

VESUVIUS EUROPE SAS.– GENERAL TERMS and CONDITIONS OF SALE (Version December 2020)

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 Buyer;

"Buyer" means the corporate entity firm or person referred to in Vesuvius's quotation and/or acknowledgement of order who purchases the Goods and/or Services from Vesuvius;

"Contract" means (i) any order from the Buyer (ii) acknowledgement of order by Vesuvius and (iii) Vesuvius terms and conditions of sale;

"Vesuvius" means Vesuvius Europe S.A.S. of 3 Avenue de l'Europe Parc les Pivolles, 69150 Décines-Charpieu, France

"Goods" means the goods, products, articles or things (including any part or parts of them) to be supplied under or in relation to the Contract; and

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

2. SCOPE AND APPLICATION OF THESE TERMS AND CONDITIONS

2.1 The Contract is governed by the present terms and conditions except where expressly excluded.

2.2 The quotation which comprises an estimate and is not binding on Vesuvius is open for a period of 30 (thirty) days unless agreed otherwise between the parties. Individually negotiated contract terms shall prevail over the present terms and conditions, provided they have been set out and agreed in writing (including email).

3. CANCELLATION

3.1 No cancellation of a Contract by the Buyer is permitted except where expressly agreed by Vesuvius in writing.

4. PRICE

4.1 All prices specified are those ruling at the date of the quotation.

4.2 Unless otherwise stated all prices quoted are in EUROS, exclusive of VAT and unless otherwise stated in the Contract the Buyer shall be liable in addition to paying VAT, to pay all applicable duties, sales, taxes and Vesuvius's charges for transport, loading, packaging and insurance.

4.3 Vesuvius reserves the right at any time, by notifying the Buyer by writing (including email), to adjust the price to take account of any increase in the cost of raw materials, labour services or any currency fluctuations affecting the cost of imported materials without any liability on the part of Vesuvius. Once notified by Vesuvius, Buyer shall have five (5) days to advise Vesuvius whether it will accept such price adjustment or terminate the Contract.

5. TERMS OF PAYMENT

5.1 All sums become due and payable under these terms and conditions within 30 days of the date of invoice issued unless otherwise specified in writing.

5.2 Time for payment shall be of the essence.

5.3 Notwithstanding any other provision all payments payable to Vesuvius under the Contract shall become due immediately upon termination of the Contract for whatever reason.

5.4 Vesuvius reserves the right to charge interest at 4% (four percent) per annum above the HSBC PLC Base Lending Rate on all overdue accounts, such interest being deemed to accrue on a day to day basis from the due date for payment under Conditions 5.2 and 5.3.

5.5 The Buyer shall have no right of set off, statutory or otherwise.

5.6 Vesuvius reserves the right, where, in its opinion, doubts arise (i) as to a Buyer's financial position or (ii) in the case of failure to pay for any preliminary work any Goods and/or Services or any delivery or instalment as aforesaid, or (iii) the Buyer refuses to accept delivery of Goods or performance of Services, to suspend or cancel delivery or suspend performance of any order or any part or instalment without liability until payment or security for payment has been provided to Vesuvius's satisfaction.

6. TERMINATION

6.1 Without prejudice to any rights that have accrued under the Contract or any other rights or remedies, Vesuvius may (notwithstanding any previous agreement or arrangement to the contrary) immediately suspend performance of the Contract, cancel any outstanding delivery of the Goods and/or suspend supply of the Services, stop any Goods in transit or by notice in writing to the Buyer terminate the Contract without liability to Vesuvius if the Buyer:

6.1.1 fails to pay any sum payable under the Contract; or

6.1.2 commits a material breach of any of its obligations under the Contract; or

6.1.3 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; or

6.1.4 the Buyer is subject to financial, legal, trade or other sanctions or is added to the Vesuvius internal sanctions list or is not in compliance with the Vesuvius Anti Bribery and Corruption Policy .

