



# TERMS AND CONDITIONS OF SALE

**These Terms and Conditions of Sale (hereafter, “Terms”) govern Buyer’s purchase of any Heatcraft Product. By purchasing any Heatcraft Product, Buyer is agreeing to and accepting these Terms, which shall be binding on Buyer and Heatcraft.**

PLEASE READ THE DISPUTE RESOLUTION SECTION (PART FIFTEEN) CAREFULLY AS IT AFFECTS YOUR LEGAL RIGHTS.

## **PART ONE - DEFINITIONS**

The following definitions shall apply throughout these Terms.

1. “Buyer” refers to the person or entity who purchased a Product (as defined below) directly from Heatcraft.
2. “Heatcraft” refers to Heatcraft Refrigeration Products, LLC.
3. “Party” and “Parties” refers to Heatcraft and Buyer.
4. “Product” and “Products” refers to any Heatcraft-manufactured equipment, component, product, part, good and/or service.
5. “Order” refers to a purchase order.
6. “Terms” shall mean these Terms and Conditions of Sale.

## **PART TWO - PURCHASING A PRODUCT**

1. In order to make a purchase, Buyer must submit an Order. No Order shall be effective or binding on Heatcraft unless and until Heatcraft accepts the Order in writing. An unaccepted Offer does not constitute a contract and does not create any duties, liabilities, or obligations on Heatcraft.
2. For custom and Manufactured-to-Order Products, Heatcraft is under no duty or obligation to commence work, manufacturing, or production or to otherwise manufacture the custom or Manufactured-to-Order Product unless and until Buyer submits an Order and Heatcraft provides written acceptance of that Order.

## **PART THREE - PAYMENT**

1. Payment shall be due thirty (30) days from date of Heatcraft’s invoice (not the date that Heatcraft’s invoice is received)
2. Buyer shall make payment in United States dollars only.
3. Heatcraft shall have the right, in its sole and absolute discretion and without prejudice to its other rights, to withhold shipment and delivery (including partial shipments and deliveries) of any Order, terminate any sale or Order, and/or require Buyer to prepay for any Products in the event any of the following occur: (i) Buyer is delinquent in the payment of any invoice; (ii) Buyer fails to make any payment due to Heatcraft when due; or (iii) Heatcraft determines, in its sole and absolute discretion, that due to Buyer’s financial or business status or condition, Buyer should be is required to pay for the Product(s) in advance and before shipment to mitigate any risk of non-payment or late payment.
4. If Buyer fails to pay any invoice in full within thirty (30) days of the due date, the full unpaid balance due shall be subject to a 1.5% monthly finance charge. That charge is in addition to, and not in lieu of, all other legal and equitable remedies Heatcraft may have. Further, Buyer shall be fully responsible for and liable to Heatcraft for all fees, costs, and/or expenses (including, without limitation, attorneys’ fees and expenses) Heatcraft incurs arising out of or relating to any actions to collect any balance due, including, without limitation, actions taken inside and outside of litigation.



# TERMS AND CONDITIONS OF SALE

## **PART FOUR - PRICING**

1. Heatcraft's quoted pricing is based upon its Heatcraft's standard manufacturing tolerances and other costs (e.g., material and transportation costs) as of the date of the quote. Heatcraft's pricing is subject to change.
2. Heatcraft's quoted price does not include the cost of bundling, permitting, or any taxes arising out of or related to the manufacture, delivery/shipment and sale of Products. Buyer shall be solely responsible for all such costs.
3. Buyer is solely responsible for providing Heatcraft with any applicable Tax Exemption Certificates for ship-to designated states. If Buyer fails to timely and properly provide the Tax Exemption Certificates, Heatcraft shall be permitted to add all applicable taxes to Buyer's invoice and Buyer shall be responsible for paying that increased amount.
4. Heatcraft shall be permitted to add to the purchase price of the Product and/or any invoice any and all direct or excise taxes relating to the manufacture, shipment/delivery or sale of the Product, which may now or hereafter be imposed by any governmental unit. Buyer shall be solely responsible for all direct and excise taxes arising out of or relating to any Product it purchases.
5. In the event that Buyer owes Heatcraft any funds for any reason, including, but not limited to, funds to cover any losses, damages, liabilities, or claims, Heatcraft shall have the right to use any funds provided by Buyer to cover those losses, damages, liabilities or claims (as opposed to applying the funds toward the price of the Product). In that event, Buyer shall remain liable for and shall pay the full remaining balance due for the Product(s).

