



## Account Application Form

Applicant		Invoice address (if different)	
Company		Name	
Address		Address	
Post Code		Post Code	

Telephone No.		Fax No.		Sales Email	
Contact	Purchasing			Payments	
Nature of business				Accounts Payable Email	

Type of business	<input checked="" type="checkbox"/>		
Sole Trader	<input type="checkbox"/>	If Limited Company	
Partnership	<input type="checkbox"/>	Registered Office	VAT Number
Limited Company	<input checked="" type="checkbox"/>	Company Reg. No.	

Bank Reference	Bank Name	
	Address	

Trade Reference 1	Name	
	Company	
	Address	
	Email Address	

Trade Reference 2	Name	
	Company	
	Address	
	Email Address	

Credit Limit	£	No. of years trading	
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If credit is granted I/we undertake to adhere strictly to your Terms and Conditions, and to settle my/our account promptly before 30 days.

Name		Signed
Position		
Date		

Account Type (For internal use)	
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## Terms & Conditions of Sale

### 1 DEFINITIONS AND INTERPRETATION

- 1.1 In these Conditions unless the context otherwise requires the following words shall have the following meanings:  
**Account** means a credit account held by the Buyer with the Seller;  
**Acknowledgement** means the Seller's written or verbal acknowledgement of an Order;  
**Buyer** means the buyer with whom the Seller is contracting for the supply of goods;  
**Contract** means the contract for the purchase and sale of the Goods, consisting of the Order, Acknowledgement and the Conditions;  
**Conditions** means the conditions of sale set out in this document;  
**Force Majeure Event** means any act, event, omission or accident beyond the Seller's reasonable control including strikes, lockouts or other industrial disputes (whether involving the workforce of the Seller or any other person) act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of the Seller's suppliers or subcontractors;  
**Goods** means the goods the quantity and description of which are specified in the Order and confirmed in the Acknowledgment;  
**Order** means an order for Goods placed by the Buyer with the Seller;  
**Price** means the price of the Goods under the Contract;  
**Quotation** means the Seller's verbal or written quotation for the Goods;  
**Recipient** means any person specified by the Buyer to whom the Goods may be delivered; and Seller means the partnership trading under the name Armorgard Ltd, the partners of which are listed at our business premises at Unit 14-16 Fareham Industrial Park, Standard Way, Fareham, Hampshire, PO16 8XB
- 1.2 In these Conditions unless the context otherwise requires:
- 1.2.1 headings shall not affect the interpretation of these Conditions;
- 1.2.2 any reference to a statutory provision shall include references to that provision as from time to time modified or re-enacted (save to the extent that modifications or re-enactments made after the date of the Contract impose any new or extended liability or restriction on the Seller or Buyer);
- 1.2.3 any reference to a person includes any person, firm or company or other legal entity; the singular includes the plural and vice versa and any gender
- 1.2.4 includes any other gender; and any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.2.5
- ### 2 BASIS OF SALE
- 2.1 These Conditions shall govern the Contract and all other terms and conditions are excluded. The Contract constitutes the entire agreement between the parties.
- 2.2 The Seller's employees or agents are not authorised to make any representations or recommendations or give any advice concerning the Goods unless expressly confirmed by the Seller in writing.
- 2.3 All drawings, descriptive matter, specifications and advertising issued by the Seller and any descriptions or illustrations contained in the Seller's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They will not form part of the Contract.
- 2.4 Any typographical, clerical or other error or omission in any sales literature, Quotation, price list, Acknowledgement, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.
- ### 3 ORDERS AND SPECIFICATIONS
- 3.1 Subject to condition 4, the quality and description of the Goods and any specification for them shall be as described in the Order and confirmed in the Acknowledgement.
- 3.2 The Seller reserves the right to make any changes to the specification of the Goods which are required to comply with any applicable statutory or regulatory requirements or which do not materially affect their quality

or performance.

- 3.3 Subject to condition 4, the Contract shall come into existence on receipt by the Seller of an Order from the Buyer to purchase the Goods in accordance with these Conditions.

