

GENERAL TERMS AND CONDITIONS OF SALES - INTERNATIONAL

Art. 1 - Orders

1.1. By submitting orders, the Customer fully accepts these general terms and conditions of sale of GMC Refrigerazione S.r.l.; the latter shall not be bound by any general terms and conditions of purchase of the Customer, without prejudice to any specific terms, currently valid, entered into in writing between GMC Refrigerazione S.r.l. and the Customer (hereinafter also jointly the "Parties").

1.2. Once GMC Refrigerazione S.r.l. has received a written order from the Customer ("Order"), it shall process the same, verifying that the indicated product(s) correspond to those found in the catalogue or to the customised design requested by the Customer (individually, "Product" or, if two or more, "Products") and that they are actually available for sale and/or supply. In any case, GMC Refrigerazione S.r.l. may decide not to confirm the Order for any reason, without the obligation to provide motivation, and it shall not be held liable for any temporary or permanent unavailability of one or more of the Products.

The Order is not accepted until it is approved in writing by GMC Refrigerazione S.r.l. by sending the order confirmation ("Order Confirmation") to the Customer. The Order Confirmation contains a summary of all information and specifications relating to the Order received from the Customer, possibly already indicated in the commercial offer, as well as details of the Parties, an indication of the price, payment terms and methods, and the delivery and return procedures. If the Order Confirmation does not modify the Order, it shall apply as acceptance of the same; if the Order Confirmation modifies the Order, in whole or in part, it shall be considered to be accepted on a final basis in the absence of any written objections received from the Customer within 24 (twenty-four) hours. In that case, or if these General Terms and Conditions of GMC Refrigerazione S.r.l. are rejected, the sale or supply contract shall be seen not to be concluded and GMC Refrigerazione S.r.l. shall not process the Order, unless otherwise agreed in writing between the Parties.

The Parties shall apply the General Terms and Conditions of GMC Refrigerazione S.r.l. most recently cited in the Order Confirmation sent by GMC Refrigerazione S.r.l. to the Customer, with the latter accepting them in full.

Art. 2 – Delivery and Returns

2.1. The delivery terms indicated in the Order Confirmation are understood to be indicative and not binding for GMC Refrigerazione S.r.l., which disclaims any liability or penalty for delivery delays. Any delays in delivering the Products are not considered an essential breach of the sale or supply contract and as a consequence do not entitle the Customer to terminate the contract or to receive a price reduction.

2.2. The delivery and return terms indicated in Incoterms EX WORKS - EXW "GMC Refrigerazione S.r.l. Gessate (Milan) Warehouse" Incoterms® 2020 updated to 2024 apply to all Products as well as Art. 67 of the Vienna Convention, unless otherwise stated in the Order Confirmation or otherwise agreed in writing with the Customer.

2.3. In any case GMC Refrigerazione S.r.l. retains the title of every Product delivered until it has received the full price balance from the Customer.

Art. 3 – Obligations of the Customer

3.1. The Customer is obliged to (i) pay the price and any accessory costs/charges within the set terms and by the set procedures (ii) accept delivery of the Products, according to the terms and methods indicated in the Order Confirmation; and (iii) respect the confidentiality obligations and intellectual property rights indicated in Articles 9 and 10 below.

Art. 4 – Non-Fulfilment by the Customer

4.1. Any partial, lack of or delayed payment of the price (even of just one instalment where payment in instalments is permitted) by the Customer entitles GMC Refrigerazione S.r.l. to suspend the deliveries in relation to all outstanding Orders with the Customer. GMC Refrigerazione S.r.l. also reserves the right to withdraw from the contracts in progress with immediate effect to be notified to the Customer in writing. In those cases, no damage or indemnity shall be due to the Customer, which shall in any case be required to repay the costs incurred by GMC Refrigerazione S.r.l. for materials already purchased to process the Order and for the work carried out up until that time.

4.2. In the event of a non-fulfilment or lack of exact fulfilment by the Customer, even in derogation of Articles 85, 87 and 88 of the Vienna Convention, GMC Refrigerazione S.r.l. shall have no obligation – even in terms of custody or storage of the Products – and the Customer shall remain exclusively liable for every risk, cost and expense.

