

Section 1

Acceptance of this order is limited to acceptance of the express terms contained on the face and back of this order. And those terms included by reference and agreed upon by Lake Metroparks and the Vendor in any Blanket Purchase Agreement, Annual Pricing Agreement, or contract in existence which this order which this order will be charged against. Any proposal for additional or different terms or any attempt by the Vendor to vary any of the terms contained herein, either directly or by reference, is hereby objected to and rejected unless otherwise agreed to in writing by the Lake Metroparks. Any additional terms which are not agreed to in writing by the Lake Metroparks shall be deemed a material alteration of the agreement. Acceptance or rejection by the Lake Metroparks of any additional terms and conditions shall not constitute an acceptance of any other terms and conditions. The issuance of this order by Lake Metroparks constitutes an acceptance of the offer and the Vendor acknowledges that this order does represent agreement. The Vendor shall notify the Lake Metroparks in writing within 10 days of receipt of this order if such an agreement and acknowledgement do not exist on its part.

Section 2 Termination for Convenience

The Lake Metroparks reserves the right to terminate this order or any part thereof for its convenience if it is determined to be in the best interest of the Lake Metroparks. In such event that this contract is so terminated, the Vendor agrees to stop work and shall immediately cause any of its suppliers or subcontractors utilized to fulfill this order to stop work pertinent to this order. The Vendor shall be paid for any direct costs actually resulting from termination. In addition, the Vendor may be paid an equitable adjustment on the percentage of work completed or performed. Vendor shall not be paid for any work done after receipt of the Notice of Termination, nor for any costs incurred by Vendor suppliers or subcontractors which the Vendor suppliers or subcontractors which the Vendor could have reasonably avoided.

Section 3 Termination for Default

The Lake Metroparks may terminate this order or any part thereof for cause in the event of any default by the Vendor, or if the Vendor fails to comply with any of the terms and conditions of this agreement. Late deliveries, deliveries of products, supply(ies), service(s), which are defective or which do not conform to this order, and failure to provide Lake Metroparks, upon request, reasonable assurance of future performance shall all be causes allowing Lake Metroparks to terminate this order for cause. In the event of termination for cause, the Lake Metroparks shall not be liable to the Vendor for any amount, and the Vendor shall be liable to the Lake Metroparks for any and all damages sustained by reason of the default which gave rise to the termination.

Section 4 Warranty

The Vendor warrants that all products, supplies and/or services shall be of merchantable quality and free from any latent or patent defects in workmanship or material. The Vendor warrants that the products, supplies, and/or services furnished herein are suited and appropriate for use as intended, if the Vendor has been informed of the intended use. The Vendor shall indemnify and hold the Lake Metroparks harmless against any and all claims, causes of action in law or in equity, liability, and expenses including counsel fees arising from such breach of warranty.

Section 5 Prices

The Vendor warrants that all prices for the articles sold to the Lake Metroparks under this order are not less favorable than those currently extended to any other customer for the same or like articles in equal or similar quantities, to include the U.S. Government. Under no circumstances will the Vendor's invoices for goods and/or services hereunder exceed the prices shown on the face of this order.

Section 6 Force Majeure

The Lake Metroparks may delay delivery or acceptance of products, supplies, and/or services in the event of any unforeseen circumstances that is occasioned by causes of action beyond its control. The Vendor shall hold such goods at the direction of the Lake Metroparks and shall deliver them when the cause affecting the delay has been removed at no additional cost to the Lake Metroparks. Causes beyond the Lake Metroparks control shall include actions taken in the best interest of the Lake Metroparks or failure of the Lake Metroparks to act when such action is required, strike, or other labor trouble, fire or other acts of God.

Section 7 Patent and Patent Infringement

The Vendor warrants that the product(s), supply(ies), or service(s) specified herein, and their use alone or in combination according to Vendor specifications or recommendations, will not infringe any United States or foreign patent, copyright or trademark (either recorded, applied for, or application pending). In the case that the use of any aforementioned product(s), supply(ies), or service(s) is found to constitute patent, copyright or trademark infringement and their use is enjoined, the Lake Metroparks may, at its sole option, pursue any remedy or remedies available at law or equity to relieve itself of any claim or charge, and shall not be held liable.

