

# Meinhart Kabel Österreich GmbH: General Terms and Conditions (as of October 2023)

## 1. Validity of the General Terms and Conditions

These General Terms and Conditions (hereinafter 'GTC') of Meinhart Kabel Österreich GmbH, having its registered office at Westbahnstraße 6, St Florian, A-4490, Austria and being registered in the register of companies kept by the Steyr Regional Court under company number FN299994v (hereinafter 'Meinhart'), apply to all deliveries and other services provided by Meinhart. These GTC also apply to all other companies in the Meinhart Kabel Group.

Meinhart's contractual partner is hereinafter referred to as the 'Purchaser'.

Unless otherwise agreed, Meinhart's offers, orders, sales and deliveries are made exclusively on the basis of the following GTC as amended (this also applies to follow-up orders). The GTC can be freely accessed online at any time on the Meinhart website in the 'General Terms and Conditions' section using the link <https://www.meinhart.at/unternehmen/agb> and can be saved in reproducible form and printed out by the Purchaser.

Provisions deviating from or adding to these GTC, in particular the Purchaser's general terms and conditions of business or purchase, only become part of the contract if expressly confirmed in writing by Meinhart.

Additionally the General Terms of Delivery for Products and Services in the Electrical Industry (available at [www.feei.at](http://www.feei.at)) apply, in particular to points that are not covered by these GTC. In the event of any contradictions, the provisions of these GTC take precedence.

## 2. Offer and conclusion of contract

### 2.1. Offer

Offers made by Meinhart are subject to change unless they are expressly designated as binding and do not constitute any obligation to accept an order.

Illustrations, offer designations, descriptions, dimensions and weights are only approximate in terms of detail and are not binding. All information on dimensions and weight is given to the best of our knowledge. Unless otherwise agreed, it is non-binding and approximate. We expressly reserve the right to make production-related and raw material-related deviations in composition, deviations in exact colour tone and other changes that do not affect technical usability and viability.

No warranty claims and/or claims for damages can be derived from such non-binding information.

No offer or project documents may not be reproduced or made available to third parties without Meinhart's consent. They may be requested back at any time and must be returned to the Purchaser without delay.

### 2.2. Conclusion of contract

The order is only deemed to have been accepted when Meinhart issues a written order confirmation (by post or electronically), thereby concluding a contract. The written order confirmation will be issued after clarification of all technical and commercial questions.

Meinhart reserves the right to deliver orders even without order confirmation. The delivery of ordered goods replaces the order confirmation.

After the order confirmation has been issued, the contract is only binding for Meinhart if no objections to the contract are raised by government agencies or other public bodies (e.g. import bans, export

bans, embargoes, production bans, standards, approval regulations, etc.). In such cases, Meinhart is entitled to withdraw from the contract without any performance or other obligation.

Unless otherwise agreed, each party shall bear its own costs associated with the establishment, performance and termination of the contract.

### **3. Prices and terms of payment**

#### **3.1. Prices**

Unless otherwise agreed, the prices valid on the day the deliverable is ordered by the Purchaser apply, in accordance with Meinhart's current price list.

The price calculation contained in the offer is based on Meinhart's current price list. Prices are subject to change and are net prices exclusive of all taxes and exclusive of loading, transportation and insurance, assembly, in the case of agreed delivery exclusive of unloading and carrying, and in the case of export orders exclusive of customs clearance and export sales tax. Statutory value added tax is charged additionally at the applicable rate.

Unless otherwise agreed, the prices quoted are 'ex works' in accordance with INCOTERMS 2010. The prices include ring packaging.

Unless otherwise agreed in a specific case, the prices valid on the day the delivery is dispatched (in the case of shipment) or the deliverable is picked up (in the case of collection) apply as the final prices. These result from a combination of the basis for the price calculation (= respectively valid price list) and the metal surcharges and deductions according to the MKÖ listings published on the website [www.meinhart.at](http://www.meinhart.at).

Obvious mistakes, in particular mistakes which were already contained in the offer, entitle Meinhart to cancel the contract at any time or to make reasonable changes to the agreed prices (at Meinhart's option).

