

CBRE, Inc.
Standard Terms and Conditions for the Purchase of Goods and Services (Siemens)

1. Definitions and Interpretation

In these Terms and Conditions the following words shall have the following meanings:

"**CBRE**" means CBRE, Inc. whose office is at 170 Wood Avenue South, Iselin, New Jersey 08830;

"**Goods**" means materials, supplies and equipment specified as a deliverable in the Purchase Order;

"**Owner**" means Siemens Real Estate, Inc. and, as applicable, its affiliates and subsidiaries.

"**Party**" or "**Parties**" means CBRE or Seller as applicable to the context in which said term is used.

"**Price**" means the price for providing the Goods or Services as stated in the Purchase Order;

"**Purchase Order**" means the written order from CBRE for the Goods or Services which is hereby incorporated by reference into these Terms and Conditions;

"**Services**" means the Service deliverables specified in the Purchase Order;

"**Seller**" means the person(s) or legal entity providing the Goods or Services to CBRE; and

"**Terms and Conditions**" means the contractual provisions specified herein which govern the terms of the Purchase Order agreement between CBRE and Seller.

2. Basis of Contract

Subject to any exception as provided for hereunder, any Purchase Order issued to Seller from CBRE shall be subject to these Terms and Conditions to the exclusion of all other terms and conditions (including without limitation any terms or conditions which the Seller purports to apply in any document whatsoever and whenever). Any changes to these Terms and Conditions and any representations about the Goods or Services shall have no effect unless expressly agreed in writing and signed by an authorized signatory of CBRE. If, however, a master contract agreement or other written agreement is already in existence between CBRE and Seller governing the purchase of the Goods and Services covered by this Purchase Order, the terms and conditions of both that agreement (which are incorporated into this Purchase Order by reference) and this Purchase Order apply, but the terms and conditions of that agreement shall prevail to the extent the same may be inconsistent with the terms of this Purchase Order.

3. Services & Deliverables.

Seller agrees to provide the Goods and perform the Services described in any Purchase Order, in accordance with the applicable Purchase Order, scope of work, price and with the terms specified herein. Upon acceptance of a Purchase Order, shipment of Goods or commencement of a Service, Seller shall be bound by these contractual terms, including all provisions set forth on the face of any applicable Purchase Order, whether Seller acknowledges or otherwise signs the Purchase Order, unless Seller objects to such terms in writing prior to shipping Goods or commencing the Services. These Terms and Conditions may not be added to, modified, superseded or otherwise altered, except in a written acceptance signed by an authorized CBRE representative. Any terms or conditions contained in any acknowledgment, invoice or other communication of Seller, which are inconsistent with the Terms and Conditions herein, are hereby rejected. CBRE hereby reserves the right to reschedule any delivery or cancel any Purchase Order issued at any time prior to shipment of the Goods or prior to commencement of any Services. CBRE shall not be subject to any charges or other fees as a result of such cancellation.

4. Delivery.

Time is of the essence with respect to the performance of any Purchase Order issued by CBRE to Seller. Delivery of Goods shall be made pursuant to the schedule, via the carrier and to the place specified on the face of the applicable Purchase Order. CBRE reserves the right to return, shipping charges collect, all Goods received in advance of the delivery schedule. If no delivery schedule is specified, the order shall be filled promptly and delivery will be made by the most expeditious form of land transportation. If no method of shipment is specified in the Purchase Order, Seller shall use the least expensive carrier reasonably available. In the event Seller fails to deliver the Goods within the time specified, CBRE may, at its option, decline to accept the Goods and terminate the Purchase Order. Seller shall package all items in suitable containers which comply with industry standards to permit safe transportation and handling. Each delivered container must be labeled and marked to identify contents without opening and all boxes and packages must contain packing sheets listing the contents. CBRE's purchase order number must appear on all shipping containers, packing sheets, delivery tickets and bills of lading.

5. Risk of Loss & Destruction of Goods.

Seller assumes all risk of loss until receipt by CBRE. Title to the Goods shall pass to CBRE upon its receipt of the Goods at the designated destination. If the Goods ordered are destroyed prior to title passing to CBRE, CBRE may at its option cancel the Purchase Order or require delivery of substitute Goods of equal quantity and quality. Such delivery will be made as soon as commercially practicable. If loss of Goods is partial, CBRE shall have the right to require delivery of the Goods not destroyed.

