

# La Salle University

## **SPECIAL TERMS AND CONDITIONS – CONTRACTORS**

### **Intent**

- A. It is the intent of these contract documents to include all labor, materials, and services of every kind necessary to properly execute the work, to cover the terms and conditions of payment, and to establish the requirements for product quality and contract performance.

### **Contractual Terms**

- A. The Invitation to Bid, Instructions to Bidders, these General Terms & Conditions, Schedules, Drawings and Specifications, Quote form, any other applicable documents attached hereto and the executed Agreement or Purchase Order issued by La Salle University, herein after referred to as “La Salle” constitute the contract documents. The terms, conditions, specifications contained in this contract cannot be waived, altered or modified except by written agreement of the parties.
- B. The Contract shall be interpreted in accordance with the laws of the Commonwealth of Pennsylvania.
- C. Contract shall be binding upon the parties hereto and their respective successors and assigns.
- D. Vendors may object to or reject certain clauses, however, they do so at the risk of being considered non-responsive.
- E. Any term not objected to will be deemed to have been accepted by the bidder.
- F. These Terms & Conditions are in addition to and do not replace or supersede any specific term or condition on the face of the Purchase Order or attached thereto.

### **Materials, Tools, Employees**

- A. Except as otherwise directed by the contract documents, the Contractor shall provide and pay for all materials, labor, tools, water, power and such other items required to complete the work involved. All equipment and accessories shall be new, unused, and of recent manufacturer. All installation work shall be properly managed and supervised by persons thoroughly trained and experienced in the work required.
- B. La Salle University will make available, to the contractor at no cost, water and the electrical power required for work at the site.

### **Royalties & Patents**

- A. The Contractor shall pay all royalties and license fees on products furnished. It shall defend all suits and claims for infringement of any patent rights and shall save La Salle and architect, if any, from loss or inconvenience resulting therefrom.
- B. Contractor agrees to indemnify La Salle and hold La Salle harmless from and against all claims, liability, loss, cost, damage or expense, including reasonable counsel fees, arising from or by reason of any actual or claimed trademark, patent, or copyright infringements, or any litigation based thereon with respect to any part of the goods covered by the contract documents, and such obligation shall survive La Salle's acceptance of and payment for the goods.

### **Acceptances and Rejections**

- A. All goods shall be received subject to La Salle's right of inspection and rejection. Delivered items found to be defective in material or workmanship or otherwise not in conformity with the requirements of the order shall be rejected at La Salle's option and returned to Contractor at

Contractor's expense. Acceptance of any part of the order shall not bind La Salle to accept future shipments, nor deprive La Salle of the right to return goods already accepted.

**Permits and Compliance with Codes**

- A. The Contractor shall procure all permits necessary for carrying on the work and shall comply with all regulations, ordinances, and laws relating to the work or the conduct thereof including all applicable safety and fire codes.

**Equal Opportunity – Affirmative Action**

- A. Contractor agrees to be subject to all applicable contract clauses required by Federal, State or Local law, rule or regulation to be included in this contract, including but not limited to the following clauses, which are incorporated by reference herein: Equal Opportunity Clause (41 CFR 60-1.4); Affirmative Action Clause for Disabled Veterans and Veterans of the Vietnam Era (41 CFR 60-250.4); Affirmative Action Clause for Handicapped Workers (41 CFR 1-12.803-10); and the Certification of Non-segregated Facilities Clause (41 CFR 60-1.8; 41 CFR 1-12.803-10). In addition, Contractor agrees and certifies, if applicable, that it has developed a written affirmative action compliance program (41 CFR 60-1.40(a)); and annually files standard Form 100 (EEO-1) (41 CFR 60-1.7(a)).
- B. La Salle University is an equal opportunity and affirmative action employer and does not discriminate against any individual because of his/her race, color, religion, sex, age, sexual orientation, marital status, national origin, disability, or veteran status. All University suppliers, vendors, contractors, and subcontractors are reminded to take appropriate action in meeting their equal employment opportunity obligations under Federal, state, and local law and in doing business with La Salle University. If the University discovers that one of its suppliers, vendors, contractors, or subcontractors violates such obligations, it reserves the right to null and void all business dealings with said supplier, vendor, contractor or subcontractor immediately upon discovery.
- C. Contractor further agrees to be in compliance with all applicable clauses of Executive Order 11246; Executive Order 11375; the Copeland "Anti-Kickback Act" (18 U.S.C. 874); the Davis-Bacon Act (40 U.S.C. 276a to a-7); Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) supplemented by Department of Labor regulations (29 CFR, Part 5, Sections 103 and 105); and for contracts in excess of \$100,000.00, all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.) and the Water Pollution Control Act (33 U.S.C. 1251 et seq.).