## **PART FIVE - FREIGHT:**

1. Heatcraft's quoted prices do not include freight fees, costs or expenses except in the following limited circumstances:  
(a) on any single Order of \$10,000 or more (if the Order is solely for parts or if the Order is solely for Products consisting of equipment and accessories), via lowest common carrier to nearest freight station within continental U.S.A. or (b) for multiple Orders of less than \$10,000 (if the Orders are solely for parts or if the Orders are solely for Products consisting of equipment and accessories) for which the Buyer schedules consolidation into one shipment equal to or greater than \$10,000 on the same day to one freight station within continental U.S.A.
2. If special routing is requested for an Order of \$10,000 or greater (e.g., contract haul, requested flatbed delivery, appointment to meet a crane, etc.), Buyer will be assessed, and shall pay, a charge for the difference between the special routing and the normal minimum freight charge.
3. Buyer will pay all costs associated with the shipment of Products and any Orders that are shipped via air freight or expedited delivery.
4. Shipments to destinations outside of the continental U.S.A. will incur charges for the additional cost of transport beyond the U.S.A. border.

## **PART SIX - DELIVERY**

1. Any delivery dates suggested, indicated or provided by Heatcraft are estimates only and not guaranteed. UNDER NO CIRCUMSTANCES SHALL HEATCRAFT BE LIABLE FOR ANY LOSS, DAMAGE, PENALTY OR ANY OTHER TYPE OF HARM ARISING OUT OF, RELATING TO, OR CAUSED BY ANY DELAY IN DELIVERY OR HEATCRAFT'S FAILURE TO GIVE NOTICE OF ANY DELAY.
2. Shipping terms for Products are F.O.B. carrier/origin of shipment or point of manufacture, at which point title and all risk of loss or damage shall automatically pass to Buyer.
3. In the event of any shortage or damage, Buyer is required to and shall (I) notify Heatcraft in writing of the shortage or damage within five (5) days of receipt of the Product; (II) notify agent or carrier in writing of the shortage or damage within



## TERMS AND CONDITIONS OF SALE

five (5) days of receipt of the Product; and (iii) file a claim with the carrier for the damage or shortage in accordance with carrier's rules and requirements for filing a claim. In no event shall Heatcraft have any responsibility or liability for any shortage or damage arising out of or relating to (i) any action or action by the shipper, delivery agent, and/or carrier or (ii) any damages caused by the shipper, delivery agent, and/or carrier. Buyer bears all risk of damage, loss or harm arising out of or relating to the shipment, transportation, delivery and installation of Products.

4. The shipper, delivery agent, and carrier are not employees, agents or representatives of Heatcraft.

### **PART SEVEN - FORCE MAJEURE**

1. Heatcraft shall not be liable for failure to perform any contractual or other obligations (including any obligation arising out of or relating to any Order) if the failure is beyond its control, including, but not limited to, Acts of God (including fire, flood, earthquake, storm, hurricane, epidemic, pandemic, or other natural disaster), war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, shutdown or mandated closure, embargo, labor dispute, strike, lockout or interruption, failure of electricity or telephone service, or delays or actions of a subcontractor or supplier.

