



STANDARD CONTRACT TERMS AND CONDITIONS

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GENERAL. These terms and conditions (these "**Contract Terms**") apply to each written or electronic Statement of Work or Purchase Order (each, including the incorporated Exhibits and Contract Terms, a "**PO**") that references these Contract Terms and purports to be governed by them. The entity purchasing goods and/or services (each "**Work**") under a PO is the "**Purchaser**" and the person or entity supplying the Work is the "**Supplier**".

These Contract Terms may only be modified by express language in the applicable PO. At the earlier of Supplier's acceptance of the PO or Supplier's commencement of Work, the applicable PO, including these Contract Terms, shall be deemed accepted by Supplier without any additional or different terms. Any attempt by Supplier to propose or impose additional or different terms or to vary any of these Contract Terms or the PO in any manner is hereby objected to and rejected and shall not become part of the contract between the parties.

Accordingly, except to the extent expressly set out in the applicable PO:

1. **WARRANTIES OF SUPPLIER.** In addition to Supplier's standard warranties and any warranties implied by law:
 - To the extent that the Work involves services, Supplier agrees (a) to furnish its best skill and judgment in the Work; (b) to use quality materials and hire properly skilled personnel; (c) to furnish efficient business administration and supervision; and (d) to use its best efforts to execute the Work in a diligent, professional, expeditious and economical manner strictly in accordance with the PO.
 - To the extent that the Work involves the sale or construction of tangible and/or intangible items, Supplier represents and warrants that such items will: (i) be free from any defects in materials, design, workmanship, method of production, packaging, labeling, container receptacles or otherwise; (ii) conform to the specifications, drawings or other description referenced in the PO; (iii) to the extent the item was not custom built to Purchaser's specifications, be fit for the purpose for which the Work is intended and merchantable; and (iv) not infringe any third party's trademarks, copyrights, patents, know-how or any other intellectual property rights.

Purchaser reserves the right to refuse any Work and to cancel the PO if Supplier fails to perform and/or deliver any Work in accordance with the PO. Inspection, testing, acceptance or use of the Work by Purchaser shall not affect Supplier's obligations under its warranties, which shall survive any inspection, testing, acceptance and use. Supplier agrees promptly to replace or correct any Work not conforming to these warranties without expense to Purchaser; if Supplier fails to do so, Purchaser may, after reasonable notice to Supplier, make such corrections or effect cover, all at Supplier's expense. Upon learning of any errors, omissions or inconsistencies in specifications, drawings or other descriptions or instructions included or referenced in the PO, Supplier shall promptly seek clarification from Purchaser before proceeding. As often as reasonably required by Purchaser, Supplier shall furnish to Purchaser reasonable reports of the progress of the Work. In the case of any PO involving construction, Supplier shall at all times furnish to Purchaser and its representatives safe and ample facilities for inspecting materials at the site of construction, shops, factories or any place of business of Supplier and its subcontractors and material men where Work may be in course of preparation, process, manufacture or treatment.

2. **COMPLIANCE WITH LAWS AND REGULATIONS.** All Work will be provided in full compliance with all applicable federal, state and local laws, rules, regulations, orders, standards and requirements. At its expense, Supplier will secure and comply with all applicable licenses, inspections, authorizations and permits required by any governmental authority in connection with the Work. Except as provided in the following sentence, Supplier will properly account for and pay all federal, state and local taxes, including sales, use and excise taxes, payroll taxes and health, welfare, pension and other employee benefits in connection with the Work and the PO. Purchaser will not be liable for any taxes with respect to a PO, except for any sales, use, retailers occupation, service occupation, excise, ad valorem, value added or consumption taxes imposed by any governmental authority for the purchase of the Work that Supplier is required by law to collect from Purchaser.

