



MORE LIGHT

# Jenoptik

## General Terms and Conditions of Sale

### Section A

#### 1. General provisions

1.1. These General Terms and Conditions of Sale (GTCS) shall apply to all our deliveries, services and offers, as well as future transactions between the contracting parties, without requiring additional notification thereof. Contrary or divergent terms of the purchaser are not recognised by us. We hereby contradict the purchaser's general terms and conditions. Our GTCS shall also apply even if we unreservedly fulfil our contractual obligations in the knowledge of contrary terms of the purchaser.

1.2. Any changes to these GTCS including this provision require our consent in text or written form.

1.3. The present terms shall apply mutatis mutandis to contracts for work (Werkverträge), contracts for work and materials (Werklieferungsverträge) and mixed contracts. The term "purchaser" is to be understood in this sense as "customer" or "client."

1.4. These GTCS shall only apply if the purchaser is an entrepreneur, a legal person under public law or a special fund under public law. The same applies to purchasers engaging in business activities abroad that are comparable to those of a domestic entrepreneur and to foreign institutions comparable to domestic legal persons under public law or a domestic fund under public law. An entrepreneur is a natural or a legal person or a partnership having legal capacity and acting, when concluding a legal transaction, in the performance of its business or self-employed vocational activity.

These GTCS shall apply from 1 November 2022.

#### 2. Conclusion of the contract

2.1. All agreements between us and the purchaser relating to the contract and its execution must be made in written form (§ 126 BGB).

2.2. Our offers and any drawings, images, measurements, weights and other performance data contained therein are subject to confirmation and non-binding unless expressly marked as being binding or specifying a certain period for acceptance. For prices quoted in offers expressly marked as being binding, we consider ourselves committed to them for four weeks starting from the date of the offer unless the offer specifies a different period for acceptance.

2.3. If the purchaser's order is an offer within the meaning of section 145 German Civil Code (BGB) we are free to accept it within two weeks of its receipt unless the purchaser has specified a different period for acceptance.

A contract shall not be deemed to come into being until confirmed by way of an order confirmation in writing. If there is no such confirmation in an individual case or if a contract comes into being without it, our offer shall be authoritative in determining the substance of such contract. Where the purchaser and the seller have jointly signed a document on a delivery and if such document contains all terms of contract, such document shall be equivalent to an order confirmation in writing.

2.4. If an export licence is required for the execution of the contract, the conclusion of the contract is subject to the condition precedent of the export licence being granted.

#### 3. Subject matter of contract

3.1. We shall supply the hardware identified in the order confirmation and – to the extent agreed – software conforming to the specifications set forth in the order confirmation.

3.2. Our hardware and software is delivered complete with the documentation provided for and made available by us or the manufacturer (manuals).

3.3. The allocation and application of the hardware and software supplied by us shall be the purchaser's responsibility. Pertinent counselling is provided only if specifically agreed.

3.4. Installation, configuration and briefing do not form part of our duties except where expressly agreed.

#### 4. Payment terms

4.1. The prices stated in the order confirmation shall be deemed

agreed. Unless otherwise agreed, prices are in EURO, "ex works", excluding packaging. Packaging and other additional or special services shall be charged separately.

4.2. Unless otherwise agreed, the prices are initially stated excluding the statutory VAT. Any VAT will not be indicated until the day of invoicing, when it will be stated separately on the invoice. In the case of export deliveries, this also applies to customs duties and other public charges.

4.3. Unless stated otherwise in the order confirmation, the purchase price is due for payment without deduction within 30 days of the invoice date. Once the payment deadline has passed, the purchaser will be in arrears. The purchaser is then obliged, without further warning, to pay default interest of 9 percentage points above the base interest rate. We may grant the purchaser a reasonable grace period and once this has passed to no avail, either declare our withdrawal from the contract in writing or in text form and demand compensation or continue to request payment of the purchase price.

