

## GENERAL PURCHASING TERMS AND CONDITIONS

### 1. Definitions

- 1.1. "Affiliate" means, for the purpose of these General Purchasing Terms and Conditions, an entity that, either directly or indirectly, via one or more intermediaries, controls, or is controlled by, or is under common control with a Party. For this purpose, an entity "controls" another entity if it has (i) voting control — via legal, beneficial or equitable ownership; a voting agreement; or otherwise — of securities of (or other interest in) that organization of more than the minimum voting percentage (being 51% if not specified otherwise) of the aggregate right to vote for that organization's board of directors or comparable governing body; or (ii) a legally enforceable right to select, or to prevent the selection, of a majority of the members of that board or other body; or (iii) the power to direct or cause the direction of the management and policies of the organization by contract or otherwise
- 1.2. "Agreement" means any agreement of purchase and sale, the acceptance of work, an agreement for the performance of services or work, a contract for services and/or any other agreements and any obligations deriving therefrom;
- 1.3. "Company" means the respective entity of the RHI Magnesita company group concluding the Contract with the Supplier;
- 1.4. "Contract" means an Agreement concluded by the Parties in Written Form or an Order of the Company accepted by Order Confirmation of the Supplier;
- 1.5. "Delivery" means the notification by the Supplier to the Company that the Products are available for pickup at the designated place of delivery or that the Services or Work have been completed;
- 1.6. "IP Rights" shall mean all patents, trademarks, licenses, service marks, tradenames, trademark registrations, designs, company names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, know-how and other (current or future) registered or unregistered intellectual property rights and interests;
- 1.7. "Offer" means every tender, price quotation and/or any other type of proposal In Writing coming from the Supplier and directed towards the Company;
- 1.8. "Order" means the oral order or order In Writing of the Company for the Supply of Products and/or Services which needs to be accepted by Order Confirmation;
- 1.9. "Order Confirmation" means the confirmation in Written Form of an Order by the Supplier;
- 1.10. "Party" means the Supplier, or the Company and "Parties" means both;
- 1.11. "Products" means all goods purchased by the Company as well as components for Work provided by the Supplier;
- 1.12. "Purchased Goods" means Products, Services and/or Work;
- 1.13. "Purchasing Terms" means these general purchasing terms and conditions of the Company;
- 1.14. "Services" means the provision of work and/or services performed by the Supplier;
- 1.15. "Supplier" means the legal entity or natural person with whom the Company concludes a Contract for the purchase of Products and/or Services;
- 1.16. "Work" means the product and / or outcome of the Supplier's Services;
- 1.17. "Written Form" or "In Writing" means any documents signed by a Party including emails sent and/or received.

### 2. General

- 2.1. The Purchasing Terms shall apply to any and all legal acts and/or legal relationships between the Company and the Supplier including but not limited to any and all Offers, Orders, Order Confirmations and Contracts related to the Purchased Goods. The Purchasing Terms also apply to agreements for the sale and/or supply of movable goods and services, regardless of whether the Supplier manufactures these or purchases them from other suppliers or subcontractors.
- 2.2. The Purchasing Terms are available on the Company's website in their current form and, at the request of the Supplier, will be sent to the Supplier.
- 2.3. The Company reserves the right to amend the Purchasing Terms. The Purchasing Terms as amended shall apply as of the moment when published on the Company's website, the RHI Magnesita company group website [www.rhimagnesita.com](http://www.rhimagnesita.com) or referred to in the Contract or in the Order.
- 2.4. By entering into the Contract, or by initiating the execution of such Contract, the Supplier acknowledges that the Purchasing Terms apply to that Contract and the Supplier accepts the Purchasing Terms and all provisions contained herein except for those provisions to which the Parties have explicitly made deviating arrangements in Writing. The Purchasing Terms apply exclusively. Any conflicting, deviating or supplementary terms and conditions of the Supplier are hereby rejected and do not become a constituent part of the Contract, unless the Company expressly agrees to their validity in writing. For example, it does not constitute consent if the Company with knowledge of the Supplier's terms accepts Delivery without reservation.
- 2.5. In the event of contradictions between the Contract, its appendices and/or the Purchasing Terms the following order of priority shall apply: 1. the Contract, 2. the appendices to the Contract and 3. the Purchasing Terms. In case of contradictions between an Offer, an Order Confirmation or the Order, the Order shall prevail. In case of contradictions between an Offer and an Order Confirmation, the Order Confirmation shall prevail.



