

CBRE GWS GmbH

General Terms of Purchasing

1. Definitions

“**Applicable Law**” refers to a law, a provision or regulation of Switzerland, applicable anti-corruption laws and any other legal directive, decision or delegated power of a competent authority in connection with orders, whereas to the exclusion of the UN Convention on Contracts for the International Sale of Goods dated 11/04/1980 (CISG).

“**Buyer**” means CBRE GWS GmbH, Switzerland.

“**Order**” means the written and signed document issued by the Buyer in which the Buyer offers the Seller to procure the object of delivery in all cases in accordance with these Terms of Purchasing.

“**Price**” means the price specified in the order, which must be paid by the Buyer.

“**Seller**” means the party, which must provide the object of delivery that is described in the Order.

“**Object of Delivery**” means the goods and/or services to be delivered by the Seller.

“**General Terms and Conditions**” means these General Terms of Purchasing.

2. Offer and acceptance

- 2.1 These General Terms of Purchasing shall apply to all Orders. They shall replace all earlier agreements, Orders, offers, quotations and other information exchanged between the Parties with regard to the Object of Delivery.
- 2.2 Any change to these General Terms of Purchasing requires the written agreement of both Parties and it must be agreed explicitly in the Order.
- 2.3 The Order shall not be deemed an acceptance of an offer from the Seller.
- 2.4 The present General Terms and Conditions shall be deemed accepted by the Seller and the corresponding contract between the Parties shall be deemed concluded, as soon as the Seller takes one of the following actions:
 - (a) starting with the work according to the order;
 - (b) granting a written order confirmation; or
 - (c) another action whereby the existence of a contract with regard to the Object of Delivery is accepted.
- 2.5 General Terms and Conditions of the Seller stating otherwise, notably also such that the latter declares to be applicable in its offer, the contract confirmation, the invoice or elsewhere will not be accepted by the Buyer. This also applies in the event that the Buyer accepts a delivery or makes payments in knowledge of deviating General Terms and Conditions of the Seller.

3. Duration

- 3.1 The Order shall be binding on the Parties for one year as of transmission of the Order to the Seller or up until a date specified in the Order (“Original Term of Contract”), unless the Order is cancelled prematurely by the Buyer.

4. Quantity and delivery

- 4.1 The Seller shall deliver the quantities respectively specified in the Order.
- 4.2 The Buyer is not obligated to procure the Object of Delivery exclusively from the Seller, unless agreed otherwise in the Order.
- 4.3 Unless agreed otherwise in writing by the Buyer, ownership of the Object of Delivery shall transfer upon the Seller's delivery to the Buyer's domicile to the Buyer, whereas use and risk shall transfer upon the Buyer's unconditional acceptance of the Object of Delivery.

- 4.4 Time is a crucial factor in the delivery of the Object of Delivery. Each delivery that is made after the agreed delivery date represents a positive breach of contract and the Seller will be in default automatically (*Expiration Date*), regardless of whether or not it has received prior warning from the Buyer.
- 4.5 If the Seller has reason to believe, that the delivery could not be executed on time in full or in part, the Seller shall notify the Buyer thereof without delay and with a statement of the reasons.
- 4.6 Irrespective of the foregoing provision, the Seller is obligated to assume all costs incurred in connection with the late delivery, e.g. costs for express deliveries, phone and fax charges, etc. Insofar as the delay is due to the Seller's culpable actions, the Buyer furthermore reserves claims to damages that are caused by the delay in accordance with the legal regulations and/or withdrawal from the contract at any time without prior warning.
- 4.7 The delivery of the Object of Delivery is within the Seller's responsibility.
- 4.8 The Seller undertakes to observe the ICC Incoterms 2000 and all relevant regulations regarding the delivery and all warning notices, especially EU Regulations 2002/96/EC and 2002/95/EC, and Directive 1907/2006/EC regarding the restrictions applicable for certain hazardous substances. The Seller is obligated to refund the Buyer for all costs that are incurred by it in consequence of improper packaging, labelling, transport or delivery.

