

CB Richard Ellis(B)Pty Ltd Standard Conditions for the Purchase of Goods and Services
("Conditions")

1 Definitions and Interpretation

- 1.1 In these Conditions the following words have the following meanings:
"CBRE" means CB Richard Ellis (B) Pty Ltd (ACN 010724964) of Level 33, 1 Waterfront Place, Brisbane, Queensland 4000;
"Contract" means any contract between CBRE and the Supplier for the provision of Goods and Services, incorporating these Conditions and the Purchase Order;
"Defective Goods" means any Goods that do not comply with the Purchase Order or any agreed specifications;
"Goods" means the goods to be supplied by the Supplier to CBRE set out in the Purchase Order;
"Insolvency Event" means:
(a) bankruptcy proceedings are commenced against the Supplier, or the Supplier is declared bankrupt;
(b) any step that is taken to enter into any scheme or arrangement between the Supplier and its creditors;
(c) any step that is taken by a mortgagee to enter into possession or dispose of the whole or any part of the Supplier's assets or business;
(d) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a liquidator, a provisional liquidator, an administrator or other like person to the Supplier or to the whole or part of the Supplier's assets or business;
(e) the Supplier suspends payment of its debts generally; or
(f) the Supplier is or becomes unable to pay its debts when they are due or it is or is presumed to be insolvent for the purposes of any provisions of the *Corporations Act 2001* (Cth);
"Personal Information" has the meaning given to that term in the *Privacy Act 1988* (Cth).
"Price" means the price for providing the Goods and Services stated in the Purchase Order;
"Purchase Order" means the proposal from CBRE for the Goods and Services which is incorporated into the Contract;
"Services" means the services set out in the Purchase Order;
"Supplier" means the person(s), firm or company who provide the Goods and Services to CBRE;
- 1.2 References to any statute or statutory provision include (i) any subordinate legislation made under it, (ii) any provision which it has modified or re-enacted (whether with or without modification), and (iii) any provision which subsequently supersedes it or re-enacts it (whether with or without modification).
- 1.3 A reference to includes means includes without limitation.

2 Basis of Contract

- 2.1 Subject to any variation under Condition 2.2 the Contract these Conditions apply to the exclusion of all other terms and conditions (including any terms or conditions which the Supplier purports to apply in any document at any time).
- 2.2 Any variation to these Conditions has no effect unless expressly agreed in writing and signed by the parties.

3 Provision of the Services

- 3.1 The Supplier must:
- (a) provide the Services in accordance with the Contract;
 - (b) ensure the Services are performed by appropriately qualified, experienced and trained personnel with the highest level of skill, care and diligence and in a good workmanlike manner;
 - (c) comply with, and ensure that its personnel comply with, all relevant legislation, regulations, codes of practice, guidance notes and other requirements of any relevant government or governmental body;

- (d) comply with any reasonable instructions and guidelines issued by CBRE from time to time and the safety and security standards and site procedures and codes of CBRE or those of CBRE's customers;
 - (d) supply CBRE with the information and reports (including copies of documents and other material) CBRE reasonably requires in relation to the Contract; and
- 3.2 Time is of the essence for performance of the Services and the supply of the Goods under the Contract.
- 3.3 CBRE may require the Supplier to immediately remove any member of its personnel from the provision of the Services at any time. No compensation will be payable by CBRE. The Supplier must replace the member of personnel promptly where required.
- 3.4 The Supplier must operate as, and have the status of, an independent Supplier. of the Supplier is not the agent, employee or representative of CBRE.

4 Supply of the Goods

- 4.1 The Supplier must deliver the Goods to the agreed location for that delivery and in accordance with the agreed requirements as to the date on or by which those Goods are to be delivered or the period within which those Goods are to be delivered (which requirements the Supplier acknowledges to be an essential term of the Contract).
- 4.2 The Supplier must ensure that the Goods are accompanied by appropriate delivery documents which include a full description of the Goods and a reference to the Purchase Order together with any other documents necessary to enable checking of the Goods to take place at the time of delivery.
- 4.3 CBRE will be taken to have accepted delivery of Goods when a delivery document for those Goods has been signed by a representative of CBRE and given to the Supplier.
- 4.4 CBRE is not obliged to pay for Goods unless a delivery document for those Goods has been signed by a representative of CBRE and given to the Supplier.
- 4.5 Title in the Goods will be transferred to CBRE at the earlier of the date of payment or the date of delivery. Risk in the Goods will pass from the Supplier to CBRE at the time that a delivery document for those goods has been signed by a representative of CBRE and given to the Supplier.

