



GENERAL TERMS AND CONDITIONS OF PURCHASE OF JENOPTIK

1. OFFER AND ACCEPTANCE

The entity/person ("Supplier") supplying/providing Products (defined below) to JO (as defined below) agrees to be bound by and to comply with all terms set forth in these General Terms and Conditions of Purchase of Jenoptik (the "T & Cs"). Each order and release, and any amendments or modifications thereto, for Products (an "Order") issued by a Jenoptik related company whose principal place of business is located in the U.S. ("JO") is governed by these T & Cs, any Order, the terms contained in any addendum or supplement to any Order issued by JO, and any other document incorporated by reference in any Order (collectively, the "Terms"). Any expression of acceptance by Supplier, including Supplier's commencement of work on the products and/or services subject to any Order (the "Products") or shipment/provision of the Products, whichever occurs first, constitutes acceptance of the Terms and Order. Acceptance is limited to and conditioned upon Supplier's acceptance of the Terms. Any proposal for additional or different terms or any attempt by Supplier to vary any of the Terms, whether in Supplier's quotation, invoice, or otherwise, is material and is hereby objected to and rejected by JO. Any reference in an Order to any prior offer or proposal of Supplier is solely to incorporate the descriptions or specifications of the Products in the Order, but only to the extent that such description or specifications are not directly in conflict with the Order. The Order contains the entire agreement between JO and Supplier and, except as otherwise expressly stated in the Terms, supersedes all prior agreements, quotations, proposals and other communications relating to the subject matter hereof and there are no other understandings or agreements, verbal or otherwise, in relation hereto that exist between JO and Supplier.

2. TIME PERIOD OF ORDER

If an expiration date or effective time period is specified in the Terms, the Order is binding until such expiration date or end of such time period, subject to the Terms ("JO's Termination Rights"). Notwithstanding any provision herein or in an Order to the contrary, JO may extend the term of any Order for such period of time as JO determines is necessary, acting in good faith, to orderly procure an alternate source of supply for the Products.

3. LABELING, PACKING, SHIPMENT AND VOLUMES

The Products are to be suitably prepared for shipment and labeled, packed and shipped in accordance with JO's specifications, as specified in any Order and/or in any written directions and/or instructions as may be provided by JO to Supplier. Supplier will not charge JO for labeling, packing, boxing or crating. Supplier will use shipping classification designations to obtain the lowest applicable shipping rates. All shipping documents must reference JO's Order number. TIME IS OF THE ESSENCE OF ANY ORDER. Supplier will deliver/provide the Products in the quantities and on the delivery dates specified in an Order and immediately notify JO in writing if Supplier is unable to deliver the Products in the quantities and on the delivery dates specified. Products delivered in excess of the quantities or in advance of delivery dates specified will be at Supplier's risk and may be returned to Supplier by JO, and all transportation charges both to and from the original destination will be paid by Supplier. Supplier will not make any commitments for raw materials or other inventory or manufacture any Products in advance of the time necessary to permit shipments on the delivery dates. JO may on notice to Supplier change the rate of

scheduled delivery or direct temporary suspension of scheduled delivery, in which cases the parties will then agree to an equitable adjustment in the delivery schedule. Any estimates or forecasts of volumes are subject to change from time to time, and are not binding. If Supplier fails or refuses to proceed with an accepted Order or fails to deliver the Products within the delivery dates specified, JO may, without limiting or affecting its other rights or remedies available hereunder or at law, cancel the then remaining balance of the Order, unless the delay is an excusable delay (as defined in this paragraph 5). In addition, JO may direct expedited shipment and/or incur premium freight or transportation costs, and Supplier will pay upon demand all excess costs incurred thereby. Supplier will be responsible for all other direct, consequential, and incidental damages incurred by JO as a result of Supplier's failure to meet the delivery dates or other breach of an Order, other than by reason of an excusable delay, including the cost of any line shutdown and the cost of obtaining Products from an alternate source. JO's actions in obtaining substitute or replacement products will not limit the rights and remedies available hereunder or at law. The term "excusable delay" means any delay in making or accepting deliveries or performance which results without fault or negligence on the part of the party involved and which is due to causes beyond its reasonable control, such as acts of God or of a public enemy, any preference, priority or allocation order issued by government or any other act of government, fires, floods, epidemics, quarantine restrictions, freight embargoes, explosions, riots, war, terrorism and delays of a supplier due to such causes. The term "excusable delay" will not, include any delay arising from: (i) Supplier's financial difficulties; (ii) a change in cost or availability of materials or components or supplier or subcontractor actions affecting Supplier; or (iii) any labor strike or other labor disruption. Supplier, at its expense, will use its best efforts to mitigate any adverse effects or costs to JO due to any actual or potential delay. Whenever any actual or potential delay threatens Supplier's performance, Supplier will immediately give written notice and include therein all relevant information with respect to such delay, including the anticipated duration and impact of such delay. JO may delay acceptance of delivery of the Products by reason of an excusable delay, in which case Supplier will hold the Products, at Supplier's cost, until the cause of the excusable delay has been removed. In the event of any supply allocation by Supplier, Supplier will, but not in contravention of any applicable law, give preference to JO for all of the Products ordered under an Order before completing orders for other customers, and will reimburse JO to cover purchases for any Products not shipped by Supplier and for all other costs and expenses incurred by the delay, if applicable. In addition to any other remedies available in any Order and under applicable law, if Supplier fails to timely deliver the Products as agreed, Supplier will pay to JO a fee of one-half (1/2%) percent of the total Order amount per day, unless the parties in a separate writing signed by the parties agree to a different daily fee. The maximum of such aggregate fee will not exceed five (5%) percent of the Products' price.