Meinhart is also entitled to adjust the prices to the changed circumstances after conclusion of the contract in the event of extraordinary events (e.g. war, armed conflicts, natural disasters, delivery stoppages, strikes, epidemics and pandemics, etc.). Extraordinary events also include changes in the legal situation, authorisation and export conditions, etc., which result in increased expenses for the production and delivery of the deliverables under the contract.

#### **3.2. Terms of payment**

Invoices are payable 30 days after invoicing without any deductions. A payment is deemed to have been made on the day on which Meinhart can make use of the funds.

Exceeding the 30-day target instigates default without a reminder having to be issued.

The Purchaser is not entitled to withhold or offset payments due to warranty claims or other counterclaims. Discounts, bonuses or other rebates granted are conditional upon the Purchaser making full payment on time.

If the Purchaser is in default with an agreed payment, Meinhart may – unless otherwise agreed – without prejudice to its other rights

- a) postpone the fulfilment of its own obligations until such payment or other performance has been effected and claim a reasonable extension of the delivery period,
- b) declare all outstanding claims from this or other legal transactions to be due and payable and charge the statutory default interest (Section 456 of the Austrian Commercial Code (UGB)) or proven additional costs for these amounts from the respective due date,

- c) in the event of qualified inability to pay on the part of the Purchaser, i.e. after two payments have been missed, fulfil the legal transactions affected by this and all other legal transactions with the Purchaser only against advance payment.

In any case, Meinhart is entitled to charge the Purchaser for pre-litigation costs, in particular reminder fees and lawyer's fees, in accordance with the applicable statutory provisions.

If a payment for the Purchaser is made by bank transfer from an account not belonging to the Purchaser, the payment only discharges the debt if this has been agreed in advance or if Meinhart accepts this payment subsequently and in writing. Without prior agreement, Meinhart is entitled to demand payment again and to retain payments received until payment has been made by bank transfer from an account belonging to the Purchaser.

If partial payments have been agreed, the instalment schedule shall be forfeited if even one partial payment is not made on time or in full. The entire outstanding balance becomes due for payment immediately once the instalment schedule is forfeited.

#### **4. Retention of title, rights of use**

The delivered goods remain the property of Meinhart until full payment of the agreed purchase price and any additional charges by the Purchaser. The Purchaser is entitled to process and sell goods that are subject to retention of title (= goods that are subject to or processed under retention of title) in the ordinary course of business as long as it is not in default. Pledges or transfers of ownership by way of security are not permitted.

For the duration of the retention of title, processing or transformation is always carried out for Meinhart as the supplier, but without any obligation for Meinhart. If Meinhart's ownership expires due to combination, it is hereby agreed that the Purchaser's co-ownership of the combined item will pass to Meinhart pro rata (based on the invoice value). The Purchaser shall safeguard goods delivered by Meinhart or (co-)ownership in processed goods for Meinhart free of charge.

By way of security, the Purchaser hereby assigns to Meinhart in full any claims arising from the resale or any other legal grounds (insurance, etc.) in respect of goods that are subject to retention of title. The Purchaser irrevocably authorises Meinhart to collect the claims assigned to Meinhart for its account in its own name. At Meinhart's request, the Purchaser shall disclose the assignment and provide Meinhart with the necessary information and documents. The Purchaser is required to inform Meinhart of any existing global or partial assignments, in particular to a bank or factoring bank. In the event of a breach of contract by the Purchaser, in particular default in payment, Meinhart has the right to take back goods that are subject to retention of title at the Purchaser's expense or, if applicable, to demand assignment of the Purchaser's claims against third parties for restitution of the goods that are subject to retention of title. The taking back of the goods that are subject to retention of title or their garnishment by Meinhart does not constitute a withdrawal from the contract. If third parties seize goods that are subject to retention of title, the Purchaser is required to inform Meinhart immediately.

If, according to the agreements made between the Purchaser and its customer, assignment of the Purchaser's claims against its customer is only possible with the customer's consent, the Purchaser is expressly required vis-à-vis Meinhart to inform Meinhart of this fact before delivery is effected. If in such a case the Purchaser's customer refuses to consent to the assignment by way of security to Meinhart, Meinhart is entitled to make the deliveries conditional on such consent being given or on the provision of other security.