7. DELIVERY AND RISK

7.1 Unless stated otherwise the Goods shall be delivered Ex-Works Vesuvius (Incoterms 2020) and the Buyer shall collect them within 5 business days of being notified that such Goods are ready.

7.2 Risk on Goods shall pass on their delivery to the Buyer.

7.3 Time for delivery by Vesuvius is not of the essence.

7.4 Deviations in quantity of the Goods declared from that stated in the Contract shall not give the Buyer any right to reject the Goods or to claim damages and the Buyer shall accept and pay at the Contract rate for the quantity of the Goods delivered. Vesuvius shall make its best efforts for delivering the remaining Goods in the best possible timeframe from notification from the Buyer.

7.5 If for any reason the Buyer does not accept delivery, or otherwise collect any of the Goods when they are ready for delivery, or Vesuvius is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations then the Goods will be deemed to have been delivered, risk passing to the Buyer (including for loss or damage caused by Vesuvius's negligence) and Vesuvius may:

(a) store the Goods until actual delivery whereupon the Buyer will be liable for all related costs and expenses (including without limitation storage and insurance); or

(b) sell the Goods at the best price readily obtainable and (after deduction of all reasonable storage and selling expenses) charge the Buyer for any shortfall below the Contract price.

7.6 Upon receipt at the Buyer's premises, Buyer shall examine the Goods and promptly notify Vesuvius of any visible defects or mismatch in quantity or quality within 5 business days, otherwise the Goods will be deemed accepted.

8. RETENTION OF TITLE

8.1 Full ownership of Goods shall remain with Vesuvius until payment in full has been received by Vesuvius.

8.2 Any time prior to title in Goods passing to the Buyer, Vesuvius may retain possession of all or any part of the Goods and the Buyer hereby grants Vesuvius an irrevocable right to enter any of Buyer's premises for that purpose (and to authorise others to do so on its behalf).

9. SUPPLY OF SERVICES

9.1 Vesuvius shall use its reasonable endeavours to meet any performance dates for the Services, but any such dates shall be estimates only and time shall not be of the essence for the performance of Services. Vesuvius shall not be liable for any kind of loss whatsoever or howsoever arising caused by its failure to provide the Services on the due date.

9.2 Where Vesuvius is to perform the Services at the Buyer's premises, the Buyer shall:

(i) ensure safe and unhindered access to the premises for all employees, agents, consultants or other personnel of Vesuvius, its Affiliates or any of their subcontractors to carry out work at all relevant times, including adequate space to store materials and equipment as well as perform the Services and, where necessary, access to adequate power, lighting, heating, water, compressed air and steam ;

(ii) ensure that all health and safety instructions, consents, permissions, or licences required in order to allow the Services to be provided are in place;

9.3 The Services will be deemed to be completed and the relevant element of the Contract price to be due and payable immediately when Vesuvius issues a written notice to the Buyer confirming such completion;

9.4 Vesuvius shall not be liable for late performance of the Services due to

(i) the lack of relevant assistance from the Buyer' or

(ii) the unsuitable condition of the Buyer's premises on the site at which the Services are to be provided or any other circumstance beyond the reasonable control of Vesuvius.

10. INTELLECTUAL PROPERTY

10.1 Buyer acknowledges that all intellectual property rights whether registered or unregistered relating to the Goods, and/or the underlying technology and processes for the development, manufacturing, or provision of Goods, shall at all times remain the property of Vesuvius and/or, as the case may be, of Vesuvius affiliates, and that Buyer does not acquire any right, title or interest in such rights by virtue of purchasing Goods from Vesuvius. The Goods are solely provided for Buyer's use pursuant to these Terms and Conditions and the relevant order confirmation.

10.2 Vesuvius intellectual property rights extend to data generated in connection with the use of Goods, in the case that they are made available to Vesuvius. Buyer acknowledges and agrees that Vesuvius will collect, process, analyse and use such data for internal purposes, in particular for further developing and improving Vesuvius Goods and Services.

