

STANDARD TERMS AND CONDITIONS FOR THE SALE OF MACHINERY, GOODS AND EQUIPMENT

All goods sold by Brooks Equipment Sales Pty Ltd, ABN 92 455 723 027 ("**Brooks Equipment Sales**") to any third party ("**Buyer**") are sold on the following terms and conditions, subject only to any written agreement of the parties to the contrary. For the avoidance of doubt, in these Terms & Conditions of Sale "**good**" includes any "accession" within the meaning of the Personal Property Securities Act 2009 (Cth) ("**PPSA**"). Terms shall be binding unless agreed in writing between the authorised representatives of Brooks Equipment Sales and the Buyer.

1. AGREEMENT TO SELL/PURCHASE GOODS

- 1.1. If Brooks Equipment Sales offers to sell goods to the Buyer (Whether by providing a written quotation, verbal quotation or otherwise), the Buyer may accept the offer in writing.
- 1.2. If the Buyer accepts the offer to purchase goods from Brooks Equipment Sales (whether by placing an order with Brooks Equipment Sales or otherwise), Brooks Equipment Sales may accept the offer in writing.

2. PRICE

- 2.1. All purchase prices published or quoted by Brooks Equipment Sales are exclusive of GST (unless advised otherwise by Brooks Equipment Sales to the Buyer). Brooks Equipment Sales may charge to the Buyer the purchase price plus GST by way of tax invoice.
- 2.2. The price shall be quoted and payable in Australian Dollars.
- 2.3. All prices quoted are valid for 30 days only or until earlier accepted by the Buyer, after which time they may be altered by Brooks Equipment Sales without giving prior notice to the Buyer.
- 2.4. Unless otherwise stated, all prices quoted by Brooks Equipment Sales are exclusive of freight and delivery costs, insurance and other charges in relation to the transfer of the product from the premises of Brooks Equipment Sales to the location that the Buyer assigns for delivery, all of which charges are payable by the Buyer.
- 2.5. Brooks Equipment Sales reserves the right, by giving written notice to the Buyer at any time before delivery, to increase the price of the goods to reflect any increase in the cost to Brooks Equipment Sales, which is due to factors beyond the control of Brooks Equipment Sales, such as, without limitation, any foreign exchange fluctuation, currency regulations or significant increase in the cost of manufacture.

3. TERMS OF PAYMENT

- 3.1. Subject to any special terms agreed in writing between Brooks Equipment Sales and the Buyer, the Buyer shall pay 10% of the full purchase price as a nonrefundable deposit within 2 working days of acceptance of the offer by the Buyer. The balance of the sales price shall be paid by the Buyer to Brooks Equipment Sales in cleared funds prior to delivery of the goods. Brooks Equipment Sales is not required to deliver any goods to the Buyer unless and until the Buyer has paid for the goods in full.
- 3.2. The Buyer may apply to purchase goods from Brooks Equipment Sales on credit, which on application Brooks Equipment Sales may, on such terms as Brooks Equipment Sales sees fit approve. If Brooks Equipment Sales agrees to sell goods to the Buyer on credit, the Buyer must pay to Brooks Equipment Sales the full purchase price for the goods before the date on which the goods are delivered to the Buyer.

- 3.3. The Buyer must pay to Brooks Equipment Sales interest of 2% per month on any amount outstanding to Brooks Equipment Sales, calculated and accruing daily from the date on which the Buyer was due to pay the amount to Brooks Equipment Sales until the date on which the amount is paid to Brooks Equipment Sales.
- 3.4. The Buyer is liable to Brooks Equipment Sales for all costs and expenses which Brooks Equipment Sales incurs in recovering monies that the Buyer owes to Brooks Equipment Sales. The Buyer must pay these costs to Brooks Equipment Sales within 7 days of Brooks Equipment Sales demand.
- 3.5. For the sale of parts, the Buyer must pay to Brooks Equipment Sales the total invoice within 30 days of the date of invoice.

