

## Attachment A – Special Terms & Conditions

RFx #: 3000019203

Contract Title: Toro BN Lawn/Golf/Turf - SW

### Special Terms and Conditions

#### **Bid Delivery Instructions for State Procurement:**

Bidders are hereby advised that the Office of State Procurement (OSP) must receive bids at its physical location by the date and time specified on page one (1) of the Invitation to Bid.

Bids may be mailed or delivered by hand or courier service to the Office of State Procurement's physical location as follows:

Office of State Procurement  
Claiborne Building, Suite 2-160  
1201 North Third Street  
Baton Rouge, LA 70802

**Or** bids may be submitted online by accessing the link on page one (1) of the Invitation to Bid.

Bidder should be aware of security requirements for the Claiborne Building and allow time to be photographed and presented with a temporary identification badge.

Bidder is solely responsible for ensuring that its courier service provider makes inside deliveries to the Office of State Procurement's physical location. The Office of State Procurement is not responsible for any delays caused by the bidder's chosen means of bid delivery. Bidder is solely responsible for the timely delivery of its bid. Failure to meet the bid opening date & time shall result in rejection of the bid.

**Note:** Bidders who choose to respond to this bid online via the vendor portal are encouraged to not submit a written bid as well.

Bidders are hereby advised that due to the nature of the internet, the State of Louisiana cannot guarantee that access to the LaGov or LaPAC websites will be uninterrupted or that e-mails or other electronic transmissions will be sent to you or received by us. The Office of State Procurement is not responsible for any delays caused by the bidder's choice to submit their bid online. Bidder is solely responsible for the timely delivery of its bid. Failure to meet the bid opening date and time shall result in rejection of the bid.

**\*\*Attention\*\***

Receipt of a solicitation or award cannot be relied upon as an assurance of receiving future solicitations. In order to receive notifications of future solicitations from this office, you must register and enroll in the proper category in LaGov at the following website:

[https://lagoverpvendor.doa.louisiana.gov/irj/portal/anonymous?guest\\_user=self\\_reg](https://lagoverpvendor.doa.louisiana.gov/irj/portal/anonymous?guest_user=self_reg)

Enrollment in LaGov provides LaPAC email notification of bid opportunities based upon commodities that you select.

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### Calendar of Events:

Deadline to receive written inquiries: July 5, 2022

Deadline to answer written inquiries: July 12, 2022

Bid Opening Date and Time: July 19, 2022 @ 10:00 A.M. (Central Time)

**NOTE: The State of Louisiana reserves the right to revise this calendar. Revisions before the bid opening date and time, if any, will be formalized by the issuance of an addendum to this ITB.**

### Bidder Inquiries:

The State shall not and cannot permit an open-ended inquiry period, as this creates an unwarranted delay in the procurement cycle and operations of our agency customers. The State reasonably expects and requires responsible and interested bidders to conduct their in-depth bid review and submit inquiries in a timely manner.

An inquiry period is hereby firmly set for all interested bidders to perform a detailed review of the bid documents and to submit any written inquiries relative thereto. *Without exception*, all inquiries MUST be submitted in writing by an authorized representative of the bidder, clearly cross-referenced to the relevant bid section. All inquiries must be received by the Inquiry Deadline date set forth in the Calendar of Events section of this bid. Only those inquiries received by the established deadline shall be considered by the State. Inquiries received after the established deadline shall not be entertained.

Inquiries concerning this bid may be delivered by mail, express courier, e-mail, hand, or fax to:

Office of State Procurement  
Attention: Ben James  
1201 North Third St.  
Claiborne Bldg., Suite 2-160  
Baton Rouge, LA 70802

E-Mail: [ben.james@la.gov](mailto:ben.james@la.gov)  
Phone: (225) 342-8465  
Fax: (225) 342-9756

Only the person identified above or their designee has the authority to officially respond to bidder's questions on behalf of the State. Any communications from any other individuals are not binding to the State.