4.3. Without prejudice to the retention of title of the Products until the price is paid in full, the Customer undertakes to (i) store each Product carefully and with the utmost diligence from the time of delivery (ii) allow GMC Refrigerazione S.r.l. and its representatives to access the premises of the Customer, any end customers and/or third parties, or the premises where the Products are stored, in order to check the Products and/or to collect the same, with costs and expenses borne by the Customer; (iii) not to unpack the Products or to use them until payment has been made in full: otherwise, GMC Refrigerazione S.r.l. may charge double the price, without prejudice to the right to recover the Products and (iv) repay to GMC Refrigerazione S.r.l. the costs incurred by the latter for recovering the Products.

Art. 5 – Warranty, Complaints and Returns

5.1. In express derogation of the Vienna Convention and of the rules of private international law of the contracting Parties, as well as any other bilateral and multilateral agreements aimed at standardising international sales, the following terms of warranty apply to the sale of GMC Refrigerazione S.r.l. Products.

All GMC Refrigerazione S.r.l. Products are guaranteed for a period of 12 (twelve) months from delivery.

The warranty concerns all those Products or parts of them that present manufacturing defects within the warranty period itself.

5.2. The warranty shall not be effective when the defects of the GMC Refrigerazione S.r.l. Products are caused by errors of the Customer or third parties such as, by way of example but without limitation, incorrect installation, uses contrary to and/or different from the indications provided by the catalogue and/or the assembly instructions, as well as interventions not authorised by GMC Refrigerazione S.r.l., or tampering, even without malice, opening of the Product or attempt to modify the same by the Customer, the end customer and/or third parties.

5.3. Defects or deformities of the Products must be reported exclusively by email to the address info@gmc-refrigerazione.com within 15 (fifteen) days from their discovering, under penalty of forfeiture. In any case, the action to assess the defects and any related compensation claim is limited to the period of 12 (twelve) months from delivery; failing that, any action is understood to have expired or been waived on a final basis.

5.4. For the purposes of activating the warranty, only the report sent in the manner indicated above and containing a precise indication of the Products, the defects found, the date of discovery of those defects, the project details if it is a customised Product and possibly the end customer recipient of the good, as well as the date of delivery, with all possible details and photographic evidence, will be considered valid. Subject to authorisation by GMC Refrigerazione S.r.l., the Customer shall promptly, and in any case within 60 (sixty) days from making a valid report of defects, at its own exclusive expense and risk (unless otherwise agreed between the Parties), return the Products to the operational headquarters of GMC Refrigerazione S.r.l. in Gessate (Milan), together with a copy of the appropriate transportation document.

5.5. In the event of a failure to comply with the terms and conditions indicated here, or any other instructions received from GMC Refrigerazione S.r.l., the warranty may be invalidated.

Having received the report of defects as indicated above, GMC Refrigerazione S.r.l. reserves the right to examine the reported Product defects, to request further documentation or to proceed even by way of a specific inspection and to communicate the outcome of the checks to the Customer.

5.6. If GMC Refrigerazione S.r.l. decides not to approve the complaint/dispute, it shall send a specific motivated communication to the Customer within 15 (fifteen) days from completing the checks. In that case, the risks, responsibilities, transportation and delivery costs of the Product shall be borne by the Customer in full.

5.7. In the event that the warranty is valid, at its sole discretion, GMC Refrigerazione S.r.l. undertakes exclusively to replace (in whole or in part) the Products or to repair them under warranty at no additional cost to the Customer or to refund to the Customer the price paid for the defective Products which will be retained by GMC Refrigerazione S.r.l., with the express exclusion of any other remedy, including the right to compensation for damages, direct and/or indirect, of any nature, caused in any capacity to the Customer and/or its assignors/assignees.

5.8. The launch of the dispute or complaint procedure for each Product shall not grant to the Customer any right, in relation to any pending and/or future Order, to suspend or delay the payment of the price and the accessory costs/expenses, which must in any case be paid within the terms and by the methods indicated in the Order Confirmation.

5.9. GMC Refrigerazione S.r.l. does not accept returns of Products that have not been explicitly authorised in advance by the same and that are not sent to GMC Refrigerazione S.r.l. at the exclusive expense and risk of the Customer – to “GMC Refrigerazione S.r.l. Plant, Gessate (Milan)”.

Art. 6 - Price

6.1. The price agreed between the Parties is expressed in Euro in the Order Confirmation by GMC Refrigerazione S.r.l. and generally includes the costs of standard packaging, unless otherwise indicated in the Order Confirmation or agreed in writing with the Customer.

