

# Hacker German Kitchen Furniture East, Inc.

## SPECIAL TERMS AND CONDITIONS

### PREAMBLE:

The basis of a lasting business relationship is not the general terms and conditions, but rather committed co-operation and mutual trust. Nevertheless, we cannot avoid regulating certain points below in our Special Terms and Conditions differently or in addition to the legal provisions, for all transactions with our Purchasers.

**NOTICE TO PURCHASER:** Haecker German Kitchen Furniture East, Inc. (“**Seller**”) requires, and Purchaser (hereinafter “**Purchaser**”) has agreed, that the following Special Terms and Conditions will apply to Seller’s supply and delivery of kitchen furniture and services to Purchaser under this Confirmation and will supersede any inconsistent terms and conditions elsewhere in the Confirmation or in any Purchaser sales or order document and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral.

### I. Offer and Acceptance

A. Purchaser agrees that Seller’s quotation/confirmation constitutes an offer for the sale (the “**Offer**”) of goods (the “**Goods**”) or services (the “**Services**”). Unless otherwise specified in the Offer, or some other document signed by Seller, the terms and conditions set forth in this document (“**Seller’s Terms**”) apply to all Goods and Services sold or provided by Seller.

B. Purchaser acknowledges that any purchase order or other form of acceptance issued by Purchaser shall result in a contract for the purchase of the Goods or Services at the price quoted in the Offer. Purchaser shall be deemed to have accepted any of Seller’s Terms to which Purchaser has not specifically objected. Purchaser’s issuance of a purchase order which purports to reject some or all of Seller’s Terms by virtue of standard form language shall not be sufficient objection. Purchaser shall be required to set forth each objection to Seller’s Terms in a separate writing signed and dated by Purchaser and delivered to Seller prior to or contemporaneous with Purchaser’s purchase order or other form of acceptance. Seller’s failure to object to provisions in any purchase order, or other communication from Purchaser (including, without limitation, penalty clauses of any kind), shall not be a waiver of Seller’s Terms, nor an acceptance by Seller of any such provisions. Any terms in Purchaser’s purchase order or any other document of acceptance which are different from or additional to Seller’s Terms are hereby rejected unless specifically accepted by Seller in a separate document signed by both Purchaser and Seller, regardless of whether such other terms would materially alter the terms hereof and whether or when Purchaser has submitted its purchase order or such terms. Fulfillment of Purchaser’s order or delivery of any of Seller’s Goods does not constitute acceptance of any of Purchaser’s terms and conditions and does not serve to modify or amend Seller’s Terms. No course of dealing, custom or usage, which is contrary to Seller’s Terms shall apply.

C. Seller reserves the right to correct any typographical or clerical errors in prices, specifications, quotations, confirmations, or acknowledgments.

### II. Goods or Services Subject to Sale

The Goods subject to this sale shall be limited to those described in the Offer. Seller reserves the right to modify, improve or discontinue Goods, or to change specifications at any time without notice. Unless explicitly stated by Seller in writing all drawings, specification, blueprints,

measurements, manuals, and other material furnished as applicable to Purchaser by Seller hereunder are subject to modification and are not binding. If Purchaser is a government entity, Purchaser acknowledges that the Goods are commercial items and that except as required by law, government accounting and procurement principles do not apply.

### III. Financial Condition

At Seller’s request, Purchaser will furnish sufficient information to enable Seller to assess Purchaser’s creditworthiness, including preparation of Seller’s credit application. Seller may, in its discretion, require letters of credit, full or partial payment in advance, or other forms of security.

### IV. Prices, Shipment; Delivery and Inspection

A. Prices are based on U.S. dollars and are FCA per INCOTERMS 2020 at Werkstraße 3, 32289 Rödinghausen, Germany. Prices do not include freight or delivery charges or taxes (sales, excise, use, ad valorem, etc.) or any export or import duties. Those charges may be prepaid by Seller and Purchaser agrees to pay any such charges that are added to Purchaser’s invoice.

B. Seller shall select the method and carrier for delivery of all Goods. Title and risk of loss or damage to the Goods shall pass from Seller to Purchaser upon delivery to a carrier at point of shipment.

