

TERMS AND CONDITIONS OF PURCHASE  
BY BROOKS AUTOMATION US, LLC AND ITS'  
AFFILIATES AND SUBSIDIARIES  
(COLLECTIVELY, "BROOKS")

1) **Acceptance of Purchase Order:** This purchase order may be accepted in writing by the party providing an offer to Brooks or selling a product to Brooks (collectively, "Seller") or by Seller's assent or conduct. If for any reason Seller does not accept in writing, any conduct by Seller that recognizes the existence of a contract pertaining to the subject matter hereof shall constitute acceptance by Seller of this purchase order and all of its terms and conditions. Brooks hereby expressly objects to any terms proposed by Seller that add to, vary from, or conflict with the terms herein. Any such proposed terms shall be void and the terms herein, including the terms in any attachment specifically referenced on the front of this purchase order, shall constitute the complete and exclusive statement of the terms and conditions of the contract between the parties, which may hereafter be modified only by written instrument executed by the authorized representatives of both parties. If this purchase order has been issued by Brooks in response to an offer by the Seller and if any of the terms herein are additional to or different from any terms of such offer, then Brooks' issuance of this purchase order shall constitute an acceptance of such offer subject to the express conditions that the Seller assent to such additional and different terms herein and acknowledge that this purchase order constitutes the entire agreement between Brooks and the Seller with respect to the subject matter hereof and the subject matter of such offer and Seller shall be deemed to have assented and acknowledged unless Seller notifies Brooks to the contrary in writing within ten (10) days of receipt of this purchase order.

(2) **"Copy Exact" requirements:** Seller shall not make any changes, including, for example and without limitation, obsolescence of components, transfer of any portion of the design, manufacturing, or assembly process to a different facility, or changes to the design (firmware, hardware or software) of the goods that may alter the Specifications or the form, fit, function or interchangeability of goods (collectively, "Changes") without obtaining Brooks' express written consent. To obtain such consent, Seller shall submit a "Seller Initiated Action Request (SIAR)," which Brooks, in its sole discretion, may approve. If Brooks approves the SIAR it will state the date upon which Seller may implement the Change, which shall be at least 270 days from the date Brooks receives the SIAR from Seller. Seller shall require a SIAR and approve it under the same procedure applied by Brooks for Changes by Seller before permitting any of its suppliers to make any Changes to goods incorporated into the goods Seller delivers to Brooks. Failure to comply with the Copy Exact requirements stated herein shall be a material breach of this Agreement and Brooks may terminate or cancel this order.

3) **Delivery:** The terms of delivery are as stated on the face of this order. The obligations of Seller to meet the delivery dates, specifications, and quantities set forth herein are of the essence of this order. Deliveries are to be made both in quantities and at times specified herein and, if not, such quantities and times as are specified pursuant to Brooks' written instructions. Shipments in greater or lesser quantity than ordered may be returned at Seller's expense unless written authorization is issued by Brooks. If Seller's deliveries fail to meet schedule, Brooks, without limiting its other rights and remedies, may either direct expedited routing or charge excess costs incurred thereby to Seller or cancel all or part of this order in accordance with the Cancellation or Termination provision hereof. Goods that are delivered in advance of schedule are delivered at the risk of Seller and may, at Brooks' option, be returned at Seller's expense for proper delivery and/or have payment therefore withheld by Brooks until the date that the goods are actually scheduled for delivery.