4. DELIVERY AND RISK

- 4.1. Brooks Equipment Sales is not responsible for loss or damage of goods in transit unless the goods are being carried by Brooks Equipment Sales or Brooks Hire Services Pty Ltd own vehicles. Brooks Equipment Sales delivery costs are quoted from Brooks Equipment Sales yard with delivery being additional to the purchase price of the goods if the Buyer wishes Brooks Equipment Sales to arrange delivery.
- 4.2. The Buyer shall be in default under this Agreement if, within 7 days of Brooks Equipment Sales notifying the Buyer that the goods are ready for delivery, the Buyer:
 - 4.2.1. Refuses or fails to take delivery of the goods
 - 4.2.2. Refuses or fails to make full payment of all monies owing to Brooks Equipment Sales

5. WARRANTIES AND LIABILITY

- 5.1. Brooks Equipment Sales gives to the Buyer the same warranties given by the respective manufacturers of the goods.
- 5.2. All goods are sold "as seen" unless otherwise agreed with Brooks Equipment Sales in writing prior to the order being accepted by Brooks Equipment Sales.
- 5.3. Brooks Equipment Sales gives no warrant as to the suitability of the goods for the purpose of the Buyer and the Buyer confirms that it has satisfied itself in this regard. The Buyer must ensure that it complies with all requirements of the original manufacturer relating to the goods, their transportation, storage, installation, and use.
- 5.4. The person signing this agreement for the Buyer warrants to Brooks Equipment Sales that he or she has the authority to complete this Agreement for and on behalf of the Buyer.

6. CLAIMS, RETURNS AND ALLOWANCES

- 6.1. Brooks Equipment Sales may ignore any claim made by the Buyer in respect of goods unless:
 - 6.1.1. The Buyer makes the claim in writing within 7 days of the delivery date of the goods to the Buyer;
 - 6.1.2. The claim refers to the relevant invoice number for the goods; and
 - 6.1.3. The claim explains in reasonable detail the basis of the claim.
- 6.2. If goods are accepted for return and repair, the Buyer will be solely responsible of all costs incurred in returning goods to the Buyer unless authorized by Brooks Equipment Sales.
- 6.3. Brooks Equipment Sales will issue a credit note to the Buyer if Brooks Equipment Sales has inspected the goods and the goods were, in Brooks Equipment Sales' opinion faulty, damaged, defective or otherwise in an unsatisfactory condition on supply and the goods were not damaged after supply by misuse or unreasonable use.

- 6.4. Brooks Equipment Sales is not taken to agree to issue a credit note to the Buyer merely by accepting delivery of returned goods.

7. PERSONAL PROPERTY SECURITIES ACT 2009

- 7.1. The Buyer must do all things, including provide Brooks Equipment Sales with all details and data necessary for Brooks Equipment Sales to register a “financing statement” or a “financing change statement” under the PPSA with respect to any security interest the subject of these Terms and Conditions. Brooks Equipment Sales may refuse to sell or supply goods to the Buyer until the Buyer complies with this clause 7.1. 7.2.
- 7.2. Notwithstanding any other provision of these Terms and Conditions, the Buyer is not entitled to obtain possession of any goods sold by Brooks Equipment Sales until after Brooks Equipment Sales security interest in the goods (as contemplated by these Terms and Conditions) is perfected by registration on the PPS Register.
- 7.3. If the Buyer makes any payment to Brooks Equipment Sales, Brooks Equipment Sales may apply the payment to satisfy any obligation of the Buyer to Brooks Equipment Sales (whether the obligation is unsecured, secured by security interest, or secured by purchase money security interest). Brooks Equipment Sales may:
 - 7.3.1. Apply the payment in any order or manner that it (in its absolute discretion) thinks fit; and
 - 7.3.2. Amend or re-apply any application made.
- 7.4. With respect to any security interest and collateral the subject of these Terms and Conditions:
 - 7.4.1. Sections 95, 121(4), 125, 130, 132(3)(d), 132(4), and 135 of the PPSA are excluded and contracted out of to the full extent permitted by section 115 of the PPSA; and
 - 7.4.2. The Buyer waives the right under PPSA section 157 to receive a notice in relation to registration events which relate to collateral that is described in the registration as commercial property.

8. VARIATION BY BUYER

- 8.1. Should there be any variation in the order, delivery instructions or any other item or matter on which is quotation or invoice for the sale of goods is based, Brooks Equipment Sales may amend the contract price in the quotation or invoice accordingly.

9. LIMITATION OF LIABILITY

- 9.1. Brooks Equipment Sales will not be liable for any consequential loss or damage arising from the use or output of the goods or from delays in repairs occasional by any cause whatsoever.