

VESUVIUS UK COMPANIES GENERAL TERMS AND CONDITIONS OF PURCHASE : 17th December 2024

1. DEFINITIONS

In these terms and conditions the following words shall have the following meanings:

"Affiliates" means any entity which at any time directly or indirectly controls or is controlled by, or is under common control of Vesuvius or the Supplier;

"Vesuvius" means either Vesuvius UK Limited (Company No. 00054713), Vesuvius Management Services Limited (Company No. 12002255), Foseco International Limited (Company No. 468147), Vesuvius Holdings Limited (Company No. 00251977) or Vesuvius plc (Company No. 08217766) all of 165 Fleet Street, London, EC4A 2AE, United Kingdom; as identified as the Bill To address on the Order;

"Contract" means any Order from Vesuvius and Vesuvius terms and conditions of purchase

"Goods" means the goods, products, articles or things (including any part or parts of them) which the Supplier is to provide pursuant to the Contract in accordance with these terms and conditions;

"Order" means a purchase order in respect of the Goods or the Services issued by Vesuvius to the Supplier on the Vesuvius's official purchase order form, together with all documents referred to in it including Supplier's quotation;

"Services" means the services to be supplied under or in relation to the Contract;

"Specification" means Vesuvius specifications or stipulations for the Goods and/or Services notified in writing to the Supplier;

"Supplier" means the corporate entity or person to whom an Order is addressed and persons acting on its behalf.

2. SCOPE AND APPLICATION

2.1 The present terms and conditions govern the contractual relationship between Vesuvius and Supplier.

2.2 They apply to all purchasing and sourcing of Goods and Services and any general terms and conditions of the Supplier shall be inapplicable, unless otherwise agreed by both parties in writing in a specific case.

3. WARRANTIES

3.1 SUBJECT TO THESE TERMS AND CONDITIONS, THE GOODS AND THE SERVICES TO BE PROVIDED BY THE SUPPLIER SHALL BE OF SATISFACTORY QUALITY; CONFORM TO SPECIFICATION AND COMPLY WITH ANY APPLICABLE LAW OR REGULATION AND BE FREE OF ALL DEFECTS.

3.2 WHERE THERE IS ANY BREACH OF ANY OBLIGATION, WARRANTY OR REQUIREMENT IMPOSED BY, GIVEN OR STATED IN THE CONTRACT IN RESPECT OF THE GOODS OR SERVICES OR THE GOODS ARE DAMAGED VESUVIUS MAY:

- I. CANCEL THE CONTRACT (IN WHOLE OR IN PART); AND/OR
- II. REJECT ANY GOODS ALREADY DELIVERED OR REFUSE TO ACCEPT ANY SUBSEQUENT DELIVERY OF THE GOODS WHICH CANNOT BE EFFECTIVELY AND COMMERCIALY USED; AND/OR
- III. RECOVER FROM THE SUPPLIER ANY COSTS REASONABLY INCURRED BY VESUVIUS DUE TO THE BREACH OR DAMAGE INCLUDING OBTAINING SUBSTITUTE GOODS OR SERVICES FROM ANOTHER SUPPLIER; AND/OR
- IV. REQUIRE THE SUPPLIER AT ITS SOLE COST TO RE-EXECUTE THE SERVICES AND/OR REDELIVER THE GOODS IN ACCORDANCE WITH THE CONTRACT, ORDER AND SPECIFICATION WITHIN 7 DAYS; AND/OR
- V. REFUSE PAYMENT OF THE PRICE FOR THE GOODS AND SERVICES UNTIL THE REQUIREMENTS OF THIS CONTRACT, ORDER AND ANY SPECIFICATION ARE ENTIRELY FULFILLED; AND/OR
- VI. REQUIRE THE REPAYMENT OF ANY PART OF THE PRICE OF THE GOODS OR SERVICES WHICH VESUVIUS HAS PAID WHETHER OR NOT VESUVIUS HAS PREVIOUSLY REQUIRED THE SUPPLIER TO REPAIR THE GOODS, SUPPLY ANY REPLACEMENT GOODS OR RE-EXECUTE THE SERVICES.

3.3 IF VESUVIUS CLAIMS THAT A CONTRACT HAS NOT BEEN FULFILLED OR HAS BEEN INCORRECTLY FULFILLED THE SUPPLIER SHALL BE DEEMED TO ACCEPT THE VALIDITY OF THE CLAIM UNLESS IT SERVES WRITTEN NOTICE ON VESUVIUS DISPUTING THE SAID CLAIM, STATING THE REASONS FOR ITS DISPUTES WITHIN SEVEN (7) WORKING DAYS OF THE DATE OF SAID CLAIM.

