

COMPOSITE SCHEME OF AMALGAMATION

*(under sections 230 to 232 and other applicable provisions of the
Companies Act, 2013)*

AMONG

RHI INDIA PRIVATE LIMITED

TRANSFEROR COMPANY 1

AND

RHI CLASIL PRIVATE LIMITED

TRANSFEROR COMPANY 2

AND

ORIENT REFRACTORIES LIMITED

TRANSFeree COMPANY

AND

THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS



A. INTRODUCTION

- (i) RHI India Private Limited (*Transferor Company 1*) is a private company, limited by shares, incorporated on 15 June 2007 with the Registrar of Companies, Mumbai under the provisions of the Companies Act, 1956 with the corporate identification number U24119MH2007PTC171712 and having its registered office at Neelkanth Business Park, room number 604C, opposite railway station, Vidhyavihar (West) Mumbai 400 086. RHI India is a subsidiary of Dutch Brasil Holding B.V., which is ultimately owned by RHI Magnesita N.V.. RHI India is an unlisted company.
- (ii) RHI Clasil Private Limited (*Transferor Company 2*) is a private company, limited by shares, incorporated on 7 December 2005 as Arsha Ceramics Private Limited with the Registrar of Companies, Hyderabad under the provisions of the Companies Act, 1956 with the corporate identification number U26914TG2005PTC048333. Its name changed: (a) from Arsha Ceramics Private Limited to Clasil Refractories Private Limited on 17 April 2006; and (b) further to RHI Clasil Private Limited on 12 January 2007. RHI Clasil got converted to a public company on 25 January 2007 and got re-converted to a private company on 17 July 2015. The registered office of RHI Clasil was situated at plot number 195, flat number 9, Srinilaya Apartments, Kavuri Hills, Madhapur, Hyderabad 500 081. RHI Clasil had filed an application for shifting of its registered office from the State of Telangana to the State of Maharashtra with the Regional Director (South East region), Hyderabad and the Regional Director allowed the shifting of RHI Clasil's registered office to the State of Maharashtra *vide* its order dated 11 May 2018. RHI Clasil has been issued a Certificate of Registration of Regional Director Order for Change of State on 4 July 2018 by the Registrar of Companies, Mumbai with corporate identification number U26914MH2005PTC311526 and its registered office is now situated at 301-302, Orbit Plaza, New Prabhadevi Road, Prabhadevi, Mumbai 400 025. The shareholders



of RHI Clasil have amended the memorandum of association of RHI Clasil *vide* their resolution dated 12 July 2018 in order to include the power to enter into a scheme of amalgamation in its objects clause. RHI Clasil is a subsidiary of VRD Americas B.V., which is ultimately owned by RHI Magnesita N.V.. Apart from VRD Americas B.V., the shares of RHI Clasil are held by the Clasil Group. RHI Clasil is an unlisted company.

- (iii) Orient Refractories Limited (*Transferee Company*) is a public company, limited by shares, incorporated on 26 November 2010 with the Registrar of Companies, National Capital Territory of Delhi and Haryana under the provisions of the Companies Act, 1956 with the corporate identification number L28113DL2010PLC210819 and had its registered office at 804-A, Chiranjiv Tower 43, Nehru Place, New Delhi 110 019. ORL had filed an application for shifting of its registered office from New Delhi to the State of Maharashtra with the Regional Director (Northern region) and the Regional Director allowed the shifting of ORL's registered office to the State of Maharashtra *vide* its order dated 30 July 2018. With effect from 1 August 2018, the registered office of ORL has shifted to C-604, Neelkanth Business Park, opposite railway station, Vidhyavihar (West) Mumbai 400 086. Majority shares of ORL are held by Dutch U.S. Holding B.V., which is ultimately owned by RHI Magnesita N.V.. The equity shares of ORL are listed on the Stock Exchanges.
- (iv) The Parties are primarily engaged in the business of manufacture, trading, and / or marketing of refractories and allied products. ORL is in the business of manufacture and marketing of refractory products, systems and services and has various global partners for its international quality products. RHI Clasil is engaged in the business of manufacture and marketing of refractories and allied products. RHI India is engaged in the business of purchase, sale, import, export and marketing of refractories, refractory products,



chemicals, formulations, and related equipment. Refractory materials are used to provide thermal insulating lining in furnaces, kilns, reactors, etc. and are predominantly used in iron and steel industries, metal smelters, cement industries, and glass industries.

- (v) This Scheme is presented under sections 230 to 232 of the Act, together with sections 13, 61, 62 and other applicable provisions of the Act for, *inter alia*, the amalgamation of the Transferor Companies with and into the Transferee Company in accordance with the relevant provisions of the Act, section 2(1B) of the Income Tax Act (on a going concern basis) and other applicable laws. This Scheme will result in the consolidation of the businesses of each of the Parties as existing on the Effective Date.

B. RATIONALE FOR THE SCHEME

- (i) The management of each of the Parties is of the opinion that the Scheme will result in, *inter alia*, the following benefits:
- (a) simplification of the corporate structure and consolidation of the India businesses of the RHIM group;
 - (b) establishing a comprehensive refractory product portfolio;
 - (c) realising business efficiencies, *inter alia*, through optimum utilisation of resources due to pooling of management, expertise, technologies and other resources of the companies;
 - (d) improved allocation of capital and optimisation of cash flows contributing to the overall growth prospects of the combined company;
 - (e) creation of a larger asset base and facilitation of access to better financial resources; and
 - (f) enhanced shareholder value pursuant to economies of scale and business efficiencies.



- (ii) The proposed Scheme is in the interest of all Parties and their respective shareholders, employees, and creditors and there is no likelihood that the interests of any stakeholders in any of the Parties would be prejudiced as a result of the Scheme. The proposed Scheme will not impose any additional burden on the members of the Transferor Companies or the Transferee Company.

C. PARTS OF THE SCHEME

- (i) **PART I** deals with the definitions, interpretation and effective date;
- (ii) **PART II** deals with the share capital structure of the Parties;
- (iii) **PART III** deals with the amalgamation of the Transferor Companies with and into the Transferee Company; and
- (iv) **PART IV** deals with the general terms and conditions.



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PART I

1. DEFINITIONS, INTERPRETATION AND EFFECTIVE DATE

1.1 Definitions

In this Scheme, the following words and expressions shall, unless the context requires otherwise, have the following meanings ascribed to them:

- 1.1.1 **“Act”** means the Companies Act, 2013 and the rules made thereunder, and includes any alterations, modifications and amendments made thereto and / or re-enactment thereof.
- 1.1.2 **“Affiliate”** of a person means any other person that directly or indirectly, through one or more intermediaries, (a) owns greater than 50% of the voting equity or interest of such person or is similarly owned by such person, and (b) controls, is controlled by, or is under common control with, such first person, and in case of a natural person, shall include his or her relatives.
- 1.1.3 **“Appointed Date”** means 1 January 2019 or such other date as may be fixed by the Tribunal.
- 1.1.4 **“Board of Directors”** in relation to a Party means the board of directors, including any committee thereof, or any person authorised by the board of directors or committee of such Party.
- 1.1.5 **“Clasil Group”** refers to the shareholders of RHI Clasil other than VRD Americas B.V. and comprises: (i) RVS Raju; (ii) A.V. Narsimha Raju; (iii) Dr. R.V. Raju; (iv) K. Aruna Kumari; (v) K. Pavan Kumar; (vi) K. Pradeep Kumar; (vii) A. Srinivasa Raju; (viii) P. Gayathri; and (ix) R. Udaya Rekha.
- 1.1.6 **“Effective Date”** means the date on which the last of the approvals or events specified under clause 4.5 of the Scheme are obtained or have occurred.



