

# LM FLOORING TERMS AND CONDITIONS OF SALE AND DISTRIBUTION

These are the standard terms and conditions on which J. Michael & Company, LLC, dba LM Flooring (“LM”) will sell and distribute its Products to each authorized LM distributor (“Distributor”). Unless LM otherwise agrees in writing, or a written Distribution Agreement executed by both Distributor and LM is in place, these terms and conditions apply to all sales of LM products for resale in the United States. Any terms or conditions now or hereafter proposed by Distributor that are inconsistent with or in addition to the terms and conditions set forth herein are expressly rejected by LM and shall be void and of no effect, unless agreed to in writing by LM.

- Sale of Products.** LM appoints Distributor as an authorized wholesale distributor of certain designated LM products (“Products”) within the Territory defined below subject to these Terms and Conditions and any policies, documents and information set forth on the Distributor Resource Library (“Distributor Portal”) (“Terms and Conditions” shall mean these “Terms and Conditions of Sale and Distribution,” and all policies, documents and materials applicable to Distributor set forth on the Distributor Portal that govern the terms under which LM has agreed to sell Products to Distributor for resale). LM reserves the right to change, limit the distribution of, or discontinue Products from time to time and without liability to Distributor upon prior notice to Distributor. LM also reserves the right to sell Products on a direct basis to national, multi-regional, strategic accounts and liquidators throughout the United States and Canada. Distributor is not authorized to sell the Products to retailers that have been terminated by LM as an Authorized Retailer after notice of such by LM.
- Territory.** Except as otherwise authorized by LM in writing, Distributor is authorized to sell and distribute the designated Products (including will call or pick-up sales) only to accounts whose billing and shipping locations are in the territory assigned to Distributor by LM as defined at the time of the sale of Products (“Territory”). In the event Distributor sells or distributes Products in violation of this Section, without prejudice to any other rights or remedies it may have, LM may (1) bill back to Distributor any discount given by LM on the Products involved; (2) suspend any or all current or future discounts or rebate programs; or (3) terminate Distributor’s appointment as an authorized distributor in whole or in part.
- Prices and Conditions of Sale.** LM will sell Products to Distributor at the published list prices set by LM in effect at the time of shipment by Distributor. The current price lists for the Products will be set forth on the Distributor Portal. Any exceptions to LM’s current list prices must be agreed to in writing by LM and shall be subject to any Basis of Sale Policies applicable to such pricing. All Product sales are subject to continuing credit approval and the terms and conditions of the applicable LM sales and distribution policies in effect at the time of purchase by Distributor. LM credit, sales and distribution policies, including but not limited to any LM Policies and Procedures, and LM’s Minimum Internet Pricing Policy, will be posted by LM on the Distributor Portal. Prices, credit terms, payment terms, discounts, sales and distribution policies and terms and conditions of sale may be changed from time to time at LM’s discretion upon written notice to Distributor. LM may allocate production and deliveries of Products in its reasonable discretion.
- Best Efforts.** Distributor will use its best efforts to promote, sell and service all Products within its Territory and promote the goodwill associated therewith, including administration of claims related to the Products. Distributor shall also use its commercially reasonable efforts to resolve claims with respect to the Products within thirty (30) days. LM will assist Distributor with the resolution of claims which LM determines in its sole discretion are attributable to manufacturing defects.