3.4 IF VESUVIUS EXERCISES ANY RIGHT UNDER THESE TERMS AND CONDITIONS VESUVIUS MAY AT ITS ABSOLUTE DISCRETION REQUIRE THE SUPPLIER TO COLLECT THE RELEVANT GOODS IMMEDIATELY OR RETURN THE GOODS TO THE SUPPLIER AT THE SUPPLIER'S COST.

3.5 VESUVIUS'S RIGHTS STATED IN THESE TERMS AND CONDITIONS ARE IN ADDITION TO ANY STATUTORY REMEDIES AVAILABLE TO VESUVIUS.

4. PRICE AND PAYMENT

4.1 The price shall be inclusive of all packaging, packing, labelling, insurance, delivery costs, export and import duties (unless specifically agreed otherwise) and all other costs incurred by the Supplier in relation to the Goods and Services and their delivery unless otherwise specified in the Order.

4.2 All sums payable under the Contract are exclusive of VAT which shall be added if appropriate at the rate prevailing at the relevant tax point but inclusive of any other applicable tax or duty payable upon such sums.

4.3 Payment will be made 60 days from the month of invoice providing the invoice is correct in all respects unless agreed otherwise or subject to local laws.

5. PROVISION OF SERVICES

5.1 If the Contract is for or includes Services to be performed by the Supplier then, the Supplier undertakes, represents and warrants to Vesuvius that the Supplier shall:

- i. co-operate with Vesuvius in all matters relating to the Services, and comply with all reasonable instructions of Vesuvius;
- ii. use sufficient number of personnel under adequate supervision who are suitably skilled and experienced to perform the tasks assigned to them;
- iii. provide all equipment and other items as are required to provide the Services;
- iv. use the highest standards and techniques and the best quality goods and materials and ensure that they will be free from every defect;
- v. comply with all applicable laws and obtain and at all times maintain all necessary licences and consents;
- vi. observe all health and safety rules and regulations and any other security requirements that apply at any of Vesuvius's premises
- vii. comply with any reasonable instructions and guidelines issued by Vesuvius from time to time.

6. PERFORMANCE DELAY

6.1 Time is of the essence in this Agreement.

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6.2 Vesuvius reserves the right to reject Goods or Services not delivered or performed on time and/or cancel the whole or any part of the Order of which such Goods or Services form part and/or to return any Goods already delivered which by virtue of such rejection or cancellation are no longer of use. Such rights of rejection, cancellation or return shall be available to Vesuvius irrespective of the cause of delay, without prejudice to Vesuvius's right to damages and any other remedies against the Supplier for breach of contract and without any liability of whatever nature on Vesuvius. The return of rejected Goods shall be at the Supplier's cost and risk.

7. DELIVERY, PACKING, ETC

7.1 Delivery of the Goods shall take place strictly in accordance with Vesuvius's delivery instructions for the Goods as described in the Order, and if none, Delivered Duty Paid (DDP) (Premises nominated by Vesuvius) (Incoterms 2020).

7.2 No responsibility is accepted, including but not limited to payment for Goods delivered or Services performed in excess in quantity or in quality of the Order.

7.3 All Goods must be adequately protected against damage and deterioration in transit and delivered carriage paid in accordance with Vesuvius's instructions (if given) and the packages of Goods must bear the description and the quantity of the contents and Vesuvius's order number.

7.4 Vesuvius accepts no liability for packing materials or cases unless previously agreed and Vesuvius shall not be obliged to return to the Supplier any packaging materials or pallets for the Goods.

7.5 Vesuvius will not be responsible for any failure to give notice to carriers of loss, damage, delay, detention or transit or non-delivery.

7.6 The Supplier agrees on request to supply Vesuvius with any necessary declarations and documents stating the origin of the Goods.

7.7 Vesuvius shall be under no obligation to accept delivery of the Goods before the specified delivery time, but reserves the right to do so.

7.8 Vesuvius shall have the right to change its delivery instructions at any time on giving 14 days notice.

7.9 The Supplier shall promptly keep Vesuvius informed of any matter of which it is or reasonably should, as supplier of the Goods, be aware of relating to the storage, transportation, handling, assembly or use of the Goods by Vesuvius (including legislation or advice from responsible or professional or legal bodies in respect of materials used in the manufacture of the Goods) and the actions it has taken or proposes to take and those that Vesuvius should take in relation to such matters.

8. PASSING OF TITLE AND RISK

8.1 Title passes on delivery at the place specified in the Order or as otherwise agreed unless prior to delivery full payment has been made in which event title passes on payment.

