



## General Terms and Conditions of Purchase

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### 1. GENERAL REMARKS

- 1.1 The following General Terms and Conditions of Purchase shall apply to all orders placed by Tyrolit - Schleifmittelwerke Swarovski AG & Co K.G., Tyrolit Construction Products GmbH and Tyrolit AG (hereinafter referred to as "TYROLIT"), unless the order expressly specifies otherwise. Until they are modified, these Terms and Conditions of Purchase shall be applicable also to all further orders, even if no particular reference is made to this fact. The applicability of the Supplier's general terms and conditions of business, irrespective of their nature, including without limitation terms and conditions mentioned in the Supplier's offer or order confirmation, shall be excluded in any case, even if they are not inconsistent with these Terms and Conditions of Purchase and even if they were not expressly objected to, unless they were explicitly accepted by TYROLIT in writing.
- 1.2 Performance or silence on the part of TYROLIT shall not signify acceptance of the Supplier's general terms and conditions of business. Divergent agreements, side agreements, confirmations and modifications of the Terms and Conditions of Purchase may only be made in writing and shall be valid exclusively on a case-by-case basis.
- 1.3 If individual provisions of these Terms and Conditions of Purchase turn out to be invalid or unenforceable, the remaining provisions shall retain their validity to the full extent. In such a case, the invalid or unenforceable provision shall be replaced by a provision that comes as close as possible to the economic purpose of the invalid or unenforceable provision.
- 1.4 The Supplier is aware of the fact that persons employed by TYROLIT or third parties whose services are used by TYROLIT are not entitled to give promises which differ from the contractually agreed principal obligations (such as delivery agreements, commitments regarding quality or quantity).
- 1.5 TYROLIT reserves the right to change these Terms and Conditions of Purchase at any time. The revised Terms and Conditions of Purchase apply from the date of publication on the website [www.tyrolit.group](http://www.tyrolit.group)
- 1.6 TYROLIT is entitled to correct obvious errors, such as errors in spelling or calculation in orders, acceptances of offers and similar documents at any time.

### 2. OFFERS AND PURCHASE ORDERS

- 2.1 All offers submitted to TYROLIT shall be binding on the Supplier for at least four (4) weeks from the date of their receipt by TYROLIT, and regardless of the actions taken by the Supplier in order to prepare and submit an offer, shall not constitute grounds for remuneration or reimbursement.
- 2.2 Purchase orders shall be in written form (fax or email) or be transmitted by means of electronic data exchange (EDI) and must include an individual TYROLIT purchase order number. Our purchase orders are valid without signature if the orders are issued on TYROLIT paper and if the email is sent by a buyer of TYROLIT.
- 2.3 The Supplier is obliged to confirm the purchase order by EDI or email within five (5) working days. If the order confirmation does not arrive on time, TYROLIT shall be entitled to revoke the purchase order. If the Supplier objects to any detail of the purchase order, TYROLIT shall have the right to revoke the purchase order in whole or in part within twenty-one (21) calendar days from the confirmation date.
- 2.4 Should TYROLIT be unable to accept delivery of any products/services as a result of force majeure, such as strikes, lockouts, fire and natural disasters, then TYROLIT shall be entitled to terminate the applicable assignment/purchase order upon written notice to Supplier, without Supplier being entitled to claims for damages of any kind as a result.

