



**NEW ORLEANS FLOORING DISTRIBUTORS, LLC**  
**5451 MOUNES ST**  
**NEW ORLEANS, LA 70123**  
**Telephone: 504-733-5667**

### **Terms and Conditions**

1. **Scope of Work.** NOLA Flooring shall furnish all labor, tools, equipment, and materials necessary to perform the work detailed in the Proposal unless stated therein otherwise (the "Work"). The Work does not cover preexisting deficiencies or required code upgrades unless specifically stated. Further, the Work does not include inspection of existing conditions and/or issues with the Project Address unless expressly included in the Proposal and the Customer has made all necessary preparations for receipt of the Work.
2. **Materials.** Materials will be standard stock materials unless otherwise specified and will match existing materials within reasonable tolerances, as determined by NOLA Flooring in its sole discretion, as to color, texture, design, etc. Any changes in color or type of material will be at Customer's sole expense, at NOLA Flooring's standard rates. Returns are allowed on stock items within ten (10) days of pick-up/delivery subject to Customer providing NOLA Flooring with the sales receipt for the purchase. All returns must be undamaged and unopened and are subject to a thirty (30%) percent restocking fee. No returns are allowed on special orders unless specifically allowed and approved by the supplier and subject to Customer providing NOLA Flooring with the sales receipt for the purchase.
3. **Access.** The Proposal price is based on performing the Work during normal working hours unless otherwise agreed, and Customer agrees to provide all necessary access to the jobsite as required until the Work is completed. Customer will provide adequate electrical power to NOLA Flooring for the operation of tools and equipment required for the Work. Customer is responsible for taking all necessary preparations at the Project Address, including removal of furniture, to ensure that same is ready for receipt of the Work. If Customer fails to remove furniture as necessary for performance of the Work, or at the request of Customer, NOLA Flooring may remove such furniture and Customer shall pay NOLA Flooring for such removal at NOLA Flooring's standard rates. In no event shall NOLA Flooring be responsible for personal items located on the jobsite.
4. **Addition/Deletion of Work.** Any changes in the Work, including additions or deletions, must be agreed to in writing and signed by both parties. The Customer and/or NOLA Flooring shall be entitled to an equitable adjustment in the pricing and time to complete the Work. In the event of deletion of work, upon payment to NOLA Flooring, Customer will be reimbursed only for NOLA Flooring's (or any subcontractor's, if applicable) budgeted cost on said work. If deletion of work from the Proposal results in a net credit to Customer, the amount of the credit will be used to offset extra work or paid upon NOLA Flooring's receipt of final payment. Any additional work will be at prices agreed to by the parties.
5. **Cleaning Up.** NOLA Flooring shall keep the premises clean from accumulation of waste material directly resulting from its Work and, at the completion of the Work, shall remove from the premises all of its rubbish, implements and surplus material. The Customer is responsible for providing adequate waste containers at the premises capable of holding all waste created from the Work.
6. **Security.** NOLA Flooring is not responsible for security of the jobsite, and therefore it is agreed that NOLA Flooring shall have no responsibility for any damage, disappearance, or theft of jewelry, art objects, silver, gold, antiques, guns, personal items, or other valuables. Customer agrees to remove, store, or protect all such items that are left at the jobsite. NOLA Flooring is not responsible for any harm to any pets or persons accessing the jobsite, and Customer agrees to ensure that pets or persons are not allowed to access the jobsite.
7. **Inspections.** At the time when NOLA Flooring informs Customer that the Work is completed, the Customer will inspect the work within forty-eight (48) hours, and if the Work is in conformity with the terms and provisions of the Agreement, the Customer shall accept the same and deliver to NOLA Flooring a signed certificate of substantial completion with a listing of punch list items, if any. If the Customer declines to sign such a certificate, then the Customer shall, within three (3) days, inform NOLA Flooring in writing of the reasons for such declination. If the Customer fails to so notify NOLA Flooring, or if the Customer fails to make such inspection, the Work shall be conclusively deemed to have been accepted by the Customer on the date NOLA Flooring informed the Customer that the Work is complete.
8. **Payments.** The amount paid by Customer to NOLA Flooring to complete the Work is stated on the Proposal and subject to these Terms and Conditions. Payment is due from Customer to NOLA Flooring immediately upon NOLA Flooring's issuance of any invoice to Customer related to the Work. Payments due and unpaid after thirty (30) days shall bear interest from the date payment is due at a rate of 1.5% per month (18% per annum). If NOLA Flooring is required to engage an attorney to collect amounts due under this Agreement, Customer shall be liable for NOLA Flooring's attorney's fees and costs associated with such collection efforts. NOLA Flooring is not responsible for any liens filed on Customer's property and Customer shall defend and indemnify NOLA Flooring for any lawsuit arising out of Customer's failure to comply with the payment terms under this Agreement.
9. **Limited Warranty.** NOLA Flooring warrants that the work shall be free from material defects and shall be performed consistent with the standard of skill and care customarily exercised by persons performing similar work in the same locality under the same or similar circumstances. NOLA Flooring further warrants that the materials and equipment furnished will be of good quality and new unless otherwise stated in the Agreement. This warranty is valid for one (1) year from the date of substantial completion of the Work. The warranty excludes remedy for damage or defect caused by abuse, alterations to the Work performed by Customer or others, changes in condition to the Customer's property, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. The warranty further excludes remedy for damage or defect caused by moisture entering in above the slab and moisture under raised houses. If Customer discovers any defects due to faulty workmanship and/or materials within the warranty period, Customer shall provide notice of any such defects to NOLA Flooring within thirty (30) days of Customer's discovery of same. Customer acknowledges and agrees that failure to provide timely notice will cause prejudice to NOLA Flooring, and if Customer fails to provide timely notice of any such defects, Customer waives any warranty claims it may have had under this Agreement. This paragraph represents the entire understanding between the parties concerning the waiver of claims for failure to provide timely notice.