4.4. If, after the conclusion of the contract, circumstances become known to us that substantially reduce the creditworthiness of the purchaser and that jeopardise the payment of our outstanding receivable from the relevant contractual relationship, we are entitled to provide outstanding performances only against advanced payment or to demand additional security. Moreover, we may in that case and in particular in case of default on due payments declare immediate maturity of the entire residual debt.

4.5. Contrary to the purchaser's repayment arrangements, any payments made may first be credited against older debts. We will inform the purchaser immediately of the specific way in which the offsetting was carried out.

4.6. The purchaser may only declare offsetting where its counter claims are undisputed, acknowledged by us in writing or in text form, or have been legally established. The purchaser may only exercise a right of retention insofar as the counter claim, which is undisputed, recognised by us in writing or in text form, or has been legally established, is based on the same contractual relationship.

#### 5. Terms of performance

5.1. If a delivery does not cross any borders, i.e. it is domestic, it will be delivered ex works to our address stated on the order confirmation. Cross-border deliveries shall be made FCA (Free Carrier) to our address stated on the order confirmation in accordance with INCOTERMS 2020, unless otherwise agreed. Upon delivery, the risk passes to the purchaser; this also applies in case of partial delivery.

5.2. If the delivery is delayed due to circumstances for which the purchaser is responsible, the risk shall pass to the purchaser from the day on which we have notified the purchaser of our readiness to deliver, provided that the delivery item is ready for delivery on this day.

5.3. The dates and time limits of delivery anticipated by us are always tentative except where a fixed time limit or deadline has expressly been promised or agreed. Compliance with a fixed delivery date or a fixed delivery time presupposes that the purchaser fulfils its obligation to cooperate. This means, among other things, participates in the full clarification of the technical details of the order, submits the agreed scope of paperwork and documents to us on time and makes punctual down payments and punctually furnishes payment security.

5.4. We only assume a no-fault procurement risk by virtue of a separate agreement using the words "we assume the procurement risk..."

5.5. We are entitled to make partial deliveries and partial performances if

- partial delivery or partial performance is usable for the purchaser,
- the remaining delivery and remaining performances is ensured, and
- the partial delivery or partial performance causes no significant additional work or costs for the purchaser, unless we agree to bear these costs.



**MORE LIGHT**

## **Jenoptik**

# **General Terms and Conditions of Sale**

5.6. Unless differently provided for by the order confirmation, the place of performance of our services and the purchaser's payment obligation is our business address.

5.7. Where formal acceptance is required, our delivery or performance shall be deemed to have been formally accepted if and when -

- delivery or performance, where appropriate with installation, has been completed;
- the seller has accordingly advised the purchaser while drawing its attention to the implied form of acceptance provided for above and has requested the purchaser to accept the delivery or performance;
- twelve days have passed since delivery or installation or, alternatively, the purchaser has begun to use the delivery or performance result and six business days have in that case elapsed since delivery or installation, and
- the purchaser has neglected to declare acceptance within that period for any reason except where the use of the purchased object is rendered impossible or substantially impaired by a defect communicated to the seller.

## **6. Warranty**

### **6.1. Freedom from material defects**

6.1.1. Our deliveries and services are free of material defects if they correspond to the agreed quality (Beschaffenheit) at the time of transfer of risk.

6.1.2. The agreed quality results exclusively from the specification stated in the offer or the order confirmation, if and insofar as the purchaser has not accepted a sample of our deliveries and services. If the specification in the order confirmation differs from the offer, the order confirmation shall prevail.

6.1.3. If the acceptance of a sample has been agreed, the agreed quality results exclusively from the sample accepted by the purchaser. Until the purchaser accepts the sample and in the event that the purchaser does not accept the sample, the agreed quality results from the specification stated in the offer or the order confirmation. If the specification in the order confirmation differs from the offer, the order confirmation shall prevail.

6.1.4. The functionality, interoperability, compatibility and durability of our deliveries and services are only part of the agreed quality insofar as this is expressly agreed in writing or in text form.

