

GENERAL TERMS AND CONDITIONS

1. ACCEPTANCE OF THIS PURCHASE ORDER CONSTITUTES ACCEPTANCE OF THE TERMS AND CONDITIONS HEREIN. ALL ADDITIONAL OR DIFFERENT TERMS PROPOSED BY CONTRACTOR ARE REJECTED UNLESS MUTUALLY AGREED UPON IN WRITING AND SIGNED BY MCC. NO MODIFICATIONS OF THIS ORDER SHALL BE BINDING ON MCC UNLESS APPROVED IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF MCC. THESE TERMS REPLACE ANY PRIOR AGREEMENT, WRITTEN OR ORAL BETWEEN THE PARTIES AND SUPERSEDES ANY TERMS AND CONDITIONS, OF ANY KIND, REFERENCED BY CONTRACTOR, INCLUDING BUT NOT LIMITED TO THOSE CONTAINED ON ITS WEBSITE.
2. CHANGES: No alteration in any of the terms, conditions, delivery, price, quality, quantity, or specifications of this order will be effective without the written consent of the MCC Purchasing Department. All changes in scope to the agreement must be in writing and submitted on a MCC Change Order Form and will not be considered approved unless signed by MCC.
3. PACKING: No charges will be allowed for special handling, packing, wrapping, bags, containers, etc. unless otherwise specified.
4. DELIVERY: For any exceptions to the delivery date as specified on the order, Contractor shall give prior notification and obtain approval thereto from the MCC Purchasing Department. With respect to delivery under this order, time is of the essence and the order is subject to termination for failure to deliver within the timeframe specified in this order.
5. SHIPPING INSTRUCTIONS: Unless otherwise instructed, all goods are to be shipped prepaid and allowed, FOB Destination.
6. ORDER NUMBERS: Agreement numbers or purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.
7. REJECTION: All goods, materials, or services purchased herein are subject to approval by MCC. Any rejection of goods, materials, or services resulting from nonconformity to the terms, conditions or specifications of this order, whether the goods are held by MCC or returned, will be at Contractor's risk and expense.
8. QUALITY STANDARDS: Brand names, models, and specifications referenced herein are meant to establish a minimum standard of quality, performance, or use required by the College. No substitutions will be permitted without written authorization of MCC's Purchasing Department.
9. WARRANTIES: Contractor warrants that all products delivered under this order shall be new, unless otherwise specified, free from defects in material and workmanship, shall be fit for the intended purpose, and shall not infringe upon the rights of any third party. All products found defective shall be replaced by the Contractor, at Contractor's expense (including shipping and associated costs), upon notification by MCC. Contractor further warrants that all products and services shall be delivered and performed in a professional manner in accordance with applicable laws and generally accepted practices and standards of similar professionals in the industry.
10. PAYMENT, CASH DISCOUNT: Invoices will not be processed for payment nor will the period of computation for discount commence until receipt of a properly completed invoice or invoiced items are received and accepted, whichever is later. If an adjustment in payment is necessary due to damage or dispute, the discount period shall commence on the date final approval for payment is authorized. Payment shall not be considered late if a check or warrant is available or mailed within the time specified.
11. LIENS, CLAIMS, AND ENCUMBRANCES: Contractor warrants and represents that all the goods and materials delivered herein are free and clear of all liens, claims, or encumbrances of any kind.
12. TERMINATION: In the event of a breach by Contractor of any of the provisions of this Agreement, MCC reserves the right to cancel and terminate this Agreement forthwith upon giving written notice to the Contractor. Contractor shall be liable for damages suffered by MCC resulting from Contractor's breach of Agreement.
13. TRADEMARKS: Contractor shall not use the name, trade name, trademark, or any other designation of the College, or any contraction, abbreviation, adaptation, or simulation of any of the foregoing, in any advertisement or for any commercial or promotional purpose (other than in performing under this Agreement) without the College's prior written consent in each case.
14. SAVE HARMLESS: Contractor shall protect, indemnify, and hold MCC and The Metropolitan Community College Foundation harmless from and against any damage, claims, cost, or liability, including reasonable attorney's fees, for any and all injuries or damages to persons or property arising from acts or omissions of Contractor, its employees, or subcontractors, howsoever caused, even if a proportion of fault or liability is attributed to MCC's negligence and/or the negligence of a third party.
15. OSHA REGULATIONS: Contractor guarantees all items, or services, meet or exceed those requirements and guidelines established by the Occupational Safety and Health Act.
16. TAXES: The College is tax exempt.
17. BINDING EFFECT: This Agreement is for the benefit only of the parties hereto and shall inure to the benefit of and bind the parties and their respective heirs, legal representatives, successors and assigns.
18. ASSIGNMENTS: No Agreement, order, or any interest therein shall be transferred by Contractor to any other party without the approval in writing of the Purchasing Department. Transfer of an Agreement without approval may cause the rescission of the transferred Agreement at MCC's option. Notwithstanding any assignment, Contractor shall remain fully liable on this Agreement and shall not be released from performing any of the terms, covenants, and conditions of this Agreement.
19. WAIVER: No covenant, term or condition, or the breach thereof, shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and then only to the extent of such written consent. Acceptance by a party of any performance by another party after the time the same shall have become due shall not constitute a waiver by the first party of the breach or default unless otherwise expressly agreed to in writing.
20. FORCE MAJEURE: Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes thereof, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (except for financial ability), shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.
21. NO JOINT VENTURE: Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or employment or agency relationship between the parties.
22. NONDISCRIMINATION: Contractor represents and agrees that it will not discriminate in the performance of this Agreement or in any matter directly or indirectly related to this Agreement on the basis of race, sex, color, religion, national origin, disability, ancestry, or status as a veteran. This non-discrimination requirement includes, but is not limited to, any matter directly or indirectly related to employment. Breach of this covenant may be regarded as a material breach of Agreement.
23. COLLEGE POLICIES: Contractor shall follow and comply with all policies and procedures of the College and the reasonable instructions of College personnel.
24. GOVERNING LAW: This Agreement shall be construed in accordance with, and governed by the internal laws of the State of Missouri. Any legal proceeding arising from or related to this Agreement shall be brought in Jackson County, Kansas City, Missouri, and Contractor agrees to submit to the jurisdiction of such court.
25. PROTECTION OF COLLEGE PROPERTY: Contractors are responsible for protecting all MCC property, including but not limited to flooring, furniture, and equipment, in contracted work areas. Contractors are responsible for covering MCC's property that may be affected by the Contractor's work and for leaving all contracted work areas in the same condition as before the work began.
26. ORDER OF PRECEDENCE: Unless stated otherwise in the Purchase Order which terms shall control, the following shall be the order of controlling precedence: MCC's Purchase Order (including any exhibits and agreements incorporated by reference); RFP, RFQ, or Invitation to Bid if applicable; Metropolitan Community College General Terms and Conditions; Cooperative Contract if applicable (including all specifications and documents attached thereto); Contractor's RFP/RFQ, Bid Response, Proposal/Quote Submission if applicable; and then any supplemental documents submitted by vendor.
27. SOVEREIGN IMMUNITY: No provision of the parties' Agreement shall be construed to constitute a waiver by the Junior College District of Metropolitan Kansas City, Missouri (a/k/a Metropolitan Community College or MCC) or the State of Missouri of any immunities from suit or liability that MCC or the State of Missouri may have under RSMo § 537.600 or by operation of the law, including any statutory rights to limitations of liability or caps on damages for tort claims.