5. Price and payment

- 5.1 In absence of any written agreement stating otherwise, all prices are understood as fixed prices including all costs for transport, storage, processing, packaging, insurance for all measures that are part of the delivery, and all of the Seller's other costs and expenses including all taxes and levies, which shall be shown separately for each delivery on the Seller's invoice.
- 5.2 The Seller is entitled to invoice the Object of Delivery to the Buyer on or at any time following the delivery and completed acceptance by the Buyer, whereas the invoice shall state the Order number, change or release number, the Buyer's parts number if applicable, the Seller's parts number, the piece number of each delivery, the number of boxes or containers in a delivery, the bill of lading number and any other information requested by the Buyer.
- 5.3 Invoices shall be directed to the Buyer's address specified in the Order.
- 5.4 Unless provided otherwise in the Order, the Buyer shall pay the Price within 60 days upon occurrence of the following dates, whereas the respectively later date shall be decisive:
 - (i) the last day of the month in which the Buyer has received a proper invoice for the Object of Delivery from the Seller, or
 - (ii) the last day of the month in which the Buyer accepts the Object of Delivery.
- 5.5 If the Price is paid within a period of 10 days after
 - (i) receipt of the invoice or
 - (ii) delivery and acceptance of the Object of Delivery, whereas the respectively later one of the two dates shall be decisive, the Buyer shall be granted a discount in the amount of 2% of the invoice total.
- 5.6 The Buyer is entitled to offset any counter claims that are in its entitlement based on the Order or another agreement with the supplier against the Price (including payable value added tax), regardless of whether or not the counter claim has already become due for payment on the date of the offsetting.
- 5.7 Irrespective of other provisions referred to herein, CBRE is not obligated to pay the supplier for its goods before the customer's payment for the relevant goods has been received by CBRE.

6. Acceptance inspection and deficient deliveries

- 6.1 The Seller shall inspect the Object of Delivery before delivery with regard to quality and quantity.
- 6.2 The Buyer undertakes to inspect the Object of Delivery for the absence of defects or report any defects to the Seller within an appropriate period following their discovery. In all cases, the warranty claim raised by the Buyer shall be valid if it is made within the period specified under Sec. 8.2.
- 6.3 If the Object of Delivery has defects and/or if it does not comply with the agreed specifications, and if it is therefore not accepted by the Buyer, the quantities defined in the Order shall be reduced, unless the Buyer informs the Seller otherwise.

- 6.4 In addition to the legal remedies available to the Buyer under the law,
- (i) the Seller undertakes to take a defective Object of Delivery back at its own risk and cost, in addition to transport costs, and to replace the Object of Delivery that is defective and/or that does not comply with the agreed specifications on request by the Buyer;
 - (ii) the Buyer can have the deliveries and services that do not conform to the requirements specified in the Order be corrected at any time before dispatch from the Buyer's premises for delivery; and/or
 - (iii) the Seller undertakes to refund all costs to the Buyer, which are caused by the refusal of acceptance or in the course of reworking, to the extent as these costs are appropriate.

7. Modifications

- 7.1 The Seller is prohibited from making any modifications on the Object of Delivery without a written instruction or written agreement from the Buyer, whether these relate to the design, specifications, workmanship, packaging, labelling, transport, the Price or the place or time of delivery.

8. Warranty

- 8.1 The Seller explicitly warrants that the Object of Delivery
- (a) complies with the specifications, quality standards, drawings, samples, descriptions and changes provided by the Buyer;
 - (b) complies with all legal regulations, decrees, directives, and standards;
 - (c) is fault-free in terms of quality, does not have any material or legal defects and is suitable for its intended purpose;
 - (d) is free from lien or other collateral rights and in the legitimate sole ownership of the Seller;
 - (e) does not infringe on any patent rights, copyrights, trademark or other intellectual property rights of third parties; and
 - (f) all work is conducted professionally in observation of all standards and specifications agreed with the Buyer and in compliance with the generally accepted standards of the industry.
- 8.2 The warranty period for the Object of Delivery is two years as of the acceptance of the Object of Delivery by the Buyer.
- 8.3 The payment of the Price as well as the approval of a design, drawing, material, process or specifications by the Buyer shall not release the Seller from liability within the scope of this warranty.

9. Quality

- 9.1 The Seller shall adhere to the Buyer's quality control standards and testing systems.
- 9.2 The Seller shall provide the Buyer on its request with maintenance manuals and other material relating to the Object of Delivery, which is required in the Buyer's opinion.