### 3. DELIVERY, TAKING DELIVERY, ACCEPTANCE

- 3.1 Unless otherwise stipulated in an order by TYROLIT, deliveries shall be made delivered at place ("DAP" Incoterms 2020). Agreed delivery and performance dates and periods are binding for the Supplier. The date or period of delivery mentioned in the purchase order refers to the receipt of the delivery at the delivery address specified by TYROLIT. TYROLIT is not obligated to take delivery of the goods before the agreed date of delivery or before the commencement of the agreed period of delivery. Unless otherwise agreed expressly and in writing, the Supplier shall not be entitled to make partial deliveries or advance deliveries. In case of premature delivery, the period for payment shall only begin to run on the agreed date of delivery or at the start of the agreed period of delivery.
- 3.2 The Supplier shall immediately inform TYROLIT in writing of any anticipated delays in delivery, stating the reasons for and the duration of such delays. In case of a delay in delivery, even if the Supplier has fulfilled its obligation to inform TYROLIT, TYROLIT shall be entitled to withdraw from the contract or to insist on delivery. In such a case, TYROLIT shall also be entitled to withdraw from the contract only in respect of a part of the delivery. TYROLIT shall also be entitled to claim compensation for delay in the amount of 0.5% of the total contract value for each commenced day of delay, but not more than a total of 10% of the total contract value. The assertion of a claim for damages exceeding this limit and other claims shall remain unaffected.
- 3.3 Delivery of goods is possible on Monday to Thursday from 6.30 to 12.00 a.m. and from 1.00 to 3.30 p.m. as well as Friday from 6.30 to 12.00 a.m. and 1.00 to 2.00 p.m.
- 3.4 The delivery shall be made with the proper accompanying documents (but not with invoices, see item 7.1), on which the order number, the name of the Supplier, the article name and the quantity must be indicated. Without proper accompanying documents, the delivery shall not be deemed to have been performed in accordance with the contract and shall therefore not be accepted, but shall, at TYROLIT's option, be either be stored or returned, in both cases at the Supplier's risk and expense.
- 3.5 Deliveries shall be properly packaged and shipped in accordance with any applicable shipping instructions of TYROLIT. Any damage resulting from non-compliance with such instructions shall be borne by the Supplier. The Supplier shall enclose storage and operating instructions with the deliveries and, if necessary, expressly point out any special measures that may be required for proper handling and storage of the delivered goods.
- 3.6 The legally valid acceptance of the delivery and the passing of the risk shall only take place after examination and clearing by TYROLIT's incoming goods inspection department. Any previous confirmation of delivery or payment of the invoice shall not constitute acceptance on the part of TYROLIT, so that, in such a case, the right of later refusal of the delivery shall be reserved.
- 3.7 Supplier may not subcontract any of its obligations under the purchase contract without TYROLIT's written consent.
- 3.8 Any substitution of suppliers of raw materials required for the execution of the order, quality-relevant process changes and the modification and relocation of mining and production sites shall require the express written consent of TYROLIT. In the event of non-compliance with this provision, TYROLIT shall not be obliged to accept the delivery or service and the consequences of non-fulfilment shall apply. The Supplier shall also be liable for all direct and indirect damages.

### 4. MACHINERY, TECHNICAL EQUIPMENT AND SPARE PARTS

- 4.1 The Supplier of machines and technical equipment is obliged to comply with the state of the art, the applicable safety regulations and the technical specifications agreed in the order for his deliveries. Furthermore, at the time of delivery, he undertakes to deliver the technical documentation on the basis of the currently valid EU directive. Details on the guidelines and scope of the documents required by TYROLIT for new and used machines can be found in the relevant appendix.
- 4.2 The Supplier shall guarantee availability of all spare parts required for the function of the delivery/service for a period of ten (10) years from delivery. If the Supplier is no longer able to meet this obligation then it shall, within two (2) weeks, give written notice of this situation to TYROLIT. If the Supplier violates its obligation to make spare parts available then TYROLIT shall be entitled to copy the part that is no longer available. The Supplier shall assist TYROLIT in all respects, such as by making production drawings available and obtaining any industrial rights that may be required.

### 5. SERVICE DELIVERY

- 5.1 Supplier warrants the supply of the deliveries/services ordered by TYROLIT as well as any auxiliary services to the best of its knowledge and belief, in accordance with best industry standards and latest state of the art.



