

General procurement terms and conditions CBRE

Article 1

Definitions

In these General Terms and Conditions the following expressions have the following meanings:

Offer: an offer presented by the Contractor at CBRE's request as set out in Article 3 of these Terms and Conditions;

CBRE: CBRE BV and any legal entity or business associated with it within a group under the terms of Section 2:24b of the Civil Code;

Assignment: the agreement(s) of assignment referred to in Article 4 of these Terms and Conditions;

Assignment Confirmation: CBRE's receipt of a document which has been signed by the Contractor and which sets out the Assignment;

Contractor: CBRE's contracting party to the Assignment;

Parties: CBRE and Contractor;

Fee: the fee payable to the Contractor by CBRE for the execution of the Assignment by the Contractor;

Terms and Conditions: the provisions of these general procurement terms and conditions.

Article 2

Scope of application

2.1

These Terms and Conditions apply to any Assignment, shall constitute part of any contract entered into by CBRE and the Contractor, and shall govern any action (or legal act) undertaken by CBRE and the Contractor in relation thereto.

2.2

The applicability of terms or stipulations by the Contractor deviating from these Terms and Conditions is hereby expressly dismissed by CBRE.

2.3

If and in so far as there may be a conflict between the Dutch version of these Terms and Conditions, and any translation thereof, the Dutch version shall always prevail.

Article 3

Offer

3.1

An Offer is deemed to refer to an offer presented by the Contractor in writing in relation to the Assignment at CBRE's request or otherwise. The following must at any rate be stipulated in any such Offer:

- a description of the goods and/or services offered by the Contractor;
- the fee payable for the goods or services that are offered;
- the relevant Contractor's name and the place in which he resides or has his registered office.

3.2

Unless the Parties agree otherwise, CBRE shall not be liable to pay the Contractor for any expenses incurred in relation to any Offer which the Contractor makes.

3.3

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Unless the Parties agree otherwise, an Offer shall be irrevocable for a period of two (2) weeks after it reaches CBRE.

Article 4

Assignment

4.1

The Assignment is deemed to refer to any contract by means of which the Contractor gives CBRE an undertaking that it will supply goods and/or provide services in consideration of a Fee.

4.2

The Assignment shall be concluded at the moment that CBRE sends the Assignment Confirmation.

4.3

In the event that CBRE sends the Assignment Confirmation after the period referred to in Article 3.3 of these Terms and Conditions or if it differs from the Offer, the Assignment shall be concluded in accordance with the Assignment Confirmation, unless the Contractor concerned objects to CBRE in writing citing reasons within five (5) working days after the date of the Assignment Confirmation.

Article 5

Power of attorney

5.1

The Assignment shall not also amount to a mandate or power of attorney to perform any legal act on CBRE's behalf, unless stipulated otherwise in writing in the Assignment Confirmation.

5.2

A power of attorney or mandate may be coupled to the Assignment. In the event that this occurs after CBRE consents to the Assignment, it shall only apply if CBRE explicitly agrees to this in writing.

Article 6

Execution of the Assignment

6.1

The Contractor shall exercise the due care which may be expected of a professional Contractor when executing the Assignment and with due observance of CBRE's justified expectations and interests.

6.2

Subject to CBRE's prior written consent, when executing the Assignment the Contractor shall not avail himself of the services of any other person, legal entity or assistant. The Contractor shall exercise the requisite due care when engaging any other person. Irrespective of whether or not the Contractor engages any other person, the Contractor shall remain fully liable for the execution of the Assignment.

6.3

The Contractor shall have a duty to declare that any obligations arising for him pursuant to the Assignment, including these Terms and Conditions, shall apply to any contract into which the Contractor enters with some other party for the purposes of the Assignment.

6.4

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In the event that the Contractor notices or expects an error in the Assignment (or its execution), failure to meet a deadline or any other form of non-compliance with regard to the execution of the Assignment, it shall notify CBRE of this in writing immediately.

6.5

Acting at its own risk and expense, the Contractor shall be required to apply for any permits and/or exemptions that are needed for the purposes of executing the Assignment.

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6.6

The Contractor shall be responsible for procuring any materials that are necessary for the purposes of executing the Assignment, which includes equipment and tools. This equipment must comply with those provisions of the law (governing safety or otherwise) which are applicable when the Assignment is executed.

