

Terms and Conditions for Sale of Goods

“Buyer” means a purchaser of Goods from the Company or person who orders goods from the Company, set out in a sales order form.

“Company” means (i) Fayman Food Group LLC, a Delaware limited liability company, and/or (ii) ESRO Food Group LLC, a Delaware limited liability company, as applicable.

Background

- A. The Company owns the Goods.
- B. The Buyer wishes to purchase the Goods from the Company.
- C. The Company has agreed to sell, and the Buyer has agreed to buy, the Goods on these Terms and Conditions.

Operative part

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

In these Terms and Conditions the following terms have the following meanings unless the context otherwise requires:

- (a) **“Business Day”** means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banks in the States of New York are authorized or required by other Governmental Authority to close;
- (b) **“Claim”** includes any claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding, right of action, claim for compensation and claim for abatement of any Obligation;
- (c) **“Consequential Loss”** means loss of profits, loss of revenue, loss of any contract value, loss of anticipated profit or damages for lost opportunity, loss or corruption of data, or cost of finance, but, in each case, except where the loss, damage or cost arises naturally (that is, in the usual course of things) from the relevant act or omission;
- (d) **“Cost”** includes any cost, charge, expense, outgoing, payment or other expenditure of any nature whatever, including where appropriate all reasonable and proper legal fees charged on a solicitor/own client basis;
- (e) **“Encumbrance”** includes an interest or power:
 - (i) reserved in or over an interest in any asset including, but not limited to, any retention of title; or
 - (ii) created or otherwise arising in or over any interest under a bill of sale, mortgage, charge, lien, pledge, trust or power by way of security for the payment of a debt, right of set-off, any other monetary obligation or the performance of any other obligation or other third party right or interest (whether legal or equitable), and includes, but is not limited to, any other security interest of any kind, howsoever created or arising, or any other agreement or arrangement having similar effect and includes the creation or perfection of a ‘security interest’ as defined in the UCC;
- (f) **“Event of Default”** means any of the following events:
 - (i) the Buyer fails to punctually and properly comply with any of its Obligations under these Terms and Conditions;
 - (ii) an Insolvency Event occurs in respect of the Buyer;
 - (iii) if a person holding any form of security granted by the Buyer becomes entitled to take any action to enforce its security Rights or if any form of execution is levied or enforced in respect of any of the assets of the Buyer and is not discharged within two (2) Business Days of being levied or enforced;
 - (iv) if the Buyer is a natural person and if that person becomes, because of any form of mental or physical infirmity, a person whose assets or affairs becomes subject to administration or control by a third person;
- (g) **“Force Majeure Event”** means an event or circumstance:
 - (i) that is beyond the reasonable control of a Party;
 - (ii) which that Party is not reasonably able to prevent or overcome; and

- (iii) which prevents that Party from performing a material obligation under these Terms and Conditions, including, subject to satisfaction of the foregoing:
 - (1) extreme weather events, fire or natural disaster;
 - (2) acts of war, riots, terrorism or vandalism;
 - (3) failure or shortage of power supplies or other essential utility;
 - (4) pandemic, epidemic or other widespread threat to human health (including an outbreak or recurrence);
 - (5) strike, embargo or industrial disturbance;
 - (6) a change in a relevant Law;
- (h) **"Goods"** mean the items set out in the sales order form which the Company proposes to sell or sells to the Buyer and the Buyer proposes to buy or buys from the Company;
- (i) **"Governmental Authority"** means any federal, state, local, or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations, or orders of such organization or authority have the force of Law), or any arbitrator, court, or tribunal of competent jurisdiction;
- (j) **"Incoterm"** means the International Chamber of Commerce Incoterms® (2020);
- (k) **"Insolvency Event"** means the happening of any of the following events:
 - (i) if the relevant person is or states that it is unable to pay its debts when they fall due;
 - (ii) if any action or step is taken to appoint, in the case of a corporation, a liquidator (including provisional liquidator), a receiver, a receiver and manager, an administrator or any other external administrator of any of that corporation's assets;
 - (iii) if any action or step is taken, in the case of a natural person, to have that person made bankrupt;
 - (iv) if any action or step is taken to obtain protection from creditors under any Law;
 - (v) if anything occurs which is similar to or which has a substantially similar effect to any of the events set out above;
- (l) **"IRC"** means the Internal Revenue Code of 1986;
- (m) **"Law"** includes any requirement of any statute, rule, regulation, proclamation, ordinance, local law, by-law, or other provision having the force of law promulgated present or future, and whether State, Federal or otherwise;
- (n) **"Liability"** means any monetary, pecuniary or other Obligation due, owing or payable by any person under these Terms and Conditions or in respect of any subject matter referred to in these Terms and Conditions;
- (o) **"Month"** or **"Monthly"** means respectively calendar month and calendar monthly;
- (p) **"Obligation"** includes any legal, equitable, contractual, statutory or other obligation, commitment, duty, responsibility, undertaking or Liability, whether created by any document, action, Law or otherwise;
- (q) **"Party"** means a party whose arrangements are covered by these Terms and Conditions;
- (r) **"Price"** means the amount payable for the Goods, set out in the sales order form;
- (s) **"Terms and Conditions"** means the terms and conditions set out in this document;
- (t) **"UCC"** means the Delaware Uniform Commercial Code;
- (u) **"Warranties"** means the warranties given by the Buyer to the Company set out in clause 14.1.