6.2. If Customer fails to make the payment according to the terms and methods established in the Order Confirmation, without prejudice to the remedies envisaged by the General Terms and Conditions of Sale, the Customer shall be required to pay default interest, calculated at the rate envisaged by Italian Legislative Decree 231/2002 in force in Italy at the time the payment is due, from that due date until the payment is made, without the need for any prior placement in default.

6.3. The payment of the price may never be suspended, delayed or postponed by the Customer for any reason, not even in the case of complaints or disputes, or causes of force majeure, or even if the Products are subject to encumbrances of any nature and/or constraints deriving from foreclosures and/or seizures not known to the Customer.

6.4. Any lack of, partial and/or delayed payment of the price and the accessory costs/charges, for any reason, entitles GMC Refrigerazione S.r.l. - without prejudice to any other action and right to compensation for any damage - to demand advance payment of the Orders already processed and/or in progress and/or invoiced and/or to suspend or cancel any other outstanding Orders, without the Customer being able to make any claim for reimbursements, indemnities and/or anything else and without prejudice to the obligations of the Customer, which remain in place.

Art. 7 – Unilateral Modifications

7.1. GMC Refrigerazione S.r.l. has the right to make changes or modifications to its Products at any time, in order to improve the performance and/or quality of the Products, as well as for any other purpose considered to be of interest for GMC Refrigerazione S.r.l.

7.2. GMC Refrigerazione S.r.l. also has the unquestionable right to amend these General Terms and Conditions unilaterally, notifying the Customer thereof in writing; the amendments shall be effective from the time of that notification for all Orders not yet confirmed with the Order Confirmation.

Art. 8 – Limitation of Liability

8.1. For any damages caused to persons or property by any Product due to ascertained manufacturing defects, GMC Refrigerazione S.r.l. may be held liable exclusively within the limits of value equal to the price paid by the Customer for the Order in which the defective Product was included.

8.2. Any liability of GMC Refrigerazione S.r.l. for damages caused to persons or property, due to a fault with the machinery/system in which the Product of GMC Refrigerazione S.r.l. has been installed, is in any case excluded.

8.3. Liability for indirect damages is always excluded.

Art. 9 – Confidential Information

9.1. The Confidential Information [namely any information, data, design and technical documentation communicated and exchanged directly or indirectly, in writing or orally, by GMC Refrigerazione S.r.l. or its agents, consultants, suppliers or third party contractors to the Customer (or its subsidiary and/or associated and/or investee companies) or to its agents, consultants, suppliers or third party contractors or of which the Customer (or its subsidiary and/or associated and/or investee companies), its agents, suppliers or third party contractors have become aware], prior to or after the submission of the Order Confirmation, shall remain the exclusive property of GMC Refrigerazione S.r.l. and is therefore protected by intellectual property.

The Customer is therefore prohibited from disclosing it in any way to third parties and from using it for any purposes other than those for which the Confidential Information was communicated and exchanged.

Art. 10 – Intellectual Property

10.1. In no case may the Customer claim and/or assert intellectual property rights or rights of another nature, even by way of transfer or granting on licence, over the Products subject to sale and supply and over the Confidential Information. The set of intellectual property rights relating to the Confidential Information and the Products shall remain the property of GMC Refrigerazione S.r.l. without time or territorial limits.

Art. 11 – Personal Data Processing

11.1. The Parties mutually undertake to process the personal data exchanged in relation to the conclusion and execution of these General Terms and Conditions and as part of their contractual relationships in compliance with the provisions of Reg. EU GDPR 2016 /679, with the express exclusion of any other regulation in force on the matter internationally.

Art. 12 – Prohibition on Assignment

12.1. The Customer may not assign or in any way transfer to third parties, in whole or in part, the sale or supply contract and any of the rights and/or obligations arising from the sale or supply contract regulated by these General Terms and Conditions, subject to express written approval signed by GMC Refrigerazione S.r.l..

Art. 13 – Applicable Law and Court with Jurisdiction

13.1. For anything not expressly envisaged or derogated from by these General Terms and Conditions, the Vienna Convention shall apply, with the exclusion of any application of the domestic rules of law of the contracting Parties, the provisions of private international law, as well as any other bilateral and multilateral agreements on international sales.

13.2. Any dispute that arises or is connected to the sale or supply contract governed by these General Terms and Conditions, or deriving from its execution, interpretation, validity and termination, that cannot be settled amicably and in good faith by the Parties, shall be deferred to the exclusive jurisdiction of the Court of Milan.