8.2 Goods shall be at the risk of the Supplier until actually delivered unless specified otherwise, even where the delivery has been delayed or postponed by Vesuvius at Vesuvius's request.

9. RIGHT OF REJECTION

9.1 Vesuvius shall not be deemed to have accepted any Goods until it has had 14 working days to inspect them following delivery or after any defect has become apparent.

9.2 Vesuvius may return the rejected Goods to the Supplier at the Supplier's risk and expense or may notify the Supplier that the goods are rejected whereupon the Goods shall be at the Supplier's risk and disposal.

10. INDEMNITY

10.1 Without prejudice to Vesuvius's other rights, in the event of a breach of the Contract, Supplier shall fully indemnify Vesuvius for any losses, damages or expenses incurred (including relating to infringement of intellectual property rights of any third party), unless such losses, damages or expenses are shown to have been caused by Vesuvius in a grossly negligent or intentional manner without any responsibility of Supplier. Supplier shall be liable for the conduct of its Affiliates, employees, agents, sub-contractors, raw material suppliers and other auxiliary persons in the same way as for its own conduct.

11. INSPECTION, BOOKS, RECORDS AND AUDIT RIGHTS

11.1 The Supplier shall permit Vesuvius at any reasonable time to inspect the Goods ordered at the Supplier's premises or elsewhere. For this purpose, the Supplier will give to Vesuvius, or otherwise arrange for, reasonable facilities of access to the Supplier's premises or any other premises. Such inspection does not relieve the Supplier of any liability nor does it imply acceptance of the Goods.

11.2 Supplier shall maintain adequate and accurate books and records with respect to Vesuvius purchasing activities for Goods and Services. Vesuvius shall have the right, upon prior notice and during reasonable business hours, to inspect Supplier's books and records related to the Contract. Supplier and any sub-contractors shall take corrective actions, if any, proposed by Vesuvius further to such audit or inspection within a timeframe approved by Vesuvius.

12. CONFIDENTIALITY

12.1 The Supplier shall keep and procure to be kept secret and confidential all information disclosed or obtained as a result of the relationship of the parties under the Contract and shall not use nor disclose the same save for the purposes of the proper performance of the Contract or with the prior written consent of Vesuvius.

12.2 The obligations of confidentiality in this Condition 12 shall not extend to any information which the Supplier can show is in, or has become part of, the public domain other than as a result of a breach of the obligations of confidentiality under these terms and conditions; was in its written records prior to entering into the Contract and not subject to any confidentiality obligations; was independently disclosed to it by a third party entitled to disclose the same or is required to be disclosed under any applicable law, or by order of a court or governmental body or authority of competent jurisdiction.

12.3 The Supplier shall not make any announcement or otherwise publicise the existence of or disclose to any person the provisions of the Contract without the prior written consent of Vesuvius.

13. COMPLIANCE WITH LAWS

13.1 Supplier is obliged to possess the necessary permits or licenses to manufacture and provide the Goods or Services. Supplier shall promptly provide Vesuvius with any documentation or information regarding Goods, Services or Supplier itself which Vesuvius may need to meet applicable regulatory requirements.

13.2 Supplier undertakes to at all times comply with all applicable laws and regulations including, but not limited to manufacturing, trade and use of Goods or Services regulations; customs regulations; international and regional sanctions; trade restrictions; anti-money laundering regulations; environmental laws; transport regulations; health and safety regulations and insurance requirements. In case compliance with all applicable laws and regulations, on the part of Vesuvius, requires any information or data, Supplier shall provide Vesuvius all requested information or data as soon as possible and always before confirming the Order.