If any materials are subject to a warranty provided by the manufacturer, NOLA Flooring will pass through to Customer, to the extent allowed, any such guarantee or warranties provided to NOLA Flooring. If Customer purchases any materials for use or installation by NOLA Flooring or directs NOLA Flooring to purchase particular materials against the recommendation of NOLA Flooring, NOLA Flooring shall have no responsibility whatsoever with regard to any claims arising from any incompatibility or defect regarding such materials or any breach of manufacturer's warranty with regard to such materials.

EXCEPT AS SPECIFICALLY SET FORTH HEREIN, NOLA FLOORING MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, REGARDING ANY WORK OR MATERIALS PROVIDED HEREUNDER INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE.

10. **Differing Conditions.** If NOLA Flooring encounters conditions at the construction site that differ materially from those indicated by Customer or of an unusual nature that differ materially from those ordinarily found to exist, NOLA Flooring shall provide notice to the Customer, and NOLA Flooring shall be entitled to an equitable adjustment in its pricing and time to complete the Work.

11. **Indemnity.** Customer agrees to defend (with counsel reasonably satisfactory to NOLA Flooring), indemnify and hold harmless NOLA Flooring from and against any claim, cost, expense, or liability (including attorney's fees), attributable to bodily injury, personal injury, sickness, disease, or death, or to damage to or destruction of property (including loss of use thereof), caused in whole or in part by, arising out of, resulting from, or occurring in connection with Customer's acts or omissions, the site, or anyone for whom Customer is responsible, or their agents or employees but only to the extent caused by the acts or omissions of Customer or anyone for whom Customer is responsible.

12. **Insurance.** Customer shall purchase and maintain its usual liability insurance and shall provide property insurance to cover the value of the Customer's property at the Project Address. If there is a loss or damage to the Work, which is covered by insurance maintained by the Customer related to the Work at the Project Address, NOLA flooring shall be entitled to receipt of the proceeds of such insurance to the extent attributable to the loss or damage to the Work. NOLA Flooring shall maintain general liability insurance as well as workers' compensation insurance as required by law. Customer waives all claims, including but not limited to, subrogation claims against NOLA Flooring to the extent the claims are covered by insurance.

13. **Termination.** If a party fails to comply with any material term or condition of this Agreement, then the other party may provide written notice of such default. Upon receipt of such notice, the party in default shall have ten (10) days in which to cure, or commence to cure, such default. If such default is not cured, or the party has not commenced to cure, within ten (10) days after such notice, the other party may terminate this Agreement upon prompt written notice. Notwithstanding anything in this Agreement to the contrary, if Customer has stated that it does not intend to pay for the Work or if NOLA Flooring has reasonable belief that Customer does not intend to pay for the Work, NOLA Flooring may immediately terminate this Agreement for cause without providing Customer with prior notice or opportunity to cure. If NOLA Flooring terminates this Agreement based upon Customer's default, NOLA Flooring shall be paid all costs and expenses incurred as of the date of termination of the Agreement, plus a fee of 20% of the total Agreement price (i.e., as if the Work had been completed) for overhead and profit. If Customer terminates this Agreement based upon NOLA Flooring's default, any Work already performed and materials already ordered that cannot be returned and/or restocked prior to the termination, shall be paid for by Customer in accordance with the terms of this Agreement.

14. **Waiver of Consequential Damages.** Customer waives claims against NOLA Flooring for incidental, consequential, or other indirect damages arising out of or relating to the Work, including but not limited to any damages for rental expenses, for losses of use, income, profit, financing, business and reputation, and for costs of delays whether based in tort, breach of contract, strict liability, or otherwise.

15. **Limitation of Liability.** Customer understands and agrees that NOLA Flooring's liability, if any, arising under or relating to this Agreement is limited to damage resulting from NOLA Flooring's intentional or gross fault and such amount of damage, if any, is expressly limited to a sum not greater than the total amount paid by Customer for the Work authorized by this Agreement. The Customer acknowledges and agrees that this limitation of liability was relied upon by NOLA Flooring and was a necessary inducement to NOLA Flooring entering into this Agreement.

