



TERMS AND CONDITIONS

1. DEFINITIONS

In these Conditions unless the context otherwise requires, the following expressions have the following meanings:

“**Conditions**” means the standard conditions set out in this document including any special terms agreed in writing between the Company and the Customer.

“**the Contract**” means a contract for the sale by the Company to the Customer of the Products.

“**the Company**” means Gecko Head Gear Ltd (company number 03982947) whose registered office is at Pinbrook Court, Venny Bridge, Exeter, Devon, EX48JQ.

“**the Customer**” means the person who accepts a written or oral quotation of the Company for the sales of the Products or whose order for the Products is accepted by the Company.

“**the Price**” means the price of the Products (and any services to be provided under the Contract).

“**the Products**” means any products forming the subject matter of the Contract including parts and components of or materials incorporated in them and/or any services to be provided for the Customer.

2. FORMATION OF CONTRACT

- The Company shall sell, and the Customer shall purchase, the Products to the intent and with the effect that no other party shall have the rights or obligations, or be entitled to sue or liable to be sued, under the Contract.
- The Company shall sell and the Customer shall purchase the Products in accordance with these Conditions. The Customer acknowledges that it is aware of the contents of these Conditions and agrees that these Conditions shall prevail over all (if any) terms or conditions contained or referred to in the Customer’s order (if any) or in any correspondence or implied by trade, custom, practice or in the course of dealings.
- No Contract shall come into existence until the earliest of the Company’s quotation being accepted by the Customer or the Customer’s order being accepted by the Company.
- No variations or amendments to this Contract shall be binding on the company unless confirmed by it in writing.
- No order that has been accepted by the Company may be cancelled by the Customer except with the agreement in writing of the Company and on terms that the Customer shall indemnify the Company in full against all loss (including loss of profit, costs (including the costs of all labour and materials used) damages, charges and expenses) incurred by the Company as a result in cancellation.
- The Customer shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Customer, and for giving the Company any necessary information relating to the Product within a sufficient time to enable the Company to perform the Contract.

3. PRICE AND PAYMENT

- Unless credit terms have been agreed in writing by the Company, all invoices for sales (including export sales) are payable without discount of any kind not later than 30 Days from date of Invoice of the goods and in no circumstances shall the Customer be entitled to make a deduction or withhold payment for any reason at all.
- The Price of the Products shall be the Company’s quoted price. The Price is exclusive of Value Added Tax which shall be paid by the Customer at the rate prescribed by law. The Company reserves the right to require the Customer to pay all or part of the Price on or before despatch of the Products.
- The Company reserves the right to adjust the Price of the Products to reflect any increase in the cost to the Company which is due to any factor beyond the Company’s control (such as, without limitation, any foreign exchange fluctuation, increase in the cost of third party products, alteration of duties, significant increase in the cost of labour, materials or other cost of manufacture) any change in delivery dates, quantities or specification for the Products which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate information or instructions.
- For sales, unless otherwise agreed in writing between the Company and Customer, the Price shall not include delivery. For export sales, unless otherwise agreed in writing between the Company and the Customer, the Products shall be delivered to the Company, and shall be under no obligation to give notice under Section 32(3) of the Sale of Goods Act 1979.
- Time for payment shall be of the essence of the Contract. If any sum payable under the Contract is not paid on the due date then, without limiting any other right of remedy available to the Company, the Company may cancel the Contract or suspend any further deliveries to the Customer and/or charge the Customer interest (both before and after any judgement) on the amount unpaid at the rate of 5% in force until payment is made in full. Such interest shall be paid on demand. In addition, any discount given to the Customer may be withdrawn.
- The Company may appropriate any payment made by the Customer to such of the Products (or products supplies under any other contract between the Company and the Customer) as the Company may think fit.

4. OWNERSHIP AND RISK

- Ownership of the Products shall remain with the Company until the Company has received cleared funds in respect of

the Price and any other sums which may be due under the Contract or under any other contract between the Company and the Customer for which payment is then due.

- The Customer shall be entitled to deal with the Products in the ordinary course of its business provided that any alteration or processes applied to the Products shall not affect the Company’s ownership of the Products.
- Until ownership of the Products passes to the Customer, the Customer shall hold the Products as the Company’s fiduciary agent and bailee and shall keep the Products at its own premises properly stored, protected and insured and separate from any other goods and in such a way that they are readily identifiable as belonging to the Company.
- The Company shall be entitled at any time before ownership passes (without being liable for any damage caused) to use or sell all or any of the Products and so terminate (without any liability to the Company) the Customer’s right to use, sell or otherwise deal in the Products and for that purpose (or determining which Products are held by the Customer and inspecting them) to enter any premises of the Customer or any third party in order to retrieve the Products.
- Until ownership passes to the Customer the entire proceeds of sales of the Products shall be held in trust for the Company and shall not be mingled with other monies or paid into any overdrawn bank account and shall be at all times be identifiable as the Company’s money.
- The Company shall be entitled to maintain an action for the Price of the Products notwithstanding that ownership in them has not passed to the Customer.
- The Customer shall not be entitled to mortgage or charge any of the Products which remain under the ownership of the Company but if the Customer does so, all monies owing to the Company shall immediately become payable.
- Subject to clause 5 (6) below, all risk in the Products shall pass to the Customer when the Products are delivered to the Customer or its agent.