6.1.5. If a quality has not been agreed, our deliveries and services shall be free of material defects if they are suitable for the contractually intended use.

6.1.6. Insofar as assembly instructions are part of our deliveries and services, we shall only assume warranty for defects in the instructions insofar as these have led to improper assembly.

6.1.7. There are no further requirements for freedom from material defects beyond those specified in section 6.1.1 to section 6.1.6.

6.1.8. Statements made in the offer or the order confirmation do not constitute any guarantee of quality within the meaning of section 443 of the German Civil Code (BGB) unless specifically agreed otherwise.

### **6.2. Duty of inspection and notification**

Our deliveries and performances shall carefully be inspected immediately following delivery or performance. The purchaser must inform the seller immediately of material and / or legal defects in writing or in text form. If the item to be delivered is to be installed in another item, the inspection must be carried out prior to installation.

### **6.3. Cure of Defects (Nacherfüllung)**

6.3.1. If the delivered item is defective, we may initially choose whether to effect cure of defects by eliminating the defect (rectification) or by delivering a defect-free item (replacement). The rectification shall be deemed to have failed if we have made at least two unsuccessful attempts to eliminate the defect. In addition, our right to refuse cure of defect (rectification or replacement) under the statutory conditions shall remain unaffected.

6.3.2. Cure of defects does not include the dismantling of the defective item or the re-installation, unless we were originally required by contract to install it. This provision does not apply to transactions where consumers are involved in the supply chain.

6.3.3. Any expenditure required for the purposes of inspection and cure of defect set by the purchaser has passed to no avail, or if dispensable under the statutory provisions, the purchaser can withdraw from the contract or reduce the purchase price and demand compensation for damages or reimbursement of expenses. In the case of an insignificant defect, there is no right of withdrawal. In the case of withdrawal from the contract, we will refund the purchase price minus reasonable compensation for the use of the items / service until the revocation of the contract.

6.3.4. If a cure of defect has failed, or a reasonable period for cure of defect set by the purchaser has passed to no avail, or if dispensable under the statutory provisions, the purchaser can withdraw from the contract or reduce the purchase price and demand compensation for damages or reimbursement of expenses. In the case of an insignificant defect, there is no right of withdrawal. In the case of withdrawal from the contract, we will refund the purchase price minus reasonable compensation for the use of the items / service until the revocation of the contract.

### **6.4. Reimbursement of expenses in the event of cure of defects**

Claims of the purchaser for reimbursement of expenses in accordance with section 439 (3) of the German Civil Code (BGB) are limited to the expenses typical of the contract and foreseeable for us. Expenses are only typical for the contract and foreseeable for us if they have been communicated by the purchaser prior to concluding the contract. In any case, the amount of the reimbursement of expenses shall be limited to a maximum of three times the price of our defective deliveries and services. In all other respects, section 439 of the German Civil Code remains unaffected.

### **6.5. Other provisions for warranty for defects**

6.5.1. Claims of the purchaser for damages or reimbursement of futile expenses exist for material defects and defects of title only pursuant to section 7.

6.5.2. Warranty rights against us may not be assigned to a third party without our written consent.

6.5.3. In the case of defects in components from other manufacturers included in the sale which we cannot eliminate due to licensing or any other reasons, we will either assert our warranty claims against the manufacturers or suppliers for the account of the purchaser or assign these to the purchaser. Warranty claims against us in respect of such defects are deemed to exist under these terms and conditions of sale only if any legal enforcement of the aforementioned claims against the manufacturer and the supplier was unsuccessful or is considered futile, for example, due to insolvency. While such litigation is pending, the statute of limitations in respect of the purchaser's pertinent warranty claims against the seller shall be suspended.