4) **Packing and shipping Instructions:** Seller agrees to ensure that shipments are properly packed and described in accordance with Brooks' specifications and/or applicable carrier regulations. Shipments will be made freight prepaid at the lowest freight charges available, using the carrier selected by Brooks. Brooks may assist Seller by providing freight classifications or classifying material. Seller will not insure or declare value on shipments, except on parcel post, unless Brooks specifies otherwise. On shipments where value is not declared, Seller will ship prepaid insured for \$50 to facilitate tracing. Seller shall consolidate air and surface shipments daily on one bill of lading per mode to avoid premium freight costs, unless instructed otherwise by Brooks. In case of any shipment that does not correspond to normal past practice between Brooks and Seller, or to standard practice in the industry (e.g., a shipment that requires special handling, equipment, or air ride suspension, or is over 500 pounds, over 120 inches long or wide, or over 56 cubic feet, etc.). Seller shall notify Brooks' appropriate traffic department 72 hours prior to shipment for special shipping instructions. All truck shipments must be classified by Seller using the current "National Motor Freight Classification Tariff". Each box, crate or carton will show Brooks' full street address (not just post-office box numbers) and purchase order number regardless of how shipped. Seller will provide a packing list to accompany each shipment, referencing the appropriate purchase order number. The bill of lading also will reference the purchase order number.

5) **Inspection:** Payment for goods delivered hereunder shall not constitute acceptance thereof. Brooks shall have the right to inspect such goods and to reject any or all of said goods if, in Brooks' judgment, they are defective. At Brooks' option, inspection may be performed on a statistical sampling basis. If defects are revealed in such sampling, Brooks may elect, in its discretion, either to reject the entire shipment based on such sampling or to inspect the entire shipment. Goods rejected as defective may be returned to the Seller for full credit or replacement, at Brooks' option, and, in addition to Brooks' other rights, Brooks may charge the Seller all expenses of unpacking, examining, repacking, and reshipping such goods. Replacement goods shall be sent freight prepaid at Seller's expense, and Seller shall use expedited delivery if required by Brooks. If Brooks receives goods whose defects or nonconformities are not apparent on initial examination, Brooks may subsequently reject such goods within a reasonable period of time after such defects or nonconformities become apparent. The facilities at which goods subject to this purchase order are manufactured shall be

subject to inspection and approval by Brooks from time to time. Seller shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. If any goods subject to this purchase order or any components thereof, are to be manufactured by subcontractor(s), Seller shall require such subcontractors to comply with this provision.

**6) Price and Payment:** The price shown on the face of this order is the total amount Brooks will pay for the goods. Seller shall not add additional amounts for taxes, packing, shipping, or anything else unless specifically agreed to by Brooks. If there is no price stated on the front, the price shall be deemed to be the price last quoted to Brooks or the prevailing market price, whichever is lower. Seller warrants that the price for goods sold to Brooks under this purchase order is not greater than the price for comparable goods sold in comparable quantities to any other purchaser. Seller shall issue an invoice to Brooks on or any time after the completion of delivery and only in accordance with the order. Brooks shall pay all properly invoiced and undisputed amounts due to Seller within sixty (60) days after Brooks' receipt of such invoice. In the event of a payment dispute, Brooks shall deliver a written statement to Seller no later than fifty (50) days prior to the date payment is due on the disputed invoice listing all disputed items and providing a reasonably detailed description of each disputed item. Amounts not so disputed are deemed accepted and must be paid, notwithstanding disputes on other items, within the period set forth in this Section. The parties shall seek to resolve all such disputes expeditiously and in good faith. Seller shall continue performing its obligations under the order notwithstanding any such dispute.

**7) Change Orders:** From time to time, Brooks may change any of the drawings, specifications, or instructions for work covered by this purchase order, or the methods of shipment or packing or the schedule or place for delivery of goods covered by this purchase order, and Seller agrees to comply with such changes. Brooks shall give Seller notice of such changes in writing signed by a duly authorized representative of Brooks. If a change results in a decrease or increase in the Seller's cost or in the time for performance, an appropriate adjustment to the price or the time for performance will be made by the parties in writing. Unless Seller provides Brooks with an itemized statement of adjustment to the cost and/or time for performance within 30 days after Seller's receipt of Brooks' change notice, Seller shall be conclusively deemed to have waived all claims against Brooks with respect thereto.