C. Any shipment, delivery, or performance date stated in the Offer or other contract document is approximate only and does not constitute any guarantee of shipment, delivery, or performance on any particular date.

D. The quantity of any installment of Goods as recorded by Seller on dispatch from Seller’s place of business is conclusive evidence of the quantity received by Purchaser on delivery unless Purchaser can provide conclusive evidence proving the contrary. Seller shall not be liable for any non-delivery of Goods (even if caused by Seller’s negligence) unless Purchaser gives written notice to Seller of the non-delivery within five days of the date when the Goods would in the ordinary course of events have been received. Any liability of Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered. Purchaser acknowledges and agrees that the remedies set forth in Section IV, D. are Purchaser’s exclusive remedies for any non-delivery of Goods.

E. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Purchaser. Each shipment will constitute a separate sale, and Purchaser shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Purchaser’s purchase order.

F. Time shall not be of the essence of this agreement.

### V. Payments, Title and Security Interest

A. All payments shall be made in United States currency. All payments shall be without deductions for back-charges, other accounts between Seller and Purchaser, and the like, which shall be settled independently of the payment of the invoice. Payment shall not prejudice claims on account of omissions or shortages in shipment, but no such claim will be allowed unless made within 96 hours after receipt of the applicable shipment by Purchaser.

B. The payments are due and have to be made in the manner evident from the order confirmation.

C. Should Purchaser delay payment beyond the date it is due, interest may be charged on the unpaid balance at the rate of one and one-half

percent (1-1/2%) per month or the maximum rate permitted by law, whichever is less.

D. Seller's representatives or sales agents are not entitled to collect payment, unless they are authorized with an identification card issued by the Seller specifically for the purpose to collect payment.

E. Where the due date for payment specified in the order confirmation has passed, default occurs without prior warning.

F. Notwithstanding that title and risk of loss pass to Purchaser upon shipment, Purchaser hereby grants a security interest in all Goods to secure Purchaser's payment in full. Purchaser authorizes Seller at any time and from time to time to file in any filing office in any Uniform Commercial Code jurisdiction financing statements and amendments naming Purchaser as debtor and describing the Goods as collateral and to give any notices necessary to perfect such security interest or establish the priority thereof.

## VI. Delays and Changes

A. Seller shall not be liable for loss, damages, or non-performance resulting from delays in receipt of final specifications or instructions from Purchaser, changes in specifications, force majeure, including but not limited to strikes, labor disturbances, material shortages, non-manufacturing conditions, delays or failures of carriers, communication breakdown or power outage, epidemics, fire, flood, earthquake, explosion, storms, accident, riot, acts of terrorism, war and invasion or hostility (whether war is declared or not), or other civil unrest, national emergency, governmental requisition or priorities, acts of God, or other causes beyond Seller's reasonable control.

B. In such event, the delivery date shall be extended for a period equal to the time lost by reason thereof, or Seller at its option may cancel the delivery and refund any amounts paid by Purchaser, as Purchaser's sole and exclusive remedy. Seller shall undertake to notify Purchaser promptly of any significant delay and will specify the revised delivery date as soon as practical. **IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, LOST PROFITS OR BUSINESS OPPORTUNITY, OR SPECIAL DAMAGES ARISING OUT OF A DELAY IN, CANCELLATION OF, OR FAILURE TO DELIVER OR MANUFACTURE.**

C. If shipment is delayed or extended by Purchaser, Purchaser shall arrange for and notify Seller of the place or places to which Seller shall ship the Goods covered by the order for warehousing or storage at Purchaser's expense and all risk of loss or damage to the Goods or Services shall be borne by Purchaser. If Purchaser is unwilling or unable to promptly arrange for warehousing or storage facility, Seller may do so at Purchaser's expense. Purchaser hereby agrees to pay any and all related costs and expenses including, without limitation, storage and insurance as reflected on Seller's invoice.

D. After Purchaser accepts Offer, Purchaser shall not be entitled to request any changes, unless Seller allows Purchaser to request changes in the accompanying Confirmation. All change orders must be accepted and approved by Seller. Change orders may result in delays in shipping and/or installation.