#### **5. Delivery and delay**

##### **5.1. Delivery periods and default in acceptance**

Unless expressly agreed otherwise, Meinhart shall not enter into any fixed-date transactions. If a delivery period set for Meinhart is not observed for reasons for which Meinhart is responsible or for reasons which are attributable to the neutral sphere (e.g. war, natural disasters, pandemic, trade embargoes etc.), the Purchaser shall first set Meinhart a grace period of four weeks in writing. If Meinhart culpably fails to meet this deadline, the Purchaser is entitled to withdraw from the contract. Withdrawal must be asserted by registered letter. The right of withdrawal applies only to the part of the delivery or service in respect of which there is a default. Delayed or defective supplies to Meinhart will not be deemed a reason for which Meinhart is responsible.

Delivery periods set for Meinhart only begin to run from the date on which all order details have been clarified or from the date of the order confirmation. In the event of force majeure or unforeseen events on the world market for raw materials, the delivery period set for Meinhart will be interrupted until the event has passed. If the interruption lasts longer than three months, both parties to the contract are entitled to withdraw from the contract. If the delivery period is extended in the above-mentioned cases or if Meinhart is released from its obligation to deliver, the Purchaser can derive no claims for damages as a result.

The Purchaser is required to accept the agreed deliverable or parts thereof – even before an agreed delivery time – with debt-discharging effect. If the Purchaser does not remedy the circumstances for which it is responsible and which have caused a delay within a reasonable period set by Meinhart (= default in acceptance), Meinhart is entitled to withdraw from the contract.

In the event of default in acceptance by the Purchaser, Meinhart is entitled to dispose of the materials and equipment already procured by Meinhart for the performance of the contract in another way; if the performance of the contract is continued, all periods and deadlines shall be extended by the period required for the subsequent procurement of the equipment and materials that have been used elsewhere. Goods not accepted on the agreed date will be stored at the risk and expense of the Purchaser for the duration of the delay in acceptance or until withdrawal from the contract has been declared. In this case, Meinhart is entitled to charge the Purchaser a reasonable storage fee.

## **5.2. Transportation and passing of risk**

The place of performance is Meinhart Kabel Österreich GmbH having its registered office at Westbahnstraße 6, St Florian, A-4490, Austria, even if the delivery is made at a different location as agreed.

The Purchaser shall bear the costs and the risk of transportation if the goods leave Meinhart's delivery or distribution warehouse or are reported ready for collection, even if the place of dispatch is not the place of performance.

Shipment and delivery shall be at the expense and risk of the Purchaser, even if carriage paid delivery using own or third-party means of transportation was agreed. Transport insurance will only be taken out by Meinhart if agreed in writing and only at the Purchaser's expense.

## **6. Warranty**

The warranty period is six months from the Purchaser taking delivery of the agreed deliverable or, in the case of sale by dispatch, from handover of the goods to the forwarding agent.

In accordance with Section 928 of the Austrian General Civil Code (ABGB), there is no warranty for obvious defects that are already apparent upon taking delivery or handover of the agreed deliverable.

Transportation damage must be reported by the Purchaser immediately (on the same day as the Purchaser takes delivery of the deliverable), other defects must be reported by the Purchaser at the latest within seven days of taking delivery of the agreed deliverable or the service being provided, in the case of hidden defects after the defect has become apparent, by registered letter, stating the

nature and extent of the defect. Failure to do so precludes any claims. The date of posting at the post office is relevant for compliance with the deadline. If a defect has not been reported or not reported in good time, the delivery/service is deemed to have been approved. An inspection of the goods delivered by Meinhart must be carried out by the Purchaser in any case before installation, otherwise the goods are deemed to have been accepted free of defects.

By way of deviation from Section 924 ABGB, the Purchaser shall provide proof that the defect was already present at the time of taking delivery/handover. Warranty claims are only available directly to the Purchaser and are not transferable.