- 2.6. The Supplier cannot derive any rights in subsequent Contracts from any agreed upon deviations from the Purchasing Terms.

### **3. Formation of Contracts**

- 3.1. Orders placed by the Company shall be deemed binding at the earliest upon submission in Writing. All Offers must be complete and made in full and must include all necessary and/or requested specification and/or (supporting) documentation. The Supplier shall inform the Company of obvious errors (e.g. spelling and calculation errors) and incompleteness of the Order including the order documents for the purpose of correction or completion before Order Confirmation. The Supplier shall accept the Order within a period of five (5) working days after its receipt by Order Confirmation. The Company may withdraw from or amend an Order at any time before the Order Confirmation and shall not be required to compensate any damages and/or costs as a result of such withdrawal or amendment.
- 3.2. A Contract shall become effective the moment the Supplier has expressly accepted a complete Order through an Order Confirmation.
- 3.3. Unless explicitly agreed otherwise In Writing, all actions made or taken by the Supplier prior to the formation of the Contract shall be for the risk and account of the Supplier.

### **4. Execution of Contracts**

- 4.1. The Company shall be notified In Writing of any change in pricing and/or time of Delivery as a result of any change to the Contract requested by the Company, including but not limited to changes to specification, quantity or place of Delivery of the Purchased Goods as soon as possible, but at the latest within 2 weeks as of the date of such change request. In the event that such change request requires an amendment to the Contract, because it results in an amended price and/or a different time of Delivery, the Company shall be entitled to demand the unchanged execution of the original Contract or the execution of an amended version of the Contract which shall be acceptable to the Company, or to terminate the Contract with immediate effect, in accordance with clause 19 of the Purchasing Terms. If Supplier has not responded to a change request within 2 weeks as of receipt thereof, it shall be deemed to be accepted by the Supplier.
- 4.2. The Supplier may not transfer or outsource the Contract or its execution, in whole or in part, to third parties unless the Company has given its prior and explicit consent In Writing thereto. All obligations that, by virtue of the Contract and the Purchasing Terms, shall apply to the Supplier shall also apply to the party to whom the execution of the Contract has been outsourced to, including, but not limited to, the obligations regarding quality, confidentiality and privacy. The Supplier shall be responsible for compliance with the applicable obligations by these third parties and shall actively procure and guarantee their compliance thereto. Any consent given by the Company shall not discharge the Supplier from any obligation under the Contract or any related obligations.

### **5. Price**

- 5.1. Unless explicitly agreed otherwise In Writing, all prices in the Contract shall be fixed and shall be based on DDP Incoterms 2020 and shall include all applicable taxes (including but not limited to VAT), transportation costs, insurance costs, costs resulting from currency fluctuations, costs of packaging and custom duties.
- 5.2. Any deviations in wages, materials, rights, taxes, custom duties and/or any other costs that may have an increasing effect on the price as included in the Contract shall be for the risk and account of Supplier unless the Company has given its approval In Writing to such increases.
- 5.3. In the event that any Services provided to the Company pursuant to a Contract result in additional work compared to what the Parties agreed to, Supplier shall inform the Company thereof as soon as possible In Writing. The costs for such additional work may only be charged to the Company if the Company has given its prior approval thereto In Writing.

### **6. Payment**

- 6.1. Unless explicitly agreed otherwise In Writing, all payments of the Company shall be made within 90 days of receipt of the invoice. In the event that the invoice is received prior to Delivery, the Company shall make the corresponding payments within 90 days of Delivery. In the case of bank transfer, payment shall be deemed to have been made on time if the transfer order from the Company is received by the Company's bank before the expiry of the payment deadline; the Company shall not be responsible for any delay by the banks involved in the payment process. Unless explicitly agreed otherwise, all payments shall be made in EUR.
- 6.2. Any payments made for any of the Purchased Goods shall in no way discharge the Supplier from any guarantee, warranty and/or liability arising from or a Contract.
- 6.3. The Company shall at all times reserve the right to suspend any payment(s) if and insofar as the Supplier has not (fully) fulfilled its obligation(s) arising from the Contract and/or the applicable laws. In such case, the remaining amount shall not be increased in any way whatsoever, including, but not limited to, an increase due to interest.
- 6.4. The Company reserves the right to set-off all its payments due to the Supplier against any/and all of its claims and/or those of the Company's Affiliates or subsidiaries against the Supplier and/or the Supplier's affiliates or subsidiaries on any ground whatsoever and all such without judicial intervention. The Supplier shall not have the right to set-off any of its claims (and/or those of its Affiliates or subsidiaries) against any payments due to the Company on any ground whatsoever, unless agreed upon otherwise. In the event that the Parties have a dispute with regard to the amount or the accuracy of a payment and/or invoice, the Company shall be entitled to suspend payment(s) at all times and up until the moment that a competent court or, as the case may be, arbitrators have rendered an irrevocable judgment on the payment(s) and/or invoice. The outstanding amount shall not be increased in any way whatsoever, including, but not limited to, an increase due to interest. The Parties shall bear their own costs with regard to the settlement of any dispute as referred to in this clause 6.4.



