



**METROPOLITAN COMMUNITY COLLEGE
DEPARTMENT OF WORKFORCE AND ECONOMIC DEVELOPMENT
CLIENT GENERAL TERMS AND CONDITIONS**

1. These *Client General Terms and Conditions* (“Terms”) govern the Services performed by Metropolitan Community College’s Department of Workforce and Economic Development (“WED”) for or on behalf of Client, pursuant to the applicable Client Agreement (“Agreement”) and are incorporated by reference and made part of that Agreement. ALL ADDITIONAL OR DIFFERENT TERMS PROPOSED BY CLIENT ARE REJECTED UNLESS MUTUALLY AGREED UPON IN WRITING AND SIGNED BY MCC. NO MODIFICATIONS OF THE Agreement SHALL BE BINDING ON MCC UNLESS APPROVED IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF MCC. THE Agreement ALONG WITH THESE MCC Terms REPLACE ANY PRIOR AGREEMENT, WRITTEN OR ORAL BETWEEN THE PARTIES AND SUPERSEDE TERMS AND CONDITIONS, OF ANY KIND, REFERENCED BY CLIENT, INCLUDING BUT NOT LIMITED TO THOSE CONTAINED ON ITS WEBSITE. CAPITALIZED TERMS NOT DEFINED HEREIN SHALL HAVE THE MEANING ASCRIBED TO THEM IN THE Agreement. ALL OTHER PROVISIONS OF THE Agreement NOT REFERENCED HEREIN SHALL REMAIN IN FULL FORCE AND EFFECT.
2. **SERVICES:** Client agrees to provide MCC with access to all information and materials needed to provide the Services.
3. **LIABILITY:** Each party will be solely and entirely responsible for their own acts or omissions, including the acts and omissions of their respective employees, contract personnel, representatives, and agents.
4. **TAXES:** MCC is Tax Exempt.
5. **TERMINATION:** Each party reserves the right to terminate this Agreement (i) with or without cause upon fifteen (15) days’ written notice to the other party, or (ii) immediately if the other party fails to comply with any of the terms and conditions herein and such failure continues for ten (10) days following receipt of written notice from the objecting party. Client shall pay MCC all amounts due through the termination date.
6. **PAYMENT:** Payment shall be in accordance with the Agreement. Terms are net 30 upon receipt of an MCC invoice, and progress report if applicable.
7. **INDEPENDENT CONTRACTOR STATUS:** MCC is an independent contractor, and neither MCC nor its employees or contract personnel are, or shall be deemed, Client’s employees. MCC understands that its employees and contract personnel are NOT eligible to participate in any employee pension, health insurance program, vacation pay, sick pay, or other fringe benefit plan of Client.
8. **BUSINESS LICENSES, PERMITS, AND CERTIFICATES:** The parties represents and warrant they and their employees and contract personnel will comply with all federal, state, and local laws requiring licenses, business permits, and certificates required to receive and/or carry out the Services to be performed under the parties’ Agreement.
9. **NOTICES:** All communications relating to the Agreement shall be in writing and may be (i) hand delivered, (ii) sent by overnight courier, (iii) shall be deemed received within five (5) business days after mailing if sent by registered or certified mail, return receipt requested, or (iv) upon confirmation of receipt when sent by electronic mail to the parties at the addresses written in the Agreement.
10. **TRADEMARKS:** No party shall use the name, trade name, trademark, or any other designation of MCC, 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 the Agreement) without MCC’s prior written consent in each case.
11. **COPYRIGHTS:** The parties acknowledge that any copyright in MCC course and course materials is owned by MCC and non-MCC parties shall take no action inconsistent with that copyright ownership, including but not limited to, agreeing not to reproduce, copy, or make derivative works of the course and course material. Any distribution of copies of the works as provided by MCC is limited to the term of the Agreement. No party shall reproduce or use MCC trademarks without the prior written permission of MCC, email being sufficient.

