

Sales terms and conditions

Article 1-Subject of the contract

This agreement regulates the relationship between the CUSTOMER and FRESMAK, S.A. (hereinafter FRESMAK) in regard to the procurement of products and services that the CUSTOMER contracts with FRESMAK.

Offers and quotations made by FRESMAK are not binding, understood as sales contract only when FRESMAK confirms an order in writing.

These sales conditions may be amended only by written agreement between the parties, thus the terms or conditions contained, printed or handwritten, in orders, letters or other documents issued by the Customer become invalid.

The amendment of these sale terms by FRESMAK shall not affect contracts already signed.

All future purchases of goods from the Customer, in the absence of an express agreement, shall be subject to these terms and conditions.

Article 2-Orders

1.- All supplies and services of FRESMAK are subject to the conditions expressed below. Any provision in any order from the CUSTOMER deviating from these conditions is explicitly rejected. Such provisions shall not be binding for FRESMAK unless they have been agreed upon and signed by both parties in writing.

2.- The sale is formalised when FRESMAK accepts the order by sending the corresponding Order Confirmation, either through fax or e-mail, according to the customer's preference. The sending of an order by the CUSTOMER does not constitute a contract, although FRESMAK has previously presented a quotation. Any supplementary agreement and any subsequent modifications requested by the CUSTOMER must be confirmed and shall not take effect until there is an express and written consent from FRESMAK.

3.- FRESMAK reserves the right to modify its products and make changes to technical data and performance characteristics insofar as these are for the purpose of technical progress.

Article 3 - Quotations

1.- All quotations are made on the understanding that the whole of the quantity quoted for will be ordered; otherwise FRESMAK reserves the right to revise the quotation.

Article 4.-Price

1.- FRESMAK provides to all its customers up-dated information about prices. FRESMAK can modify the prices at any time and without prior individualized communication, always subject to what may be mentioned in a particular contract with the CUSTOMER.

2.- In the case of orders with a net total value of the material less than 30 EUR (before taxes), FRESMAK will apply a supplement for administrative costs to increase its value up to that amount.

3.- The values stated in the FRESMAK price list do not include shipping, insurance and installation costs nor taxes.

4.- FRESMAK ensures the price included in the quotation until the deadline mentioned on the same.

5.- The costs to cover the integrated management systems of waste packaging and containers shall be borne by the CUSTOMER. To this end, the customer must fulfil the obligations set by Law 11/1997 of 24 April on packaging and packaging waste, or any other legislation replacing or applicable. In the event that pursuant to these regulations, FRESMAK is obliged to carry out a series of actions to reduce the environmental impact of packaging and management of packaging waste throughout their entire life it may affect the cost of complying with these obligations in the CUSTOMER, who accepts it by subscribing to the present conditions.

Article 5.- Payment conditions

1.- The payment of the invoiced price must be maximum 30 days from the date of issuance of the invoice, unless other conditions are specified on the invoice. If delivery of the goods or materials shall be prevented or delayed by the CUSTOMER, payment shall be made within 30 days of the date of delivery as if there had been no such prevention or delay.

2.- FRESMAK reserves the right to charge interest and cost of collection of any unpaid remaining invoice, in application of the law 15/2010 dated 5th of July, in which measures for combating late payment in commercial operations are established.

3.- If the Customer defaults in making payment on the due date agreed with FRESMAK, FRESMAK may suspend its pending deliveries.

4.- In the case of early termination of the contract for any reason, the CUSTOMER shall be obliged to pay immediately all the work performed and products delivered, as well as to pay the damages that occur to FRESMAK.

5.- If goods are returned through no fault of FRESMAK, FRESMAK reserves the right to make a handling charge.

6. If the payment is not made by the due date, the customer must pay interests on the value of the amount due, starting from the agreed due date, 6% over 12 months.

Article 6.- Delivery time

1.- FRESMAK undertakes to comply with all delivery times agreed with the CUSTOMER, however these may be changed by FRESMAK for reasons of production, and in such a case FRESMAK must communicate it to the customer with the utmost urgency. The CUSTOMER knows and accepts this situation, which will not generate any right to demand any penalty or the termination of the contract.

Article 7.- Transport

1.- The transport costs are not included in the price of the product and are payable by the customer.

2.- Once the supplied materials get out of their warehouses, FRESMAK will not be responsible for these or the duration of their shipment. FRESMAK will not accept responsibility for loss from package, damage, wrong delivery, discrepancies or short shipments unless a written complaint is made to FRESMAK within ten days after the delivery of the consignment and unless FRESMAK is given an opportunity of inspection

3.- If at the time of delivery readily-evident defects are detected on the package or the product itself, the CUSTOMER must execute it in writing in the delivery note signed to the carrier; otherwise claims for this concept are not accepted.

4.- If the shipping or delivery is delayed by will of the CUSTOMER for a period exceeding one month, counting from the date on which the material was ready, the CUSTOMER shall be liable to pay the storage charges until its effective delivery.

Article 8.- Quality and Performance Warranty

1.- FRESMAK exclusively guarantees that products will be in accordance with agreed specifications on the date of delivery.

2.- All products have a FRESMAK warranty for 12 months from receipt of the same, for which the delivery note of these will be taken into account.

3.- In the event that the CUSTOMER detects defective products, it must be notified to FRESMAK within a maximum period of fifteen days from their receipt, in writing and reliably, specifying at least the product serial number and a brief description of the defect.

