to this Contract may amend or terminate this Contract without requiring the consent of a third party even if that should result in the changes or removal of the rights of any third party.
- iii. The Client may request for Deliverables to be disclosed to third parties and the Supplier may agree or reject such request at its sole discretion. Where it is agreed between the Supplier and Client that any Deliverables may be disclosed to a permitted third party, as per clause 4.13, the Supplier accepts no responsibility and disclaims all liability to any such third party who purports to use or rely for any reason whatsoever on the

Deliverables and/or any other part of the Services.

- iv. The Client agrees to reimburse the Supplier for any liability (including legal costs) that it incurs in connection with any claim by anyone else in relation to the Services.
- v. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

18.10 ENTIRE AGREEMENT

- i. The Contract 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.
- ii. Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- iii. Nothing in this Clause shall limit or exclude any liability for fraud.

18.11 GOVERNING LAW

- i. This Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.
- ii. Nothing in this Contract is intended to, or shall be deemed to create or imply the existence of a partnership or joint venture between the parties nor any arrangement which would impose liability on the Supplier for the acts or omissions of the Client and vice versa. In particular each party acknowledges that it does not have authority to, and agrees that it shall not, at any time without the other party's prior written consent make or enter into any commitments on behalf of the other party.

18.12 JURISDICTION

- i. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) that arises out of or in connection with this Contract or its subject matter or formation.

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Part B – A W Fire Ltd - Consumer Terms & Conditions for sale of Services

If you are a consumer, these consumer terms & conditions will apply to your contract with us.

1. Introduction

- 1.1. **Where to find information about us and our Services.** References to 'we', 'us', 'our' in these Consumer Conditions are to the 'Supplier', A W Fire Ltd, company number 13542189 and whose registered office address is at 24 Heron Way, Basingstoke, Hants, RG22 5QT. You can find everything about us and the services we supply on our website or from our personnel (see the 'How to contact us' section), including these Consumer Conditions before placing an order.
- 1.2. **These are the Consumer Conditions on which we will supply our services to you.** Please read these Consumer Conditions carefully before submitting an order with us. These Consumer Conditions tell you who we are, how a contract will be entered into with us, how we will provide our services to you, how we may each change or end the contract, what to do if there is a problem and other important information.

2. How to contact us

- 2.1. You can contact us by writing to the address given above, telephoning the Supplier contact on 01256 228079 between the hours of 9.30am – 5.30pm Monday to Friday or by emailing the Supplier at info@awfire.co.uk.

3. Definitions

- i. **Additional Work** - means any additional or varied services which are not already covered by the Services set out in the Proposal, and which are instructed by you and agreed with us, and as further described in Clause 12.
- ii. **Business Day(s)** - a day other than a Saturday, Sunday, or public holiday in England, when banks in London are open for business.
- iii. **Client Materials** - any documents, data, text, building plans, sections, elevations, information, specifications, drawings and any other materials provided by you to us.
- iv. **Commencement Date** - has the meaning given in the Proposal and Clause 5.3.
- v. **Consumer Conditions** - these Part B consumer terms and conditions as amended from time to time.
- vi. **Contract** - the contract between you and us for the supply of Services in accordance with the Proposal and these Consumer Conditions.
- vii. **Deliverables** - the deliverables/output of the Services as set out in the Proposal produced by us for you.
- viii. **Fees** - the fees payable by you to us for the supply of the Services as set out in the Proposal and in accordance with these Consumer Conditions.
- ix. **Intellectual Property Rights** - any intellectual property right, including all patents, rights to interventions, 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 designs, rights in computer software, database 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 of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.
- x. **Order** – your order for Services as set out in the Proposal or other instruction to proceed with the supply of Services offered in the Proposal issued by us to you.
- xi. **Premises (or part thereof)** – The location/s of the premises or proposed premises as defined in the Proposal and provided by you.
- xii. **Proposal** – means the proposal or quotation for the Services setting out the Fees and details of the Services to be provided by us to you.
- xiii. **Purpose** - the purpose for which the Deliverables are produced or Services are prepared by the Supplier as set out in the Proposal.
- xiv. **Responsible Person** – as defined by Article 3 of the FSO (*as defined below*) and in accordance with Clause 26.317.2. Unless expressly stated otherwise in writing, you are considered as the Responsible Person.
- xv. **Services** - the services, including the Deliverables, supplied by us to you as set out in the Proposal and as detailed/specified in Schedule 2 of the Proposal.
- xvi. **Term** – the time from the Commencement Date to completion of the Services.