6. Payment.

As full consideration for the performance of the Services, delivery of the Goods and the assignment of rights to CBRE as provided herein, CBRE shall pay Seller the amount agreed upon and specified in the applicable Purchase Order. Seller shall submit correct and complete invoices meeting the requirements set forth herein to CBRE within thirty (30) days of delivery of the Goods or completion of the Services performed under the Purchase Order. Should Seller fail to remit an invoice containing all charges and expenses relating to the provision of the Goods or Services within sixty (60) days of incurring the charge or expense relating to the Goods or Services, or, upon its failure to comply with this invoice requirement, Seller waives any right it may otherwise have to invoice for and collect or otherwise recover such amount. All Seller invoices shall be in a form acceptable to CBRE and must contain, as a minimum, (i) Seller's name, complete remittance address information and taxpayer identification number; (ii) invoice date; (iii) purchase order number; (iv) as applicable, serial number, price and quantity of Goods delivered or description of Services provided; and (v) additional information as may be required by CBRE. Applicable taxes and other charges such as shipping costs, duties, customs, tariffs, imposts and government imposed surcharges shall be stated separately on Seller's invoice. All personal property taxes assessable upon the Goods prior to receipt by CBRE of Goods conforming to the Purchase Order shall be borne by Seller. Any undisputed sum due Seller pursuant to the Purchase Order shall be payable within seventy-five (75) calendar days of receipt by CBRE of an invoice meeting the requirements of this section and CBRE reserves the right to return all incorrect invoices. Payment shall not constitute acceptance. Seller shall invoice CBRE only for all Goods delivered and all Services actually performed. CBRE shall be obligated to pay Seller only to the extent that it has received payment from Owner for the Goods delivered and Services performed by Seller. CBRE shall make commercially reasonable efforts to enforce Owner's responsibility for payment.

7. Warranties.

7.1 Services: Seller represents and warrants that all Services shall be completed in a professional, workmanlike manner, with the degree of skill and care that is customary for professional providers of like services within the same industry as Seller. Further, Seller represents and warrants that the Services shall be completed in accordance with the applicable specifications and shall be correct and appropriate for the purposes contemplated in the Purchase Order. Seller represents and warrants that the performance of Services under this Purchase Order will not conflict with, or be prohibited in any way by, any other agreement or statutory restriction to which Seller is bound.

7.2 Goods: Seller warrants that all Goods provided will be new and will not be used or refurbished. Seller warrants that all Goods delivered shall be free from defects in materials and workmanship and shall conform to all applicable specifications for a period of twelve (12) months from the date of acceptance by CBRE or for the period provided in Seller's standard warranty covering the Goods, whichever is longer. Additionally, Goods purchased shall be subject to all written and oral express warranties made by Seller's agents, and to all warranties provided for by the Uniform Commercial Code of the applicable State. Seller shall furnish to CBRE Seller's standard warranty and service guaranty applicable to the Goods. All warranties and Service guaranties shall run both to CBRE and to Owner. If CBRE identifies a warranty problem with the Goods during the warranty period, CBRE will promptly notify Seller of such problems and will return the Goods to Seller, at Seller's expense. Within five (5) business days of receipt of the returned Goods, Seller shall, at CBRE's option, either repair or replace such Goods, or credit CBRE's account for the same. Replacement and repaired Goods shall be warranted for the remainder of the warranty period or six (6) months, whichever is longer.

8. Inspection.

CBRE shall have a reasonable time after receipt of Goods or Service deliverables and before payment to inspect them for conformity hereto, and Goods received prior to inspection shall not be deemed accepted until CBRE has determined whether the Goods conform to the specifications hereof. If Goods tendered do not wholly conform with the provisions hereof, CBRE shall have the right to reject such Goods. Nonconforming Goods will be returned to Seller freight collect and risk of loss will pass to Seller upon CBRE's delivery to the common carrier.

9. Independent Contractor.

Nothing contained in the Purchase Order, these Terms and Conditions or in the relationship of Seller and CBRE shall be deemed to constitute a partnership, joint venture, or any other business relationship between Seller and CBRE except for the independent contractor relationship described in these Terms and Conditions. Seller's authority is limited solely to providing the Goods or performing the Services set forth herein in accordance with the terms of the Purchase Order. Nothing in these Terms and Conditions shall create any contractual relationship or liabilities between Seller or any agent or subcontractor of Seller and CBRE.