### **PART EIGHT - INTELLECTUAL PROPERTY**

1. Heatcraft is the owner of "IP Rights", which means on a world-wide basis, any and all (a) rights associated with works of authorship, including without limitation, copyrights, copyrightable rights, moral rights and mask work rights; (b) trademarks, service mark and trade name rights, trade dress, designs, logos, slogans, domain names and other indicia of source or origin and any similar rights recognized under applicable Law; (c) trade secret rights; (d) patents and patentable rights; (e) all rights with respect to inventions (whether or not patentable or reduced to practice), discoveries, improvements, know-how, formulas, algorithms, processes, technical information and other technology; (f) all other intellectual and industrial property rights of every kind or nature, whether arising by operation of law, contract, license or otherwise; and (g) all international, national, foreign, state and local registrations, applications for registration and any renewals and extensions thereof (including, without limitation, any continuations, continuations-in-part, divisions, reissues, substitutions and reexaminations), all goodwill associated therewith, and all benefits, privileges, causes of action and remedies relating to any of the foregoing (including, without limitation, the exclusive rights to apply for and maintain all such registrations, renewals and extensions; to sue for all past, present and future infringements or other violations relating thereto; and to settle and retain all proceeds from any such actions.
2. Nothing in these Terms shall convey any right to Buyer to own, license, assign, or use any of Heatcraft's IP Rights. Thus, Buyer shall not (a) use Heatcraft's IP Rights in the production, manufacture, delivery, or design of materials furnished to any third party, (b) manufacture or reproduce in any manner any material or item similar to or competitive with any of the Products, or (c) copy, decompile, modify, reverse engineer, or create derivative works out of any of Heatcraft's IP Rights.
3. If any Product is manufactured and/or sold by Heatcraft to meet Buyer's particular specifications or requirements, and is not part of Heatcraft's standard line offered by Heatcraft to the trade generally, Buyer represents and warrants that (i) its specifications and requirements do not infringe, misappropriate, or violate any intellectual property or other third party right and (ii) it will indemnify, defend, advance, and hold Heatcraft harmless from any claim, allegation, liability, damage, cost, or expense (including reasonable attorneys' fees), relating to or arising out of such Product, including, without limitation, any intellectual property or third party claim. Buyer's indemnity, advancement and defense obligations shall be the same as those set forth in Part Sixteen below.



# TERMS AND CONDITIONS OF SALE

## PART NINE - CONFIDENTIALITY

1. Heatcraft and Buyer acknowledge and agree that, in fulfilling their obligations under these Terms, they may exchange information that is non-public, confidential, and/or proprietary (hereafter, "Confidential Information"). Heatcraft and Buyer agree that they will take reasonably necessary measures to maintain the confidentiality of any Confidential Information they receive, protecting such information with at least the same level of protection used for their own confidential information. Heatcraft and Buyer further agree that these Terms are confidential and shall not be provided to or shared with third parties absent a subpoena, Court order, or as otherwise compelled by applicable Law.
2. Heatcraft and Buyer agree that damages at law would be insufficient in the event of a breach of this confidentiality term. For that reason, in the event of a breach or threatened breach, the affected party may seek and shall be entitled to receive temporary and permanent injunctive relief without the issuance or requirement of a bond.

## PART TEN - CANCELLATION OF ORDER

1. All Orders and sales thereunder are final upon Heatcraft's acceptance of the Order. Heatcraft, in its sole and absolute discretion, may permit a partial or total Order cancellation, which shall not be effective unless and until Heatcraft provides Buyer with a written agreement to permit a partial or total Order cancellation. In the event Heatcraft permits a partial or total Order cancellation, such cancellation shall be on the terms set forth in Heatcraft's written agreement to permit the partial or total Order cancellation, which terms must be fully complied with. For the avoidance of doubt, Heatcraft is under no duty or obligation to accept or agree to any partial or total Order cancellation.
2. In the event that Heatcraft decides, in its sole and absolute discretion, to permit a partial or total Order cancellation, Heatcraft will incur certain fees, costs and expenses associated therewith. Buyer agrees that it shall be responsible for and liable to Heatcraft for those fees, costs, and expenses. Heatcraft shall invoice Buyer for all fees, costs, and expenses it incurs arising out of or relating to any partial or total cancellation, and Buyer shall pay that invoice when due.
3. If Buyer does not release Products for shipment within thirty (30) days after the date of their manufacture or assembly, Heatcraft may, in its sole and absolute discretion, cancel the Order. In that event, Buyer shall be responsible for and liable to Heatcraft for all fees, costs, penalties, damages and other expenses it incurred arising out of relating to Buyer's failure to release the Products for shipment. Buyer shall pay those amounts to Heatcraft within ten days of Heatcraft's demand for such payment.

## PART ELEVEN – PRODUCT RETURNS

1. Products will not be accepted for return without Heatcraft's prior written authorization. Heatcraft shall have no duty or obligation to accept or authorize any returns, but rather can accept or reject returns in its sole and absolute discretion.
2. In the event Heatcraft authorizes a return in writing, such return shall be subject to handling and restocking charges and transportation costs, which Buyer shall pay within ten days of receiving an invoice from Heatcraft for such charges and costs.
3. Buyer acknowledges that certain Products cannot be returned due to, among other things, their custom nature (e.g. painted parts, electrical components, or special orders).
4. Heatcraft's policy for returns is included in the Returned Products Addendum below and is incorporated herein.