4. Interpretations

- 4.1. A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

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- 4.2. The words include, includes, including and in particular shall be construed as if they were followed by the words “without limitation”. Words in the singular shall include the plural and vice versa and references to one gender include the other gender. Any reference to persons includes natural persons, firms, partnerships, limited liability partnerships, companies, corporations, unincorporated associations, local authorities, governments, states, foundations and trusts (in each case whether or not having separate legal personality) and any agency of any of the above.
- 4.3. A reference to writing or written includes fax and email.

5. Order process & start of your Contract with us

- 5.1. Your Order is considered as an offer to purchase our Services in accordance with these Consumer Conditions.
- 5.2. The services descriptions found on the website <https://www.awfire.co.uk/> do not constitute binding offers on our part, and are for illustration purposes only. We will confirm the key information in writing by email before your Order is placed.
- 5.3. We will discuss your requirements for our Services, such as in person, over telephone or email. Once we have agreed all the details with you, we will email you a Proposal for you to check and sign. No Contract will exist between us and you until you accept the Proposal in writing, at which point and on which date the Contract between us will come into existence (Commencement Date). We accept no liability for any failure to provide a service or advice in relation to any matter that falls outside the scope of our Contract with you.
- 5.4. Any Proposal given by us shall not constitute an offer and is only valid for a period of 30 Business Days from its date of issue.

6. Our responsibilities

- 6.1. We will provide the Services and deliver the Deliverables in accordance with the Proposal and these Consumer Conditions and using reasonable skill and care.
- 6.2. We shall try to meet any deadline we agree with you for the performance of our Services but, unless we agree otherwise in writing, in relation to any time, date or period for performance or delivery by us of our Services, time shall not be of the essence.
- 6.3. Our Services are based solely on the information and other Client Materials supplied by you to us or which came to our attention during the provision of the Services and while on site at the relevant Premises. You are responsible to make sure the information you provide us is correct, complete and up to date and to follow our implementation actions identified by us in our reports correctly. We are not responsible for any inaccurate information you provide us, lack of complete information or subsequent changes to the Premises being made or management of the Premises. We are not responsible, nor have any liability to you or any third party, for checking the accuracy of any information and other Client Materials provided by you to us.
- 6.4. Advice given is not legal advice and you will need to obtain your own legal advice where required.
- 6.5. We have no knowledge over those areas of the Premises to which we are not given access. If we are not given access to an area of the Premises, we will detail this within the Deliverable that access to an area was requested but was subsequently denied by you. You may request that we revisit the Premises to assess the area where access was previously denied, however, we will be entitled to charge for the Additional Works (please see the section “*Additional Works and fees*” below for more information).
- 6.6. We have no control over the following at any time and only have knowledge of the following matters at the time of a site visit at the Premises so far as could be reasonably established or if you have made us aware of such matters at the time of the site visit:
- i. any changes made to the Premises;
 - ii. any faults in the equipment, including any equipment checked by us at the time of the site visit at the Premises in undertaking the Service, but not subsequently;
 - iii. any deterioration in the Premises or equipment;
 - iv. ongoing management of the Premises or of persons within the Premises;
 - v. moveable items brought into the Premises; and
 - vi. implementation of any recommendations made by us.

Accordingly, you are responsible for making us aware of any of the above listed matters while before or while we are on-site at the Premises. If you do let us know or only inform us after our site visit of any of the above matters or any changes to any of the above matters, we may be required to undertake a new site visit and assessment to take into consideration such new matters. We reserve the right to charge you for any such additional site visit as Additional Work.