## **7. Delivery**

- 7.1. Unless explicitly agreed otherwise In Writing, DDP Incoterms 2020 to the place designated in the Order applies. If the place of delivery has not been designated in the Order, the Supplier shall contact the Company and obtain respective instructions as soon as possible. If such instructions have not been received before loading, Supplier shall deliver the Products to the registered office of the Company. Prior to Delivery, the risk of the Products delivered shall always be with the Supplier. The designated place is also the place of performance for the Delivery and any subsequent performance.
- 7.2. The Delivery shall be accompanied by a delivery note stating the date (issue and dispatch), the content of the Delivery (article number and quantity) and the Company's order (date and number). If the delivery note is missing or incomplete, the Company shall not be responsible for any delays in processing and payment resulting therefrom.
- 7.3. The Supplier shall deliver the Purchased Goods at the time as set out in the Order unless the Company has explicitly agreed In Writing to an earlier and/or later time. Unless explicitly agreed otherwise In Writing, the agreed upon time and/or the deadlines for Delivery shall qualify as a fixed term. In the event that the Supplier reasonably expects that Delivery cannot be made at the agreed upon time, it shall inform the Company immediately thereof, stating the reasons for the delay and the estimated duration of the delay. If no reasons are submitted, the validity of such reasons at a later time shall not be accepted.
- 7.4. In the event of late Delivery, in whole or in part, the Company may cancel the Contract, in whole or in part, all such in accordance with clause 19 of the Purchasing Terms, without being liable to pay and/or reimburse any damages.
- 7.5. Any late, early or incorrect Delivery shall be regarded as a direct non-performance of an obligation, giving the Company the right to claim damages from the Supplier upon prior notification with an adequate period of grace (if possible and applicable). In case the Company is required to mandate a third party with the fulfillment of the Contract (deliver the Purchased Goods) due to the late, early or incorrect Delivery, the Supplier shall bear any and all costs resulting therefrom, in particular express delivery costs.
- 7.6. The Supplier shall be required to transfer the legal title to all Purchased Goods, without any lien or encumbrance, to the Company upon Delivery or at the time of advance payment or (interim) payment by the Company, whichever comes earlier. The risk related to the Purchased Goods shall transfer to the Company in accordance with clause 7.1 of the Purchasing Terms.
- 7.7. In the event that the Company is unable to take Delivery at the designated time and place, due to reasons beyond the Company's control, including but not limited to the reasons as set out in clause 18 of the Purchasing Terms, the Supplier shall provide all reasonable efforts to ensure that Delivery takes place as soon as possible thereafter and if applicable on a newly designated place.

## **8. Quality of the Purchased Goods**

- 8.1. Supplier represents that the Purchased Goods shall comply with the Order and with generally accepted standards and regulations applicable by or pursuant to any law or treaty, including, but not limited to, standards and regulations regarding safety, health and environment and data protection.
- 8.2. Supplier represents that the Purchased Goods shall not be defective, shall be of sufficient quality and without any defects in manufacture, assembly and/or materials and shall comply with the requirements given and/or to be implicitly given to those Purchased Goods, including, but not limited to, the requirements as set out in: (i) the Purchasing Terms, (ii) the Order, (iii) the Order Confirmation, (iv) Contract, (v) the quality guidelines and/or quality standard provided by the Company to the Supplier and (vi) any other models and specifications communicated by the Company to the Supplier.