1.2 Interpretation

In the interpretation and application of these Terms and Conditions the following rules apply unless the context otherwise requires:

- (a) Words importing the singular include the plural and vice versa.
- (b) Words importing a gender include all other genders and vice versa.
- (c) Expressions importing a natural person include a corporation and vice versa.
- (d) A covenant, agreement, warranty, obligation, liability or similar on the part of two or more persons binds each of them jointly and severally.
- (e) No rule of construction applies to the disadvantage of a Party because that Party was responsible for the preparation of these Terms and Conditions.
- (f) These Terms and Conditions bind and inure for the benefit of successors and permitted transferees or assigns of the parties.
- (g) Headings or margin notes in these Terms and Conditions are for ease of reference only and do not affect the meaning or interpretation of these Terms and Conditions.

- (h) A reference to any Law includes that statutory enactment or law as amended, modified or re-enacted from time to time and all rules regulations or other subordinate legislation made under that statute.
- (i) If the day on or by which anything is to be done is not a Business Day then that thing must be done on or by the next Business Day.
- (j) Where any time period is to be calculated from a specified date, that date must be included in the calculation.
- (k) These Terms and Conditions cannot be varied except by a subsequent document signed for by an authorized representative of each Party and which document is expressed to vary or be made in substitution for these Terms and Conditions.
- (l) It is not necessary for the Company to incur any expense or make any payment before enforcing a right of indemnity.
- (m) Time is of the essence in respect of the Buyer's obligations under these Terms and Conditions.
- (n) The parties agree that any reference to an Incoterm in the sales order form shall be for descriptive purposes only, and the actual rights, obligations, and responsibilities of the parties shall be governed by these Terms and Conditions. In the event of any conflict or inconsistency between these Terms and Conditions and the default rules applicable to any Incoterm referenced in the sales order form, these Terms and Conditions shall control and supersede the corresponding Incoterm provision.

2. SALE AND PURCHASE

In consideration of the Buyer's agreement to pay the Price, the Company sells to the Buyer and the Buyer buys from the Company the Goods, on the terms of these Terms and Conditions.