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### 6. PRICES

- 6.1 The agreed prices are fixed prices and include packaging costs. Fluctuations in exchange rates and currency, as well as bank charges, shall be borne by the Supplier.
- 6.2 Insofar as prices and terms are not already stipulated in the order, but are only mentioned by the Supplier at a later date, they shall not be effective unless they are expressly accepted by TYROLIT in writing.
- 6.3 The costs of transport, insurance and other costs arising in connection with the delivery of the goods to the place of delivery indicated by TYROLIT shall be agreed in writing on a case-by-case basis.

### 7. INVOICES AND PAYMENT

- 7.1 All invoices must comply with pertinent VAT regulations and must contain (i) the purchase order number and (ii) an itemized description of the delivered products/services. Invoices shall be sent individually as a PDF document to the following email addresses:  
TYROLIT Schleifmittelwerke Swarovski AG & Co KG: [Invoice-AT0150@TYROLIT.com](mailto:Invoice-AT0150@TYROLIT.com)  
TYROLIT AG: [Invoice-AT1090@TYROLIT.com](mailto:Invoice-AT1090@TYROLIT.com)  
TYROLIT Construction Products GmbH: [Invoice-AT0470@TYROLIT.com](mailto:Invoice-AT0470@TYROLIT.com)  
Invoices concerning services or assembly work shall be accompanied by time sheets approved by TYROLIT. Only invoices that meet the above criteria, are considered to have been prepared according to the contract, will be processed by TYROLIT and cause the invoiced amount to become due for payment.
- 7.2 Insofar as no special agreement is made, the payment for accepted goods and services shall be made, at TYROLIT's option, either within 14 days after TYROLIT has received the invoice and the goods, with 3% cash discount, or within 90 days after TYROLIT has received the invoice and the goods. The payment does not signify any acknowledgement of the correctness of the delivery and therefore does not have any effect whatsoever on TYROLIT's claims in connection with the performance of the contract, such as, for instance, claims for compensation, right of termination, etc.
- 7.3 The Supplier shall under no circumstances be entitled to set off its obligations to TYROLIT against any claims it may have against TYROLIT.
- 7.4 In case of down payments, Supplier has to present an appropriate security (e.g. bank guarantee) on request. Payments made by TYROLIT shall be considered to have been agreed as being of stable value and therefore always represent a proportional payment of the total order value with reference to the date of the order.
- 7.5 Any assignment of Supplier's claims against TYROLIT shall be invalid without TYROLIT's express written consent.
- 7.6 In case of a delay in payment on the part of TYROLIT for any reason whatsoever, default interests in the amount of 5% per annum, calculated from the 90th day after the receipt of invoice and goods, shall be considered as agreed. Any further claims for payment for this reason is excluded, except a lump sum of € 40.00,- for proven damages.

### 8. PRODUCTION DOCUMENTATION, DRAWINGS, FORMS, TOOLS

- 8.1 Samples, models, drawings, forms, tools, printing plates, plans and other auxiliary material shall remain TYROLIT's intellectual and material property of which TYROLIT shall be free to dispose at will. The Supplier may use such auxiliary material exclusively for carrying out TYROLIT's orders and it shall not be made accessible or handed over to persons not employed in the Supplier's plant or to third persons. The Supplier shall take all imaginable measures required in order to comply with these obligations of secrecy.
- 8.2 Samples, models, drawings, forms, tools, printing plates, plans and other auxiliary material created by or on behalf of the Supplier in connection with a delivery order given by TYROLIT shall also be the property of TYROLIT. All processing or converting of goods or materials by the Supplier shall be carried out in the name of TYROLIT; the Supplier already declares at this point that will be holding such goods or materials for TYROLIT until they are delivered to TYROLIT. The Supplier shall be obligated to hand over to TYROLIT, of its own accord, all vouchers and documents required in order to supply evidence of title to third persons.
- 8.3 All samples, models, drawings, forms, tools, printing plates, plans and other auxiliary material owned by TYROLIT, including without limitation those mentioned in items 8.1 and 8.2, shall be returned to TYROLIT, at the Supplier's expense and risk, after the delivery or service in question has been effected, unless otherwise agreed in writing. If insolvency proceedings (bankruptcy, settlement proceedings, etc.) are instituted or a petition in bankruptcy is dismissed due to lack of sufficient assets to cover the costs of the proceedings, the Supplier shall be obligated to inform TYROLIT within five (5) working days of such a circumstance, and to take all necessary and useful measures in order to enable TYROLIT to enforce its rights to the separation and recovery of assets not belonging to the bankrupt's estate.

