



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

1. These *Contractor General Terms and Conditions* (“Terms”) govern the Services performed by Contractor for or on behalf of MCC’s Department of Workforce and Economic Development (“WED”) and are incorporated by reference and made part of the parties’ Services Agreement (the “Agreement”). “Client” refers to an MCC business partner to whom MCC has contractually agreed to provide certain services to be fulfilled, in part, by Contractor, by virtue of its Agreement with MCC (the “Client Agreement”). ALL ADDITIONAL OR DIFFERENT TERMS PROPOSED BY CONTRACTOR 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 CONTRACTOR, 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:** MCC agrees to provide Contractor with access to all information and materials needed to provide the Services. In performing the Services, Contractor represents and warrants: (i) all agreed upon scopes of work, deliverables, and services provided in connection with this Agreement shall be delivered and performed in a professional manner in accordance with applicable laws and generally accepted practices and standards of similar professionals and practitioners in the industry and shall meet or exceed the requirements and guidelines established by the Occupational Safety and Health Act and its related regulations; (ii) it shall comply with MCC policies, procedures, guidelines, and safety plans and standards (including but not limited to MCC’s *Incident Weather Plan*); and (iii) its duties and obligations shall be consistent with and shall not infringe or interfere with MCC’s duties and obligations to its Clients under the applicable MCC Client Agreement(s).
3. **INSURANCE:** Contractor agrees to maintain the following insurance throughout the term of this Agreement: a) workers’ compensation and employer’s liability for its employees in amounts as required by Missouri law, if required under Missouri law; b) automobile insurance, to include uninsured and underinsured motorists, in the minimum amounts required by law; and c) general liability insurance in the amounts of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, which policy shall name MCC as an additional insured. Upon execution of this Agreement, Contractor agrees to provide MCC proof of insurance stating the required coverages and agrees to notify MCC, in writing, thirty (30) days prior to any policy cancellation. Failure to provide or maintain any insurance as requested hereunder will not relieve Contractor of any contractual obligation or responsibility herein.
4. **INDEMNIFICATION:** CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD MCC, MCC’S TRUSTEES, OFFICERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES HARMLESS AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, COSTS, JUDGMENTS, OR OTHER FORMS OF LIABILITY, ACTUAL OR CLAIMED, INCLUDING REASONABLE ATTORNEYS’ FEES AND LEGAL COSTS, FOR INJURY OR DAMAGE TO PERSONS OR LOSS OR DAMAGE TO PROPERTY OCCURRING OR ALLEGEDLY OCCURRING IN CONNECTION WITH ANY ACTION, INACTION, OR CONDUCT COMMITTED BY CONTRACTOR OR BY CONTRACTOR’S OFFICERS, DIRECTORS, EMPLOYEES, STUDENTS, VOLUNTEERS, AGENTS, OR REPRESENTATIVES ARISING FROM THIS AGREEMENT.
5. **TAXES:** Contractor is responsible for payment of its own income taxes, sales taxes, Social Security and Medicare taxes as a self-employed individual. MCC reserves the right to request proof of tax payments to fulfill an audit request, government inquiry or order.

