

# Del Mar College, Corpus Christi, Texas

## Supplemental Terms and Conditions for Requirements Contracts

To the extent not inconsistent with a written agreement between the College and Vendor, the following additional terms and conditions shall apply to Requirements Contracts issued by the College:

### 1. REQUIREMENTS

- a) This is a requirements contract for the supplies or services specified in the schedule. During the term of the contract the College shall purchase its actual requirements for goods or services covered by this agreement from the selected Vendors. The College shall not be required to purchase more than its actual requirements during any term of contract. Neither shall it be limited to purchasing less than its actual requirements during any term of contract, subject to availability of funds.
- b) Any quantities of supplies or services specified in the schedule are good faith estimates only and are not purchased by this contract. The College shall not be under any obligation, expressed or implied, to purchase any minimum or maximum quantity or dollar volume from the selected Vendors. There are no representations or guarantees as to the volume of supplies or services to be purchased. If the College's requirements do not result in purchases of the quantities described as estimates in the schedule, that fact shall not constitute the basis for equitable adjustment or give rise to any liability on the part of the College including, but not limited to, claims by a Vendor to compensation for anticipated profits, unabsorbed overhead, and the like.
- c) The College is not required to purchase requirements in excess of any limit on total expenditures set forth for this contract.
- d) If the College urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if a Vendor will not accept an order calling for accelerated delivery, the College may purchase the urgently required goods or services from another source.
- e) Notwithstanding that this is a requirements contract, the College reserves the right, and nothing herein shall preclude it from doing so, to purchase the same goods or services provided in this contract from other sources when such goods or services are a necessary part of the work to be performed under a contract with those other sources. For example, electrical materials or services that the College might buy under an annual requirements contract would be acquired from the general contractor for a construction or renovation project.

### 2. DELIVERY ORDERS / TASK ORDERS

- a) Supplies or services to be furnished under this contract shall be purchased by a delivery order or task order issued by the individuals or ordering entities designated in the schedule or listed on a blanket order (see paragraph 3a.) Delivery orders or task orders are subject to the terms and conditions of this contract. In the event of a conflict, the contract shall control.
- b) Delivery orders or task orders shall be issued to a Vendor in writing, orally, by facsimile, by electronic mail, or by electronic commerce methods. A Vendor may reasonably specify and make known to the College the method or methods by which College ordering entities are to issue delivery or task orders.
- c) A Vendor shall furnish the quantity so ordered within the established delivery time and at the contract price then in effect when the delivery or task order is properly issued.
- d) Any delivery order or task order properly issued during the effective period of this contract and not completed within that period shall be completed by the Vendor within the established delivery time. This contract shall govern the Vendor's and College's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period, provided that a vendor shall not be required to make any deliveries under this contract later than forty-five (45) days after the contract termination.

### 3. PAYMENT BY COLLEGE BLANKET ORDER AND VENDOR INVOICE

- a) Ordering entities of the College may elect to issue a written blanket order to a Vendor for supplies or services under the contract. Each blanket order will typically be for a current fiscal year or portion thereof, shall identify the ordering entity by name, state which persons from that entity are authorized to place delivery or task orders, and if appropriate, a delivery address for the entity.
- b) Quantities or amounts shown on blanket orders are not purchased by the blanket order. They are budgetary estimates to establish an encumbrance on the books of the College as a reserve of funds to pay for goods or services purchased with a delivery or task order. The College may from time-to-time adjust the quantities or amounts shown on a blanket order.
- c) Vendors shall cite the appropriate blanket order number on all invoices submitted to the College for payment under this contract.

### 4. PAYMENT BY COLLEGE PROCUREMENT CARD

- a) Ordering entities of the College may elect to pay for supplies or services from this Contract with a Del Mar College Procurement Card. A Vendor may process a payment through his payment card network only upon delivery of the supplies ordered or completion of services. For partial deliveries or performance, a Vendor may process a payment for the amount delivered or completed only and not for the entire amount.
- b) The Vendor should anticipate normal card processing fees from its merchant bank for the payment card transaction. These may not be passed on to the College.

### 5. RETURNS, EXCHANGES AND CREDITS

- a) Non-conforming, damaged or defective goods may be returned to a Vendor within thirty (30) days for an even exchange or full credit. In the case of exchange, replacement goods shall be delivered within the lesser time of one (1) week or the established delivery time. Replacement will be at no charge to the College. If replacement is not made in a timely manner, the College reserves the right, in addition to other remedies available, to purchase replacement goods in the open market and charge any costs incurred, including additional cost over and above the prices shown on this contract, to the Vendor.
- b) Catalog goods in condition for resale and in their original, unopened packaging may be returned within thirty (30) days for full credit less any reasonable re-stocking or handling fee.
- c) Vendor shall issue a credit memorandum or invoice for returned goods within twenty (20) business days after the return.

### 6. ANNUAL PRICE ADJUSTMENT FOR MULTI-TERM FIXED PRICE CONTRACTS

- a) Except as this contract otherwise provides, prices shall be fixed for the initial contract term. On contract anniversaries or renewals, prices may be adjusted for the subsequent term in accord with manufacturer's published price adjustments or on the basis of changes in cost of materials or labor to the Vendor or otherwise as determined by the parties.
- b) Price adjustments must be proposed by a Vendor not less than forty-five (45) business days before the term expiration date. Requests for price adjustments must be in writing and accompanied by manufacturer's price lists or other documentation acceptable to the College.
- c) Any price adjustments shall be mutually agreed by the College and the Vendor. Price escalation will not be automatically granted. The College reserves the right to end this contract on the term expiration date in the event price increases proposed by Vendor are unacceptable.

### 7. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH

- a) Each installment or lot of this contract is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole contract and constitutes a total breach of the contract as a whole.