6.7

Any items and documents which CBRE supplies to the Contractor for the purposes of preparing for and executing the Assignment shall remain the property of CBRE and the Contractor may only use them to execute the Assignment.

6.8

The Contractor shall be liable for any costs incurred in relation to the transport of items for the purposes of executing the Assignment, such as packing materials, loading and unloading. The Contractor shall have a duty to arrange adequate insurance to cover the risks which may arise in the course of transport.

6.9

The Contractor shall be liable for any damage to or loss of goods which is caused during loading, transport and/or unloading, as well as any loss that occurs due to inappropriate packaging.

6.10

Goods shall be supplied in accordance with the term of delivery, 'delivered duty paid'. Any goods that are delivered must be accompanied by a packing list. This packing list must state CBRE's order number along with the relevant item codes, number(s) and description(s). The Contractor shall be required to use a separate packing list for each order.

6.11

The Contractor shall be responsible for removing any packing and residual materials.

6.12

The Contractor shall have a duty to ensure that any workplace which CBRE places at its disposal remains clean and tidy. In the event that the Contractor is required to enter any immovable property for the purposes of executing the Assignment, it shall have a duty to ensure that it is clean and tidy when it leaves. Furthermore, the Contractor shall also take appropriate action to prevent any damage from occurring to any workplace or immovable property which he needs to enter for the purposes of executing the Assignment.

6.13

The Contractor shall be required to adopt appropriate measures for the purposes of the Assignment in order to avoid any injury to persons, damage to goods and harm to the environment.

Article 7

Integrity

7.1

The Contractor shall at all times have a duty to act in a manner that is commensurate with the integrity which may be expected of it.

7.2

The Contractor shall have a duty to act in accordance with the applicable national and international legislation and regulations governing integrity.

7.3

The Contractor shall supply CBRE with a certificate of good conduct issued by a municipality along with the personal details of any person who is involved with the relevant Assignment at CBRE's first request.

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7.4

CBRE shall at all times have the power to terminate the Assignment with immediate effect by cancelling it in writing – without being required to pay any compensation – in the event that the Contractor acts in breach of the provisions of Clauses 7.1 to 7.3 or fails in some other way to act in line with the integrity which may be expected of it. Furthermore, CBRE shall be entitled to cancel the Assignment with immediate effect and without being liable for any expenses, in the event that the Contractor becomes or is in danger of becoming involved in any form of enquiry conducted by or on behalf of any public authority into the integrity of its staff.

Article 8

Term and termination of the Assignment

8.1

The Assignment shall apply for a definite or an indefinite term.

8.2

An Assignment for an indefinite term shall expire upon termination. Either Party shall be entitled to effect such termination. Except if stipulated otherwise in writing, the termination of an Assignment for an indefinite term must be effected in writing subject to a term of notice of two (2) months.

8.3

An Assignment for a definite term shall expire at the end of the period in respect of which it has been concluded or upon its conclusion.

8.4

Without prejudice to the preceding, either party is authorised to terminate the Assignment by written notice of termination with immediate effect due to compelling reasons, including inter alia a breach by the other party in the performance of its obligations arising from the Assignment, a serious disturbance of the relationship between the Parties, as well as the other party's suspension of payments or bankruptcy.

8.5

Upon the termination of the Assignment by virtue of its termination, completion or the expiry of the term for which it has been concluded, the Contractor shall have a duty to pay CBRE the Fee payable in accordance with what is stipulated in the Assignment Confirmation and the provisions of Article 11 of these Terms and Conditions, as well as any expenses incurred by CBRE for the purposes of or in relation to the Assignment.

8.6

Upon the termination of the Assignment the Contractor shall immediately hand over any documents, goods and items belonging to CBRE to the latter. CBRE shall hand over any goods and items belonging to the Contractor to the latter immediately after the termination of the Assignment.

Article 9

Approval of execution of Assignment

9.1

CBRE shall be deemed to have accepted the execution of the Assignment by the Contractor, if it has notified the latter in writing of its approval.

9.2

The approval referred to in Clause 9.1 shall not release the Contractor from liability for any deficiency in the services provided or defect in the goods supplied, of which CBRE may reasonably be expected to be aware when accepting same.

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Article 10

Inspections

10.1

CBRE shall be entitled to have any services (or part thereof) that have been provided or goods (or part thereof) that have been supplied tested by an independent party based on the specifications agreed to by the Parties and any stipulated by law. Should it follow from such a test that any services (or part thereof) that have been provided or goods (or part thereof) that have been supplied by the Contractor fail to comply with the specifications agreed to by the Parties and any stipulated by law, the Contractor shall be liable for any expenses involved in conducting such test.

