1. **Applicability**.
   1. These terms and conditions of sale (these “Terms”) are the only terms that govern the sale of the goods (“Goods”) by A Lava & Son, LLC., and its affiliate SBL, LLC (“LAVA”), to the individual or entity purchasing Goods (“Customer”). The purchase order(s) placed by Customer relating to the Goods (the “Order”), the accompanying quotation or invoice provided by LAVA (the “Invoice”) credit application (the “Credit Application”) and these Terms (collectively, this “Agreement”) comprise the entire agreement between the parties and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms are hereby incorporated into all agreements between LAVA and Customer.
   2. Customer acknowledges and agrees that these Terms are incorporated in, and are a part of, each Credit Application, quotation, Order, service order, Invoice, release, requisition, work order, shipping instruction, specification, and/or any other document, whether expressed verbally, in written form, or electronic communication, relating to the Goods. Notwithstanding anything to the contrary (whether in an Order or otherwise), these Terms shall prevail and govern over any other terms and conditions related to the Goods, that may be proposed by Customer, or that appear on or are referenced in any Order, release, facsimile, email, correspondence, acknowledgement, or other document or communication, even though such additional or different terms and conditions are issued subsequent to the date of the Agreement. Fulfillment of Customer’s Order does not constitute acceptance of any of Customer’s terms and conditions and does not serve to modify or amend these Terms.
2. **Orders**.
   1. Customer shall issue all Orders to LAVA in written form via email, U.S. mail, or approved web-based ordering. By placing an Order, Customer makes an offer to purchase Goods under the commercial terms listed in the Order and these Terms. Each Order shall contain: (i) the listed Goods to be purchased; (ii) the quantities ordered; and (iii) the requested delivery date.
   2. LAVA may, in its sole discretion, accept or reject any Order. LAVA may accept any Order by confirming acceptance of the Order in writing (whether by written confirmation or delivery of an Invoice) or by delivering the Goods, whichever occurs first. No Order is binding on LAVA unless accepted by LAVA as expressly provided herein.
   3. LAVA may, in its sole discretion, without liability or penalty, cancel any Order placed by Customer and accepted by LAVA, in whole or in part, at any time, including without limitation: (i) if LAVA discontinues its sale of Goods or reduces or allocates its inventory of Goods; (ii) if LAVA determines that Customer is in violation of its payment obligations under or has breached or is in breach of the Agreement.
   4. Customer shall have the right to cancel an Order within forty-eight (48) hours after placing such Order (or such longer period as required by applicable law) by delivering written notice of such cancellation to LAVA in accordance with Section 21 of these Terms.
3. **Change Orders**.
   1. Customer may request changes to the Goods provided by LAVA by submitting a written request to LAVA referencing the applicable Order and setting forth in detail the requested changes to the Goods. LAVA reserves the right to reject such request in its sole discretion. LAVA shall not be required to institute any Customer-dictated change until the parties have agreed to an equitable adjustment to the price and/or delivery date. In the event that such request is approved by LAVA, the change to the Goods shall be documented in a written change order signed on behalf of both parties. LAVA may charge, and Customer shall pay, for the time it spends assessing and documenting a change request from Customer on a time and materials basis.
   2. Notwithstanding anything to the contrary contained in the Agreement or otherwise, LAVA may, in its sole discretion and from time to time, add, remove, or change the Goods without the consent of Customer. Prices for Goods reflected in any publication including, but not limited to, LAVA’s marketing materials and websites, are subject to change by LAVA in its sole discretion without notice to Customer.
4. **Shipment and Delivery; Risk of Loss; Inspection**.
   1. The Goods will be delivered within a reasonable time after the receipt of Customer's Order, subject to availability of finished Goods. If required, LAVA shall select the method of shipment of and the carrier for the GoodsLAVA may, in its sole discretion, without liability or penalty, make partial shipments of Goods, each of which constitutes a separate sale and Customer shall pay for the units shipped. Any time quoted for delivery is an estimate only. All sales are final once shipped.
   2. Risk of loss passes to Customer upon delivery of the Goods to the carrier, and LAVA shall not be liable for any delays, loss, or damage in transit. Title shall pass to Customer upon payment in full of the purchase price of the Goods. As collateral security for the payment of the purchase price of the Goods, Customer hereby grants to LAVA a lien on and security interest in and to all of the right, title, and interest in, to, and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Illinois Uniform Commercial Code.
   3. Customer shall immediately inspect Goods received under the Agreement. On the fifth (5th) day after delivery of the Goods, Customer shall be deemed to have accepted the Goods unless it earlier notifies LAVA in writing and furnishes written evidence or other documentation as required by LAVA that the Goods: (i) are damaged or defective; or (ii) were delivered to Customer as a result of LAVA’s error. If Customer properly notifies LAVA pursuant to this Section 4, then LAVA shall determine, in its sole discretion, whether to repair or replace the Goods or refund the price for the Goods.. If LAVA exercises its option to replace the Goods, LAVA shall, after receiving Customer’s shipment of the Goods under this provision, ship to Customer, at Customer’s expense and risk of loss, the replacement Goods. Except as provided under this Section 4 and Section 11, all sales of Goods to Customer under the Agreement are made on a one-way basis and, except where prohibited by law, Customer has no other right to return Goods purchased under the Agreement.