- 6.7. If we identify clear and obvious risks that pose a danger to relevant persons at a Premises and the nature of the risks falls unequivocally within the scope of the Services as set out in the Proposal, we will highlight these to you in writing although it may not be an exhaustive list (e.g. where risks are mentioned in general (rather than specific) terms or where risks posed are hidden or comprised of factors we could not have known about at the time of the assessment). However, with regards to risks outside the scope of the Services as set out in the Proposal, we are under no contractual obligation whatsoever to identify the aforementioned risks, therefore, identification of risks outside the scope of the Services as set out in the Proposal does not represent an obligation under Article 5(3) and/or 5(4) of the Fire Safety Order 2005. Furthermore, we are not liable or responsible for rectifying/remediating any risks.

- 6.8. Our assessment forming part of the Services **does not** include advice/information relating to The Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR).
- 6.9. We have a duty to inform the local authority fire service if at any material time during the delivery of the Services, conditions at the Premises are considered to be immediately dangerous to relevant persons and cannot be remedied or significantly improved to reduce the risk to a tolerable level at the material time.
- 6.10. We confirm that we have and will maintain all necessary licences, consents, and permissions necessary for the performance of our obligations under these Consumer Conditions.

7. Contractors and Sub-Contractors

- 7.1. We may subcontract any part of the Services and any Additional Work, with your prior approval, not to be unreasonably withheld or delayed.
- 7.2. Except for a subcontractor contracted for the Services by us (as per the above Clause), we shall not be responsible for the supervision of any other contractor or subcontractor (or other person), nor shall we have any liability for ensuring the competence, performance or adequate standard of workmanship of any other contractor or subcontractor (or other person).
- 7.3. We are wholly independent and do not receive any referral fees from subcontractors and, where any are recommended to perform remedial services flowing from the Services, no responsibility or liability whatsoever, whether in contract or negligence, will be taken for these recommendations. It is your sole and final decision as to whether you wish to engage such recommended contractors/specialists.

8. Your responsibilities

- 8.1. **You are responsible for making sure your details and the information you provide us are accurate.** You must provide us with true, accurate and complete information in a timely manner (including any documents, plans, information and other materials that we may reasonably require in order to supply the Services). If we have asked for specific information about the Premises, you are responsible for making sure the descriptions, images and other material describing/setting out the extent of the area which falls under the Contract (e.g., name and address, floor numbers, boundaries etc.) are clear and correct. If you have any questions, please let us know by contacting us via the contact details as set out in the 'How to Contact Us' section.
- 8.2. In order for us to provide the Services we will require you to:
 - i. co-operate with us to the extent reasonable in all matters relating to the Services;
 - ii. provide us and our personnel, in a reasonable time and at no charge, with access to the Premises and other facilities as reasonably required by us;
 - iii. inform us of all health and safety and security requirements that apply at (or any part thereof) the Premises;
 - iv. for existing buildings, inform us of any fire safety details relevant to conducting the Services and/or that we have requested; and
 - v. before the date on which the Services are to start, obtain and maintain all necessary licences, permissions and consents and comply with all relevant legislation (including, but not limited to health and safety laws) for us to provide the Services, use the Client Materials and use any of your equipment.
- 8.3. If there is any change to any of the information that you have provided to us or if you acquire new information which might be relevant to our work, you must inform us promptly. We accept no liability for any failure to instruct us fully, properly or in a timely manner.
- 8.4. You acknowledge and agree that if any licences, permissions and/or consents are required to enable us to provide the Services and use any information, equipment and materials you provide us that this is your responsibility to obtain (and maintain). This includes obtaining parking permits and making any local authority applications, arranging access and equipment or other arrangements as may be necessary in respect of the Service unless specifically covered in the Proposal.
- 8.5. **You are also responsible for managing your Premises.** The decision to allow the Premises to be used for its present purpose, remains (within an existing building) with the Responsible Person, not us, unless the Proposal states otherwise.

9. We may charge you if you don't give us information we need or do preparatory work as agreed with us

- 9.1. We may end the Contract with you or charge you additional sums if you do not give us information we have asked for or if you give us incomplete or incorrect information or you do not grant us access to all parts of the Premises as reasonably required by us in order to compensate us for any extra work that is required; for example, we might need to reschedule the Services.
- 9.2. We will not be responsible for supplying the Services late or not supplying any part of them if this is caused by you not giving us the information we've asked for (or incomplete information), cooperation or access we need within a reasonable time of us asking for it. We shall be granted an extension

of time to perform our obligations equal to the delay caused.