### 9. WARRANTY

- 9.1 The Supplier shall be fully liable for the execution of the delivery as agreed in the order and for compliance with all relevant statutory provisions and standards.. The Supplier shall be equally liable for the products or for product parts and/or services delivered or processed by it and for those products or product parts and/or services which it has not created itself. The goods and services supplied must have the usual expected and agreed qualities as well as the qualities mentioned in the directions for use, explanations, folders, advertisements and other information media that are accessible to the general public or to TYROLIT and must be suitable for use in accordance with the nature of the transaction and the agreement in question.
- 9.2 The warranty period shall be two years. It begins to run on the date of acceptance of the goods in accordance with item 3.6 of these Terms and Conditions of Purchase. However, in case of goods destined for further processing or conversion by TYROLIT, the warranty period shall only start on the date on which the goods are processed. If TYROLIT does not exercise its right to terminate the contract in case of an unauthorized change of a supplier of raw materials, the warranty period shall be extended by 12 months. The defectiveness of goods and services shall be assumed, subject to refutation, to have existed already at the time of delivery if the defect is discovered during the warranty period. TYROLIT shall notify the Supplier, orally or in writing, of any defects that have not been notified already on acceptance, at the earliest when noticed and at the latest within the agreed warranty period. The obligation to give notice of defects (§ 377 UGB Austrian Commercial Code) is expressly waived. In the case of goods that are usually left packaged or unprocessed until use, defects that can only be detected upon removal from the packaging or during processing shall be deemed to be hidden defects. The warranty period shall begin anew in the event of replacement or repair.
- 9.3 In case of defects, irrespective of their nature and extent, TYROLIT shall have the right to claim from the Supplier, at TYROLIT's own option, replacement of the goods, rescission of the contract, reduction of the purchase price or - in case of reparable defects - removal of the defect. All costs incurred in connection with the repairs, additional delivery or return of defective goods as well as the relevant risk shall be borne by the Supplier. In case of a request for repairs, a maximum period of 4 weeks shall be regarded as reasonable, unless TYROLIT expressly stipulates otherwise in writing. If the Supplier fails to repair the defect within the period granted for that purpose, TYROLIT shall have the right to claim, at its option, either rescission of the contract or reduction of the purchase price. In urgent cases and in case of a delay in repairing the defects on the part of the Supplier, TYROLIT shall have the right, without granting any additional period of time, to effect the repairs at the Supplier's expense (substituted performance).
- 9.4 The Supplier shall be liable for the consequential damage resulting from the defect even if it is not at fault.
- 9.5 The Supplier shall be liable for the completeness and correctness of the technical data or information contained in accompanying documents, certificates or test reports. The Supplier confirms that he is aware of the relevant TYROLIT standards as well as all laws and other rules and regulations in connection with the delivery or service.
- 9.6 Upon request, the Supplier shall assign to TYROLIT any warranty claims it may have against its upstream suppliers, provided that the defects are based on such defective preliminary work. Warranty claims against the Supplier shall remain unaffected.