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- 1.1.7 **"Fairness Opinion"** means the opinion provided by Keynote Corporate Services Limited, an independent SEBI-registered merchant banker, on the valuation report prepared by Jain, Jindal & Co., an independent chartered accountant, recommending the share exchange ratio.
- 1.1.8 **"Income Tax Act"** means the Income Tax Act, 1961.
- 1.1.9 **"Party"** means each of the Transferor Company 1, the Transferor Company 2 and the Transferee Company.
- 1.1.10 **"Public Shareholders"** means the equity shareholders of the Transferee Company other than the promoter and promoter related group entities whose names are registered in the register of members of the Transferee Company as on the Record Date.
- 1.1.11 **"RBI"** means the Reserve Bank of India.
- 1.1.12 **"Record Date"** means the date fixed by the Board of Directors of the Transferee Company for the purposes of issue of shares of the Transferee Company to the shareholders of the Transferor Companies after the Scheme is approved by the Tribunal.
- 1.1.13 **"RHIM Group"** means RHI Magnesita N.V. and its Affiliates.
- 1.1.14 **"RoC"** means the Registrar of Companies, Mumbai.
- 1.1.15 **"Scheme"** or **"the Scheme"** or **"this Scheme"** means this Composite Scheme of Amalgamation, subject to any modification(s) thereto as may be imposed by the Tribunal or any modification(s) sought by the Parties, as approved by the Tribunal.
- 1.1.16 **"SEBI"** means the Securities and Exchange Board of India.
- 1.1.17 **"SEBI Circular"** means the circular number CFD/DIL3/CIR/2017/21 dated 10 March 2017 along with the amendments thereto.
- 1.1.18 **"SEBI Listing Regulations"** mean the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.



- 1.1.19 **"Stock Exchanges"** mean the BSE Limited and the National Stock Exchange of India Limited.
- 1.1.20 **"Transferee Company"** or **"ORL"** means Orient Refractories Limited, a company incorporated under the Companies Act, 1956, and having its registered office at C-604, Neelkanth Business Park, opposite railway station, Vidhyavihar (West) Mumbai 400 086.
- 1.1.21 **"Transferor Company 1"** or **"RHI India"** means RHI India Private Limited, a company incorporated under the Companies Act, 1956, and having its registered office at Neelkanth Business Park, room number 604C, opposite railway station, Vidhyavihar (West) Mumbai- 400086.
- 1.1.22 **"Transferor Company 2"** or **"RHI Clasil"** means RHI Clasil Private Limited, a company incorporated under the Companies Act, 1956, and having its registered office at 301-302, Orbit Plaza, New Prabhadevi Road, Prabhadevi, Mumbai 400025.
- 1.1.23 **"Transferor Companies"** means the Transferor Company 1 and the Transferor Company 2. Any reference in the Scheme to Transferor Companies shall mean each of the Transferor Companies individually or the Transferor Companies collectively, as the context may require.
- 1.1.24 **"Tribunal"** means the National Company Law Tribunal, Mumbai bench, which has jurisdiction in relation to the Parties.
- 1.1.25 **"Undertaking"** shall mean all the undertaking and entire business of each of the Transferor Companies (including business, properties, assets, investments, goodwill and rights of whatever kind and nature, real or personal, tangible or intangible, that are owned, leased or licensed, liabilities, obligations and commitments of each of the Transferor Companies) on a going concern basis, and with the continuity of business of the Transferor Companies, which shall include (without limitation):



- (a) all assets wherever situated, whether movable or immovable, tangible or intangible, real or personal, in possession or reversion, corporeal or incorporeal, leaseholds and other interests of whatsoever nature, wheresoever situated including all lands, buildings, offices, marketing offices, liaison offices, furniture, fixtures, office equipment, appliances, accessories, inventories together with all present and future liabilities (including contingent liabilities) and all cash and bank balances appertaining or relating to the Transferor Companies;
- (b) all current assets, including sundry debtors, receivables, loans and advances, actionable claims, bills and credit notes of the Transferor Companies;
- (c) all permits, rights, entitlements, registrations and other licences, approvals, permissions, consents from various authorities, including municipal (whether granted or pending), trademarks, patents, copyrights, software programs and data (whether proprietary or otherwise), all other intellectual property, goodwill, receivables, benefit of any deposits, assets, properties or other interests, financial assets including investments of all kinds, funds belonging to or utilised for the Transferor Companies, bank accounts, privileges, all other rights and benefits including any tax exemptions, deferrals and other benefits or privileges including any tax (direct or indirect) including advance tax paid or any tax deducted in respect of any income received, exemptions, tax credits, minimum alternate tax credits as per Section 115JAA of the Income Tax Act, any credit in respect of indirect taxes, tenancies in relation to office and / or residential properties for the employees, memberships, lease rights, powers and facilities of every kind, nature, and description whatsoever, rights to use and avail of telephones, internet, facsimile connections and installations, utilities, electricity and other services, provisions, funds, benefits of all agreements,



contracts and arrangements, letters of intent, memoranda of understanding, expressions of interest whether under agreements or otherwise and all other interests in connection with or relating to the Transferor Companies;

- (d) all staff and employees and other obligations of whatsoever kind, including liabilities of the Transferor Companies with regard to their employees, with respect to the payment of gratuity, superannuation, pension benefits and provident fund or other compensation or benefits, if any, whether in the event of resignation, death, retirement, retrenchment or otherwise;
- (e) all trade secrets, confidential information, inventions, know-how, formulae, processes, procedures, research records, records of inventions, test information, market surveys and marketing know-how of the Transferor Companies;
- (f) all patents (including all reissues, divisions, continuations and extensions thereof), patent applications, patent rights, trademarks, trademark registrations, trademark applications, service marks, trade names, business names, copyrights, copyright registrations, designs, design registrations, and all rights to any of the foregoing, of the Transferor Companies;
- (g) all contracts, leases, subleases, licences, indentures, agreements, commitments and all other legally binding arrangements, whether oral or written, to which any of the Transferor Companies is a party or by which the Transferor Companies are bound;
- (h) all raw material, work-in-progress, finished goods, supplies, parts, spare parts and other inventories of the Transferor Companies (including in transit, on consignment or in the possession of any third party);



- (i) all partnership interests or any other equity interest in any corporation, company, limited liability company, partnership, joint venture, trust or other business association;
- (j) all rights in and to products sold or leased;
- (k) all credits, prepaid expenses, deferred charges, advance payments, security deposits and prepaid items that are paid / held;
- (l) all necessary records, files, papers, computer programmes, engineering and process information, manuals, data, catalogues, quotations, sales and advertising materials, lists of present and former customers, customer credit information, customer pricing information, and other records, whether in physical or electronic form in connection with or relating to the Transferor Companies;
- (m) all books of accounts, ledgers, general, financial, accounting and personnel records, files, invoices, customers' and suppliers' lists, other distribution lists, billing records, sales and promotional literature, manuals, customer and supplier correspondence (in all cases, in any form or medium), of the Transferor Companies;
- (n) all rights, claims, credits, advances, loans, fixed deposits, provisions and commitments, including any such items arising under insurance policies and all guarantees, warranties, indemnities and similar rights in favour of the Transferor Companies in respect of any other asset or any liability appertaining or relating to the Transferor Companies;
- (o) all liabilities, obligations, duties, undertakings, debt and commitments of the Transferor Companies;



- (p) all accounts payable of the Transferor Companies; and
- (q) any other assets and liabilities.