### 4 BESPOKE GOODS

- 4.1 A Buyer may place an Order for bespoke Goods. Any such Order must be made in writing and must be accompanied by a computer-aided design drawing of the Goods required, including such details and specification as the Seller requires. The content and accuracy of such drawing, details and specification shall be the Buyer's sole responsibility and the Seller excludes all liability to the Buyer in relation to the content or accuracy of such drawings, details and specification.
- 4.2 The Contract in respect of an Order for bespoke Goods shall only come into existence on production by the Seller of a written Acknowledgement.
- 4.3 In relation to bespoke Goods, the Buyer shall give the Seller such information as the Seller requires from time to time, at such times as the Seller may reasonably require, to enable the Seller to comply with any agreed timescales for the manufacture of such Goods.
- 4.4 To the extent that Goods are to be manufactured in accordance with a specification supplied by the Buyer, the Buyer:
- 4.4.1 warrants that it has the right to use such specification and supply it to the Seller;
- 4.4.2 grants the Seller a licence to use such specification for the purposes of manufacturing the Goods; and
- 4.4.3 shall indemnify the Seller against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Seller in connection with any claim made against the Seller for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Seller's use of such specification. This condition 4.4 shall survive expiry or termination of the Contract.
- 4.5 The Buyer shall not without the Seller's prior written consent be entitled to use any intellectual property of the Seller (including the Seller's name and logo) for any purpose.
- ### 5 PRICE
- 5.1 The Price shall be the price stated in the Seller's price list in force from time to time or, if a Quotation is given, the price stated in the Quotation. Any Quotation is valid for 30 days from its date or until earlier acceptance by the Buyer, after which time it may be altered or withdrawn by the Seller without giving prior notice to the Buyer.
- 5.2 Notwithstanding any other provision of the Contract, the Seller reserves the right, by giving written notice to the Buyer at any time before delivery, to increase the Price to reflect any:
- 5.2.1 increase in the cost to the Seller which is due to any factor beyond the control of the Seller (including any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture);
- 5.2.2 change in the type or quantities of the Goods which is requested by the Buyer; or
- 5.2.3 delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 5.3 The Price excludes:
- 5.3.1 value added tax and any other duties or taxes;
- 5.3.2 any charge levied by the Seller in respect of a request for delivery of the Goods at a specific time or place (other than a request for next day delivery) or by a specific means, including delivery of the Goods in a vehicle fitted with a tail-lift.
- 5.3.3 any charge made pursuant to condition 7.9;
- 5.3.4 any delivery charge levied by the Seller, including in respect of any Order which has a value of less than an amount specified by the Seller from time to time (which shall be payable in addition to any charge under condition 5.3.2); and





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5.3.5 all other costs and expenses other than those specifically referred to in the Seller's price list from time to time or a Quotation as included in the Price which the Buyer shall be additionally liable to pay to the Seller at the same time as the Price to which they relate.

### 6 PAYMENT

- 6.1 If the Buyer is purchasing Goods from the Seller for the first time or the Buyer does not have an Account, the Buyer shall pay the Price at the time the Order is placed.
- 6.2 If the Buyer has an Account, the Buyer shall pay the Price no later than 30 days from invoice date unless prior written agreement is given.
- 6.3 All payments shall be made in pounds Sterling by credit or debit card, cheque or direct transfer to the Seller's nominated bank account provided that if the Buyer is located in a country which has adopted the Euro as its currency, payment may be made in Euros.
- 6.4 The Buyer shall make all payments due under a Contract without any deduction whether by way of set off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Seller to the Buyer.
- 6.5 The Seller shall be entitled to recover the Price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the Price shall be of the essence of the Contract.
- 6.6 In the event of late payment, without limiting any other right or remedy available to the Seller, the Seller may at its discretion:
- 6.6.1 charge interest on the overdue amount at the rate of 5% per annum above the base rate for the time being of The Royal Bank of Scotland plc accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment; and/or
- 6.6.2 cancel the Contract and/or suspend any further deliveries to the Buyer.
- 6.7 No payment shall be deemed received until the Seller has received cleared funds.

