

## TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS

Any person or entity (“Buyer”, “you” or “your”) who wants to purchase goods (“Goods”) from D&S Car Wash Equipment Company LLC (“Seller”, “we”, “us”, or “our”) must accept these Terms and Conditions for the Supply of Goods (“Terms”) without change.

**1. ACCEPTANCE:** All purchase orders (“PO”) accepted by us are subject to these Terms. These Terms prevail over any of your general terms and conditions of purchase, whether included in your PO or otherwise and regardless of when you submit a PO or other terms. Our accompanying order, invoice, quotation, or other sales confirmation document (the “Sales Confirmation”) and these Terms comprise the entire agreement between the parties, and supersede all prior or contemporaneous agreements, understandings, and/or communications. If your PO is expressly conditional upon our adherence to your terms and conditions, then these Terms shall operate as a counteroffer, expressly conditioned upon your acceptance of these Terms. Your acceptance of any Goods provided hereunder shall constitute your acceptance of these Terms, in which you thereafter relinquish and/or waive any right to limit acceptance or objection to these Terms under the Uniform Commercial Code.

**2. DELIVERY:** The Goods will be made available to you at our location, as set out in the applicable Sales Confirmation (“Seller’s Location”) within a reasonable time after receipt of your PO. We shall not be liable for any delays, loss or damage in transit.

**3. SHIPPING TERMS; TITLE; RISK OF LOSS STOCKING AND STORAGE:** Unless agreed by both parties in writing, delivery shall be made EXW Seller’s Location, Incoterms 2020. Title and risk of loss passes to you when the Goods are made available to the carrier at Seller’s Location. Should any delays in final shipment dates previously agreed upon by all parties occur due to Buyer’s actions, a re-stocking and storage fee of \$200 per day shall be billed to Buyer and shall be due to Seller prior to Goods’ shipment.

**4. INSPECTION; REJECTION OF NON-CONFORMING GOODS:** You shall have five (5) business days after delivery of the Goods (the “Inspection Period”), to inspect and either accept or reject them. Your failure to inspect the Goods within the Inspection Period shall waive your right of inspection and constitute an irrevocable acceptance of the Goods. If you wish to reject any nonconforming Goods, you must immediately (and in any event, within the Inspection Period) notify us in writing, identifying all alleged nonconformities and the portion(s) of the shipment being rejected. Your failure to give such notice within the Inspection Period shall waive your right to any and call claims for nonconforming Goods and constitute an irrevocable acceptance of the Goods.

**5. PRICE:** The price of the Goods is the price stated in a Sales Confirmation (the “Price”). Unless otherwise agreed in writing, the Price shall be in U.S. dollars. We reserve the right to pass on surcharges and other adjustments related to changes in the prices of raw materials, and to make corrections in Sales Confirmations due to typographical, engineering or other errors, or resulting from incomplete or inaccurate information supplied by you. You shall be responsible for all taxes or governmental charges imposed upon the sale or transfer of Goods. Your failure to pay such taxes or governmental charges shall be considered a breach of these Terms.

**6. PAYMENT TERMS:** Unless otherwise agreed upon in writing, payment is due in full prior to shipment of the Goods to you. You shall pay interest on all late payments at the lesser of 1% per month (12% per year) or highest rate permitted by law. You shall reimburse us for all costs incurred in collecting any late payments, including, without limitation, attorneys’ fees. We shall be entitled to suspend the delivery of any Goods if you fail to pay any amounts when due.

**7. SETOFF:** You shall have no right to claim compensation or set off against any amounts payable to us under these Terms.

**8. LIMITED WARRANTY:** Unless we agree in writing, all Goods shall be produced in accordance with our standard practices. All material, including that produced to meet an exact specification, shall be subject to tolerances and variations consistent with the usages of the trade and industry practices. We warrant that the Goods, when delivered and in the form delivered, meet the written specifications for such goods supplied by or agreed by you at the time of delivery. WE ASSUME NO RESPONSIBILITY FOR YOUR DESIGNS, DRAWINGS, PLANS, OR SPECIFICATIONS. THIS LIMITED WARRANTY IS MADE IN LIEU OF ANY AND ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE; WHETHER EXPRESS OR IMPLIED, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

**9. INDEMNIFICATION:** You shall defend, indemnify and hold harmless Seller, its subsidiaries, affiliates, successors or assigns and their respective directors, officers, shareholders and employees (collectively, “Indemnitees”) against any claims, losses, judgements, penalties, fines, interest, reasonable attorney and professional fees, or costs of any kind suffered or incurred by an Indemnitee (collectively, “Claims” and individually, a “Claim”) directly or indirectly arising from: (a) your specifications; (b) any asserted deficiencies or defects in the goods caused by any alteration or modification thereof by you with or without our consent; (c) your improper handling or storage of the Goods; (d) your negligence, willful misconduct or breach of these Terms, (e) your failure to label or improper labeling of the Goods, regardless of whether the labeling was done with or without our input; or (f) any act or omission by you, including, but not limited to, any Claims for or resulting from any injury to person (including death), damage to property (including loss of use thereof and consequential damages therefrom), or for economic loss.