It is intended that the definition of Undertaking set out above would enable the transfer of all properties, assets, liabilities, employees, etc. of the Transferor Companies to the Transferee Company pursuant to this Scheme.

1.1.26 **“Valuation Report”** means the report dated 31 July 2018 issued by Jain, Jindal & Co., an independent chartered accountant, setting out the proposed share exchange ratio.

1.2 Interpretation

1.2.1 All terms and words used but not defined in this Scheme shall, unless repugnant to the context or meaning thereof, have the same meaning ascribed to them under the Act, the Income Tax Act, the Securities Contracts (Regulation) Act, 1956 and other applicable laws, rules, regulations, bye-laws, as the case may be, or any statutory modification or re-enactment thereof from time to time.

1.2.2 In the Scheme, unless the context otherwise requires:

- (a) references to a statutory provision include any subordinate legislation made from time to time under that provision;
- (b) references to a statute or statutory provision include that statute or provisions as from time to time modified or re-enacted or consolidated;
- (c) references to the singular include the plural and *vice versa* and references to any gender includes the other gender;
- (d) reference to a document shall be a reference to that document as modified, amended, novated or replaced from time to time;



- (e) headings are for convenience only and shall be ignored in construing or interpreting any provision of this Scheme;
- (f) the expression "this clause" shall, unless followed by reference to a specific provision, be deemed to refer to the whole clause (and not merely a sub-clause, paragraph, or other provision) in which the expression occurs;
- (g) reference to clauses and schedules are to clause of and schedules to this Scheme;
- (h) references to the words "include" or "including" shall be construed without limitation;
- (i) references to the words "hereof", "herein", and "hereunder" and words of similar import shall refer to this Scheme as a whole and not to any particular provision of this Scheme; and
- (j) where a wider interpretation is possible, the words "other" and "otherwise" shall not be construed *ejusdem generis* with any foregoing words.

1.3 Appointed Date

1.3.1 The Scheme set out herein in its present form, or with modification(s), if any, made in accordance with the provisions of this Scheme and the directions / approval of the Tribunal, shall become effective on the Appointed Date in accordance with section 232(6) of the Act. However, the accounting for the amalgamation in the books of the Transferee Company shall be in accordance with Indian Accounting Standards as explained in clause 3.7 of the Scheme.

1.3.2 In consideration of the reciprocal promises, this Scheme between the Parties and their respective shareholders and creditors is set out hereunder.



PART II

2. SHARE CAPITAL STRUCTURE

2.1 The authorised, issued, subscribed and paid-up capital of ORL as on 31 July 2018 is as under:

SHARE CAPITAL	AMOUNT (in INR)
Authorised share capital	
12,05,00,000 equity shares of INR 1 each	12,05,00,000
TOTAL	12,05,00,000
Issued, subscribed and paid-up capital	
12,01,39,200 equity shares of INR 1 each	12,01,39,200
TOTAL	12,01,39,200

2.2 The authorised, issued, subscribed and paid-up capital of RHI India as on 31 July 2018 is as under:

SHARE CAPITAL	AMOUNT (in INR)
Authorised share capital	
3,50,000 equity shares of INR 10 each	35,00,000
TOTAL	35,00,000
Issued, subscribed and paid-up capital	
3,42,844 equity shares of INR 10 each	34,28,440
TOTAL	34,28,440

2.3 The authorised, issued, subscribed and paid-up capital of RHI Clasil as on 31 July 2018 is as under:

SHARE CAPITAL	AMOUNT (in INR)
Authorised share capital	
1,84,00,000 equity shares of INR 10 each	18,40,00,000
TOTAL	18,40,00,000
Issued, subscribed and paid-up capital	
1,84,00,000 equity shares of INR 10 each	18,40,00,000
TOTAL	18,40,00,000



PART III

3. AMALGAMATION OF THE TRANSFEROR COMPANIES WITH AND INTO THE TRANSFEREE COMPANY

3.1 Transfer and vesting of the Transferor Companies to and with the Transferee Company

3.1.1 With effect from the Appointed Date, subject to the provisions of this Scheme, the Undertakings of the Transferor Companies shall stand transferred to and vest in the Transferee Company, as a going concern, together with all their estate, properties, assets, rights, claims, title and authorities, benefits, liabilities and interest therein, subject to existing charges thereon in favour of banks and financial institutions or otherwise, as the case may be, without any further act, instrument, deed, matter or thing being made, done or executed, so as to become, as and from the Effective Date, the estate, properties, assets, rights, claims, title and authorities, liabilities and interest of the Transferee Company by virtue of and in the manner provided in the Scheme pursuant to the sanction of the Scheme by the Tribunal and the provisions of sections 230 to 232 and other applicable provisions of the Act.

3.1.2 Without prejudice to the generality of the foregoing and to the extent applicable, unless otherwise stated herein, with effect from the Appointed Date, in relation to the Undertakings:

- (i) All assets of the Transferor Companies that are movable in nature or are otherwise capable of transfer by physical or constructive delivery and / or by endorsement and delivery shall, pursuant to this Scheme, stand vested in and / or be deemed to be vested in the Transferee Company and shall become the property of the Transferee Company without any further act, instrument or deed.
- (ii) All other movable assets of the Transferor Companies, including investments in shares and any other securities, sundry debtors, actionable claims, earnest monies, receivables, bills, credits,



outstanding loans and advances, if any, recoverable in cash or in kind or for value to be received, bank balances and deposits, if any, with governmental authorities, customers and other persons, shall, , stand transferred to, and vested in, the Transferee Company without any notice or other intimation to the debtors or obligors or any other person. The Parties may, if they so deem appropriate, give notice in such form as they deem fit and proper, to each such debtor or obligor or any other person, that pursuant to the sanction of the Scheme by the Tribunal, such debt, loan, advance, claim, bank balance, deposit or other asset be paid or made good or held on account of the Transferee Company as the person entitled thereto, to the end and intent that the right of the Transferor Companies to recover or realise all such debts (including the debts payable by such debtor or obligor or any other person to the Transferor Companies) stands transferred and assigned to the Transferee Company and that appropriate entries should be passed in the books of accounts of the relevant debtors or obligors or other persons to record such change.

- (iii) All lease and licence agreements entered into by the Transferor Companies with various landlords, owners and lessors in connection with use of the assets of the Undertakings of the Transferor Companies, together with the security deposits, shall stand automatically transferred in favour of the Transferee Company on the same terms and conditions without any further act, instrument, deed, matter or thing being made, done or executed. The Transferee Company shall continue to pay rent amounts as provided for in such agreements and shall comply with the other terms, conditions and covenants thereunder and shall also be entitled to refund of security deposits paid under such agreements by the Transferor Companies.
- (iv) All immovable properties of the Transferor Companies, including land together with the buildings and structures standing thereon, and rights and interests in immovable properties of the Transferor



Companies, whether freehold or leasehold or otherwise and all documents of title, rights and easements in relation thereto shall be vested in and / or be deemed to have been vested in the Transferee Company, without any further act or deed done or being required to be done by the Transferor Companies and / or the Transferee Company. The Transferee Company shall be entitled to exercise all rights and privileges attached to such immovable properties and shall be liable to pay the ground rent and taxes and fulfil all obligations in relation to or applicable to such immovable properties. The mutation or substitution of the title to the immovable properties shall, upon this Scheme becoming effective, be made and duly recorded in the name of the Transferee Company by the appropriate authorities pursuant to the sanction of this Scheme by the Tribunal and upon the Scheme becoming effective in accordance with the terms hereof.