16. **Notice.** All notices, demands, requests, or approvals, including any change in mailing address shall be given in writing, to NOLA Flooring or Customer, as applicable, and shall be deemed served when delivered personally or on the third business day after the deposit thereof in the United States mail, postage prepaid, first-class mail, addressed as hereinafter provided. All notices, demands, requests, or approvals shall be addressed to NOLA Flooring as follows: New Orleans Flooring Distributors, LLC, 5451 Mounes St, New Orleans, Louisiana 70123. If to Customer, at Customer's address as stated on the Proposal invoice or the address last provided by Customer to NOLA Flooring or to any email address provided by Customer.

17. **Independent Contractor.** NOLA Flooring is at all times and in all respects an independent contractor. No personnel employed by NOLA Flooring shall be deemed under any circumstances to be agents, representatives, or employees of Customer. NOLA Flooring is an independent contractor, free to determine the manner in which the Work is performed.

18. **Statutory Employer.** For purposes of this Agreement, and pursuant to the provisions of La. R.S. 23:1061, NOLA Flooring and Customer jointly agree, stipulate and recognize that Customer shall be the statutory employer of any and all of NOLA Flooring's employees and/or all employees of any subcontractors hired or retained in any manner by NOLA Flooring and/or any other person for whom NOLA Flooring may be held responsible, while any of the above-described persons are performing any work or providing any services under this Agreement. NOLA Flooring and Customer further stipulate, agree and recognize that all work performed under this Agreement be considered part of Customer's trade, business or occupation and shall be specifically considered an integral part or essential to the ability of Customer to generate its services. NOLA Flooring and Customer further stipulate, agree and recognize that the services or work provided by any employee of NOLA Flooring or any other person retained by NOLA Flooring for the performance of any work or services under this Agreement shall be contemplated by and included in this provision and shall be deemed to be performing work or providing services which is an integral part of and essential to the ability of NOLA Flooring and Customer to generate its services.

19. **Force Majeure.** In the event NOLA Flooring's performance of the Work or any of its obligations hereunder are either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake, or like acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation strikes, slowdowns, picketing, or boycotts, unavailability of equipment from vendors, pandemics, epidemics, or any other circumstances beyond the reasonable control of, and without the fault or negligence of, NOLA Flooring, then NOLA Flooring, upon giving notice to Customer, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference until such time when such causes are removed or cease. Notwithstanding anything contained herein, Customer shall not be relieved of its payment obligations to NOLA Flooring for its Work performed.

20. **Waiver.** A waiver by NOLA Flooring of any term, covenant, or condition stated herein shall not be deemed to be a waiver of any subsequent breach of the same, or any other, term, covenant, or condition.

21. **Governing Law; Disputes; Jurisdiction; Venue.** This Agreement shall be governed by the laws of the state of Louisiana. All claims and disputes arising out of or related to this Agreement shall be decided as follows: As a condition precedent to further dispute procedures, a representative of NOLA Flooring and the Customer must meet to attempt to resolve the dispute. If the dispute is not resolved through the aforementioned meeting, then such dispute may proceed to mediation in accordance with the Construction Industry Rules of the American Arbitration Association. If the dispute remains unsettled, such dispute shall be decided, at the option of NOLA Flooring, by either: (1) arbitration in accordance with the Construction Industry Rules of the American Arbitration Association in Orleans Parish, Louisiana; or (2) litigation in District Court for Jefferson Parish, Louisiana. The award rendered by

the arbitrator, judge or jury shall be final, and judgment may be entered upon it in accordance with the applicable law in any court having jurisdiction thereof. The Federal Arbitration Act shall govern this Agreement's dispute resolution procedures if arbitration is selected. In the event of any legal action arising under this Agreement, if NOLA Flooring is determined to be the prevailing party, then NOLA Flooring shall be entitled to its reasonable attorney's fees.

22. **Amendment.** This Agreement may only be modified in writing signed by both parties.

23. **Notice of Contract.** Customer expressly grants NOLA Flooring a privilege in the Customer's property as contemplated by La. Rev. Stat. Ann. §§ 9:4801 et seq. for the amount of NOLA Flooring's Work not paid by Customer in the event Customer fails to make payment as required under this Agreement. The Customer understands and expressly waives any requirement under La. Rev. Stat. Ann. §§ 9:4801 et seq. that NOLA Flooring file a Notice of Contract (to the extent NOLA Flooring may be required) prior to commencing the Work. The Customer expressly acknowledges their agreement with this Section as an inducement to NOLA Flooring into entering into this Agreement and is of mutual benefit to the Parties.

24. **Severability.** The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision. If any provision is invalid, in whole or in part, the provision shall be considered reformed to reflect the intent thereof to the greatest extent possible consistent with law.