10. DISCLAIMER - Delivery of Deliverables

10.1. Where the Deliverables are to be delivered electronically, you acknowledge that:

- i. electronic delivery is not a completely secure medium of communication and that an unauthorised third party may intercept, tamper with or delete the Deliverables delivered electronically; and
- ii. electronic delivery may involve reliance upon third party providers and data carriers over which we have no control.

10.2. Unless due to our error, we shall not be responsible for and shall have no liability to you or any third party for:

- i. any delay in delivery or non-receipt of any Deliverables delivered electronically;
- ii. any loss or damage (including loss of data) that results from any person gaining unauthorised access to the Deliverables delivered electronically;
- iii. use or disclosure of any data obtained by any third party as a result of that third party gaining unauthorised access to any Deliverables delivered electronically; and
- iv. any loss or damage resulting from any malfunction of or the introduction of any viruses, worms, logic bombs, time locks, time bombs, trojan horses and/or bugs to any equipment and/or software used to affect and/or receive any Deliverables delivered electronically

11. We may charge you if you postpone or cancel a meeting or site visit with less than 48 hours' notice

11.1. **You may cancel or postpone a meeting or site visit free of charge by letting us know at least 48 hours before the relevant meeting or site visit.** You may cancel or postpone a meeting or site visit by contacting us via the contact details as set out in the Proposal. We reserve the right to charge you for any reasonable costs incurred by us in preparation for such meeting or site visit.

12. Additional Work and fees

12.1. We will let you know in writing as soon as we become aware if any additional work will be required outside of the scope of Services agreed with you as set out in the Proposal ("*Additional Work*"). Additional Work may arise outside of the agreed scope of Services because:

- i. of changes in the design, size, scope or complexity of the work;
- ii. of changes to the agreed format and number of deliverables;
- iii. of changes in the timing or program of the work;
- iv. you fail to comply with your obligations under these Consumer Conditions; and/or
- v. additional meetings and/or visits and/or other work is required.

12.2. When we let you know that Additional Work is required, we will also let you know of any additional Fees that will be incurred in order to carry out the Additional Work. We usually calculate the Fees for any Additional Work on the basis of the time expected to be spent by us in providing the Additional Work at the rates provided in your Proposal. We will only start the Additional Work once you have confirmed.

13. Fees, payment terms, interest & VAT

13.1. **Subject to the fixed Fee which we have agreed with you and set out in the Proposal, our charges will be calculated on a time spent basis by reference to our hourly charging rates as set out in the Proposal.** You agree to pay us the Fees in consideration of the Services we provide you.

13.2. **We charge you when we supply our Deliverables to you by issuing you with an invoice.** However, for some Services we take payment at regular intervals, as explained to you during the order process.

13.3. **You have 30 days from the date of each invoice to pay the Fees.** Each invoice is to be paid in full and in cleared funds to a bank account nominated by us, unless we agree with you otherwise.

13.4. **All expenses we reasonably incur on your behalf in connection with the Services will be charged to you at cost and included in our invoice.** The expenses we incur will depend on the Services we provide you and may include: courier charges, hotel costs and/or travel expenses. We will set out in the Proposal if we will incur and charge you any expenses in connection with the Services.

13.5. **We may charge interest on late payments.** If we're unable to collect any payment you owe us we may charge interest on the overdue amount at the rate of 4% a year above the Bank of England base rate from time to time. This interest accrues on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You pay us the interest together with any overdue amount.

13.6. **We pass on increases in value added tax ("VAT").** If the rate of VAT changes between your order date and the date we supply the service, we adjust the rate of VAT that you pay, unless you have already paid in full before the change in the rate of VAT takes effect.

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Our registered office is at 24 Heron Way, Basingstoke, Hants, RG22 5QT

14. We use your personal data as set out in our privacy policy

14.1. How we use any personal data you give us is set out in our Privacy Policy and Cookies Policy.

15. Insurance

15.1. We will, provided that this is available at commercially reasonable rates, maintain professional indemnity insurance and public liability insurance at the level of cover which in the Supplier's reasonable opinion is sufficient to cover the amounts set out in Clause 16 below.