An addendum will be issued and posted at the Office of State Procurement LaPAC\* website, to address all inquiries received and any other changes or clarifications to the bid. Thereafter, all bid documents, including but not limited to the specifications, terms, conditions, plans, etc., will stand as written and/or amended by any addendum. No negotiations, decisions, or actions shall be executed by any bidder as a result of any oral discussions with any state employee or state consultant. It is the Bidder's responsibility to check the LaPAC website frequently for any possible

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addenda that may be issued. The Office of State Procurement is not responsible for a bidder's failure to download any addenda documents required to complete the bid.

\*Note: LaPAC is the State's online electronic bid posting and notification system resident on State Procurement's website [<https://www.doa.la.gov/doa/osp/>]. In that LaPAC provides an immediate e-mail notification to subscribing bidders that a solicitation and any subsequent addenda have been let and posted, notice and receipt thereof is considered formally given as of their respective dates of posting.

To receive the email notification, vendors must register in the LaGov portal. Registration is intuitive at the following link:

[https://lagoverpvendor.doa.louisiana.gov/irj/portal/anonymous?guest\\_user=self\\_reg](https://lagoverpvendor.doa.louisiana.gov/irj/portal/anonymous?guest_user=self_reg)

Help scripts are available on the Office of State Procurement website under Vendor Resources at: <https://www.doa.la.gov/doa/osp/vendor-resources/>

### **Terms and Conditions:**

This solicitation contains all terms and conditions with respect to the commodities herein. Any vendor contracts, forms, terms, or other materials submitted with bid may cause bid to be rejected.

### **Vendor's Forms:**

The purchase order is the only binding document to be issued against the contract. Signing of vendor's forms is not allowed.

### **Vendor List:**

The bidder who signs the bid will be designated as prime contractor on any contract resulting from this solicitation. If additional distributor vendors are authorized to receive orders for items contained in said contract, the bidder should submit with the bid, a list of those additional authorized distributors including the complete business address. The prime contractor will be responsible for the actions of any distributor vendors listed.

### **Acceptance:**

Unless otherwise specified, bids on this contract will be assumed to be firm for acceptance for a minimum of sixty (60) days. If accepted, prices must be firm for the specified contract period.

### **Prices:**

Prices shall be complete, including transportation/freight charges prepaid by bidder to destination, inside delivery, unpacking, assembly of all components and removal of all associated debris from premises. Prices should be quoted in the unit (each, box, case, hour, flat, mile, etc.) as specified in the solicitation.

### **Price Reductions:**

Whenever there is a reduction in price, which is lower than the contract price, offered to similarly situated customers contracting for the same period and under the same terms and conditions, said reduction must be presented directly to the Office of State Procurement. No price reduction on a statewide contract may be offered to an agency unless that reduction is offered to all agencies.

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### **Freight Charges:**

Unit price must be inclusive of any freight charges. Bid should be F.O.B. Destination – title passing upon receipt of goods. Failure to comply with this requirement may disqualify your bid.

### **Payment:**

Payment will be made on the basis of unit price as listed in the contract; such price and payment will constitute full compensation for furnishing and delivering the contract commodities. In no case will the state agency refuse to make partial payments to the Contractor although all items have not been delivered. This payment in no way relieves the Contractor of his responsibility to effect shipment of the balance of the order. Payment will be to vendor and address as shown on order.

### **Invoices:**

Invoices will be submitted by the Contractor to the using agency and the invoice shall refer to the delivery ticket number, delivery date, purchase order number, quantity, unit price, and delivery point. A separate invoice for each order delivered and accepted shall be submitted by the Contractor in duplicate directly to the accounting department of the using agency. Invoices shall show the amount of any cash discount and shall be submitted on the contractor's own invoice form.

### **Contract Revisions:**

Requests for revisions to the contract must be addressed to the Office of State Procurement and shall refer to the contract item number with justification of the request. Distributor vendor changes, price reductions and justifiable item deletions may be considered during the contract period. New item additions may be considered only when the Office of State Procurement has determined additions will be of substantial benefit to the State and will justify the time, effort and cost required to make such addition.