### **6.6. Exclusion of warranty**

All warranty rights shall lapse where changes are made to our performance results without our consent, where parts are exchanged or materials used that do not conform to our original specifications, and where, as a result, any analysis or rectification of defects becomes impossible or is inordinately hampered. In these cases we are entitled to a refund of any costs we may have unnecessarily incurred for the analysis and rectification of such defects. The same shall apply if our operating or maintenance instructions are not observed or if our performance results are not used in accordance with the contract or with our product specifications or operating instructions. This shall also apply where our performance results are used in combination with third-party performances in a way that is incompatible with our product specifications or operating instructions or where the defect of the given performance is based on design records or other standards provided by the purchaser. The above provisions shall not apply if the purchaser can prove that the given defect is not attributable to any of the aforementioned circumstances.



MORE LIGHT

## Jenoptik General Terms and Conditions of Sale

### 7. Liability

7.1. Our 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 contractual negotiations and tort, is limited in accordance with sections 7.2. to 7.6. insofar as it depends on fault. Claims arising from data protection infringements will be stipulated separately and conclusively in section 7.9.

7.2. We shall not be liable in cases of slight negligence on the part of our organs, legal representatives, employees or other vicarious agents, unless it concerns a breach of essential contractual obligations. Essential contractual obligations are those whose fulfilment characterises the contract and upon which the purchaser may rely.

7.3. In the case of slight negligence, liability for breach of essential contractual obligations is limited to the foreseeable, typically occurring damage.

7.4. The exclusions and limitations of liability contained in this section 7 shall apply to the same extent to our organs, legal representatives, employees and other vicarious agents.

7.5. Insofar as we provide technical information or advice, and this information or advice is not included in the contractually agreed scope of services owed by us, this information or advice will be provided free of charge and with exclusion of liability.

7.6. Any liability attributable to us for any loss of data shall be limited to the cost of reproducing the data of the backup copies to be provided to the purchaser and to the cost of recovering such data as would have been lost also if the data had been regularly protected in a risk-adequate manner. If the purchaser breaches its obligation described under section 6.7, we shall not be liable for any resulting damage.

7.7. The above limitations of liability shall not apply to intentional or grossly negligent breaches of duty, in case of a liability due to a quality guarantee or due to the explicit assumption of a procurement risk, due to injury to life, body or health, or under the German Product Liability Act ("Produkthaftungsgesetz") and / or any other cases of mandatory liability under statutory law.

7.8. A reversal of the burden of proof is not associated with the above provisions.

7.9. Possible claims for damages resulting from a breach of the General Data Protection Regulation (GDPR) will be limited to intentional and grossly negligent breaches of duty, unless it concerns a breach of essential contractual obligations. Essential contractual obligations are those whose fulfilment characterises the contract and upon which the purchaser may rely.

7.10. Our liability is excluded, unless stipulated otherwise in this section 7.

### 8. Limitation periods in the case of material defects and defects of title

8.1. In deviation from section 438 paragraph 1 no. 3 of the German Civil Code (BGB), the general limitation period for claims arising from defects, including defects of title, is one year from delivery. If acceptance has been agreed to, the limitation period shall commence on the date of acceptance.

8.2. The aforementioned limitation periods also apply to contractual and non-contractual compensation claims made by the purchaser that are based on a defect of the goods, unless the application of the regular statutory limitation period (sections 195, 199 BGB) would result in a shorter period of limitation in the individual case.

8.3. The statutory limitation periods for claims based on sections 7.3 and 7.7 and the limitation periods in the case of a recourse claim pursuant to section 445 b BGB shall remain unaffected.

### 9. Retention of title

9.1. All delivered goods shall remain our property (reserved goods) until the payment of all receivables, including future receivables.

9.2. The purchaser is entitled to process, within the meaning of section 950 BGB, and re-sell the reserved goods in the ordinary course of

business as long as it is not in default. Pledging or transfer by way of security is not permissible. Where the value of the collateral securities granted to us exceeds by more than 50 per cent the receivables secured and not yet satisfied, we shall, on request and at our choice, release collateral in whole or in part.