12. **CONFIDENTIAL INFORMATION; FERPA:** Except as may be required by the purpose of the Agreement or by law, each party understands and agrees that any disclosure or use of MCC's confidential or proprietary information is prohibited and may result in irreparable injury to MCC and warrant MCC to seek injunctive relief. Client's access to and transmission of the education records of any MCC student shall be in compliance with the Family Educational Rights and Privacy Act and its regulations.
13. **BINDING EFFECT/NO THIRD PARTY BENEFICIARIES:** The Agreement is for the benefit only of the parties hereto. No third party may enforce or rely upon any obligation of, or the exercise of or failure to exercise any right of, MCC or Client in the Agreement. Nothing in the Agreement, whether express or implied, is intended to create any rights or remedies of any third party beneficiary.
14. **NON-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.
15. **FORCE MAJEURE:**
 - (a) If a Force Majeure Event occurs, the party that is prevented by that Force Majeure Event from performing any one or more obligations under the Agreement (the "Nonperforming Party") will be excused from performing those obligations, on condition that: (1) the Nonperforming Party used reasonable efforts to perform its obligations; (2) the Nonperforming Party's inability to perform its obligations is not due to its failure to take reasonable measures to protect itself against the event or circumstances giving rise to the Force Majeure Event, and (3) the Nonperforming Party complies with its obligations under Subsection (c).
 - (b) "Force Majeure Event" means, with respect to a party, any event or circumstance, regardless of whether it was foreseeable, that was not caused by that party and that prevents a party from complying with any of its obligations under the Agreement, except that a Force Majeure Event will not include the Covid-19 Pandemic.
 - (c) Upon occurrence of a Force Majeure Event, the Nonperforming Party shall promptly notify the other party of occurrence of the Force Majeure Event, its effect on performance, and how long that party expects it to last. Thereafter the Nonperforming Party shall update that information as reasonably necessary. During a Force Majeure Event, the Nonperforming Party shall use reasonable efforts to limit damages to the other party and to resume its performance under the Agreement.
16. **NO JOINT VENTURE:** Nothing contained in the Agreement shall be construed as creating a joint venture, partnership, or employment or agency relationship between the parties.
17. **NO COMPETITION/SOLICITATION:** Client agrees not to, directly or indirectly, solicit, recruit, employ, or contract with an MCC employee, contractor, representative, agent, or affiliate in connection with this Agreement for a period of one (1) year following the termination of this Agreement, or Client shall pay a fee equivalent to one-half (1/2) of such person's annual compensation, which fee represents a reasonably foreseeable estimate of damages MCC would incur as a result of breach of this Subsection, which amount shall not to be construed as a penalty.
18. **POWERS AND AUTHORITY:** Neither party may sign any document, perform any act, or make any commitment nor undertaking on behalf of the other party without such other party's express written consent.
19. **NON-DISCRIMINATION:** The parties agree not to discriminate against any employee or applicant for employment because of race, color, religion, age, sex, sexual orientation, gender identity, disability, national origin, veteran status or any other status protected by applicable law. The parties shall also abide by the requirements of 41 CFR § 60-300.5(a), and 41 CFR § 60-741.5(a). These regulations prohibit discrimination against qualified protected veterans and qualified individuals on the basis of disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.
20. **ANTI-DISCRIMINATION AGAINST ISRAEL:** In accordance with Missouri Revised Statute Section 34.600, titled the "Anti-Discrimination Against Israel Act," each party certifies it is not currently actively or indirectly engaged in and shall not, for the duration of the contract, actively or indirectly engage in a boycott of goods or services from the State of Israel and shall otherwise comply with the provisions of R.S.Mo. § 34.600.
21. **MINORS:** Each party acknowledges that the services may include activities involving minors. Each party agrees to inform the other party if they have any knowledge of any injuries, or suspected abuse or neglect of any minor participant, and to report the same to the appropriate authorities pursuant to state and federal law.

22. **EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED:** The parties agree to comply with the requirements of RSMo § 285.530 with regard to enrollment and participation in a federal work authorization program and shall not knowingly employ any person who is an unauthorized alien in connection with the contracted Services.
23. **MCC POLICIES:** MCC policies, procedures, guidelines, and safety protocols and plans shall apply in connection with MCC's delivery of the Services.
24. **GOVERNING LAW:** The Agreement is governed by and constructed in accordance with the substantive laws of the State of Missouri, without regard to choice of law principals. The exclusive forum for all disputes, claims, causes, and actions arising under the Agreement shall be Kansas City, Jackson County, Missouri.
25. **COMPLIANCE WITH LAW.** Each party represents and warrants it will comply with all applicable local, state, and federal laws, rules, regulations, directives, and orders pertaining to the operations and activities undertaken by the party, including but not limited to those pertaining to public health, safety, and welfare.
26. **ORDER OF PRECEDENCE:** In the event of a conflict or inconsistency between the terms and conditions, specifications, scope of work, and prices set forth in the Agreement as compared to any non-MCC invoice, purchase order, website, agreement, terms and conditions, or other non-MCC document, the MCC Agreement as defined herein, including these Terms, shall govern.
27. **SOVEREIGN IMMUNITY:** No Agreement provision shall be construed to constitute a waiver by MCC or the State of Missouri of any immunities from suit or liability that MCC or the State 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.
28. **ENTIRE AGREEMENT:** The Agreement, including these Terms, constitutes the entire agreement and understanding between the parties and supersedes all offers, negotiations, discussions, and other agreements, whether oral or written, that occurred prior to the date of execution of the Agreement.
29. **SEVERABILITY:** If for any reason, any term, covenant, or condition of the Agreement shall be determined to be invalid or unenforceable, the remainder of the provisions of the Agreement shall remain in full force and effect and shall not be impacted.
30. **SURVIVAL:** All representations and warranties made herein shall survive termination or cancellation of this Agreement.