10. Liability and legal remedies

- 10.1 The Seller is obligated to hold the Buyer harmless for any personal injuries or death of a person if the injury or consequence of death is due to the fulfilment or absent fulfilment of the Seller's obligations within the scope of the Order, whereas however negligence or a breach of these General Terms of Purchasing by the Seller or negligence by its employees, representatives, suppliers and/or subcontractors must be established.
- 10.2 The Seller undertakes to hold the Buyer and the Buyer's customers as well as all of their respective representatives, legal successors and assignees harmless for any damages (including consequential damages from defects, indirect as well as purely financial damages), claims, any liability and all expenses (including appropriate legal fees and other consultant fees, costs for settlements and judgments), which are based on a defect of the Object of Delivery or negligence, tortious act or omission by the Seller or its representatives, employees or subcontractors or which are based on a breach of or non-compliance with the Seller's warranties or other terms of the Order (as well as the present General Terms) by the Seller.
- 10.3 The rights and legal remedies in the Buyer's entitlement in the context of the Order apply cumulatively and in addition to all other statutory or other legal remedies.
- 10.4 CBRE shall not be liable to the supplier for special damages, indirect damages or consequential damages that arise in the context of the Order. The liability of CBRE for damages that may possibly occur also through fulfilment or non-fulfilment regarding this Order or with regard to other duties/responsibilities specified herein shall not exceed the Price of the goods.

11. Legal regulations and ethical principles

- 11.1 The Seller, and the Supplies will comply with all Applicable Laws and standards relating to the manufacture, labelling, transport, import, export, licensing, approval or certification of the Supplies, including laws relating to anti-corruption, environmental matters, employment, discrimination, occupational health or safety and motor vehicle safety. The Order incorporates by reference all obligations and conditions thereby required.
- 11.2 The Seller shall use only legitimate and ethical business practices in the activities contemplated by the Order and shall not submit inflated or otherwise false invoices to the Buyer. No part of the payments received by the Seller will be used for any purpose that may constitute a violation of any Applicable Laws, including the FCPA or any other anti-corruption law.
- 11.3 The Buyer has published an Ethics Code (available at <http://www.cbre.com/codeofconduct>) and expects from the Seller as well as from its employees and contractual partners that they comply with this aforementioned directive or their own ethics codes, which are consistent in terms of their contents with that of the Buyer.

12. Insurance policies

- 12.1 The Seller shall conclude the insurance policies listed below for the specified covers or a higher cover at the Buyer's reasonable request.
- 12.2 The Seller shall verify the conclusion of these insurance policies to the Buyer within 10 days upon written request by the Buyer.
- 12.3 The existence of this insurance cover shall not release the Seller from its obligations or liability within the scope of the Order.
- 12.4 If covers and/or indemnity limits are prescribed by local legal regulations, these local regulations shall apply according to the aforementioned minimum indemnity limits.

13. Contract termination

- 13.1 The Buyer can cancel the Order at any time and with immediate effect by giving written notice to the Seller if one of the following events occurs:
- (a) if the Seller does not fulfil an essential obligation within the scope of the Order and if this breach of contract is not remedied even within a period of 10 days from receipt of a written warning;
 - (b) if the Seller discontinues its business operations, or if it is dissolved or liquidated or if a trustee is appointed for its entire or parts of its assets; or
 - (c) if the circumstances specified in Sec. 14.2 apply.
- 13.2 In the case that the Order is cancelled, the Buyer shall merely be obligated to pay the Price for the entire completed Object of Delivery in the quantities, which have been ordered by the Buyer, delivered to it and which are in compliance with the requirements of the Order.
- 13.3 Irrespective of a deviating provision in these General Terms and Conditions, the Buyer shall not be obligated to hold the Seller harmless for lost profit, unclaimed overhead costs, interest on claims, product development and planning costs, tools, relocating costs or rental payments for plant and machinery, non-amortized capital or depreciation expenses, finished or unfinished products or raw material that is produced or procured by the Seller, beyond an amount approved within the scope of the Order or the general administrative expense for the cancellation of the Order, unless it has been expressly agreed otherwise.
- 13.4 The obligations under this Section 13 shall also apply after the termination of the contract.

14. Force majeure

14.1 The Buyer shall not be liable for any loss or damage that has been caused by failed or belated fulfilment of the Order if this is due to circumstances that are outside of the Buyer's reasonable sphere of influence, and which have furthermore also not been caused by it.

Type of insurance	Minimum indemnity limits
Public liability insurance* for personal injury due to buildings, services, persons, products and completed service performances, as well as for contractual liability according to Section 10 (Liability and legal remedies)	USD 5,000,000 per damage event
Motor vehicle liability insurance for all vehicles used in connection with the work performed	USD 2,000,000 Flat cover sum to cover property damages and personal injuries per damage event or the legally prescribed indemnity limit
Work safety/Work accidents	For employees conducting work, the indemnity limit according to the insurance policy or according to legal regulations applies
Contractor liability insurance	USD 1,000,000 per damage event per employee and per illness
Professional liability insurance (if applicable)	USD 1,000,000 per damage event if applicable

* The indemnity limits resulting from the general public liability insurance can be covered by a combination of indemnity limits under the general liability, umbrella liability insurance/liability excess insurance.

