



General Terms and Conditions for the Sale of SHODEX Products

1. Application of the terms and conditions

(1) These Terms and Conditions of Sale apply to business entities as per § 14 German Civil Code (BGB) only. They also govern all future transactions with the buyer.

(2) Moreover, these Terms and Conditions of Sale apply only to the sale of column-chromatography products supplied by Showa Denko Europe GmbH under the name "SHODEX". Other products of Showa Denko Europe GmbH are governed by different terms and conditions.

(3) Our Terms and Conditions of Sale apply exclusively. We do not acknowledge any conditions of the buyer that conflict with or deviate from our Terms and Conditions of Sale, even if we perform the contract without expressing any reservations.

(4) All agreements made between us and the buyer for the purpose of performing this contract must be documented in writing in this contract or in an amending contract. Any cancellation or modification applies only to the relevant contract concluded.

(5) Unless otherwise stipulated in these Terms and Conditions of Sale, the terms and definitions of the INCOTERMS 2000 apply.

2. Conclusion of the contract

(1) Our quotations are without obligation. Likewise, technical descriptions and other details contained in offers, brochures and other sources of information initially have no binding effect.

(2) We reserve all title and copyright to illustrations, drawings, calculations and other documents. They may not be made accessible to third parties. No construction drawings are provided.

(3) The signed order placed by buyer shall be deemed accepted by us, if confirmed by us in writing or if we do not reject acceptance within a period of two weeks. This period shall be deemed to be met if the post mark attached to the letter of rejection shows a date of despatch within this period.

(4) Descriptions and details as per Clause (1) above as well as public statements made by us, by other manufacturers and their employees and agents (§ 434 (1) 3 Civil Code (BGB)) become an integral part of the description of services only if express reference is made to the same in this contract.

3. Prices and terms of payment

(1) Unless otherwise agreed, our prices apply net "ex distribution centre" and include normal packaging. Additional expenses incurred, for example, for taking out insurance, are at the expense of the buyer.

(2) If there is a change in the costs incurred by us for delivery during a period of four months between our quotation or confirming the order until delivery, e.g. as a result of the subsequent introduction of - or an increase in - duties, taxes or other charges imposed on the goods, including but not limited to EU duties and anti-dumping duties or countervailing duties or similar or in the event of a change in currency parities, we are entitled to adapt the price offered or agreed accordingly.

(3) Purchase prices are payable immediately on receipt of the goods, however, no later than 14 days from the date of invoice in cash or by bank transfer. They are deemed to have been paid with effect from the date on which the amount is at our free disposal. The deduction of cash discount requires a special written agreement. The buyer must pay any taxes or customs duties, etc. levied on the transaction in the country of receipt.

(4) Other forms of payment require a separate written agreement. The buyer pays the costs incurred by both parties for such forms of payment.

(5) Our prices do not include the statutory rate of value-added tax, which is shown separately on the invoice at the statutory rate in application on the date of issue of the invoice.

(6) The buyer may exercise a right of withholding or set-off only with regard to receivables or claims of the buyer that are undisputed or have final and legally binding effect.



4. Delivery and duties of cooperation

(1) The scope of our delivery obligations is shown exclusively in the electronic order confirmation. We reserve the right to make changes in design, shape and/or colour resulting from an improvement in the technology or from legislative requirements, provided that the changes are not major or otherwise unreasonable for the buyer.

(2) If the buyer can reasonably be expected to accept part deliveries, these may be made and invoiced.

(3) The delivery period starts to run from the date of our written confirmation of order. If not all details of performance have been clarified by that date, it will be postponed until final clarification. The indication of delivery periods takes place subject to the contractual cooperation of the buyer. A prerequisite for adherence to our delivery obligation is the prompt and proper performance of the buyer's obligations. If the buyer subsequently requests modifications or fails to furnish documents to be furnished by the buyer (e.g. approvals and releases to be procured), the delivery period will be extended accordingly. The delivery period is deemed to have been met if the goods for delivery are ready for delivery within the agreed period and we have notified the buyer of this fact.

(4) If we fail to receive deliveries from our own suppliers, although we placed matching orders simultaneously with reliable suppliers, we are released from our obligation to deliver and can rescind the contract.

(5) If it becomes apparent after conclusion of the contract that the buyer is unable to provide an adequate guarantee of its solvency and our claim to payment is in danger, we are entitled to refuse delivery until the buyer has effected payment or furnished security for the same. If no payment is made or security furnished within 12 working days of a request to this effect, we are entitled to rescind the contract.