## VII. Cancellation

Goods are custom-made. Purchaser shall not be entitled to cancellation after any purchase order or other form of acceptance was issued by Purchaser.

## VIII. Warranty and Disclaimers

A. Seller's sole warranties with respect to the Goods and Services are the following:

(i) the Goods comply with Seller's specifications in Seller's sales manual in effect as of the date of shipment ("**Seller's Specifications**") and that for a period of 5 years from the date of shipment Goods will be free from defects in material and workmanship; and

(ii) Seller will convey to Purchaser title to all Goods upon delivery to Purchaser in accordance with Seller's Terms and warrants that the Goods is not subject to any encumbrances, liens, security interests or other defects in title, as of the date of such delivery, except to the extent created by Purchaser.

Seller's warranties do not apply to the following: damage resulting from unauthorized installation, accident, fire, flood, pest infestations, casualty, alteration, misuse, failure to follow Seller's written instructions or failure to use the Goods in accordance with Seller's Specifications; damage that occurs in shipment, delivery and installation; cosmetic damages including scratches, dents, chips, and other damage to the Good's finishes; damage to fragile parts such as glass and light bulbs; damage to plastic or parts made of plastic; damage caused by ordinary wear and tear and water damage. No other express warranty is made with respect to the Goods or Services. If any model or sample was shown to Purchaser, such model or sample was used merely to illustrate the general type and quality of the Goods and not to represent that the Goods would necessarily conform to the model or sample in all respects. Goods are industrially manufactured. Small deviations in dimensions, color and finishes or surfaces are unavoidable. **ENTIRE WARRANTY: SELLER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, AND SELLER EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, AND ALL OTHER WARRANTIES ARE HEREBY EXPRESSLY EXCLUDED. SELLER SHALL HAVE NO OTHER LIABILITY, DIRECT OR INDIRECT, OF ANY KIND, INCLUDING LIABILITY FOR SPECIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OR LOST PROFITS, LOST REVENUE OR OPERATING TIME, OR COST OF SUBSTITUTE GOODS. SELLER HAS NO LIABILITY FOR ANY FAILURE OF THE GOODS OR SERVICES TO MEET THE BUSINESS EXPECTATIONS OF PURCHASER. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SELLER DISCLAIMS ANY AND ALL WARRANTIES AND REMEDIES, WHETHER STATUTORY, EXPRESS OR IMPLIED, FOR OR WITH RESPECT TO THIRD PARTY PARTS OR SOFTWARE AND DISCLAIMS ANY LIABILITY FOR ANY THIRD-PARTY INFRINGEMENT CLAIMS WITH RESPECT TO ANY SUCH PARTS OR SOFTWARE.**

B. Purchaser agrees that its sole and exclusive remedy for breach of the foregoing warranties shall be the repair or replacement and reinstallation of defective parts, (with the exception that Purchaser shall be responsible for cost of repair or replacement under aforementioned excluded circumstances listed in Section VIII.A.) or, at Seller's option in Seller's sole discretion, to refund the purchase price or, with respect to the warranty as to title in Section VIII.A.(ii), to defend and obtain title to the Goods for Purchaser; provided (1) the Goods has not been altered or modified by other than Seller, (2) it has been properly used, stored, installed (if installed by any person other than Seller), maintained and operated within the limits specified by Seller in Seller's Specifications, and (3) Purchaser within 10 days of the time when Purchaser discovers or ought to have discovered the defect sends to Seller written notice of defect and satisfactory proof thereof, including allowing Seller the opportunity to inspect the Goods, and in the event of repair or replacement, returns to Seller such portions of the Goods designated by Seller, freight prepaid. Purchaser, without cost to Seller, shall be solely responsible to dispose of defective parts replaced by Seller, unless Seller instructs Purchaser otherwise. Repaired or replacement parts will be shipped to Purchaser FOB point of shipment. Goods that are returned to Seller but that are found by Seller to conform to Seller's warranties shall be returned to Purchaser at Purchaser's expense and otherwise subject to the provisions of section IV above.

C. If the Goods sold are not manufactured by Seller, Seller will extend to Purchaser the same warranty protection Seller received from the original manufacturer and extends no other warranties or remedies set forth in Seller's Terms.