# TERMS AND CONDITIONS OF SALE

## PART TWELVE - PRODUCT CHANGES

1. With the exception of custom made and Manufactured-to-Order Products, Heatcraft reserves the right, in its sole and absolute discretion, to change specifications, designs, and material at any time and for any reason without notice or incurring obligation to Buyer.

## PART THIRTEEN – WARRANTIES AND SERVICES

1. Products are covered under Heatcraft's Catalog Products Limited Warranty ("Limited Warranty"), subject to the terms and conditions therein. By purchasing a Product, Purchaser is agreeing to and will be bound by the Limited Warranty.
2. BUYER ACKNOWLEDGES AND AGREES THAT THE LIMITED WARRANTY'S TERMS AND CONDITIONS ARE INCORPORATED HEREIN AS IF SET FORTH FULLY IN THESE TERMS. BUYER ACKNOWLEDGES AND AGREES THAT IT IS SUBJECT TO AND BOUND BY THE LIMITED WARRANTY'S TERMS AND CONDITIONS, INCLUDING, BUT NOT LIMITED TO, THE EXCLUSIONS, ARBITRATION CLAUSE, AND CLASS ACTION WAIVER..
3. Buyer acknowledges and agrees that its sole and exclusive remedy for any defects, breach of contract, or other claims arising out of or relating to any Order or any Product purchase is through Heatcraft's performance under the Limited Warranty.
4. Any parts, components, equipment or other products not manufactured by Heatcraft are not subject to and are not covered by the Limited Warranty. Rather they are warranted and guaranteed only to the extent and in the manner warranted and guaranteed to Buyer by the original manufacturer of such parts, components, equipment or other products.
5. **EXCEPT AS EXPRESSLY SET FORTH IN THE LIMITED WARRANTY, HEATCRAFT MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, ORAL OR WRITTEN, RELATED TO THE PRODUCTS, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.** Some jurisdictions do not permit partial or complete waivers of warranties and this term does not apply in such jurisdictions. You should check the law in your state to determine whether this waiver of warranties applies.
6. Any services provided by Heatcraft on or to the Products after sale are subject to the Heatcraft Service and In-Field Repair Policy, which is incorporated herein by reference.

## PART FOURTEEN - LIMITED LIABILITY AND NOTICE REQUIREMENT:

1. **IN NO EVENT SHALL A PARTY BE LIABLE TO THE OTHER PARTY FOR (I) ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, OR CONSEQUENTIAL DAMAGES; OR (II) DAMAGES FOR CORRUPTION OR LOSS OF DATA, BUSINESS INTERRUPTION, DIMINUTION IN BUSINESS VALUE, OR HARM TO GOODWILL OR REPUTATION. THIS LIMITATION APPLIES REGARDLESS OF WHETHER SUCH LOSSES ARE DIRECT LOSSES OR INDIRECT LOSSES; WHETHER ARISING FROM CLAIMS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), A STATUTORY OR REGULATORY VIOLATION OR OTHERWISE; AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS PARAGRAPH SHALL BE ENFORCEABLE TO THE FULLEST EXTENT PERMITTED BY LAW.**
2. BUYER MUST PROVIDE HEATCRAFT WITH NOTICE OF ALL CLAIMS IN WRITING AS PROMPTLY AS POSSIBLE AND IN NO CASE LATER THAN ONE (1) YEAR FROM THE DATE ON WHICH THE CLAIM ARISES. ANY FAILURE TO PROVIDE NOTICE IN STRICT COMPLIANCE WITH THIS TERM AND THIS AGREEMENT SHALL CONSTITUTE A WAIVER OF THE CLAIM. THIS NOTICE REQUIREMENT IS A CONDITION PRECEDENT TO ANY CLAIM BEING BROUGHT AGAINST HEATCRAFT. IF BUYER FAILS TO COMPLY WITH THIS NOTICE REQUIREMENT, IT SHALL NOT BE ENTITLED TO ANY LOSSES OR DAMAGES ARISING OUT OF OR RELATING TO THE CLAIM FOR WHICH NOTICE WAS NOT PROPERLY OR TIMELY PROVIDED.