3. **PAYMENT TERMS.** As full consideration for Supplier's satisfactory performance of its obligations, Purchaser will pay the amount stated in the PO not later than forty five (45) days following Purchaser's receipt of Supplier's invoice (which shall be delivered no earlier than completion of the Work unless written approval has been received for partial payments). Purchaser's payment of any such invoice shall constitute full and complete satisfaction of all actual and potential charges for the billing period covered by the invoice. Purchaser will not be required to make partial payments unless it agrees in writing to do so. Where a payment is conditioned on "Final Completion", Supplier must have completed and delivered (as applicable) any punch list items and all operating and maintenance manuals, warranties and as-built drawings. Supplier agrees to cooperate reasonably in providing any information needed for, and to assist in the preparation of, any materials needed for seeking reimbursement by Purchaser from any third party. Any duly authorized

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agent of Purchaser shall have the right to examine the books of record and accounts of Supplier relating to the Work for the purpose of checking and verifying the cost of the Work and related matters. Without limiting its other remedies, all claims for monies due or to become due from Purchaser shall be subject to deduction by Purchaser for any disputed Work, breach of any PO, damage to Purchaser or another subcontractor or penalties assessed against Purchaser or Supplier for failure of Supplier to comply with applicable laws or regulations or for any other setoff or counterclaim under a PO or otherwise. Supplier shall remain liable for the payment of any amount by which the amounts owed to Purchaser exceed any amount withheld. Purchaser may condition any payment on reasonable requests for evidence that (i) Supplier has fully and correctly performed the applicable Work, (ii) has paid any amounts due to anyone furnishing labor or material for that Work (and all payments shall be impressed with a trust in favor of labor and anyone furnishing labor and material for the Work); (iii) the remaining Work can be completed on schedule and for the unpaid balance of the contract price.

4. **TIMING.** TIMING OF DELIVERY AND/OR PERFORMANCE OF THE WORK IS OF THE ESSENCE. Supplier shall complete the Work in a prompt and diligent manner in accordance with the Performance Schedule in the PO, as reasonably revised from time to time, without delaying or hindering Purchaser's work or the work of other contractors or subcontractors. Purchaser shall have the right to determine the time and order of various portions of the Work, the relative priority of the work of Supplier and other suppliers, and, in general, all other matters pertaining to the timely and orderly conduct of the Work. If Supplier believes at any time that there is a possibility that it may not meet delivery or completion dates, Supplier shall immediately inform Purchaser in writing. If any item is not received or if any element of the Work is not completed on time, Purchaser, at Purchaser's option and without prior notice to Supplier, may either approve a revised schedule or may cancel the remaining Work under the PO and at its option obtain such Work elsewhere; in either event, Supplier shall be liable to Purchaser for any resulting loss incurred by Purchaser except to the extent the delay was caused solely by strikes not caused by or within the control of Supplier, lock-outs not caused by or within the control of Supplier, fires, war or acts of God. Supplier's sole remedy for a delay caused by Purchaser shall be an extension in the time for Supplier's performance equal to the duration of Purchaser's delay.

5. **CHANGE ORDERS.** Purchaser has the right to make changes from time to time in the Work pursuant to a written change order (a "**Change Order**"). Any Change Order shall be incorporated in and amend the PO (without affecting price or schedule except as set forth in the Change Order) unless, within five (5) days after receipt of the Change Order and in any case before proceeding with any Work affected by the Change Order, Supplier delivers to Purchaser a written Change Order Response (a "**Response**") which includes (i) Supplier's proposed equitable adjustment to the price and/or schedule resulting from the Change Order and (ii) an itemized breakdown of the justification for such adjustment in sufficient detail to allow Purchaser to evaluate the reasonableness of the Response. Upon receipt of a Response, Purchaser may at its option (a) accept the Response, in which case the Change Order, as amended by the Response, shall be incorporated in and amend the PO; (b) cancel or amend the Change Order; or (c) direct Supplier to proceed with the Change Order while the parties resolve the equitable amount/duration of any change in the price or schedule. In the event of this or any other dispute regarding the Work, unless otherwise directed by Purchaser in writing, Supplier shall (x) continue to perform the Work, including any disputed Work, without delay or slow down, pending the resolution of the dispute; (y) maintain a separate record, on a daily basis, of all of its actual costs incurred to perform the disputed Work; and (z) resolve the dispute under Section 17.