Contractor must immediately notify the Office of State Procurement when any dealer on the contract is terminated, relocated or added. All orders placed with dealers prior to receipt of such notification by the Office of State Procurement must be honored. Revisions will become effective only upon approval by the Office of State Procurement. Bidder should include with bid a list of all persons, in addition to the signer of the bid, who are authorized to request revisions to the contract.

### **Contractual Period:**

The State of Louisiana intends to award all items for an initial period, not to exceed twelve (12) months. Delays in awarding, beyond the anticipated starting date, may result in a change in the contract period. If the situation occurs, an award may be made for less than twelve (12) months.

### **Renewals:**

At the option of the State of Louisiana and acceptance by the Contractor, the contract may be extended for two (2) additional twelve (12) month periods at the same pricing discounts, terms and conditions. Total contract time may not exceed thirty-six (36) months.

### **Quantities:**

This is an open-ended requirements contract. Quantities shown are based on the previous contract usage or estimates. Where usage is not available, a quantity of one (1) indicates a lack of history

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on the item. The successful bidder must supply at bid prices actual requirements as ordered whether the total of such requirements is more or less than the quantities shown.

### Orders:

All State Agencies are to issue contract purchase orders for the items required, as and when needed. Political subdivisions of the State and Quasi Agencies who have been authorized to purchase from contracts made by the Office of State Procurement, are to issue their regular purchase orders directly to the supplier, making reference to the contract and item number.

### Cooperative Purchase:

It is the intent of the Office of State Procurement (OSP) to accommodate cooperative purchasing in any contract awarded from this solicitation.

As described below, Political Subdivisions of the State, Quasi State Agencies, External Procurement Units, and Agencies of the United States Government are to be authorized (potential) users of the contract(s) resulting from this solicitation, subject to the pricing and terms set forth in the contract(s).

- Political Subdivisions of the State include, but are not limited to, parish governments, municipal governments, school districts, human service districts, local governments and public utilities.
- Quasi State Agencies include, but are not limited to, non-profit or for-profit organizations created by the State of Louisiana or any political subdivision or agency thereof, or any special district or authority, or unit of local government, to perform a public purpose.
- External Procurement Units include, but are not limited to, buying organizations not located in the State of Louisiana, which, if located in the State, would qualify as a public procurement unit.

The current list of approved cooperating purchasing entities (including political subdivisions, quasi state agencies and external procurement units) is maintained and regularly updated on the OSP website at: <https://www.doa.la.gov/dao/osp/agency-resources/osp-purchasing/approved-quasi-units/> and may be used as a reference.

Bidders or contractors may prospectively choose to partially or entirely ‘opt-out’ of accommodating cooperative purchasing for such contract(s) by sending formal written notification of same to the Office of State Procurement. This notification should clearly specify which individual type(s) of cooperative purchasing entities the bidder/contractor is choosing to not allow to participate in contract cooperative purchasing. Any purchase orders received by the contract-holder from cooperative purchasing entities prior to the contract-holder’s opt-out notification to OSP must be honored in accordance with the contract.

The extent of participation (or non-participation) by any vendor in cooperative purchasing will not affect the award of any contract(s) resulting from this solicitation.

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**Electronic Vendor Payment Solution:**

In an effort to increase efficiencies and effectiveness as well as be strategic in utilizing technology and resources for the State and Contractor, the State intends to make all payments to Contractors electronically. The LaCarte Procurement Card will be used for purchases of \$5,000 and under, and where feasible, over \$5,000. Contractors will have a choice of receiving electronic payment for all other payments by selecting the Electronic Funds Transfer (EFT). If you receive an award and do not currently accept the LaCarte card or have not already enrolled in EFT, you will be asked to comply with this request by choosing either the LaCarte Procurement Card and/or EFT. You may indicate your acceptance below.

The **LaCarte** Procurement Card uses a Visa card platform. Contractors receive payment from state agencies using the card in the same manner as other Visa card purchases. Contractors cannot process payment transactions through the credit card clearinghouse until the purchased products have been shipped or received or the services performed.