### 7 DELIVERY

- 7.1 Unless agreed otherwise, and subject to conditions 5.3.2 and 5.3.4, the Goods shall be supplied Delivered at Place (Incoterms 2010) to such premises as the Buyer specifies.
- 7.2 Delivery of the Goods shall be completed on the Goods' arrival at the roadside of the agreed premises for delivery. Unless otherwise agreed, the Buyer or Recipient shall be responsible for unloading the Goods at such premises.
- 7.3 If the Buyer does not have an Account:
- 7.3.1 Goods shall only be dispatched by the Seller once payment has been received in full in accordance with condition 6.7;
- 7.3.2 unless otherwise agreed, the Seller shall use its reasonable endeavours to ensure that Goods are delivered to the Buyer within three days of receipt of payment for such Goods.
- 7.4 If the Buyer has an Account:
- 7.4.1 Goods shall be dispatched as soon as reasonably practicable after the Contract has been formed; and
- 7.4.2 unless otherwise agreed, the Seller shall use its reasonable endeavours to ensure that Goods are delivered to the Buyer within three days of the date of the Order.
- 7.5 The Buyer may request next day delivery of the Goods at no additional cost. Subject to condition 5.3.2, the Buyer may request delivery of the Goods at a certain time or place or by a specific means.
- 7.6 Any dates specified by the Seller for delivery of the Goods are intended to be an estimate and time for delivery shall not be of the essence. The Seller shall not be liable for any loss or damage occurring through any failure or inability to meet such dates. The Goods may be delivered by the Seller in advance of the specified delivery date on giving reasonable notice to the Buyer.
- 7.7 If the Goods are delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions, or any claim by the

Buyer in respect of any one or more instalments, shall not entitle the Buyer to treat the Contract as a whole as repudiated.

- 7.8 If, for any reason, on the date for delivery the Buyer or the Recipient fails to take delivery of any of the Goods due to the Buyer or Recipient's fault:
- 7.8.1 risk in the Goods will immediately pass to the Buyer;
- 7.8.2 the Goods will be deemed to have been delivered;
- 7.8.3 the Seller may:
- (a) store the Goods until actual delivery whereupon the Buyer will be liable for all reasonable costs and expenses (including storage and insurance);
- (b) require immediate payment of the Price due from the Buyer in respect of the Goods; and/or
- (c) sell the Goods at the best price readily obtainable and (after deducting all reasonable storage, insurance and selling expenses) account to the Buyer for the excess over the Price or charge the Buyer for any shortfall below the Price.
- 7.9 If the Buyer or the Recipient does not have the facilities to unload the Goods on delivery, the Seller reserves the right to charge a reasonable sum in respect of unloading the Goods on the Buyer or the Recipient's behalf.
- 7.10 The Buyer or the Recipient shall not be entitled to reject the Goods if the Seller delivers up to and including 5% more or less than the quantity of Goods ordered, but a pro rata adjustment shall be made to the Order invoice on receipt of notice from the Buyer that the wrong quantity of Goods was delivered.
- 7.11 The Seller's liability for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.
- 7.12 The Buyer or the Recipient shall examine the Goods at the time of delivery and shall note any damage, loss or shortfall in the Goods delivered on the carrier's paperwork. In the event that any damage, loss or shortfall is noted on the carrier's paperwork, a copy of the paperwork must be provided to the Seller within seven days of the date of delivery in accordance with condition 14.4.
- ### 8 RETURNS AND CANCELLATION
- 8.1 Subject to the provisions of this condition 8, no Order in respect of which an Acknowledgement has been issued may be cancelled by the Buyer except with the written agreement of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller in the performance of the Contract or as a result of cancellation.
- 8.2 The Seller may reject or cancel an Order at any time and for any reason (including due to unavailability of stock) by giving the Buyer prior written notice.
- 8.3 The Buyer shall be entitled to return Goods for any reason for up to thirty days of the date of delivery of such Goods, in which case the Buyer shall be liable to pay the Seller 20% of the value of the Price of such Goods, in addition to the actual cost incurred by the Seller in delivering the Goods to the Buyer and returning the Goods to the Seller.
- 8.4 The Buyer shall not be entitled to return bespoke Goods.
- ### 9 RISK AND TITLE
- 9.1 The Goods are at the risk of the Buyer from the time of delivery or deemed delivery under condition 7.8.
- 9.2 Ownership of the Goods shall not pass to the Buyer until the Seller has received in full all:
- 9.2.1 sums due to it in respect of the Goods; and
- 9.2.2 other sums which are or become due to the Seller from the Buyer on any account.
- 9.3 Until ownership of the Goods has passed to the Buyer (and provided that the Goods are in existence and have not been resold), the Buyer must:
- 9.3.1 keep the Goods separate from those of the Buyer and third parties;
- 9.3.2 keep the Goods properly stored, protected, insured and identified as those of the Seller; and