- (v) Until the owned property, leasehold property and related rights thereto, licence or right to use the immovable property, tenancy rights, liberties and special status are transferred, vested, recorded, effected and / or perfected in the record of the appropriate authorities in favour of the Transferee Company, the Transferee Company shall be deemed to be authorised to carry on business in the name and style of the Transferor Companies under the relevant agreement, deed, lease and / or licence, as the case may be, and the Transferee Company shall keep a record and account of such transactions.
- (vi) For purposes of taking on record the name of the Transferee Company in the records of the governmental authorities in respect of transfer of immovable properties to the Transferee Company pursuant to this Scheme, the Board of Directors of the Parties may approve the execution of such documents or deeds as may be necessary, including deeds of assignment of lease or leave or licence (as the case may be) by the Transferor Companies in favour of the Transferee Company.



(vii) All liabilities, including all secured and unsecured debts (whether in Indian Rupee (*INR*) or foreign currency), sundry creditors, contingent liabilities, duties, obligations and undertakings of the Transferor Companies, of every kind, nature and description whatsoever and howsoever arising, raised, incurred or utilised for its business activities and operations, shall, pursuant to the sanction of this Scheme by the Tribunal and under the provisions of sections 230 to 232 of the Act and other applicable provisions, if any, of the Act, without any further act, instrument, deed, matter or thing being made, done or executed, be transferred to, and vested in, or be deemed to have been transferred to, and vested in, the Transferee Company, along with any charge, encumbrance, lien or security created in connection therewith, and such liabilities shall be assumed by the Transferee Company to the extent they are outstanding as on the Appointed Date so as to become, as on and from the Appointed Date, the liabilities, debts, duties and obligations of the Transferee Company on the same terms and conditions as were applicable to the Transferor Companies, and the Transferee Company shall meet, discharge and satisfy the liabilities and it shall not be necessary to obtain the consent of any third party or other person who is a party to any contract or arrangement by virtue of which such liabilities have arisen in order to give effect to the provisions of this clause 3.1.2(vii).

(viii) All electricity, gas, water and any other utility connections and tariff rates in respect thereof sanctioned by various public sector and private companies, boards, agencies and authorities to the Transferor Companies, together with security deposits and all other advances paid, shall stand automatically transferred in favour of the Transferee Company on the same terms and conditions without any further act, instrument, deed, matter or thing being made, done or executed. The relevant electricity, gas,



water and any other utility companies, boards, agencies and authorities shall issue invoices in the name of the Transferee Company with effect from the billing cycle commencing from the month immediately succeeding the month in which the Effective Date falls. The Transferee Company shall comply with the terms, conditions and covenants associated with the grant of such connections and shall also be entitled to refund of security deposits placed with such utility companies, boards, agencies and authorities by the Transferor Companies.

Permits

- (ix) All governmental approvals and other consents, permissions, quotas, rights, authorisations, entitlements, no-objection certificates and licences, including those relating to tenancies, privileges, powers and facilities of every kind and description of whatsoever nature, to which the Transferor Companies are parties or to the benefit of which the Transferor Companies may be entitled to use or which may be required to carry on the operations of the Transferor Companies, and which are subsisting or in effect immediately prior to the Effective Date, shall be, and remain, in full force and effect in favour of or against the Transferee Company and may be enforced as fully and effectively as if, instead of the Transferor Companies, the Transferee Company had been a party, a beneficiary or an obligee thereto and shall be appropriately mutated by the relevant governmental authorities in favour of the Transferee Company.

Contracts

- (x) All contracts, deeds, bonds, agreements and other instruments to which the Transferor Companies are parties, or to the benefit of which the Transferor Companies may be entitled, and which are subsisting or having effect immediately prior to the Effective Date, shall, without any further act, instrument or deed, continue in full



force and effect against or in favour of, as the case may be, the Transferee Company, and may be enforced effectively by or against the Transferee Company as fully and effectively as if, instead of the Transferor Companies, the Transferee Company had been a party or beneficiary or obligor or obligee thereto or thereunder. The Transferee Company will, if required, enter into novation agreements in relation to such contracts, deeds, bonds, agreements and other instruments.

- (xi) All other agreements entered into by the Transferor Companies in connection with the assets of the Undertakings of the Transferor Companies shall stand automatically transferred in favour of the Transferee Company on the same terms and conditions without any further act, instrument, deed, matter or thing being made, done or executed.

Legal proceedings

- (xii) All legal proceedings, including, quasi-judicial, arbitral and other administrative proceedings, of whatsoever nature by or against the Transferor Companies pending on the Effective Date shall not abate or be discontinued or be prejudicially affected in any way by reason of the Scheme or by anything contained in the Scheme but shall be continued, prosecuted and enforced, as the case may be, by or against the Transferee Company, in the same manner and to the same extent as they would or might have been continued, prosecuted or enforced by or against the Transferor Companies. The Transferee Company undertakes to have all legal or other proceedings specified in this clause 3.1.2(xii), initiated by or against the Transferor Companies, transferred to its name and to have such proceedings continued, prosecuted and enforced by or against the Transferee Company, as the case may be. Following the Effective Date, the Transferee Company may initiate any legal proceedings for and on behalf of the Transferor Companies.



Employees

- (xiii) With effect from the Effective Date, all the staff and employees of the Transferor Companies who are in such employment as on the Effective Date shall become, and be deemed to have become, the staff and employees of the Transferee Company, and, subject to the provisions of the Scheme, on terms and conditions no less favourable than those on which they are engaged by the Transferor Companies and without any interruption or break in service as a result of the transfer and vesting of the Undertakings of the Transferor Companies to and with the Transferee Company. With regard to provident fund, gratuity, superannuation, leave encashment and any other special scheme or benefits created by the Transferor Companies which exist immediately prior to the Effective Date, the Transferee Company shall stand substituted for the Transferor Companies for all purposes whatsoever, upon this Scheme becoming effective, including with regard to the obligation to make contributions to relevant authorities, such as the Regional Provident Fund Commissioner or to such other funds maintained by the Transferor Companies, in accordance with applicable laws. It is hereby clarified that upon this Scheme becoming effective, such benefits and schemes shall continue to be provided to the transferred employees and the service of all transferred employees of the Transferor Companies for such purpose shall be treated as having been continuous.
- (xiv) The Transferee Company shall comply with any agreement(s) / settlement(s) entered into with labour unions (if any) or employees by the Transferor Companies. The Transferee Company agrees that for the purposes of the payment of any retrenchment compensation, gratuity and other termination benefits, the past services of employees with the Transferor Companies, if any, shall also be taken into account, and further agrees to pay such benefits when they become due.



Intellectual property

- (xv) All intellectual property rights of the Transferor Companies, including all domestic and foreign intellectual property rights with respect to all patents, patent applications, and trademarks, service marks, trade names, trade dress, logos, corporate names, brand names, domain names, all copyrights, designs and mask works, and all registrations, applications and renewals in connection therewith, and software and all website content (including text, graphics, images, audio, video and data), trade secrets, confidential business information and other proprietary information, shall stand transferred to and vested in the Transferee Company.

Inter se transactions

- (xvi) Upon the Scheme coming into effect, with effect from the Appointed Date, all *inter se* contracts solely between the Transferor Companies and the Transferee Company shall stand cancelled and cease to operate, and appropriate effect shall be given to such cancellation and cessation in the books of accounts and records of the Transferee Company. With effect from the Appointed Date, there will be no accrual of income or expense on account of any transactions, including any transactions in the nature of sale or transfer of any goods, materials or services, between the Transferor Companies and the Transferee Company. For avoidance of doubt, it is hereby clarified that with effect from the Appointed Date, there will be no accrual of interest or charges in respect of any *inter se* loans, deposits or balances between the Transferor Companies and the Transferee Company.