10. Taxes.

Seller shall pay any and all taxes and fees imposed by Law in connection with the Goods and Services deliverable under the Purchase Order. Any applicable sales or use taxes due in connection with the performance of Services or sale of Goods shall be the responsibility of Seller to collect and pay. This provision shall survive the expiration or termination of the Purchase Order.

11. Insurance.

The minimum amounts and scope of insurance coverage required under this Purchase Order to be maintained by Seller, at its sole cost and expense, covering the activities of Seller, its employees, agents and subcontractors under the Purchase Order are set forth below.

11.1 Commercial General Liability: \$1,000,000 per occurrence and \$1,000,000 aggregate limit.

11.2 Automobile Liability: \$1,000,000 combined single limit per occurrence.

11.3 Worker's Compensation: Statutory

11.4 Employer's Liability: \$500,000 per accident per employee; \$500,000 per disease per employee; and \$500,000 per disease policy limit.

Policy Requirements. All insurance policies shall be in customary forms and shall be issued by companies legally conducting business in the States where performance is rendered, and rated "A," FSC Class X or better by the most current Best's Insurance Reports. If applicable and required by CBRE, Seller shall deliver certificates evidencing such insurance coverage to CBRE prior to execution of the Purchase Order. If this Purchase Order is for the provision of Services, the certificate(s) shall include copies of endorsements to Seller's Commercial General Liability and Automobile policies that show that Owner and CBRE (including all participating affiliates) are included as additional insured(s) on ISO Form CG 20 10 11 85 or its equivalent, covering the additional insureds for liability arising from all operations and completed operations of Seller as long as the additional insureds may be exposed to liability arising from Seller's work. Seller shall be responsible for the amount of any deductible contained in any of the above-described insurance policies and certificates of insurance. Seller's insurance shall be deemed primary with respect to coverage extended to the additional insureds, whose insurance shall be excess and non-contributory with that required of Seller hereunder. To the fullest extent permitted by law, all insurance policies of Seller shall contain provisions that the insurance companies waive the rights of recovery or subrogation against Owner, CBRE, their respective affiliates, and each of their and their affiliates' respective agents, officers, directors, shareholders, employees, insurers, successors and assigns.

12. Indemnity.

To the fullest extent permitted by law, Seller shall defend, indemnify, pay, save and hold harmless CBRE and Owner from and against any liabilities, damages costs, expenses, suits, losses, claims, actions, fines and penalties (including, without limitation, court costs, reasonable attorneys' fees and any other reasonable costs of litigation) (hereinafter collectively, the "Claims") that CBRE and Owner may suffer, sustain or incur arising out of or in connection with: (i) the negligent acts, errors or omissions, intentional misconduct or fraud of Seller, its employees, subcontractors or agents, whether in the provision of the Services, failure to provide any or all of the Services or otherwise; (ii) any breach by Seller of these Terms and Conditions; (iii) assertions under workers' compensation or similar employee benefit acts by Seller or its employees or agents, and/or any failure by Seller to pay any employment benefits and any taxes required of it of any nature whatsoever; (iv) Seller's failure to comply with any Law; (v) Claims by any Seller Employee; and/or (vi) any infringement or alleged infringement of any patent, copyright, trade secret or other proprietary right of any third party relating to the Services performed under the Purchase Order. Nothing contained herein shall relieve Seller of any responsibility for Claims regardless of whether Seller is required to provide insurance covering such Claims.

13. Confidentiality.

It is understood that information, data, software, communications and materials, in whatever form presented, CBRE, their affiliates and/or their customers including, without limitation, customer or supplier names or information (collectively, "Confidential Information") may be disclosed to Seller. Seller agrees to utilize the Confidential Information received by it only for the purpose of providing the Services and for no other purpose whatsoever. Seller shall use the same care and discretion to avoid disclosure, publication or dissemination of any Confidential Information received from CBRE or Owner as Seller uses with its own confidential information that it does not wish to disclose, publish or disseminate, but in no event less than a reasonable degree of care. Seller shall not disclose to any person (other than as necessary to Seller Employees directly involved in Seller's provision of the Services) Confidential Information at any time, either during the Term or at any time thereafter, without the express written agreement of CBRE. Seller acknowledges and agrees that, because it may be difficult to assess the damages incurred by CBRE from a breach of this Section, CBRE shall have the right, in addition to any other legal and equitable remedies available, to injunctive relief to prevent any potential breach or further breach of this Section.