9.3. The purchaser shall insure the goods against the usual risks.

9.4. Processing is made on our behalf as manufacturers without committing us. We become co-owners of the new item at the ratio between the invoice value of the reserved goods and the value of the other items processed. The purchaser shall provide storage at no charge to us. Any new item emerging from such processing shall be subject to the terms applicable to reserved goods.

9.5. Where reserved goods are inseparably combined or mixed with other items not belonging to us, we become co-owners of the new items at the ratio between the invoice value of the reserved goods and the value of the other combined or mixed items. Where such combination or mixture is made in such a manner that the item of the purchaser must be looked upon as the principal item, it shall be deemed agreed that the purchaser shall transfer to us a proportionate co-owner's interest therein. The purchaser shall provide storage at no charge to us. Any new item emerging from such combination or mixing shall be subject to the terms applicable to reserved goods.

9.6. The purchaser assigns to us already now in full by way of security all accounts receivable deriving from the re-sale or further processing of reserved goods, including all claims to credit balances in current accounts pertaining to the receivables. However, the purchaser is entitled to collect such receivables in its own name but for our account so long as we do not revoke the direct debit authorisation by reason of delay in payment by the purchaser.

9.7. Where third parties have recourse to reserved goods, in particular seizures, the purchaser shall draw attention to our ownership status and shall notify us immediately. The purchaser shall be liable for all costs incurred by us in connection with this.

9.8. In the case of breach of contract by the purchaser, in particular in the case of non-payment of the purchase price due, we are entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand the goods on the basis of retention of title. The demand for return of the goods does not also include the declaration of withdrawal; instead, we shall be entitled merely to demand return of the goods and reserve the right of withdrawal. If the purchaser does not pay the purchase price due, we can only assert these rights if we have given the purchaser a reasonable time period in which to make the payment and payment has not been made or such a deadline is not required under the statutory provisions.

### 10. Industrial property rights, copyrights, and trademark use

10.1. The intellectual property rights to all specifications, drawings, offer documents, illustrations, calculations, technical descriptions, source codes or other technical information, regardless of their format or medium (hereinafter collectively referred to as "Technical Information"), and to all products, assemblies, contractual objects, etc. that are delivered or rendered in connection with the contract shall remain exclusively with us. This applies regardless of whether the delivery or service is provided to the purchaser or to third parties.

10.2. No licences, rights of use, industrial property rights, or rights similar to industrial property rights or other intellectual property rights are transferred by us or our suppliers with the acquisition of the respective object of purchase, exclusive of the right of use, necessary for the appropriate use of the deliveries and services, which is legally mandatorily associated with each purchase.

10.3. The purchaser shall immediately notify us in writing or in text form whenever a third party asserts a claim against it by reason of the latter's use of a consignment / performance, invoking infringement of industrial property rights or copyrights. With respect of these cases, we reserve the right to legal defence by all available defensive and extrajudicial measures. The purchaser is obliged to assist us in this endeavour.

10.4. Our liability for infringement of any third-party industrial property rights or copyrights shall be confined to those cases where the subject



**MORE LIGHT**

## **Jenoptik**

# **General Terms and Conditions of Sale**

rights are owed to the given third party in respect of territory of the Federal Republic of Germany or of the country in which delivery is to be effected, or of the states in which the object of purchase is to be used in accordance with the purpose of the contract expressly declared in writing. The latter applies only insofar as the states covered by the purpose of the contract are expressly designated in the order confirmation.

### **11. Delivery or permanent transfer of software**

If the subject matter of the contract is also or exclusively the delivery or permanent transfer of software, the provisions of section B shall also apply.

### **12. Supply constraints / force majeure**

12.1. Unforeseeable and unavoidable events that are beyond our control and for which we are not responsible ("force majeure") release us for their duration from the duty of delivery and performance. The same applies if circumstances of force majeure occur with our subcontractors. In these cases, the agreed time limits and deadlines shall be extended by a reasonable period to overcome the impact of the force majeure events.