**8) Cancellation or Termination:** Brooks reserves the right to cancel or suspend all or, from time to time, any undelivered or unexecuted portion of this order (a) for cause, if Seller fails to make any delivery or to perform any work as scheduled or breaches any of the other terms of this purchase order and (b) without cause upon written notice to Seller. Upon cancellation or suspension without cause, Brooks shall reimburse Seller for expenses (which shall not include lost profits) related to the affected portion(s) of the order, provided that such amount shall not exceed the less of (i) a pro rata portion of the contract price or (ii) the cost of finished goods to be delivered within thirty (30) days after such cancellation or suspension, thirty (30) days of work in progress, and thirty (30) days of raw materials that Seller demonstrates cannot be diverted to other uses. The foregoing states Brooks' entire liability and Seller's exclusive remedy for any cancellation or suspension of all or any part of this order. Any claim by Seller under this paragraph must be asserted in writing within thirty (30) days after Brooks' notice of cancellation or suspension and the amount of such claim must be stated in detail within thirty (30) days thereafter.

**9) Conflict Minerals:**

(a) Seller recognizes, consistent with the public policy underlying enactment of the Conflict Minerals provision (Section 1502) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act"), the significant legal and non-legal risks associated with sourcing tin, tantalum, tungsten and gold (the "Conflict Minerals") from the Democratic Republic of the Congo and adjoining countries ("DRC countries"). Accordingly, Seller commits to comply with Section 1502 of the Act and its implementing regulations; to the extent Seller is not a "Registrant" as defined in the Act, Seller shall comply with Section 1502 of the Act and its implementing regulations except for the filing requirements. In particular, Seller commits to have in place a supply chain policy and processes to undertake: (i) a reasonable inquiry into the country of origin of Conflict Minerals incorporated into products it provides Brooks; (ii) due diligence of its supply chain, following a nationally or internationally recognized due diligence framework, as necessary, to determine if Conflict Minerals sourced from the DRC countries directly or indirectly support unlawful conflict there, and (iii) risk assessment and mitigation actions necessary to implement the country of origin inquiry and due diligence procedures. Seller shall take all other measures as are necessary to comply with the Section 1502 of the Act and its implementing regulations, including any amendments thereto.

(b) Seller shall, no later than thirty (30) days following request by Brooks, complete and provide to Brooks a single and comprehensive Conflict Minerals Reporting Template to be provided by Brooks. Seller shall perform appropriate due diligence on its supply chain in order to fulfill the reporting obligations of this Section.

**10) Counterfeit Goods:** "Counterfeit Goods" shall mean any goods delivered to Brooks (including any separately identifiable parts or components thereof) that do not comply in all respects with the original equipment manufacturer's (OEM) specifications and/or contain false or misleading markings or supporting documentation purporting to be those of the OEM. Seller shall have in place a Counterfeit Goods prevention plan satisfactory to the needs and requirements of Brooks and in no case less stringent than accepted industry practices. Seller shall not provide any Counterfeit Goods to Brooks. Notwithstanding and additional to any remedy available to Brooks elsewhere in this purchase order or at law, in the event Seller provides Counterfeit Goods to Brooks, it shall immediately provide conforming goods at its expense and shall be liable to Brooks for any and all costs, liabilities, damages, expenses, fines, or penalties incurred by Brooks as a result of Seller providing Counterfeit Goods. Brooks may, at its option, destroy any Counterfeit Goods with no liability to Seller.

**11) Warranties:** Seller warrants that all goods and services provided under this purchase order: (a) shall be of good quality and workmanship and free from patent and latent defects; (b) shall conform to all specifications, drawings, and descriptions furnished, specified, or adopted by Brooks; (c) shall be merchantable and suitable and sufficient for their intended purpose; (d) do not infringe the patent, copyright, or other intellectual property rights of any third party (except to the extent that such infringement arises solely as the result of a design furnished by Brooks, provided that there was no non-infringing way for

Seller to implement such design); (e) shall be free of any claim of any third party; and, (f) not contain any Counterfeit Goods. None of the remedies available to Brooks for a breach of any of the foregoing warranties may be limited except to the extent and in the manner agreed to by Brooks in a separate agreement specifically designating such limitation and signed by an authorized representative of Brooks. Brooks' inspection and/or acceptance of and/or payment for any goods or services shall not constitute a waiver by it of any warranties. Brooks' approval of any sample or acceptance of any goods shall not relieve Seller from responsibility to deliver goods and perform services conforming to specifications, drawings and descriptions.