10.2

The Contractor shall have a duty to provide assistance for the purposes of any test referred to in Clause 10.1. If so requested by CBRE, the Contractor shall provide testing and measuring equipment plus staff support free of charge.

Article 11

Penalties

11

In the event that the Contractor fails to execute the Assignment on time, it shall be liable for a penalty equivalent to 1% of the relevant Fee for every day or part thereof that it remains in default of compliance with the Assignment. Such a penalty shall not in any way affect CBRE's entitlement to compensation.

Article 12

Fees and expenses

12.1

The amount of the Fee and/or the basis for calculation of the Fee if the Fee is conditional on the execution of the Assignment will be laid down the Assignment Confirmation.

12.2

A variation in labour costs, taxes or any other factor which determines costs may not lead to the Fee being raised. The Contractor shall have a duty to adjust the Fee to accord with any variation in labour costs, taxes or any other cost-determining factors which have the effect of lowering the Fee.

12.3

In the event that the nature of a contract which has been concluded differs from the Assignment in the absence of any further arrangements concerning the value of the Fee, CBRE shall be liable for a fee which is calculated in the normal fashion or, if this is impossible, a Fee whose value CBRE determines on the basis of market practice.

12.4

Unless provided otherwise by the Assignment Confirmation, the Fee and additional costs are to be increased with turnover tax.

Article 13

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Payment

13.1

Unless the Parties stipulate otherwise in writing in the Assignment Confirmation, all amounts cited in any invoice must be stated in euros.

13.2

Invoices must be sent in duplicate to the invoice address referred to in the Assignment Confirmation. The invoice number must be stated on all invoices.

13.3

At CBRE's first request, the Contractor shall supply CBRE with a statement that reveals which persons have been deployed for the purposes of executing the Assignment, the days on which this is to occur and the number of hours each day.

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13.4

Any amount charged to CBRE shall be paid within thirty (30) working days after CBRE receives the relevant invoice, subject to the proviso that this period shall not commence until after the Contractor has executed the Assignment.

13.5

In the event that the Contractor fails to effect timely compliance with the Assignment, the Contractor shall be in default without a further notice of default or notice of demand. In that case CBRE shall be entitled to suspend its obligations pursuant to the relevant Assignment subject to any rights it has under the law.

13.6

In the event that CBRE has a claim against the Contractor, the amount concerned may be set off against what CBRE owes that Contractor.

Article 14

Taxes and social insurance premiums

14.1

The Contractor shall be and shall remain responsible for its duties pursuant to any legislation governing taxes and social insurance, howsoever it may be called.

14.2

At CBRE's first request the Contractor is obliged to present CBRE with evidence to the effect that the Contractor has remitted all value added and salary tax, and national and or employee insurance premiums on time in connection with the execution of the relevant Assignment. Any such statement must be drawn up by the Tax and Customs Administration office and the UWV [Employee Insurance Administrative Agency], and must be a certified original.

14.3

In the event that the Contractor fails to provide a statement referred to in Clause 14.2 to CBRE within one (1) month, CBRE shall be entitled to suspend all payments to the Contractor, until the Contractor supplies such statement.

Article 15

Assignment of rights and obligations

15.1

The Contractor is not permitted, without CBRE's prior written consent, to assign any right and/or obligation with regard to the Assignment to third parties. CBRE shall be entitled to grant its consent subject to conditions.

15.2

In the event that the Contractor assigns its rights and obligations (or part thereof) pursuant to the Assignment to a third party, the Contractor shall remain liable for compliance with the Assignment vis-à-vis CBRE.

Article 16

Liability and indemnification

16.1

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The Contractor shall be liable for any loss which CBRE and/or the relevant Client suffer as a result of that Contractor's failure to comply with the Assignment concerned or any wrongful act on the Contractor's part in relation to CBRE and/or the Client.

16.2

The Contractor shall have a duty to take out insurance which provides sufficient cover for the consequences of any liability on the part of that Contractor under the terms of Clause 16.1. The Contractor is obliged to supply a copy of the relevant insurance policy to CBRE at CBRE's first request.

16.3

Unless the loss and damage is caused by gross negligence or wilful misconduct of CBRE, the Client shall indemnify CBRE and/or any (legal) persons engaged by CBRE against any and all claims of third parties on whatever account in connection with or arising from the Assignment.