3. RIGHTS IN RELATION TO THE GOODS

- 3.1 Title to, and property in, the Goods remains with the Company until the Company has been paid in full for the Goods.
- 3.2 While the Goods remain the property of the Company:
 - (a) the Buyer has no right or claim to any interest in the Goods, including to secure any liquidated or unliquidated debt or obligation the Company may owe to the Buyer;
 - (b) the Buyer cannot claim any lien, or other Encumbrance, over the Goods;
 - (c) the Buyer will not create any interest in the Goods in relation to any third party;
- 3.3 where the Buyer is in actual or constructive possession of the Goods:
 - (a) the Buyer will not deliver them or any document of title to the Goods to any person except as directed by the Company and in the ordinary course of the Buyer's business; and
 - (b) the Buyer is in possession of the Goods as a bailee of those Goods and owes the Company the duties and liabilities of a bailee.
- 3.4 The Buyer is a bailee of the Goods until property in the Goods passes to the Buyer and this bailment continues in relation to each of the Goods until the Price of the Goods has been paid in full.
- 3.5 Pending payment in full for the Goods, the Buyer must:
 - (a) not supply any of the Goods to any person outside of its ordinary or usual course of business;
 - (b) not allow any person to have or acquire any security interest in the Goods;
 - (c) insure the Goods for their full insurable or replacement value (whichever is the higher) with an insurer licensed or authorized to conduct the business of insurance in the place where the Buyer carries on business, subject to the relevant Incoterm that applies to the transaction (as specified in the relevant sales order form);
 - (d) not remove, deface or obliterate any identifying plate, mark, label, number on any of the Goods or on any packaging of the Goods;
 - (e) store the Goods separately from the Buyer's own goods in a manner which clearly renders the Goods identifiable by reference to any identifying plate, mark, label or brand name affixed to the Goods or affixed to any packaging of the Goods.
- 3.6 If the Buyer supplies any of the Goods to any person before all moneys payable by the Buyer have been paid to the Company:
 - (a) the Buyer holds the proceeds of re-supply of the Goods on trust for and as agent for the Company immediately when those funds are receivable or are received;
 - (b) the Buyer must pay the amount of the proceeds or re-supply to the Company immediately when they are received.

4. SECURITY

- 4.1 Notwithstanding anything to the contrary contained in these Terms and Conditions, the UCC applies to these Terms and Conditions.
- 4.2 Terms used in this clause that are defined in the UCC have the same meaning as in the UCC.
- 4.3 As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to the Company a lien on and security interest in and to all of the right, title, and interest of Buyer 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 of the foregoing.
- 4.4 The security interest is a continuing interest irrespective of whether there are monies or obligations owing by the Buyer at any time.
- 4.5 The security interest arising under this clause attaches to the Goods when the Goods are delivered to the Buyer.
- 4.6 Where permitted by the UCC, the Buyer waives any rights to receive the notifications, verifications, disclosures or other documentation specified under the UCC.
- 4.7 The Buyer must immediately upon the Company's request:
 - (a) do all things and execute all documents necessary to give effect to the security interest created under these Terms and Conditions;
 - (b) procure from any person considered by the Company to be relevant to its security position such agreements and waivers (including as equivalent to those above) as the Company may at any time require.

5. CANCELLATION

- 5.1 The Buyer must not cancel any order received by the Company without the consent in writing of the Company first being obtained, which consent may be withheld at the Company's discretion.
- 5.2 If the Company agrees to accept a return of the Goods:
 - (a) the Goods must be returned to the Company or re-sold to another customer, at the Buyer's expense on the terms required by the Company;
 - (b) the Company will specify the refund payable to the Buyer and if no amount has been specified, the refund will be equal to seventy percent (70%) of the Price.
- 5.3 If the Goods are not returned to the Company in accordance with the terms required by the Company, the Buyer will not be entitled to any refund.

6. DELIVERY

- 6.1 The Company will use commercially reasonable efforts to deliver the Goods to the address notified in writing by the Buyer in a manner and at times agreed to by the Parties in writing.
- 6.2 The cost of delivery will be borne by the Buyer.
- 6.3 The delivery times made known to the Buyer are estimates only and the Company is not liable for late delivery or non-delivery of the Goods.
- 6.4 The Buyer must accept delivery at the address notified in writing by the Buyer in the relevant sales order form. The Buyer is responsible for work health and safety at the delivery destination.
- 6.5 The Company may, at its discretion, deliver the Goods to the Buyer in any number of installments.
- 6.6 If the Company delivers any of the Goods by installments, and any one of those installments are defective for any reason:
 - (a) it is not a repudiation of the contract of sale for the Goods made by and between the Company and the Buyer; and
 - (b) the defective installment is a severable breach that may give rise only to a claim for compensation.
- 6.7 If the Buyer instructs the Company to effect delivery of the goods to a third party and to invoice a third party, the Company will act in accordance with the Buyer's reasonable instructions. However, the Company confirms that:
 - (a) the Buyer will remain the principal contracting party to these Terms and Conditions;
 - (b) in the event that payment is not received from the third party, the Buyer will be liable to the Company as the principal contracting party;
 - (c) the Company's consent to follow the Buyer's instructions and directions is not to be construed as a waiver of the Company's rights arising out of these Terms and Conditions with the Buyer nor is it to be construed that there is an agency agreement between the parties.