For all statewide and agency term contracts:

- Under the LaCarte program, purchase orders are not necessary. Orders must be placed against the net discounted products of the contract. All contract terms and conditions apply to purchases made with LaCarte.
- If a purchase order is not used, the Contractor must keep on file a record of all LaCarte purchases issued against the contract during the contract period. The file must contain the particular item number, quantity, line total and order total. Records of these purchases must be provided to the Office of State Procurement on request.

**EFT** payments are sent from the State’s bank directly to the payee’s bank each weekday. The only requirement is that you have an active checking or savings account at a financial institution that can accept Automated Clearing House (ACH) credit files and remittance information electronically. Additional information and an enrollment form is available by contacting the Office of Statewide Reporting & Accounting Policy at [DOA-OSRAP-EFT@la.gov](mailto:DOA-OSRAP-EFT@la.gov).

To facilitate this payment process, you will need to complete and return the EFT enrollment form.

If an award is made to your company, please check which option you will accept or indicate if you are already enrolled.

<u>Payment Type</u>	<u>Will Accept</u>	<u>Already Enrolled</u>
LaCarte	_____	_____
EFT	_____	_____

\_\_\_\_\_  
Printed Name of Individual Authorized

\_\_\_\_\_  
Authorized Signature for payment type chosen

\_\_\_\_\_  
Date

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\_\_\_\_\_  
Email address and phone number of authorized individual

**Louisiana Preference:**

In accordance with La. R.S. 39:1604, a preference not to exceed ten percent (10%) may be allowed for products manufactured, produced, grown, or assembled in Louisiana of equal quality (Seven percent (7%) if meat, catfish, produce, eggs, or crawfish further processed).

Do you claim this preference? \_\_\_\_\_ yes

Specify applicable preference percentages and line numbers and give Location within Louisiana where product is manufactured, produced, grown, assembled, or further processed.

7% Line number(s): \_\_\_\_\_ Location: \_\_\_\_\_

\_\_\_\_\_  
10% Line number(s): \_\_\_\_\_ Location: \_\_\_\_\_

\_\_\_\_\_  
(NOTE: If more space is required, include on a separate sheet)

Do you have a Louisiana Business workforce? \_\_\_\_\_ yes \_\_\_\_\_ no

If so, do you certify that at least fifty percent (50%) of your Louisiana business workforce is comprised of Louisiana residents? \_\_\_\_\_ yes \_\_\_\_\_ no

Failure to specify above information may cause elimination from preferences.

**Procurement of United States Products:**

In accordance with the provisions of La. R.S. 39:1604.7, in the event a contract is not entered into for products purchased under the provisions of La. R.S. 39:1604, each procurement officer, purchasing agent, or similar official who procures or purchases materials, supplies, products, provisions, or equipment under the provisions of this Chapter may purchase such materials, supplies, products, provisions, or equipment which are manufactured in the United States, and which are equal in quality to other materials, supplies, products, provisions, or equipment, provided that all of the following conditions are met:

- (1) The cost of such items does not exceed the cost of other items which are manufactured outside the United States by more than five percent (5%).
- (2) The vendor of such items agrees to sell the items at the same price as the lowest bid offered on such items.

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- (3) In cases where more than one (1) bidder offers items manufactured in the United States which are within five percent (5%) of the lowest bid, the bidder offering the lowest bid on such items is entitled to accept the price of the lowest bid made on such items.
- (4) The vendor certifies that such items are manufactured in the United States.

For the purposes of this preference,

- (1) "Manufactured in the United States" means produced by a process in which the manufacturing, final assembly, processing, packaging, testing, and any other process that adds value, quality, or reliability to assembled articles, materials, or supplies, occur in the United States.
- (2) "United States" means the United States and any place subject to the jurisdiction of the United States.

Do you claim this preference? \_\_\_\_\_ yes

Specify line number(s): \_\_\_\_\_

Specify location within the United States where this product is manufactured:

\_\_\_\_\_  
(NOTE: If more space is required, include on a separate sheet.)

**Literature:**

Literature and/or specifications must be submitted upon request; if requested, literature and/or specifications must be submitted within five (5) business days of written request. If bidding other than specified, sufficient information should be enclosed with the bid in order to determine quality, suitability, and compliance with the specifications. Failure to comply with this request may eliminate your bid from consideration.