(6) If the buyer is in default with a release order, acceptance or collection or the buyer is responsible for a delay in shipment or delivery, we are entitled, without prejudice to other claims, to require a flat-rate amount equal to local storage costs, regardless of whether the goods are being stored with us or a third party. The buyer has the right to prove that either no damages or lower damages were suffered.

(7) In the event of the buyer cancelling the contract without cause, we are entitled to require 20% of the gross order value as liquidated damages (damages in lieu of performance). The same applies if the contract is not performed for reasons for which we are not responsible. The buyer has the right to prove that either no damages or lower damages were suffered. In principle, we will not take back any purchased goods against partial repayment of the purchase price if a seal attached to the goods is broken or the original packaging has been opened. The rights of the buyer pursuant to Clause 7. in case of defects in the delivered goods remain unaffected.

5. Delays in delivery

(1) If we are unable to adhere to the agreed delivery period as a result of circumstances beyond our control affecting us or our suppliers (e.g. natural disasters, war, unrest, sovereign intervention, energy shortage, labour disputes, etc.), this period is extended accordingly. We shall notify the buyer without delay in such a case. If the impeding circumstances last longer than one month after expiry of the agreed delivery period, either party may rescind the contract. More extensive claims based on our failure to deliver within the delivery period for reasons for which we are not responsible are excluded.

(2) If the buyer suffers damages as a result of default in delivery, the buyer is entitled to claim 3% of the value of the delivery for each full week of default as liquidated default damages, however, a maximum of 10% of the value of the delivery. The buyer can also set us a reasonable subsequent date for delivery in writing which must be at least 15 working days. If this subsequent deadline passes without issue, the buyer is entitled to rescind the contract or claim damages in lieu of performance. Liability to compensate damages is limited to 50% of the damages suffered.

(3) Clause (2) does not apply if default is due to intent, gross negligence or breach of an essential duty. It also does not apply if a transaction for delivery by a fixed date was agreed.

6. Place of performance and passing of the risk

Place of performance is our registered office. Unless otherwise stipulated in the confirmation of order, delivery is agreed "ex distribution centre". This applies independently of who pays the freight costs, even if delivery is made in individual parts. If the delivery is delayed for reasons for which the buyer is responsible, the risk passes at the time of notification that the goods are ready for delivery.



7. Defects

(1) The statutory duties of examination for defects and submission of any necessary complaints under § 377 German Commercial Code (HGB) are initially incumbent upon the buyer. Noticeable defects must be reported in writing within 10 days. Otherwise the entire delivery is deemed to have been approved. The duty of examination also covers the operating instructions and assembly instructions.

(2) The buyer cannot derive any further rights from material defects that do not affect the value or suitability of the goods for the purpose recognisable to us or do so merely to a negligible extent. The goods are deemed to be free of defects if their specifications match the specifications quoted in the enclosed relevant certificate of analysis at the time of passing of the risk.

(3) If the goods exhibit defects at the time of passing the risk, we are entitled and obliged to subsequent performance. At our discretion, subsequent performance can take place by subsequent improvement or replacement delivery provided that this is reasonable for the buyer. The costs of subsequent performance, in particular, transport costs, travelling expenses, labour costs and material costs are at our expense. If these costs represent more than 50% of the delivery value, we are entitled to refuse subsequent performance.

(4) If subsequent performance is unsuccessful, is unreasonable for the buyer, does not take place within a reasonable period of time set by the buyer or is refused, the buyer may, at its own discretion, rescind the contract or require a reduction in the selling price that corresponds to the reduction in value resulting from the defects or – within the limits of the following clauses – claim damages in lieu of performance.

(5) If a defect leads to damages, we are liable under the statutory provisions if it involves personal injury, damages under the product liability act (ProdHaftG) or is based on intent or gross negligence.

(6) We are also liable for damages caused by simple negligence if such negligence involves the breach of such contractual duties whose compliance is of particular importance for achieving the contractual purpose (cardinal duties). In this case, we are liable only if the damages are foreseeable and typically associated with the contract. We are not liable for a breach of non-essential collateral contractual duties through simple negligence.

(7) All other claims of the buyer based on contract or tort are excluded. For this reason, we are not liable for damage that did not occur to the actual goods delivered; we are equally not liable for economic loss or other financial loss of the buyer.