D. Different light sources (daylight, halogen light etc.) affect color of Goods. Goods shall be matched and determined for color under standard

lighting conditions similar to daylight. Each surface and material react unique to different light sources. This applies also to light-colored plastic and coatings, even if the material and surface are identical.

E. Seller's Goods are custom-made. Purchaser shall not be entitled to any return, refund or credit except if stated otherwise in Seller's Terms. Purchaser cannot return packaging.

F. Replacement goods and parts are warranted for the remaining portion of the original Good's warranty.

G. Orders for Goods installed by Seller shall be subject to a \$2,000 fee if Seller's installation team arrives at a Purchaser facility for a scheduled installation but is unable to complete the installation because of Purchaser's failure to prepare the site according to previously agreed upon specifications.

H. If Seller's performance of its obligations under this agreement is prevented or delayed by any act or omission of Purchaser or its agents, subcontractors, consultants, or employees, Seller shall not be deemed in breach of its obligations under Seller's Terms or otherwise liable for any costs, charges, or losses sustained or incurred by Purchaser, in each case, to the extent arising directly or indirectly from such prevention or delay.

I. Seller is not responsible for any warranty work, repairs, replacements, or other work, or charges relating thereto, that have not been authorized by Seller in writing.

J. Purchaser is solely responsible for all compliance with laws, rule and regulations of the Goods once the Goods has been delivered to Purchaser. Purchaser is solely responsible for its choice of materials for the Goods.

K. The warranties and remedies set forth in this Section VIII are applicable to the extent of the following:

(1) Purchaser's receipt, handling, storage, installation, operation and maintenance, including tasks incident thereto, of the Goods are in accordance with the instructions and recommendations of Seller set forth in Seller's Specifications or, in the absence of such instructions and recommendations or to the extent not applicable, in accordance with the generally accepted practices of Purchaser's industry; Purchaser shall have provided all required or recommended training to personnel who operate with the Goods or who work in the vicinity of the Goods; Purchaser shall have posted in a conspicuous place all recommended notices and warnings to personnel, including warnings described in Seller's Specifications or required by applicable laws and regulations; and such Goods shall not have been operated in excess of or inconsistent with limitations specified by Seller or its suppliers and not have been subjected to accident, damage, physical conditions beyond recommended operating limits, alteration, repair or service by unauthorized persons, use with any unauthorized third-party parts or software, abuse or misuse;

(2) For all warranty work, where disassembly, removal, replacement and reinstallation of goods, equipment, materials, structures which were not part of Seller's scope of work under the Confirmation is necessary to permit Seller to perform its warranty obligations; Purchaser providing, without cost to Seller, access to the nonconformity by disassembling, removing, replacing and reinstalling any such equipment, materials, structures;

(3) All warranty work being performed at Seller' or its designated supplier's facilities on a single-shift straight-time basis, Monday through Friday; in the event Purchaser requests correction of warranty items on an overtime or multiple shift schedule, the premium portion of such overtime or multiple shift shall be to Purchaser's account;

(4) Purchaser, without cost to Seller, making its facilities and personnel (to the extent consistent with personnel job classifications and subject to site safety and insurance rules) available to assist Seller in the performance of its warranty obligations; and

(5) Purchaser making all undisputed payments required under the Confirmation and paying or reimbursing Seller for all costs incurred in the transportation of personnel and defective, repaired or replacement parts to and from Purchaser's site facilities (to the extent applicable).

## IX. Patents, Trademarks, and Copyrights; Confidentiality

A. Seller warrants that Goods it manufactures pursuant to its design shall be delivered free of any rightful claim for infringement of any United States patent, trademark or copyright.

B. If Seller is notified promptly in writing of any claim of infringement, Seller will defend or may settle at its expense any such claim; provided, however, that Purchaser must cooperate with Seller in the defense of any claim. Seller shall, at its expense and option, either procure for Purchaser the right to continue using any infringing Goods, or replace or modify them so they become non-infringing, or remove the Goods and refund the purchase price (less reasonable depreciation for any period of use). The foregoing states the entire liability of Seller for any patent, trademark, copyright, or other intellectual property infringement by Goods or any part thereof.