6. **CANCELATION.** Purchaser has the right to cancel, by written notice to Supplier, the uncompleted balance of the Work under any PO in whole or in part for its convenience. Supplier has the right to cancel, by written notice to Purchaser, the uncompleted balance of the Work under any PO if Purchaser fails to make any payment when due hereunder (except in the case of a good faith dispute) and fails to correct such nonpayment within for 30 days after written notice from Supplier. In the event of either such cancellation, Supplier may claim, by written invoice delivered within thirty (30) days of cancellation, its reasonable costs incurred prior to the effective date of termination plus a reasonable allowance for profit on the portion of the Work completed; provided, that the total sum payable upon termination shall not exceed the unpaid order price for the portion of the Work involved. If Supplier would have sustained a loss on the entire Work had it been completed, no profit shall be allowed. Completed Work or raw material included in Seller's cost shall be held for disposition in accordance with Purchaser's instructions. Under no circumstances shall Purchaser be responsible for any lost revenue or profits or any incidental, indirect, special, or consequential damages. If Supplier breaches a PO, Purchaser has the right to cancel the uncompleted balance of any Work under that PO (and at the option of Purchaser, any other PO) by written notice to Supplier. In the event of such cancellation, Supplier may claim, by written invoice delivered within thirty (30) days of cancellation, any amounts due for Work actually completed under the PO(s) involved prior to the effective date of termination, subject to offset by Purchaser of any amounts owed.

7. **SUPPLIER PERSONNEL.** Supplier agrees to employ or otherwise engage only competent and skilled personnel, capable of performing the essential functions of the job for which they are hired, with or without a reasonable accommodation, to perform any Work

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and shall use all reasonable means to ensure the continuity of the personnel performing Work. No provision in any collective bargaining agreement to which Supplier is or becomes a party shall be binding upon Purchaser except as required by law. Supplier shall timely pay for all labor performed and all materials used by it in connection with the Work, including wages, workers' compensation insurance, social security tax, employment compensation tax, employer's liability insurance, etc. and comply with all applicable laws and regulations relating to or affecting the employment of labor, including those regarding worker's compensation, employer's liability, unemployment compensation, nondiscriminatory practices and/or old age benefits and all other applicable laws. Upon request, Supplier shall submit certified payroll records to Purchaser no later than three (3) working days after labor has been paid. Should there be picketing on Purchaser's job site, and Purchaser establishes a reserved gate for Supplier's use, Supplier shall continue the proper performance of the Work without interruption or delay.

8. **ADDITIONAL RULES FOR WORK PERFORMED AT ANY PROPERTY.** The following Contract Terms shall apply with respect to any Work undertaken by Supplier at any property owned or managed by Purchaser (each a "**Property**"):

8.1. **ON-SITE EMPLOYEES.** Supplier shall ensure that all personnel performing Work at a Property have a prior satisfactory work record in a responsible capacity, have no job-related criminal convictions and are legally authorized to work in the United States. Supplier shall provide to Purchaser, and promptly update when changed, a list of all personnel performing Work at a Property and shall conduct background checks for each such person prior to that person commencing work at any Property. If Purchaser so requests at any time, Supplier will immediately remove from any Property, and promptly replace, any of its personnel.

8.2. **PROPERTY RULES AND REGULATIONS.** Supplier agrees that it and any persons working on its behalf at any Property will comply with all of that Property's Rules and Regulations (which are available from the property manager for the Property), as well as any other reasonable work rules or directives imposed by Purchaser with respect to the Property.

8.3. **SAFETY.** Supplier shall take all necessary precautions for the safety of employees of Supplier, occupants of any Property and the public, and shall comply with all applicable provisions of federal, state, and local safety laws including those with respect to occupational health and safety, the handling and storage of hazardous materials, accident prevention, safety equipment and practices, all to prevent accident or injury to persons on, about or adjacent to any Property as a result of the Work or Supplier's employees or other agents. Without limiting its obligations, Supplier shall comply with Purchaser's Safety Rules for the Property (which are available from the property manager for the Property). Supplier represents that it has (a) visited the portion(s) of the Property where the Work is to be performed, including all areas adjacent thereto and all portions of the Property through which Supplier's employees will travel to get access to the portion(s) of the Property where the Work is to be performed (collectively, the "**Work Site**"), and (b) familiarized itself with the physical condition of the Work Site. Supplier will conduct inspections to determine that safe working conditions and equipment exist and accepts sole responsibility for providing a safe place to work for its employees and for employees of its contractors and suppliers of material and equipment, for adequacy of and required use of all safety equipment and for full compliance with all laws, orders, citations, rules, regulations, standards and statutes.