4. TRANSPORTATION CHARGES, CUSTOMS, DUTIES AND TAXES

All Products will be delivered by Supplier: (i) DAP (INCOTERMS® 2010) at the address specified in the Order, and (ii) JO will not be liable for any insurance, storage, parking or detention charges. Prices include customs, duties and expenses, tariffs and all federal, provincial, state and local taxes (including all import taxes, excise taxes and sales taxes) applicable to the manufacture, sale or provision of the Products. Upon request, Supplier will furnish to JO the documents and information needed for customs

drawback purposes. All customs drawback will be reserved and retained for, or credited to, JO. Export licenses or authorizations needed for the export of the Products will be the responsibility of Supplier, unless otherwise expressly stated in an Order, in which case Supplier will provide such information as may be needed to enable JO to obtain such licenses or authorizations. Supplier will arrange as necessary for the Products to be covered by any duty deferral or free trade zone programs of the country of import. To the extent Products covered by an Order are to be imported into the United States of America (the 'U.S.'), Supplier will, upon JO's request, comply with applicable recommendations or requirements of the U.S. Bureau of Customs and Border Protection's Customs-Trade Partnership Against Terrorism initiative or any successor or replacement initiative or program. To the extent that Products are to be imported into Canada, Supplier will, upon JO's request, participate in the Canada Border Services Agency's Partners in Protection program or any successor or replacement initiative or program. Upon request, Supplier will certify in writing its compliance with the foregoing. Upon request, Supplier will promptly furnish to JO all certificates of origin or domestic value-added and other information relating to the costs and places of origin of the Products and the materials contained therein or used in the performance thereof, as may be required by JO to comply with applicable customs, tariffs and other governmental regulations. Supplier will comply with all such regulations. Supplier will indemnify and hold JO, and its subsidiaries and affiliates, their respective successors, assigns, representatives, employees and agents, and JO's customer harmless from and against all liabilities, claims, losses, costs, damages and expenses of any nature or kind (including fines and penalties) arising from or as a result of any failure to comply with this paragraph.

5. PAYMENT

The price for the Products will be as provided in the Order. Supplier will issue an invoice to JO on or subsequent to delivery. Invoices will comply with the Order, and be accompanied by the bills of lading or transportation receipts. Any deviating invoice will be promptly corrected by Supplier. JO will pay in U.S. Dollars properly issued and completed net invoices (subject to applicable withholding taxes, if any) by forty-five (45) days, after JO's receipt of the invoice. In addition to any set-off or recoupment right provided by law, all amounts due to Supplier and its subsidiaries and affiliates will be considered net of indebtedness or obligations of Supplier and its subsidiaries and affiliates to JO and its subsidiaries and affiliates, and JO and its subsidiaries and affiliates may set-off against or recoup from any amounts due or to become due from Supplier and its subsidiaries and affiliates to JO and its subsidiaries and affiliates however and whenever arising. Supplier agrees the prices for the Products are, and will ensure, subject to applicable law, that such prices remain not less favorable to JO than the prices currently extended to any other customer of Supplier. If Supplier reduces the prices of such Products during the term of an Order, Supplier will, subject to applicable law, reduce the prices of the Products correspondingly. Supplier expressly assumes the risk of any event or cause (whether or not foreseen) affecting such prices, including any foreign exchange rate changes, increases in raw materials costs, and increases in other costs. Supplier will ensure that the Products remain competitive, in terms of price, technology and quality with substantially similar Products available to JO from other suppliers.

6. CHANGES

JO reserves the right to make changes, or to cause the Supplier to make changes to the quantities, destination(s), manufacture, design or delivery schedules, drawings, specifications, sub-suppliers, sub-contractors, and other provisions of any Order. If any such change results in an increase or a decrease in the cost of, or the time required for, manufacturing or delivering the Products or performing, an equitable adjustment may be made in the price (if, when and to the extent JO's customer reimburses JO for the increased price) or delivery schedule, or both, and any Order will, subject to the agreement of JO and Supplier, be modified in writing accordingly. No claim under this paragraph 12 will be asserted by Supplier after ten (10) business days following the notification of the change by JO. Neither a change nor the triggering of discussions/disagreement related to an equitable adjustment shall excuse Supplier from performing its obligations under an Order. Supplier will not, without JO's prior written authorization, make any changes to specifications, designs, materials or part numbers (or other types of identification), any major changes in processes or proce-

dures, or any changes in the location of the facilities used by Supplier for the performance of its obligations under any Order.

