



RHI MAGNESITA

# General Terms and Conditions of Purchase

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### 1 General

These General Terms and Conditions of Purchase are valid – if not agreed otherwise in writing (incl. Telefax) – for all goods deliveries and services ordered by us, as well as all other agreements made with the contractor regarding these orders. Any of the contractor’s conditions opposing ours or any conditions deviating from our conditions are only valid, if accepted by us in writing. Our silence is in no way a signal of acceptance or implied amendment of our conditions. These Terms and Conditions of Purchase are also valid for all future orders, even though they have not been formally agreed again.

Should individual clauses of these Terms and Conditions of Purchase – for whatever reasons – not be applied, the remaining clauses will stay unaffected. Agreed Incoterms take precedence over the Terms and Conditions of Purchase.

Any offers to us are to be compiled without obligation and free of charge. The contractor has to adhere to the inquiry or tender and must inform us explicitly on all deviations. The contractor is bound to his offer for a duration of six weeks after receipt.

Attached specifications, drawings and other documents are to be compared to the order text and to be checked for accuracy. All discrepancies are the contractor's responsibility if not flagged up immediately after sending.

## **2 Place and Time of Delivery**

All delivery- and service dates as well as deadlines are to be taken as fixed dates, if nothing to the contrary has been explicitly agreed. These are considered as adhered to, if the goods/ services incl. documents are delivered/ rendered on time at the destination mentioned in our order; this is also valid if we carry the goods' transport and/ or insurance costs. Foreseeable delivery delays are to be reported immediately, together with reasons and expected duration of the delay. Early delivery requires our acceptance. In case an early delivery is made without our acceptance the disadvantages arising are at the expense of the contractor. Exceeding the agreed delivery/ service date will result in the default, even without a reminder by us. In this case we reserve the right to withdraw from the contract irrespective of further rights and periods of grace. The unreserved acceptance of late deliveries or services will not imply the relinquishment of our rights, caused by the exceedance of the delivery/ service date.

We reserve the right to make relevant checks on site in order to satisfy ourselves of the correct order progress regarding quality and delivery schedule. Possible deficits in time-critical project phases or delays entitle us to carry out maintenance work/ make replacement deliveries ourselves or nominate a third party, with all costs arising from this being borne by the contractor.

### **3 Prices, Invoices and Payment**

The prices in the order are fixed, excluding VAT, which is displayed separately, and are calculated free on destination, incl. requested packaging. Invoices quoting our order number are to be sent duly and in two copies, according to legal requirements. We reserve the right to return all invoices, which do not completely adhere to our conditions, unprocessed. In this case the invoices count as un-issued until renewed receipt.

Payments are made after service completion, goods- and invoice receipt, acc. to agreed payment conditions. The due date for payment is calculated from receipt of invoice and after positive checking. In case of early delivery and invoicing the due date is calculated with the agreed delivery date, in case of claim only after complete settlement, whereat an agreed discount still remains.

We are entitled to claim compensation from the contractor, incl. arrears of any kind. Legally effective claims against us can only be made following our written agreement.

### **4 Warranty, Guarantee and Compensation**

The contractor guarantees that for a period of two years (period of guarantee) from inspection the delivery/ service is free from defects. We can make warranty claims up to six months from the end of the period of guarantee. Where we are required to issue a claim, said claim shall be deemed an immediate claim if it is issued within six weeks after the discovery of the defect.

Our confirmation on the delivery note is only valid with reservation, i.e. the goods are only accepted, if the subsequent survey does not produce shortages or faults; we are not duty-bound to make an immediate claim acc. to § 377 UGB.

We are not liable for damages, unless there is intent or gross negligence.

Irrespective of the party at fault the contractor is liable for all damages to property or persons caused by a faulty product. This applies to enterprises as well as non-enterprises. This product liability is also valid for contractors whose national legal system does not contain a legal product liability.

The contractor guarantees the suitable use, the faultless quality, the fulfilment of the preconditioned and promised properties, as well as the freedom from proprietary rights and other third party rights.

The contractor is liable for the correct and complete adherence, as well as the correctness and completeness of all required storage-, operating- and safety instructions.

Agreed penalties do not exclude the enforceability of any additional claims. The payment of a penalty does not discharge the contractor from his fulfilment duty.

## **5 Other**

In case of error the contractor abstains from challenging the contract (order).

Any reservations of proprietary rights from the contractor's side are without validity. All information reaching the contractor regarding the manufacture of the delivery and/ or supply of services is to be treated in strict confidence. The contractor will not use this information for other purposes, copy it or pass it on to third parties. Passing on the order or parts of the same requires prior written authorization from us. The transfer does not discharge the contractor from his warranty-, compensation- and product liability duties.

The contractor is also liable to ensure the subcontractor's compliance with our Terms and Conditions of Purchase.

If the General Terms and Conditions of Purchase are not verifiably opposed within 5 days they are deemed as accepted.

We reserve the right to cancel the contract with immediate effect should an important reason arise.

Important reasons also encompass:

- if it is to be expected that the contractor will not be able to deliver the proper contractual deliveries/ services on the due date and these deliveries/ services are of considerable importance for the upkeep of our business or essential parts thereof;
- if bankruptcy proceedings are started against the contractor or if a bankruptcy petition from the contractor is denied due to lack of funds;
- if the contractor's liquidation has been decided
- if the receiver has been called in
- if the contractor is unable to meet his payment obligations towards his creditors within 30 days at the latest.

The contractor shall adhere to the "RHI Supplier Code of Conduct", as amended from time to time, which is available on [www.rhi-ag.com](http://www.rhi-ag.com) and forms the basis of all present and future business cases. The contractor shall hold harmless and indemnify us from and against any cost, damage and claims of third parties arising out of the contractor's noncompliance with any applicable laws and the "RHI Supplier Code of Conduct".

## **6 Applicable Law and Jurisdiction**

For the entire privity of contract between us and the contractor, as well as for these Conditions of Purchase the law of the country of our registered office shall apply. The UN Convention on Contracts for the International Sale of Goods is absolutely not valid. Jurisdiction shall be the court of our place of business with jurisdiction over the subject matter. We are also entitled to take legal action against the contractor at the court of his place of business with jurisdiction over the subject matter.