**Protection of Work and Property**

- A. The Contractor shall take all precautions to protect La Salle's furniture and equipment against damage, theft, and deterioration on the site, until acceptance by La Salle. It shall respect the work of others, and any accidental damage incurred to the work of others shall be promptly repaired or replaced at the expense of the Contractor.

**Changes in Work**

- A. La Salle may order additions, deletions, revisions, or other changes in the work within the general scope of the Contract and if such changes will materially affect the cost of the work or the time required for completion of the work, the Contract shall be equitably adjusted. Any such changes shall be documented in writing and La Salle shall be under no obligation to either pay for costs or extend agreed upon completion dates applicable to any changes in the work in the absence of such a written request.

**Change in Quantities**

- A. If, at the time of award of contract, additional or fewer quantities, not in excess of one (1) or twenty-five percent (25%) of the specified quantities (whichever is greater) are requested by La Salle, the total price adjustment shall be the net unit price for said item times the quantity plus any costs of storage.

**Sub-Contracting**

- A. The Contractor shall not subcontract or otherwise delegate its obligations under the award to any other party without the prior written agreement of La Salle.
- B. If Vendor requests and receives permission to sub-contract a portion of the work specified, the Vendor shall remain fully liable and responsible for the work performed by his sub-contractor(s) and shall assure compliance with all requirements of the Contract.

**Delivery**

- A. The Contractor shall deliver all items to the facility at which they are to be installed, and in accordance with detailed requirements of the contract documents.
- B. Contractor shall notify La Salle of any portion of this order which cannot be delivered by the delivery date indicated. In the event that Contractor fails to make shipment as specified herein, La Salle may cancel this order, procure the material elsewhere and/or hold Contractor responsible for any damages sustained by La Salle.
- C. Title to the goods included within an order shall change hands at the point of delivery and acceptance by La Salle unless otherwise stipulated within the contract documents.

**Conditions of Payment**

- A. Any item to be delivered under this contract must be delivered and accepted before any charges can accrue on that item. In the case the contract is terminated for default, La Salle may withhold any payments to the Contractor until such time as the estimated amount of damages due La Salle from the Contractor is determined.
- B. La Salle shall issue payments based of the Contractor's monthly applications which shall be for ninety percent (90%) of the proportionate unit price value of the work acceptably installed since the date to which the preceding application was computed, or, in the case of the first application, since the work began.
- C. Upon completion of the work, the Contractor shall submit to La Salle:
  - 1. A Requisition for Payment clearly identified as the final requisition, covering the balance due under this Contract;
  - 2. An affidavit that all payrolls, bills for materials and equipment, and any other indebtedness connected with the work for which La Salle might in any way be responsible have been paid or otherwise satisfied;
  - 3. Consent of surety, if any, to final payment;
  - 4. All warranty and guarantee documents required in connection with the work; and
  - 5. Other data establishing payment or satisfaction of all obligations (such as receipts, releases and waivers of lien) arising out of this Contract, to the event and in such form as may be required by La Salle University.

**Discounts**

- A. Discounts will be calculated from the date an acceptable invoice is received by La Salle's Accounts Payable Department.

**Force Majeure**

- A. The Contractor shall not be responsible for delays or performance in shipment occasioned by unforeseeable causes beyond the control of, and without the fault or negligence of the Contractor. In such circumstances, the Contractor must promptly notify La Salle of the cause of the delay and obtain La Salle's concurrence that the delay is justified. Dates or times for performance will be extended to the extent of delays excused by this section.
- B. Examples of such causes include:

1. Acts of God or of the public enemy.
2. Fires.
3. Floods.
4. Epidemics.
5. Quarantine Restrictions.
6. Strikes.
7. Freight Embargoes.
8. Unusually severe weather.