7. WARRANTIES REGARDING THE PRODUCTS

Supplier warrants the Products, and any special tools, dies, jigs, fixtures, patterns, machinery and equipment, that are obtained at JO's expense for the performance of an Order and/or are or become the property of JO (including JO's Property, as such term is defined in paragraph 13) will: (i) conform to all drawings, specifications, requirements, samples and other descriptions furnished, specified or adopted by JO; (ii) comply with all applicable laws, regulations, rules, codes and standards of the jurisdictions in which the Products, and the products containing the Products, are to be sold; (iii) be merchantable and comply with JO's quality requirements and procedures and with applicable industry standards; (iv) be free from any defects in design, to the extent furnished by Supplier or any of its subcontractors or suppliers, even if the design has been approved by JO; (v) be free from any defects in materials and workmanship; (vi) be fit, sufficient and suitable for the particular purpose for which JO intends to use the Products, including the specified performance in the component, system, and subsystem and the environment in which they are or may reasonably be expected to perform; (vii) be free of all liens, claims and encumbrances whatsoever; and (viii) any services provided will be performed in a good and workmanlike manner, with reasonable care and skill, and will at a minimum, conform to the standards of the industry that offers similar services. Supplier further warrants that the Products are manufactured entirely with new materials and none of the Products is, in whole or any part, governmental or commercial surplus or used, remanufactured, reconditioned or of such age or condition so as to impair its fitness, usefulness or safety. The warranties in this paragraph 7 are defined as the "Supplier's Warranties." The Supplier's Warranties are available to, and for the benefit of, JO, its subsidiaries and affiliates, their respective successors and assigns, JO's customer and users of the Products. The warranty period will be that provided by applicable law, except that if JO is obligated to provide a longer warranty period to the customer, such longer period will apply. The Supplier's Warranties will be in addition to all other warranties available under applicable law. Supplier will indemnify and hold JO and its customer, and their respective representatives, employees, agents, customers, invitees, subsidiaries, affiliates, successors and assigns, harmless from and against all liabilities, claims, demands, losses, costs, damages and expenses of any nature or kind (including consequential and special damages, personal injury, property damages, lost profits, or other customer field service action costs, production interruption costs, inspection, handling and reworking charges, professional and other actual attorney and legal fees, and other costs associated with JO's administrative time, labor and materials) arising from or as a result of: (i) any breach of the Supplier's Warranties; and (ii) any other acts, breaches, omissions or negligence of Supplier or of any of its subcontractors or suppliers in connection with Supplier's performance of its obligations under any Order. JO's defense of any claim will not limit JO's right to seek indemnity from Supplier or assert a claim against Supplier that Supplier has breached the Supplier's Warranties or otherwise failed to meet the legal and contractual requirements of an Order. During the time period any Order remains in effect, Supplier warrants that it will not supply the Products directly to JO's customer for which JO intends to incorporate the Products without JO's prior written consent. If a Product fails to meet the Supplier's Warranties, Supplier will, upon notice thereof from JO, promptly repair, replace or otherwise satisfactorily deal with the same in a manner acceptable to JO, all at Supplier's expense and without limiting or affecting JO's other rights or remedies available hereunder or at law. The Supplier's Warranties will also apply to such repaired, replaced or otherwise satisfactorily dealt with Products. If Supplier fails to repair, replace or otherwise deal with a defective or non-conforming Product, JO may, without limiting or affecting JO's other rights or remedies available hereunder or at law, cancel the affected Order as to the particular Product and/or cancel the then remaining balance of the Order. After notice to Supplier, all defective or non-conforming Products will be held at Supplier's risk and at Supplier's cost. JO may, and at Supplier's direction return such defective or non-conforming Products to Supplier at Supplier's risk and at Supplier's cost. Supplier is responsible for, and will promptly pay, upon JO's demand, all of JO's incidental and consequential damages, costs and expenses resulting from such defective or non-conforming Products including all sorting, extra labor, packaging and transportation and other applicable charges, both to and from the original destination. Any pay-

ment made by JO for defective or non-conforming Products will be refunded by Supplier, except to the extent that Supplier promptly replaces or corrects the same at Supplier's expense.

8. INSPECTION AND QUALITY CONTROL

JO has the right to inspect the Products, both prior to and after making payment therefor. JO may choose not to perform incoming inspections of the Products, without prejudice to any rights or remedies available to JO hereunder or at law, and Supplier waives any rights to require JO to conduct such inspections. JO also has the right to inspect or test all materials and workmanship utilized by Supplier in the performance of an Order, and Supplier will permit such inspection or testing by JO and/or its customer to the extent practicable, including during the period of manufacture. Inspection and approval does not preclude rejection or other relief for any defects subsequently discovered. JO's payment for and/or acceptance of the Products will not relieve Supplier from any of its obligations and/or Supplier's Warranties. Subject to JO's rights respecting JO's title to the Products upon payment therefor, in no event will payment for the Products be deemed to constitute acceptance by or on behalf of JO for any other purposes hereunder or at law. Supplier will conform to the quality control standards and inspection systems, as well as related standards, policies and systems that are established or required by JO and, to the extent directed by JO and its customer. JO reserves title to any tools, molds, parts and other items supplied to the Supplier by JO and the Supplier will use them exclusively for the manufacture of the Products. The Supplier will insure, at its own expense, the tools and other items belonging to JO against usual risks at replacement value and hereby assigns to JO all claims for compensation under such insurance coverage. The Supplier will be obliged to timely carry out, at its own expense, any necessary maintenance and inspection and also all servicing and repair of the tools and other items of JO. The Supplier will notify JO immediately of any malfunctions or damage to any molds or other items.