5. **Fees; Payment Terms**. 
   1. In consideration of the delivery of Goods by LAVA and the rights granted to Customer under the Agreement, Customer shall pay the fees set forth in the Invoice.
   2. Except as otherwise expressly set forth in the applicable Invoice, Customer shall pay all invoiced amounts due to LAVA within ten (10) days from the Invoice date. Customer shall make all payments hereunder in immediately available funds in US dollars by check, wire transfer, or automated clearing house. In the event payments are not received by LAVA by the applicable due date, LAVA may: (i) charge interest on such unpaid amounts at a rate of 1% per month or, if lower, the maximum amount permitted under applicable law from the date such payment was due until the date paid, and/or (ii) suspend delivery of all Goods until payment has been made in full. Customer will pay all court costs, attorneys’ fees, and other costs and expenses incurred by LAVA in collecting past due amounts, including interest. Customer shall not withhold payment of any amounts due and payable by reason of any setoff of any claim or dispute with LAVA, whether relating to LAVA’s breach, bankruptcy, or otherwise.
6. **Taxes**. Customer shall be responsible for all sales, use, and excise taxes and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by Customer hereunder.
7. **Customer’s Obligations**. Customer shall: (a) cooperate with LAVA in all matters relating to the Goods and provide access to Customer’s premises, and such other facilities as may reasonably be requested by LAVA, including for the purposes of delivering the Goods; (b) respond promptly to any LAVA request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for LAVA to deliver or inspect the Goods; (c) provide such Customer materials and information as LAVA may request to deliver the Goods in a timely manner and ensure that such Customer materials and information are complete and accurate; and (d) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Goods.
8. **Customer’s Acts or Omissions**. If LAVA’s performance of its obligations under the Agreement is prevented or delayed by any act or omission of Customer (or any of its agents, subcontractors, consultants, or employees, if applicable), LAVA shall not be deemed in breach of its obligations under the Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay.
9. **Intellectual Property**. All intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), U.S. and foreign trademarks, service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, brand names, corporate names, and domain names, together with all of the goodwill associated therewith, derivative works and all other rights, in each case whether registered or unregistered including all registrations and applications for, and renewals or extensions of, these rights and all similar or equivalent rights or forms of protection in any part of the world (all of the foregoing, collectively, “Intellectual Property Rights”) in and to all documents, work product, and other materials that are delivered to Customer under the Agreement or prepared by or on behalf of LAVA in the course of delivering the Goods (collectively, the “Deliverables”) shall be owned by LAVA.
10. **Confidential Information**. All non-public, confidential, or proprietary information of LAVA, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, trade secrets, technology, and information pertaining to business operations and strategies (collectively, “Confidential Information”), disclosed by LAVA to Customer, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as “confidential,” in connection with the delivery of Goods and the Agreement is confidential and shall not be disclosed or copied by Customer without the prior written consent of LAVA. Confidential Information does not include information that is: (a) in the public domain other than as a result of the Customer’s breach of this section; (b) known to Customer at the time of disclosure, as established by documentary evidence; or (c) rightfully obtained by Customer on a non-confidential basis from a third party that was not prohibited from disclosing such information. Customer agrees to use the Confidential Information only to make reasonable use of the Goods and Deliverables. LAVA shall be entitled to injunctive relief for any violation of this section.
11. **Limited Warranty; Disclaimer**.
    1. LAVA assigns to Customer, to the extent assignable, any warranties that are made by manufacturers and suppliers other than LAVA of the Goods. LAVA warrants for one-year that the Goods are free in all material respects from defects in material and workmanship under normal use; provided, however, that the foregoing warranty does not include, and expressly does not cover, any (y) labor or installation, repair, replacement, or maintenance services, materials, or goods or (z) materials or goods made by manufacturers or suppliers other than LAVA which are incorporated into the Goods. The term for such warranties shall begin upon the Customer’s receipt of the Goods. Customer shall promptly notify LAVA of any known warranty claims and shall cooperate in the investigation of such claims. If any Good is proven to not conform with this warranty during the applicable warranty period, LAVA shall, at its exclusive option, either (A) repair or replace the Goods or (B) refund the purchase price paid by Customer for each non-conforming Good. Notwithstanding anything to the contrary herein, LAVA reserves the right to dispute any claims for breach of warranty.
    2. LAVA shall have no obligation or liability under the warranty set forth above (i) if Customer (A) fails to promptly notify LAVA in writing during the warranty period of a non-conformity, (B) uses, misuses, or neglects the Goods in a manner inconsistent with the Goods’ specifications or use or maintenance directions, or (C) modifies the Goods or improperly installs, handles, or maintains the Goods; and/or (ii) for normal wear and tear.