16. We don't compensate you for all losses caused by us or our Services – YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

16.1. We're responsible for losses you suffer caused by us breaking this Contract unless the loss is:

- i. **Unexpected.** It was not obvious that it would happen and nothing you said to us before we accepted your order meant we should have expected it (so, in the law, the loss was unforeseeable).
- ii. **Caused by a delaying event outside our control.** As long as we have taken the steps set out in the section "*We're not responsible for delays outside our control*".
- iii. **Avoidable.** Something you could have avoided by taking reasonable action, including following our reasonable instructions and advice. We accept no liability for failure by you to follow our advice.
- iv. **A business loss.** It relates to your use of the Deliverables or any other part of the Services for the purposes of your trade, business, craft or profession. We will not be liable for the following categories of loss:
 - a. loss of income or revenue;
 - b. loss of profit;
 - c. loss of business;
 - d. business interruption; or
 - e. loss of business opportunity.

Our liability for any loss you suffer in connection with your trade, business, craft or profession is limited, as described in our **Business Terms & Conditions for the sale of Services, a copy of which can be accessed via our website <https://www.awfire.co.uk/terms-and-conditions/>.**

16.2. Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:

- i. death or personal injury caused by negligence;
- ii. fraud or fraudulent misrepresentation; and
- iii. breach of the terms implied by Section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

16.3. **We limit the amount of loss you suffer caused by us or our Services.** Subject to Clauses 16.1 and 16.2, our liability to you arising under or in connection with the Contract (whether in contract, tort, under statute or otherwise) and whenever and however caused (including, without limitation by our own negligence or non-performance) shall not exceed:

- i. **£2 million per claim** (for any one event or series of connected events, facts or circumstances) for any **public liability claim** made against us in respect of accident, loss or damage to you or your property caused by us (or our personnel); provided that our aggregate liability in respect of such claims shall be limited to a maximum amount of £2,000,000;
- ii. **£2 million per claim** (for any one event or series of connected events, facts or circumstances) for any **professional liability/indemnity claim** made against us in respect of any loss or damage from or in connection with any Service(s) which we have provided or failed to provide under the Contract in any circumstances whatsoever; provided that our aggregate liability in respect of such claims shall be limited to a maximum amount of £2,000,000; and
- iii. **10 times the Fees paid under the Contract for all other loss, damage or other liability which does not fall within subclauses 16.3i-ii.**

16.4. **Each provision of this Clause 16 operates separately.** If any part is disallowed, or is not effective, the other parts will continue to apply even after the Contract has been terminated or cancelled.

17. Intellectual Property Rights

17.1. In relation to any of your Client Material, you retain ownership of all Intellectual Property Rights in the Client Materials and you grant us, or shall

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procure the direct grant to us of, a fully paid up, worldwide, royalty free, non-exclusive, non-transferable and non-sub-licensable license to copy and use the Client Materials in order for us to provide Services and the Deliverables as set out in the Proposal. You are responsible for making sure that we can use the Client Materials for the purposes of the Services.

- 17.2. Subject to the terms of these Consumer Conditions and payment in full of the Fees, we grant you, or shall procure the direct grant to you of, a fully paid up, worldwide, royalty free, non-exclusive, non-transferable and non-sub-licensable license to copy and use the Deliverables for the purpose of receiving and using the Services and the Deliverables as set out in the Proposal.
- 17.3. You acknowledge and agree that we and/or our licensors own all Intellectual Property Rights in the Services, including the Deliverables. Except as expressly stated directly above, we do not grant you any rights to, under or in, any patents, copyright, database rights, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services, including the Deliverables.
- 17.4. We confirm that we have all the rights in relation to the Services and the Deliverables that are necessary to grant all the rights we purport to grant under, and in accordance with these Consumer Conditions.
- 17.5. You shall not make any variation to the Deliverables without our prior consent unless we agree this with you in writing.

