



MCX TERMS AND CONDITIONS: SPECIAL PROVISIONS (JUN 10)

Contents

1. UNITED STATES MARINE CORPS LOGO MERCHANDISE.....	1
2. MARINE CORPS EXCHANGE TRADEMARKS AND SERVICE MARKS	2
3. CONTRACTOR PERSONNEL AND REPRESENTATIVES	2
4. ALCOHOLIC BEVERAGE HEALTH WARNING STATEMENT	2
5. CONTRACTOR OWNED EQUIPMENT/FIXTURES	3
6. CONTRACTORS' WARRANTY.....	4
7. INVENTORY ADJUSTMENT.....	4
8. MERCHANDISE UNIT CONTROL (MUC) SERVICE.....	4
9. PLACE OF PERFORMANCE AND SUBCONTRACTORS.....	5
10. PRICE ADJUSTMENT, GOLD or SILVER.....	5
11. PRICE MARKING.....	6
12. PRODUCT DEMONSTRATION	6
13. SALES RACKS.....	6
14. SEASONAL DECORATIONS	6
15. SPECIFICATIONS/PURCHASE DESCRIPTIONS.....	6
16. STOCK STRUCTURE/AUTHORIZED ORDERING ACTIVITIES.....	7
17. HAZARDOUS GOODS.....	7

1. UNITED STATES MARINE CORPS LOGO MERCHANDISE. The Marine Corps Seal, emblem (Eagle, Globe & Anchor), name, and initials (USMC) are the exclusive property of the United States Marine Corps. Permission to use this property for commercial retail and advertising (free or paid) is required. Prior to production of any merchandise or materials, the Contractor shall complete a license agreement with the Marine Corps by contacting the Marine Corps Trademark Licensing Office. Applications for the license agreement are available at <http://www.marines.mil/unit/divpa/tmlo/Pages/apply.aspx>. Additional information regarding trademarks and approvals is available at <http://www.marines.mil/unit/divpa/tmlo/Pages/welcome.aspx> or Marine Corps Trademark Licensing Office, Headquarters United States Marine Corps, Public Affairs (PA) RM 4B548, 3000 Marine Corps Pentagon, Washington DC, 20350-3000; phone (703) 614-7678; FAX (703) 697-5362; email trademark_licensing@usmc.mil. The Contractor shall contact the contracting officer if unable to obtain an approved license agreement.

2. MARINE CORPS EXCHANGE TRADEMARKS AND SERVICE MARKS

a. The Marine Corps Exchange (MCX) is the owner of numerous trademarks and/or service marks including, but not limited to, “MCX”; “Core Brands Corps Value”; “1775”; and “Our Cost is your Cost” logo.

b. MCX’s exclusive ownership rights in these marks is not diminished by the absence of the ® or TM designation in this contract. This contract does not grant the Contractor any right, title or interest in or to the proprietary marks of MCX or of the other military Exchanges.

c. Accordingly, Contractor shall not use such marks, including use in marketing or promotions, and shall take no action to undermine, conflict with, or be contrary to, the rights and interest in such proprietary marks, except as specifically authorized in writing by the Contracting Officer.

3. CONTRACTOR PERSONNEL AND REPRESENTATIVES

a. While in exchange facilities, Contractor employees shall wear a Contractor-provided name tag that clearly identifies the individual as a Contractor employee. Contractor employees will be neat and clean. Contractor employees having contact with MCX customers will wear attire typical of styles commonly used by the better local commercial facilities of the same trade and as approved by the Contracting Officer. All Contractor employees having contact with MCX customers shall be able to read, write, and speak English at a fluency level sufficient for efficient performance of the contract.

b. The Contractor will discontinue using any Contractor employees in exchange facilities upon Contracting Officer’s written notice that the Contractor employee is not acceptable for performance under this contract. Contractor will not use any such person to perform other MCX contracts without the prior written consent of the Contracting Officer. The Contractor will not employ any individual to work in exchange facilities whom has been determined unacceptable under any other MCX contract, without prior written consent of the Contracting Officer.

c. Contractor personnel, while on the military installation, shall at all times conduct themselves in an orderly and proper manner and abide by applicable regulations and directives, to include drug detection procedures, so as not to reflect discredit on MCX. Contractor and any subcontractors shall be required to comply with applicable MCX identity verification procedures, installation access requirements, and security clearance policies.

d. The Contractor and its employees or representatives will not represent itself to be an agent or representative of MCX, or any other agency or instrumentality of the United States Government.