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### 10. LIABILITY UND INSURANCE

- 10.1 The Supplier shall remain primarily liable to TYROLIT for performance of all services and delivery of all products, even if services are performed or products are provided by a subcontractor. The Supplier may only use subcontractors for the performance of its contractual obligations after prior written consent of TYROLIT. The Supplier shall be liable to TYROLIT for all losses for which the Supplier, its employees or other representatives, or any subcontractor are responsible in whole or in part, and shall indemnify TYROLIT from and against all such losses.
- 10.2 The Supplier is aware of the fact that an examination of raw materials before their conversion is only possible to a very limited extent at TYROLIT's works and that it is only possible to determine whether faultless raw materials, auxiliary materials etc. have been delivered when the finished product has been inspected. Therefore, if products of inferior quality are manufactured due to a defect in quality of the goods delivered, TYROLIT shall have the right – irrespective of whether the Supplier is at fault for the defect or not – to take, at its own option, one of the following measures:
- either to deduct from the invoiced delivery the amounts granted by TYROLIT as an additional discount by comparison with flawless products when selling off products of inferior quality;
  - or to return the raw materials or finished products to the Supplier at the Supplier's expense; in such a case, the Supplier undertakes to reimburse TYROLIT for the production costs incurred, plus loss of profit;
  - or, in case the defect is discovered during the manufacturing process as a result of spot checks, either to continue production and sell off the products as products of inferior quality, demanding compensation for the difference in price from the Supplier, or to interrupt production and charge the Supplier for the resulting loss of output, hours of standstill and loss of profit.
- 10.3 If, in spite of spot checks carried out before delivery to the customer, defects are not discovered by TYROLIT, but only become known to TYROLIT as a result of complaints from TYROLIT customers, and if TYROLIT is liable for damages to such customers as a result, the Supplier shall be obligated to indemnify and hold TYROLIT harmless. Supplier shall bear all costs incurred by TYROLIT as a result of actions taken to remove products from the market, including all costs associated with a recall carried out by TYROLIT as a precautionary measure or otherwise.
- 10.4 Should TYROLIT find itself unable to fulfill its contractual obligations due to the inferior quality of the goods or services provided by the Supplier, the Supplier shall indemnify and hold TYROLIT harmless in that respect.
- 10.5 Supplier shall indemnify and hold TYROLIT harmless from and against all product liability and/or other losses incurred by TYROLIT as a result of or relating to products and/or services provided by Supplier, including, without limitation, reimbursement of attorneys' fees and other related costs, except to the extent that the damage in question was caused solely by TYROLIT.
- 10.6 The Supplier shall, at its own expense, take out and maintain sufficient third-party liability insurance with insurers of recognised reputation and security to cover its liabilities arising from purchase orders placed by TYROLIT. The Supplier shall maintain the aforementioned liability insurance cover for at least one (1) year after complete fulfilment of the purchase order. At TYROLIT's request, the Supplier shall provide proof of the liability insurance at any time. If the Supplier fails to provide such proof, TYROLIT shall be entitled to cancel the order in whole or in part without granting a grace period. The Supplier's liability shall exist irrespective of the insurance cover and shall not be limited to the scope of the insurance cover or the amount of the sum insured.

### 11. INDUSTRIAL PROPERTY RIGHTS

- 11.1 The Supplier shall indemnify and hold TYROLIT harmless with regard to all patent law and other disputes in connection with the deliveries made by the Supplier, particularly in connection with industrial property rights, and the Supplier shall compensate TYROLIT for all costs, expenses and other disadvantages resulting from the restricted use of the goods delivered, irrespective of whether the Supplier is at fault or not.
- 11.2 All rights to and associated with TYROLIT materials and other information transmitted to Supplier by or on behalf of TYROLIT, including copyrights, trademarks, patents, designs, utility models, and all other proprietary rights, as well as the right to register any of the foregoing, and all rights to and associated with all results of work performed within the scope of an assignment/purchase order from TYROLIT, shall be and remain the exclusive property of TYROLIT.