18. Retention of documents

- 18.1. We shall retain and store all files and documents (including but not limited to the Client Materials) relating to the provision of the Service for a reasonable period after the termination of this Contract which in any event will not be more than 7 years (unless otherwise required by applicable law or regulation). You agree that we may destroy all files and documents relating to the Service at the end of that period.
- 18.2. We shall securely store and file any documents during the storage period. If during the storage period, you wish to retrieve or make copies of any documents that we have retained/stored then we may make a reasonable charge for the time and expense in doing so.

19. You have several options for resolving disputes with us

- 19.1. **Complaints.** We will do our best to resolve any problems you have with us or our Services. If you have any problems, please let us know. You can let us know via the contact details set out in the 'How to Contact Us' section.
- 19.2. **You can go to court.** These Consumer Conditions are governed by English law and wherever you live you can bring claims against us in the English courts. If you live in Wales, Scotland or Northern Ireland, you can also bring claims against us in the courts of the country you live in. We can claim against you in the courts of the country you live in.

20. Your cancellation rights

- 20.1. **If you bought online or over the telephone, you have a legal right to change your mind.** For most of our Services bought online or over the telephone you have 14 days after the date you sign the Proposal to change your mind about your purchase, but you lose the right to cancel any Service when it's been completed (and you must pay for any Services provided up to the time you cancel) (otherwise known as a 'cooling off period').
- 20.2. **How to let us know and what happens next.** To let us know you want to change your mind, contact us via the contact details set out in the 'How to Contact Us' section or fill in the cancellation form at the end of these Consumer Conditions and return to us via the address details as set out in the 'How to Contact Us' section. If you have paid for your Services, we will refund you as soon as possible and within 14 days of you telling us you've changed your mind. We refund you by the method you used for payment. We don't charge a fee for the refund.
- 20.3. **You can end a Contract with us at any time after the cooling off period.** Following the end of the cooling off period, you may cancel the Contract with us at any time on 1 months' written notice by contacting us via the contact details as set out in the 'How to Contact Us' section.

21. You have rights if there is something wrong with your Service

- 21.1. If you think there is something wrong with your Service, you must contact us via the contact details as set out in the 'How to Contact Us' section. Your legal rights are summarised below. These are subject to certain exceptions. For detailed information please visit the Citizens Advice website www.citizensadvice.org.uk. Remember too that you have options to resolve a dispute with us, please see "You have several options for resolving disputes with us" for more information.

Summary of your key legal rights with regards to the provision of services:

The Consumer Rights Act 2015 says:

- i. You can ask us to repeat or fix a service if it's not carried out with reasonable care and skill, or get some money back if we can't fix it.
- ii. If a price hasn't been agreed upfront, what you're asked to pay must be reasonable.

- iii. If a time hasn't been agreed upfront, it must be carried out within a reasonable time.

22. We can change the Services and these Consumer Conditions

22.1. **Changes we can always make.** We can always change a Service and/or amend the Proposal:

- i. to reflect changes in relevant laws and regulatory requirements; and
- ii. to make minor technical adjustments and improvements, for example to address a fire safety threat. These are changes that don't affect your use of the Service.

22.2. **Changes we can only make if we give you notice and an option to terminate.** We can also make the following types of change to the Services or these Consumer Conditions, but if we do so we'll notify you and you can then contact us via the contact details as set out in the 'How to Contact Us' section to end the Contract before the change takes effect and receive a refund for any Services you've paid for in advance, but not received.

23. We can suspend supply of a Service (and you have rights if we do)

23.1. If you do not pay us for the Services when you are supposed to in accordance with our Contract with you we may suspend supply of the Services until you have paid us the outstanding amounts in full. We will contact you to tell you we are suspending supply of the Services. We will not suspend the supply of the Services where you genuinely dispute the unpaid invoice.

23.2. We may also suspend supply of a Service to:

- i. deal with technical problems or make minor technical changes;
 - ii. update the Service to reflect changes in relevant laws and regulatory requirements; or
 - iii. make changes to the Service (see "We can change services and these Consumer Conditions").
- 23.3. **We will let you know, may adjust the price and may allow you to terminate if we suspend the supply of a Service.** We will use our reasonable endeavours to contact you in advance to tell you we're suspending supply, unless the problem is urgent or an emergency. If we suspend the Service for longer than 1 month we may adjust the price so you don't pay for it while its suspended. If we suspend supply, or tell you we're going to suspend supply, for more than 2 months you can contact us via the contact details as set out in the 'How to Contact Us' section to end the Contract and we'll refund any sums you've paid in advance for services you won't receive.