    3. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 11, NEITHER LAVA NOR ANY PERSON ON LAVA’S BEHALF HAS MADE OR MAKES ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY WARRANTIES OF (I) MERCHANTABILITY, (II) FITNESS FOR A PARTICULAR PURPOSE, (III) TITLE, OR (IV) NON-INFRINGEMENT, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. CUSTOMER ACKNOWLEDGES AND AGREES THAT IT HAS NOT RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY LAVA OR ANY OTHER PERSON ON LAVA’S BEHALF.
    4. THE REMEDIES SET FORTH IN THIS SECTION 11 ARE CUSTOMER’S SOLE AND EXCLUSIVE REMEDY AND LAVA’S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN THIS SECTION 11.
    5. Products manufactured by a third party (“Third Party Product”) may constitute, contain, be contained in, incorporated into, attached to, or packaged together with the Goods. Third Party Products are not covered by the warranty in this Section 11. FOR THE AVOIDANCE OF DOUBT, LAVA MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT.
12. **Limitation of Liability**. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL LAVA OR ANY LAVA REPRESENTATIVE, UNDER ANY CIRCUMSTANCES, BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, LOSS OF DATA, DIMINUTION IN VALUE, LOST PROFITS OR BUSINESS OPPORTUNITIES, OR INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, ENHANCED, OR EXEMPLARY DAMAGES, LOSSES, COSTS, OR EXPENSES WHATSOEVER, OR FOR COSTS OF COVER OR ATTORNEY OR EXPERT WITNESS FEES, REGARDLESS OF WHETHER ANY OF THE FOREGOING WERE FORESEEABLE, WHETHER LAVA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND/OR WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL LAVA’S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT, OR OTHERWISE, EXCEED THE AGGREGATE AMOUNT PAID OR PAYABLE TO LAVA BY CUSTOMER PURSUANT TO THE APPLICABLE INVOICE. THIS SECTION 12 EXPRESSLY SURVIVES ANY EXPIRATION OR TERMINATION OF THE AGREEMENT.
13. **Indemnification**. Customer shall indemnify, defend, and hold harmless LAVA and its officers, directors, managers, shareholders, members, partners, employees, agents, affiliates, successors, and permitted assigns (collectively, "Indemnified Party") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, fees and the costs of enforcing any right to indemnification under the Agreement, and the cost of pursuing any insurance providers, resulting from any claim of a third party arising out of or occurring in connection with the Goods or Customer's negligence, willful misconduct, or breach of the Agreement. Customer shall not enter into any settlement without LAVA’s or Indemnified Party's prior written consent.
14. **Waiver**. No waiver by LAVA of any of the provisions of the Agreement is effective unless explicitly set forth in writing and signed by LAVA. No failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising under the Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
15. **Force Majeure**. LAVA shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached the Agreement, for any failure or delay in fulfilling or performing any term of the Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of LAVA, including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, pandemic (including COVID-19 and any variants), lock-outs, strikes or other labor disputes, restraints or delays affecting carriers, inability or delay in obtaining supplies or materials, or telecommunication breakdown or power outage.
16. **Assignment**. Customer shall not assign any of its rights or delegate any of its obligations under the Agreement without the prior written consent of LAVA. Any purported assignment or delegation in violation of this section is null and void. No assignment or delegation relieves Customer of any of its obligations under the Agreement. LAVA may, without Customer’s consent, delegate, assign, or subcontract any or all of its duties, rights, or obligations under the Agreement.
17. **Relationship of the Parties**. Nothing contained in the Agreement 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.
18. **No Third-Party Beneficiaries**. The Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of these Terms.
19. **Governing Law**. All matters arising out of or relating to the Agreement are governed by and shall be construed in accordance with the internal laws of the State of Illinois, without giving effect to any choice or conflict of law provision or rule (whether of the state where the Goods were delivered or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Illinois.
20. **Submission to Jurisdiction**. Any legal suit, action, or proceeding arising out of or relating to the Agreement shall be instituted only in the federal and state courts of the State of Illinois. Customer irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.
21. **WAIVER OF JURY TRIAL**. CUSTOMER ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THE AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT CUSTOMER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THE AGREEMENT OR THE GOODS.
22. **Notices**. All notices, requests, 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 in the Invoice 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), or certified or registered mail (in each case, return receipt requested, postage prepaid). All Notices shall be deemed to have been given (a) when delivered in person, (b) on the day following delivery if sent by a nationally recognized overnight courier, or (c) on the fifth day after the date mailed by certified or registered mail, return receipt requested, postage prepaid.
23. **Severability**. If any term or provision of the Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of the Agreement 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 the Agreement, including, but not limited to, the following provisions: Intellectual Property, Confidential Information, Limitation of Liability, Indemnification, Governing Law, Submission to Jurisdiction, WAIVER OF JURY TRIAL, and Survival.
25. **Amendment**. These Terms may be unilaterally amended or modified by LAVA at any time. Any such amended or modified version of these Terms shall become effective for all Orders placed after such amended or modified Terms on the earlier of (a) notice to Customer or (b) posting to LAVA’s website.

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