

# Terms and Conditions of Sale, Delivery and Payment

## Viessmann

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### I. General Provisions

1. All references to "Viessmann" in this document include Viessmann Manufacturing Company (U.S.) Inc. and any parent, subsidiary, or affiliate. References to "Buyer" include all parents, subsidiaries, or affiliates of the party ordering products or services from Viessmann. All sales of Viessmann products and quotations for Viessmann products are governed by these Terms and Conditions of Sale, Delivery, and Payment (the "Terms"), which shall prevail over any inconsistent terms in Buyer's purchase order or other documents. Additional or different terms and conditions in any way altering or modifying these Terms are expressly objected to and shall not be binding upon Viessmann unless specifically accepted by Viessmann in writing. No modification or alteration of these Terms shall occur by Viessmann's shipment of products following receipt of Buyer's purchase order or other document containing additional, inconsistent, or conflicting terms.
2. Any product purchased from Viessmann in the United States is for resale and use only in the United States. Buyer agrees that it will not resell Viessmann products for use or installation outside of the United States and will take all reasonable and necessary steps to ensure that the Viessmann products are resold only for use and installation in the United States.

### II. Plans and Specifications

1. Drawings, specifications and technical data appended to or forming part of a specific sales contract shall at all times remain the property of Viessmann, with all rights reserved and shall not be provided, submitted or disclosed to third parties without the express written consent of Viessmann. Changes, alterations, deletions or additions thereto shall not be binding upon Viessmann unless confirmed in writing by Viessmann.

### III. Prices and Quotations

1. Viessmann reserves the right to change, alter, amend or revoke prices and quotes, including prices on websites and in pricelists and catalogs, without notice, and all such prices expire and become invalid unless accepted within 60 calendar days.
2. Prices are, except as otherwise agreed, exclusive of cost of packaging, crating, freight or shipping, federal, state or local taxes in effect on date of delivery. All taxes imposed on sales or shipments will be added to the purchase price and be reimbursed by Buyer. All prices and other terms shall be kept confidential and disclosed only as required by law.

### IV. Terms of Payment

1. For all Viessmann products, all invoices or accounts, as the case may be, are due and payable in full without deduction thirty (30) days after invoice date, unless otherwise specifically agreed in writing.
2. Notwithstanding the preceding paragraph, all orders are subject to Viessmann's continuing approval of Buyer's credit. If Buyer's credit is not approved or becomes unsatisfactory to Viessmann then Viessmann, in its sole and absolute discretion, may suspend or cancel performance, or require different payment terms, including

- but not limited to cash on delivery or in advance of shipment. Viessmann, in its sole and absolute discretion, may apply Buyer's payment to any open charges or sums owed, including interest charges.
3. Holdbacks or deductions of any kind whatsoever without prior written authorization from Viessmann are expressly prohibited. Viessmann shall have rights of setoff and recoupment.
4. Discounts, if any, shall be calculated on the cost of products as per invoice, exclusive of cost of packaging, crating, federal, provincial, state or local rates, tariffs or taxes, where applicable, or other costs or surcharges beyond control of Viessmann.
5. Payments must be made in U.S. dollars by bank check, ACH wire transfer or money order. All costs for dishonor, presentment for payment or collection shall be at the expense of the Buyer.
6. Overdue accounts shall bear interest at the rate stated on the face of the invoice.

### V. Delivery of Products

1. Viessmann shall not be liable for delay or default in delivery resulting from any cause beyond its control, including but not limited to governmental action, strikes or other labor issues, fire, damage or destruction of products or facilities, wars, acts of terrorism, manufacturers and/or suppliers shortages, availability or timeliness of transportation, materials or supplies, and acts of God (each a "Force Majeure event"). Upon the occurrence of a Force Majeure event: (a) the time for Viessmann's performance shall be reasonably extended; (b) the purchase price to Viessmann shall be adjusted for any increased costs Viessmann incurs from the Force Majeure event; and (c) Buyer shall not be entitled to any other remedy.
2. In the event of delay of delivery of products caused by the Buyer for any reason whatsoever Viessmann shall be entitled to charge the cost of storage calculated at the rate of one half percent (0.5%) per month upon the cost of products, such calculation commencing one month after delivery of Notice of Readiness for shipment and continuing for each and every month or part thereof thereafter until the delivery of products to the Buyer.

### VI. Risk of Property

1. Sales of Viessmann products are made FOB Origin, freight collect or FOB Origin, Freight Prepaid and charged back. The FOB point shall be Viessmann's office or warehouse. Title and risk of loss shall pass to Buyer at the FOB point.
2. Deficiencies or defects in products or part thereof shipped or shipment of wrong products or part thereof shall be endorsed upon the bill of lading and shall be communicated to Viessmann in writing within eight (8) calendar days of arrival at destination. Failing such notification shall be deemed to have accepted the products without recourse.

### VII. Return of Products

1. No products may be returned to Viessmann without prior written authorization.

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2. If returns are authorized by Viessmann, products will be accepted as follows:

- (i) Buyer must provide proof of purchase, invoice and/or serial number to receive a Return Products Authorization number from Viessmann. Upon authorization from Viessmann, freight will be prepaid by the buyer.
- (ii) Item and packaging must be new and in saleable condition. Twenty-five percent (25%) restocking charge on product returned after 30 days of purchase.
- (iii) Electronic parts, where factory seal has been broken are not returnable.
- (iv) Discontinued products and/or parts are not returnable.