12.2. A force majeure event exists, for example, in the case of strikes or lockouts, natural disasters, military conflict, terrorism, riots, uprisings, demonstrations, accidents or delay in connection with transport, refusal or delay in the granting of public approvals, changes in laws and regulations, revocation or suspension of export or import licences, orders on state privileges, acts or omissions of civil or military authorities, such as foreign exchange restrictions, allocation or restrictions on the use of material or labour, or virus and other attacks on our IT system by third parties, insofar as these took place despite compliance with the usual diligence for protective measures or other circumstances for which we were not responsible.

12.3. Barriers to delivery as defined in section 12.1 and the non-exclusive list of examples mentioned in section 12.2 shall also entitle us to withdraw from or terminate the contract without the purchaser being entitled to claim compensation.

### **13. Withdrawal / termination clause**

13.1 Continuing obligations or mixed contracts that are to be regarded in terms of their essence as continuing obligations, may be terminated for cause in whole or in part by either contracting party.

13.2. If the purchaser intends to file for insolvency (e.g. in Germany pursuant to section 13 of the German Insolvency Code, InsO) or if the purchaser becomes aware of the opening of insolvency proceedings against them as debtor through the service of a creditor's petition to open insolvency proceedings (e.g. in Germany pursuant to Section 14 InsO), they are obliged to notify us immediately. A breach of this duty of notification by the purchaser also constitutes good reason and entitles us to terminate or to withdraw from the contract. We shall also be entitled to such a right if the application of the purchaser or a third party for the opening of insolvency proceedings against the purchaser is rejected for lack of assets (e.g. in Germany pursuant to section 26 InsO).

13.3 Notice of termination must be given in written form. It is sufficient that a copy of the signed notice of termination is sent via telecommunications, in particular by fax or email.

### **14. Anti-corruption / compliance**

The purchaser undertakes to comply with all statutory provisions, in particular in the areas of anti-corruption, competition and antitrust law. In particular, the purchaser represents that it will refrain from offering, promising or granting our staff members and persons close to them any unlawful benefits. The same obligations apply to staff members of the purchaser, its vicarious agents and other third parties who are acting on the purchaser's instructions and whom the purchaser is required to commit accordingly.

### **15. Transfer of information within the Group**

15.1. The information brought to our knowledge by the purchaser will be considered as non-confidential, unless it is specifically marked as such or the confidentiality is obvious.

15.2. We are entitled to pass on to companies associated with us within the Group (sections 15 et seq. German Company Act) such data as come to our knowledge in the context of our customer relations with the purchaser except to the extent that this is incompatible with data protection regulations.

15.3. We are entitled to name the purchaser as a reference in press releases, public statements or advertising activities using its publicly available logos (e.g. on the website).

### **16. Disposal**

16.1. In the case of disposal of the goods, the purchaser must observe our accompanying information and ensure that the goods specified on the delivery note are disposed of properly in accordance with the statutory provisions.

16.2. The purchaser is obliged to dispose of the delivery item at its own expense. In the event of resale of the goods or their components, the purchaser must transfer this obligation to the next purchaser.

16.3. If the goods are electrical and electronic devices, we will organise the return and disposal of the goods sold by us at the request of the purchaser by agreement. If the purchaser is an entrepreneur, they shall bear the costs of disposal.

### **17. Export**

17.1. Fulfilment of the contract is subject to the proviso that an export licence is granted and that there are no obstacles to performance of the contract due to national and / or international regulations of foreign trade law and / or no embargoes and / or other sanctions.

17.2. The purchaser must provide the necessary information and documents required for compliance with the relevant (re-)export regulations and for carrying out export control inspections by authorities.

17.3. When passing on our deliveries or the work and services provided by us to third parties, the purchaser must comply with the applicable regulations of national and international (re-)export control law. In any case, the (re-)export control regulations of the Federal Republic of Germany, the European Union and the United States of America must be observed when passing on the deliveries to third parties.