(8) Clauses (2) to (7) have no effect on § 478 German Civil Code (BGB).

(9) Our liability for defects is cancelled in the event that our operating and maintenance instructions are not followed or that replacement parts or materials are used that do not conform to the original specifications, or there is interference by unqualified personnel and this has caused the defects. If a defect is present and if one of the aforementioned situations occurred, the buyer must prove that the defect was not caused by one of the above situations.

8. Other liability for damages

(1) The provisions of Article 7 Clauses (5) to (7) also apply to claims for damages for other breaches of duty. They also apply to our non-contractual liability.

(2) In the event of breach of a duty under the binding agreement to enter into a contract or in the event of an impediment to performance existing at the time of conclusion of the contract (§ 311 (2), § 311a Civil Code (BGB)), our obligation to compensate damages is limited to the loss incurred by relying on the declaration.

(3) If our liability is excluded or limited, the personal liability of our employees, representatives and agents is limited or excluded to the same extent.

9. Limitation period

(1) Subject to § 438 No. 2, § 634a (1) No. 2, § 479 Civil Code (BGB), the buyer's right to subsequent performance becomes time-barred one year after delivery of the goods; no warranty claims are available for used items. Accordingly the right of rescission and to a price reduction under the statutory regulations is excluded.

(2) The limitation period for claims to damages is one year subject to § 438 No. 2, § 634a (1) No. 2, § 479 Civil Code (BGB).



(3) The statutory limitation period applies to claims under the product liability act (ProdHaftG) and to cases of intent and gross negligence.

10. Retention of title

(1) Title to the goods is reserved until settlement of all our receivables due from the buyer from the business relations, including future receivables from contracts concluded at the same time or at a later date. The same applies if receivables are entered in a current account and the balance has been drawn and acknowledged.

(2) The Buyer is entitled to sell or process the goods in the normal course of business. The buyer is obliged to resell the retained-title goods solely subject to retention of title if the third-party buyer does not pay for the same immediately. The buyer undertakes any processing on our behalf without this giving rise to any obligations on our part. In the event of the retained-title goods being processed, combined or mixed with other goods, we always acquire a share of title in the new thing produced; in the event of processing, this share of title represents the proportion of the value (= gross invoice value including ancillary costs and taxes) of the retained-title goods in relation to the value of the new thing; in the event of combining or mixing, this share of title represents the proportion of the value of the retained-title goods in relation to the value of the other goods.

(3) However, the buyer already now assigns all receivables accruing to the buyer against a purchaser or third party out of the resale. The Buyer remains entitled to collect the receivable even after the assignment. This does not affect our authority to collect the receivables ourselves, however, we shall not exercise this right as long as the buyer continues to meet its payment and other obligations. If required, the buyer must notify us of the receivables assigned and their debtors, provide all details required for their collection, hand over the relevant documents and notify the debtors of the assignment.

(4) In the event of conduct in breach of contract by the buyer including, but not limited to, default in payment, we are entitled to rescind the contract and recover the product delivered. For the purpose of recovering the goods, the buyer hereby irrevocably grants us the right to enter its business premises and warehouse premises unhindered and to take away the goods.

(5) As long as title is retained, the buyer may not assign goods or things made from the goods or pledge them without our consent. Our prior written consent is required for the conclusion of financing contracts (for example, leasing agreements) that involve the transfer of our rights of retention unless the contract obliges the bank to pay us our share of the selling price directly.

(6) In the event of attachments or other intervention by third parties, the buyer must notify us without delay in writing. The buyer is prohibited from making any agreements with its purchasers that could impair our rights. The buyer is obliged to insure the retained-title goods against theft, mechanical damage, fire and water damage.

(7) We undertake to release securities accruing to us to the extent to which such securities exceed the realisable value of the receivables to be secured by more than 20% or the nominal value of the securities by more than 50%.

11. General provisions

(1) The rights of the buyer under this contract are not transferable.

(2) The invalidity of individual provisions will not affect the validity of the remaining provisions.

(3) If the buyer is a registered merchant, the place of jurisdiction for all disputes arising with the buyer is our registered office. This place of jurisdiction is not exclusive.

(4) These General Terms and Conditions of Business and Terms of Use are governed solely by German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

12. Export

If our goods are subject to statutory export restrictions, the export of our goods is permitted only if our consent and the consent of the responsible authority have been obtained.