Borrowing limits and corporate approvals

- (xvii) With effect from the Effective Date, the borrowing and investment limits of the Transferee Company under the Act shall be deemed without further act or deed to have been enhanced by the borrowing and investment limits of the Transferor Companies,



such limits being incremental to the existing limits of the Transferee Company.

- (xviii) Any corporate approvals obtained by the Transferor Companies, whether for purposes of compliance or otherwise, shall stand transferred to the Transferee Company and such corporate approvals and compliance shall be deemed to have been obtained and complied with by the Transferee Company.

Taxes

- (xix) Upon the Scheme becoming effective, all taxes payable by, or refundable to, the Transferor Companies, including any refund, claims or credits (including credits for income tax, withholding tax, advance tax, self-assessment tax, minimum alternate tax, central value added tax credit, goods and services tax credits, other indirect tax credits and other tax receivables) shall be treated as the tax liability, refunds, claims or credits, as the case may be, of the Transferee Company, and any tax incentives, benefits (including claims for unabsorbed tax losses and unabsorbed tax depreciation), advantages, privileges, exemptions, credits, tax holidays, remissions or reductions, which would have been available to the Transferor Companies, shall be available to the Transferee Company, and following the Effective Date, the Transferee Company shall be entitled to initiate, raise, add or modify any claims in relation to such taxes on behalf of the Transferor Companies.

Creditors

- (xx) Upon this Scheme becoming effective, the secured creditors of each of the Transferor Companies and / or other holders of security over the properties of each of the Transferor Companies shall be entitled to security only in respect of the properties, assets, rights, benefits and interest of such Transferor Company, as existing immediately prior to the amalgamation of such Transferor Company with the Transferee Company and the



secured creditors of the Transferee Company and / or other holders of security over the properties of the Transferee Company shall be entitled to security only in respect of the properties, assets, rights, benefits and interest of the Transferee Company, as existing immediately prior to the amalgamation of the Transferor Companies with the Transferee Company. It is hereby clarified that pursuant to the amalgamation of the Transferor Companies with the Transferee Company: (a) the secured creditors of each of the Transferor Companies and / or holders of security over the properties of each of the Transferor Companies shall not be entitled to any additional security over the properties, assets, rights, benefits and interest of the Transferee Company and therefore, such assets which are not currently encumbered shall remain free and available for creation of any security thereon in the future in relation to any current or future indebtedness of the Transferee Company; and (b) the secured creditors of the Transferee Company and / or holders of any security over the properties of the Transferee Company shall not be entitled to any additional security over the properties, assets, rights, benefits and interest of the Transferor Companies and therefore such assets which are not currently encumbered shall remain free and available for creation of any security thereon in future in relation to any current or future indebtedness of the Transferee Company.

3.2 Transfer of authorised share capital

3.2.1 Upon this Scheme becoming effective and upon the vesting in and transfer of the Transferor Companies to the Transferee Company pursuant to the terms of this Scheme, the entire authorised share capital of the Transferor Companies shall stand transferred to the authorised share capital of the Transferee Company. Filing fees and stamp duty, if any, paid by the Transferor Companies on their authorised share capital, shall be deemed to have been so paid by the Transferee Company on the combined authorised share capital and accordingly, the Transferee



Company shall not be required to pay any fees / stamp duty for its increased share capital.

- 3.2.2 By virtue of clause 3.2.1 above, the authorised share capital of the Transferee Company shall stand increased by an amount of INR 18,75,00,000 and clause V of the memorandum of association of the Transferee Company shall stand substituted to read as under:

"The Authorised Share Capital of the Company is Rs. 30,80,00,000 (Rupees thirty crore and eighty lakhs) divided into 30,80,00,000 (thirty crore and eighty lakhs) Equity Shares of Re. 1/- (Rupee one) each."

- 3.2.3 It is hereby clarified that for the purposes of increasing the authorised share capital of the Transferee Company in accordance with clauses 3.2.1 and 3.2.2 above, the consent of the shareholders of the Transferee Company to this Scheme shall be deemed to be sufficient for the purposes of effecting this amendment and that no further resolution under section 13, section 61 and any other applicable provisions of the Act, would be required to be separately passed nor shall any additional fees (including fees and charges to the relevant RoC) or stamp duty be payable by the Transferee Company.

3.3 Change of name of the Transferee Company

- 3.3.1 Upon this Scheme becoming effective and upon the vesting in and transfer of the Transferor Companies to the Transferee Company pursuant to the terms of this Scheme, the name of the Transferee Company shall stand changed to "RHI Magnesita India Limited" or such other name which is available and approved by the RoC, by simply filing the requisite forms with the appropriate authority and no separate act, procedure, instrument or deed and registration fees shall be required to be followed / paid under the Act.



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3.3.2 By virtue of clause 3.3.1 above, clause I of the memorandum of association of the Transferee Company shall stand substituted to read as under:

"The name of the Company is RHI Magnesita India Limited."

3.3.3 It is hereby clarified that for the purpose of change of name of the Transferee Company in accordance with clauses 3.3.1 and 3.3.2 above, the consent of the shareholders of the Transferee Company to this Scheme shall be deemed to be sufficient for the purposes of effecting this amendment and that no further resolution under section 13, section 14 and any other applicable provisions of the Act, would be required to be separately passed nor shall any additional fees (including fees and charges to the relevant RoC) or stamp duty be payable by the Transferee Company.

3.4 Record Date

3.4.1 The Board of Directors of the Transferee Company, after procuring the consent of the Board of Directors of each of the Transferor Companies, shall determine the Record Date for issue and allotment of equity shares of the Transferee Company to the equity shareholders of each of the Transferor Companies in terms of clause 3.5. Upon determination of the Record Date, each of the Transferor Companies shall provide a list of its equity shareholders as on such Record Date, who are entitled to receive equity shares in the Transferee Company in terms of this Scheme.

3.5 Issue of shares

3.5.1 Upon the coming into effect of the Scheme, and in consideration of the amalgamation of the Transferor Companies with the Transferee Company, the Transferee Company shall, without any further act or deed and without any further payment, on the basis of the Valuation Report dated 31 July 2018 and the Fairness Opinion dated 31 July 2018, issue and allot to the shareholders of the Transferor Companies (whose name is recorded in the registers of members of the Transferor Companies as on the Record Date) in the following manner:



- (i) for every 100 equity shares of Transferor Company 1 of face value of INR 10 each held in Transferor Company 1, every shareholder of the Transferor Company 1, shall without any application, act or deed, be entitled to receive 7,044 equity shares of face value of INR 1 each of the Transferee Company, credited as fully paid up on the same terms and conditions of issue as prevalent in the Transferee Company; and
- (ii) for every 1000 equity shares of Transferor Company 2 of face value of INR 10 each held in Transferor Company 2, every shareholder of the Transferor Company 2, shall without any application, act or deed, be entitled to receive 908 equity shares of face value of INR 1 each of the Transferee Company, credited as fully paid up on the same terms and conditions of issue as prevalent in the Transferee Company.

3.5.2 In the event the new equity shares entitled to be issued pursuant to clause 3.5.1 result in fractional entitlements, the Board of Directors of the Transferee Company shall be empowered to consolidate and / or round off such fractional entitlements into whole number of equity shares to an integer in a manner to ensure that only 4,08,57,131 number of fully paid up equity shares of INR 1 each are issued to the shareholders of the Transferor Companies, i.e. total of 2,41,49,931 equity shares to shareholders of RHI India and 1,67,07,200 equity shares to shareholders of RHI Clasil.