5. **Adequate Sales, Inventory, Ship and Delivery Services.** Distributor will maintain an appropriate level of inventory of Products that Distributor sells to support their Territory. In addition, Distributor will maintain sufficiently trained personnel, including sales managers, sales representatives and customer service representatives to promote, sell, deliver and service Products within the Territory. Distributor will also provide sales, marketing and logistics services to its customers of Products within the Territory.
6. **Freight; Orders; Delivery.** Unless otherwise agreed in writing or as set forth by LM on the Distributor Portal, all Products will be invoiced to Distributor as set forth on the PO. either F.O.B. LM's plant/distribution center freight paid to destination or F.O.B. LM's plant/distribution center point of shipment, at LM's discretion. Unless otherwise agreed, Products shipped from outside North America are delivered duty paid direct to Distributor with title of goods transferring to Distributor at the port of origin. LM will insure all Products during transit and will assume risk of damage and loss until Products are delivered. For such Products shipped from outside of North America, LM will accept from Distributor only firm orders to which definite delivery schedules apply, and all such accepted orders cannot be cancelled. No order placed with LM will be considered as accepted until acknowledged as accepted in writing by LM. LM will use reasonable efforts to meet but does not warrant delivery dates requested by Distributor. LM will not be liable in the event of early or late delivery. Any dates specified by LM for delivery of Products are intended to be an estimate only and the time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
7. **Damages, Shortages, Defects and Returns.** Distributor shall inspect all Products upon delivery and shall notify LM in accordance with the Policies and Procedures of any shortage, damage or defects. Product returns must be made in accordance with LM's Policies and Procedures set forth on the Distributor Portal.
8. **Payment Terms.** Payment terms for the Products shall be agreed to between LM and Distributor. Time for payment shall be of the essence. Any applicable cash and early payment discounts shall be agreed to between LM and Distributor and shall be set forth on the invoice and calculated from the invoice date and the invoice date is the date of shipment unless otherwise noted. No payment shall be deemed to have been received until LM has received cleared funds. In the event of late payment Distributor will be automatically in default without a notice of default being required and a charge of 1.5% per month may be added to any invoice not paid within the applicable terms. In addition, Distributor agrees to reimburse LM for all costs, including reasonable attorneys' fees, incurred in the collection of any overdue amount. If Distributor fails to make a payment on the due date or LM has good reason to believe that Distributor will not or will not be able to fulfill its obligations under the Terms and Conditions, then, without prejudice to any of LM's other rights, LM may suspend or cancel deliveries of any Products due to Distributor until payment in full is received or satisfactory assurances are given.
9. **Records and Reports.** Distributor will maintain active customer files reflecting all information pertinent to each sale and shall transmit electronically to LM not less than monthly, reports of all shipments of Products. Reports concerning Products will show the order date, dollar amount, date of shipment, the name and address of the purchaser, the destination of the shipment, the pattern numbers and the number of units shipped or such other information as may be required by LM. This information must be accurate and complete and have been verified by the Distributor's internal sales records. To the extent reasonably accessible utilizing Distributor's systems, Distributor will maintain detailed inventory data (electronic only) with respect to Products and shall transmit such Product inventory data to LM on not less than a monthly basis.
10. **Trademarks.** Distributor acknowledges that LM is the owner or licensee of all LM trademarks ("Trademarks"). Distributor will not contest their ownership or validity and agrees that it will not use the Trademarks as part of any incorporated or registered business name, Internet domain name or trademark. Any goodwill established in the Trademarks by Distributor's use of them will inure exclusively to LM. Distributor will not use the Trademarks except in accordance with these Terms and Conditions, any LM Tagline Guidelines, and any policies or procedures located on the Distributor Portal and any such use shall

be made only in a manner that is reasonably designed to protect, preserve and promote the goodwill of LM in the Trademarks. LM shall have the right to review and approve all uses of the Trademarks by the Distributor. Distributor shall immediately discontinue use of the Trademarks if Distributor is no longer an authorized LM distributor and shall immediately remove the Trademarks from its locations, trucks, stationery, business cards, advertisements, and any other materials used in Distributor's business, except as otherwise directed by LM.