## **9. Security**

- 9.1. The Supplier shall furnish security required by the Company on Company's first demand.
- 9.2. The Supplier shall pledge to the Company the materials and resources which he shall use for the Purchased Goods now and in the future, and the Company shall be entitled to use these to carry out the Purchased Goods, also when this Contract is terminated. The Supplier shall ensure that he is authorized to pledge and transfer the exclusive usage and exploitation rights of the Purchased Goods to the Company.

## **10. Warranty for defects**

- 10.1. Unless otherwise or additionally provided for in these Purchasing Terms, the statutory provisions apply to the Company's rights in the event of material defects and defects of title (also including incorrect and incomplete deliveries, faulty assembly, installation or instructions).
- 10.2. In the event that the Purchased Goods contain any defects within 24 months after Delivery, the Supplier, in consultation with the Company, shall repair or replace the respective Purchased Goods immediately, without prejudice to the rights of the Company pursuant to clause 17.1 of the Purchasing Terms. All damages and costs suffered or incurred by the Company and/or third parties as a result of a defect in the Purchased Goods shall be for the expense of Supplier and Supplier indemnifies the Company in that regard. Following Delivery of the substituted or repaired Purchased Goods, all related warranty periods shall recommence. In the event that, according to the Company, the Supplier has not removed the defect within a reasonable amount of time and/or has not done so adequately, or in the event that elimination and/or repair of the defect cannot be delayed, the Company shall, after notification In Writing thereto, be at liberty to perform all actions necessary, or to have all actions necessary performed by a third party, at the expense of the Supplier.
- 10.3. In the event that any of the Purchased Goods display any defects then the Company shall notify the Supplier thereof orally or In Writing within two weeks as of the time the Company has become aware of such defects. The Supplier is required to respond to such notification as soon as possible and shall in any event provide the Company with a notification of receipt.



## **11. Packaging**

- 11.1. The Purchased Goods shall be packaged in accordance with the requirements as set out in the Contract and with any specific instructions given by the Company in that regard. In the event that the Parties have not made arrangements on packaging, the Supplier shall ensure that the goods are packaged properly. All packaging used, with the exception of return packaging, shall become the property of the Company.
- 11.2. The Purchased Goods shall be marked in accordance with requirements as set out in the Contract or in accordance with any specific instructions given by the Company in that regard. Any markings on the packaging shall ensure that the Purchased Goods are easily recognizable and distinguishable and shall contain all information that the Company reasonably requires to that extent.
- 11.3. All packaging shall be as environmentally friendly as reasonably possible while ensuring an adequate level of protection.

## **12. Inspection and Testing**

- 12.1. The Company and/or any third parties instructed by the Company, shall be entitled to inspect or test the Purchased Goods at any location and at all times. The Supplier shall notify the Company in a timely manner as to the time and place at which goods shall be ready for inspection or testing, such that the Company and/or third parties shall be able to be present, and shall provide all information, facilities and cooperation required for an inspection or testing. The inspection or approval does not discharge the Supplier from any guarantee and/or liability that arises from the Contract.
- 12.2. In the event that Purchased Goods have been rejected by the Company due to defects or faults detected through inspecting and/or testing, the Company shall be entitled to, in addition to the rights granted to it in clause 19 of the Purchasing Terms, demand delivery of new Purchased Goods which are in compliance with the inspection requirements, within a time period to be set by the Company and without being due any additional payments.

## **13. Tools in the Execution of the Contract**

Any drawings, models, designs, materials, tools and/or other items provided by the Company to the Supplier in the execution of the Contract shall at all times remain the property of the Company and shall be provided with distinct features and/or markings to that extent by the Supplier.

## **14. Certificates and Instruction Manuals**

- 14.1. All certification, instruction manuals, warranty certificates, maintenance instructions and/or any similar documents in relation to the execution of the Contract and the Purchased Goods shall be delivered to the Company simultaneously with the Delivery of the Purchased Goods to which these pertain. In the event that this is not possible, the Supplier shall ensure that such documents shall be in possession of the Company within three weeks after the Delivery of the Purchased Goods to which the documents are related, in absence of which the Company shall have the right to suspend any payment(s) with regard to the respective Purchased Goods.
- 14.2. Insofar as possible and reasonable, the documents as referred to in clause 14.1 shall be (also) in English, without any additional associated costs for the Company unless agreed otherwise by the Parties.