24. We can withdraw services

24.1. We can stop providing a Service. We will let you know at least 2 weeks in advance and we will refund any sums you've paid in advance for Services which won't be provided.

25. We can end our Contract with you

25.1. We can end our Contract with you for a Service and claim any compensation due to us (including enforcement costs) if:

- i. you don't make any payment to us when it's due and you still don't make payment within 7 days of our reminding you that payment is due; or
- ii. you don't, within a reasonable time of us asking for it, provide us with information, cooperation or access that we need to provide the Services, for example, you don't provide us or any of our personnel with access to the Premises or part thereof, you don't cooperate with us in all matters relating to the Services or you don't provide us with requested fire safety details.

25.2. **Costs you may be required to pay if we end our Contract with you.** If we end the Contract for one of these reasons we will refund any money you have paid in advance for Services we have not provided but we may deduct or charge you reasonable compensation for the net costs we will incur as a result of us having to break the Contract.

26. Liability under the Regulatory Reform (Fire Safety) Order 2005 ("the FSO"), the Building Regulations etc. (Amendment) (England) Regulations 2023 ("the Regulations") and the Building Safety Act ("BSA") – YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

26.1 This Clause 26 applies only when the Services provided by us to you are undertaken for the purposes of compliance with the Regulatory Reform (Fire Safety) Order 2005 and/or the Building Safety Act 2022.

26.2 If you have any questions with regards to what and who a 'Responsible Person' is or if you have any other queries with regards to any fire safety regulations, building regulations or otherwise, please let us know by contacting us via the contact details as set out in the 'How to Contact Us' section.

26.3 THE RESPONSIBLE PERSON

i. You acknowledge that at no time are we considered as the 'Responsible Person' as defined by Article 3 of the FSO. Unless expressly stated otherwise in writing to you, you are regarded as the 'Responsible Person'.

26.4 EXTENT OF THE SUPPLIER'S CONTROL, DUTIES AND OBLIGATIONS

- i. We shall only be considered to be liable under Article 5(3) and/or Article 5(4) of the FSO in relation to matters that fall within our control pursuant to the terms of the Contract between you and us.
- ii. The extent of matters within our control and our obligations for the purposes of Articles 5(3) and/or 5(4) shall be specified in Schedule 3 of the Proposal.
- iii. We shall not be deemed the Principal Designer for the purposes of the BSA or the Regulations unless we agree in writing to be appointed as the 'Principal Designer'.

26.5 PERIOD OF VALIDATION OF A FIRE RISK ASSESSMENT

i. The Fire Risk Assessment is only valid for a maximum period of 24 months from the date of the report. However, the actual period of validation will be stated in the Fire Risk Assessment itself. Under Article 9(3)(b) of the FSO the Responsible Person is under a duty to review the Fire Risk Assessment regularly so as to keep it up to date and particularly if there is reason to suspect that it is no longer valid; or there has been a significant change in the matters to which it relates including when the Premises, special, technical and organisational measures, or organisation of the work undergo significant changes, extensions or conversions, and where changes to an assessment are required as a result of any such review, the Responsible Person must make them.

26.6 SIGNIFICANT FINDINGS/ACTION PLAN SUMMARY

i. Our recommendations are outlined in our findings/action plan summary. You are responsible for the implementation of the recommendations unless the Proposal states otherwise.

26.7 CO-OPERATION AND CO-ORDINATION

i. Both you and us will co-operate and co-ordinate in order to comply with each of our respective obligations under these Consumer Conditions and in order to satisfy the FSO and BSA.

26.8 FIRE SAFETY TRAINING

i. Where we provide fire safety training as part of the Proposal, we are not liable if you do not carry out the tasks relating to Fire Safety in connection with the Premises in accordance with the specialist training provided by us or carry out such tasks not in accordance with the specialist training provided by us.