4. ALCOHOLIC BEVERAGE HEALTH WARNING STATEMENT

a. All containers of alcoholic beverages applied under this contract will include the following health warning statement on the product label:

GOVERNMENT WARNING: According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery and may cause health problems.

b. An alcoholic beverage includes any beverage in liquid form that contains not less than one-half of one percent (0.5%) of alcohol by volume and is intended for human consumption.

c. A container is defined as the innermost sealed container, irrespective of the material from which it is made, in which the bottler places an alcoholic beverage and in which such beverage is offered for sale.

d. All labels will be designed in a manner to make the health warning statement readily legible under ordinary conditions. The statement will be on contrasting background with the words 'GOVERNMENT WARNING' capitalized and in bold type.

e. Size:

(1) For containers of 237 milliliters (8 fl oz.) or less, the statement will be in script, type or printing no smaller than one millimeter with a maximum of 40 character per inch (2.54 centimeters).

(2) For containers between 237 milliliters (8 fl oz) and 3 liters (101 fl. oz), the statement will be in script, type or printing no smaller than two millimeters with a maximum of 25 characters per inch (2.54 centimeters).

(3) For containers larger than three liters (101 fl. oz), the statement will be in script, type or printing no smaller than three millimeters with a maximum 12 characters per inch (2.54 centimeters).

f. The labels will be affixed to the containers so that they cannot be removed without a thorough application of water or other solvents.

5. CONTRACTOR OWNED EQUIPMENT/FIXTURES

a. Contractor equipment/fixtures provided for performance of the contract are subject to approval by the Contracting Officer. The equipment/fixtures will be in like new condition and maintained in good, working order by the Contractor. Title to all Contractor furnished equipment/fixtures will remain with the Contractor. Any required investment is a business risk for which MCX assumes no liability.

b. All charges incident to shipping, furnishing, installing or removing Contractor owned equipment/fixtures will be at Contractor's expense. If destined for an overseas facility, MCX will provide transportation support from the port of embarkation. No equipment/fixtures will be removed without Contracting Officer approval.

c. MCX will have the first option and right to purchase any or all of the Contractor furnished equipment/fixtures used in performing the contract. If MCX exercises this option, the value of the equipment/fixtures will be determined by a 5 year straight line depreciation rate from the date of original purchase and purchase price or one dollar (\$1.00) whichever is higher. If MCX does not exercise this option, the Contractor will remove the equipment/fixtures or provide disposition instructions to the Contracting Officer. The instructions must be provided within fifteen days of contract expiration.

6. CONTRACTORS' WARRANTY. Contractor will provide the Contracting Officer, upon request, a copy of applicable warranties. Nothing contained in the Contractor's warranty may supersede or restrict the warranty contained in the MCX warranty clause. MCX will accept Contractor's warranty provisions that are more favorable than the MCX Warranty clause. Contractor will furnish a copy of the warranty with each item.

7. INVENTORY ADJUSTMENT. Exchange inventory will not exceed the overall stock-to-sales ratio shown on the Branch Inventory Requirements Forecast. Contractor will ensure that only current styles, colors and required sizes are shipped. Contractor may accept undamaged merchandise for replacement on an item for item basis when necessary to ensure that selling facility has a balanced selection of sizes, colors and styles. Disposition of merchandise that exceeds the established stock-to-sales ratio is the responsibility of the Contractor. Contractor will bear the risk of loss upon shipment, cost of insurance, if any, and transportation. Merchandise that remains at the end of the contract period that does not meet the criteria outlined herein will be returned only after Contractor's approval.