7. LOSS OR DAMAGE IN TRANSIT

- 7.1 The Company is not responsible to the Buyer, or any person claiming through the Buyer, for any loss or damage to Goods in transit caused by any event of any kind by any person (whether or not the Company is legally responsible for the person who caused or contributed to that loss or damage).
- 7.2 The Company will provide the Buyer with reasonable assistance as may be necessary to make a claim against the carriers, so long as the Buyer:
- (a) has notified the Company and the carriers in writing immediately after loss or damage is discovered on receipt of Goods;
 - (b) lodges a claim for compensation on the carrier within three (3) Business Days of the date of receipt of the Goods; and
 - (c) pays the Company's reasonable costs (including legal costs) for providing that assistance.
- 7.3 The Company is not required to take out any form of insurance in respect of the Goods, nor to cover any loss or damage to Goods in transit. Notwithstanding the above, the Company will endeavor to have marine insurance in place to mitigate the risk of loss or damage to Goods in transit.

8. PASSING OF RISK

Risk in the Goods passes to the Buyer on the earlier of:

- (a) actual or constructive delivery of the Goods to the Buyer or to a carrier at the port of departure for further delivery of such Goods to the address agreed to by the Parties set forth in the sales order form; or
- (b) collection of the Goods from the Company or any bailee or agent of the Company by the Buyer's agent, or any carrier or courier.

9. EXAMINATION OF GOODS

- 9.1 The Buyer will conduct an immediate examination of the Goods on receipt.
- 9.2 If the Goods are in a damaged condition, the Buyer must notify the Company in writing of the damage within three (3) Business Days, after which the Buyer will be deemed to have accepted the Goods and will not have any claim against the Company in respect of the Goods.
- 9.3 Any Goods which the Buyer claims are damaged, must be left intact until the Company has inspected those Goods. If the Goods are not left intact, the Buyer will be deemed to have accepted the Goods and will not have any claim against the Company in respect of the Goods.

10. PRICES

- 10.1 Unless otherwise stated, all prices quoted by the Company are exclusive of goods and services tax, tariffs, duties or any other taxes imposed or levied pursuant to the IRC or any Governmental Authority.
- 10.2 In the event funds remitted to the Company are less than the total invoice amount (as a result of any imposed taxes), the invoice will be considered delinquent and subject to late payment charges. Some orders may be subject to state and/or local sales/use tax. The Company reserves the right to correct tax rates and/or collect any sales/use tax which may be required by the IRC or any Governmental Authority.
- 10.3 Prices quoted are those current at the date of issue of quotation.

11. PAYMENT

- 11.1 The Buyer must pay each invoice immediately by cash on delivery or letter of credit unless an alternative arrangement for payment has been agreed by the Parties in writing.
- 11.2 The Buyer must pay the amount of the invoice to the Company or as otherwise directed in writing by the Company.
- 11.3 If any check issued by the Buyer or by any third party in payment for Goods is dishonored, then:
- (a) the Company may refuse to supply any further Goods (whether or not the Company is to make any further delivery of the Goods) until satisfactory payment is received in full; and
 - (b) the Company is entitled to treat the dishonor of the Buyer's check as a repudiation of the agreements between the Parties and to elect between terminating the agreements between the Parties or affirming those agreements, and in each case, claiming and recovering compensation for loss or damage suffered from the Buyer.
- 11.4 Where payment is tendered by check or similar form, payment will not be deemed to have been made until received in cleared funds in the Company's bank account.
- 11.5 The Company may set off any amounts owed to the Buyer under these Terms and Conditions against any amount the Buyer owes to the Company.

12. INTEREST

- 12.1 If the Company is not paid for any Goods on the date payment is due, then without prejudice to any other right or remedy:
- 12.2 all outstanding moneys carry interest on daily balances until paid at a rate of interest per annum equal to 12% or at the maximum rate permitted by applicable Law, whichever is less;
- 12.3 The Company may recover the Price and all outstanding moneys together with all interest immediately from the Buyer as a liquidated debt irrespective of any claim that the Buyer may have against the Company for anything or any matter related to the Goods delivered under these Terms and Conditions.