#### **Work on Premises / Installation**

- A. Contractor shall prosecute installation with all diligence, and in the event that, in La Salle's opinion contractor unreasonably delays the work, La Salle may order contractor to cease work. La Salle may then, at its option, complete or secure the completion of the work at Contractor's risk and expense.
- B. Before Contractor performs any work on the premises referred to in the contract documents, Contractor shall deliver to La Salle certificates from its Insurance Carrier evidencing coverage of contractor's Workmen's Compensation, Employer's Liability and Public Liability Risks. Such certificates must stipulate that written notice will be given to La Salle ten (10) days prior to cancellation.
- C. Contractor shall save La Salle and architect, if any, harmless from all loss or damage, see "Hold Harmless Requirements" below.
- D. Contractor shall be exclusively liable for and shall save La Salle harmless from the payment of Workmen's Compensation in accordance with Workmen's Compensation laws.
- E. Contractor shall assume exclusive liability for, and save La Salle harmless from the payment or collection of any Federal, State or Local taxes or contributions on wages or other compensation paid to its employees.
- F. Contractor shall comply with all applicable laws and regulations.
- G. Installation shall be done under the supervision of an authorized agent of the Contractor.
- H. All items requiring assembly shall be done so utilizing specified products and compatible accessory items as may be required.
- I. Set all furniture and/or equipment level as required. Clean, oil or polish all furniture, equipment, carpet and tile as required.
- J. Remove all containers, crafting, debris and excess material from the site, leaving premises in showroom condition with all items free from dust.
- K. Contractor shall make all provisions necessary and shall take all special precautions required to protect all carpeting, as well as any and all vertical surfaces, trim, hardware, etc. that it may come in contact with during installation. Any work damaged shall be restored to its original condition and the Contractor shall be charged with the expense thereof.

#### **Hold Harmless Requirements**

- A. Contractor agrees to perform the work in a professional manner utilizing accepted safety practices and procedures. Contractor further agrees to indemnify and save harmless La Salle and architect from any and all claims arising out of the work. This indemnity and save harmless agreement extends to claims for Bodily Injury or Property Damage by members of the general public, employees of La Salle or the architect, if any, or any of their subdivisions and specifically includes claims by employees of the Contractor against La Salle or Architect or any of their subdivisions or employees. Contractor specifically agrees to pay all costs associated with the defense of any claim arising out of any activity, including the cost of attorneys, to appear in court on behalf of La Salle or architect or any of their subdivisions or employees.

- B. To secure this order/agreement, the Contractor agrees to maintain a Comprehensive General Liability Policy, which is endorsed to cover the contract or liability assumed under this order/agreement and further it agrees to provide a copy of the policy to La Salle on demand.

### **Warranty**

- A. Unless otherwise stated, all work of this Contract shall be warranted to be free from defects in material and workmanship for a period of two (2) years from the date of acceptance. During this warranty period, the Contractor shall repair or replace, free of charge, such merchandise as shall prove to be defective. This warranty does not apply to damage resulting from misuse or abuse by La Salle.
- B. Contractor expressly agrees to remedy to a La Salle's satisfaction or replace, without added cost to La Salle, any work done or material supplied in violation of any law, ordinance, code or public authority having jurisdiction.

### **Insurance**

- A. The Contractor shall comply with the provisions of any Social Security or Unemployment Insurance Laws, State or Federal, as now or hereafter in force, applying to the work, and accepts exclusive liability and will hold La Salle harmless for any contributions or taxes with respect to the work payable under any said laws.
- B. The Contractor will be required to carry the following insurance in companies satisfactory to La Salle:
  - 1. The Vendor/Contractor is required to provide proof of Comprehensive General Liability coverage for Bodily Injury, Personal Injury, Property Damage and Damages, including Products and Completed Operations coverage, Contractual Liability coverage specifically to account for Hold Harmless and Indemnification requirements contained within the contract. The Vendor/Contractor shall also provide proof of Excess Liability or Umbrella Liability insurance with a limit of at least \$1,000,000, preferably \$2,000,000 over the Comprehensive General Liability limit and \$3,000,000 if providing food, beverage, and/or alcohol service. If the Vendor/Contractor comes onto the University's property with vehicles, then Comprehensive Automobile Liability Coverage would be required with a minimum of \$1,000,000 combined single limit basis and an Excess or Umbrella coverage for an additional \$1,000,000. This is to cover all owned, un-owned hired or leased vehicles. Vendor/Contractor shall provide proof of Worker's Compensation coverage for all of their employees and volunteers adhering to Pennsylvania's required limits. The University, its directors, officers, agents, representatives, employees and volunteers are to be included as additional insureds under all liability coverages of the Vendor/Contractor and provide the appropriate Certificates of Insurance as proof as a part of the agreement.
- C. Evidence of the above coverage, represented by Certificates issued by the insurance carrier, must be furnished to La Salle prior to the Contractor's starting work. Certificates of Insurance shall state that La Salle will be notified in writing at least ten (10) days prior to cancellation or renewal of this insurance. All certificates of insurance shall contain the following endorsements verbatim:
  - 1. "La Salle University is interested in the maintenance of this insurance and it is agreed that policies represented by this certificated will not be cancelled or changed without thirty (30) days prior written notice to La Salle University by return receipt mail."
  - 2. "It is agreed that policies represented by this certificate shall indemnify and hold harmless La Salle University, the Architect and their agents and employees."