## **15. Intellectual Property Rights**

- 15.1. The Supplier acknowledges the Company's exclusive right, title, and interest in and to any of the Company's IP Rights made available or disclosed by the Company to the Supplier in relation to the Purchased Goods. The Supplier shall use such IP Rights only within the scope and for the purpose of the Contract and shall not make any reproductions, changes, additions, improvements, alterations, analysis, reverse engineering or modifications of the Company's IP Rights or disclose such intellectual property to any third parties without the prior approval In Writing of the Company.
- 15.2. The Purchased Goods shall not infringe any IP Rights not owned by or licensed to Supplier. The Supplier shall indemnify the Company and its Affiliates for any claims of that nature and shall compensate any and all damages and/or costs incurred by the Company and/or third parties in relation thereto. The infringement of any IP Right owned by the Company or any of its Affiliates by Supplier or by a third party due to actions attributable to Supplier, shall give the Company the right to rescind the Contract through a statement In Writing as per the date included therein without being liable to pay any damages to the Supplier, without prejudice to any other rights of the Company pursuant to the Contracts and/or the Purchasing Terms.
- 15.3. Any intended use by the Supplier of any of the IP Rights owned by the Company or any of its Affiliates shall be subject to prior approval In Writing thereto from the Company.
- 15.4. In the event that any modifications, improvements, changes or other actions with regard to the IP Rights owned by the Company, shall result in the creation of new IP Rights ("Inventions"), these Inventions shall automatically belong to the Company, and the Supplier shall waive any rights and/or claims in this respect. If required, the Supplier shall provide its full cooperation to the transfer of the IP Rights or the title connected to the Inventions to the Company.
- 15.5. Unless explicitly agreed otherwise In Writing, the Supplier shall not automatically retain or obtain any right of use or exploitation right with respect to any Inventions derived from the Contract.

## **16. Data Protection**

The Supplier shall at all times comply with the applicable national and international laws and regulations regarding the protection of (personal) data, including, but not limited to, the European General Data Protection Regulation (Regulation (EU) 2016/679). The Parties are obliged to enter into further data protection agreements such as data processing agreements, if necessary.



## 17. Limitation of Liability

- 17.1. In the event that the Supplier does not fulfil an obligation under a Contract, the Company shall be entitled: (i) to claim fulfilment of the obligation in order to obtain the performance(s) to which the Supplier committed itself towards the Company, including, but not limited to, the Supplier's obligation to deliver the Purchased Goods, (ii) to immediately terminate the Contract(s), in whole or in part by giving notice of termination, (iii) to recall and/or suspend the (further) execution of its obligations under the Contract(s) and to return the Products at the Supplier's expense; all such without prejudice to the Company's right to compensation of all loss, damage and/or costs suffered or incurred by the Company, including but not limited to the costs of recovery and the costs of legal and other advice, in connection with the abovementioned situations or otherwise, or to any other right to which the Company may be entitled and without the Company being obliged to give any compensation.
- 17.2. If the Company were to terminate (by giving notice of termination), suspend or revoke the Contract(s), all claims that the Company has against the Supplier shall become immediately due and payable and the Company shall be entitled to suspend the further compliance with any other agreement(s) without prejudice to any other right to which the Company may be entitled.
- 17.3. The circumstances, including but not limited to those specified below, shall not in any event be for the risk of the Company, and the Company shall not be liable for any damage caused by the Company as a result of such circumstances: (i) the execution of one or more rights by third parties with respect to the Supplier regarding the Supplier not complying with its obligations in accordance with an agreement with this third party with respect to the Delivery of the Purchased Goods, (ii) governmental rules and regulations or decisions that prohibit or restrict the use of the Purchased Goods; (iii) import and/or export restrictions/prohibitions, (iv) natural or nuclear disasters, (v) war or the threat of war, (vi) negligence on the part of the Company, with the exception of intentional or (blatant) gross negligence and (v) other circumstances that are beyond the reasonable control of the Company as set out in clause 18 of the Purchasing Terms.
- 17.4. The Supplier shall be liable for any and all damages that it, the persons and/or companies working for or on account of it, the latter either directly or indirectly employed by it, and/or goods supplied or used by the Supplier, such as, but not restricted to, tools and resources, causes to the Company, to persons and/or companies working for or at the Company and to third parties. The Supplier shall indemnify the Company for claims by third parties in connection with damages as described in this clause 17.4. The Supplier warrants that its liability as described in this clause, is insured for a sufficient amount.
- 17.5. The Company shall not be liable for any damage exceeding the amount that will be paid out, where appropriate, under the policy of the Company's business liability insurance.
- 17.6. Agreed penalties or liquidated damages do not exclude the Company's assertion of a further claim for damages, losses, fees or costs. The payment of a contractual penalty or liquidated damages shall not release the Supplier from its obligation to perform.