**12) Indemnification and Insurance:** Seller shall defend, indemnify and hold harmless Brooks and Brooks' parent company, its' subsidiaries, affiliates, successors or assigns, and their respective directors, officers, and employees against any and all damages, liability, claims, injury, death, deficiency, judgment, interest, penalty, fine, cost, losses and expenses (including, but not limited to, attorneys' fees and professional fees and costs and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers) arising out of or resulting in any way from any actual or alleged (a) defect in the goods or services purchased hereunder; (b) infringement of any patent, trademark, or copyright of any third party by any goods purchased hereunder; or (c) act or omission of Seller, its agents, employees, or subcontractors. Seller shall maintain such public liability insurance including products liability, completed operations, contractors' liability and protective liability, automobile liability (including non-owned automobile liability), and workers' compensation, employers' liability, and infringement insurance as will adequately protect Brooks against such damage, liabilities, claims, losses, and expenses (including attorney's fees). Seller agrees to submit certificates of insurance, evidencing coverage in accordance with this paragraph, when requested by Brooks. Seller's obligations under this paragraph shall survive the cancellation, termination, or completion of this purchase order.

**13) Policy Compliance:** Seller must comply with Brooks' Supply Chain Policy and Supplier Code of Conduct, copies of which are available upon request or on [www.brooks.com/about/my-brooks](http://www.brooks.com/about/my-brooks).

**14) Confidential Information:** The contents of this purchase order and all commercial and technical information provided to Seller by Brooks shall not be divulged to any third party by Seller or used by Seller other than in connection with this purchase order. Unless otherwise agreed in writing, no commercial or technical information disclosed in any manner or at any time by Seller to Brooks shall be deemed secret or confidential and Seller shall have no rights against Brooks with respect thereto, except as may exist under any applicable patent law. The obligations under this paragraph shall survive the cancellation, termination, or completion of this purchase order.

**15) Independent Contractor:** When work of any description is performed in furtherance of Seller's obligations under this purchase order on the premises of Brooks or any of Brooks' customers, Seller agrees that such services are to be rendered by Seller as an independent contractor and Seller shall provide all safeguards and take all necessary precautions to prevent the occurrence of any accident, injury, death or loss to any person or property and shall be solely responsible therefore.

**16) Force Majeure:** Brooks may delay delivery and/or acceptance under this purchase order if such delivery and/or acceptance is made impossible or impractical by causes beyond Brooks' control.

**17) Brooks' Property:** All special tools, dies, patterns, jigs, fixtures, and other items supplied or paid for by Brooks remain Brooks' property and Seller agrees to comply promptly with all disposal and shipping instructions furnished by Brooks. Seller agrees, at its expense, to maintain all of Brooks' property in Seller's possession in good condition and repair and adequately insured and to indemnify Brooks for any damage or loss to such property, to any third party.

**18) Remedies:** Brooks' remedies are cumulative. Remedies specified in this purchase order do not exclude any remedies available at law or in equity. Waiver of any breach on any one occasion shall not constitute a waiver of the same or any other breach on any other occasion. Acceptance of any items or payment therefore shall not waive any breach.

**19) Assignment and Subcontracting:** Seller may not assign or transfer this purchase order or any payments to be made hereunder without Brooks' prior written approval. Seller may not subcontract any substantial portion of the work to be performed by it under this purchase order, or the manufacture of any critical component of the goods to be delivered under this purchase order, without Brooks' prior written approval.

**20) Setoff:** All claims for monies due or to become due from Brooks under this purchase order are subject to deduction by Brooks for any setoff or counterclaim that Brooks may have against Seller.

**21) Applicable Law:** This purchase order shall be interpreted in accordance with the laws of Commonwealth of Massachusetts, excluding its choice of law provisions, and any action involving this matter shall be brought in federal or state courts located in the Commonwealth of Massachusetts. Seller hereby irrevocably consents to such jurisdiction.