C. The preceding representations shall not apply to any Goods or part specified by Purchaser or manufactured to Purchaser's design, or to the use of any Goods furnished hereunder in conjunction with any other item in a combination not furnished by Seller as a part of this transaction. As to any such item, part, or use in such combination, Seller shall have no liability whatsoever for patent, trademark or copyright infringement and Purchaser will indemnify Seller and hold Seller harmless against any claims, liability, damages or expenses, including reasonable attorney fees, as a result of infringement claims arising therefrom.

D. Seller reserves its ownership rights and copyrights of all documents and advertising materials provided to the Purchaser. Purchaser is entitled to use aforementioned materials with third parties only to the extent prior agreed upon with Seller.

E. All non-public, confidential or proprietary information of Seller, including but not limited to, specifications, Seller's logo, printing plates, reproduction, advertising material, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Seller to Purchaser, 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 Seller's Terms is confidential, solely for the use of performing Seller's Terms and may not be disclosed or copied unless authorized in advance by Seller in writing. Purchaser shall not use Seller's logos, designs, printing plates, reproductions, or other representations of models in newspapers, advertising materials, etc. or otherwise unless authorized in advance by Seller in writing. Upon Seller's request, Purchaser shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section.

## X. Limitation of Actions

A. Any action for a breach of contract arising out of Seller's acceptance of Purchaser's order or arising out of Purchaser's acceptance of Goods supplied must be commenced within one year after the cause of action has accrued.

**B. SELLER SHALL NOT BE LIABLE FOR SPECIAL OR CONSEQUENTIAL OR EXEMPLARY DAMAGES OR FOR DAMAGES FOR LOSS OF USE, LOST PROFITS OR LOSS OF BUSINESS OPPORTUNITY, ARISING DIRECTLY OR INDIRECTLY FROM THE GOODS, THE SERVICES, ANY BREACH OF CONTRACT, MATERIAL OR OTHERWISE, OR FROM ANY TORTIOUS ACTS OR OMISSIONS OF ITS EMPLOYEES OR AGENTS, AND IN NO EVENT SHALL THE LIABILITY OF SELLER EXCEED THE PRICE OF THE DEFECTIVE GOODS OR OF THE GOODS SUBJECT TO LATE DELIVERY.** If Seller, without separate compensation therefore, furnishes Purchaser with advice or other assistance concerning any Goods supplied hereunder, the furnishing of such advice or assistance will not subject Seller to any liability whether in contract, tort (including negligence and strict liability) or otherwise. Seller's officers, directors, shareholders, subsidiaries, affiliates, agents and representatives shall also have the

benefit of all limitations of remedies and limitations of liability set forth in these Seller's Terms, including but not limited to limitations in Sections VI, VIII, X and XIII.

C. The rights and obligations of Purchaser and Seller, and the construction and effect of any contract formed between them shall be governed by the laws of the State of Florida, without regard to conflicts of laws principles thereof.

D. If Purchaser fails to fulfill the terms of payment of any invoice or if the financial or business condition or responsibility of Purchaser shall become impaired or unsatisfactory to Seller, Seller may, without liability to Purchaser or prejudice to any other legal or equitable remedy, suspend performance until past due payments are made and satisfactory assurance of payment is received.

E. Any credit extended by Seller to Purchaser is conditional upon Seller's continued satisfaction with Purchaser's creditworthiness and shall not establish any right to credit with Seller. Seller reserves the right to suspend credit and demand cash in advance or on delivery for all or any part of the price or to alter payment terms based on its assessment of Purchaser's creditworthiness at any time, and failure of Purchaser to satisfy any such altered credit or payment terms shall constitute grounds for insecurity on the part of Seller.

## **XI. Insurance**

A. During the period of Seller's Terms, Purchaser shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability (bodily injury and property damage) including product liability in a sum no less than the purchase price of the accompanying Offer with financially sound and reputable insurers. Upon Seller's request, Purchaser shall provide Seller with a certificate of insurance from Purchaser's insurer evidencing the insurance coverage specified in Seller's Terms.