3.5.3 Pursuant to the issuance of the new equity shares as aforesaid to the shareholders of the Transferor Companies, the shareholders of the Transferor Companies shall become the shareholders of the Transferee Company. Further, upon the coming into effect of the Scheme, the share certificates in relation to the shares held by the shareholders of the Transferor Companies in the Transferor Companies shall stand automatically cancelled and extinguished.



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3.5.4 Pursuant to the SEBI Circular, the price at which the aforesaid equity shares of the Transferee Company will be issued to the shareholders of the Transferor Companies will comply with the pricing guidelines for preferential allotments set forth in the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009. The Valuation Report has been prepared in accordance with the foregoing.

3.5.5 For the purpose of issue and allotment of shares pursuant to this clause 3.5, the following terms shall apply:

(i) Approval of this Scheme by the shareholders of the Transferee Company shall be deemed to constitute due compliance with section 62 and any other applicable provision of the Act, the SEBI Listing Regulations and the articles of association of the Transferee Company, and no other consent shall be required under the Act or the articles of association of the Transferee Company, for the issue of equity shares to the shareholders of the Transferor Companies under the Scheme and upon the shareholders of the Transferee Company approving the Scheme, it shall be deemed that they have given their consent, including under the Act and the articles of association of the Transferee Company, to the issue of shares of the Transferee Company to the equity shareholders of the Transferor Companies in accordance with the Scheme.

(ii) In the event of there being any pending share transfers, whether lodged or outstanding, of any shareholder of the Transferor Companies, the Board of Directors of the Transferee Company shall be empowered in appropriate cases, prior to or even subsequent to the Record Date, to effectuate such a transfer as if such changes in the registered holders were operative as on the Record Date, in order to remove any difficulties, after the effectiveness of the Scheme.

(iii) The shares proposed to be allotted pursuant to the Scheme shall be subject the provisions of the memorandum of association and articles of association of the Transferee Company and shall rank



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pari passu with the existing shares of the Transferee Company, including rights in respect of dividend and bonus shares, if declared, by the Transferee Company on or after the Effective Date.

- (iv) The issue and allotment of shares as provided in the Scheme shall be carried out in accordance with the provisions of the Act. All shareholders of the Transferor Companies shall be issued fresh equity shares in dematerialised form.
- (v) For the purpose of issue and allotment of shares to the shareholders of the Transferor Companies, the Transferee Company shall, if and to the extent required, apply to and obtain the required approvals from statutory and regulatory authorities.
- (vi) The shares issued pursuant to this clause 3.5 shall, in compliance with the applicable regulations, be listed on and admitted to trading on the Stock Exchanges pursuant to this Scheme and the SEBI Circular. The Transferee Company shall make all requisite applications and shall otherwise comply with the provisions of the SEBI Circular and applicable law and take all steps to procure the listing of the shares issued by it pursuant to this clause 3.5.

3.6 Dissolution of the Transferor Companies

3.6.1 Upon Part III of this Scheme becoming effective, the Transferor Companies shall stand dissolved without being wound up, and without any further act or deed.

3.7 Accounting treatment

3.7.1 Notwithstanding anything to the contrary contained in any other clause in the Scheme, the Transferee Company shall give effect to the amalgamation in its books of accounts in accordance with Indian Accounting Standard 103, *Business Combinations* and other accounting principles prescribed under the Companies (Indian Accounting Standards) Rules, 2015 (*Ind AS*) as notified under section 133 of the Companies Act, 2013 and on the date determined in accordance with Ind AS.



PART IV

4. GENERAL TERMS AND CONDITIONS

4.1 Conduct of business until the Effective Date

4.1.1 With effect from the Appointed Date and up to and including the Effective Date:

- (i) The Transferor Companies shall carry on and shall be deemed to have been carrying on, all business activities and stand possessed of their properties and assets, for and on account of and in trust for, the Transferee Company.
- (ii) All profits accruing to the Transferor Companies and all taxes thereon or losses accumulated or otherwise arising or incurred by them shall, for all purposes, be treated as and deemed to be the profits, taxes or losses, as the case may be, of the Transferee Company.
- (iii) The Transferor Companies shall carry on their businesses with reasonable diligence and business prudence and in the same manner as they had been doing hitherto and shall not undertake any additional financial commitments of any nature whatsoever, borrow any amounts or incur any other liabilities or expenditure, issue any additional guarantees, indemnities, letters of comfort or commitment either for themselves or on behalf of their affiliates or associates or any third party, or sell, transfer, alienate, charge, mortgage or encumber or deal, in any of their properties / assets, except when the foregoing is: (a) expressly provided in the Scheme; (b) in ordinary course of business; or (c) with the prior written consent of the Transferee Company.
- (iv) Except by mutual consent of the Board of Directors of the Parties and subject to changes pursuant to commitments, obligations or arrangements prior to the Appointed Date or as part of this



Scheme, pending sanction of this Scheme by the Tribunal, the Transferor Companies shall not make any change in their capital structure either by any increase (by issue of equity shares, bonus shares, preference shares, convertible debentures or otherwise), decrease, reduction, reclassification, sub-division, consolidation, reorganisation or in any other manner, which would have the effect of reorganisation of capital of the Transferor Companies.

- (v) The Transferor Companies shall not vary or alter, except in the ordinary course of their businesses or pursuant to any pre-existing obligations undertaken prior to the date of approval of the Scheme by the Board of Directors of the Transferor Companies, the terms and conditions of employment of any of their employees, nor shall they conclude settlement with any union or their employees except with the written consent of the Transferee Company.
- (vi) Except in relation to dividend for the financial year ended 31 March 2018, the Transferor Companies shall not declare or pay any dividend, without prior consent of the Transferee Company post the date of approval of the Scheme by the Board of Directors of the respective Transferor Companies.
- (vii) The Transferor Companies shall not substantially alter or expand or alienate or dispose off their businesses except with the written consent of the Transferee Company. This shall, however, not include the projects that have already been approved by the Transferor Companies through their respective board of directors and / or shareholders, as applicable, before the date of approval of the Scheme by the Board of Directors of the respective Transferor Companies.

4.1.2 Notwithstanding anything contained in the Scheme, subject to applicable laws, the Board of Directors of the Transferee Company shall be entitled to consider, pursue, manage, undertake and conduct the business of the



Transferee Company including, any corporate actions, issue of securities and bonus shares, buy back of securities, reorganisation, restructuring of its businesses, strategic acquisition or sale of business, joint ventures, business combinations, as it deems prudent and necessary in the interest of the Transferee Company or to give effect to any obligations under applicable laws and / or the Scheme.

- 4.1.3 With effect from the Effective Date, the Transferee Company shall commence and carry on and shall be authorised to carry on the business of the Transferor Companies.

4.2 Amendment of organisational documents

With effect from the Effective Date:

- 4.2.1 Clause I of the memorandum of association of the Transferee Company shall be amended and replaced with the following:

"The name of the Company is RHI Magnesita India Limited."

- 4.2.2 Clause V of the memorandum of association of the Transferee Company shall be amended and replaced with the following:

"The Authorised Share Capital of the Company is Rs. 30,80,00,000 (Rupees thirty crore and eighty lakhs) divided into 30,80,00,000 (thirty crore and eighty lakhs) Equity Shares of Re. 1/- (Rupee one) each."

- 4.2.3 It is hereby clarified that the consent of the shareholders of each Party to the Scheme shall be deemed to be sufficient for purposes of effecting the above and that no further action under section 13, section 14, section 61 or any other applicable provision of the Act, shall be separately required nor shall any additional fees (including any fees and charges to the relevant RoC) or stamp duty payable by the Transferee Company.