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- 13.3 Supplier commits to comply with either Vesuvius Code of Conduct or Supplier's equivalent Code of Conduct
- 13.4 Supplier shall not, either directly or through intermediaries, seek, accept, offer, promise or give any payments, fees, loans, services or gifts from or to any person or firm, whether public or private, in order to obtain, retain or grant an improper business or other advantage.
- 13.5 Supplier shall comply with all relevant Data Protection laws and regulations relating to the processing of personal data.
- 13.6 Supplier shall be liable for any expenses or damages incurred by Vesuvius due to a violation of its obligations under this clause.
- 14. INTELLECTUAL PROPERTY**
- 14.1 Where the Contract includes manufacture to Vesuvius's designs or Specification the Supplier agrees to inform Vesuvius of any invention or improvement in the design or method of manufacture arising out of or in connection with the Contract.
- 14.2 Any such invention or improvement, any patent or registered design rights in respect thereof and copyright in any drawings, documents or specifications relating thereto shall be the property of Vesuvius. The Supplier shall give Vesuvius at Vesuvius's expense all necessary assistance to enable Vesuvius to obtain patent registered design and similar rights throughout the world.
- 15. TERMINATION**
- 15.1. Vesuvius may immediately terminate the Contract without payment of compensation or other damages if the Supplier:
- 15.1.1. commits a material breach of any of its obligations under the Contract or fails to remedy, where it is capable of remedy, or persists in any breach of any of its obligations under the Contract after having been required in writing to remedy or desist from such breach within a period of thirty (30) days; or
- 15.1.2. becomes insolvent or enters into any arrangements with creditors or takes or suffers any similar action on consequence of debt or is under a bankruptcy process.
- 15.2. In the event of termination by Vesuvius under Clause 15.1, notwithstanding any other contractual documentation, payment of outstanding Goods or Services will only be made on delivery of those Goods or Services.
- 15.3. The Contract may be terminated by the Parties by giving the other party 30 days' advance notice in writing.
- 15.4 The Supplier shall, where practicable, immediately return to Vesuvius all of Vesuvius's property in its possession (including but not limited to materials, tools and articles sent to the Supplier for any purpose) at the date of termination including, subject to applicable laws, all confidential information, together with all copies of such confidential information and shall certify that it has done so, and shall make no further use of such confidential information
- 16. LICENCES**
- If the performance of the Contract requires Vesuvius to have any permit or licence from any government or other authority at home or overseas, the Contract shall be conditional upon such permit or licence being available at the required time.
- 17. INSURANCE**
- 17.1. Supplier shall, during the continuance of its contractual relationship with Vesuvius, maintain insurance to cover itself, its employees, and its representatives for personal injury, property damage, workman's compensation, product liability and other types of liability for which insurance is required to be maintained by law applicable to the Supplier's activities.
- 17.2. The Supplier shall, on the written request of Vesuvius from time to time, provide Vesuvius with reasonable details of all insurance policies maintained in force in accordance with this Condition and, on the renewal of each policy, the Supplier shall send a copy of the premium receipt to Vesuvius when requested to do so in writing by Vesuvius.
- 17.3. The Supplier will provide all facilities, assistance and advice required by Vesuvius or Vesuvius's insurers for the purpose of contesting or dealing with any action, claim or matter arising out of the Supplier's performance of the Contract.
- 18. NOTICES**
- Any notice or other document to be served under this agreement must be in writing and may be sent by personal delivery or delivered by prepaid first class letter post or any electronic means when an electronic address has been provided and shall be deemed to have been duly given if sent or delivered to the party concerned at its specified address or such other address as that party may from time to time notify in writing and shall be deemed to have been served, if sent by post, 48 (forty eight) hours after posting
- 19. INVALIDITY**
- If at any time any part of these terms and conditions is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from these terms and conditions and the validity and/or enforceability of the remaining provisions of these terms and conditions shall not in any way be affected or impaired as a result of that omission.
- 20. ANTI-BRIBERY**
- 20.1. The Supplier undertakes that it: (i) has not committed an offence under relevant anti bribery legislation (a "Bribery Offence"); and (ii) has not been formally notified that it is subject to an investigation or is not aware of any circumstances that could give rise to an investigation relating to alleged Bribery Offences or prosecution.
- 20.2. The Supplier agrees that it and persons associated with the Supplier (including its Affiliates, employees, sub-contractors, agents or other third parties working on behalf of the Supplier):
- (i) has in place, and shall maintain adequate procedures designed to prevent committing a Bribery Offence;
- (ii) shall comply with the anti bribery applicable laws and the UK Bribery Act 2010; and
- (iii) shall not commit any Bribery Offence and shall not permit anything to be done which would cause Vesuvius or any of Vesuvius's employees, sub-contractors or agents to commit a Bribery Offence or incur a liability in relation to anti bribery legislation; and
- (iv) shall notify Vesuvius immediately in writing if it becomes aware or has reason to believe that any obligations under this Condition 20 were breached or potentially breached.
- 21. MODERN SLAVERY**