6. **TERMINATION:** Each party reserves the right to terminate this Agreement with or without cause upon written notice to the other party if given at least (5) days prior to the beginning of services. Each party reserves the right to terminate this Agreement immediately if the other party fails to comply with any of the terms and conditions herein.
7. **PAYMENT:** In consideration for Contractor's Services, MCC agrees to pay Contractor in accordance with and at the rates established in the Agreement. The parties agree that total payment for Services for the term of the Agreement shall not exceed the expenditure authority stated in the Agreement, as approved and authorized by MCC's Board of Trustees, if applicable, in accordance with MCC's Purchasing Department policies and procedures.
8. **APPROPRIATIONS.** MCC is a political subdivision of the state of Missouri and as such cannot create indebtedness in any one year above what it can pay out of the annual income of said year. Should MCC determine it has not received adequate appropriations budget allocations income to enable it to meet the terms of this Contract, MCC reserves the right to cancel this Contract with a thirty (30) days' notice. Multi-year term and supply contracts and leases and the exercise of options to renew are subject to annual appropriations.
9. **INSURANCE:** MCC will not provide Contractor liability insurance, auto liability insurance or other general insurance. Contractor shall be required to provide proof of general business liability insurance coverage and to indemnify and hold MCC harmless in the event of an injury or loss arising out of Contractor's performance of the Services.
10. **INDEPENDENT CONTRACTOR STATUS:** Contractor is an independent contractor, and neither Contractor nor Contractor's employees or contract personnel are, or shall be deemed, MCC's employees. Contractor understands that Contractor and its employees or contract personnel are NOT eligible to participate in any employee pension, health insurance program, vacation pay, sick pay, or other fringe benefit plan of MCC.
11. **BUSINESS LICENSES, PERMITS, AND CERTIFICATES:** Contractor represents and warrants that Contractor and its employees and contract personnel will comply with all federal, state, and local laws requiring licenses, business permits, and certificates required to carry out the Services to be performed under the parties' Agreement.
12. **CONTRACTOR EXPENSES; VEHICLES AND EQUIPMENT:** Contractor shall be responsible for all expenses incurred while performing services for MCC unless otherwise agreed upon, in writing, signed by MCC. Contractor shall furnish all vehicles, equipment, tools, and materials used to perform the services required under the parties' Agreement.
13. **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.
14. **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.
15. **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.

16. **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 for Contractor's own gain is prohibited and may result in irreparable injury to MCC and warrant MCC to seek injunctive relief. Contractor's access to and transmission of the education records of any student shall be in compliance with the Family Educational Rights and Privacy Act and its regulations.
17. **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 Contractor in the Agreement. Nothing in the Agreement, whether express or implied, is intended to create any rights or remedies of any third party beneficiary.
18. **ASSIGNMENTS:** There will be no assignment or transfer of the Agreement, or of any interest in the Agreement, unless both parties agree in writing. No Services required under the Agreement may be performed under subcontract unless both parties agree in writing.
19. **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.
20. **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.
21. **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.
22. **NO COMPETITION/SOLICITATION:** Contractor agrees not to directly or indirectly solicit or enter into a contract or other arrangement with MCC's current Clients or prospective clients in the Metropolitan Kansas City geographic area served by MCC in connection with the same or similar Services provided by Contractor under this Agreement for a period of one (1) year following the termination of this Agreement.
23. **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.
24. **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.

25. **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.
26. **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.
27. **CRIMINAL BACKGROUND CERTIFICATIONS:** The Contractor warrants that it, its employees, and its subcontractors have no current, pending or outstanding criminal, civil, or enforcement actions against them that restrict Contractor's delivery of Services under the Agreement. Contractor hereby certifies that it and its respective employees who have continuing duties related to the Agreement have not been convicted of a felony. Contractor warrants it shall (i) notify MCC prior to the delivery of Services if Contractor or any of Contractor's employees have been convicted of a felony, and (ii) shall notify MCC within three (3) days of a felony conviction of Contractor or any of Contractor's employees during the term of this Agreement. MCC reserves the right to terminate this Agreement, at any time, pursuant to MCC's receipt of notification of a felony conviction of Contractor or any of its representatives.
28. **EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED:** Contractor agrees to comply with the requirements of RSMo § 285.530 and agrees that as a condition of award of any contract in excess of five thousand dollars from MCC, it shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services and further affirm that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.
29. **MCC POLICIES:** Contractor shall abide by all policies, procedures, guidelines, and safety protocols and plans of MCC.
30. **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.
31. **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.
32. **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.
33. **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.
34. **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.

35. 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.
36. SURVIVAL: All representations and warranties made herein shall survive termination or cancellation of this Agreement.