9. INTELLECTUAL PROPERTY

- (a) Supplier will indemnify and hold JO, its subsidiaries and affiliates, their respective successors and assigns, JO's customer and users of the Products or products containing the Products, harmless from and against all liabilities, demands, claims, losses, costs, damages and expenses of any nature or kind (including court costs and actual attorney, legal and other professional fees) arising from or as a result of the infringement or alleged infringement of any patent, trademark, copyright, industrial design or process of manufacture for or on account of the manufacture, sale or use of the Products, or of the products containing the Products. JO will notify Supplier of any suit or claim of any such infringement or alleged infringement and, at Supplier's request, will give Supplier control of the defense of such suit, insofar as JO has the authority to do so, and reasonable information and assistance in connection therewith, at Supplier's expense. JO and other indemnified parties will have the right to be represented by their own counsel and actively participate in any such suit, and the reasonable costs of such representation will be paid by Supplier on demand.
- (b) In the event of a Triggering Event (as defined below), Supplier hereby grants immediately upon the occurrence of such Triggering Event to JO, its subsidiaries and affiliates, and their respective successors and assigns, an unlimited, royalty free, fully paid up, non-exclusive, perpetual, irrevocable, worldwide license, including the right to sublicense to others any patents, industrial designs, technical information, know-how, processes of manufacture and other intellectual property, owned or controlled by Supplier or its affiliates incorporated into or used to develop or produce the Products, and relating to the Products, to repair, reconstruct, make, have made, rebuild, relocate, develop, manufacture, produce, use, sell, market, lease, operate, and incorporate into other goods, the Products, and (ii) any works of authorship fixed in any tangible medium of expression (including drawings, prints, manuals and specifications) produced or furnished by Supplier in the course of Supplier's activity under any Order, to reproduce, distribute and display such works and to prepare derivative works based thereon, subject to the other provisions of any Order (all items in clauses (i) and (ii) above, collectively, "Supplier's Intellectual Property", and such license in respect thereof). The foregoing license

is intended to be subject to 11 USC Section 365(n), as an executory agreement under which JO has license rights to Supplier's Intellectual Property, and is supplementary to any other rights of JO under this Order and any other agreement with Supplier.

- (c) Supplier hereby grants to JO, its subsidiaries and affiliates, and their respective successors and assigns, an unlimited, royalty free, fully paid up, non-exclusive, perpetual, irrevocable, worldwide license, including the right to sublicense to others, in connection with providing the Products to JO or its customer, under Supplier's Intellectual Property, to repair, maintain, reconstruct, rebuild, relocate, use, sell, market, export and import the Products supplied by Supplier pursuant to any Order. The foregoing license is intended to be subject to 11 USC Section 365(n), as an executory agreement under which JO has license rights to Supplier's Intellectual Property, and is supplementary to any other rights of JO under this Order and any other agreement with Supplier.
- (d) To the extent Supplier creates or develops any patents, industrial designs, technical information, know-how, processes of manufacture or other intellectual property in the performance of Supplier's obligations under any Order, JO will jointly own such intellectual property with Supplier and Supplier will: (i) take all action necessary to assign to JO such joint ownership in the invention, discovery or improvement that is conceived or first reduced to practice by Supplier, or by any person employed by or working under the direction of Supplier, in the performance of Supplier's obligations under an Order; and (ii) promptly disclose in an acceptable form to JO all such inventions, discoveries or improvements and cause Supplier's employees to sign any papers necessary to enable JO to obtain joint ownership to and to file applications for patents throughout the world. To the extent that any works of authorship (including, without limitation, software and computer programs) are created in the performance of Supplier's obligations under any Order, such works will be considered "works made for hire", and to the extent that such works do not qualify as "works made for hire", Supplier hereby assigns to JO all joint ownership in all copyrights and moral rights therein.
- (e) Supplier will not manufacture or provide, or offer to manufacture or provide, any Products using JO's intellectual property and/or the drawings or specifications of the Products, or any derivative thereof, whether for its own purposes (other than to satisfy its obligations under any Order), for JO's customer or any other third parties, without JO's prior written consent. The foregoing restriction will not apply for "off-the-shelf" or "catalogue" Products that have been routinely manufactured or provided by Supplier and developed by Supplier, in each case prior to any Order and independently of its relationship with JO. If software is required to use or test the Products, Supplier will provide to JO an unlimited, royalty free, fully paid-up, non-exclusive, perpetual, irrevocable, transferable, world-wide license to use and test such software (including the latest version of the source code) and all upgrades or updates thereto to JO. Supplier will deliver upgrades or updates to the Software as necessary to meet JO's requirements, as soon as practicable following JO's request. If any Software is provided by Supplier, Supplier will, prior to delivery, identify any open source software or third party software used, incorporated, combined, or distributed in such software to JO. Supplier will not deliver any open source software to JO without JO's prior written authorization. Supplier will enable JO to review the processes used by Supplier to detect and provide accurate disclosure of open source software in Products prior to delivery. Supplier will identify prior to delivery any third-party technology incorporated into the Products including the details of the manufacturer or licensor, and the applicable version of such technology.

