TERMS OF BUSINESS

1. Definitions

In these Terms:

“we” and “us” mean Nord Gear Limited a company incorporated in England and Wales under number 02917420 whose registered office is at 7th Floor, Beaufort House, 15 Sl Bostich Street, London WC2A 7NW;

“you” means the company or organisation to whom the Order is addressed;

“the Goods” means the goods described in the Order;

“the Contract” means the contract between us and you incorporating these Terms;

“Incoterms 2010” means the official rules for the interpretation of trade terms of the International Chamber of Commerce.

2. Interpretation

2.1 The Contract will be on these Terms to the exclusion of any other terms that you may wish to impose even though they may also be submitted as part of any order and/or document and/or purport to exclude these Terms.

2.2 No Order will be deemed to be accepted by us until we have either issued a written order acknowledgement or delivered the Goods to you.

2.3 Quotations are open for acceptance for 30 days provided they have not previously been withdrawn.

2.4 Our sales representatives are not authorised to vary these Terms, or to make any representations on our behalf.

2.5 No amendment to these terms of business may be made unless expressly accepted by us in writing.

2.6 The Contract constitutes the entire agreement between you and us. You acknowledge that you have not relied on any representation or warranty, promise or other statement made by or given to you by us that is not set out in the Contract which is not inconsistent with the Contract.

2.7 No amendment to these terms of business may be made unless expressly accepted by us in writing.

2.8 Regardless of clause 2.7, acceptance of any electronic signature orders & contracts will only be valid upon the delivery of an order acknowledgement to you.

3. Specification & Cancellation

3.1 We reserve the right to make any changes to the Specification which:

3.1.1 are required in order that the Goods can conform with any applicable safety or other statutory requirements of the country in which they are to be sold;

3.1.2 do not materially affect the quality or performance of the Goods.

3.2 Cancellation is not permitted except where expressly agreed in writing by one of our directors. If we agree to cancel, you shall indemnify us in full against all costs (including loss of profit), costs (including loss of all profits and materials used), damage, charges and expenses incurred by us as a result of such cancellation.

4. Price

4.1 Where no price has been quoted (or a quoted price is no longer valid) the price is as listed in our published price list current at the date of acceptance of the Order.

4.2 Unless otherwise stated all prices are EXW our premises in Aldington, England; goods un-packed, exclusive of VAT (in accordance with INCOTERMS 2010).

4.3 We reserve the right, by giving you notice at any time prior to delivery to adjust the price of the Goods to take account of any increase in our costs owing to fluctuations in currency exchange rates or other factors beyond our control.

5. Payment

5.1 For customers who do not have a credit account with us, payment must be made in full on the placement of your order. For customers who have a credit account with us, payment must be made in full and in accordance with our payment terms within 30 days of the end of the invoice, which shall be deemed to constitute the exclusive authority of any third party to act on your behalf.

5.2 The Company acknowledges that the Goods are not tested or sold as fit for any particular purpose or loading unless expressly agreed in writing by us and we shall not be liable for any damage to the Goods where possible and forwarded to us for investigation without delay.

5.3 If you fail to take delivery of the Goods or fail to give adequate delivery instructions at any time stated for delivery then, without prejudice to any other right or remedy we may have, we may store the Goods until actual delivery and charge you for storage.

6. Delivery and Acceptance

6.1 Unless agreed otherwise, delivery will be made EXW our premises in Aldington, England (in accordance with INCOTERMS 2010).

6.2 Time of delivery is not of the essence. Any date mentioned is given only as a guide and we shall not be responsible for any delay in delivery caused by Force Majeure.

6.3 Goods may be delivered in advance of any scheduled delivery date after giving you reasonable notice.

6.4 We reserve the right to deliver by instalments and to invoice each delivery separately.

6.5 You shall inspect the delivery and notify us within 3 working days of delivery of any on site defects or damage, and if we fail to provide such notice, you shall deemed to have accepted the Goods.

6.6 If you fail to take delivery of the Goods or fail to give adequate delivery instructions at any time stated for delivery then, without prejudice to any other right or remedy we may have, we may store the Goods until actual delivery and charge you for storage.

7. Risk

The Goods are at your risk as soon as they are delivered.

8. Rights and Liabilities

8.1 Ownership of the Goods does not pass to you until:

8.1.1 payment of the price for the Goods and any other costs due in full (in cash or cleared funds); or

8.1.2 you sell the Goods, in which case title to the Goods which you sell is deemed to be passed to you immediately prior to delivery to your customer.

8.2 When ownership of the Goods passes to you:

8.2.1 you hold the Goods as our agent and bailee for us; and

8.2.2 the Goods must be kept in good repair and insured for an amount equal to the contract price.

