

§ 1 Area of application

1. Our goods, services and offers shall be delivered solely on the basis of the general terms of sale to hand of HUBER+SUHNER Cube Optics AG. These shall also apply for all future transactions, even if they are not expressly agreed again. Terms and conditions of the Buyer which either contradict or deviate from the general terms and conditions of sale of Cube Optics AG are hereby rejected unless we have expressly agreed to such Buyer's terms and conditions in writing. The general terms and conditions of sale of Cube Optics AG shall also apply in those cases in which we supply the Buyer with goods or services without reservations and are aware that the Buyer's terms and conditions of sale contradict or deviate from our own terms and conditions of sale.

2. All agreements about goods and services which are made between us and the Buyer are to be recorded in writing in the contract concerned and in any supplementary contracts there may be.

3. The General Terms and Conditions of Sale and Delivery for Cube Optics AG shall only apply to entrepreneurs, legal entities under public law or special funds under public law.

§ 2 Offer and concluding the contract

1. Our offers are non-binding unless there is an express reference to the contrary in the offer. A contract shall only be deemed concluded once we have confirmed the order in writing.

2. Drawings, illustrations, dimensions, weights or other performance specifications shall only be binding once they have been expressly agreed in writing.

3. We reserve title and copyright to illustrations, drawings, calculations and other documents. Third parties shall not be given access to such items. This shall apply in particular to such written documents which are described as "confidential". The manufacturer shall obtain our express permission before handing such documents on to third parties.

§ 3 Prices – Terms and Conditions of payment

1. The prices shall be deemed as being ex works, provided that nothing is expressly agreed to the contrary.

2. Unless we make a statement to the contrary, we shall hold the prices stated in our offer binding for a period of four weeks from the date of the offer.

3. Statutory value added tax is not included in our prices. It shall be shown separately in our

invoices at the rate in force on the date on which the invoice is issued.

4. Unless agreed otherwise, our invoices shall be payable without deductions in advance prior to delivery.

5. The deduction of a prompt payment discount by the Buyer shall require a separate written agreement.

6. Regardless of statements by the Buyer to the contrary, we shall be entitled to count payments made by the Buyer first of all against his oldest accounts payable to us and we shall notify the Buyer of how incoming payments from him have been offset. If costs and interest have already been incurred, we shall consequently be entitled to offset incoming payments from the Buyer first of all against such costs, then against the interest and finally against the main performance.

7. If the Buyer should find himself in default, we shall consequently be entitled to demand from the point in time concerned onwards interest at 5 percentage points above the base rates of the European Central Bank as may be charged from time to time. Our right to assert a claim against the Buyer for compensation for damages over and above this shall not be affected by the above.

8. The statutory provisions (of Germany) shall apply in the event that the Buyer is in default.

9. If the Buyer should find himself in arrears with a payment, having given him an appropriate subsequent period for payment, (and it expires without the payment having been made), we shall be entitled to withdraw from the contract or to demand damages as compensation on account of non-fulfilment.

10. We shall only accept cheques as conditional payment and they shall only be considered as payment once they have been irrevocably credited to our account.

11. If we become aware of circumstances, which cause the arising of questions with regard to the creditworthiness of the Buyer, in particular if a cheque and / or a draft is not honoured or if payments are stopped, we shall consequently be entitled to demand the immediate full payment of all amounts owed to us. Besides which, in this case we shall also be entitled to demand payment in advance or the provision of securities in advance.

12. The Buyer shall only be entitled to rights to offset if his counter claims have been decreed final and absolute in a court of law, are uncontested or are recognised by us. Besides which, he shall only be authorised to exercise a right of retention provided that his counter claim is based on the same contractual relationship.

§ 4 Delivery period

1. Delivery dates or periods must be confirmed by us in writing if they are to be binding. In all other cases delivery dates or periods shall be non-binding. The delivery period stated by us shall only start once all technical matters have been clarified.

2. We shall be entitled to make partial deliveries and to render partial services to a reasonable extent, provided that nothing else to the contrary has been expressly agreed.

3. Compliance with our obligations to render goods and services required the Buyer fulfilling all his contractual obligations properly.