Seller shall not be liable for disclosure or use of any Confidential Information if: (i) it was in the public domain at the time it was disclosed or used through no fault of Seller; (ii) it becomes known to the Seller from a source other than CBRE without a breach of these Terms and Conditions by Seller; (iii) it was independently developed by Seller without the benefit of the information received from CBRE; or (iv) it was disclosed under legal process or other legal requirement provided Seller agrees to cooperate in seeking reasonable protective arrangements requested by CBRE, and to promptly notify CBRE if Seller receives any subpoena or other legal process seeking disclosure of Confidential Information. Seller shall not use or display CBRE's name or logo, and shall not utilize other trademarks or service marks of CBRE, without the prior written consent of CBRE. Neither Seller nor its agents or subcontractors may issue any press, media or publicity releases or give statements to the media identifying CBRE or relating to this Purchase Order without the prior written consent of CBRE.

14. Termination.

CBRE may terminate the Purchase Order upon written notice to Seller if Seller fails to perform or otherwise breaches the terms of the Purchase Order, files a petition in bankruptcy, becomes insolvent, or dissolves. In the event of such termination, CBRE shall pay Seller for the portion of the Services satisfactorily performed and those conforming Goods delivered to CBRE through the date of termination, less appropriate offsets, including any additional costs to be incurred by CBRE in completing the Services.

CBRE may terminate the Purchase Order, without cause, for any reason upon thirty (30) days' written notice to Seller. Seller shall cease to perform Services and/or provide Services under the Purchase Order on the date of termination specified in such notice. In the event of such termination, CBRE shall be liable to Seller only for those Services satisfactorily performed and those conforming Goods delivered to CBRE through the date of termination, less appropriate offsets.

In the event CBRE's services have been terminated by Owner or CBRE's agreement with Owner expires, and either Owner or Owner's designee determines to continue performance of this Purchase Order and require Seller to continue to perform the Services hereunder, CBRE will not be subject to any fee, liability or penalty as a result thereof, and CBRE shall have no responsibility to Seller whatsoever after the date upon which CBRE shall no longer provide services to Owner.

Upon the expiration or termination of the Purchase Order for any reason, each party will be released from all obligations to the other arising after the date of expiration or termination, except for those which by their terms survive such termination or expiration.

15. Disputes.

Any controversy, claim, counterclaim or dispute arising out of or relating to the interpretation or application of any term or provision of the Purchase Order or these Terms and Conditions that the parties are unable to settle through consultation and negotiation shall be presented by either party to any court of competent jurisdiction to the extent said Court shall have jurisdiction over the matter. Seller agrees that in the event of any dispute between the parties, it will continue to provide Services without interruption unless CBRE directs otherwise in writing. Further, Seller acknowledges that Seller's breach of any of the promises contained in these Terms and Conditions may result in irreparable and continuing damage to CBRE for which there may be no adequate remedy at law and, in the event of such breach, CBRE will be entitled to seek injunctive relief, or a decree of specific performance. **EACH PARTY WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS PURCHASE ORDER.**

16. Force Majeure.

Except as hereinafter provided in this provision, no delay or failure in performance by CBRE or Seller shall constitute a default under the Purchase Order if and to the extent the delay or failure is caused by Force Majeure. Unless the Force Majeure substantially prevents performance of the Services, Force Majeure shall not operate to excuse, but only to delay, performance of the Services. If the Services are delayed by reason of Force Majeure, Seller shall promptly notify CBRE of such condition. Once the Force Majeure event ceases, Seller shall resume performance of the Services as soon as possible. As used herein, "Force Majeure" means any event beyond the control of the Party claiming inability to perform its obligations and which such Party is unable to prevent by the exercise of reasonable diligence, including, without limitation, the combined action of workers, strikes, embargoes, fire, acts of terrorism, explosions and other catastrophes, casualties, a moratorium on construction, delays in transportation, governmental delays in granting permits or approvals, changes in laws, expropriation or condemnation of property, governmental actions, unavailability or shortages of materials, national emergency, war, civil disturbance, floods, unusually severe weather conditions or other acts of God or public enemy. Financial hardship, however, shall not constitute Force Majeure regardless of the cause thereof and whether the reason is outside a Party's control.

