

General Terms and Conditions of Sale, Delivery and Service of Merz Aesthetics GmbH

1. Scope of Application, Conclusion of Contract

1.1 These General Terms and Conditions of Sale, Delivery and Service apply to all (future) contracts for the delivery of goods and the provision of services ("**Services**") by Merz Aesthetics GmbH (hereinafter "**Merz**") to the respective purchaser or party entitled to Services (hereinafter "**Customer**"), unless and insofar as otherwise agreed between the parties in individual contracts.

1.2 Definition of Services Provided

Services provided within the meaning of these GTC are those Services in which Merz performs actions and duties of all kinds (hereinafter "**Services Provided**") for the Customer. Unless otherwise stipulated in these GTC, §§ 611 et seq. BGB (German Civil Code) apply to Services Provided.

1.3 Deviating terms and conditions of the Customer shall not apply unless their validity has been expressly agreed to in writing. This shall also apply if Merz unconditionally provides the Service in the knowledge that the Customer's terms and conditions of business conflict with or deviate from these General Terms and Conditions of Sale, Delivery and Service.

1.4 Offers and cost estimates from Merz are non-binding unless expressly designated as binding in writing.

Offers and cost estimates of Merz are subject to change without notice, unless expressly marked as binding.

1.5 A contract for ServiceServices between the parties is only concluded once the order placed by the Customer has been confirmed by Merz in writing or the ServiceService is performed by Merz. Such confirmation may also take the form of an invoice or a delivery bill or by sending the goods and the invoice.

2. Cooperation, Supplementary and General Obligations of the Customer

2.1 In addition to the duties to cooperate and fulfill supplementary obligations stipulated in the individual contract, Merz may require the Customer to cooperate or provide services insofar as these are (i) necessary for the proper performance of the contractual Service and (ii) necessarily to be performed by the Customer. Merz shall inform the Customer in a timely manner of the type, scope, time and other details of the cooperation and supplementary obligations to be provided by the Customer, unless the respective details arise from the Service to be provided.

2.2 After receipt of the goods or Services, the Customer shall comply with all statutory and professional regulations governing the operation and use of the goods and Services independently and on its own responsibility.

3. Terms of Delivery, Transport Damage, Partial Deliveries or Services, Acceptance

3.1 Merz delivers through third parties during normal business hours. Delivery shall be made DAP named place of delivery (Incoterms 2020) (unless otherwise agreed in writing) by the Customer at Merz's expense, unless otherwise agreed in writing. Unless otherwise agreed in writing, the transfer of risk shall always take place at the Customer's named place of delivery.

3.2 Merz delivers carriage paid for orders with an invoice value of EUR 150.00 or more.

3.3 Transport damage must be reported to the carrier upon delivery and Merz must be notified immediately in writing.

3.4 Merz is entitled to make partial deliveries/ perform partial Services, make deliveries of other sizes and packaging or replacement deliveries, unless the partial delivery or Service is unreasonable for the Customer.

3.5 If acceptance is provided for by law or contractually agreed upon, the acceptance date shall be set mutually after notification by Merz. The result of the acceptance shall be recorded in an acceptance report.

3.6 The performance, delivery dates and delivery periods are subject to correct and timely delivery by our suppliers, insofar as Merz is not responsible for delays in delivery by these suppliers. Merz shall inform the Customer of any delays without delay.

4. Reservation of Title

4.1 The following retention of title serves to secure all current existing and future claims of Merz against the Customer arising from the current business relationship with Merz, including all balance claims from the current account.

4.2 All goods delivered by Merz shall remain the property of Merz until full payment of all secured claims (hereinafter "**Reserved Goods**").

4.3 The Customer must store the Reserved Goods free of charge for Merz and treat them with care. In particular, it is obliged to sufficiently insure the Reserved Goods at its own expense against fire, water and theft at replacement value.

4.4 The Reserved Goods may not be pledged to third parties or assigned as security before full payment of the secured claims. In the event of seizure, confiscation or other dispositions or access by third parties to the Reserved Goods, the Customer undertakes to immediately point out Merz's ownership and to inform Merz thereof in writing in order to enable Merz to enforce its ownership rights.

4.5 The Customer is entitled to sell the Reserved Goods in the ordinary course of business if it is ensured that its claims from the resale are transferred to Merz in accordance with clause 4.6.

4.6 In the event of the resale of the Reserved Goods, the Customer hereby assigns to Merz by way of security the resulting claim against the Customer as well as those claims that take the place of the Reserved Goods or otherwise arise with regard to the Reserved Goods, such as insurance claims or claims in tort in the event of loss or destruction, including all balance claims from the current account. Merz accepts this assignment. All proceeds due to Merz from assignments must be forwarded to Merz immediately upon receipt if and as soon as the respective claims of Merz against the Customer are due.