**22) Compliance with Law:** Seller is in compliance with and shall comply with all applicable laws, regulations, and ordinances. Seller has and shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under the order.

**23) Export Regulation:** The goods, including any software, documentation, and any related technical data included with, or contained in, such goods, and any products utilizing any such goods, software, documentation, or technical data (collectively, "Regulated Goods") may be subject to US export control laws and regulations, including the Export Administration Regulations and the International Traffic in Arms Regulations. The Seller shall not, and shall not permit any third parties to, directly or indirectly, export, reexport, or release any Regulated Goods to any jurisdiction or country to which, or any party to whom, or for any use for which, the export, reexport, or release of any Regulated Goods is prohibited by applicable federal or foreign law, regulation, or rule. The Seller shall be responsible for any breach of this Section by its, and its successors' and permitted assigns', parent, affiliates, employees, officers, directors, customers, agents, distributors, resellers, or vendors. The Seller shall comply with all applicable federal and foreign laws, regulations, and rules, and complete all required undertakings (including

obtaining any necessary export license or other governmental approval), prior to exporting, reexporting, or releasing any Regulated Goods.

24) **Information Security:** Seller shall provide proof of an information security plan to Brooks, upon request, at any time. Brooks shall have the right at any time, during normal business hours, with advance notice to audit Seller's information security plan. Seller agrees to strongly consider Brooks' suggested revisions to its information security plan as a result of an audit. Failure to produce an information security plan upon request shall be considered a material breach of this contract.

25) **Data Protection:** Seller acknowledges that it may have access to certain of Brooks' computer and communications systems and networks for the purposes set forth in this order. If any data is made available or accessible to Seller, its employees, agents or contractors, pertaining to Brooks' business or financial affairs, or to Licensee's projects, transactions, clients or customers, Seller will not store, copy, analyze, monitor or otherwise use that data except for the purposes set forth in the order for the benefit of Brooks. Seller will comply fully with all applicable laws, regulations, and government orders relating to personally identifiable information ("PII") and data privacy with respect to any such data that Seller receives or has access to under the order or in connection with the performance of any services for Brooks. The Seller will otherwise protect PII and will not use, disclose, or transfer across borders such PII except as necessary to perform under the order or as authorized by the data subject or in accordance with applicable law. To the extent that Seller receives PII related to the performance of the order, Seller will protect the privacy and legal rights of Brooks' personnel, clients, customers and contractors. In the event of any actual or suspected security breach, Seller shall notify Brooks as soon as practicable, but no later than twenty-four (24) hours after Seller becomes aware of it. Seller shall at its own expense immediately contain and remedy any security breach and prevent any further security breach, including, but not limited to taking any and all action necessary to comply with applicable privacy rights, laws, regulations, and standards. Seller agrees to maintain and preserve all documents, records, and other data related to any security breach.

26) **Audit Right:** Seller shall keep complete and accurate records of all information related to this purchase order. All such records required to be kept by Seller shall be stored in one physical location. Upon prior written notice, Seller agrees to permit Brooks to inspect and copy such records at reasonable times during normal business hours.

27) **No Third-Party Beneficiaries:** The order is for the sole benefit of the parties hereto and their respective successors and permitted assigns, and nothing in the order, express or implied, is intended to or shall confer upon any other individual or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of the order.

28) **Notices:** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth in the order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or certified or registered mail (return receipt requested, postage prepaid). Except as otherwise provided in the order, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

29) **Survival:** Subject to the limitations and other provisions of the order: (a) the representations and warranties of the parties contained in the order shall survive its expiration or earlier termination; and (b) the following provisions, as well as any other provision that, in order to give proper effect to its intent, should survive such expiration or termination, shall survive the expiration or earlier termination of the order: Setoff, Warranties, Indemnification and Insurance, Compliance with Laws, Confidential Information, Applicable Law, Data Protection and Survival.