# TERMS AND CONDITIONS OF SALE

## **PART FIFTEEN – DISPUTE RESOLUTION**

**PLEASE READ THIS SECTION CAREFULLY BECAUSE IT SIGNIFICANTLY AFFECTS YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT. THIS SECTION REQUIRES HEATCRAFT AND BUYER TO ARBITRATE ALL DISPUTES (AS DEFINED BELOW) THAT HAVE ARISEN OR MAY ARISE BETWEEN THE PARTIES ON AN INDIVIDUAL BASIS.**

**MANDATORY ARBITRATION: HEATCRAFT AND BUYER AGREE THAT ALL DISPUTES BETWEEN HEATCRAFT AND BUYER MUST BE RESOLVED EXCLUSIVELY THROUGH FINAL AND BINDING ARBITRATION, AND NOT BY A COURT OR JURY;**

however, Heatcraft or Buyer may assert claims in small claims court if: (a) the claims qualify for small claims court, (b) the matter remains in small claims court, and (c) the matter proceeds only on an individual (and not a class or representative) basis.

Both Heatcraft and Buyer waive the right to a trial by jury and any right to have a Dispute heard in court. Instead, all Disputes must be resolved in arbitration by a neutral third-party arbitrator. In arbitration, Disputes are resolved by an arbitrator instead of a judge or jury, discovery is more limited than in court and the arbitrator's decision is subject to limited review by courts.

However, the arbitrator must follow applicable Law and can award the same damages as in court. The arbitrator's award can be confirmed in any court of competent jurisdiction.

A single arbitrator, with the American Arbitration Association ("AAA"), will conduct the arbitration, and the award may not exceed the relief allowed by applicable Law. The arbitration will be conducted in the county of Buyer's principal place of business or other mutually agreed location. For claims of \$50,000 or less, the AAA's Supplementary Procedures for consumer-related disputes will apply. For claims over \$50,000, the AAA's Commercial Arbitration Rules will apply. If either set of rules is not available, the AAA rules applicable to commercial disputes shall apply.

This arbitration provision is subject to the Federal Arbitration Act ("FAA"), which governs its interpretation and enforcement. To the extent the FAA does not apply to any Dispute, the laws of the State of Georgia, without regard to principles of conflicts of law, will apply. The Parties intend for this arbitration provision to be construed as broadly as possible to require arbitration.

Except as expressly set forth in the Arbitration Class Action Waiver below, the arbitrator(s) will decide all issues of enforceability interpretation and application of this Dispute Resolution section, the arbitration provision, and this Agreement, with the exception of deciding whether the Arbitration Class Action Waiver below is valid or enforceable. A court will resolve any question regarding the validity or enforceability of the Arbitration Class Action Waiver. This provision is intended to be and shall constitute a delegation provision.

This Dispute Resolution section shall survive the expiration and termination of these Terms.

This arbitration agreement does not preclude Buyer from bringing issues to the attention of federal, state, or local agencies. Such agencies can, if applicable Law allows, seek relief against Heatcraft on Buyer's behalf.

The prevailing party in any arbitration shall be awarded its (a) arbitration fees, costs, and expenses; (b) reasonable expert fees, costs, and expenses; and (c) reasonable attorneys' fees, costs and expenses.

**Arbitration Class Action Waiver (for all states other than California)** – HEATCRAFT AND BUYER AGREE THAT ARBITRATION WILL PROCEED SOLELY ON AN INDIVIDUAL BASIS AND NO DISPUTE WILL BE ARBITRATED AS A CLASS ACTION, CONSOLIDATED WITH THE CLAIMS OF ANY OTHER PARTY, OR ARBITRATED ON A CONSOLIDATED, REPRESENTATIVE OR PRIVATE ATTORNEY GENERAL BASIS. Unless Heatcraft and Buyer agree otherwise in writing, the arbitrator's authority to resolve and make awards is limited to Disputes between Heatcraft and Buyer. The arbitrator's award or decision will not affect issues or claims involved in any proceeding between Heatcraft and any person or entity who is not a party to the arbitration. The arbitrator may award monetary, declaratory, or injunctive relief only in favor of the individual Party seeking relief and only to the extent necessary to provide relief warranted by that Party's individual claim. The arbitrator's award, if any, will not apply to any person or entity that is not a party to the arbitration. A court, not the arbitrator, will decide any questions or disputes regarding the enforceability of this Arbitration Class Action Waiver. If a court deems any portion of this Arbitration Class Action



## TERMS AND CONDITIONS OF SALE

Waiver invalid or unenforceable, the entire arbitration provision (other than this sentence) will be null and void and not apply. For the avoidance of doubt, in no event shall an arbitration occur on a class or collective basis.

