



2100 Roosevelt Avenue
PO Box 2208
Springfield, MA 01102-2208

TRADE AGREEMENT

This Trade Agreement (“Agreement”) made pursuant to quote number BW05132019 (attached hereto as Exhibit A), is made effective _____ (the “Effective Date”) between Smith & Wesson Corp., having an address of 2100 Roosevelt Ave, Springfield, MA 01104 (“S&W”), and Delray Beach Police Dept., a department of the City of Delray Beach, FL (“DRBPD”), having an address of 300 West Atlantic Ave, Delray Beach, FL 33467, S&W and DRBPD are, each, a “Party” and together, the “Parties” to this Agreement.

NOW, THEREFORE, in consideration of the premises, and the mutual covenants contained herein, the sufficiency of which is acknowledged, and intending to be legally bound thereby, S&W and DRBPD agree as follows:

WHEREAS, DRBPD, further understands that the CONUSA FFL dealer will be chosen by S&W and is a third-party vendor possessing a federal firearms license to transfer and manufacturer firearms. As such S&W will not be held liable for the method in which the used trade pistols are transferred, sold or thereby disposed of by CONUSA FFL or their designees.

1. Shipments:

- a. Delivery shall begin no later than ninety (90) days after DRBPD delivers a final purchase order document.
- b. Delivery terms shall be per Incoterms 2010, FOB Destination. DRBPD, as an Agency, shall pay for firearms and magazines as set forth in 1.d (“Product”), ordered in United States Dollars in accordance with terms of payment established by the Parties.
- c. All new firearms will be deemed accepted, unless DRBPD provides written notice to the contrary within 30 days of delivery.
- d. S&W agrees to deliver to DRBPD:

New Model	Description	Quantity
11518	New in box, M&P 9mm NS 3 mags	183

- e. DRBPD agrees to inventory, box, and ship to CONUSA FFL on behalf of S&W the following items (“Trade Pistols”):

Used Model	Description	Quantity
309701	M&P 1.0 9mm NS 3 mags	170
309704	M&P 1.0 9mm Compact NS 3 mags	13



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f. Upon execution of this Agreement, Quote acceptance and an Order placed by DRBPD, S&W will ship to DRBPD items identified in Section 1.d of this Agreement.

2. **Taxes.** DRBPD is responsible for all sales and other taxes arising from its activities.

3. **Scope & Purpose Of Trade Agreement:**

It is the intent of this Agreement to replace only items listed in Section 1.e of Trade Pistols which are currently in the possession of the DRBPD.

4. **Used/Trade Gun Shipping And Delivery Conditions**

Additionally, DRBPD agrees to email a list of all the serial numbers being shipped to the CONUSA FFL prior to each shipment in Excel format to LEAdmin@smith-wesson.com.

5. **Delivery of Used Guns:** DRBPD shall ship all items listed in Section 1.e of Trade Pistols to the CONUSA FFL within three (3) months of receipt of the first shipment of items listed in Section 1.d of this Agreement. A late charge of five percent (5%) will be deducted from the value of each Trade Pistol that is received by S&W after, this three (3) month deadline. In the event DRBPD has not delivered the full quantity, as listed in Section 1.e of Trade Pistols within this three (3) month deadline, DRBPD will be required to pay for any missing Trade Pistols. DRBPD will package Trade guns in a manner that prevents scratching and marring while being shipped.

6. **Condition of Trade Pistols:** The Trade Pistols shall be in **good working condition**, as determined by S&W or its CONUSA FFL dealer. "Good working condition" is defined as: safe to use, reliable to operate and with all pieces and parts. Each used firearm be shipped with all sights and magazines as set forth in Section 1.e of Trade Pistols. DRBPD will be invoiced by either S&W or CONUSA FFL for any repairs needed to any Trade Pistols, and for any missing pieces or parts required to return any Trade Pistol to good working condition. DRBPD shall pay for all such repairs and parts within thirty (30) days of invoice. S&W shall notify DRBPD of any shortage, missing parts, and/or breakages with thirty (30) days of receipt of the firearms to the CONUSA FFL facility.

7. **Charges For Missing Part & Accessories**

Charges for missing trade parts and accessories will be based upon manufacturer's suggested retail price list. Charges will vary according to type of part or parts needed for repair. Specific charges for certain items are set forth below:

- | | |
|--|----------|
| 1. Missing Trade Pistol | \$417.00 |
| 2. Missing or broken magazines | \$17.00 |
| 3. Additional shipping or labor charges may apply if repairs require pistols to be returned to the manufacturer or to an authorized repair location. | |

8. **Use of New Pistols:** DRBPD agrees that all new pistols, shall be issued for duty use, in due course, upon receipt from S&W. DRBPD shall contact S&W if any new pistols are removed from service for any reason within one (1) year of the delivery date. DRBPD agrees that it shall



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not trade these new pistols for other firearms or use them for any purpose other than duty carry or training, unless specifically agreed to by S&W in writing.

9. Warranty:

If a Product is covered under a Warranty, S&W will provide an express written limited warranty in the packaging with such Product ("Warranty").

TO THE MAXIMUM EXTENT PERMITTED BY LAW, SUCH WARRANTY, IF ANY, IS IN LIEU OF, AND SMITH & WESSON HEREBY DISCLAIMS, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

12. Governing Law:

The Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the Parties agree that jurisdiction and venue for any legal action brought under this Agreement lies exclusively in Palm Beach County, Florida.

DRBPD shall not make any representations or express warranties concerning the Products except those contained, if any, in S&W prepared materials accompanying the Product, including without limitation the Warranty. DRBPD is not authorized to extend or otherwise modify (or permit any vendee to extend or otherwise modify) S&W's warranty with respect to any Product. Any statement or warranty, written or oral, made by DRBPD with respect to a Product that exceeds, modifies or deviates from the applicable warranty, if any, for such Product provided by S&W shall be the sole responsibility of DRBPD unless S&W has given its written authorization for such modification or deviation. S&W shall have no obligation to provide any warranty to Products exported without the express written permission of S&W.

Any terms and conditions appearing on an Agency Letter confirmation, or a subsequent documentation will be deemed void, and such Agency Letter confirmation or subsequent documentation will be used solely for the quantities and delivery dates set forth therein.



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I do hereby acknowledge receipt of these additional terms and conditions and agree that they form part of the Quote referenced above.

for Delray Beach Police Dept.:

Signature: _____

Print Name: _____

Print Title: _____

Date Signed: _____

for **Smith & Wesson Corp.:**

Signature: _____

Print Name: _____

Print Title: _____

Date Signed: _____

CITY OF DELRAY BEACH

Neal de Jesus, Interim City Manager

Date

Attest:

Katerri Johnson, City Clerk

Approved as to form and
legal sufficiency:

Lynn Gelin, City Attorney



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Exhibit A