10. CONFIDENTIALITY AND NON-DISCLOSURE

Supplier will treat all Information (as defined in this paragraph) as confidential and not disclose any Information to any other person, or use any Information itself for any purpose other than pursuant to and as required by an Order, without JO's prior written consent. JO retains all rights with respect to the Information, and Supplier will not acquire, nor attempt to obtain, any patent, trademark, copyright, license or other rights in the

Information. Supplier will not allow any Information to be reproduced, communicated or in any way used, in whole or in part, in connection with products or services furnished to others, without JO's prior written consent. "Information" means all drawings, reproductions, specifications, designs, engineering instructions, photographs, reproducible copy, parts lists, plans, reports, working papers, computations and other information furnished by JO and will include all terms and conditions and any other information relating to, or contained in, any Order. Supplier will not advertise or otherwise disclose the fact that JO has contracted to purchase the Products from Supplier, without JO's prior written consent. Commercial, financial, and technical information furnished or disclosed in any manner or at any time by Supplier to JO will not be deemed to be secret or confidential, and Supplier will have no rights against JO, its affiliated or related companies, or JO's customer with respect to any use or disclosure of such information.

11. COMPLIANCE WITH LAWS

Supplier's performance under any Order will be in compliance with JO's Code of Conduct for Jenoptik-Suppliers, a copy of which is attached as an Annex below or can be reviewed at JO's website, and all applicable federal, provincial, state and local laws, ordinances, rules, codes, standards and regulations, including, but not limited to, the U.S. Foreign Corrupt Practices Act, the Arms Export Control Act, the International Traffic in Arms Regulations, the Export Administration Act and the Export Administration Regulations, or their equivalent, including the requirement for obtaining any export license or agreement, if applicable (collectively, "Laws"). Supplier will furnish JO with certificates of compliance, where required under such applicable Laws or when requested by JO. Supplier will package, label and transport the Products and their containers, in particular those which constitute a health, poison, fire, explosion, environmental, transportation or other hazard, in compliance with all applicable Laws in effect in the place to which the Products are shipped or as otherwise specified by JO. Upon request, Supplier will furnish JO with information regarding the ingredients of the Products. Supplier will indemnify and hold JO, its subsidiaries and affiliates, their respective successors, assigns, representatives, directors, officers, employees and agents, and JO's customer harmless from and against all liabilities, claims, demands, losses, costs, damages and expenses of any kind and nature (including personal injury, property damage, consequential and special damages, and court costs and actual attorney, legal and other professional fees) arising from or as a result of Supplier's failure to comply with this paragraph.

12. SUPPLIER'S ENTRY UPON PREMISES AND INSURANCE

If Supplier or any of its representatives, employees, agents, subcontractors or suppliers (collectively, "Supplier Parties") enter upon the premises owned or controlled by JO or its subsidiaries or affiliates (the "JO's Premises") or upon JO's customer's premises, in each case in connection with Supplier's performance of its obligations under any Order, Supplier will: (i) indemnify and hold JO and its customer, and their respective representatives, directors, officers, employees, agents, customers, invitees, subsidiaries, affiliates, successors and assigns, harmless from and against all liabilities, demands, claims, losses, costs, damages and expenses of any kind or nature (including actual attorney, legal and other professional fees) by reason or on account of property damage, death and/or personal injury, arising from or as a result of Supplier's and its subcontractor's and sub-supplier's performance of its obligations under or pursuant to any Order, which is or are occasioned by Supplier Parties' actions, omissions or negligence; and (ii) ensure that Supplier Parties are in compliance with all requirements of any workers' compensation legislation of the jurisdictions in which the JO's Premises or its customer's premises are located. Supplier will maintain: (i) property and general liability insurance, including public liability, property damage liability, product liability and contractual liability coverages; and (ii) workers' compensation and employers' liability insurance covering all employees engaged in the performance of any Order; in each case in such amounts and with such limits (subject to this paragraph) and with such insurers that are reasonably acceptable to JO. Supplier will furnish JO with certificates or other satisfactory proof of insurance confirming the foregoing insurance coverages within ten (10) days of JO's request. The receipt or review of such certificates or other proof of insurance coverage by JO will not relieve Supplier from its insurance obligations hereunder.