**Arbitration Class Action Waiver (for California)** – Heatcraft and Buyer agree that arbitration will proceed solely on an individual basis and no Dispute will be arbitrated as a class action, consolidated with the claims of any other party, or arbitrated on a consolidated, representative, or private attorney general basis; provided, however, that Buyer shall be permitted to seek and obtain public injunctive relief in arbitration. Unless Heatcraft and Buyer agree otherwise in writing, the arbitrator's authority to resolve and make monetary damage awards is limited to Disputes between Heatcraft and Buyer. The arbitrator may award *monetary* relief only in favor of the individual Party seeking relief and only to the extent necessary to provide relief warranted by that Party's individual claim. The arbitrator's monetary award, if any, will not apply to any person or entity that is not a party to the arbitration. A court, not the arbitrator, will decide any questions or disputes regarding the enforceability of this Arbitration Class Action Waiver other than a dispute over whether this Arbitration Class Action Waiver is enforceable under *McGill v. Citibank, N.A., 2 Cal 5th 945 (2017)* and related case law (that question shall be determined by an arbitrator). If a court deems any portion of this Arbitration Class Action Waiver invalid or unenforceable, the entire arbitration provision (other than this sentence) will be null and void and not apply. For the avoidance of doubt, in no event shall an arbitration occur on a class or collective basis.

**Non-Arbitration Class Action and Jury Waiver** – If for any reason any Dispute proceeds in court rather than arbitration, Heatcraft and Buyer waive any right to a jury trial, and the Dispute will proceed solely on an individual, non-class, non-representative basis. Neither Heatcraft and Buyer may be a class representative or class member or otherwise participate in any class, consolidated, private attorney general, or representative proceeding.

**Definition of "Dispute"** – The term "Dispute" and "Disputes" shall be broadly interpreted to include any claims, disagreements, or controversies that Heatcraft and Buyer had, have, or may have against each other, whether based in contract or tort or on a statute or regulation or any other legal theory, including, without limitation, all claims, disagreements, or controversies arising out of or relating to any Heatcraft-manufactured Products or equipment, any business dealings between Heatcraft and Buyer, or any Limited Warranty or Extended Limited Warranty.

### PART SIXTEEN – INDEMNIFICATION

1. To the fullest extent permitted by Applicable Law, Buyer agrees to indemnify, defend, and hold harmless Heatcraft from and against any and all damages, injuries, losses and harms that Heatcraft may incur or suffer arising out of or relating to (a) action or inaction by Buyer; (b) any breach of these Terms by Buyer; (c) any claim that Buyer infringed, or caused Heatcraft to infringe, on any third party's intellectual property rights (including, but not limited to, copyright, trademark and patent rights); and (d) Buyer's violation of any law (individually and collectively an "Indemnification Claim").
2. The duty to defend obligation requires Buyer to advance and/or promptly reimburse Heatcraft for all reasonable attorneys' fees, costs and expenses Heatcraft incurs in responding to or defending against any Indemnification Claim. Buyer shall pay such advancement or reimbursement within thirty (30) days of receiving a written request. Heatcraft shall have the right to select its own counsel and to control the litigation or arbitration, and Buyer shall cooperate in good faith of such defense.

### PART SEVENTEEN - MISCELLANEOUS

1. Buyer acknowledges and agrees to be bound by and comply with all applicable laws and all applicable Heatcraft policies and warranties, including, but not limited to, these Terms and all export-related laws.



