

## *General Terms and Conditions*

1. These terms and conditions (hereinafter the "**Terms and Conditions**") are issued by **Fatra**, a.s., registered office at třída Tomáše Bati 1541, 763 61, Napajedla, ID No. 27465021, VAT no.: CZ27465021, registered in the commercial register of the Regional Court in Brno, Section B, Insert 4598, as the seller (hereinafter the "**Seller**") in accordance with the provisions of Section 1751 et seq. of Act no. 89/2012 Sb., the Civil Code, as amended (hereinafter the "**Civil Code**") are used to determine the requirements, conditions and exercise of mutual rights and duties arising under the purchase agreement (hereinafter the "**Purchase Agreement**") concluded between the Seller and another natural or legal person (hereinafter the "**Buyer**") in relation to the sale of goods as part of their business activities.
2. Any person who attaches their signature, whether under the text of these Terms and Conditions, or to any other document or in any other form, to confirm that the person understands these Terms and Conditions, also declares to have fully accepted these Terms and Conditions, as amended.
3. Written stipulations with derogate from the general Terms and Conditions shall prevail. The provisions of these Terms and Conditions form an integral part of all offers, order confirmations, sales contracts, delivery notes and invoices for goods delivered. These Terms and Conditions are simultaneously published on the company website at [www.fatra.cz](http://www.fatra.cz).

### **I. Scope of the Terms and Conditions**

1. The terms stipulated under these Terms and Conditions apply to all business cases where the Seller delivers goods to the Buyer under the Purchase Agreements under Section 2079 et seq. of Act no. 89/2012 Sb., the Civil Code, as amended.
2. The Terms and Conditions apply to the regulation of general terms for the supply of goods to the Buyer from the Seller's offer, within the scope of the determination of qualitative conditions, manner of determining the quantity of goods, prices of goods, payment terms and the manner to assert claims and deal with them, as well as other terms stipulated in this agreement.
3. The Seller shall deliver goods to the Buyer under Purchase Agreements, which will be concluded in the form of separate orders of the Buyer by the Seller confirming their contents and by drawing up and sending the Purchase Agreement to the Buyer.
4. The Buyer undertakes to duly take over the goods supplied in this manner and any services related to the supply of goods and pay the Seller in due time.
5. The Buyer is obliged to present the Seller, upon the Seller's request, with documents showing the Buyer's legal personality, business license (extract from the Commercial Register, VAT registration, extract from the Trade Register etc.) and bank account, and in case of any changes present the Seller with documents with updated information without delay.
6. Information on goods, including information about their characteristics, are indicative and non-binding and the Seller is not obliged to conclude the Purchase Agreement. Any offer of goods made by the Seller is not binding until the Parties conclude an agreement, unless the Seller expressly indicates that the offer is binding.

