



### 1. INTERPRETATION

**1.1** In these conditions “we” means Foregale Limited; “you” means the person, firm, company or other entity purchasing Goods or Services from us; “you” “our” and “your” should be interpreted accordingly; “Goods” or “Services” means those supplies forming the subject matter of the contract between us; and “these Conditions” means the terms and conditions set out below.

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### 2. APPLICABILITY OF CONDITIONS

**2.1** These Conditions apply to the contract or sale of Goods to you to the exclusion of any other terms whether express or implied written or oral save any excepted or notified by ourselves in writing. Any order from you gives rise to a binding contract with us only when we have notified you in writing that the order is accepted or when we have made delivery of the goods to you (if later).

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### 3. SPECIFICATIONS

**3.1** Where Goods are supplied accordingly to samples, specifications, plans, drawings or documents provided you shall be solely responsible for the accuracy of the same and the suitability of the Goods being supplied accordingly for the purpose for which you intend to use them.

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### 4. PRICES

**4.1** Prices are quoted ex works and exclusive of Value Added Tax which will be charged at the rate ruling at the relevant tax point.

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### 5. DELIVERY AND RISK

**5.1** Any dates times or periods for delivery of goods quoted by us are estimates only and we shall not be liable for failure to meet any such estimates or for any costs charges or expenses incurred as a result of any delay. You will not be entitled to refuse to accept goods or to cancel your contract with us merely because of such failure.

**5.2** We reserve the right to deliver the goods by instalments and in such event each instalment shall be treated as separate contract provided that deliveries of further instalments may be withheld until the goods compromised in earlier instalments have been paid for in full.

**5.3** Risk in the Goods passes on delivery. Delivery to your premises or those of your Customer other named agent or independent carrier will constitute delivery for the purpose of these Conditions.

**5.4** If you fail for any reason to take delivery on the due date;

**5.4.1** delivery will be deemed to have taken place on the due date;

**5.4.2** risk in the Goods will pass to you;

**5.4.3** we may (without prejudice to any of our other rights) dispose of the Goods at the best price reasonably obtainable or arrange for their storage at our premises or elsewhere; and

**5.4.4** you will indemnify us in respect of any shortfall between our contract price and the price for the Goods actually obtained if sold and any loss or expense incurred including storage and insurance charges arising from such failure.

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## **6. CLAIM**

**6.1** Any claim for loss or non-delivery of Goods must be notified in writing to us and the carrier within 10 days of despatch

**6.2** Any claim that Goods have been delivered damaged or are not of the correct quantity or do not comply with their description must be notified in writing to us and the carrier within 3 days of delivery. Damage to any items must be endorsed on the delivery document accordingly.

**6.3** We will consider claims only if the above conditions are met. Our liability in respect of shortage, loss or damage to the Goods shall be limited to replacement free of charge or refund the proportion of the price attributable to the goods undelivered or damaged at our option.

**6.4** We shall not be under any liability for any indirect or consequential loss (including without limitation economic loss, loss of profits, less of use or loss of production) arising out of or in connection with our contract with you.

**6.5** All proprietary lines are sold by us by the manufacturer and condition of sale as are imposed upon us by the manufacturer and the acceptance of such Goods will be treated as an acceptance of such specifications and conditions, copies of which are available for inspection at our offices.

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## **7. PAYMENT TERMS**

**7.1** Unless otherwise agreed between us in writing payment for the Goods is due on delivery.

**7.2** Where only part of the Goods are despatched, payment should be made of the contract price attributable to that part.

**7.3** In the event of any delay in the delivery which is attributable to your actions or failure to act or those of your agent, you must make the payment to us in accordance with the above as if the Goods have been delivered at the times at which but for such delays such delivery would have taken place. Any extra costs incurred as a result of such delay will be added to the contract price and will be payable by you.

**7.4** Payment will not be deemed to have been made until any and all cheques drafts and bills which must be payable to Foregale Limited by which payment is to be effected, have been cleared or honoured as the case may be.

**7.5** Without prejudice to any of our rights we reserve the right to charge interest on payments outstanding after the due date 1 / 2% over bank base rate (both before and after Judgement) from the due date for payment until settlement in full has been received by us together with the right to recover from you any costs which we incur in the recovery of the overdue sums.

**7.6** If any payment falls into arrears, we have the right to cancel or postpone performance of the contract wholly or in part, and to be paid immediately for performance of the contract to date (if any).

**7.7** No claim by you under warranty or otherwise shall entitle you to any deduction, retention, set off or withholding of any part of any sums for payment hereunder.

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## **8. RETENTION OF TITLE**

**8.1** Whilst risk in Goods supplied to you by us shall pass on delivery, legal and beneficial ownership of the goods shall remain with us until such time as we have received payment in full of all sums due to us by you and until such time you must keep such Goods separate from your property and clearly identified as our property.

**8.2** Notwithstanding any terms of payment which we have agreed payment for all Goods supplied to you shall become due immediately if you fail to pay for the Goods on the due date (or fail to pay any instalment in which case the whole outstanding balance shall immediately become due) or fail to pay any other sum due to use on the due date or if you are declared bankrupt, or compound with you creditors, or, being a company, go into voluntary liquidation, or enter into a composition with your creditors or have an Administrator or Administrative Receiver or Receiver and Manager appointed over all or part of your asset or if you are otherwise declared insolvent or prohibited from trading, you must immediately notify us thereof and in such circumstance;

**8.2.1** you must not resell or otherwise deal with the Goods;

**8.2.2** you must not part with possession of any Goods which have been delivered to you; we will have the right, without prejudice to any other remedies, to withhold delivery of any undelivered Goods, to stop any other Goods in transit, and to otherwise suspend performance of our contract with you; and

**8.2.3** if payment for any Goods is overdue, whether in whole or in part and any Goods have been delivered to you, we may, without prejudice to any of our other rights, enter upon your premises to recover and/or resell the Goods or such of them as we, in our absolute discretion, may designate as necessary to recover the amount of payment overdue and our reasonable costs incurred in giving effect to our rights hereunder, and, for these purposes, you hereby irrevocably authorise us to enter and take all necessary and reasonable steps upon your premises.

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## **9. CANCELLATION AND RETURN OF GOODS**

**9.1** You may cancel or suspend your contract with us only with our prior written consent following agreement between us as to any reimbursement which we may require to compensate us for cancellation.

**9.2** We shall be entitled (without prejudice to any of our other rights) to terminate any contract between us if

you;

**9.2.1** become insolvent;

**9.2.2** fail to pay any amounts falling due to us whether under these conditions or otherwise;

**9.2.3** suffer the appointment of an Administrator, Administrative Receiver or Receiver and Manager over the whole or part of your undertaking;

**9.2.4** commit a breach of any term of our contract with you or any other contract which we may have with you; or

**9.2.5** where you are a limited company, enter into voluntary or compulsory liquidation or amalgamation (other than for the purposes of bonafide insolvent amalgamation or reconstruction).

**9.3** Upon termination all unpaid invoices rendered by us to you will become payable immediately. The return of Goods will not be accepted for any reason whatever without our prior agreement.

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## **10. GENERAL AND LAW**

**10.1** These conditions and the contracts shall be subject to and construed in accordance with English Law and the parties agree that any dispute arising between them shall be subject to the jurisdiction of and shall be referred to the Bradford County Court or at our absolute discretion may be referred to Arbitration.