8.4. **NON DISTURBANCE.** Supplier shall protect the property of any occupant at the Property from injury or loss arising in connection with the Work. Supplier agrees that it and its employees and agents shall not (i) unreasonably disturb the occupants of any Property or any other building or their property; (ii) violate the confidentiality of any such occupant's business; or (iii) without express permission, use computers, copiers, radios, telephones or other equipment or facilities of any occupant or Purchaser.

8.5. **COORDINATION.** Supplier shall coordinate the Work with the work or services of other contractors retained by Purchaser so as to prevent unreasonable disruption or delay of such other work or services.

8.6. **CLEAN-UP.** Supplier shall secure all materials relating to the Work and the site where Work is performed, keep the Property free at all times from accumulations of waste materials or rubbish caused by Supplier's personnel or the performance of the Work, and at the end of each work day and upon completion of the Work shall leave all areas affected by the Work broom clean (unless a more stringent cleanliness standard is set forth in the PO) and in a safe condition. Upon completion of the Work, Supplier shall also remove from the Property all hazardous materials, temporary structures, debris and waste incident to its operations.

8.7. **SUPERVISION.** Supplier shall provide a competent, experienced, reliable and honest supervisory staff, including a project manager or managers and a project superintendent or superintendents, each of whom shall be subject to Purchaser's approval, to administer, coordinate and supervise the Work. Supplier shall use its best efforts to have its same employee supervise the Work at the Property throughout the Work; if that person cannot continue in that role at any time during the Term, Supplier shall immediately advise Purchaser in writing and shall replace the supervisor with another equally qualified and trained supervisor reasonably satisfactory to

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Purchaser. An authorized representative of Supplier with authority to act on its behalf shall be present at all times while Work is being performed at the Property.

8.8. **USE OF PURCHASER'S EQUIPMENT.** All Work done at a Property or in preparing or delivering any materials or equipment to a Property shall be at the exclusive risk of Supplier until the completed Work is accepted by Purchaser and Supplier shall have full responsibility for all acts or omissions of any of Purchaser's employees while being used by Supplier. Except as otherwise explicitly stated in the PO, Supplier may use Purchaser's equipment, materials, labor, supplies or facilities in the Work only if Supplier (i) reimburses Purchaser at a predetermined rate and (ii) assumes all responsibility for physical damage to such equipment, materials, labor, supplies or facilities. Purchaser has no responsibility for, and makes no representations concerning any of Purchaser's equipment, materials, labor, supplies or facilities used by Supplier.

8.9. **EMERGENCIES.** In an emergency affecting the safety of persons, a Property or adjoining property, Supplier, without special instruction or authorization from Purchaser, and notwithstanding any other provision of an PO, shall act as is necessary to prevent such threatened loss or injury and shall immediately advise Purchaser of the emergency and any actions taken. Any compensation claimed by Supplier on account of emergency services shall be determined by mutual agreement of Purchaser and Supplier.

9. **CONFIDENTIALITY.** If Supplier receives any confidential information of Purchaser, it will maintain the confidentiality of and not disclose or use that information except (i) as required in good faith in the performance of the Work; (ii) with the written consent of Purchaser; or (iii) to the extent required by law after providing as much notice as practical to Purchaser. Any such confidential information will remain the sole and exclusive property of Purchaser. The obligations in this Section 9 will survive completion of the Work and any termination or cancellation of a PO.

10. **BONDING.** If the Work involves construction or if otherwise required by the PO, not later than ten (10) days after notice from Purchaser, Supplier shall execute a labor and material bond and a performance bond, each executed by a corporate surety acceptable to Purchaser, in a form satisfactory to Purchaser and in an amount equal to one hundred percent (100%) of amount payable under the PO. Purchaser shall pay the premium on said bonds unless otherwise provided in the PO. No change, alteration, or modification to or deviation from a PO shall release or exonerate, in whole or in part, any bond or any surety on any bond given in connection with a PO, and no notice is required to be given to such surety of any such change, alteration, modification or deviation.