27. We're not responsible for delays outside our control

27.1. If our supply of your Service is delayed by an event outside our control, we will contact you as soon as possible to let you know and do what we can to reduce the delay. As long as we do this, we won't compensate you for the delay, but if the delay is likely to be substantial you can contact us via the contact details set out in the Proposal to end the Contract and receive a refund for any services you have paid for in advance, but not received, less reasonable costs we have already incurred.

28. You may not share our reports with anyone else unless you ask our permission first.

28.1. Unless we let you know in the Proposal, our reports and assessments are confidential and personal to you and should not be shared with anyone else. If you want to share any reports, assessments or other Deliverables with another person, you will first need to ask us. We do not accept any liability if the Deliverables are used for an alternative purpose from which they are intended, nor to any third party in respect of the Deliverables. We do not accept any responsibility and disclaim all liability to any third party who purports to and/or uses or relies on our Services for any reason whatsoever in the absence of a written agreement with them. Accordingly, any reliance placed on the Deliverables by any other person is entirely at their own risk.

29. Other important terms apply to our Contract

29.1. **Transfer of the Contract by Us.** We can transfer our Contract with you, so that a different organisation is responsible for supplying your Service. We will contact you to let you know if we plan to do this. If you're unhappy with the transfer you can contact us via the contact details as set out in the 'How to Contact Us' section to end the Contract within 14 days of us telling you about it and we will refund you any payments you've made in advance for Services not provided.

29.2. **Transfer of the Contract by You.** You can only transfer your Contract with us to someone else if we agree to this. We may not agree if that person

refuses to be bound by the same terms as in the Contract we have with you.

- 29.3. **Third Party Rights.** Nobody else has any rights under this Contract. This Contract is between you and us. Nobody else can enforce it and neither of us will need to ask anybody else to sign-off on ending or changing it.
- 29.4. **Enforcement of clauses.** If a court invalidates some of this Contract, the rest of it will still apply. If a court or other authority decides that some of these Consumer Conditions are unlawful, the rest will continue to apply.
- 29.5. **No waiver.** Even if we delay in enforcing this Contract, we can still enforce it later. We might not immediately chase you for not doing something (like paying) or for doing something you're not allowed to, but that doesn't mean we can't do it later.

ANNEX - MODEL INSTRUCTIONS FOR CANCELLATION BY A CONSUMER

Right to cancel

You have the right to cancel this contract within 14 days without giving any reason.

The cancellation period will expire after 14 days from the day of the conclusion of the contract.

To exercise the right to cancel, you must inform us at A W Fire Ltd, company number 13542189 and whose registered office address is at 24 Heron Way, Basingstoke, Hants, RG22 5QT or by telephoning us at 01256 228079 or by emailing us at info@awfire.co.uk between the hours of 9.30am – 5.30pm Monday to Friday of your decision to cancel this contract by a clear statement (e.g. a letter sent by post or e-mail). You may use the attached model cancellation form, but it is not obligatory.

To meet the cancellation deadline, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired.

Effects of cancellation

If you cancel this contract, we will reimburse to you all payments received from you.

We will make the reimbursement without undue delay, and not later than 14 days after the day on which we are informed about your decision to cancel this contract.

We will make the reimbursement using the same means of payment as you used for the initial transaction, unless you have expressly agreed otherwise; in any event, you will not incur any fees as a result of the reimbursement.

If you requested to begin the performance of services during the cancellation period, you shall pay us an amount which is in proportion to what has been performed until you have communicated to us your cancellation from this contract, in comparison with the full coverage of the contract.

MODEL CANCELLATION FORM FOR CONSUMER ORDERS

(Complete and return this form only if you wish to withdraw from the contract)

To: A W Fire Ltd, company number 13542189 and whose registered office address is at 24 Heron Way, Basingstoke, England, RG22 5QT and/or at email: info@awfire.co.uk

I/We hereby give notice that I/we cancel my/our contract of sale for the supply of the following service(s) *[insert details]*,

Ordered on: *[insert details]*/received on *[insert details]*,

Name of consumer(s):

Address of consumer(s):

Signature of consumer(s) (only if this form is notified on paper),

Date