17.4. The purchaser shall indemnify and hold us harmless from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any non-compliance with the above obligations pursuant to sections 17.1–17.3.

### **18. Applicable law, place of jurisdiction**

18.1. All legal relations between us and the purchaser shall exclusively be governed by German law to the exclusion of UN sales law.

18.2. Exclusive venue for all disputes (including cross-border transactions) directly or indirectly arising from the legal relationship between us and the purchaser is the seat of our head office. However, in all cases we are also entitled to file a claim at the place of performance of the delivery obligation in accordance with these GTCS or a prior individual agreement, or at the general place of jurisdiction of the purchaser. Priority statutory provisions, in particular those relating to exclusive responsibilities, remain unaffected.

### **19. General rules of interpretation**

Insofar as provisions of the contract or these GTCS should be or become invalid / void or unenforceable in whole or in part for reasons of the law of general terms and conditions pursuant to sections 305 to 310 of the German Civil Code (BGB), the statutory provisions that would have been agreed in accordance with the economic objectives of the contract and the purpose of the GTCS if this loophole had been known in advance shall apply with respect to these provisions.



MORE LIGHT

## Jenoptik General Terms and Conditions of Sale

### Section B: Special Terms and Conditions for the Supply of Software

#### 20. General provisions

20.1. The following provisions shall additionally apply if and insofar as the subject matter of the contract is also or exclusively the delivery of software.

20.2. The following provisions take precedence over deviating provisions of section A with regard to the delivery of software.

20.3. Insofar as we supply software that is the subject of third party rights, the terms notified by us shall apply in addition and shall in this respect take precedence over any deviating provisions of this section B.

20.4. The provisions of this section B also apply to software updated by us.

#### 21. Subject matter of contract

21.1. We supply software in executable form (object code) only. The source code does not form part of the subject matter of contract and is not included.

21.2. We are only obliged to update software if this has been expressly agreed in writing.

#### 22. Delivery

We deliver software exclusively in accordance with the contractual agreement on data carriers supplied by us, as a download version or pre-installed on the hardware supplied by us.

#### 23. Warranty for data

23.1. We do not warrant that data of a specific content can be generated, processed or stored permanently with the software supplied by us.

23.2. The purchaser is obliged to ensure regular and proper data backup that is commensurate with the associated risks and that is carried out in accordance with the latest technological standards.

#### 24. Updates

24.1. Insofar as we provide updates for delivered software without being obliged to do so, no claim to further updates can be derived from this.

24.2. Updates that serve to solve or avoid problems do not constitute acknowledgement of a material defect.

#### 25. Rights of use

25.1. The purchaser is granted a non-exclusive right to use the software, unlimited in time and place.

25.2. If the purchaser does not use the software, but delivers it in its entirety or as part of another service to third parties (end customers), only the end customer shall be entitled to the rights specified in this section 25. The purchaser must work towards a corresponding obligation on the part of the end customer and inform us of the name and full address of the end customer in writing or in text form.

25.3. The software may only be used to the extent set forth in the contractual agreement:

25.3.1. If we have provided the software pre-installed on hardware supplied by us, the purchaser is entitled to run the software on this hardware for the contractually specified purposes.

25.3.2. If we have provided the software on a data carrier or as a download for use with hardware supplied by us, the purchaser is entitled to install the software on one end device and run it in connection with the hardware supplied by us for the contractually specified purposes, unless a higher number of installations has been contractually agreed.

25.3.3. If we have provided the software on a data carrier or as a download for purposes other than use with hardware supplied by us, the

purchaser is entitled to install the software on one end device and run it for the contractually specified purposes. The purchaser is entitled to install the software on another end device and to allow it to expire for the contractually specified purposes, provided that it deletes the software on the end device on which the software was previously installed.

25.3.4. Insofar as it is contractually agreed that the software can only be used by a certain number of persons or only by certain persons, the purchaser shall only be entitled to the aforementioned rights to this extent. In this case, we are entitled to measure and monitor the extent of actual use with the technical means specified in the specification, including the transfer of the corresponding data to us.