### 12. COMPLIANCE, REACH, CLP AND ROHS

- 12.1 The Supplier shall strictly comply with TYROLIT's Code of Business Conduct for Suppliers („TYROLIT Code of Conduct for Suppliers“) available at: [www.tyrolit.group/sustainable-procurement/](http://www.tyrolit.group/sustainable-procurement/)
- 12.2 The Supplier shall ensure on its own responsibility that delivered goods comply with the provisions of Regulation (EC) No. 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals ("REACH") as currently amended. The Supplier shall implement internal organizational measures that document REACH conformity. The substances contained in the goods supplied shall be registered in accordance with the requirements of the REACH regulation. If an only representative registers the substances, TYROLIT requires information on this only representative each time a substance is registered.
- 12.3 The Supplier shall provide TYROLIT with safety data sheets and further information in accordance with REACH without solicitation. Safety data sheets must state the REACH registration number. In addition, the Supplier must ensure that the goods delivered to TYROLIT are not subject to any restriction listed in Annex XVII of REACH. If new restrictions are issued or substances are proposed for inclusion in Annex XVII, the Supplier shall inform TYROLIT of the substances contained in the goods delivered to TYROLIT. Suppliers within the European Union (EU) using substances listed in Annex XIV of REACH must comply with the requirements of Article 56 and obtain formal authorisation for the use of the substance. Suppliers outside the EU must ensure that the goods delivered to TYROLIT do not contain any substances listed in Annex XIV of the REACH. TYROLIT shall be proactively informed about substances on the Candidate List (SVHC) in accordance with Article 33 of REACH. Suppliers that deliver goods including packaging materials containing substances on the Candidate List in a concentration above 0.1% weight by weight (w/w) must provide the name of the substances, the CAS numbers, a typical concentration in % (w/w) and sufficient information to enable the safe use of the goods. The Candidate List is constantly updated and the latest information can be found on the website of the European Chemicals Agency ([www.echa.europa.eu](http://www.echa.europa.eu)).
- 12.4 Substances and mixtures must be classified, labelled and packed in accordance with Regulation (EC) No. 1272/2008 in its currently valid version.
- 12.5 Moreover, the Supplier shall ensure on its own responsibility that the goods it is to supply or any part thereof fully comply with the requirements of the RoHS Directive 2011/65/EU ("RoHS") as currently amended, and national legislation implementing that Directive within the European Union, and are suitable for RoHS-compliant manufacturing processes.
- 12.6 The Supplier is obligated to indemnify TYROLIT from any liability relating to the Supplier's non-compliance with the above directives or to compensate TYROLIT for damages and costs TYROLIT incurs due to the Supplier's non-compliance with the directives or damages that are related to this non-compliance.

### 13. ADVERTISING

- 13.1 The Supplier is obligated not to inform third parties of its status as a Supplier to TYROLIT without prior consent in writing from TYROLIT, particularly where this involves the inclusion of TYROLIT in a list of references or referring to the business relationship with TYROLIT in advertising materials. In the event of an infringement, the Supplier is obliged to pay a penalty in the amount of € 10,000.00. Any claims for damages or other legal remedies remain unaffected by the payment of the penalty.



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### **14. PLACE OF DELIVERY, APPLICABLE LAW AND PLACE OF JURISDICTION**

- 14.1 The place of delivery for the goods or services shall be the address set out in the order; in case no such address is given, the place of delivery shall be Schwaz, Austria.
- 14.2 Substantive Austrian law shall apply exclusively. The (Austrian) "IPRG" (Act on Private International Law) and other conflict of laws provisions are expressly excluded. The UN Convention on Contracts for the International Sale of Goods ("UNCISG") shall not be applicable.
- 14.3 The place of jurisdiction for all disputes arising in connection with the business relationship between the Supplier and TYROLIT, in particular disputes out of or in connection with these Terms and Conditions of Purchase shall be the competent court at Innsbruck, Austria. At TYROLIT's option, however, TYROLIT shall have the right to file suit against the Supplier with any other court having jurisdiction over the Supplier, either in Austria or abroad.