- 21.1. "Modern Slavery Policy" shall mean Vesuvius plc's Statement on the prevention of Slavery and Human Trafficking as published on the website www.vesuvius.com. The Supplier undertakes, warrants and represents that neither the Supplier nor any of its Affiliates, officers, employees, agents or subcontractors has:
- 21.1.1 committed an offence under applicable modern slavery legislation or the UK Modern Slavery Act 2015 (an "MSA Offence"); or
- 21.1.2 been notified that it is subject to an investigation or prosecution relating to an alleged MSA Offence; or
- 21.1.3 is aware if any circumstances within its supply chain that could give rise to an investigation or prosecution relating to an alleged MSA Offence.
- 21.2 Supplier and any of its Affiliates, officers, employees, agents or subcontractors shall:
- (i) comply with applicable modern slavery legislation and the UK Modern Slavery Act 2015 and adhere to the Modern Slavery Policy
- (ii) notify Vesuvius as soon as practical to do so in writing if it becomes aware or has reason to believe that it has breached or potentially breached any of obligations under this Condition 21.
- 21.3. Any breach of this Condition 21 by the Supplier shall be deemed a material breach of the Contract and shall entitle Vesuvius to terminate the Contract in accordance with Condition 15.1.
- 22. ASSIGNMENT AND SUBCONTRACTING**
- 22.1. The Supplier shall not without the prior written consent of Vesuvius subcontract, assign or transfer the Contract or any part of it to any other person.
- 22.2. Vesuvius may at any time deal with in any manner any or all of its rights and obligations under the Contract with any third party or its Affiliates.
- 23. LAW AND JURISDICTION**
- The Contract and any issues, disputes or claim arising out of or in connection with it (whether contractual or non-contractual in nature such as claims in tort, from breach of statute or regulation or otherwise) shall be governed by, and construed in accordance with the laws of England and Wales. All disputes or claims arising out of or relating to the Contract shall be subject to the non-exclusive jurisdiction of the courts of England and Wales to which the parties irrevocably submit. Notwithstanding the foregoing, at the sole option of Vesuvius, any dispute or claim arising out of or in connection with the Contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with such rules. Such arbitration shall take place in the English language in England. If a court action has been initiated by the Supplier at the time Vesuvius chooses to submit the matter to arbitration, then it is agreed that such court action is to be discontinued, unless the arbitrator finds that Vesuvius has waived such right by substantially participating in the court action without having raised its right under this Condition. The parties acknowledge and agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Order.
- 24. FORCE MAJEURE**
- 24.1 Vesuvius shall not be liable to the Supplier for failure to fulfil its obligations under the Contract to the extent that and for so long as such a failure is caused by circumstances outside Vesuvius's reasonable control (including without limitation act of God, war, riot, act of terrorism, explosion, abnormal weather conditions, fire, flood, lightning, strikes, lockouts, Government actions; regulations; economic sanctions or trade restrictions, pandemic, epidemic, delay by suppliers, accidents and shortages of materials, labour or manufacturing facilities).
- 24.2 In such circumstances, Vesuvius shall give the Supplier written notice of this event as soon as reasonably practicable after discovering it.
- 24.3 If the circumstances are still continuing three (3) months after the Supplier receives Vesuvius's notice, then either party may give written notice of termination of the Contract to the other.
- 24.4 If the Contract is terminated under 24.3, Supplier will refund any payment which Vesuvius has already made for non-delivered Goods and/or non-performed Services. The terminating party will not be liable to the other party for this termination.
- 25. REACH REGULATIONS**
- If a Supplier is supplying substances or preparations as they are defined in the REACH regulation (Regulation of the European Parliament and of the Council (EC) No.1907/2006 of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)), it warrants it is aware of its obligations resulting from the REACH regulation and undertakes to meet them on delivery of the substances and preparations. The Supplier guarantees to deliver to Vesuvius only substances and/or preparations which are registered or pre-registered according to the REACH regulation. In case of violation of any provision of the REACH regulation the Supplier undertakes to indemnify Vesuvius and hold him harmless against and out of any claim of any third party, including any claims of a government authority, all losses, damages, costs or expenses arising out of or in connection with a breach of this Condition. The Supplier agrees not to supply to Vesuvius any substance either alone or in preparations or articles which are included in annex XIV of the REACH regulation, without the prior written consent of Vesuvius.
- 26. GENERAL**
- 26.1. Vesuvius's Affiliates may enforce the provisions of the Contract. Any other person who is not party to this agreement shall have no right to enforce any term of the Contract. This Condition does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act. The rights of the parties to the Contract to terminate, rescind, or agree any variation, waiver or settlement under the Contract are not subject to the consent of any person that is not a party to the Contract.
- 26.2. These terms and conditions shall have precedence over any conditions appearing on any quotation, acceptance form, delivery forms, invoice or other document or letter emanating from the Supplier and such conditions shall have no effect whatever except insofar as they are expressly accepted in writing by Vesuvius.
- 26.3. Nothing in these terms and conditions shall prejudice any conditions or warranty (expressed or implied) or right or remedy to which Vesuvius is entitled in relation to the contract by virtue of statute or common law. The rights and remedies conferred on Vesuvius by these terms and conditions are in addition to and in no way in substitution for any conditions, warranties or other rights or remedies conferred on Vesuvius or implied by law.