5 Defective Goods

- 5.1 Without prejudice to any other right or remedy it may have, whether under the Contract, under statute or otherwise, CBRE may reject any Goods which are Defective Goods, by giving notice to the Supplier, and elect to either have the Goods replaced, or if CBRE has paid for the Goods, that payment, refunded.
- 5.2 All Defective Goods will become the property of the Supplier, and if held by CBRE, will be held at the Supplier's risk.
- 5.3 If CBRE elects to receive a refund in relation to Defective Goods:
(a) the Supplier will refund CBRE the Price of all Defective Goods, within 72 hours of receipt of written notice from CBRE; and
(b) all expenses incurred by CBRE that are directly related to the process of returning Defective Goods to the Supplier must be borne by the Supplier, and any expenses paid by CBRE must be reimbursed immediately by the Supplier.
- 5.4 If CBRE elects to have the Defective Goods replaced, the Supplier must replace the Defective Goods with Goods that satisfy the Purchase Order and any specifications within 72 hours of receiving notice from CBRE.

6 Warranties in respect of the Goods

6.1 The Supplier warrants that:

- (a) all Goods manufactured by the Supplier, and supplied in accordance with the Contract will for a period of 12 months from the date the Goods are delivered to the delivery point:
 - (i) be fit for the purpose or use intended by CBRE; and
 - (ii) be of merchantable quality and free from any defect in material or workmanship;
- (b) the benefit of any warranty or guarantee given to the Supplier by any manufacturer, importer or sub-supplier of all or any part of the Goods will be transferred or available to CBRE;
- (c) all Goods manufactured and supplied will be newly manufactured and comply strictly with any specifications forming part of the Purchase Order and any published manufacturers specification and comply with the samples (if any) provided by the Supplier to CBRE;
- (d) in addition to its rights under the Contract or these Conditions, CBRE may also claim the benefit of all rights given to buyers generally under the *Sale of Goods Act 1923 (NSW)* and the *Competition and Consumer Act 2010 (Cth)* or by any other applicable law;
- (e) the Goods and Services and the use of them will not infringe any intellectual property rights of any third party; and
- (f) all Goods and Services will comply with relevant laws and all relevant Australian standards and codes.

7 Price and Payment

- 7.1 In this Condition 7, the expressions "GST", "Input Tax Credit" , "Recipient", "Supplier", "Supply", "Tax Invoice" and "Taxable Supply" have the meanings given to those expressions in the *A New Tax System (Goods and Services Tax) Act 1999 (GST Act)*
- 7.2 Unless otherwise agreed in writing the Price is exclusive of GST.
- 7.3 If GST is payable by the supplier on any supply made under the Contract the Recipient will pay to the Supplier an amount equal to the GST payable on the Supply. Subject to the supply of a tax invoice that amount will be paid at the same time the consideration for the supply is payable under the Contract and will be paid in addition to the consideration. The Supplier must provide the recipient with a Tax Invoice in respect of the Supply.
- 7.4 The Supplier must issue the invoice(s) for the Goods and Services in accordance with the Proposal. All invoices must be issued promptly. CBRE is not liable to pay any invoice issued more than 90 days after the date it was required to be issued.
- 7.5 Unless otherwise stated in the Proposal, CBRE must pay each correctly rendered invoice within 60 business days of receiving the invoice.
- 7.6 The Supplier must maintain complete and accurate records of the time spent and materials used in providing the Goods and Services in a form as approved by CBRE. CBRE may inspect these records at all reasonable times upon written notice.
- 7.7 Without prejudice to any other right or remedy available, CBRE may exercise the right to set off any amounts against any amounts payable by CBRE to the Supplier under or in relation to the Contract.

8 Confidentiality & Privacy

- 8.1 The parties must keep confidential all information disclosed or obtained under or in relation to the Contract and must not use nor disclose the information except for the purpose of complying with the Contract or with the prior written consent of the other party.
- 8.2 The obligations of confidentiality do not extend to information that:

- (a) the non disclosing party can show is in or has become part of the public domain other than as a result of a breach of its obligations of confidentiality;
 - (b) was independently disclosed to it by a third party who is not under an obligation of confidence in relation to the information; or
 - (c) is required to be disclosed under any applicable law, or by order of a court or governmental body or other competent authority.
- 8.3 If the Supplier collects or receives Personal Information in connection with these Conditions or on behalf of CBRE or its client, the Supplier must:
- (a) collect that information in accordance with, and make the disclosures set out in, all applicable laws; and
 - (b) obtain all necessary consents from the people to whom the Personal Information relates in order to allow CBRE and its client to use the Personal Information in connection with these Conditions.

9 Indemnity and Insurance

9.1 The Supplier acknowledges that CBRE places particular reliance upon the provisions of the Contract and in addition to any other remedy available to CBRE the Supplier irrevocably and unconditionally agrees to indemnify CBRE, its employees, sub-Suppliers and agents in full and on demand and keep them so indemnified against all claims, demands, actions, proceedings and all direct and indirect damages, losses, costs and expenses (including without limitation legal costs on an indemnity costs basis and other professional advisers' fees, economic loss, loss of profit, future revenue, reputation, goodwill, anticipated savings) and any consequential loss made against or incurred or suffered by any of them and whether wholly or in part resulting directly or indirectly from the matters listed below (whether or not such losses or the consequences of the matters listed below were foreseeable) which were caused by, relate to or arise from the provision of the Goods and Services, any direct or indirect breach or negligent performance or failure or delay in performance of the Contract by the Supplier or any infringement of third party intellectual property rights caused by the Goods and Services or their use by CBRE or its clients.