### VIII. Limitation of Liability

Viessmann's total liability to Buyer for any claim arising under the Terms or from the supply of products or services shall not exceed the purchase price specified on the face of the invoice. VISSMANN SHALL NOT IN ANY EVENT BE LIABLE FOR INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL OR LIQUIDATED DAMAGES OR PENALTIES, INCLUDING CLAIMS FOR LOST REVENUE, PROFITS OR BUSINESS OPPORTUNITIES, EVEN IF VISSMANN HAD OR SHOULD HAVE HAD ANY KNOWLEDGE, ACTUAL OR CONSTRUCTIVE, OF THE POSSIBILITY OF SUCH DAMAGES.

### IX. Indemnity

Buyer shall and does hereby agree to defend, indemnify and hold Viessmann harmless of and from any and all liability loss, cost, injury, damage, demand and expense (including, without limitation, reasonable attorneys' fees) of any kind whatsoever arising out of, on account of, or in connection with a breach of these Terms, Buyer's negligence or willful misconduct (including that of its employees, contractors, and agents), violation of applicable law by Buyer or any employee or third party acting by or on behalf of Buyer, improper installation of the products and/or any use or misuse of the products. This indemnity shall not be affected or terminated by reason of the termination of these Terms or purchase, for any reason, with respect to all or any part of the products.

### X. Warranties

THE WRITTEN LIMITED WARRANTY ACCOMPANYING THE PRODUCTS IS THE EXCLUSIVE WARRANTY APPLICABLE TO THE PURCHASED VISSMANN PRODUCTS. THAT WARRANTY IS GIVEN IN LIEU OF ALL OTHER WARRANTIES WITH RESPECT TO THE PURCHASED VISSMANN PRODUCTS. VISSMANN MAKES NO OTHER WARRANTIES WITH RESPECT THERETO, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ANY SUCH WARRANTY IMPOSED BY LAW IS LIMITED TO THE PERIOD OF THE LIMITED WARRANTY PROVIDED IN THE LIMITED WARRANTY ACCOMPANYING THE PRODUCTS. NO WARRANTY ARISING BY USAGE OR CUSTOM, OR COURSE OF PERFORMANCE IS GIVEN BY VISSMANN OR SHALL ARISE IN CONNECTION WITH THAT LIMITED

WARRANTY. Some states do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you in that respect.

### XI. Applicable Law and Forum

1. These Terms shall be governed by the law of Rhode Island without regard to its choice of law principles.
2. All disputes based upon or arising out of these Terms or the parties commercial relationship shall be brought before the state or federal courts of the State of Rhode Island, which shall have exclusive jurisdiction over all such disputes. The parties waive any objections to venue in, or the exercise of jurisdiction by, the state and federal courts in Rhode Island.

### XII. Other

1. The invalidity or unenforceability of some or all of these Terms will not affect the validity or enforceability of the other terms. The parties agree to replace any void or unenforceable term with a new term that achieves substantially the same practical and economic effect and is valid and enforceable.
2. Buyer shall pay all of Viessmann's costs of collection, suit or other legal action brought as a result of the commercial relationship between them, including but not limited to attorney's fees and costs, pre-suit through trial and appeal.

### XIII. Data Privacy and Security

**"Personal Information"** means any information Buyer receives or has access to in connection with any products or services hereunder that (a) identifies or relates to an individual or household who can be identified directly or indirectly from that data alone or in combination with other information in Buyer's possession or control or that Buyer is likely to have access to, or (b) is defined by applicable data privacy law as protected personal information.

Buyer will only process, retain, use, or disclose Personal Information to the extent, and in such a manner, as is necessary for the sale, installation, or maintenance of the products or services provided under these Terms. Buyer will not process, retain, use, or disclose Personal Information for any other purpose or in a way that does not comply with these terms, the written instructions of Viessmann, or applicable data privacy law.

Buyer must promptly comply with any Viessmann request or requirement of the Buyer to amend, transfer, or delete the Personal Information, or to stop, mitigate, or remedy any unauthorized processing. Buyer will maintain the confidentiality of all Personal Information, will not sell it to anyone, and will not disclose it to third parties unless Viessmann specifically authorizes the disclosure, or as required by law.

Buyer will limit Personal Information access to those employees and authorized third parties who require Personal Information access to meet the Buyer's obligations under these Terms or any other Agreement with Viessmann. Buyer will require that all such employees and third parties agree to

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terms regarding data privacy and protection no less stringent than those contained in these Terms. Buyer is solely responsible for such employees and third parties in regard to Personal Information.

Buyer must at all times implement appropriate technical and organizational measures designed to safeguard Personal Information against unauthorized or unlawful processing, access, copying, modification, storage, reproduction, display, or distribution, and against accidental loss, destruction, or damage.

Buyer will notify Viessmann as soon as practicable, but in any case within 48 hours, of any unauthorized or unlawful processing, access, copying, modification, storage, reproduction, display, distribution, accidental loss, destruction, or damage to any Personal Information (collectively, "Security Incident"). Buyer will, at its sole expense, take immediate action to remedy all Security Incidents, and will report and update findings to Viessmann promptly as they become available during the course of Buyer's remediation and investigation.