

AGREEMENT FOR PURCHASE AND SALE OF GOODS

THIS AGREEMENT FOR PURCHASE AND SALE OF GOODS (the "Agreement") is made this **7th day of April, 2004**, by and between **Wesco Turf Supply, Inc., whose address is 300 Technology Park, Lake Mary, FL 32746** ("Seller") and **THE CITY OF NAPLES**, a Florida municipal corporation, the address of which is 735 Eighth Street South, Naples, Florida 34102 ("Buyer"). In consideration of the mutual covenants and agreements hereinafter set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Buyer and Seller agree as follows:

1. **Description of Goods; Sale and Delivery.** Seller shall sell, transfer, and deliver to Buyer the goods described on the Description/Proposal attached hereto and made a part of as Exhibit "A" subject to such terms as are set forth in the Description/Proposal and in this Agreement.
2. **Acceptance; Purchase.** Buyer shall accept the goods and pay the **total sum of \$16,230.12** for the goods in accordance with the terms of this Agreement.
3. **Identification of Goods.** Identification of the goods shall not be deemed to have been made until both Buyer and Seller have agreed that the goods in question are to be appropriate to the performance of this Agreement.
4. **Rate and Time of Payment.** Unless otherwise specified, Buyer shall make payment to Seller for the goods within 30 days after the goods are received by Buyer.
5. **Receipt of Goods.** The goods shall be deemed received by Buyer when delivered to Buyer at City of Naples, Naples, Florida 34102. Delivery of the goods to Buyer shall occur on a business day and shall not occur after 3:15 p.m. on the delivery day.
6. **Risk of Loss.** The risk of loss from any casualty to the goods, regardless of the cause, shall be on Seller up to the time of receipt of the goods by Buyer at the place of delivery, but only after any proper inspection has been completed without rejection of the goods. Thereafter, such risk shall be on Buyer, including any goods thereafter returned to Seller until their receipt by Seller.
7. **Warranty Against Encumbrances.** Seller warrants that the goods are now free, and at the time of delivery shall be free, from any security interest or other lien or encumbrance.
8. **Warranty of Title.** Seller warrants that at the time of signing this Agreement, Seller neither knows, nor has reason to know, of the existence of any outstanding title or claim of title hostile to the rights of Seller in the goods.
9. **Product Warranty.** Seller provides general warranties of fitness and general warranties that the goods are free from defects, for 1 year from acceptance of the goods, except as may otherwise be set forth in the Description/Proposal, or other attached warranty.
10. **Right of Inspection.** Buyer shall have the right to inspect the goods at the time and place of delivery, and within 5 business days after delivery, Buyer must give notice to Seller of any claim for damages on account of the condition, quality, or grade of the goods, and Buyer must specify in detail the basis of such claim. The failure of Buyer to comply with these conditions shall constitute irrevocable acceptance of the goods by Buyer.

11. **Procedure as to Rejected Goods.** On receipt of notification of rejection, Seller will immediately arrange to receive back the goods for shipment and return. However, within 5 days, Seller may have an agent inspect such goods for nonconformity; otherwise, such inspection will be made on return to Seller's storage facility. When such goods are confirmed or acquiesced in as nonconforming, Seller will ship conforming goods within 30 days of the notice of rejection unless Buyer earlier notifies Seller to forgo such shipment.

12. **Governing Law.** The parties acknowledge that the transaction that is the subject matter of this Agreement bears a reasonable relation to the State of Florida and agree that the law of the State of Florida will govern their rights and duties. The parties specifically intend that the provisions of Article 2 of the Florida Uniform Commercial Code will control as to all aspects of this Agreement and its interpretation, and that all the definitions contained therein will be applicable to this Agreement except where this Agreement may expressly provide otherwise.

13. **Notices and Address of Record.** All notices required or made pursuant to this Agreement to be given by Seller to Buyer shall be in writing and shall be delivered by overnight courier, by hand or by United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following:

To Buyer:

City of Naples
Attention: Dr. Robert E. Lee, City Manager
735 Eighth Street South
Naples, Florida 34102-3796

All notices required or made pursuant to this Agreement to be given by Buyer to Seller shall be made in writing and shall be delivered by overnight courier, by hand or by the United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following:

To Seller:

Wesco Turf Supply, Inc.
300 Technology Park
Lake Mary, FL 32746
Attention: Brad Reano

Either party may change its address of record by written notice to the other party given in accordance with requirements of this Article.

14. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party who signature appears thereon and all of which shall together constitute one and the same instrument.

15. **Effective Date.** This Agreement shall take effect on the day of execution by the last party to execute this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first written above.

ATTEST:

"SELLER":

Wesco Turf Supply, Inc.

(Corporate Seal)

Witness

By: _____
Authorized Representative

ATTEST:

"BUYER"

City of Naples, Florida

By: _____
Tara A. Norman, City Clerk

By: _____
Dr. Robert E. Lee, City Manager

Approved as to form and legal sufficiency:

By: _____
Robert D. Pritt, City Attorney

Per your request, I am pleased to submit a quotation on the following equipment.

The Current Florida State Contract #515-630-03-01 expires on May 20, 2004.

All orders must be placed prior to this date to receive the State Contract pricing below.