**Non-Exclusivity Clause:**

This agreement is non-exclusive and shall not in any way preclude state agencies from entering into similar agreements and/or arrangements with other vendors or from acquiring similar, equal, or like goods and/or services from other entities or sources.

**Termination for Non-Appropriation of Funds:**

The continuation of the contract is contingent upon the appropriation of funds to fulfill the requirements of the contract by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of a contract or if such appropriation is reduced by the veto of the Governor or by any means provided in the Appropriations Act or Title 39 of the Louisiana Revised Statutes of 1950 to prevent the total appropriations for the year from exceeding revenues for that year or for any other lawful purpose and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.



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**Increase/Decrease:**

The quantities listed herein are estimated to be the amount needed. In the event a greater or lesser quantity is needed, the right is reserved by the State of Louisiana to increase or decrease the amount, at the unit price stated in the bid.

**Administrative Fee or Rebate:**

The State shall be due a minimum two percent (2 %) administrative fee or rebate to be payable to the State of Louisiana, Office of State Procurement (OSP) in exchange for the management and facilitation of the contract(s) resulting from this solicitation. The calculation of the administrative fee or rebate includes any entity receiving contract pricing resulting from the awarded contracts. The administrative fee or rebate shall be submitted quarterly and shall be based on the total net (gross sales minus returns, credits and deductions) sales made to entities located in the State of Louisiana under the contract. Initiation and submission of the administrative fee or rebate to OSP is the responsibility of the Contractor without prompting or notification by the State Procurement Analyst (SPA). If these administrative fees or rebates are not submitted in a timely manner, OSP shall have the right to terminate the contract.

The check is to be made payable to: Louisiana DOA-Office of State Procurement. The check is to be mailed or sent through a courier service to the following address: Office of State Procurement, Attn: OSP Receivables Specialist, 1201 North 3rd Street, Claiborne Building - Suite 2-160, Baton Rouge, LA 70802. The calculation of the administrative fee or rebate shall begin immediately upon execution of the contract and payment shall be made in accordance with the following schedule:

<u>Quarter Payment</u>	<u>Period Payment</u>	<u>Due Date</u>
First Quarter	July 1 through September 30	October 31
Second Quarter	October 1 through December 31	January 31
Third Quarter	January 1 through March 31	April 30
Fourth Quarter	April 1 through June 30	July 31

IF VENDOR/CONTRACTOR IS OFFERING A GREATER ADMINISTRATIVE FEE OR REBATE THAN SPECIFIED ABOVE, PLEASE INDICATE THE PERCENTAGE HERE:

\_\_\_\_\_ %

**NOTE: CONTRACTOR SHALL INDICATE THE STATE CONTRACT NUMBER ON THE REMITTANCE. WHEN SUBMITTING ONE (1) REMITTANCE FOR MORE THAN ONE (1) CONTRACT, CONTRACTOR SHALL INDICATE ALL STATE CONTRACT NUMBERS AND THE AMOUNT FOR EACH.**

**Contract Usage Reports:**

The Contractor shall submit detailed contract usage reports quarterly to the State Procurement Analyst (SPA) for the contract in accordance with the below schedule. Initiation and submission of the quarterly reports to the SPA is the responsibility of the Contractor without prompting or notification by the SPA. If these reports are not submitted in a timely manner, the Office of State Procurement (OSP) shall have the right to terminate the contract.

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The specific usage report content, scope, and format requirements are available on the OSP website under Vendor Resources/Vendor Forms: <https://www.doa.la.gov/oa/osp/vendor-resources/>. In addition, the person's name who compiled the report and their contact information shall be provided. OSP reserves the right to request copies of any purchase orders issued against the contract.

The usage reports shall be submitted utilizing this format or an equivalent format that has been pre-approved by OSP.