Unless otherwise agreed, the warranty does not cover defects resulting from assembly and erection not effected by Meinhart, inadequate installation, non-observance of the installation requirements and conditions of use, overloading of parts beyond the performance specified by Meinhart, negligent or improper handling and use of unsuitable materials; this also applies to defects resulting from material provided by the Purchaser. Meinhart is also not liable for damage caused by the actions of third parties, atmospheric discharges, overvoltage, chemical influences and comparable circumstances. The warranty does not cover the replacement of parts that are subject to natural wear and tear.

In the event of justified warranty claims, Meinhart shall supply a replacement free of charge or rectify the defect within a reasonable period, which must be at least six weeks. Multiple subsequent deliveries are permitted. For warranty work at the Purchaser's premises, Meinhart shall be provided with the necessary auxiliary staff, lifting equipment, scaffolding and small materials etc. free of charge. Materials and parts replaced by Meinhart within the scope of warranty work return to Meinhart's ownership free of charge.

If the repair or replacement delivery fails after a reasonable period of time, the Purchaser is entitled to demand a reduction of the value invoiced by Meinhart or of the order value or to withdraw from the contract.

Section 933b ABGB does not apply.

## **7. Liability, compensation and product liability**

### **7.1. Liability and compensation**

Meinhart is only required to pay damages beyond the scope of the Austrian Product Liability Act (PHG) in the event of intent or gross negligence. In the event of slight negligence, Meinhart shall only be liable for personal injury. Meinhart shall not be liable for indirect damage, lost profit, loss of interest, failure to make savings, consequential damage and financial losses or damage arising from third-party claims.

The Purchaser shall prove the occurrence of damage, causation, unlawfulness and fault on the part of Meinhart. Claims for compensation become time-barred within six months of the Purchaser becoming aware of the damage and its originator, but no later than three years after the service or delivery has been provided.

### **7.2. Product liability**

Meinhart shall only be liable for damage/losses that are to be compensated under the Product Liability Act (PHG) insofar as this cannot be excluded on the basis of mandatory statutory provisions. Any recourse claims under Section 12 PHG, which the Purchaser or third parties assert against Meinhart on the grounds of product liability, are excluded.

The Purchaser undertakes to include this limitation of liability in all agreements with contractors and to obligate them to impose it, in turn, on their customers, and to indemnify Meinhart against all such liabilities towards companies.

Claims for compensation become time-barred five years after the date on which the goods in question were placed on the market. The Purchaser must impose this deadline on its customers with legal effect.

Meinhart's liability under the Product Liability Act is also excluded for damage caused by noncompliance with instructions for use – also with regard to the prescribed inspections – or breach of legal or other standards or instructions.

In the event of Meinhart being liable under the Product Liability Act, Meinhart is entitled to exempt itself from this by notifying the injured party of the existence of product liability insurance and assigning all claims against the product liability insurance to the injured party.

## **8. Return of goods**

Goods can only be returned to Meinhart after prior agreement (and obtaining an RMA number) and taking into account any handling costs incurred.

## **9. Industrial property rights and copyright**

If goods or services are manufactured or provided by Meinhart on the basis of design data, drawings, models or other specifications belonging to the Purchaser, the Purchaser shall indemnify and hold Meinhart harmless in the event of any infringement of industrial property rights.

Unless otherwise agreed, execution documents, such as plans, sketches and other technical documents, as well as samples, catalogues, brochures and illustrations always remain the intellectual property of Meinhart and are subject to the relevant statutory provisions, in particular with regard to reproduction, imitation and competition. This also applies to execution documents.

Meinhart hereby grants the Purchaser the non-exclusive, non-transferable and nonsublicensable right to use the intellectual property granted for the use of firmware at the contractually agreed location in accordance with the contractual specification and for the purposes underlying the contract. All other intellectual property rights are reserved by Meinhart and its licensors.

## **10. Compliance with export regulations**

When supplying the delivered goods or the provided services, including the associated documentation and technical support of any kind, the Purchaser must comply with the applicable provisions of national and international export control law. In all cases, the Purchaser must comply with the export control regulations of the country from which it exports the goods or services, the EU, the USA and/or the United Nations (insofar as exports are made to the respective countries in the specific case).