4.- Once confirmed by FRESMAK the existence of defective products, these will be repaired or replaced, at the option of FRESMAK, free of charge, always within the stated warranty period. Excluded from this warranty are parts subject to normal wear and tear.

5.- Once reviewed a product, if it is determined that it is operating correctly or that the cause of the malfunction is unrelated to the product itself, it shall be returned to the CUSTOMER freight forward, along with a minimum charge of €20 and maximum 2 hours of workforce for handling and verification.

6.- Technical information and documentation of existing FRESMAK products can be downloaded by the CUSTOMER from the website FRESMAK.

7.- This warranty shall be not applied, if the customer or a third party had made modifications, repairs or manipulations on delivered products.

8.- Should products be modified, repaired or handled by the customer or a third party warranty shall not be applied.

Article 9.- Return Policy

1.- FRESMAK can accept product returns from the CUSTOMER provided that they meet the following criteria:

a) Only the return of standard products is accepted. Standard product means, one whose part number appears in the catalogue and is enough to define the product without adding more specifications, e.g. configurable, customised elements and spare parts.

b) Due to managing costs, returns will only be accepted when the net amount of all the material to be returned is higher than €100.

c) Returns are only accepted within thirty days from the receipt of the product, meaning the date of the delivery note issued by FRESMAK.

d) When applying for the return, the order number FRESMAK and / or delivery note number and / or invoice number with which the product was purchased shall be stated.

2.- If the acceptance criteria are met and the product is in its original sealed packaging, 100/% of its purchase price shall be paid. In any other situation, up to a maximum of 85% will be paid depending on its state.

3.- Subject to acceptance criteria, FRESMAK will send to the CUSTOMER a document which shall include the goods and quantities to return and the general return conditions. The CUSTOMER must sign this document as acceptance of the return conditions and attach it to the material returned.

4.- The CUSTOMER shall bear in all cases the costs caused by the return of the goods to FRESMAK.

5.- In those cases in which, once received the returned product, it is proved that the acceptance criteria are not met; FRESMAK shall return the product at the CUSTOMER's expense.

Article 10.- Limitation of Liability

1.- FRESMAK shall not be liable for any loss or damage caused as a result of factors or causes that are not attributable to FRESMAK.

2.- FRESMAK shall be liable for defects of goods provided that the customer had informed FRESMAK about the defects within the warranty periods specified above. The liability is limited to carry out the repairs in our facilities and/or to deliver alternative goods.

3.- FRESMAK shall not be liable for loss of profit or other consequential damages, irrespective of the cause thereof.

4.- If the goods are manufactured by FRESMAK according to the customer's design and/ or specifications, FRESMAK will not guarantee that such products are suitable for the use intended by the CUSTOMER.

Article 11.- Title and risk

1.- All goods shall be at the risk of the CUSTOMER from the time of delivery.

2.- All goods shall remain the property of FRESMAK, reserving its domain, until all debts owed by the CUSTOMER to FRESMAK are settled, and all amounts corresponding to the order are paid.

3.- If, once payment is overdue and not been paid to FRESMAK, the Customer sells the goods or part thereof to a third party, it is understood that such sale shall be as fiduciary agent of FRESMAK. The CUSTOMER shall hold the proceeds of any such sale on behalf of FRESMAK and shall keep such proceeds in a separate account, paying the amount obtained from such sale to FRESMAK immediately.

Article 12.- Health and Safety at work

1.- The CUSTOMER will ensure that the goods are properly and safely installed in accordance with any instructions that shall have been supplied by FRESMAK and with good trade practice and that they will be safe and without risk to health or safety when used. FRESMAK is not responsible for the breach by the CUSTOMER of this clause.

Article 13.- Industrial and intellectual property

1.- FRESMAK retains all copyrights, patents, and the right of legal protection of registered design in its drawing, documents and equipment.

2.- Drawings, specifications, documents, etc appended to quotations or forwarded to CUSTOMERS are for their personal use only. They may neither be copied in whole or part or made accessible to third parties without FRESMAK's express written consent.

Article 14.- Data protection and confidentiality

1.- The CUSTOMER hereby authorizes FRESMAK to process the personal data included in this agreement and in subsequent documents thereof electronically, with the purposes deriving directly from the relationship established between them - among others, receiving advertising and information about services and products of the company by any means of communication - and all this with the limits arising from legislation in force.

2.- In accordance with Organic law 15/1999, on the Protection of Personal Data, you are duly informed that if you wish to exercise your rights of access, rectification and cancellation, granted by this law, you should address in

writing to the registered office of FRESMAK, located in Araba st. 45, 20800 Zarautz, Spain. For informational purposes, FRESMAK S.A. is appointed as responsible for the file, with registered office at the above address mentioned.

3.- FRESMAK warrants the CUSTOMER to maintain absolute confidentiality about any information, document or product owned by the CUSTOMER which is delivered within the development of the business relationship.

Article 15.- Responsibility for beyond circumstances

1.- FRESMAK will not be responsible for any failure to fulfil any term of this agreement if this is caused by any circumstance beyond FRESMAK.

Article 16.- Applicable law and jurisdiction

1.- This agreement, both for its application and interpretation shall be governed by the Spanish or Autonomous Community law appropriate under current regulations. The language will be Spanish.

2.- The parties undertake to resolve amicably any dispute that may arise on this agreement. In the case that an amicable solution may not be possible, resulting in judicial proceedings, both parties agree, with express waiver of any other jurisdiction that could correspond to them, to submit to the jurisdiction of the courts and tribunals of San Sebastian (Gipuzkoa-España).