Schedule for submittal of usage reports:

<u>Quarter</u>	<u>Reporting Period</u>	<u>Due Date</u>
First Quarter	July 1 through September 30	October 31
Second Quarter	October 1 through December 31	January 31
Third Quarter	January 1 through March 31	April 30
Fourth Quarter	April 1 through June 30	July 31

### **Contract Utilization:**

By submitting a bid, bidder acknowledges that he agrees to the following terms that will be part of any resulting contracts(s) awarded from this solicitation.

This contract has been designated as a Louisiana Pricing Schedule ("LaPS"). The State intends to use the following process before placing orders under this contract, and the Contractor explicitly understands and agrees to the use of this process before accepting orders under this contract. Where multiple LaPS contracts exist for functionally equivalent products and/or services and the procurement exceeds the defined maximum value for small purchases established by executive order of the Governor, all eligible users of these contracts will utilize the following procedures:

1. Prepare a Request for Responses (an informal process used to make a best value determination) that includes, if applicable:
  - a) Performance-based statement of work that includes such things as:
    - The work to be performed
    - Location of work
    - Period of performance
    - Deliverable schedule
    - Applicable performance standards
    - Acceptance criteria
    - Any special requirements (e.g., security clearances, special knowledge, etc.)
    - The products required (using a generic description of products and functions whenever possible).
  - b) If necessary or applicable, a request for submittal of a project plan for performing the task and information on the contractor's experience and/or past performance performing similar tasks.
  - c) A best value determination is one that considers, in addition to underlying contract

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pricing, such factors as:

- Probable life of the item selected
- Environmental and energy efficiency considerations
- Technical qualifications
- Delivery terms
- Warranty
- Maintenance availability
- Administrative costs
- Compatibility of an item within the user's environment
- User's familiarity with the item or service

- d) A request for submittal of a firm-fixed total price for labor and/or products which are no higher than prices in the LaPS contract.
2. Submit the Request for Response to at least three (3) LaPS contract holders, whenever available, offering functionally equivalent products and/or services that will meet the agency's needs.
  3. Evaluate responses and select the contractor to receive the order:
    - a) After responses have been evaluated, the order shall be placed with the Contractor that represents the best value that meets the agency's needs. The ordering agency should give preference to small entrepreneurships or small and emerging businesses when two (2) or more contractors can provide the services and/or products at the same firm-fixed price.
    - b) The ordering agency shall document in the procurement file the evaluation of the Contractors' responses that formed the basis for selection. The documentation shall identify the Contractor from which the services and/or products were purchased, the services and/or products purchased, and the cost of the resulting purchase order.
    - c) Purchases shall not be artificially divided to avoid the requirements of this section when recurring requirements for same products are known.

### **Brand Name Contract Usage Requirements:**

Brand Name contracts for Lawn/Golf/Turf Equipment are expected to have \$50,000 in usage annually. This usage amount may be waived in whole or in part due to extenuating circumstances, in the State's best interest. The Office of State Procurement will consider contract purchases from both State Agencies, Quasi-Public Agencies and/or Political subdivisions. The inability or failure to timely produce usage reports evidencing adequate sales may result in the cancellation of your brand name contract for a period of two (2) years.

### **Brand Name Contract:**

All items bid must be the brand name specified. Alternate brands will not be considered.

Bidders should submit with their bid response the most recent published commercial price list and their GSA price schedule (if one exists) covering all items bid. In the event that a printed published price list is not available, a typed, signed and notarized list of prices covering all items

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bid should be submitted. If not submitted with the bid, this information shall be provided within ten (10) business days of the request. Prices bid may not exceed the commercial price list or GSA prices in order for the item(s) to be awarded. Any terms and conditions contained in the published price list or GSA price list will not be applicable to the State's contract unless specifically stated.

### **Method of Award:**

It is the State of Louisiana's intent to award this contract to the responsive, responsible bidder offering the overall greatest discount off the manufacturer's current published price list, whether the bidder is the manufacturer, or a distributor for the brand of lawn/golf/turf equipment listed for each line. It is the intent of the State of Louisiana to award on an all-or-none basis. The State further reserves the right to reject individual items from any all-or-none award and to reject any or all bids and waive informalities. No award will be made on any line item that offers a zero percent (0%) discount.