## TERMS AND CONDITIONS OF SALE

2. Heatcraft reserves the right to amend these Terms and its policies and warranties at any time. If Buyer purchases a Product or makes a Limited Warranty claim after receiving notice that these Terms have been amended, Buyer shall be deemed to have accepted and agreed to the revised and/or amended Terms.
3. These Terms, any applicable Limited Warranty, and any applicable agreement signed by both Buyer and Heatcraft constitute the sole and exclusive agreement between Heatcraft and Buyer with regard to the purchase and sale of the Products. Unless agreed to in writing by both Buyer and Heatcraft, there are no terms, conditions, representations, understandings, or agreements other than those stated in these Terms, and all prior and contemporaneous discussions, representations, proposals and negotiations are merged herein.
4. These Terms shall not be amended, except by a written instrument signed by both Buyer and Heatcraft.
5. These Terms establish an independent buyer-seller relationship and are not intended to create, and have not created, any partnership, joint venture, master servant, employer-employee or similar business relationship.
6. There are no third-party beneficiaries. This document does not confer any benefits to anyone other than Heatcraft and Buyer.
7. Buyer may not assign, in whole or in part, any rights or interests under any Order or these Terms, or any other interest without Heatcraft's prior written consent. Any assignment in violation of this provision is null and void.
8. Subject to the Dispute Resolution section above, if any provision of these Terms is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect and the illegal, invalid or unenforceable parts shall be severed therefrom. In the event of a conflict between this term and any term in the Dispute Resolution section, the Dispute Resolution section shall govern.
9. No waiver of any provision hereof shall constitute a waiver of any other breach or of such provision.
10. Captions and headings are used in these Terms for convenience only and will not be used to interpret the terms.

### Returned Products Addendum

Products will not be accepted for return without prior written authorization from Heatcraft. Heatcraft is under no obligation of any kind to authorize or agree to any return. Rather, Heatcraft shall have the right, in its sole and absolute discretion, to accept or reject any partial or total return. Products requested to be returned must be in a new, unused, and salable condition, in the original cartons, and less than one year from the original invoice date.

Please contact your Heatcraft Sales Representative or a Heatcraft warranty representative for authorization. Contact information is set forth below.

The following information is needed to authorize a return of materials:

1. Complete model(s) and serial number(s) of Product(s) involved
2. Original purchaser of Product and address
3. Original invoice and acknowledgment number
4. Purchase order number
5. Part number or description
6. Reason for return
7. Any other information reasonably requested by SELLER

Once Heatcraft has provided written authorization that a Product can be returned, Purchaser will be provided a Return Material Authorization (RMA) number. If a Product has been field scrapped, no RMA is needed. Products must be returned via prepaid,





## TERMS AND CONDITIONS OF SALE

ground transportation within sixty (60) days of the date of the RMA. The RMA number must be visible on the outside of the package. If Purchaser does not return the Product(s) authorized to be returned within sixty (60) days of the RMA, the return authorization shall be deemed automatically revoked and void and Purchaser shall not longer be permitted to return the Product (absent written authorization from Heatcraft after the 60-day period expired).

No Product will be accepted for return or credit without a properly completed authorization tag.

Purchaser is solely responsible for properly packaging all Products and associated components, parts and other materials to ensure no damage occurs during transportation or return. Purchaser is solely responsible for any damages or other losses that arise out of or relate to the return of any Product. Heatcraft is authorized and permitted to reduce from any credit or other refund due any damages, losses or liabilities that arise out of or relate to the return, including, without limitation, any damage to the Product during transport or Purchaser's failure to return any parts or components.

MANUFACTURED-TO-ORDER (NON-STOCK) PRODUCTS ARE NOT ELIGIBLE FOR RETURN. Certain other Products cannot be returned due to their custom nature (e.g. painted parts, electrical components, or special orders).

Returned items are subject to a re-stocking fee (minimum of \$50), transportation costs, and other handling and restocking charges determined by Heatcraft. Buyer shall pay such costs and charges within ten (10) days of the date of the invoice therefor.

Contact information for returns:

Heatcraft Refrigeration Products LLC

ATTN: Warranty Department

2175 West Park Place Blvd., Stone Mountain, GA 30087

hrpdwcr@heatcrafttrpd.com

Fax: 866-475-4968 Attn: Warranty Claims

800-321-1881 Option 5.

You can also contact a Heatcraft Customer Service Representative at 800-321-1881 Option 1 between the hours of 8:00 AM to 5:00 PM Eastern Time.