10.3 In the event that Buyer becomes aware that Vesuvius intellectual property rights are or may be infringed, Buyer shall inform

Vesuvius as quickly as possible and shall assist Vesuvius to take the necessary measures to protect its intellectual property rights.

10.4 Buyer shall notify Vesuvius promptly if Buyer receives notice of any demand, claim, suit or proceeding alleging that Goods of Vesuvius infringe any intellectual property rights of a third party.

11. CONFIDENTIALITY AND DATA PROTECTION

11.1 Confidential information of Vesuvius regarding the Goods and Services and/or the underlying technologies and software, or regarding Vesuvius terms of collaboration with Buyer, or regarding operational, financial, or other business information relating to Vesuvius and/or its affiliates, shall be kept confidential by Buyer, and shall not be disclosed to any third parties without Vesuvius prior written agreement, unless specifically required by a final judgment or order by a competent governmental authority, court, tribunal, or regulatory body.

11.2 The obligations pursuant to this Clause 11 shall not apply to any confidential information which (i) has entered the public domain other than as a result of Buyer's breach of its confidentiality obligations, (ii) has been lawfully received by Buyer from a third party on an unrestricted basis, (iii) was known to Buyer prior to disclosure by Vesuvius, or (iv) was independently developed by Buyer.

11.3 Vesuvius is committed to protecting and respecting data privacy. The Vesuvius Data Privacy Notice is available at www.vesuvius.com or contact the Vesuvius Data Protection Officer at: dataprotection@vesuvius.com

12. WARRANTY

12.1. During the term of the warranty period, Vesuvius warrants that the Goods or Services shall comply with the Contract specifications. ANY OTHER EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS, INCLUDING IN PARTICULAR ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR PURPOSE, OR WARRANTY REGARDING THE INTERACTION OF THE GOODS WITH EQUIPMENT, SOFTWARE OR SYSTEMS OF THIRD PARTIES, ARE EXPRESSLY EXCLUDED.

12.2 The warranty period shall be twelve (12) months and commence with the receipt of the Goods or completion of the Services at the agreed place.

12.3 In case of proven defective Goods or Services not in accordance with the contract, Vesuvius shall, at its own discretion, replace or repair such Goods or parts of them or reperform/complete such Services or parts of them or refund that proportion of the price attributable to such Goods or Services or parts of them.

12.5 Vesuvius shall be under no liability under condition 12.1 unless the Buyer:

12.5.1 Notifies Vesuvius in writing of the alleged defects within five (5) business days of the time when the Buyer discovers or should have discovered any of them; and

12.5.2 Affords Vesuvius a reasonable opportunity to inspect the relevant Goods or location at which the Services were performed and, if so requested by Vesuvius and where it is reasonable to do so, promptly returns to Vesuvius or such other person nominated by Vesuvius a sample of the Goods within fourteen (14) days, carriage paid by the buyer, for inspection, examination and testing and otherwise permits Vesuvius to have access to the Goods or such materials at the Buyer's premises or other mutually agreed location where they may be or the services were performed for such purposes.

12.6 If Vesuvius elects to replace the Goods or reperform the Services pursuant to condition 12.1, Vesuvius shall deliver the replacement Goods to or reperform the Services for the Buyer at Vesuvius's own expense at the address to which the defective Goods were delivered or defective Services performed and the legal, equitable and beneficial title to the defective Goods which are being replaced shall (if it has vested in the Buyer) re-vest in Vesuvius and the Buyer shall make any arrangements as may be necessary to deliver up to Vesuvius the defective Goods which are being replaced or materials relating to the previously performed Services.