Before supplying the goods or services, the Purchaser shall check and take appropriate measures to ensure that

- a) it is not breaching an embargo of the EU, the USA and/or the United Nations – also taking into account any prohibitions on circumvention (e.g. through unauthorised detours) – by making such supplies, by brokering contracts for such goods or services, or by providing other economic resources in connection with such goods or services;
- b) such goods or services are not destined for prohibited armament-related, nuclear-related or weapons-related use or such use requiring a licence, unless the necessary licences have been obtained;

- c) the provisions of all relevant EU and US sanctions lists regarding business transactions with the above-mentioned companies, persons or organisations are complied with or the goods and services covered by the respective current versions of the annexes to the relevant EU regulations, such as No 833/2014 and No 765/2006 or Annex I of the Dual-Use Regulation (EU) No 2021/821, are not (i) directly or indirectly – e.g. via countries of the Eurasian Economic Union (EAEU) – being exported to Russia or Belarus contrary to EU law or (ii) being resold to a third party business partner who has not undertaken in advance not to export the goods or services to Russia or Belarus.

If necessary to comply with export regulations, the Purchaser shall, upon Meinhart's request, provide Meinhart without delay with all information concerning the final recipient, the intended use of the delivered goods or provided services and any export control restrictions applicable in this respect.

The Purchaser shall fully indemnify and hold Meinhart harmless against all claims asserted by authorities or other third parties against Meinhart due to non-compliance with the above obligations by the Purchaser or its business partners due to re-export in breach of sanctions/embargoes.

## 11. Datenschutz

The parties undertake to comply with the provisions and requirements of data protection law, in particular Regulation (EU) 2016/679 ('GDPR') and the Austrian Data Protection Act ('DSG'), as amended, in the course of executing the legal transaction at hand.

In accordance with data protection provisions, Meinhart expressly points out that, in particular, the names, addresses, telephone and fax numbers, e-mail addresses and payment methods of the purchasing persons are processed and stored for the purpose of automated data processing in order to fulfil the respective order. Meinhart is entitled to transmit the data to third parties commissioned by Meinhart to carry out the order, insofar as this is necessary for the order to be fulfilled.

Only personal data that Meinhart requires for the provision of its services, their invoicing, for its information services and for the fulfilment of any existing legal obligations is processed. Meinhart does not process special categories of personal data ('sensitive data'). Meinhart processes the data for the purpose of fulfilling the obligations arising from or to initiate contractual relationships, to fulfil legal obligations and to inform business partners. The legal basis for the processing is, in particular, Article 6(1)(b) GDPR (= to perform a contract) or Article 6(1)(c) GDPR (= to comply with legal obligations).

If consent has been given to the processing of data (Article 6(1)(a) GDPR), this consent can be revoked at any time. Revocation means that Meinhart will no longer process the data from this point in time.

Persons whose personal data is processed have the following rights:

- right of access to information
- right to rectification
- right to erasure
- right to restriction of processing
- right to object to the processing
- right to data portability

If you have any questions about data protection, revocation of consent and the assertion of data subject rights, you can contact us by telephone on +43 7224 690-0 or by e-mail at [info@meinhart.at](mailto:info@meinhart.at).

The privacy policy, which can be found at <https://www.meinhart.at/en/privacy>, applies to the processing of data via the Meinhart website.

## 12. Confidentiality

The Purchaser hereby irrevocably undertakes to keep confidential all business and trade secrets made available to it by the Meinhart or otherwise disclosed to it in connection with or on the basis of a business relationship or contact with Meinhart and not to disclose them to third parties in any way whatsoever without the Meinhart's consent. Furthermore, the Purchaser undertakes to use information only on a 'need to know' basis and only within the framework of the concluded contract. The Purchaser shall only use employees and vicarious agents who have been expressly obligated in writing to maintain confidentiality to the same extent as the Purchaser.

The confidentiality obligation remains in force for three years after the business relationship with the Meinhart ends or, irrespective of a business relationship, for three years after Meinhart has provided an offer.