4. If the Buyer is in default with acceptance, or if he is in breach of other duties to collaborate, we shall consequently be entitled to demand compensation for the losses incurred by us including any additional expenses we may have incurred. In this case the risk of accidental loss or accidental deterioration of the purchased goods shall pass over to the Buyer at that point in time at which he is in default with acceptance.

§ 5 Passing of risk

Risk shall pass over to the Buyer as soon as the consignment has been handed over to the person responsible for delivering the goods or as soon as the consignment has left our store for the purposes of dispatch (delivery date). If dispatch is impossible without this being our fault, risk shall pass over to the Buyer at the same time as he receives notification that the consignment is ready for dispatch.

§ 6 Warranty

1. The Buyer has to notify us of defects in writing straight away and within a week from receipt of the consignment or performance at the latest. Defects which cannot be identified within this period, even if a careful inspection is carried out, are to be notified to us in writing straight away upon discovery.

2. In so far as there is a defect on the purchased goods for which we are to blame, we shall be entitled to choose whether to rectify the defect or to supply a replacement delivery. In the event that we rectify the defect, we shall be obliged to bear all the expenses necessary for the purposes of rectifying the defect, including in particular transportation costs, travelling expenses, labour and materials, provided that these are not increased as a result of the purchased goods being relocated to a location other than the place of fulfilment. If the Buyer requests that work under warranty should be carried out at a location specified by him, we can accommodate this request. Under such circumstances the parts and labour covered by the warranty shall not be invoiced, but travelling

time and travelling expenses shall be invoiced at our standard rates.

3. If the rectification within a reasonable period of time fails, and / or if it is not possible to deliver, or if it is unreasonable to expect us to deliver, a spare part, the Buyer can reduce the remuneration or rescind the contract as he sees fit.

4. Moreover, the following shall apply for software: We shall guarantee that the software handed over to the Buyer complies with our programme specifications, provided that the software is installed on the equipment systems specified by us in accordance with our guidelines. The warranty shall only apply for such software defects which can be reproduced at any time. As part of the warranty we shall undertake to rectify all defects which are not insignificant in terms of use in compliance with the contract. However, we shall reserve the right to rectify the defect as we see fit by installing an improved software version or by providing instructions on how to rectify or circumvent the effect of the defect depending on the seriousness of the defect. We shall not furnish any warranty that the software will work without defects in all the combinations selected by the Buyer but not specified by us.

5. If our operating or maintenance instructions are not followed, or if modifications are conducted on the delivered goods and / or services, if parts are exchanged or if consumables are used which do not comply with the original specifications, any warranty we have furnished shall become void.

6. Only the direct Buyer shall be entitled to warranty claims against us. Warranty rights are not transferable.

7. Provided that nothing has been agreed to the contrary, the warranty period shall cover one year and shall begin at the point in time at which risk is passed over.

8. As an expansion of the warranty rights, an optional and additionally available, "limited lifetime warranty" is granted for the standard NETWORK-Cube product series (restricted to passive CWDM, DWDM and WWDM multiplexers of this product series). The "lifetime" of the products named above can be derived from the product cycle and amounts to 5 years. According to this, a term of warranty of 5 years arises for the "limited lifetime warranty". Only the first-time buyer is entitled to claims due to the "limited lifetime warranty" and claims cannot be assigned to third parties. The "limited lifetime warranty" is only granted for new goods as well as a single installation per product.

9. In conclusion, the above regulations only cover the warranty for the delivery and the performance of services themselves and rule out any other warranty claims.

§ 7 Limitation of liability

1. Claims for compensation for damages based on breach of contract, on indebtedness when the contract is concluded, on default, on illegal acts and on account of non-fulfilment shall be ruled out not only against us, but also against our assistants and technicians assisting us, provided that such claims are not based on intent or gross negligence or that fundamental contractual duties have been breached by negligence.

2. The above limitation of liability shall not apply if the liability is based on an assurance which is designed to safeguard the Buyer against the risk of such damage.

3. In any case, our liability under the (German) Product Liability Act shall not be affected as a result.

4. In so far as Cube Optics AG is liable for loss of data, liability shall be limited to the typical expenditure for restoring data which would be incurred by the Buyer for safeguarding data on a regular basis in accordance with risks.