4.7 The Customer is revocably authorized to collect the claims from the resale. Merz is entitled to revoke this collection if the Customer does not fulfill its contractual obligations towards Merz, in particular if it is in default of payment. In such cases, Merz may withdraw from this contract in accordance with the general withdrawal rules of Section 323 BGB (German Civil Code); in the event of withdrawal, the Customer's right to possession of the Reserved Goods lapses and Merz may demand the return of the Reserved Goods. Merz is entitled, after consultation with the Customer, to enter the Customer's premises and to take possession of the Reserved Goods at the Customer's expense and, without prejudice to the Customer's payment and other obligations, to realize them by private sale or by auction at the best possible price. The realization proceeds shall be credited to the Customer's liabilities after deduction of any costs incurred. Any surplus shall be paid out. In addition, upon Merz's request, the Customer must provide the names of the debtors of the claims assigned to Merz so that Merz can disclose the assignment and collect the claims.

4.8 If the realizable value of the securities existing for Merz exceeds the amount of the claims to be secured by more than 10% in total, Merz shall release securities of its choice at the Customer's request.

5. Quality of the Delivery, Notice of Defects and Rights in the Event of Defects, Limitation of Damages

5.1 Merz warrants that the deliveries and Services Provided are free of defects, in particular that the agreed goods and service specifications are complied with. The expiration date stated in each case shall apply to consumables. This does not apply to experimental work or work for which no success is owed.

5.2 Documents, illustrations, drawings, weights and dimensions in the catalogs and on the Merz website are as accurate as possible, but are only approximate values and do not constitute a specification of the quality of the goods, unless they are expressly marked as binding. Merz reserves the right to make improvements and dimensional changes to the extent customary in the trade and reasonable for the Customer. Merz does not assume any guarantees unless they have been expressly agreed in writing.

5.3 The Customer must carefully inspect the delivered goods immediately after delivery. Obvious defects must be reported in writing immediately, but at the latest within five (5) days of delivery. Obvious defects are defects that are recognizable at first glance upon delivery.

5.4 Other defects must be reported in writing within five (5) days of discovery.

5.5 In the event of a defect notified in a timely and justified manner, the Customer shall be entitled, at Merz's discretion, to rectification of the defect or, insofar as it concerns a delivery of goods, to delivery of a defect-free item ("**Subsequent Performance**"). Otherwise, the goods shall be deemed approved with regard to such defects. Subsequent Performance shall take place at the place of the original delivery; it shall be deemed to have failed after three unsuccessful attempts at the earliest. Replaced parts shall become the property of Merz. Rejected goods may only be returned to Merz with Merz's written consent and at the Customer's expense.

5.6 The warranty shall lapse if the Customer modifies the work result or the delivered good or has it modified by third parties without Merz's consent and the elimination of defects is thereby rendered impossible or unreasonably difficult.

5.7 Claims for defects shall become time-barred twelve (12) months after the transfer of risk, to the extent permitted by law. Merz shall not be liable for defects if the storage conditions specified by Merz are not fulfilled or expiry dates are exceeded.

5.8 Merz's liability for damages, regardless of the legal grounds, in particular due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations during contract negotiations and tort, is limited to intent and gross negligence.

This shall not apply in the event of a breach of material contractual obligations or for damages resulting from injury to life, limb or health of persons. In the event of a breach of material contractual obligations, Merz shall also be liable for simple negligence, but limited to the foreseeable damage typical for the contract. Insofar as the liability of Merz is excluded or limited, this shall also apply to the personal liability of employees, workers, staff, representatives and vicarious agents of Merz.

6. Infringement of Industrial Property Rights

Merz warrants that the contractual use of the goods in the territory of the Federal Republic of Germany does not infringe any patent rights, copyrights or other industrial property rights of third parties.

7 Invoice and Payment, Offsetting Prohibition

7.1 The agreed prices are net prices. Merz shall invoice the Customer for the value added tax due on the Service, unless expressly agreed otherwise.

7.2 The Customer must pay the invoice within thirty (30) days of the invoice date without any deductions.

7.3 The Customer shall owe Merz default interest of 9% above the base interest rate plus a flat-rate processing fee of €40 from the expiry of the payment deadline. Merz reserves the right to assert higher damages caused by default.

7.4 Offsetting against counterclaims of the Customer or the retention of payments due to such claims is only permitted if the counterclaims are undisputed or have been legally established.

8. Documents, Confidentiality and Rights of Use

8.1 Models, samples, drawings, data, materials and other documents provided by Merz to the Customer shall remain the property of Merz and may only be used by the Customer in compliance with the applicable legal provisions, in particular the protection of intellectual property.