14.2 In the case that fulfilment of the obligations within the scope of an Order is not possible for one of the Parties or if it is prevented from or delayed in fulfilment for a period of more than 60 days, for reasons or due to circumstances outside of its reasonable sphere of influence and that have furthermore also not been caused by it, the Order shall be cancelled immediately.

15. Intellectual property rights

15.1 All intellectual property rights existing for the Object of Delivery, including such to drafts, documents or other information as well as all rights relating to know-how that are produced within the scope of an Order or on behalf of the Buyer shall be in the Buyer's entitlement.

15.2 The Seller shall hold the Buyer harmless with regard to claims relating to the delivered Object of Delivery or parts thereof, which arise from the infringement on intellectual property rights of third parties such as patents, copyrights, trademarks and similar. The Seller undertakes to join any legal proceedings brought against the Buyer on the Buyer's request or to lead the proceedings instead of the Buyer at its own cost and/or to assume the consequences of cost and compensation that are related to the proceedings.

16. Confidentiality

16.1 The Seller acknowledges and agrees that all information provided to the Seller by the Buyer or developed for it in connection with the Order shall be considered to be confidential and secret, notably regardless of whether such information is or is not earmarked as such.

16.2 The Seller undertakes to treat all secret or confidential information of the Buyer as strictly confidential, not to disclose it or disseminate it to third parties, and to use the secret or confidential information solely for the purpose of the Order. On the Buyer's request, the Seller shall furthermore surrender all information including all copies or reproductions to the Buyer.

17. Advertising

17.1 The Seller undertakes not to divulge the fact that the Seller has concluded a contract with the Buyer for the provision of the Object of Delivery or individual provisions of the aforementioned contract (except to the Seller's advisers to the extent this is required) to third parties nor to publish or disclose to the public. The Seller additionally undertakes not to use any trademarks or trade names of the Buyer in press releases, advertising or promotional material without having obtained the prior written agreement of the Buyer.

18. Relationship of the Parties

18.1 The Seller and the Buyer are independent Parties to the contract. No provision of the Order shall be understood to mean that one of the Parties is an employee, authorized agent or legal representative of the respective other Party for any purpose whatsoever.

19. Assignment/Subcontracting

19.1 The Seller may not assign or transfer its obligations within the scope of the Order without the prior written agreement of the Buyer. Insofar as such an assignment or transfer has been approved by the Buyer, the complete responsibility for the Object of Delivery as well as all related warranties and claims shall continue to be with the Seller, unless the Buyer has expressly agreed otherwise in writing.

19.2 The Seller undertakes to transfer the confidentiality obligations imposed on it by the Buyer to the same extent to its subcontractors.

19.3 The Seller acknowledges and informs the subcontractors that the Buyer is entitled to procure the Object of Delivery directly from the subcontractors.

19.4 The Buyer is entitled to fully deduct direct payments to the subcontractor from the Purchase Price and to offset the claims of subcontractors against the Buyer in connection with the delivery of the Object of Delivery.

20. Applicable Law / Place of jurisdiction

20.1 The Order is governed by Swiss law in all respects, to exclusion of the United Nations Convention on Contracts for the International Sale of Goods dated 11/04/1980 (CISG).

20.2 The exclusive place of jurisdiction for all disputes or differences of opinion arising from the Order or the present General Terms and Conditions is Basel, Switzerland. The Buyer, however, shall be entitled to also file action against the Seller in any other competent court.

21. Severability Clause

21.1 Should individual provisions of these General Terms and Conditions or individual provisions of the Order be or become invalid or if there is an omission in provisions, the validity of the remaining provisions (of these General Terms and Conditions or the Order as a whole) shall not be affected or thereby. In case there is an omission in provisions, it shall be amended by a provision that would have been agreed by the Parties on the conclusion of the contract if they had been aware of the omission in the contract.

22. Waiver

22.1 Failure of a Party to claim adherence to a provision of the Order by the respective other Party shall not affect the right of the Party to claim fulfilment at a later time. Failure to claim a violation of a provision of the Order shall not be deemed a waiver of claims for a violation of the same or another provision of the Order at a later time.

23. Post-contractual validity

23.1 The Seller's obligations toward the Buyer shall continue to apply also after the termination of the Order, unless expressly provided otherwise therein.

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