12.7 Vesuvius warranty is excluded:

12.7.1 for reasonable wear and tear of Goods or for any defect arising from damage, negligence, abnormal storage or working conditions or failure to follow Vesuvius' instructions (whether oral or in writing), the repair of Goods without Vesuvius' approval, or improper installation, misuse or alteration

12.7.2 if the total price due for the Goods or Services has not been paid;

12.7.3 for any Goods or Services supplied in accordance with, or where the defect has arisen due to any drawing, design, specification, instruction, information, or recommendation provided by the Buyer; or

12.7.4 for any Goods or Services supplied where the defect has arisen because the Buyer has failed to provide relevant information.

13. LIMITATION OF LIABILITY

13.1 UNLESS OTHERWISE REQUIRED UNDER MANDATORY PROVISIONS OF THE APPLICABLE LAW, VESUVIUS' TOTAL LIABILITY WITH RESPECT TO ANY GOODS OR SERVICES SHALL BE LIMITED TO THE TOTAL PURCHASE PRICE PAID FOR SUCH GOODS. UNDER NO CIRCUMSTANCES SHALL VESUVIUS BE LIABLE FOR ANY CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF OPPORTUNITY, LOSS OF ANTICIPATED SAVINGS, LOSS OF DATA, REPUTATIONAL HARM, AND COSTS OF ANY REGULATORY FINES OR PENALTIES.

14. FORCE MAJEURE

14.1 Vesuvius shall not be liable for any failure or delay to deliver the Goods and/or supply the Services arising from 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, delay by suppliers, accidents and shortages of materials, labour or manufacturing facilities).

14.2 Should Vesuvius be prevented from delivering in the above circumstances, it shall give the Buyer written notice of this event as soon as reasonably practicable after discovering it.

14.3 If the circumstances preventing delivery are still continuing three (3) months after the Buyer receives Vesuvius's notice, then either party may give written notice of termination of the Contract to the other.

14.4 If the Contract is terminated under 14.3, Vesuvius will refund any payment which the Buyer 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.

15. INDEMNITY

15.1 The Buyer indemnifies Vesuvius against all actions, losses, costs (including reasonable legal fees and costs of investigation), injuries, damages, expenses and claims in respect of the Goods and any Vesuvius materials and equipment whilst they are in the Buyer's possession except to the extent any of the same relate to death or personal injury resulting from wilful misconduct or gross negligence of Vesuvius or its subcontractors.

16. NOTICES

16.1 Any notice to be given hereunder shall be in writing and may be delivered or sent by personal delivery or prepaid first class letter post or either by any electronic mean when an electronic address has been indicated in the order or in the acknowledgment of order.

17. ASSIGNMENT

17.1 The Buyer shall not assign or transfer or purport to assign or transfer the Contract or the benefits thereof to any other person without the prior written consent of Vesuvius. Vesuvius may at any time subcontract, transfer, mortgage, charge or deal with in any manner any or all of its rights and obligations under the Contract.

18. GOVERNING LAW

18.1 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 French law excluding the United Nations Convention on Contracts for the International Sale of Goods.

19. JURISDICTION

19.1 All disputes or claims arising out of or relating to the Contract shall be subject to the exclusive jurisdiction of the French courts 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 French language Paris, France. If a court action has been initiated by the Buyer at the time that 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.

20. HEALTH AND SAFETY

20.1 The Buyer agrees to comply with any information, relating to the Goods and any relevant applicable health and safety regulations whenever supplied by Vesuvius.

21. GENERAL

21.1 The Contract sets out the entire agreement and understanding between the Buyer and Vesuvius in connection with the sale of the Goods and provision of the Services and shall supersede and replace all documentation previously issued by Vesuvius purporting to set out its terms and conditions of sale of Goods/Services. The Buyer acknowledges that the Contract has not been entered into wholly or partly in reliance on, nor has the Buyer been given, any warranty, statement, promise, or representation by Vesuvius or on its behalf other than as expressly set out in the Contract.

21.2 If any provision of this Contract is held to be null and void by operation of law or invalid by a court of competent jurisdiction, such provision shall be deemed to be severed and deleted; and neither such provision, nor its severance and deletion, shall affect the validity of the remaining provisions.