8. MERCHANDISE UNIT CONTROL (MUC) SERVICE. Contractor will provide personnel to perform the merchandise unit control (MUC) services required under this paragraph. Contractor will also provide the Contracting Officer with the name, telephone number and area of responsibility for each representative who will perform service at MCX activities. Contractor's representative must have proper identification. Individuals without proper identification will not be admitted to exchange facilities. Contractor agrees that any person, who is unacceptable to the Contracting Officer, will not be used to perform MUC service. MCX headquarters will provide MCX activity managers with a list of Contractor's representative. Contractor MUC services to be provided follows:

a. Contractor's representative will visit each participating activity at least once each month, or mutually agreed times, as approved by the Contracting Officer. This is the minimum visit frequency. Activities with higher sales volumes may require more frequent visits, i.e. weekly. Even more frequent visits may be required for activities with the highest retail sales volumes. Visits will correspond to the approved schedule. Approved schedules will be provided the applicable activities. These activities may take order action if the Contractor's representative fails to appear within 48 hours of the scheduled visit.

b. Contractor's representative will report to the activity manager immediately upon arrival, present their identification, and sign in.

c. Contractor's representative will use and maintain either MCX Open Order Facility MUC form or the Contractor's MUC form. If the Contractor's format is to be used, it must be approved by the Contracting Officer. If the Contractor's system is approved, the Contractor will be furnish copies to each participating location. MUCs provide a format for the store to record monthly on hand and on order figures along with three months sales history. The MUC must include a basis for figuring stock levels. This is normally average monthly sales times the prescribed stock to sales ratio. The representative will complete the on hand and on order information for each of the four months shown on the form. The form will be filed in the MCX activity manager's office. MCX personnel will be responsible for posting receipts for accountability purposes. Store MUC records (MUC book, computer printouts, etc.) will remain in the exchange facility.

d. Contractor's representative will inventory stock on hand, update the stock control record, and prepare an order if needed. The order will be submitted with the stock control record, to the respective MCX department supervisor for signature. Orders will not exceed the stock-to-sales ratio established for the participating activity considering sales, stock control records, approved open-to-buy funds, items on hand, and due-ins. Orders will only include the items approved for the activity. The representative has no authority to represent MCX. The representative will not sign documents for MCX nor complete customer sale transactions.

e. Contractor's representative will report overstocks, unusual sales, aged, deteriorated or damaged stocks to the MCX activity manager. Stock structure addition or deletion recommendations will be reported to the MCX activity manager and the Contracting Officer. Activity stock structure additions are limited to the items in a contract or mechanized system. The Contracting Officer must approve the addition of another item.

f. Contractor's representative will remove from stock any defective, aged or excess merchandise and include merchandise that MCX may have removed. The Contractor's representative will determine if the items are to be destroyed or returned. If the representative chooses to destroy the merchandise, representative will witness the destruction and sign a charge voucher. The representative will sign a charge voucher for merchandise being returned. If Contractor's return labels are used, the representative must have the labels on hand for immediate use. Unless otherwise stated, risk of loss will pass to the Contractor upon shipment. The cost of return, to include transportation and any insurance, will be at Contractor's expense.

g. Contractor's representative will assist MCX in the display of merchandise within space allocations. Contractor's representative will inform MCX personnel of product improvements, proper application or use of product, and instruct in improved selling techniques.

9. PLACE OF PERFORMANCE AND SUBCONTRACTORS. Contractor will not subcontract the manufacturing process for the items supplied under the contract, nor change the place of manufacture, without the prior written consent of the Contracting Officer. Any subcontractor so approved and used in connection with the contract is the agent of the Contractor and not the agent of MCX.