13. TERMINATION FOR CONVENIENCE UPON NOTICE

In addition to any other rights of JO to terminate any Order, JO may, in its discretion at any time, upon written notice to Supplier, terminate any Order for convenience or any other reason, in whole or in part notwithstanding the existence of any alleged excusable delay or other events or circumstances affecting Supplier. JO's notice to Supplier may be given by facsimile, e-mail or other form of electronic transmission, and may state the extent and effective date of termination. Supplier may not terminate any Order for convenience or any other reason, except as otherwise expressly provided in any Order. Upon receipt of notice of termination from JO, Supplier will, to the extent directed by JO or its representatives: (i) immediately stop work under any Order and any other orders related to work terminated by such notice; and (ii) protect all property in Supplier's possession or control in which JO has or may acquire an interest, including JO's property (collectively, the "Property"). Supplier will promptly submit to JO any claims relating to such termination, and in any event within twenty one (21) days (unless JO agrees otherwise) from the effective date of such termination. Supplier hereby grants JO the right to audit and inspect its books, records and other documents relating to any termination claims. JO will, in addition to making payment of the price specified in an Order for the Products delivered or performed and accepted by JO prior to the effective date of termination, pay to Supplier the following amounts, without duplication: (i) the price specified in the Order for the Products manufactured or provided in accordance with the terms of the Order but not previously paid for; and (ii) the actual costs of work-in-process and parts and raw materials incurred by Supplier in performing its obligations under the Order, to the extent such costs are reasonable in amount and are properly allocated or apportioned under generally accepted accounting principles to the terminated portion of the Order. JO will not be obligated to make any payment for: (x) the Products, or work-in-process or parts or raw materials inventory that are manufactured, provided or procured by Supplier in amounts in excess of those authorized in any Release or Order, that are damaged or destroyed or that are not merchantable or useable (However, under no circumstances will JO be responsible for more than four weeks of raw materials and two weeks of undelivered Products); (y) any undelivered Products that are in Supplier's standard stock or that are readily marketable; or (z) work-in-process or parts or raw materials inventory that can be returned to Supplier's suppliers or subcontractors for credit. Payments made in connection with a termination of the Order under this paragraph will not exceed the aggregate price for the Products that would be manufactured or provided by Supplier under any Release or Order outstanding at the effective date of termination. Except as provided in this paragraph, JO will not be liable for and will not be required to make payments to Supplier, directly or indirectly (whether on account of claims by Supplier's subcontractors or otherwise), for any loss arising from or attributable to failure to realize anticipated revenue, profit, unabsorbed overhead, unamortized equipment or tooling costs, extra labor charges, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation cost or general and administrative burden charges. In the event of a termination of any Order by JO as a result of JO ceasing to be a supplier to its customer in respect of which JO issued the Order, JO will only be obligated to compensate Supplier for any costs under this paragraph if, when and to the extent JO's customer reimburses JO for such costs. Subject only to paragraph 9, Supplier may, with JO's prior written consent, retain or sell at an agreed price any of the Products, work in process or raw materials inventory, the cost of which is allocated or apportioned to the Order under this clause, and will credit or pay the amounts so agreed or received as JO directs, with an appropriate adjustment for any delivery cost savings.

14. TERMINATION UPON SUPPLIER'S DEFAULT OR CHANGE OF CONTROL

JO may terminate any Order, in whole or in part, for default occasioned by Supplier's: (i) breach of any Order including these T & Cs; or (ii) failure to make progress so as to endanger timely and proper delivery of the Products and, in each such case, Supplier does not correct such breach or failure within ten (10) days (or such shorter period of time as JO may determine, if commercially reasonable under the circumstances) after receipt of written notice from JO specifying such breach or failure (collectively, a "Breach"). Supplier will be liable for all costs, damages and expenses caused by or resulting from its default under any Order including loss of profits. JO may terminate any Order, in whole or in part, in the event of a

change of control of Supplier. A "change of control" includes: (i) any sale, lease or exchange of a substantial portion of Supplier's assets used in connection with Supplier's performance of its obligations under any Order; (ii) any sale or exchange of a sufficient number of shares of Supplier, or of any affiliate that controls Supplier, to effect a change in management of Supplier; or (iii) the execution of a voting or other agreement of control in respect of Supplier, or of any affiliate that controls Supplier. Supplier will notify JO in writing within ten (10) days of any change of control of Supplier, and JO may terminate any Order by giving written notice to Supplier at any time up to sixty (60) days after JO's receipt of Supplier's notice of change of control. Any termination under this paragraph will be without liability to JO, except for the Products delivered by Supplier and accepted by JO.

15. TERMINATION UPON INSOLVENCY, BANKRUPTCY, OR LIQUIDATION

Either party may terminate any Order, without liability to the other party: (i) in the event of the insolvency, bankruptcy, reorganization, receivership or liquidation by or against the other party; (ii) in the event that the other party makes an assignment for the benefit of its creditors or ceases to carry on business in the ordinary course; or (iii) if a receiver is appointed in respect of the other party or all or part of its property (collectively, an "Insolvency Event" and together with a Breach, a "Triggering Event"). In the event of such termination, the other party will be liable for all costs, damages and expenses suffered by the party that terminates any Order. Any such termination will not affect the entitlement of JO to JO's Property. In the event that JO does not terminate any Order upon the occurrence of an event in this paragraph in respect of Supplier, JO may make such equitable adjustments in the price and/or delivery requirements under any Order as JO deems appropriate to address the change in Supplier's circumstances, including Supplier's on-going liability to perform its obligations regarding warranty, defective Products or other requirements under any Order.