Advertising and publications about Meinhart orders for the Purchaser, as well as the inclusion of the Purchaser in any reference list of Meinhart is permitted, unless the Purchaser objects before the conclusion of the contract.

## 13. Compliance

Meinhart conducts its business activities in accordance with the applicable laws, rules and regulations while upholding corporate principles and ethics and expects the Purchaser to do the same.

The contracting parties undertake to conduct their business in accordance with the applicable laws, in particular in compliance with the statutory anti-corruption provisions. If one of the two contracting parties becomes aware that its contractual partner has, in the context of the business relationship, engaged in misconduct that breaches anti-corruption provisions, it shall be entitled to withdraw from the contract with immediate effect.

In the event of breaches, Meinhart reserves the right to assert any resulting claims for damages against the Purchaser.

## 14. Withdrawal from the contract

Unless a more specific provision has been agreed, the Purchaser may only withdraw from the contract if a delay in delivery is due to gross negligence on the part of Meinhart and if a reasonable additional period of time granted by the Purchaser has expired to no avail.

Irrespective of Meinhart's other rights, Meinhart is entitled to withdraw from the contract if

- a) the delivery of the goods or the commencement or continuation of the service is impossible for reasons for which the Purchaser is responsible or is further delayed despite the setting of a reasonable grace period,
- b) doubts have arisen as to the Purchaser's ability to pay and the Purchaser, at Meinhart's request, neither makes advance payment nor provides suitable security before delivery, or
- c) the Purchaser does not or not properly fulfil the obligations imposed on it by point 10.

Withdrawal may also be declared with regard to an outstanding part of the delivery or service for the above reasons.

If insolvency proceedings are opened against the assets of the Purchaser or if an application to initiate insolvency proceedings is rejected for lack of sufficient assets, Meinhart is entitled to withdraw from the contract without granting a grace period. If such withdrawal is exercised, it will take effect immediately upon the decision that the Purchaser's business will not be continued. If the Purchaser's



business is continued, withdrawal will only become effective six months after the insolvency proceedings are opened or after the application to open insolvency proceedings has been dismissed for lack of assets. In any case, the contract will be terminated with immediate effect unless the insolvency law to which the Purchaser is subject precludes this or the termination of the contract is essential to avert serious economic disadvantages for Meinhart. Without prejudice to the Purchaser's claims for damages, including pre-litigation costs, in the event of withdrawal performance or partial performance already provided will be invoiced and paid for in accordance with the contract. This also applies if the Purchaser has not yet taken delivery of the goods or services and to preparatory work carried out by Meinhart. Meinhart is, instead, also entitled to demand the return of items already delivered.

Withdrawal must be asserted by registered letter. Other consequences of withdrawal are excluded.

The assertion of claims due to *laesio enormis*, error and the basis for the transaction ceasing on the part of the Purchaser is excluded.

## **15. Legal succession**

All rights and obligations arising from this agreement pass to the individual or universal successors of Meinhart without the consent of the Purchaser being required.

## **16. Place of jurisdiction and choice of law**

### **16.1. Place of jurisdiction**

Any disputes arising from a contract – including disputes as to whether such a contract exists or not – shall be settled under the exclusive jurisdiction of the competent courts for the registered office of Meinhart (at Westbahnstraße 6, St Florian, A-4490, Austria) (as far as is permitted by law).

### **16.2. Choice of law and contract language**

The exclusive applicability of Austrian law – to the exclusion of the UN Convention on Contracts for the International Sale of Goods and the international conflict of laws rules – is agreed. The contract language is German.

## **17. Further provisions**

### **17.1. Severability clause**

Should any provision of these GTC be or become ineffective in law or unenforceable in whole or in part, this does not affect the legal validity of any of the other provisions. The contracting parties shall replace the legally ineffective or unenforceable provision with an effective and enforceable provision that comes as close as possible to the content and purpose of the legally ineffective or unenforceable provision.

### **17.2. Formal requirement**

Amendments and additions to a contract must be made in writing. This also applies if amending the requirement for the written form.

### **17.3. Offsetting**

Claims on the part of Meinhart cannot be offset by counterclaims on the part of the Purchaser of any kind whatsoever.