13. EXCLUSION OF IMPLIED TERMS

The Buyer acknowledges that:

- (a) no warranty, condition, description or representation in relation to the Goods is given by the Company, express or implied by these Terms and Conditions or outside these Terms and Conditions;
- (b) all warranties, terms and conditions in relation to the state, quality or fitness of the Goods and every other warranty, term and condition whether express or implied by use, statute or otherwise is excluded to the extent permissible by Law;
- (c) where applicable Law implies terms, conditions and warranties ("**Prescribed Terms**") into contracts for the supply of goods and services and prohibits the exclusion, restriction or modification of certain terms, conditions and warranties then the liability of the Company in respect of a breach of a Prescribed Term relating to the Goods or any part of the Goods is limited at the option of the Company to:
 - (i) the replacement of the Goods;
 - (ii) the repair of the Goods;
 - (iii) the payment of the cost of repairing the Goods; or
 - (iv) payment of the cost of replacing the Goods;
- (d) the Buyer does not have under any circumstances any cause of action against or right to claim or recover from the Company for, or in respect of, any loss or damage of any kind caused directly or indirectly by any defect in material or workmanship of, or any other defect in or unsuitability for any purpose, of the Goods or any part of the Goods.
- (e) no warranty, condition or representation has been made by the Company regarding any health regulations or fitness of the Goods for consumption, whether by human, animals or plants.

14. BUYER'S WARRANTIES AND GENERAL INDEMNITIES

- 14.1 The Buyer represents and warrants, on a continuing basis, to the Company that each of the following warranties ("**Warranties**") is true, accurate and not misleading:
- (a) no prosecution, litigation, arbitration, proceedings or investigations (which affects the Buyer's ability to comply with these Terms and Conditions) is current, pending or threatened, or might arise as a result of current circumstances;
 - (b) no Event of Default has occurred and remains current and there are no circumstances which could give rise to an Event of Default;
 - (c) the Buyer has obtained all permits and licenses that it requires under all applicable Laws in order to allow the Buyer to fulfil its obligations under these Terms and Conditions.
- 14.2 The Buyer acknowledges that the Company has only entered into an agreement with the Buyer in reliance on the Warranties.
- 14.3 Each Warranty must be construed independently and is not limited by reference to another Warranty.
- 14.4 The Warranties survive completion of any of the Buyer's obligations pursuant to these Terms and Conditions.
- 14.5 The Buyer indemnifies the Company against any Claim which the Company pays or is liable for, arising directly or indirectly from:
- (a) a Warranty being false or misleading when made or regarded as made under these Terms and Conditions;
 - (b) a breach by the Buyer of these Terms and Conditions.

15. DEFAULT AND TERMINATION

- 15.1 If an Event of Default occurs and without prejudice to any other rights or remedies the Company may have:
- (a) the Company, its employees or agents may, without previous notice retake and resume possession of the Goods and may enter the Buyer's premises or any other place where the Goods may be;

- (b) the Company may sell the Goods to a third party and any expenses incurred by the Company resulting from that sale including storage, auction or any other charges, will be paid by the Buyer immediately;
 - (c) the Company may terminate these Terms and Conditions on notice to the Buyer; and
 - (d) the Company may sue the Buyer and claim damages for all direct and Consequential Losses suffered or incurred by the Company as a result of the Event of Default.
- 15.2 The Company may also terminate these Terms and Conditions with immediate effect if the Buyer:
- (a) commits a material breach (including a failure to pay any invoice) that is incapable of remedy;
 - (b) commits a material breach (including a failure to pay any invoice) that is capable of remedy and fails to remedy that breach within ten (10) Business Days of receiving notice of the breach; or
 - (c) suffers an Insolvency Event (and Delaware law does not prevent termination).

16. CREDIT

If the Company has provided the Buyer credit, the Company reserves the right to cancel or vary the credit limit and may refuse to supply the Goods on credit to the Buyer at any time.