16. TRANSITION OF SUPPLY

In connection with JO's termination or non-renewal of any Order, or JO's other decision to source the Products to any alternate supplier(s), Supplier will cooperate with JO in the transition of supply of the Products, including that Supplier will continue production and delivery of all Products as ordered by JO, at the prices and other terms stated in any Order, without premium or other condition, during the entire period reasonably needed by JO to complete the transition to the alternate supplier(s), such that Supplier's action or inaction causes no interruption in JO's ability to obtain the Products as needed at no additional cost. If the transition of supply occurs for reasons other than JO's termination of any Order pursuant to a default or other non-conformance of an Order or these Terms by Supplier, JO will, at the end of the transition period, pay the reasonable, actual cost of transition support as requested by JO and incurred by Supplier, provided that JO has approved Supplier's estimate of such costs prior to Supplier incurring such amounts.

17. SERVICE AND REPLACEMENT PARTS

Except as otherwise expressly agreed in writing, prior to and for fifteen (15) years after Order expiration, cancellation or termination, Supplier will supply JO's written "service parts" Orders for the same Products, component parts and materials, at the prices set forth in any Order plus any actual cost differential for special packaging. Supplier will sell each component or part at a price that does not, in the aggregate, exceed the system or module price specified in any Order, less assembly costs, plus any actual cost differential for packaging. Supplier's obligation with respect to service or replacement parts will survive the termination or expiration of any Order. At JO's request, Supplier will make service literature and other materials available at no additional charge to support JO's service part sales activities.

18. RIGHT TO AUDIT AND FINANCIAL REVIEW

JO and to JO's authorized agents and representatives will, where pricing of Products is based upon a cost-plus approach, or an equitable adjustment has been triggered, have access to all pertinent information, including books, records, receipts, and other documents, for the purpose of auditing Supplier's charges under any Order, during the term of any Order

and for an additional two (2) years thereafter. Supplier will preserve such information for such period (or longer, if required by applicable law). In addition, all work, materials, inventories and other items provided for under any Order will be accessible to JO and to its agents and representatives, including parts, tools, and models. Supplier will cooperate with JO so as to facilitate any such audit. If such audit shows any price discrepancy or Supplier's non-compliance, Supplier will reimburse JO for such discrepancy or other loss or damages caused by its non-compliance with any Order, plus the cost of such audit. JO may review the financial condition of Supplier, and Supplier will fully cooperate in such review. JO will use such information only for purposes of such financial review, except as otherwise needed to enforce any Order.

19. AUTHORIZED PURCHASER'S WEBSITE

In the event of any inconsistency between any Order, and JO's Website, the terms of any Order will prevail, unless the requirements specified on JO's Website expressly provide otherwise. JO may modify these T & Cs from time to time by posting revised T & Cs to JO's Website. Such revised T & Cs will apply to all Orders and Order revisions issued on or after the effective date thereof and Supplier agrees it will review JO's Website periodically.

20. SUB-CONTRACTS/ASSIGNMENT

Supplier will ensure that the terms of its contracts with its sub-suppliers and sub-contractors provide JO and its customer with all of the rights specified in any Order including these T & Cs. Supplier will not assign any Order or any portion hereof or work hereunder or any interest herein, except that Supplier may, with JO's prior written consent, make an assignment of monies due or which may become due hereunder to a bank or other financing institution; provided that any such assignment by Supplier will be subject to set-off, deduction, recoupment or any other lawful means of enforcing any present or future claims that JO may have against Supplier, and provided further that any such assignment will not be made to more than a single assignee. JO will have the right to assign any Order or its interest herein, without Supplier's consent, to any of its affiliates or to any purchaser or successor to JO's business.