11. **Confidentiality.** In connection with its appointment and service as an authorized Distributor, each of Distributor and LM may from time to time provide the other with confidential information. Each of LM and Distributor shall treat all of such information as though it were its own, and shall not disclose such information to any third party, including, but not limited to, the news media or industry analysts. Confidential information shall only be used in connection with performance under these Terms and Conditions. Each of LM's or Distributor's confidential information may include any non-public knowledge, information and materials relating to such Party, its products, sales, customers employees and business, including but not limited to, financial statements, projections, pricing, sales, promotions or product specification data (whether written or electronic), or the results of any mediation or private adjudication, as well as information on such Party's plans for expansion, distribution, marketing and product development. The Parties agree that these Terms and Conditions protect special and unique information such that in the event of breach, the harmed party is entitled to seek full relief available at law and in equity, including, but not limited to, money damages, specific performance, and/or injunctive relief. All right, title and interest to Confidential Information are and shall remain the property of the Party disclosing such information. The foregoing obligations shall survive indefinitely. If a "Confidentiality Agreement" is executed under separate cover, it shall be incorporated herein by reference as if set forth at length.
12. **Non-Agent.** Distributor is a contractor to LM and is not an agent of, and is not in an employment relationship nor a joint venture with LM. Distributor is not authorized to act for, incur debt for or make any representations or warranties on behalf of LM. Distributor shall not represent itself to the public as an agent or representative of LM. Distributor shall be solely responsible for any representations or warranties that are not authorized by LM in writing or stated in LM's promotional materials.
13. **Mutual Indemnification.** Each Party shall hold the other harmless and shall indemnify the other from and against all demands, losses, costs, damages, suits, judgments, penalties, expenses and liabilities of any kind incurred by the non-indemnifying Party in connection with any third party claims to the extent arising out of and attributable to the indemnifying Party's performance under these Terms & Conditions, and/or the negligence or misconduct of its employees, including but not limited to claims incurred in connection with its ownership, leasehold or operation of its manufacturing or distribution locations and other operations; provided however, that in no event shall either Party be liable to the other for any punitive, indirect, special or consequential damages.
14. **Insurance.** Distributor shall maintain worker's compensation insurance as required by law, and commercial general liability and automobile insurance policies with limits of not less than \$2,000,000 per occurrence with a \$5,000,000 general aggregate insuring Distributor against any loss, claim, liability or suit for bodily injury, death, personal injury or property damage. Distributor can meet the required limits through a combination of primary and excess liability policies. The policies shall name LM as an additional insured and shall be issued by a company or companies licensed to do business in the states in which Distributor conducts business, having a rating of "A" or better (Excellent) by A.M. Best Company. Upon LM's request, Distributor shall provide LM with a certificate evidencing this insurance and will provide LM with copies of its insurance policies evidencing this insurance. The insurance required herein shall be maintained at all times. However, Distributor shall have the right to change insurers for business reasons, upon reasonable notice to LM.

15. **Assignment.** These Terms and Conditions are specific to Distributor and are not assignable or otherwise transferable in whole or part by operation of law or otherwise by Distributor without the written consent of LM. “Assignment” or “transfer” with respect to Distributor shall be deemed to include any change in ownership in excess of fifty percent (50%) of Distributor’s stockholdings, whether in connection with a merger, sale, series of transactions or otherwise. Notwithstanding the foregoing, intra-familial transfers by and among Distributor stockholders shall not be deemed to be an “assignment” or “transfer” for purposes of this paragraph. LM may assign this Terms and Conditions in connection with a separation of its business.
16. **Force Majeure.** Neither party shall be liable for delays or defaults due to acts of God, acts of governmental authority, inability to obtain raw materials at competitive prices, shortages (and any resulting allocation, regardless of whether in control of LM), acts of public enemy, war, riots, sabotage, fires, floods, epidemics, pandemics, labor disputes, freight embargoes, or other causes or contingencies beyond the affected Party’s control. In case of such excusable delay or default, either party shall have the right to cancel any order, and neither party shall be liable to the other for cancellation. When either party has knowledge or any actual or potential delay in timely performance for any reason, that party shall immediately notify the other party in writing of such delay.
17. **Waiver.** A waiver of any breach of the Terms and Conditions shall not be construed as a waiver of other breaches. The acceptance of any order by LM after the termination of Distributor as an authorized distributor shall not be construed as a renewal or extension of the distributorship nor a waiver of its termination.
18. **Choice of Law.** These Terms and Conditions are made and entered into in the Commonwealth of Pennsylvania and shall be governed by the laws of the Commonwealth of Pennsylvania without consideration of any principles governing conflicts of law that might cause the laws of another jurisdiction to apply.
19. **Compliance.** Distributor shall be responsible for compliance with any and all applicable federal, state and local laws, including without limitation, laws relating to safety, consumer protection, anti-bribery, anti-corruption, equal employment opportunity, minority and women or disadvantaged business enterprises and environmental or hazardous substances. Distributor also agrees to abide by AHF Products’ Code of Business Conduct, a copy of which can be found at [www.ahfproducts.com](http://www.ahfproducts.com), to the fullest extent applicable.