### **Disputes After Award**

- A. In the event of a disagreement or dispute in regard to the interpretation or construction of any clause, paragraph or terms in the contract documents, such disagreement shall be referred in writing by the Contractor to La Salle and the Architect within ten (10) days after the dispute arises. La Salle shall then furnish a written copy of his decision to the Contractor.

### **Termination for Default**

- A. La Salle may terminate this contract in whole or in part if the Contractor fails to:
  - 1. Complete the work conforming to the contract documents within the time specified in this contract, or within any approved extension thereof.
  - 2. Perform any of the other provisions of this contract. La Salle's right to terminate under this clause may be exercised if the Contractor fails to cure such failure within ten (10) working days after receipt of written notice of such failure from La Salle.
  - 3. Provide written assurance satisfactory to La Salle, upon La Salle's request, that it is able to, and intends to, fulfill its award or contract requirements.
- B. Notice of termination for default may be oral, telegraphic, or written and will be effective immediately upon receipt by the Contractor or his authorized representative. If notice is oral or telegraphic, La Salle will subsequently confirm the termination in writing.
- C. Termination under this contract shall not relieve the Contractor of any liability to the La Salle under this contract for damages sustained by reason of any breach of this contract by the Contractor. La Salle may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due La Salle from the Contractor is determined.
- D. La Salle shall pay contract price for completed work delivered and accepted.
- E. If La Salle terminates this contract in whole or in part, it may acquire under the terms and in the manner La Salle considers appropriate, work equivalent to the work of this contract, and the Contractor shall be liable to La Salle for any excess costs of such work. However, the Contractor shall continue any part of the contract not terminated.
- F. Any initial failure to perform that is substantially caused by a condition as described in paragraph above entitled "Force Majeure", will not be grounds for termination under this paragraph.
- G. If after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if termination had been issued for the convenience of La Salle.
- H. The rights and remedies of La Salle under this clause are in addition to any other rights and remedies provided by law or under this award or contract.

**Termination by La Salle University for Convenience**

- A. La Salle may, at any time, terminate the Contract for La Salle's convenience without cause.
- B. Upon receipt of written notice from La Salle of such termination for La Salle's convenience, the Contractor shall:
  - 1. Cease operations as directed by La Salle in the notice;
  - 2. Take actions necessary, or that La Salle may direct, for the protection and preservation of the Work; and
  - 3. Except for work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Subcontracts and purchase orders and enter into no further Subcontracts and purchase orders.
- C. In case of such termination for La Salle's convenience, the Contractor shall be entitled to receive payment from La Salle for work completed and for any proven losses.

**Suspension by La Salle University for Convenience**

- A. La Salle may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as La Salle may determine.
- B. An adjustment shall be made for increases in the cost of performance of the Contract, including profit on the increased cost of performance, caused by suspension, delay or interruption. No adjustment shall be made to the extent:
  - 1. That performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
  - 2. That an equitable adjustment is made or denied under another provision of this Contract.

- C. Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

**Non-Waiver**

- A. La Salle's failure to enforce at any time or for any period of time any of the provisions hereof shall not be construed to be a waiver of such provisions nor of its right thereafter to enforce each and every provision.

**Audit**

- A. La Salle reserves the right, and Vendor agrees, to have auditors representing La Salle verify pricing for accuracy and conformance to contract terms.
- B. La Salle and their auditor(s) agree to treat such information as confidential and promise not to knowingly reveal such information to any other vendor or organization which might contract for such services or compete with the Vendor.
- C. For negotiated contracts of more than \$10,000.00, using governmental funds, the Vendor agrees to allow the agency whose funds are involved, as well as the Comptroller General of the United States or any authorized representative of either, to have access to all books, records, documents, or papers of the Vendor directly pertinent to the contract, in order to allow the making of audits, examinations, excerpts, or transcriptions.

**Entire Agreement**

- A. This contract contains the entire agreement of the parties. It may not be modified or terminated orally, and no claimed modification, termination or waiver shall be binding of La Salle unless in writing signed by a duly authorized representative of La Salle. No modification or waiver shall be deemed effected by Contractor's Acknowledgement or confirmation containing other or different terms. All titles to clauses contained in this order are for identification only and shall not be construed as being a substantive part of the agreement.