21. REMEDIES

If Supplier fails to perform any of its obligations under an Order, JO and its agents may, without limiting or affecting its other rights and remedies available hereunder or at law, but will not be obligated to, perform such obligations without waiving or releasing Supplier from such obligations. Where applicable, JO and its agents will be entitled to enter upon Supplier's premises to perform, or to remove the tooling and all materials necessary to perform, such obligations. All costs, damages and expenses incurred directly or indirectly by JO in connection with the foregoing, including actual attorney, legal and other professional fees and JO's administrative time, labor and materials, will be paid by Supplier to JO on demand or, at JO's sole option, may be set off against and deducted from any amounts then owing by JO to Supplier. The remedies reserved in any Order will be cumulative and not alternative and may be exercised separately or together, in any order or combination, and are in addition to any other remedies provided for or allowed by law, at equity or otherwise. Any failure of Supplier to deliver the Products on the delivery dates and times as specified in any Order will cause irreparable harm to JO and JO will be entitled to equitable relief, including injunction, in such event. Any proceeding or action initiated by Supplier for breach of contract or any other act or omission (including tort) arising from or in any way related to any Order must be commenced within one (1) year from the date the breach, act or omission giving rise to Supplier's claim occurs, regardless of Supplier's knowledge of such breach, act or omission or of its consequences AND JO'S LIABILITY RELATED IN ANY WAY TO THE PRODUCTS AND/OR AN ORDER WILL NOT EXCEED, UNDER ANY THEORY OR CLAIM, THE PRICE OF THE PRODUCTS AT ISSUE IN THE CLAIM. Furthermore, under no circumstances will JO BE LIABLE TO SUPPLIER FOR ANY INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF REVENUE OR PROFITS), UNABSORBED OVERHEAD, EXTRA LABOR CHARGES, UNAMORTIZED EQUIPMENT OR TOOLING COSTS, INTEREST ON CLAIMS, PRODUCT DEVELOPMENT AND ENGINEERING COSTS, FACILITIES AND EQUIPMENT REARRANGEMENT COSTS OR RENTAL, UNAMORTIZED DEPRECIATION COST OR GENERAL AND ADMINISTRATIVE BURDEN CHARGES. In any suit

against JO, Supplier's sole remedy are the recoverable costs identified in paragraph 13 (i) – (ii). Supplier affirmatively waives any lien, whether based in statute or common law, which Supplier might otherwise have on any Products or JO's Property for work done thereon, therewith or otherwise.

22. GOVERNING LAW AND JURISDICTION

The Order will be interpreted and enforced in accordance with the local laws of the State of New York, exclusive of the choice of law rules thereof. The United Nations Convention on Contracts for the International Sale of Goods will not apply to any Order including these T & Cs. Any litigation or contractual claims arising from any Order, if the dispute is not promptly resolved through negotiations by the parties, will be brought by arbitration under the Rules of the American Arbitration Association ("AAA"), will take place in Chicago, Illinois and such decision will be enforceable by a court order in accordance with the provisions of the Federal Arbitration Act. Any civil action to enforce this arbitration clause may be brought in any court located in Cook County, Illinois including the United States District Court for the Northern District of Illinois, and each party consents to and waives any challenge to the personal jurisdiction of that court. The arbitration will be conducted by one arbitrator, as selected by the procedure established by the AAA rules. The parties agree that they will not be entitled to conduct and hereby waive their right to discovery from the other party other than issuing reasonable requests for documents from the other party, with the party requesting said documentation to pay for the other party's costs, including administrative and reasonable attorneys' fees incurred to locate and produce those documents. Any award or decision rendered in such arbitration will be final and binding on both parties, and judgment may be entered thereon in any court of competent jurisdiction if necessary. Notwithstanding the foregoing, JO may seek injunctive relief against Supplier from any court of proper jurisdiction with respect to any and all preliminary injunctive or restraining procedures pertaining to any Order or the breach hereof or thereof. The parties agree that although the terms of the Order are to be governed by New York law, this arbitration agreement, and whether it is enforceable, is to be governed and determined by the federal law of the U.S., particularly the Federal Arbitration Act, 9 U.S.C. § 1 et seq., and related jurisprudence. Any cost of the arbitration proceeding (including the incurred reasonable attorneys' fees) will be borne by the losing party.

[ANNEX](#): Code of Conduct for Suppliers to the Jenoptik Group

23. MISCELLANEOUS

Either party's failure to insist on the performance by the other party of any obligation or failure to exercise any right or remedy reserved in any Order, or either party's waiver of any breach or default hereunder by the other party will not, thereafter, waive any other terms, conditions, rights, remedies, breaches or defaults, whether of the same or a similar type or not. No modification of any Order, including any waiver of or addition to any obligation, will be binding upon JO, unless made in writing and signed by JO's authorized representative. Supplier and JO are independent contracting parties and nothing in any Order will make either party the agent or legal representative of the other for any purpose whatsoever, nor does any Order grant either party any authority to assume or to create any obligation on behalf of or in the name of the other. None of the persons engaged by Supplier in the performance of its obligations under any Order will be considered as employees of JO. If any part or provision of any Order is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such provision will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining parts or provisions of any Order will remain in full force and effect. Except as otherwise expressly stated in any Order, any notice given or other communication sent under any Order will be in writing and will be properly delivered to its addressee by hand, prepaid courier, registered mail, e-mail (receipt confirmed) or facsimile (receipt confirmed) at the applicable address noted on the applicable Order. Any notice or communication given as provided herein will be deemed to have been received at the time of its delivery if delivered by hand, on the business day following its dispatch if transmitted by courier, e-mail or facsimile or on the third business day following its mailing if transmitted by registered mail. Either party may notify the other party, in the manner provided for herein, of any change of address, for the purpose of giving notices or sending communications under any Order. Supplier's failure to provide any notice, claim or other communication to JO in the manner and within the time periods specified in any Order will constitute a waiver by Supplier of any and all rights and remedies that otherwise would have been available to Supplier upon making such notice, claim or other communication. The obligations of Supplier to JO will survive termination of this Order, except as otherwise expressly stated in any Order.