Article 17

Prescription periods

17

Any claims and entitlements of the Contractor against or in relation to CBRE shall lapse one (1) year after the Contractor could reasonably have been expected to be aware of the fact on the basis of which he could enforce such claims and entitlements against CBRE.

Article 18

Non-disclosure

18.1

The Contractor shall in no way disclose any information provided by CBRE, such as the contents of a Valuation, report, advice or any other statement made by CBRE, be it in writing or otherwise, or supply same to another party, unless he has a duty to make such disclosure pursuant to the provision of any national or international legislation, regulations or other rules (professional or otherwise).

18.2

CBRE shall be entitled to inform its business contacts of a Contractor's name and the main aspects of any relevant work which it has performed, unless agreed otherwise in writing in the Assignment Confirmation.

18.3

CBRE and the Contractor shall impose their obligations under the terms of this article on any other person whom they engage.

Article 19

Intellectual property

19.1

CBRE shall retain all rights to any intellectual creation which it uses or has used for the purposes of exchanging the Assignment in so far as they are established pursuant to the law.

19.2

The Contractor shall be required to inform CBRE immediately of any intellectual property rights which are established in connection with the Assignment. At CBRE's first request, the Contractor shall assign any intellectual property rights that are established in connection with the Assignment to CBRE.

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19.3

The Contractor is explicitly prohibited from publishing, replicating or commercially exploiting any products including computer programs, system designs, procedures, advice, models, techniques, tools, contracts (model or otherwise) and any other intellectual creations of CBRE in the broadest sense of the term, irrespective of whether or not it engages some a third party, unless the Contractor obtains CBRE's prior written approval. The Contractor shall be permitted to replicate documents for use within its own organisation in so far as this is in line with the purpose of the relevant Assignment. In the event that it is cancelled, the foregoing shall apply *mutatis mutandis*.

19.4

CBRE and the Contractor shall impose their obligations under the terms of this article on any other person whom they engage.

Article 20

Warranty

20.1

The Contractor shall warrant that any goods supplied or services provided comply with the Assignment and the applicable provisions of the law, and are free of any defects.

20.2

The Contractor shall warrant that the execution of the Assignment will not infringe on the intellectual property rights of any other party or will be unlawful in relation to such party in any other way.

20.3

The Contractor shall warrant that no materials shall be used in relation to the goods supplied and/or services provided, which are deemed to be hazardous under national or international legislation.

20.4

The Contractor shall warrant that any goods supplied pursuant to the Assignment are unencumbered and have not been attached.

20.5

The term of warranty shall amount to two (2) years, unless the parties stipulate otherwise in the Assignment Confirmation. This period shall commence after the Assignment concerned has been executed.

Article 21

Wet ter voorkoming van witwassen en financieren van terrorisme

21.1

By signing the Assignment Confirmation the Contractor shall be deemed to have confirmed that he is or has not been in any way involved in laundering money or funding terrorism as defined in the *Wet ter voorkoming van witwassen en financieren van terrorisme* [Money Laundering and Terrorism Funding Prevention Act] ("Wwft").

21.2

The Contractor shall refrain from any activities which contravene the Wwft throughout the term of the Assignment.

21.3

The Contractor shall have a duty to ensure the timely supply of all relevant information which CBRE may reasonably require for the purposes of complying with its duties under the terms of the Wwft.

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ARTICLE 22

Human Rights

22.1 The Contractor represents and warrants that it is familiar with the United Nations Universal Declaration of Human Rights and its responsibility to respect human rights in its operations and to promote an appropriate example in the areas of prevention of child labor and human trafficking, freedom against prejudice and discrimination, and compliance with appropriate work hour and wage requirements.

22.2 The Contractor agrees that should it learn or have reason to know of any action that may cause a violation of human rights, it shall immediately disclose it to Client and/or CBRE.

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Article 23

Governing law and disputes

23.1

The Assignment is governed by Dutch law.

23.2

Any disputes between the Contractor and CBRE arising from or related with the Assignment including disputes about the Fee, costs and performance of the CBRE's payment obligations towards the Contractor, shall be submitted to the competent court of Amsterdam.

Amsterdam, 27 March 2009

These terms and conditions were lodged as Number 32/2009 with the Clerk of the District Court of Amsterdam on 27 March 2009.