### **II. Delivery of Goods**



1. The Seller shall deliver the goods to the Buyer gradually within delivery periods and on dates proposed by the Buyer in one-off orders issued and confirmed in writing by the Seller. Delivery periods shall not exceed 35 days from the date of the written confirmation of a one-off order, unless otherwise agreed by the Parties.
2. The Buyer is obliged to make the one-off orders in writing and send them to the Seller by post, fax or e-mail; the order must contain complete identification of the Buyer's entity (business name and registered office / place of business of the Buyer, ID number, VAT number (if subject to VAT), entry in the Commercial Register, contact person including phone and e-mail), a detailed specification of the goods according to the Seller's price list (product number or description, quantity of units required quality), place and manner of delivery, delivery terms in accordance with Incoterms 2010, the name and signature of the authorized representative of the Buyer (in case of orders by e-mail, name and position will suffice). Such an order will be binding for the Seller only upon its written confirmation, which will also involve the stipulation of a specific delivery period (by accepting the proposal of the delivery period specified in the order, or by specifying the delivery period according to the dispatch capacities of the Seller).
3. If the Buyer is in delay with meeting any of its duties under this agreement or any legal regulation, or in any other way prevents the Seller from fulfilling the duty to deliver the goods, the Seller's duty to deliver the goods in time is fulfilled if the goods were ready to be dispatched or handed over at the place of loading on the last day of the period for compliance with the duty to deliver goods, and the Seller informed the Buyer thereof. In this regard, the Seller has the right to require the Buyer to pay the so-called storage fee amounting to 0.1% of the stored goods per day.
4. If the Buyer is in delay with its duty to pay any of its financial obligations to the Seller, the Seller may refuse to carry out the delivery of goods until the financial obligation is fulfilled.
5. The place of delivery of the goods will be determined by an agreed delivery term under INCOTERMS 2010, the term being EXW at Fatra, a.s. warehouses, unless otherwise agreed by the Parties.
6. The Seller has the right to also carry out the delivery of goods in parts. If the Buyer does not accept or take over the goods duly and in due time, the Seller has the right to withdraw from the agreement unilaterally with the withdrawal becoming effective upon the delivery of a written copy of the withdrawal to the Buyer. In this context, the Seller has the right to claim that the Buyer to reimburse all the associated costs, as well as to claim lost profits.
7. The Seller shall hand over the goods at the agreed place, together with the corresponding delivery note and other documents agreed.
8. The risk of damage to the goods passes to the Buyer in accordance with the agreed delivery term under Article II(5) of these Terms and Conditions. Damage to goods incurred after the risk passed to the Buyer does not affect the Buyer's duty to pay the purchase price, unless the damage to the goods occurred due to the Seller's duties.
9. Goods will be delivered in usual quality and design. Goods may be delivered in such an amount that the maximum difference between the amount determined under this agreement and the amount actually delivered may be +/- 5%.
10. The Seller is obliged to ensure that the goods are packed, loaded and properly secured for transport according to usual business practice. Packages are listed separately on the delivery note and are invoiced separately. The Buyer may return the packages within 180 days from the issuance of the delivery note by the Seller. Returned packages must be bright, clean and undamaged with reasonable wear and only of the same kind, marking and quantity as those that were delivered to the Buyer in the given period. The Seller is entitled to refuse to accept packages that do not meet the above conditions. After receiving a confirmation of re-acceptance of packages by the pallet management

employee of Fatra, a.s., the Buyer is obliged to issue an invoice in respect of the returned packages. Prices must be the same as those charged by the Seller to the Buyer and the invoice must contain the number of the delivery note, whereby the packages were sent from the Seller, or the Seller's invoice number. Shipping costs concerning the returned packages are always paid by the Buyer. Packages are returned to the premises from which they were shipped.

11. Records of the Buyer's own packages will be agreed in writing upon request of one of the parties, usually twice per calendar year.
12. Metal pallets are charged at zero cost. The Buyer is obliged to return them using the same means of transport which delivered the goods and in equal number, against the confirmation of the document proving the return of pallets.
13. The Buyer undertakes to return a properly stamped delivery note for each delivery of goods.
14. The Parties hereby declare that the mutual electronic exchange of data has the nature of a written juridical act and is equivalent to other commonly used form of written communication, and at the same time explicitly acknowledge that such transfer of information may give rise to liabilities that are legally applicable and may be relied on when claiming that duties be fulfilled.
15. The Parties undertake not to dispute the acts performed on the basis of these Terms and Conditions or declare them invalid only because the act was made in the form of electronic data exchange. The Parties hereby declare that electronic messages and records constitute acceptable evidence and also undertake not to challenge the admissibility of acts made through electronic data exchange to be used as evidence.

