

1. This part of the documents sets out the full terms and conditions of this Agreement ("this Agreement") made between FDS Consult Limited ("the Consultant Engineer") described overleaf and the Client ("the Client") described overleaf for the provision of the services described overleaf ("the Services")

2. This Agreement incorporates the Association of Consultant Engineers Conditions of Engagement 1995 second edition 1998 Agreement D ("the Ace Conditions") except as varied by this Agreement which shall have precedence in case of any conflict. All definitions and references to terms in this Agreement shall be deemed to have the meaning and refer to the provisions of the Ace Conditions

3. In addition to the fee described in the project fee proposal the Consulting Engineer shall charge for Additional Services and the Client shall pay the Consultant Engineer's fees at the rates of;

Director	£160/hour
Senior Associate	£125/hour
Associate	£115/hour
Senior Engineer	£110/hour
Engineer	£95/hour

All additional fees shall be paid monthly in arrear by the Client.

4. The Fee does not include the costs of designing, supplying or installing any fire safety systems designed by the Consultant Engineer.

5. In the event of the Client terminating this Agreement it shall pay the Consultant Engineer's fees for all work undertaken by the Consultant Engineer including the balance of the fee referred to in the project fee proposal not yet invoiced.

6. The Consultant Engineer shall not act as a "planning supervisor" as defined in the Construction (Design and Management) Regulations 1994 ("the CDM Regulations") for the Services and Additional Services.

7. The Client shall be responsible for preparing the health and safety plan and health and safety file and obtaining all necessary approvals for the installation of Services but the Consultant Engineer may at its absolute discretion assist the Client in respect thereof for which the Client shall pay standard consultants fee referred to in clause 3 above.

8. The Consultant Engineer shall not be responsible for the preparation or checking of details, specifications, drawing or revisions thereto unless specifically instructed by the Client as part of the Services or Additional Services in which event the Client shall pay the Consultant Engineer's fee at the rate referred to in clause 3 above.

9. The fees shall be paid within 30 days of the date of the relevant invoice. If the Client fails to pay on the due date or dates interest shall be charged and paid by the Client at the rate of 4% above Barclays Bank base rate from time to time from the date of invoice to the date of actual payment.

10. If the Client fails to pay a fee on the due date for payment the Consultant Engineer shall be entitled to suspend or cancel further provision of Services and the Client shall forthwith pay the Consultant Engineer's reasonable expenses relating thereto.

11. The Consultant Engineer reserves the right to instruct a debt collection agency in respect of any unpaid invoices seven days after the due date for payment and all fees incurred with the said agent shall be charged to and paid by the Client forthwith.

12. The liability of the Consultant Engineer for any claim or claims arising out of or in connection with pollution and contamination is excluded and for all other claims shall not exceed £2,000,000.

13. The period of the Consultant Engineers liability to the Client is six years from the date of completion of the Services.

14. The Consultant Engineer shall not and the Client acknowledges they are not entitled to the issue of warranties in favour of third parties or the novation of this Agreement and duties to an alternative Client. In the event the Consultant Engineer is requested to provide warranties or agree a novation the Client shall pay the Consultant Engineer's legal and other professional expenses incurred in negotiating the terms of the

said warranties or novation and reserves the right to charge additional fees at the standard hourly rate referred to in clause 3 above for time engaged reviewing the warranties. The Consultant Engineer shall also be entitled to renegotiate the level of fees referred to herein to reflect the liabilities attaching thereto.

15. The Client shall not be entitled to assign the benefit or the burden of this Agreement without the prior written consent of the Consultant Engineer and the parties hereby confirm that notwithstanding any other provisions of this Agreement nothing in this Agreement is intended to confer on any person any right to enforce any term of this Agreement which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999. The Consulting Engineer shall be entitled to assign the benefit of this Agreement.

16. The Client accepts the Consultant Engineer's liabilities hereunder in respect of fire safety are limited to the Building Regulations and do not extend to the Client's property or contents thereof or if appropriate the property and contents of the Client's customer where the Services have been provided.

17. The Client acknowledges and agrees that the Consultant Engineer shall be paid all fees under this Agreement where those services are undertaken on a no approval no fee basis where concept approval is achieved but the Client or its customer does not proceed with the project to which the Services relate.

18. The Client shall pay the fees set out in the project fee proposal whether or not the project relating to the Services is suspended, cancelled or amended and without prejudice to the generality of the foregoing the Client shall pay the Consulting Engineer for all Services actually rendered or to be rendered pursuant to this Agreement whether or not the Client proceeds with the proposed project to which they relate.

19. The fees under this Agreement exclude the following but this list is not exhaustive:

- a. Detailed calculations and design of specified systems.
- b. Preparation of drawing and specifications.
- c. Checking drawings or designs for compliance with strategy and design note.
- d. Providing construction systems or component detailing advice beyond agreed work stage and that covered in the report/design note.
- e. Attending regular design team meetings not identified in the Services.
- f. Additional work following issue of our report/design note not identified in the Services.
- g. Providing monthly reports.
- h. Commenting on issues after achieving concept approval not identified in the Services.
- i. Additional work following the issue of our fire strategy not identified in the Services
- j. Commenting on alterations and issues outside our agreed scope of works.

20. These conditions supersede all previous conditions and no person or employer of the Consultant Engineer shall be entitled to vary alter amend or waive any of these conditions unless approved in writing by a director.

21. The Client may not withhold payment of any invoice or other amount due to the Consultant Engineer by reason of any right of set off or counter-claim which the Client may have or allege to have or for any other reason whatsoever.

22. If any part of these conditions and definitions is deemed to be invalid or unenforceable they shall not affect the validity or balance of the conditions.

23. These conditions and all orders and contracts as regards validity performance and construction thereof shall be governed by the Laws of England.

24. The Consultant Engineer's duty to the Client is limited to the exercise of reasonable skill care and diligence of a properly qualified and competent Consultant Fire and Safety Engineer experienced in the provisions of like services.