17. Limitation of Liability.

In no event shall CBRE be liable to Seller for any lost or prospective profits or any other punitive, consequential, incidental or indirect loss or damage, whether based in contract, strict liability, tort or otherwise, with respect to the Purchase Order.

18. Assignment.

Seller may not assign this Purchase Order or any of its rights or obligations under this Purchase Order, without the prior written consent of CBRE. Any assignment or transfer without such written consent shall be null and void. CBRE may, without the consent of Seller, and at the sole discretion of CBRE, freely assign its interest in this Purchase Order.

19. Notices.

Any and all notices, consents, demands, approvals, directives or other communications required or permitted under the Purchase Order shall be in writing and shall be delivered personally, by air or local courier or shall be sent by certified mail, return receipt requested, postage prepaid to the other party at the address set forth in the Purchase Order. A copy of any notice to CBRE also shall be sent to it at 2100 McKinney Avenue, Suite 900, Dallas, Texas 75201, Attn: General Counsel – Global Workplace Solutions. Either party hereto may change its address set forth herein for the receipt of notice by giving written notice to the other party in the manner set forth herein. The date of delivery or the date of receipt, as the case may

be, shall be the date of such notice. In the event that such notice is refused, the date of such refusal shall be deemed to be the date of receipt or delivery hereunder.

20. Survival of Obligations.

Any obligations and duties which by their nature extend beyond the expiration or termination of the Purchase Order shall survive the expiration or termination of the Purchase Order.

21. Governing Law.

This Purchase Order shall be construed in accordance with, and disputes shall be governed by, the laws of the State of New York without regard to choice of law principles.

22. Compliance with Laws and Owner Policies and Procedures.

Seller represents warrants and covenants that Seller possesses and shall maintain at its own expense all permits, licenses, approvals, registrations, consents and certificates and pay all fees required by law with respect to any Goods or Services procured under the Purchase Order. Seller shall, in connection with performance, comply with all applicable federal, state, and local laws, ordinances, rules, regulations, building codes, court orders, and governmental or regulatory agency orders as well as all applicable security, safety and other policies and procedures of Owner applicable to the provision of the Goods and/or Services from Supplier.

23. Miscellaneous

23.1 Headings: The section headings appearing in these Terms and Conditions have been inserted for the purpose of convenience and ready reference. They do not purport, and shall not be deemed, to define, limit or extend the scope or intent of the respective Sections.

23.2 Entire Agreement: Except to the extent an existing master contract agreement is in place between CBRE and Seller for the Goods or Services provided hereunder, this Purchase Order, when fully executed, shall supersede any and all prior and existing agreements between the parties, either oral or in writing, and contains all the covenants and agreements between the parties with respect to the subject matter of the Purchase Order. Any amendment or modification to the Purchase Order must be made in writing and signed by the parties hereto.

23.3 Waiver: No term or provision of these Terms and Conditions shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether expressed or implied, shall not constitute a consent to, or waiver of, or excuse for any other different or subsequent breach.

23.4 Counterparts: The Purchase Order and these Terms and Conditions may be reproduced in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single instrument.

23.5 Authority to Execute Purchase Order: Seller warrants and represents that it is authorized to enter into the Purchase Order including these Terms and Conditions.

23.6 Severability: If any part, term, or provision of these Terms and Conditions is held by final judgment of any court of competent jurisdiction to be illegal, invalid or unenforceable, the validity of the remaining portions or provisions shall not be impaired or affected, and the rights and obligations of the parties shall be construed and enforced as if the Purchase Order and these Terms and Conditions did not contain the particular part, term or provision held to be illegal, invalid or unenforceable.

23.7 Attorney's Fees: The Parties agree that the prevailing Party shall be entitled to all costs and expenses including, without limitation, court costs and reasonable attorneys' fees, in any action commenced relating to a dispute arising under this Agreement.

23.8 Survival: All obligations and duties under any provisions, which by their nature extend beyond the expiration or termination of this Purchase Order, including but not limited to warranties, indemnifications, intellectual property (including protection of proprietary information) shall survive the expiration or other termination of this Purchase Order of which these provisions are made a part.

23.8 Currency: All monetary amounts stated in this Purchase Order and these Terms and Conditions are in United States Dollars and all payments hereunder shall be made in such currency.