8.2 Subject to statutory, judicial or official disclosure obligations, the Customer undertakes to keep secret all technical, scientific, commercial and other information provided to it directly or indirectly by Merz in the context of the Services (hereinafter "**Confidential Information**") and to use it only to the extent necessary for the provision of the Service by Merz. The aforementioned confidentiality obligation shall apply for a period of five (5) years after the provision of the Service. The only exceptions to this confidentiality obligation are information (i) which is already lawfully in the Customer's possession at the time of provision, (ii) which is lawfully in the public domain or (iii) which has been lawfully obtained from third parties. Information disclosed to persons who are subject to a statutory duty of confidentiality is also exempt from this confidentiality obligation. The Customer shall bear the burden of proof for the existence of these exceptions.

In particular, the Customer undertakes to take all necessary and appropriate precautions and measures to ensure that the Confidential Information obtained is effectively protected against loss and unauthorized access at all times. This includes in particular the creation and maintenance of suitable and necessary access and access precautions for premises, containers, IT systems, data carriers and other information carriers in or on which Confidential Information is located, as well as the implementation of suitable instructions for the persons who are authorized to handle Confidential Information in accordance with this clause. The Customer may only make Confidential Information accessible to employees, agents and vicarious agents to the extent that this is necessary for the purpose of the Service provided hereunder. Such persons shall be contractually obliged to maintain confidentiality that corresponds to the scope of protection of this clause. At Merz's request, the Customer shall return to Merz all Confidential Information and all copies of the documents and other records containing Merz's Confidential Information or destroy them upon Merz's prior written request. The only exceptions are copies that the Customer is legally obliged to keep.

9. Data Protection, Compliance

9.1 The Customer shall inform its affected employees about the processing of their personal data by Merz for the purposes of this contract in order to enable Merz to fulfill its information obligations towards these employees in accordance with data protection laws (<https://www.merz.com/wp-content/uploads/2024/07/FIN-Merz-Aesthetics.pdf>).

9.2 If the Customer has its registered office outside the EU or the EEA in a country that does not offer an adequate level of data protection recognized by the European Commission, Merz shall be entitled to demand the agreement of EU standard contractual clauses.

9.3 The Customer shall conduct its business in compliance with all applicable laws and in accordance with the MERZ Third Party Code of Conduct as stated at www.merz.com/thirdpartycodeofconduct and will be provided to the Customer as a PDF upon request. MERZ shall have the right to terminate the contractual relationship with the Customer with immediate effect if a serve violation is evident and there are no other means to reconcile are available. The Customer undertakes to provide information for carrying out a business partner check at the request of Merz.

10. Severability Clause, Place of Performance, Place of Jurisdiction and Choice of Law

10.1 Should a provision in these GTC or a provision within the framework of other agreements be or become invalid, this shall not affect the validity of all other provisions or agreements.

10.2 German law shall apply to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods ("CISG") and the German conflict of laws rules of private international law.

10.3 The place of performance is Frankfurt am Main. The exclusive place of jurisdiction for all disputes arising from or in connection with the contract is Frankfurt am Main, provided that the Customer is a merchant or has no general place of jurisdiction in Germany. However, Merz has the right to sue the Customer at its general place of jurisdiction.

11. Force Majeure

In the event that the fulfillment of Merz's contractual obligations becomes impossible or considerably more difficult due to circumstances beyond Merz's control (including, but not limited to, natural disasters, epidemics, pandemics, official measures, war, terrorism, strikes, lockouts, operational disruptions, delivery bottlenecks or transport delays), Merz is temporarily released from its obligation to fulfill the contract. In these cases, Merz is entitled to postpone the delivery or Service for the duration of the hindrance and a reasonable start-up time or to withdraw from the contract in whole or in part, without the Customer being able to derive any claims for damages from this. The Customer shall be informed immediately of the existence of force majeure and the expected duration of the hindrance.

12. Reports of Side Effects

The Customer is obliged to inform Merz by e-mail immediately upon receipt of (i) adverse or unexpected drug reactions/medical device effects or (ii) reports of special situations (use during pregnancy or lactation, improper use, misuse, loss of efficacy, use outside the approved indications, medication errors or exposure through occupational use) in humans in connection with the use of a Merz product, as well as (iii) any other report of incidents in connection with the ingestion or use of a Merz product with potential risk (e.g. of contamination, discoloration, incorrect labeling, etc.).

The adverse reaction report for pharmaceuticals must be sent to product.safety@merz.de. The reporting of adverse reactions to medical devices should be sent to Ax-Safety@merz.de and MD-Team@merz.de.