4.3 Application to the Tribunal

- 4.3.1 The Parties shall make applications and / or petitions under sections 230 to 232 and other applicable provisions of the Act to the Tribunal for



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approval of the Scheme and all matters ancillary or incidental thereto, as may be necessary to give effect to the terms of the Scheme.

4.3.2 Pursuant to the SEBI Circular, Keynote Corporate Services Limited, a SEBI registered merchant banker, has certified that the valuation ascribed to the Parties in the Valuation Report in reference to the Scheme is fair and reasonable in its fairness opinion dated 31 July 2018.

4.4 Matters relating to tax in respect of the Undertakings

4.4.1 The provisions of this Scheme are intended to comply with the conditions relating to "Amalgamation" as specified under section 2(1B) of the Income Tax Act. If, at a later date, any terms or provisions of the Scheme are found or interpreted to be inconsistent with the provisions of section 2(1B) of the Income Tax Act, including as a result of an amendment of law or enactment of a new legislation or for any other reason whatsoever, the provisions of section 2(1B) of the Income Tax Act, or a corresponding provision of any amended or newly enacted law, shall prevail and the Scheme shall stand modified to the extent determined necessary to comply with section 2(1B) of the Income Tax Act. Such modification(s) will, however, not affect the other parts of the Scheme. The power to make such modification(s), if necessary, shall vest with the Board of Directors of each Party, which power shall be exercised reasonably in the best interest of each of the Parties and their shareholders and creditors in accordance with clause 4.7. In addition, upon the Scheme becoming effective:

- (i) to the extent required, the Parties are permitted to revise and file their respective income tax returns, withholding tax returns (including tax deducted at source certificates), sales tax, value added tax, service tax, central sales tax, entry tax, goods and services tax return and other tax returns; and
- (ii) the Transferee Company shall be entitled to: (a) claim deduction with respect to items such as provisions and expenses disallowed



in earlier years in the hands of the Transferor Companies, which may be allowable in accordance with the provisions of the Income Tax Act on or after the Effective Date; and (b) exclude items such as provisions and reversals for which no deduction or tax benefit has been claimed by the Transferor Companies prior to the Effective Date.

- 4.4.2 Upon the Scheme becoming effective, notwithstanding anything to the contrary contained herein, all accumulated tax losses, unabsorbed tax depreciation, minimum alternate tax credit, if any, of the Transferor Companies as on the Effective Date, shall, for all purposes, be treated as accumulated tax losses, unabsorbed tax depreciation and minimum alternate tax credit of the Transferee Company. It is further clarified that any business losses and unabsorbed depreciation, if any, of the Transferor Companies as specified in their respective books of accounts shall be included as business losses and unabsorbed depreciation of the Transferee Company for the purposes of computation of minimum alternate tax.
- 4.4.3 Upon the Scheme becoming effective, the Transferee Company shall be entitled to claim refunds (including refunds or claims pending with the tax authorities) or credits, with respect to taxes paid by, for, or on behalf of, the Transferor Companies under applicable laws, including income tax, sales tax, value added tax, service tax, entry tax, customs duty, goods and services tax or any other tax.
- 4.4.4 Upon the Scheme becoming effective, all taxes, cess, duties and liabilities (direct and indirect), payable by or on behalf of the Transferor Companies, shall, for all purposes, be treated as taxes, cess, duties and liabilities, as the case may be, of the Transferee Company.
- 4.4.5 Upon the Scheme becoming effective, all unavailed credits and exemptions and other statutory benefits, including in respect of income tax, central value added tax, customs duty, value added tax, sales tax,



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service tax, entry tax and goods and services tax to which the Transferor Companies are entitled shall be available to, and vest in, the Transferee Company, without any further act or deed.

4.4.6 Any tax liabilities under the Income Tax Act or other applicable tax laws or regulations allocable to the Transferor Companies, whether or not provided for or covered by any tax provisions in the books of accounts of the Transferor Companies made as on the date immediately preceding the Effective Date, shall be transferred to the Transferee Company. Any surplus in the provision for taxation or duties or levies in the books of accounts of the Transferor Companies, including advance tax and tax deducted at source as on the close of business in India on the date immediately preceding the Effective Date will also be transferred to the accounts of the Transferee Company.

4.4.7 All tax assessment proceedings and appeals of whatsoever nature by or against the Transferor Companies, pending or arising as at the Effective Date, shall be continued and / or enforced by or against the Transferee Company in the same manner and to the same extent as would or might have been continued and enforced by or against the Transferor Companies. Further, the aforementioned proceedings shall neither abate or be discontinued nor be in any way prejudicially affected by reason of the amalgamation of the Transferor Companies with and into the Transferee Company or anything contained in the Scheme.

4.4.8 Any refund under the Income Tax Act or any other tax laws related to or due to the Transferor Companies, including those for which no credit is taken as on the date immediately preceding the Effective Date, shall also belong to and be received by the Transferee Company.

4.4.9 Without prejudice to the generality of the foregoing, all benefits, incentives, claims, losses, credits (including income tax, service tax, customs duty, excise duty, goods and services tax and applicable state value added tax) to which the Transferor Companies are entitled to in



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terms of applicable tax laws, shall be available to and vest in the Transferee Company from the Effective Date.

4.4.10 All the expenses incurred by the Transferor Companies and the Transferee Company in relation to the amalgamation of the Transferor Companies with and into the Transferee Company in accordance with this Scheme, including stamp duty expenses, if any, shall be allowed as deduction to the Transferee Company in accordance with section 35DD of the Income Tax Act over a period of five years beginning with the financial year in which this Scheme becomes effective.

4.5 Conditionality of the Scheme

4.5.1 This Scheme is and shall be conditional upon and subject to:

- (i) *Stock Exchanges' approval*: the Transferee Company receiving no-objection letters from the Stock Exchanges in respect of the Scheme and the transaction contemplated therein, which shall be in form and substance acceptable to the Parties, each acting reasonably and in good faith.
- (ii) *Approval of the Tribunal*: the Scheme being approved by the Tribunal, either on terms as originally approved by the relevant Parties to the Scheme, or subject to such modifications approved by the Tribunal, which shall be in form and substance acceptable to the Parties, each acting reasonably and in good faith.
- (iii) *Shareholders' and creditors' approval*: the approval by the requisite majorities of the classes of persons, including shareholders and creditors of the Parties, as may be directed by the Tribunal under sections 230 to 232 of the Act;
- (iv) *Shareholders' approval under the SEBI Circular*: the Scheme being approved by the shareholders of the Transferee Company through resolution passed in terms of paragraphs 9(a) and 9(b) of Annexure I of the SEBI Circular, as may be amended from time to time, provided that the same shall be acted upon only if the votes



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cast by the Public Shareholders in favour of the Scheme are more than the votes cast by the Public Shareholders against it; and

- (v) *Others*: making the necessary filings with, and obtaining approvals from, such authorities, as may be required as a result of RHI Magnesita N.V.'s listing on the London Stock Exchange, and any other sanctions and orders as may be directed by the Tribunal in respect of the Scheme.

4.6 Minimum Public Shareholding

4.6.1 It is hereby clarified that the Public Shareholders of the Transferee Company before the merger, will continue to hold at least 25% of the post-merger shareholding of the Transferee Company (i.e. the shareholding including the fresh issue of shares to the shareholders of the Transferor Companies pursuant to Part III of this Scheme), as required under the SEBI Circular.