9.2 During the term of the Contract, the Supplier shall maintain in force with a reputable insurance company:

- (a) adequate workers compensation insurance as required by law for its employees and deemed employees; and
- (b) public liability insurance in the amount of \$10 million

for each policy the Supplier shall, on CBRE's request, produce both the insurance certificates giving details of cover and the receipts for the current year's premium.

9.3 The provisions of this Condition 9 will survive termination of this Contract.

10 Limitation of Liability

10.1 CBRE will not be liable to the Supplier or any third party for any incidental, indirect, special, punitive or consequential losses or damages, or damages for any loss of profits, loss of revenue, loss of business or goodwill, data or data use arising out of or in connection with the Contract whether in an action in contract or tort (including negligence) or other legal theory, whether or not CBRE has been advised of the possibility of such losses and/or damages.

10.2 The parties exclude the operation of Part 4 of the *Civil Liability Act 2002* (NSW).

11 Termination and the Consequences of Termination

11.1 In addition to any other remedies that it may have, CBRE may terminate the Contract in whole or part immediately by written notice to the Supplier, effective from the date of service of the notice

(and to claim the excess cost of obtaining replacement items) if the Supplier commits a breach of the Contract or these terms, and fails to remedy the breach within the time specified by CBRE in written notice so to do.

- 11.2 In addition, CBRE may terminate the Contract with immediate effect if the Supplier:
- (a) suffers an Insolvency Event;
 - (b) merges with or is acquired by a third party; or
 - (c) attempts to assign any of its rights or obligations under the Contract.
- 11.3 CBRE may terminate the Contract at its own discretion for any reason, upon giving thirty (30) days written notice to the Supplier.
- 11.4 Upon termination, the Supplier must deliver to CBRE any work in progress or completed Goods or Services as maybe requested.
- 11.5 Following termination of the Contract, CBRE will have no liability to the Supplier except payment for Goods and Services accepted by CBRE prior to the date of notice of the termination and for any additional Goods and Services specifically requested in writing and accepted by CBRE.

12 Disputes

- 12.1 If there is any dispute between the parties concerning the Goods and Services, the dispute will be referred to the relevant managers of the parties who must use all reasonable endeavours to resolve the dispute themselves within 5 business days of the dispute arising. If the managers are unable to resolve the dispute in that period, the dispute will be referred to the managing directors of the parties who must use all reasonable endeavours to resolve the dispute themselves within 10 business days of the dispute originally arising.
- 12.2 If the parties fail to come to an Contract at the end of the period specified in Condition 12.1, then either party may refer the dispute to mediation or an alternative form of dispute resolution; however, nothing in this Condition prevents the parties commencing or continuing court proceedings at any time.
- 12.3 Neither party is obliged to follow the procedures set out in Conditions 12.1 and 12.2 above where that party seeks injunctive relief against the other.

13 Subcontracting, Assignment and Third Party Rights

- 13.1 The Supplier must not assign, charge, subcontract, transfer or otherwise deal with its interest under the Contract or any part of it.
- 13.2 CBRE may novate, assign or sub-contract its interest in and obligations under the Contract or any part of it to any third party upon written notice to Supplier. From the date of the notice CBRE will have no further obligations to the Supplier in respect of any matter relating to the novation or assignment.

14 Force Majeure

Neither party will be liable for any failure to perform or delay any of its obligations under the Contract due to circumstances beyond its reasonable control and outside the ordinary course of business including (but no limited to) fire, flood, acts of God, war, civil commotion, terrorism, strikes or other industrial disputes and acts of government. If the period of default continues for more that 30 days, the other party may terminate the Contract immediately by giving written notice.

15 Notices

- 15.1 Notices for the purpose of the Contract shall be in writing. A notice given to a party at that part's address set out in this Contract (as may be varied by notice):

- (a) in the case of prepaid post, be deemed to be given 2 days after the date of posting;
- (b) be deemed to be delivered at the time of delivery if delivered during normal business hours; and
- (c) be deemed to be given upon receipt by the sender of a satisfactory transmission confirmation report indicating due transmission without error in the case of facsimile transmission.

16 General

- 16.1 Nothing in the Contract creates a partnership or joint venture or relationship of employer and employee or principal and agent between the parties.
- 16.2 A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.
- 16.3 A term or part of a term of this Contract that is illegal or unenforceable may be severed from this Contract and the remaining terms or parts of the terms of this Contract continue in force.
- 16.4 The Contract sets out the entire Contract between the parties in connection with its subject matter and supersedes all previous Contracts or understandings between the parties in connection with its subject matter.

17 Law and Jurisdiction

- 17.1 The Contract is governed by the law of New South Wales, Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and the courts having appeal from them.