**10. INSURANCE:** During the term of any PO, you shall, at your own expense, maintain and carry insurance in full force and effect, including commercial general liability in a sum no less than \$500,000 of covered liability, and workers’ compensation insurance in the amounts required by law with financially sound and reputable insurers. Upon our request, you shall provide us with a valid certificate of insurance from your insurer. You shall provide us with 30 days’ advance written notice in the event you cancel or materially change your insurance policy.

**11. COMPLIANCE WITH LAW:** You shall fully comply with all applicable laws and regulations in connection with the purchase and sale of Goods. You warrant that you have, and shall maintain in effect, all licenses, permissions, authorizations, consents and permits required to carry out your obligations under these Terms.

**12. TERMINATION:** Upon your submission of a PO or acceptance of Goods, you represent that you are not insolvent. You are considered insolvent if (a) you fail to pay in accordance with these Terms or (b) your liabilities exceed the value of your assets in accordance with generally accepted accounting principles. You shall immediately notify us if you become insolvent before the delivery of Goods. If you become insolvent or otherwise have not performed or complied with any of these Terms, in whole or in part, we may stop delivery of Goods and/or terminate, in whole or in part, every supply agreement between the parties. Upon termination, we shall no longer have any obligation to you under these Terms, but in no event shall termination discharge you of your obligations under these Terms or any supply agreement between the parties.

**13. LIMITATION OF LIABILITY:** IN NO EVENT SHALL WE BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING

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NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL OUR AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED TWO TIMES THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE GOODS SOLD HEREUNDER OR \$100,000, WHICHEVER IS LESS.

**14. WAIVER:** The failure of either party to enforce at any time any of the provisions of these Terms, irrespective of any previous action or proceedings taken by it, shall in no way be considered (a) to waive such provisions, (b) to affect the validity of these Terms, or (c) to preclude or prejudice the parties from exercising the same or any other rights it may have hereunder.

**15. CONFIDENTIAL INFORMATION:** Each party will (a) keep all of the other party's Confidential Information confidential and disclose it only to its employees who need to know such information in order to supply goods to Buyer under a PO and (ii) use the other party's information solely for the purpose of purchasing or supplying Goods. "Confidential Information" means all information provided by a party or its representatives or subcontractors in connection with a PO, including, but not limited to, specifications, programs, goods data, formulas, compositions, patterns, plans, drawings, documents, designs, sketches, photographs, samples, prototypes, manufacturing, packaging, shipping methods, and processes.

**16. FORCE MAJEURE:** No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached these Terms, for any failure or delay in fulfilling or performing any of these Terms, when and to the extent such party's (the "Impacted Party") failure or delay is caused by or results from the following force majeure events ("Force Majeure Event(s)": (a) acts of God; (b) flood, fire, earthquake, epidemic, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or action; or (e) other similar events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within 7 days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.

**17. ASSIGNMENT:** You shall not assign, transfer, delegate or subcontract any of your rights or obligations under these Terms without our prior written consent. Any purported assignment or delegation in violation of this clause shall be null and void.

**18. AMENDMENTS:** No changes to these Terms are binding unless it is in writing and signed by one of our authorized representatives.

**19. RELATIONSHIP OF THE PARTIES:** The relationship between the parties is that of independent contractors. Nothing contained in these Terms shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

**20. GOVERNING LAW; DISPUTE RESOLUTION:** All matters arising out of or relating to these Terms shall be governed by and construed in accordance with the laws of the State of Missouri without giving effect to any choice or conflict of law provision or rule

(whether of the State of Missouri or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Missouri. Any legal suit, action or proceeding arising out of or relating to these Terms shall be instituted in the federal courts of the United States of America or the courts of the State of Missouri in each case located in the City of High Ridge and County of Jefferson, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

**21. CUMULATIVE REMEDIES:** The rights and remedies under these Terms are cumulative and in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.

**22. NOTICES:** All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the relevant Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission), e-mail, or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in these Terms, a Notice is effective only (a) upon receipt by the receiving party, and (b) if the party giving the Notice has complied with the requirements of this clause.

**23. SEVERABILITY:** If any term or provision of these Terms is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of these Terms or invalidate or render unenforceable such term or provision in any other jurisdiction.

**24. SURVIVAL:** Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of these Terms, including, but not limited to, clauses: 7 (SETOFF), 9 (INDEMNIFICATION), 15 (CONFIDENTIAL INFORMATION), 20 (GOVERNING LAW; DISPUTE RESOLUTION).