## 18. Force Majeure

- 18.1 Force Majeure means the occurrence of an event or circumstance ("Force Majeure Event") that prevents or impedes a party from performing one or more of its contractual obligations under the Contract, if and to the extent that the party affected by the impediment ("the Affected Party") proves:
- a) that such impediment is beyond its reasonable control;
  - b) that it could not reasonably have been foreseen at the time of the conclusion of the contract; and
  - c) that the effects of the impediment could not reasonably have been avoided or overcome by the Affected Party.
- 18.2 In the absence of proof to the contrary, the following events affecting a party shall be presumed to fulfil condition (a) of Clause 18.1 (i) war (whether declared or not), invasion, act of foreign enemies, extensive military mobilization; (ii) civil war, riot, rebellion and revolution, military or usurped power, insurrection, act of terrorism; (iii), embargo, sanction; (iv) expropriation, seizure of works, requisition, nationalization; (v) natural disaster or extreme natural event. If any of above events occur, the Affected Party only needs to prove that conditions (b) and (c) of Clause 18.1 have been met. Strikes, lock-outs and shortage of raw material or semi-finished products shall not be considered as Force Majeure Events.
- 18.3 If a Party's performance is delayed due to a Force Majeure Event its time of performance will be extended by a period equal to the length of the impediment. The Affected Party will notify the other Party without delay, however not later than three (3) days after becoming aware of any such impediment. In such case the affected Party is relieved from its duty to perform its obligations under the Contract from the time at which the impediment causes inability to perform until such impediment ceases to exist. The other Party may suspend the performance of its obligations, if applicable, from the date of the notice. The Affected Party must notify the other party as soon as the impediment ceases to impede performance of its contractual obligations.
- 18.4 The Affected Party shall take all reasonable measures to mitigate the effects of the Force Majeure Event invoked. The Contract may be terminated by either Party by giving 14 days written notice, if the duration of the Force Majeure Event exceeds 90 (ninety) days.

## 19. Cancellation and Rescission

- 19.1. In the event that a Contract has been entered into for an indefinite period of time and has, due to its nature and content, not been fulfilled the Company may cancel it by means of notice of termination in Written Form. If no provision has been included in the Contract as to a notice period, a reasonable notice period not exceeding 1 month must be observed in



the termination. In connection with cancellation by way of giving notice, the Company shall never be required to pay any damages.

- 19.2. In all cases where the Company rescinds or cancels a Contract, the Supplier shall reimburse the Company for all damages, costs and loss of earnings, including but not limited to the costs of recovery and the costs of legal and other advice, and to deliver to the Company all Purchased Goods which have already been paid. The Purchased Goods shall continue to be for the risk of the Supplier until Delivery of such Purchased Goods has been made. In the event of rescission of the Contract by the Supplier, the Company shall not be required to make any compensation for damages and/or loss of earnings on the part of the Supplier.
- 19.3. Notwithstanding its right to claim damages, the Company may cancel the Contract in whole or in part with immediate effect by giving notice of termination, without a (prior) default notice being required, by which all the Company's claims, both current and future, shall be immediately due and payable in full in the event that: (i) cessation of payments is granted to the Supplier, whether or not provisionally, (ii) an application is made for the bankruptcy of the Supplier, (iii) the Supplier's business is terminated or liquidated, (iv) the Supplier is in breach of its obligations under the Contract(s) or the Purchasing Terms or does not fulfil these obligations properly, (v) goods belonging to or intended for the Company have been seized and/or (vi) a change takes place in the ownership or control of the Supplier's business, or when the Supplier is involved in or is the subject of a merger, demerger or division, or some comparable procedure (whereby in such cases the Supplier is obliged to inform the Company thereof without undue delay).
- 19.4. In the event that a Contract is cancelled in full or in part the Company may, at its sole discretion: (i) return the Purchased Goods that have already been delivered but cannot or can no longer be used, at the Supplier's expense and risk and recover any payments made in that respect from the Supplier, (ii) further execute the Contract itself or have it executed by third parties, after notification In Writing to the Supplier, by using the Products already delivered by the Supplier, the costs of which shall be for the Supplier.
- 19.5. All clauses in the Contract or the Purchasing Terms which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination of the Contract.