There is an anticipated price increase on the next Florida State Contract starting May 21, 2004.

<u>Qty.</u>	<u>Model</u>	<u>Description</u>	<u>State Contract Price</u>
1	30626	Groundsmaster 328-D	\$ 12,240.26
1	30716	Guardian 72" Recycler Deck	\$ 3,450.72
1	30623	Standard Seat Kit	\$ 289.14
1	24-5780	Rear Weight Kit (2-35 lb. weight)	\$ 250.00
Total Price for 1 Unit			\$ 16,230.12

State Contract Number - 515-630-03-01 - Mowers

Ordering Address

Please make all purchase orders out to :

**Wesco Turf Supply
Attn: Florida State Contract
300 Technology Park
Lake Mary, FL 32746**

The above quote meets or exceeds ANSI Safety Specification. Toro Commercial Equipment carries a two-year or 1500 hour warranty. Also included in the pricing is training as needed for your Service Technicians. Time of delivery may vary; please check when placing order.

Payment Information

Please send checks to :

**Wesco Turf Supply
P.O. Box 862087
Orlando, FL 32886-2087**



The Toro General Commercial Products Warranty

A Two-Year Limited Warranty

Conditions and Products Covered

The Toro Company and its affiliate, Toro Warranty Company, pursuant to an agreement between them, jointly warrant your 1996 or newer Toro Commercial Product ("Product") purchased after January 1, 1997, to be free from defects in materials or workmanship for two years or 1500 operational hours*, whichever occurs first. Where a warrantable condition exists, we will repair the Product at no cost to you including diagnosis, labor, parts, and transportation. This warranty begins on the date the Product is delivered to the original retail purchaser.

* Product equipped with hour meter

Instructions for Obtaining Warranty Service

You are responsible for notifying the Commercial Products Distributor or Authorized Commercial Products Dealer from whom you purchased the Product as soon as you believe a warrantable condition exists.

If you need help locating a Commercial Products Distributor or Authorized Dealer, or if you have questions regarding your warranty rights or responsibilities, you may contact us at:

Toro Commercial Products Service Department
Toro Warranty Company
8111 Lyndale Avenue South
Bloomington, MN 55420-1196
952-888-8801 or 800-982-2740
E-mail: commercial.service@toro.com

Owner Responsibilities

As the Product owner, you are responsible for required maintenance and adjustments stated in your operator's manual. Failure to perform required maintenance and adjustments can be grounds for disallowing a warranty claim.

Items and Conditions Not Covered

Not all product failures or malfunctions that occur during the warranty period are defects in materials or workmanship. This express warranty does not cover the following:

- Product failures which result from the use of non-Toro replacement parts, or from installation and use of add-on, modified, or unapproved accessories
- Product failures which result from failure to perform required maintenance and/or adjustments
- Product failures which result from operating the Product in an abusive, negligent or reckless manner
- Parts subject to consumption through use unless found to be defective. Examples of parts which are consumed, or used up, during normal Product operation include, but are not limited to, blades, reels, bedknives, tines, spark plugs, castor wheels, tires, filters, belts, etc.

Countries Other than the United States or Canada

Customers who have purchased Toro products exported from the United States or Canada should contact their Toro Distributor (Dealer) to obtain guarantee policies for your country, province, or state. If for any reason you are dissatisfied with your Distributor's service or have difficulty obtaining guarantee information, contact the Toro importer. If all other remedies fail, you may contact us at Toro Warranty Company.

- Failures caused by outside influence. Items considered to be outside influence include, but are not limited to, weather, storage practices, contamination, use of unapproved coolants, lubricants, additives, or chemicals, etc.
- Normal "wear and tear" items. Normal "wear and tear" includes, but is not limited to, damage to seats due to wear or abrasion, worn painted surfaces, scratched decals or windows, etc.

Parts

Parts scheduled for replacement as required maintenance are warranted for the period of time up to the scheduled replacement time for that part.

Parts replaced under this warranty become the property of Toro. Toro will make the final decision whether to repair any existing part or assembly or replace it. Toro may use factory remanufactured parts rather than new parts for some warranty repairs.

General Conditions

Repair by an Authorized Toro Distributor or Dealer is your sole remedy under this warranty.

Neither The Toro Company nor Toro Warranty Company is liable for indirect, incidental or consequential damages in connection with the use of the Toro Products covered by this warranty, including any cost or expense of providing substitute equipment or service during reasonable periods of malfunction or non-use pending completion of repairs under this warranty. Except for the Emissions warranty referenced below, if applicable, there is no other express warranty. All implied warranties of merchantability and fitness for use are limited to the duration of this express warranty.

Some states do not allow exclusions of incidental or consequential damages, or limitations on how long an implied warranty lasts, so the above exclusions and limitations may not apply to you.

This warranty gives you specific legal rights, and you may also have other rights which vary from state to state.

Note regarding engine warranty: The Emissions Control System on your Product may be covered by a separate warranty meeting requirements established by the U.S. Environmental Protection Agency (EPA) and/or the California Air Resources Board (CARB). The hour limitations set forth above do not apply to the Emissions Control System Warranty. Refer to the Engine Emission Control Warranty Statement printed in your operator's manual or contained in the engine manufacturer's documentation for details.