In so far as we are guilty of breaching any fundamental contractual obligation, our liability shall be limited to damages typical for such a contract; otherwise they shall be ruled out in accordance with § 7 Section 6.

6. Provided that there is nothing to the contrary above, any further going claims the Buyer may assert, regardless of whatever legal reason on which they may be based, shall be ruled out. Therefore we shall not be liable for damage not incurred on the delivered object itself, in particular, we shall not be liable for lost profit or other financial loss suffered by the Buyer.

§ 8 Reservation of title

1. We shall reserve the right to reserve title to the subject matter of the contract until all accounts receivable (including all demands for balances owed under open account) to which we are entitled for any legal reason against the Buyer now or in the future are settled.

2. The Buyer shall be entitled to process and to sell the goods subject to reservation of title by us in a proper commercial transaction, as long as he is not in default with the payment of his accounts payable to us. The goods shall always be processed or transformed for us as the manufacturer, without obligation for us however. We shall be entitled to co-ownership in the new thing in proportion to the value of the goods subject to reservation of title (invoice sum) to the new thing. In this case the Buyer shall keep the goods in safe custody for us free of charge.

3. As long as reservation of title exists, pledging or assignment of the goods by bill of sale as a security shall be prohibited. The Buyer shall be obliged to insure the goods subject to reservation of title against the normal risks.

4. The Buyer shall assign to us here and now, for the sake of security, and in full, all the rights

(including all balances of account in the open account payable) created by the resale or any other legal reason (insurance, illegal act) with regard to the goods subject to reservation of title. We authorise the Buyer on a revocable basis to collect the accounts payable assigned to us for our account and in his own name. This collection authorisation can only be revoked if the Buyer fails to fulfil his payment obligations properly. However, if the Buyer has filed an application for insolvency proceedings or has stopped making payments, we can demand that the Buyer declares the assigned accounts payable, tells us who the debtors are, and makes all the statements necessary for collection, hands over the pertinent documents to us and notifies the (third party) debtors of the assignment.

5. In the event of seizure by third parties on goods subject to our reservation of title, in particular pledges, the Buyer shall point out that we own the goods and notify us immediately so that we can enforce our ownership rights. In so far as the third party is unable to reimburse the court or out-of-court expenses incurred by us in connection with this, the Buyer shall be liable for them.

6. We shall undertake to release the securities to which we are entitled upon request provided that their value exceeds the value of the accounts to be secured, in so far as they have not been settled, by more than 20%.

§ 9 Industrial property rights and copyrights

1. If claims are asserted against the Buyer on account of a breach of an industrial property right or a copyright, because he is using our goods / service, we shall undertake to procure the right to allow the Buyer to continue using our goods / services. The precondition for this is that the Buyer notifies us straight away in writing of such third party claims and that we reserve the right to take any measures to avert such claims and out-of-court measures. Should, given these preconditions, it not be possible for the Buyer to continue using our goods / services at justifiable financial terms and conditions, it shall be regarded as agreed that we shall either modify the goods / services to eliminate the legal defect or replace the goods / services or take back the goods / service as we see fit and repay the purchase price paid to us minus a sum taking into account the age of the goods / services.

2. Claims against us shall be ruled out if infringements of rights are caused as a result of our goods / services being used in a manner not intended by us or together with goods / services other than our own. Moreover, the provisions of § 7 shall apply.

3. We shall not be liable for infringements of rights by goods / services which are rendered on the basis of the Buyer's design documentation or other specifications of the Buyer.

General Terms and Conditions of Sale and Delivery

§ 10 Maintenance of secrecy

Unless an express written agreement is made to the contrary, the information submitted by us in connection with orders shall not be regarded as being confidential.

§ 11 Applicable law, Place of jurisdiction

1. The laws of the Federal Republic of Germany shall govern these terms and conditions of business and all business relationships between us and the Buyer. The international law on sales shall be ruled out.

2. In so far as the Buyer is a businessman within the meaning of the (German) Commercial Code, a legal person or a special fund created under public-law, the court having jurisdiction for our principal place of business shall be the sole place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship, unless another place of jurisdiction is prescribed by (German) law on a compulsory basis.