17. LIMITATION OF LIABILITY

- 17.1 Notwithstanding anything else in these Terms and Conditions, the Company's maximum aggregate liability under these Terms and Conditions is limited to the total sum paid by the Buyer under these Terms and Conditions in the six (6) months preceding the Claim.
- 17.2 To the fullest extent permitted by Law, the Company:
- (i) is not liable for (i) Consequential Loss suffered by the Seller or a third party or (ii) any indirect, incidental, special, exemplary, and punitive damages whether arising out of breach of contract, tort, or otherwise (regardless of whether such damages were foreseeable) suffered by the Seller or a third party, in each case which arises out of, or in connection with, these Terms and Conditions; and
 - (ii) is not liable for any loss to property or for personal injury or death.

18. FORCE MAJEURE

- 18.1 Where the Company is unable, wholly or in part, by reason of any Force Majeure Event, to carry out the obligations pursuant to these Terms and Conditions and the Company:
- (a) gives the Buyer notice of that Force Majeure Event;
 - (b) uses reasonable diligence to mitigate that Force Majeure,
 - (c) that obligation is suspended so far as it is affected by a Force Majeure Event during the continuance of that event.
- 18.2 The requirements that any Force Majeure Event will be mitigated with reasonable diligence will not require the settlement of strikes, lockout or other labor disputes or claims or demands by any government on terms contrary to those terms on which the Company is prepared to settle.
- 18.3 A Force Majeure Event does not excuse a Party from any obligation to pay money.

19. NOTICES

- 19.1 A notice or communication to be served or given under these Terms and Conditions must be in writing and may be served or given by any lawful means of service within the State of Delaware including service by hand delivery, ordinary, certified or registered pre-paid post or by email transmission. The date a notice is deemed served, given and received is:
- (a) if delivered by hand, the day of delivery but if delivery takes place after 4:00 pm on a Business Day or on a day that is not a Business Day then it is deemed served, given and received on the next Business Day;
 - (b) if posted, five (5) Business Days (or ten (10) Business Days, if posted outside Delaware) after the day it is posted;
 - (c) if sent by email, at the date and time the email was sent, as recorded by the sender's email server, unless the sender receives an automated delivery failure notice, in which case notice is deemed not to be given or received.
- 19.2 The address and email at which a Party may be served or given notices under these Terms and Conditions is its address and email as appearing in this document or such other address or email for service it notifies the other Party of in writing.

20. NON MERGER

The provisions of these Terms and Conditions which are capable of having effect after completion of any transaction referred to in these Terms and Conditions including warranties and indemnities do not merge on completion of any transaction referred to in these Terms and Conditions.

21. FURTHER ASSURANCES

The Parties each agree to sign all documents and do all things reasonably required to give full effect to the transactions recorded in these Terms and Conditions.

22. SEVERABILITY

As far as is possible these Terms and Conditions are to be construed so as not to be void, voidable, unenforceable or illegal, but if any part of these Terms and Conditions are void, voidable, unenforceable or illegal by operation of any law, then the offending part of these Terms and Conditions as far as is possible is to be read down to the extent necessary to make sure that it is not invalid, unenforceable or illegal but if it cannot be so read down then it is to be deemed severed without affecting the remainder of these Terms and Conditions which will continue to apply as amended.

23. RELATIONSHIP OF THE PARTIES

Nothing in these Terms and Conditions is intended to create a partnership, employment or agency relationship between the parties.

24. ASSIGNMENT

The Buyer must not assign its rights and Obligations under this Terms and Conditions.

25. ENTIRE AGREEMENT

These Terms and Conditions (and all documents referred to in it) apply to the provision of the Goods to the exclusion of any other terms, including in the Buyer's proposals or insertion orders. These Terms and Conditions (and all documents referred to in it) constitutes the entire agreement between the Parties and supersedes all previous discussions, negotiations, understandings and agreements between them relating to its subject matter.

26. GOVERNING LAW; JURISDICTION

These Terms and Conditions and all related documents are governed by the laws of the State of Delaware, without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any other jurisdiction. Any controversy or claim arising out of or relating to these Terms and Conditions or the transactions contemplated hereby shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to these Terms and Conditions or any matter arising from or related to these Terms and Conditions.