4.6.2 For the sake of completeness, it is noted that the promoter group of ORL comprises the RHIM Group and the Clasil Group is not part of the RHIM Group. It is clarified that there are no subsisting special arrangements or agreements between the promoter group of ORL and the Clasil Group. Further, the members of the Clasil Group would not be entitled to any special rights in the Transferee Company post completion of the amalgamation and their shares would rank *pari passu* with all the other shares of ORL.

4.7 Modification or amendment to the Scheme

4.7.1 The Parties, through their respective Board of Directors (or any duly authorised committees thereof), may mutually agree to any modification of or amendment to the Scheme, which the Tribunal and / or other authorities may deem fit to direct or impose or which may otherwise be considered necessary or desirable for settling any question or doubt or difficulty that may arise for implementing and / or carrying out this Scheme. The Parties (acting through their respective Board of Directors) be and are hereby authorised to take such steps and do all acts, deeds



and things as may be necessary, desirable or proper to give effect to this Scheme and to resolve any doubts, difficulties or questions, whether by reason of any order of the Tribunal or of any directive or order of any other authority or otherwise howsoever arising out of, under or by virtue of this Scheme and / or any matters concerning or connected therewith.

4.7.2 In the event of the Tribunal and / or other authorities imposing any conditions, which the Parties may find unacceptable for any reason, the Parties are at a liberty to withdraw the Scheme. The Parties (acting through their respective Board of Directors) may mutually agree in writing to revoke, cancel and declare the Scheme null and void if they are of the view that coming into effect of the Scheme could have adverse implications on the Transferor Companies and / or the Transferee Company.

4.7.3 If any issue arises as to whether any asset, liability, or employee pertains to the Transferor Companies and / or the Transferee Company, or not under this Scheme, such issue shall be decided by the Board of Directors of the Transferor Companies and / or the Transferee Company, as relevant, on the basis of the relevant books of accounts and other evidence that they may deem relevant for such purposes.

4.8 Effect of non-receipt of approvals

4.8.1 In the event that the Scheme is not sanctioned by the Tribunal or in the event any of the consents, approvals, permissions, resolutions, agreements, sanctions or conditions enumerated in the Scheme, are not obtained or complied with or for any other reason such that, the Scheme cannot be implemented, the Scheme shall become null and void, and none of the Parties shall have any liability of any nature whatsoever under this Scheme, save and except in respect of any act or deed done prior thereto as is contemplated hereunder or as to any rights and / or liabilities which might have arisen or accrued pursuant thereto and which shall be governed and be preserved or worked out as is specifically provided in the Scheme or as may otherwise arise under law. The



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Transferee Company shall bear the costs, charges and expenses in connection with the Scheme unless otherwise mutually agreed.

4.8.2 If any part or provision of the Scheme is found to be unworkable for any reason whatsoever, the same shall not, subject to the decision of the Transferor Companies and the Transferee Company, affect the validity or implementation of the other parts and / or provisions of this Scheme.

4.9 Cost and expenses

4.9.1 Upon the Scheme becoming effective, all costs, charges, taxes including stamp duties, levies and other expenses, if any, of the Transferor Companies and the Transferee Company arising out of / or incurred after the Effective Date for carrying out and implementing the Scheme and matters incidental thereto, shall be borne and paid by the Transferee Company (save as otherwise expressly agreed).

4.10 Residual provisions

4.10.1 The consent of the shareholders and creditors of each of the Parties to the Scheme in accordance with the Act and the SEBI Circular, as applicable, shall be deemed sufficient for the purposes of effecting all the actions set out in this Scheme and no additional actions of the Parties or their respective shareholders and / or creditors shall be separately required.

4.10.2 Upon the Scheme becoming effective, the Transferee Company shall be entitled to operate all bank accounts, realise all monies and complete and enforce all pending contracts and transactions in the name of the Transferor Companies to the extent necessary until the transfer of the rights and obligations of the Transferor Companies to the Transferee Company under this Scheme is formally accepted and completed by the parties concerned. For the avoidance of doubt, it is hereby clarified that with effect from the Effective Date and until such time that the name of the bank accounts of the Transferor Companies have been replaced with the name of the Transferee Company, the Transferee Company shall be



entitled to operate the bank accounts of the Transferor Companies in the name of the relevant Transferor Company in so far as may be necessary.

4.10.3 The Transferee Company may, at any time after the Scheme becomes effective in accordance with the provisions hereof, if so required under any law or otherwise, enter into, or issue or execute deeds, writings, confirmations, novations, declarations, or other documents with, or in favour of, any party to any contract or arrangement to which any of the Transferor Companies is a party or any writings as may be necessary to be executed in order to give formal effect to the provisions of the Scheme. The Transferee Company shall be deemed to be authorised to execute any such writings on behalf of the Transferor Companies and to carry out or perform all such formalities or compliances required for the purposes specified above by the Transferor Companies.

4.10.4 Upon the Scheme becoming effective, all licences, incentives, remissions, tax incentives, subsidies, privileges, consents, sanctions, and other authorisations, to which the Transferor Companies are entitled, shall stand vested in the Transferee Company and permitted or continued by the order of sanction of the Tribunal. The Transferee Company shall file the Scheme with applicable governmental authorities, including the RoC, for their record, who shall take it on record pursuant to the sanction order of the Tribunal.

4.11 Action taken by SEBI / Reserve Bank of India¹

4.11.1 Dr. Vijay Sharma is presently the Chairman on the board of directors of the Transferee Company. Dr. Vijay Sharma was the Managing Director of B.M.M. Ispat Limited (*BMM Ispat*), which has been declared as a defaulter in relation to loans availed by it from Bank of India and Vijaya Bank. '*Non-suit filed accounts – defaulters Rs.1 crore and above for quarter ended 30 June 2018*' classifies BMM Ispat as a defaulter and Dr.

¹ This clause 4.11 has been added to the Scheme as a disclosure pursuant to the observations received from the SEBI and Stock Exchanges in the observation letters dated 12 October 2018.



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Vijay Sharma's name appears as a director of BMM Ispat. Dr. Vijay Sharma has, *vide* his letter dated 10 October 2018, made the following submissions in this regard:


- (i) Dr. Vijay Sharma was the Managing Director of BMM Ispat from 20 April 2015 to 30 September 2016. He resigned from his directorship in BMM Ispat with effect from 1 October, 2016.
- (ii) Dr. Vijay Sharma has further clarified that the loans from Bank of India and Vijaya Bank (as appearing in the list of 'non-suit filed accounts – defaulters Rs.1 crore and above for quarter ended 30 June 2018') were taken before his tenure as Managing Director of BMM Ispat began, and that there were no defaults made by BMM Ispat on its obligations under these loans during his tenure as Managing Director.
- (iii) Since the expiry of his tenure as director of BMM Ispat with effect from 1 October 2016, Dr. Vijay Sharma has not been associated with BMM Ispat in any capacity whatsoever.
- (iv) Further, Dr. Vijay Sharma has pointed out that the details of non-suit filed accounts are not available in the public domain and Dr. Vijay Sharma has confirmed that he has not received any notice or intimation from any bank / financial institution of his name being included in any list of defaulters, including as a director of BMM Ispat. Dr. Vijay Sharma was only informed of the same by way of the query from SEBI.

For Orient Refractories Ltd.


Sanjay Kumar
(Company Secretary)
(ACS-17021)

For RHI CLASIL PRIVATE LIMITED

For RHI India Pvt. Ltd.


DIRECTOR
DR. Venkata RAJU RUDRARAJU
(DIN: 00390746)


Director
Sanjeev Bhardwaj
(DIN- 07379141)

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