11. **LIENS.** Supplier shall satisfy any lien or judgment for labor performed or materials used on or furnished as part of the Work so as to cause the effect of any such suit or lien to be removed from any property of Purchaser within ten (10) days after demand. If Supplier fails so to do, Purchaser is authorized to use whatever means in its discretion it may deem appropriate to cause said lien or to be removed or dismissed and the cost thereof, together with actual attorneys' fees, shall be immediately due and payable to Purchaser by Supplier.

12. **INSURANCE.** Unless other limits are stated in the PO, Supplier shall have and maintain (a) Commercial General Liability Insurance on an "occurrence" basis for bodily injury, death and property damage liability including (1) owners' and contractors' protective liability, (2) products / completed operations liability, (3) broad form property damage liability, and (4) broad form contractual liability with a combined single limit of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in aggregate; (b) Commercial Automobile Liability Insurance with a combined single limit of not less than One Million Dollars (\$1,000,000.00); and (c) Workers' Compensation Insurance with statutory limits, as required by the laws of the applicable state. Supplier shall comply with Purchaser's insurance requirements at the time of the execution of the PO (which are available from Purchaser). All required insurance (i) must be maintained with acceptable insurance companies licensed to do business in the state in which the Property is located with a rating of not less than a VII as rated in the most currently available "Best's Insurance Guide" and (ii) if Work is performed at a Property or otherwise requested by Purchaser, must name the following as "**additional insureds**": Purchaser, Douglas Emmett, Inc., Douglas Emmett Properties, LP, Douglas Emmett Management, Inc. and Douglas Emmett Management, LLC. **Any insurance required to be obtained pursuant to this paragraph shall be primary and said insurance will not be entitled to seek contribution from any other insurance available to Purchaser and/or any Additional Insured.** Prior to performing Work at the Property, Supplier will provide Purchaser with a certificate of insurance naming Purchaser as Certificate Holder and listing all **additional insureds** and will provide evidence of renewal or replacement of the policy not less than fifteen (15) days prior to the expiration or cancellation of any required insurance. Receipt or acceptance of any certificate of insurance or additional insured endorsement shall not act as a waiver to enforcement of any of these requirements or otherwise limit or relieve Supplier of any of its duties or responsibilities, including any duty to defend, hold harmless and indemnify.

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13. **INDEMNITY.** Supplier shall indemnify, defend, protect, and hold harmless Purchaser, the **additional insureds** and the other parties required to be covered by insurance under these Contract Terms, and each of their respective lenders, partners, officers, members, managers, directors, agents and employees (collectively, "**Indemnitees**"), from and against any and all claims, demands, damages, losses, lawsuits and other proceedings, judgments, causes of action, liabilities, claims of lien, liens, civil or criminal penalties and charges, lost rent, emotional or bodily injuries or death, property damage, costs and expenses (including attorneys' fees) (collectively "**Claims and Lawsuits**") to the extent in any way arising from (i) any alleged act, omission or error of Supplier, or any of its respective partners, officers, agents or employees, in connection with the performance or conduct of any Work, or (ii) any damage or injury of any kind or nature whatever (including death resulting therefrom) to any person, whether an employee of Supplier or otherwise, or to any property (including loss of use thereof) caused by, resulting from, arising out of, or occurring in connection with the performance of the Work, except in each case only to the extent the Claim arises from (a) the gross negligence of, or breach of the PO by, Purchaser or its agents, employees or independent contractors who are not responsible to Supplier, (b) defects in design furnished by Purchaser; or (c) if and only if the Work is governed by California Civil Code §5895 et seq., Claims for construction defects ("**Defect Claims**") to the extent that such **Defect Claims** (x) arise out of, pertain to, or relate to the negligence of the Purchaser or its other agents, other servants or other independent contractors who are not responsible to Supplier or (y) do not arise out of, pertain to, or relate to the scope of Work covered by the PO. Purchaser shall have the right to select and direct the legal counsel to defend any Indemnitees, subject to Supplier's reasonable approval, and Supplier shall reasonably cooperate with Purchaser and that counsel in the investigation and defense of any such **Claim or Lawsuit**. The obligations in this Section 13 are in addition to any other rights or obligations of Supplier that otherwise exist, and shall continue to extend to any such Claims made after completion of the Work or any cancellation or termination of a PO.