5. DELIVERY

- The products are delivered to the Customer when the Company makes them available to the Customer or its agent or any carrier at the Company’s premises or other delivery point agreed by the Company.
- The Company may at its discretion deliver the products by instalments in any sequence.
- Where the Products are delivered by instalments, each instalment shall be deemed to be the subject of a separate contract and no default or failure by the Company in respect of any one or more instalments shall vitiate the Contract.
- The Company may deliver to the Customer and the Customer shall accept in satisfaction of the Contract a lesser number than the number of Products ordered. For the avoidance of doubt the Customer shall only be obliged to pay for such of the Products that are delivered.
- Any dates quoted by the Company for the delivery of the Products are approximate only and shall not form part of the Contract and the Customer acknowledges that in the performance expected of the Company no regard has been paid to any quoted delivery dates. Notwithstanding the foregoing, the Company will use all reasonable endeavours to adhere to any quoted delivery dates.
- If the Customer fails to take delivery of the Products on the due date or fails to provide any instructions or documents required to enable the Products to be delivered on the due date, the Company shall be entitled, upon giving written notice to the Customer, to store or arrange for storage of the Products, and then risk in the Products shall pass to the Customer, delivery shall be deemed to have taken place and the Customer shall pay to the Company all costs and expenses including storage and insurance charges arising.

6. WARRANTY

- The Company warrants that the Products will be free from defects in material and workmanship for a period of 12 months from the date of delivery.
- The warranty given by the Company is unavailable where:
 - The defect in the Products arises from any specification supplied by the Customer;
 - The defect arises from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company’s instructions (including those set out in any product data sheet), misuse or alteration or repair of the Products without the Company’s approval;
 - Where the Price has not been paid by the due date;
 - Where the defect appears in materials or equipment not manufactured by the Company when the Customer shall only be entitled to the benefit of any warranty or guarantee given by the manufacturer to the Company.
- The Company does not give any warranty that the products are fit for any particular purpose and the warranty given is in place of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course or dealing or otherwise all of which are hereby excluded to the fullest extent permitted by law.
- Where the defect would be apparent on inspection, the Customer must notify the Company in writing of the defect within ten working days of delivery. For all other defects, notification must be made within a reasonable time after discovery of the defect. The Customer shall not be entitled to withhold payment of the Price whilst any claim is being investigated by the Company.

- Where no such notification is received, the Products shall be deemed to have been accepted by the Customer in good condition and in accordance with the Contract.
- Where a valid claim under the warranty is notified to the Company in accordance with this condition, the Company may replace the Products (or the parts in question) free of charge or, at the Company’s sole discretion, refund to the Customer the Price (or a proportion of the Price) in which case the Company shall have no further liability to the Customer.
- Products replaced under the warranty are subject to the original 12-month warranty period and do not obtain a new warranty period merely by virtue of having been supplied by the Company under its warranty obligations.
- Ownership of the Products and/or any faulty or defective parts shall revert to the Company upon replacement.

7. LIABILITY

- Except in respect of injury to or death of any person (for which no limit applies) the liability of the Company under the Contract in respect of each event or series of connected events shall not exceed the Price.
- Notwithstanding anything else contained in the Contract, the Company shall not be liable to the Customer for loss of profits or contracts or any indirect or consequential loss arising from negligence. Breach of contract or howsoever.

8. FORCE MAJEURE

Neither party shall be liable for any delay in performing any of its obligations under the Contract if such delay is caused by circumstances beyond the reasonable control of the party so delaying and such party shall be entitled to a reasonable extension of time for the performance of such obligations.

9. INSOLVENCY

If the Customer makes any voluntary arrangement with its creditors or (being an individual or firm), becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation or if the Company reasonably apprehends that any such event is about to occur and notifies the Customer accordingly, then without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract and to suspend any further deliveries under the Contract, and if the Products have been delivered but not paid for, the Price shall become immediately due notwithstanding any previous agreement or arrangement to the contrary.

10. CONSUMERS

Nothing in these Conditions shall affect the statutory rights of the Customer dealing with the Company as a consumer as defined in the Unfair Contract Terms Act 1977.

11. WAIVER

No waiver by the Company of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

12. ENTIRE AGREEMENT

These Conditions supersede all prior agreements, arrangements and understandings between the parties and constitutes the entire agreement relating to the sale and purchase of the products.

13. ASSIGNMENT

The Customer may not cancel, assign or in any way part with the benefit of the Contract.

14. NOTICES

All notices which are required to be given under these Conditions shall be in writing and shall be sent to the address of the recipient as set out in the Contract or such other address as the recipient may designate by notice given in accordance with the provisions of this condition.

Failing any address being so set out or designated, such notices shall be sent to the recipient’s Registered Office. Any such notice may be delivered personally or by first class pre-paid letter, e-mail or facsimile transmission and shall be deemed to have been served, if by hand, when delivered, if by first class post, 48 hours after posting and if by e-mail or facsimile transmission, when despatched.

15. SEVERANCE

If any provision of these Conditions is held by a competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions, and the remainder of the provisions in question shall remain unaffected and binding to the Customer.

16. HEADINGS

The headings to the clauses of these Conditions are for ease of reference only and shall not affect the interpretation or construction of the Contract.

17. LAW

The Contract shall be governed by and construed in accordance with the laws of England and shall be subject to the exclusive jurisdiction of the English Courts.