8.3 We may at any time revoke our permission to sell and use the Goods by giving you written notice if you, among any other events, under any previous contract with us, are in breach of any one of the following: (a) any payment of the purchase price has been over by more than 7 days or if we have some doubt about your solvency.

8.4 Your right to sell and use the Goods automatically ceases if:

8.4.1 you make any voluntary arrangement with your creditors or become subject to an administration order, or (b) we are incorporated and you sell or dispose of the Goods to any person other than the company (being company) in liquidation or receivership.

8.4.2 in liquidation or receivership, a receiver or administrative receiver is appointed over any of your property;

8.4.3 you cease, or threaten to cease, to carry on business; or

8.4.4 we reasonably apprehend that any of the events mentioned above is about to occur and we notify you accordingly.

9. Force Majeure

9.1 We are not liable for any failure to deliver the goods arising from Force Majeure.

9.2 If the Force Majeure preventing delivery continues for 3 months, either party may cancel the Contract immediately by notice to the other.

9.3 If the Contract is cancelled in this way we are not liable to compensate you for any loss or damage caused by the failure to deliver.

10. Goods

10.1 The Goods supplied by the Company shall conform to any specification supplied by the Company in all material respects and shall be of satisfactory quality. However, you acknowledge that the Goods are not tested or sold as fit for any particular purpose unless expressly agreed in writing by the Company.

10.2 You shall inspect the Goods upon delivery and shall within three days thereafter notify the Company of any alleged defect, damage or failure to comply with any relevant specification provided. Photographs or other documentary evidence of any damage shall be taken of the Goods where possible and forwarded to us for investigation without delay.

10.3 If during the period of 3 months stated in clause 10.2 above the defect is not acknowledged or failed to be substantiated by the Company for you under the Contract is found by the Company to have become definite under normal conditions of use and/or sale of the Goods, the Company may, at its sole discretion, repair or replace the defective part. All such repair and/or replacement under this Clause 10.3 shall be under no liability to the Company for the Goods and you shall bear the costs of delivering the Goods to the Company together with any costs incurred by the Company in inspecting and/or reconditioning the Goods (if necessary). The benefit of this clause is personal to you and cannot be assigned.

11. Third Party Rights

A person who is not a party to the Contract shall not have any rights under or in connection with the Goods.

12. Intellectual Property

12.1 All intellectual property rights (including but not limited to any patent, invention, discovery, copyright, trade mark, design right or other intellectual property right) in the Goods are our (or our licensor’s) property.

12.1.1 You shall not use the Goods or the intellectual property rights held, made, obtained or licensable by us (including all intellectual property rights held, made, obtained or licensable by us in relation to the Goods) except in accordance with this Contract.

12.1.2 You agree to indemnify us in full against all loss (including loss of profit), costs (including all costs incurred in defending or enforcing any claim) of 2% per annum above the base rate of HSBC Bank Plc from time to time on all overdue amounts and you must pay the interest immediately on demand.

12.1.3 Our total liability to you in respect of all other losses arising under or in connection with the Goods shall be limited to the purchase price of the Goods.

12.1.4 We shall not be liable for any direct or indirect loss suffered by you arising from your use of the Goods.

12.2 Subject to clause 12.1, nothing in these Terms shall be construed as conferring any licence or granting any rights in your favour under any such intellectual property rights held, made, obtained or licensable by us.

13. Liabilities

13.1 Subject to clause 13.2, our total liability to you for death or personal injury caused by our negligence, or the negligence of our employees, agents or sub-contractors (as applicable), fraud or fraudulent misrepresentation or breach of the terms implied by section 12 of the Sale of Goods Act 1979 or defective products under the Consumer Protection Act 1987, or in any matter in which we would be liable to you if we were dealing at arm’s length with you, shall be limited to an amount equal to the sum we would have received if no such withholdings or deductions had been made.

13.2 Subject to clause 13.1, we shall not be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit or indirect or consequential loss arising under or in connection with the Contract (including any such losses that may result from our deliberate personal breach of the Contract); and our total liability to you in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, including losses caused by our deliberate personal breach of the Contract shall not exceed the price of the Goods.

13.3 If the Goods are to be manufactured or modified to your specifications:

13.3.1 you shall be responsible for ensuring that your requirements relating to such Goods and/or international standards unless we specifically warrant that the Goods are manufactured to comply with a particular standard;

13.3.2 we shall not be responsible for the selection of the Goods and delivery of the Goods;

13.4 We shall not be responsible for any indirect or direct loss suffered by you arising from your use of the Goods in excess of the catalogue ratings.

13.5 Any claim made under these Terms & conditions shall be limited to the purchase price of the goods.

14. Governing Law and Jurisdiction

14.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed and construed in accordance with English law, and the parties irrevocably submit to the exclusive jurisdiction of the English courts.