Section 8 Indemnification

The Vendor agrees to protect, defend, hold harmless and indemnify the Lake Metroparks from and against any and all claims, actions, liabilities, losses, costs and expenses rising out of any actual or alleged infringements of any existing and/or applied for and/or application pending for patent, trademark, or copyright or Federal, State or local taxes by any merchandise sold to Lake Metroparks. The Vendor also agrees to the aforementioned with regard to any circumstance(s) arising out of any actual or alleged death of or injury to any person, damage to any property, or any other damage or loss by whomsoever suffered, resulting or claimed to result in whole or part from any actual or alleged defects, whether latent or patent, in any product(s), supply(ies), and/or service(s).

Section 9 Insurance

The Vendor shall maintain such insurance as will cover and include the entire obligation assumed in this order, as well as such insurance as will protect itself from claims and liability under the Workmen's Compensation Act and from any other claims or liability for damages including bodily injury and for damages to property which may arise from operations under any other claims.

Section 10 Changes

The Lake Metroparks shall have the right to make changes in drawings, specifications or instructions for work, in methods of shipments, packaging and schedule(s) and place(s) of delivery pertaining to any material and work covered by this order, and the Vendor agrees to comply with such change notice(s). Such change notice(s) shall be in writing, signed by duly authorized representatives of the Lake Metroparks and the Vendor. If such changes result in a decrease or increase in the Vendor cost or in the schedule for performance, an equitable adjustment in the price and adjustment in the time or schedule of performance will be made. Such adjustment(s) shall be made in writing.

Section 11 Inspection/Testing/Rejection

No substitute will be accepted without specific written approval from the Lake Metroparks. The Lake Metroparks reserves the right to reject and hold subject to your disposal all materials not conforming to specifications noted on this order. The Lake Metroparks inspection shall be final. Payments for goods delivered hereunder shall not constitute acceptance thereof. Goods rejected may be returned to the Vendor at the Vendor's expense. Goods supplied in excess of the quantities called for herein may be returned at the Vendor's expense and the Lake Metroparks may charge the Vendor all expenses regarding unpacking, examining, repacking, and re-shipping such goods.

Section 12 Remedies

Each of the rights and remedies reserved by the Lake Metroparks in this order are cumulative and in addition to any other or further remedies provided in law or equity or in this order.

Section 13 Deliveries

Delivery of goods is not complete until goods have been actually received and accepted by Lake Metroparks. Risk of loss, or damage of goods during transit is the Vendor's responsibility. The obligation of the Vendor to meet the delivery dates, specifications, and quantities set forth herein is of the essence of this order. Time is of the essence in this agreement. Deliveries are to be made both in quantities and at times specified pursuant to written instruction from the Lake Metroparks. Shipments in greater or lesser quantity than ordered may be returned at the Vendor's expense unless written authorization to ship and/or accept such shipments is issued by the Lake Metroparks. Failure to deliver according to schedule may result in cancellation of all or part of this order in accordance with the default provisions, thereof. Goods that are delivered in advance of schedule are delivered at risk of the Vendor at no additional cost to the Lake Metroparks. Advance delivery does not necessarily warrant payment to be made in advance of any agreement to payment schedule.

Section 14 Entire Agreement/Integration Clause

Except when used to carry out a written contract between the parties, this order constitutes the entire agreement of sale and purchase of the product(s), supply(ies) or service(s) and is expressly limited to and made conditional upon the acceptance of all terms and conditions. Any additional or different terms and conditions contained in any prior quotation or that may be contained in any acknowledgement of this order shall be deemed objected to by the Lake Metroparks without further notice of objection and shall be of no effect nor under any circumstances binding upon the Lake Metroparks. The Vendor shall be deemed to have assented to all terms and conditions hereof if any performance is entertained by the Vendor.

Section 15 Assignments/Subcontracts

This order and any payments to be made hereunder may not be assigned or transferred without prior written approval by the Lake Metroparks. No delegation of any obligation or of the performance of any obligation by either the Vendor or the Lake Metroparks shall be made without the written permission of the other party. Any attempted delegation or assignment shall be void and ineffective for all purposes unless made in conformity with this paragraph. All claims for monies due or to become due from Lake Metroparks shall be subject to deduction by the Lake Metroparks for any setoff or counter claim arising out of this or any other orders with the Vendor whether such setoff or counterclaim arose before or after such assignment by the Vendor.

Section 16 Packaging and Labeling

All goods must be packaged and labeled in accordance with good commercial practices, unless a specific manner of packaging and/or labeling is requested in writing by the Lake Metroparks. Unless otherwise stated in writing, no charge will be issued for packaging, boxing, cartage, or insurance to the Lake Metroparks, and the Vendor agrees to prepay all such charges.