## **20. Jurisdiction/Arbitration**

- 20.1. The place of jurisdiction for all disputes or claims arising out of or in connection with the Contract or the Purchasing Terms with Suppliers registered within the European Union, Switzerland, the United Kingdom, Norway or Liechtenstein shall be the competent court in which the registered office of the Company is located (itself and not any branch).
- 20.2. All disputes or claims arising out of or in connection with the Contract or the Purchasing Terms with Suppliers registered outside the European Union, Switzerland, the United Kingdom, Norway or Liechtenstein shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The place of arbitration shall be Vienna/ Austria. The language of arbitration shall be English.

## **21. Governing Law**

If not explicitly agreed otherwise In Writing, the Purchasing Terms and all Contracts shall be governed and construed in accordance with the laws of the country of the (registered) seat of the Company (itself and not any branch), with the exclusion of its law of conflicts. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.

## **22. No Waiver**

An omission on the part of the Company in demanding compliance with any provision in the Purchasing Terms or a Contract or in responding in some other way to a breach of these by the Supplier or another party, shall under no circumstances be construed as a waiver thereof or entail that the Company relinquish its entitlements to demand compliance with the respective stipulation of the Purchasing Terms.

## **23. Confidentiality**

Each Party shall keep any information provided or disclosed by or on behalf of the other Party (orally or In Writing) confidential, use such information only for the purpose of the Contract and shall refrain from disclosing such information to any third party without the other Party's consent other than its employees or Affiliates, who need to know such information for the purposes of performing its obligations under the Contract and are bound by written confidentiality provisions at least as strict as set forth herein. The Company may further disclose information to its business process outsourcing partners and sub-contractors who need to know such information for the purposes of performing its obligations under the Contract. This clause shall not apply to information which, at the time of disclosure, is or subsequently becomes available to the public (other than as a breach of the receiving Party's obligation under this clause), which at the time of disclosure was already in the possession or subsequently comes legally into the possession of the receiving Party, which was independently developed by the receiving Party, or which is required to be disclosed in order to comply with an applicable legal requirement, court order, ruling of a public authority or stock exchange regulation.

## **24. Compliance**

- 24.1. The Supplier shall, at its sole cost and expense, comply with all laws, ordinances, orders, rules and regulations related to the Supplier's manufacture or delivery of the Purchased Goods, including but not limited to any laws and regulations in respect of export control, dual use, embargoes and/or sanctions, and shall at its own cost obtain any necessary permits and licenses and furnish the Company on demand with any required information in respect thereof. The Supplier shall comply with Company's code of conduct, as available in its current version at <https://www.rhimagnesita.com>.
- 24.2. The Contract shall be subject to the condition that performance is not impeded by national or international regulations such as export control and dual use regulations, sanctions or embargoes or that the required licenses or permits are



obtained from the respective authorities in due time. Any respective claims of the Supplier shall be excluded to the extent permitted by law.

**25. Severability**

If a provision of the Contract and/or the Purchasing Terms should be or becomes invalid or not contain a necessary regulation, the validity of the other provisions of the Contract and/or the Purchasing Terms shall not be affected thereby. The invalid provision shall be replaced, and the gap be filled by a legally valid arrangement which corresponds as closely as possible to the intention of the Parties or what would have been the intention of the Parties according to the aim and purpose of the Contract and/or the Purchasing Terms if they had recognized the gap.

**26. Miscellaneous**

26.1. Nothing in the Contract or the Purchasing Terms shall confer on any third party any right to enforce any term of the Contract or the Purchasing Terms.

26.2. In the Purchasing Terms, any reference to the singular includes the plural and vice versa, any reference to natural persons includes legal persons and vice versa, and any reference to a gender includes the other genders.

**27. Communication**

Unless explicitly agreed otherwise, any essential notice or communication required or permitted under the Contract or the Purchasing Terms such as any claims on basis of the Contract or the Purchasing Terms must be given In Writing and must be delivered by personal delivery, registered mail or fax, in each case addressed to the other Party or the contact person defined in the Contract.