B. Purchaser shall ensure that all insurance policies required pursuant to Section XI, A. (1) be issued by insurance companies reasonably acceptable to Seller, (2) provide that such insurance carriers give Seller at least 30 days' prior written notice of cancellation or non-renewal of policy coverage, provided that, prior to such cancellation, Purchaser has new insurance policies in place that meet the requirements of this Section XI, (3) name Seller and Seller's Affiliates, including, in each case, all successors and permitted assigns, as additional insureds; and (4) waive any right of subrogation of the insurers against Seller or any of its Affiliates. Purchaser agrees to indemnify and hold Seller harmless from and against all liability, loss or expense (including costs and attorneys' fees) arising out of or in consequence of Purchaser's failure to obtain the required coverages or to meet the other insurance requirements of Seller's Terms.

## **XII. Safety Warnings and Instructions**

A. Purchaser shall comply with and require its agents and employees to comply with all Seller's Specifications, directions, safety notices, warnings, and other specifications or instructions furnished by Seller, and shall use and require its agents and employees to use reasonable care in the use of the Goods.

**B. SELLER SHALL HAVE NO OBLIGATION OR LIABILITY FOR ANY FAILURE OF PURCHASER, PURCHASER'S EMPLOYEES OR AGENTS, OR ANY THIRD PARTY TO OBSERVE THE PROVISIONS OF THIS SECTION, OR FOR ANY INJURY OR DAMAGE CAUSED, IN WHOLE OR IN PART, BY**

**PURCHASER'S FAILURE TO COMPLY WITH APPLICABLE FEDERAL, STATE, OR LOCAL SAFETY REQUIREMENTS AND PURCHASER SHALL INDEMNIFY AND HOLD SELLER HARMLESS FOR ANY CLAIMS, LIABILITIES OR LOSSES ARISING OUT OF OR IN CONNECTION WITH ANY SUCH INJURY OR DAMAGE OR CLAIM THEREOF.**

## **XIII. Miscellaneous**

A. No right accruing to Purchaser by virtue of the manufacturer/purchaser relationship between Seller and Purchaser nor any duty of Seller resulting from that relationship shall be assignable without Seller's prior written consent.

B. Invalidity of any provision of Seller's Terms shall not affect the validity of any other provision hereof and any invalid provision shall be, to the extent possible, modified to accomplish the same objectives in a valid way without affecting the surviving provisions.

C. No failure by Seller to exercise any right accruing to it by virtue of the manufacturer/purchaser relationship or under any contract of sales entered into with Purchaser shall operate as a waiver thereof or preclude the exercise of the same or any other right or privilege by Seller.

D. Any notice required or contemplated hereunder shall be in writing and shall be delivered personally, with nationally recognized overnight courier e.g. Fedex or DHL (with all fees pre-paid), or sent by facsimile or by prepaid registered mail.

E. In addition to any remedies that may be provided under Seller's Terms, Seller may terminate with immediate effect upon written notice to Purchaser, if Purchaser: (1) fails to pay any amount when due under Seller's Terms; (2) has not otherwise performed or complied with any of Seller's Terms, in whole or in part; or (3) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

F. There are no other terms and conditions applicable to the purchase and sales of Seller's Goods other than those contained in the Offer (including any specifications or other documents which Seller incorporated by reference in the Offer or invoice). No modification, amendment, waiver or other change of any provision of Seller's Terms shall be binding on Seller without Seller's written consent.

G. The rights and obligations of Purchaser and Seller, and the construction and effect of any contract formed between them shall be governed by the laws of the State of Florida. The application of the United Nations Convention on Contracts for the International Sale of Goods is hereby expressly excluded.

H. Any controversy or claim arising out of or relating to this Agreement or a breach thereof shall, upon the request of any party involved, be settled by binding arbitration in Miami, Florida, in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered may be entered in the highest court of any forum, state or federal, having jurisdiction.

I. No indication on a payment remittance or otherwise that a payment of less than the full amount of any one or more invoices or other obligations will constitute payment in full thereof shall be effective, and no accord and satisfaction, credit or compromise will be effective, unless Seller expressly agrees to the same in writing.

\*\*\*\*\*