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- 9.3.3 hold any proceeds of the insurance referred to in condition 9.3.2 on trust for the Seller and not mix them with any other money, nor pay the proceeds into an overdrawn bank account
- 9.3.4 but the Buyer may resell or use the Goods in the ordinary course of its business.
- 9.4 Until ownership of the Goods has passed to the Buyer (and provided that the Goods are in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so immediately, to enter on any premises of or under the control of the Buyer where the Goods are stored and repossess the Goods and the Buyer shall be deemed to have granted the Seller permission to do so.
- 10 WARRANTY**
- 10.1 Except in relation to any gas strut or lock forming part of the Goods, the Seller warrants that (subject to the other provisions of these Conditions) the Goods will correspond with their specification at the time of delivery and will be free from defects in workmanship for a period of 12 months from delivery.
- 10.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract. Unless otherwise agreed, the Seller gives no warranty as to the fitness of the Goods for any purpose specified by the Seller (including compliance by the Buyer with any legislative or industry requirements applicable to the Buyer, which shall remain the Buyer's sole responsibility).
- 10.3 The Seller shall not be liable for a breach of the warranty in condition 10.1 if the:
- 10.3.1 defect arises because the Buyer failed to follow the Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
- 10.3.2 Buyer alters or repairs the Goods without the written consent of the Seller; or
- 10.3.3 defect arises from fair wear and tear, wilful damage, negligence, abnormal working conditions or misuse.
- 10.4 Subject to conditions 10.3 and 10.5 and the Seller's right to examine such Goods, if any of the Goods do not comply with the warranty in condition 10.1, the Seller's liability shall be limited (at the Seller's option) to the repair or replacement of such Goods (or the defective part) or the refund of the price of such Goods.
- 10.5 If the Seller so requests, the Buyer shall, at the Seller's expense, return the Goods or the defective part to the Seller. Any Goods replaced will belong to the Seller and any repaired or replacement Goods will be guaranteed on these terms for the unexpired portion of the 12 month period referred to in condition 10.1.
- 11 LIMITATION OF LIABILITY**
- 11.1 Subject to conditions 7.11, 10.4 and 11.2:
- 11.1.1 the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the sum recoverable under the Seller's then current insurances; and
- 11.1.2 the Seller shall not be liable to the Buyer for any:
- (a) loss or shortfall in the Goods, or damage caused to the Goods in transit, unless it has been noted in accordance with condition 7.12 and notified to the Seller within three days of the date of delivery (to the extent that such loss, shortfall or damage is not covered by the warranty at condition 10.1);
- (b) loss incurred by the Buyer which arises as a direct or indirect result of any of the Goods being broken into or entry into any Goods being forced;
- (c) loss incurred by the Buyer in the circumstances described in condition 10.3;
- (d) loss incurred by the Buyer in relation to bespoke Goods manufactured by the Seller pursuant to an Order which does not comply with condition 4.1; or
- (e) pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.
- 11.2 Nothing in these Conditions excludes or limits the liability of the Seller for death or personal injury caused by the Seller's negligence, or for fraudulent misrepresentation.
- 12 FORCE MAJEURE**
- 12.1 The Seller shall not be liable for any failure to perform or delay in performance of its obligations under the Contract due to any Force Majeure Event. If any Force Majeure Event delays or prevents the Seller's performance of its obligations for a continuous period of 3 months then either party may, at its discretion terminate the Contract by written notice at the end of such period.
- 13 ASSIGNMENT**
- 13.1 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller.
- 13.2 The Seller may assign the Contract or any part of it to any person.
- 14 GENERAL**
- 14.1 No variation of these Conditions or the Contract shall be valid unless made in writing and signed by or on behalf of the Buyer.
- 14.2 If any provision of the Contract shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of the Contract which shall remain in full force and effect.
- 14.3 For the purposes of the Contracts (Rights of Third Parties) Act 1999, the parties do not intend any person other than a party to the Contract to be able to enforce any term of the Contract (save where may be expressly stated otherwise in the Contract).
- 14.4 All notices under the Contract shall be:
- 14.4.1 in writing and addressed, in the case of the Buyer, to the intended delivery address and, in the case of the Seller, to such address as it notifies the Buyer from time to time;
- 14.4.2 deemed to have been duly given when delivered, if delivered by messenger during normal business hours of the recipient; or on the second business day following mailing, if sent by first class pre-paid recorded delivery post; or at the time of transmission if sent by fax (provided that a copy of the fax is put in the post to the recipient by first class recorded delivery post within 24 hours of the transmission).
- 14.5 English law governs 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) and the parties irrevocably submit to the exclusive jurisdiction of the English courts in respect of any such dispute or claim.