### **III. Purchase Price and Payment Terms**

1. The purchase price is agreed within the Purchase Agreements as a contract price excluding value added tax. The purchase price will be calculated in relation to the current price list of the Seller, unless otherwise agreed by the Parties. With regard to the volatility of input prices, the Seller reserves the right to update the price list as necessary. VAT at the statutory rate will be added to the purchase price.
2. The Buyer will pay the purchase price to the Seller in cash upon the handover of goods or by a wire transfer to the account of the Seller based on a tax document – invoice issued by the Seller, payable within 14 days after it was issued to the Buyer, unless otherwise agreed by the Parties; for the purposes of this agreement the Parties have agreed that the invoice is considered delivered on the third day after the invoice is issued by the Seller, or, as the case may be, on the third day after the Seller hands over the invoice to be mailed to the Buyer. The date of payment of the purchase price shall mean the date on which the amount associated with the due date is credited to the Seller's account specified in the agreement or in the related accounting document (invoice).
3. The Buyer is not entitled to withhold the purchase price or any part thereof due to having any claims against the Seller. The Buyer is not entitled to set off any claims of its own against the purchase price, even if these claims are based on the rights arising from complaints made in due time.
4. In case the Buyer is delayed with the payment of the purchase price or part thereof, the Seller has the right to charge the Buyer the agreed late payment interest of 0.03% of the outstanding amount for each subsequent day of delay.
5. If the Seller has reasonable doubts about the solvency of the Buyer, the Seller is entitled, without assuming the fulfilment of other rights of the Seller, to unilaterally modify the payment terms agreed in the purchase agreement, in particular to move the due date to an earlier date or demand cash payment or payment in advance.

6. The Parties may agree on a credit limit for the Buyer. The Seller will then provide the Buyer with goods according to the Buyer's orders up to the credit limit so established.
7. The credit limit excludes the Seller's outstanding claims against the Buyer arising from the supply of goods, inclusive of VAT. The credit limit also includes the Seller's future claims against the Buyer arising from accepted orders or otherwise concluded Purchase Agreements, which oblige the Seller to deliver the goods to the Buyer in the future.

#### **IV. Passage of Ownership title to Goods**

1. Once delivered, the goods remain in the ownership of the Seller and the Buyer acquires the ownership title to the goods only when the Buyer has paid the purchase price in full.

#### **V. Liability for Defective Goods**

1. The Seller must deliver the goods in the agreed quantity, quality and design. The Seller fully guarantees that after their delivery, the goods will be fit for the agreed use or its usual purpose for at least 24 months. The guarantee does not cover damage caused by improper handling and/or improper storage and/or incorrect application with reference to the relevant instructions or technical data sheet of the goods. The Buyer is obliged to follow the instructions and the current technical data sheet of the goods, which are available on the company's website at [www.fatra.cz](http://www.fatra.cz) and at the registered office of the Seller.
2. If the delivered goods do not conform to the agreed conditions in terms of quantity, quality, design or packaging, the goods are defective. The Buyer must immediately notify the Seller of the fact that the goods are defective and also demonstrate it in a credible manner.
3. Notification of defective goods must include:
  - number of the purchase agreement (confirmed order), invoice and delivery note,
  - description of the defect or exact determination of how the defect manifests itself,
  - the number or volume of defective goods,
  - how the defects in the goods were found.
4. The notification must also include the product label of the goods; in the absence of the product label a complaint is not considered to have been made.
5. The Buyer is obliged to notify the Seller in writing of the defects by the end of the agreed guarantee period and make the claim. Evident defects must be claimed with the Seller in writing within 10 days after the takeover of the goods or after the date on which the goods reached their destination. If the Buyer fails to notify the defects within the above time limits, the right to claim the defects is extinguished.
6. If the defects cause a substantial breach of the purchase agreement, the Buyer may require:
  - removal of the defects by a delivery of goods free of defects, delivery of the missing undelivered quantity of the goods or repair of the goods,
  - a reasonable discount on the purchase price,
  - withdrawal from the Purchase Agreement.
7. Unless the Buyer chooses its right in due time, or in the case of a non-substantial breach of a partial Purchase Agreement, the Buyer has the right to have the defects removed or to a reasonable discount on the purchase price in accordance with Section 2107 et seq. of Act no. 89/2012 Sb., the Civil Code, as amended. In the case of quality defects, the Buyer shall present the Seller with a sample of the claimed goods as part of making the complaint.

8. With regard to all the circumstances relating to the conclusion of the Purchase Agreement, the Parties state that the total foreseeable harm, including loss of profit, which the Buyer may incur in connection with the Purchase Agreement, amounts to no more than the amount equivalent to the purchase price for the successfully claimed goods agreed in the relevant Purchase Agreement to which the harm incurred by the Buyer is related.
9. The goods must be taken over and stored by the Buyer with due professional care so as not to damage the goods.