14. **INDEPENDENT CONTRACTOR; DELEGATION AND SUBCONTRACTING.** Supplier shall not act as nor be deemed to be an agent, employee or legal representative of Purchaser. Supplier may not assign, delegate, subcontract or transfer any PO or Work, or any payments to be made hereunder, without Purchaser's prior written approval. In the event of agreed delegation or subcontracting, Supplier shall continue to be liable with respect to all of the obligations or liabilities assumed by its delegatee or subcontractor. Supplier shall enter into a written agreement with any permitted subcontractor, which, at a minimum, meets the requirements of the PO. All personnel performing the Work shall be deemed Supplier's employees or agents.

15. **CONSTRUCTION.** The express provisions of the applicable PO represent the entire agreement and understanding between Purchaser and Supplier, and supersede and terminate all prior agreements, arrangements and understandings, relating to the subject matter of that PO, whether in writing or verbal, and may be amended and changed only in writing executed by Purchaser and Supplier. The failure of either Purchaser or Supplier at any time or times to require performance of any provision of a PO shall in no manner affect the right at a later time to enforce such provision. Neither Purchaser nor Supplier shall be deemed to have waived any condition, or any breach of any term, covenant or provision hereof, unless such waiver is set forth in a written instrument executed by the party making such waiver. If any portion of an PO or the application thereof to any person or circumstance shall be held to be invalid or unenforceable, then and in each such event the remainder of that PO or the application of such covenant or agreement to any other person or any other circumstance shall not be thereby affected, and each covenant and agreement hereof shall remain valid and enforceable to the fullest extent permitted by law. Each PO shall be governed by, and construed and enforced in accordance with the laws of the state noted in the address of Purchaser on the PO, without regard to such state's choice of law provisions. Each PO shall be binding upon and inure to the benefit of and be enforceable by Purchaser and Supplier and their permitted respective successors in interest. Purchaser may assign its rights and benefits under a PO without the consent of Supplier. There are no third party beneficiaries of any PO. The paragraph headings used herein are descriptive only and for the convenience of identifying the provisions hereof and are not determinative of the meaning or effect of any of the provisions of any PO. "Including" means "including but not limited to" unless immediately followed by the word "only."

16. **NOTICES.** All notices, approvals, demands, reports and other communications provided for under the PO (individually, a "**Notice**") shall be in writing (including email, telecopy or similar writing) and shall be given to such party at its physical address, email address, or electronic communication number set forth in the PO unless otherwise specified by Notice to the other party. Any Notice shall be deemed given (i) when personally delivered or sent electronically by email; (ii) three (3) business days after delivery to the United States mail, charges prepaid; or (iii) one (1) business day after delivery to a nationally recognized overnight courier, charges prepaid for overnight delivery. No objection may be made to any written notice actually received. Any party may change its address for notices by delivering written notice to the other.

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17. **DISPUTE RESOLUTION.** Purchaser and Supplier agree to mediate in good faith any dispute or claim they may have arising out of an PO or the Work before resorting to arbitration or court action, with any mediation fees divided equally among the parties. Any such dispute or claim that is not settled through mediation shall be decided by neutral, binding arbitration in the county where the Property involved (or if no Property is involved in the Work, the principal office of Purchaser) is located under the rules and procedures of JAMS; provided, however, that Purchaser may seek injunctive relief in any court of law with jurisdiction. The arbitrator shall be a retired judge with JAMS unless the parties mutually agree to a different arbitrator. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. The prevailing party in any action, suit, proceeding or arbitration between Purchaser and Supplier arises out of any PO or the Work shall be entitled to receive its costs (not limited to court costs), expenses and reasonable attorneys' fees from the non-prevailing party, except that if either party commences an action to which this paragraph applies without first attempting in good faith to resolve the matter through mediation, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action.