Section 17 Invoices

Duplicate invoices must be issued upon shipment of material. Invoices are paid from date of receipt of material, not on the basis of the Vendor invoice date. All invoices must show the Vendor order number, Lake Metroparks P.O. number, and routing. All invoices must be addressed to the Administrative office as indicated on the face of the P.O. Discount terms must be shown on the invoice.

Section 18 Compliance with Law

The Vendor warrants that all goods supplied hereunder will have been produced in compliance with all applicable federal, state, and local laws, orders, rules, and regulations, including unemployment, Workman's Compensation, and Federal, State, and local taxes.

Section 19 Applicable Law

This agreement shall be governed by and construed according to the laws of the State of Ohio.

Section 20 Labor Disputes

Whenever an actual or potential labor dispute delays or threatens to delay the timely performance of this order, the Vendor shall immediately notify the Lake Metroparks and furnish relevant details.

Section 21 Taxes

Lake Metroparks is exempt from federal, state, and local taxes.

Section 22 Risk of Loss

All risks of loss or of damages to product(s) or supply(ies) to be delivered by the Vendor hereunder shall be on the Vendor or until title to the product(s) or supply(ies) passes to the Lake Metroparks. The Vendor shall bear all risk of loss or damage to goods rejected by the Lake Metroparks after notice of rejection until such product(s) or supply(ies) are redelivered to the Lake Metroparks except for the loss, destruction or of damage to such rejected goods resulting from gross negligence of the Lake Metroparks. The term "free on board" or other commercial abbreviation if used on any document related to the transaction contemplated herein, will not be deemed to relate to the time when or place where the ownership of and responsibility for the products is transferred from the Vendor to the Lake Metroparks. The Vendor will pay all freight and insurance costs to the point of delivery specified in this order.

Section 23 Cash Discounts

Time in connection with any discount offered will be computed from (A) the scheduled delivery date (B) the date of actual delivery or the date an acceptable invoice is received, which ever is later. Payment is deemed to be made for the purposes of earning a discount on the date of mailing the Lake Metroparks' check.

Section 24 Payment

The Vendor shall be paid upon submission of acceptable invoices for product(s), supply(ies) and/or service(s) performed and accepted. Acceptance of this order constitutes a warranty by the Vendor to the Lake Metroparks that the prices to be charged for articles or services do not exceed prices charged to any other customer for the same items with similar quantities and delivery requirements.

Section 25 Limitation of Lake Metroparks Liability, Statute of Limitations

In no event shall Lake Metroparks be liable for anticipated profits or for incidental or consequential damages. The Lake Metroparks liability on any claim of any kind for loss or damage arising out of or connected with or resulting from this agreement or from the performance or breach thereof shall in no case exceed the price allocable to the product(s), supply(ies) or service(s) thereof which give rise to the claim. The Lake Metroparks shall not be liable for penalties of any description. Any action resulting from any breach on the part of the Lake Metroparks as to the product(s), supply(ies), and/or service(s) delivered hereunder must be commenced within one year.

Section 26 Gratuities

The Vendor has not and will not offer nor give to any employee, agent or representative of Lake Metroparks any gratuity with the view toward securing any business from Lake Metroparks by influencing such person with respect to the terms, conditions, or performance of any contract or order from Lake Metroparks. Any breach of this clause shall be a material breach of each and every contract between the Vendor and Lake Metroparks.

Section 27 Inconsistent Terms and Conditions

If there is any inconsistencies between the terms and conditions and (A) the face of the order and (B) any supplemental agreement(s), the face of the order shall prevail unless expressly stated in writing in any supplemental agreement such as a Blanket Purchase Order or Annual Pricing Agreement that another order of precedent has been established and agreed to.

Section 28 Anti-Kickback Statute

The Vendor warrants that it is in full compliance with the provisions of the Anti-Kickback Statute, as amended, Public Law 86-698, 74 Stat. 740, 41 U.S.C. 51-54 and shall hold the Lake Metroparks harmless from any liability resulting from failure of such compliance.

Section 29 Buy American Act

The Vendor warrants that goods delivered under this order will be mined or produced in the United States or manufactured therein to the extent required under the Buy American Act (41 U.S.C.).

Section 30 Equal Opportunity

All applicable laws, rules, and regulations relative to the Equal Employment Opportunity to include all Executive orders and the Civil Rights Act of 1964 are incorporated by reference. All laws, rules, and regulations applicable to the hiring and employment of disabled veterans and veterans of the Vietnam era, as well as to the hiring of individuals with physical or mental handicaps, are also incorporated herein by this specific reference.