10. PRICE ADJUSTMENT, GOLD or SILVER

a. The contract price of line items containing gold or silver may be recomputed if the gold or silver price, listed in the Wall Street Journal Handy and Harmon quote, changes by 10% or more (cumulative). The change will compare the price in effect on the date of contract award or a subsequent price recomputation. Either party may request a price adjustment in writing. The request must be supported by a copy of the Handy and Harmon quotation. The request will be based on the first publication of the Wall Street Journal quotation in each month and made within ten days following publication. The request must specify the amount of adjustment, limited to the content of gold or silver shown for the contract line items. A price adjustment (increase or decrease) will be effective the first day of the MCX fiscal month following receipt of request.

b. Any request for price adjustment based on factors other than mentioned above will be made according to the Prices clause.

11. PRICE MARKING. Contractor will price mark merchandise before or at delivery with tickets prepared according to Price Marking instructions.

12. PRODUCT DEMONSTRATION

a. When requested by the Contracting Officer, Contractor will provide personnel acceptable to the Contracting Officer to demonstrate products. Demonstration frequency will be determined by activity sales volume and complexity of the category (i.e., high volume activities or activities selling computers may require daily visits in order to properly demonstrate the merchandise). Demonstrations will be conducted at times and locations mutually agreed to by MCX and the Contractor.

b. Products and display material used for product demonstration will be at Contractor's expense. Any material or product taken from a MCX shelf will be documented on a charge voucher, signed by Contractor's representative acknowledging receipt of the material/product and assuming responsibility for Contractor's payment.

13. SALES RACKS. Unless otherwise provided, any equipment, racks, sales fixtures, or other display devices delivered to MCX for use in conjunction with Contractor's products become MCX property upon delivery and at no additional charge.

14. SEASONAL DECORATIONS. Contractor warrants that all seasonal decorations furnished are flame-retardant or noncombustible according to National Fire Protection Association definitions.

15. SPECIFICATIONS/PURCHASE DESCRIPTIONS.

a. The Contractor will provide the brand name products listed in this contract which are the Contractor's regular commercial products.

b. The specifications/purchase descriptions specified in this contract represent the minimum quality standards of items to be furnished.

c. Item(s) furnished must comply with all requirements of this contract and equal or exceed the quality of the sample(s) reviewed by the Contracting Officer and/or purchased by MCX.

d. The Contractor will provide the brand name products listed in this contract which are the Contractor's existing regular commercial products. Items furnished must comply with all requirements of this contract and equal or exceed the quality of the samples submitted to the Contracting Officer; such samples may be used as a basis for ensuring that items subsequently furnished are as called for by this contract. Additionally, product descriptions and specifications contained in Contractor's catalog trade offerings will apply to items furnished, to the extent that they do not reduce the quality of the Contractor furnished samples.

16. STOCK STRUCTURE/AUTHORIZED ORDERING ACTIVITIES

a. Each item listed in the purchase order or contract is coded to correspond to facility/store classification. The Contractor will not ship any items to a store which are not in the authorized stock structure for that facility.

b. Items authorized for purchase under this contract and facilities/stores authorized to stock specific items are listed in an Inventory Management Purchase Order (IMPO) Catalog. The Contractor will not ship any items which are not in the authorized stock structure for that facility.

17. HAZARDOUS GOODS. Contractor will mark all packages/cartons of hazardous/dangerous goods to meet the U.S. Department of Transportation (DOT) and the United Nations (UN) rules and regulations. Classify these goods using the MCX Hazardous Material Classification Sheet which is available on the Doing Business section of the MCCS website or through the MCX buyer. Complete all applicable blanks with the required information. Return the completed form, attached to a Material Safety Data Sheets (MSDS), to the Contracting Officer. Material Safety Data sheets must contain the proper shipping name, class/division, UN number, packing group (when applicable) and the flash point (for class 3 dangerous goods). Packing requirement can be found in the following regulations:

International Maritime Dangerous Goods (IMDG)
International Air Transport Association (IATA)
Code of Federal Regulations (CFR), title 49 Transportation