25.4. The permissible use only includes the proper use by the purchaser or its end customer for own economic purposes. In no event shall the purchaser have the right to lease or otherwise sub-license the software, to publicly reproduce or make available the software by wire or wireless means, or to make the software available to third parties, whether for a fee or free of charge. Sections 25.2 and 25.7 remain unaffected.

25.5. The purchaser must not edit, modify, copy or otherwise reproduce the software provided. The purchaser is entitled to make a backup copy. The purchaser shall visibly mark the backup copy with the note "Backup copy" as well as a copyright notice from the manufacturer.

25.6. The interface information required to establish interoperability (section 69e of the German Copyright Act (Urheberrechtsgesetz)) can be ordered from us against payment of a reasonable charge.

#### 25.7. Transfer to third parties

25.7.1 The purchaser shall be entitled to transfer the acquired software to a third party permanently, but not for a limited period of time, in accordance with section 25.2, handing over the original data carrier and the documentation. In this case, the purchaser shall

- completely discontinue use of the software;
- remove and delete all copies installed at the purchaser's premises; and
- delete all copies (including the backup copy) held by the purchaser on other data carriers, unless the purchaser is legally obliged to keep them for a longer period.

25.7.2 At our request, the purchaser must confirm to us in writing that the measures specified in section 25.7.1 have been carried out in full or explain to us the reasons for a longer storage period.

25.7.3 If we have delivered the software on hardware supplied by us, the software may only be transferred to a third party together with the hardware in accordance with section 25.2. Data carriers with copies of the software supplied by us in this context are merely backup or recovery data carriers; they are not independently transferable.

25.8. The purchaser undertakes to prevent the unauthorised access of its employees and other third parties to the delivered software and the associated documentation by means of appropriate precautions, in particular the storage of the original data carriers and the backup copy in a secure location. Copyright notices, serial numbers and other features serving to identify the programme may not be removed from the data carrier or the documentation, or changed.

#### 26. Prohibited actions

It is expressly forbidden for the purchaser

- to use the software for purposes other than those for which it was designed;
- to decompile the software;
- to bypass or circumvent encryption or security mechanisms of the software; or
- to analyse the software for the purposes of reverse engineering.

The statutory rights under section 69d (2) and 69e of the German Copyright Act (Urheberrechtsgesetz) remain unaffected.



**MORE LIGHT**

## **Jenoptik General Terms and Conditions of Sale**

### **27. Rights of third parties, right of withdrawal**

27.1. Insofar as we deliver software that is the subject of third-party rights, the terms communicated by us at the time of conclusion of the contract must be observed, which the purchaser must expressly accept on request. If the purchaser fails or refuses such acceptance, we are entitled to withdraw from the contract.

27.2. We are entitled to inform the purchaser of the terms and conditions on the rights of third parties only after conclusion of the contract, insofar as these terms and conditions do not impair the contractually agreed use of the software by the purchaser and the third party does not require or demand acceptance of the provisions.

### **28. Audit**

28.1. The purchaser is obliged, at our request, to allow us to verify compliance with the purchaser's obligations set out in this section B. For this purpose, the purchaser must provide us with all information and documents required for the audit for temporary inspection. Furthermore, the purchaser is obliged to grant us access to all devices on which software supplied by us is installed for the aforementioned purposes. For this purpose, the purchaser shall grant us access to their business premises during usual business hours at our request after a notice period of at least 10 calendar days. We are entitled to transfer the aforementioned rights through a third party bound to secrecy, who must not be a competitor of the purchaser. We will ensure that the exercise of our rights will have as little impact as possible on the purchaser's business operations.

28.2. If the purchaser does not use the software, but delivers it in its entirety or as part of another service to third parties (end customers), we shall also be entitled to the rights specified in section 28.1 against the end customer. The purchaser must work towards a corresponding obligation on the part of the end customer.