## **VI. Circumstances Excluding Liability**

1. Liability of the Parties for partial or complete failure to fulfil contractual obligations is excluded when such a failure occurs:
  - a) as a result of force majeure; in the event that the effects of force majeure last for a period not exceeding 90 days, the Parties are obliged to fulfil the obligations from this Agreement as soon as the effects of force majeure cease, the delivery periods and all other time limits being extended by the period of the effect of force majeure. Force majeure cannot be considered as including late deliveries from subcontractors, strikes and lockouts
  - b) due to the intervention of the authorities, preventing the Parties from fulfilling their duties under this agreement.
2. Therefore, a circumstance excluding liability is considered to be an obstacle occurring independently of the will of the obligor, preventing it from fulfilling its duties, if it cannot be reasonably assumed that the obligor could have averted or overcome the obstacle or its consequences and that the obligor could have anticipated the obstacle at the time the obligation was created. Liability is not excluded by an obstacle which was created only at the time when the obligor was in delay in fulfilling its duty or which was arose from its economic situation.

## **VII. Clause and Applicable Law**

1. Unless expressly stated otherwise in the Purchase Agreement, the rights and duties of the Parties as well as the legal relations related thereto and arising therefrom shall be governed by the Czech law. The application of the UN Convention on Contracts for the International Sale of Goods dated 11 April 1980, and the rules of international private law are excluded.
2. Any business practice relating to the performance of this agreement shall not prevail over the arrangements in these Terms and Conditions or provisions of the law, even where such provisions do not have compelling effects.
3. If, after the conclusion of the Purchase Agreement, circumstances change to the extent that the performance under the agreement becomes more difficult for either Party, it does not affect the duty to fulfil its contractual obligations under the agreement. The Buyer assumes the risk of change in circumstances; Section 1765(1) of the Civil Code shall not apply in this case.
4. These general Terms and Conditions apply to all deliveries of goods of the Seller. Any purchasing conditions, referred to or printed on the order of the Buyer, as well as any other conditions in the order of the Buyer which are not in accordance with these general Terms and Conditions are deemed invalid unless confirmed by the Seller to the Buyer in writing before the delivery of the goods.

## **VIII. Arbitration Clause**

1. The Parties agree exclusive competence and jurisdiction of the courts of the Czech Republic.

### **IX. Close-out Clause**

1. Both Parties undertake not to disclose to third parties any information that they acquired in connection with transactions under the Purchase Agreement, or that could harm relations between both Parties or the rights and interests of one of them.
2. The Seller is entitled to use the company name or the name of the Buyer for its marketing purposes.
3. The Buyer acknowledges that it is not authorized to use items constituting intellectual property (including, but not limited to photographs, graphical works, texts) of the Seller without the Seller's written agreement.

### **X. Final Provisions**

1. The Seller reserves the right to a reasonable unilateral change of these Terms and Conditions. The change in the Terms and Conditions will be announced by publication on the company's website at [www.fatra.cz](http://www.fatra.cz), the Buyer being entitled to terminate the Purchase Agreement and these Terms and Conditions if unilaterally changed by the Seller within one month from the date of publication of the changes.
2. If any provision of the Terms and Conditions is or becomes invalid or ineffective, such an invalid provision shall be replaced with a provision whose meaning comes as close as possible to the invalid provision. The invalidity or ineffectiveness of a provision does not affect the validity of the remaining provisions. The contents of the Purchase Agreement can be changed only by means of a juridical act in written or more stringent form; the possibility to change the contents of the Purchase Agreement as well as any other form is excluded.
3. Without the prior written consent of the Seller, the Buyer is not entitled to assign the rights and duties under the Purchase Agreement to a third party. The Buyer agrees that the Seller, as the assignor, may transfer its rights and obligations under the Purchase Agreement or part thereof to a third party.
4. Newer general Terms and Conditions cancel general Terms and Conditions issued previously. Legal relations based on the general Terms and Conditions are assessed depending on the general Terms and Conditions valid at the time the legal relation was created.

Napajedla, 14 July 2015

Fatra, a.s.  
Ing. Pavel Čechmánek  
Vice Chairman of the Board of Directors

Ing. Luděk Kramoliš, LL.M.  
Member of the Board of Directors