



## Terms & Conditions of Sale

**GENERAL:** No additions or modifications of any of the Terms and Conditions of Sale as they appear herein for product sales of Aeroprobe Corporation (“Aeroprobe”) shall be binding upon Aeroprobe unless signed in writing by a duly authorized representative of Aeroprobe.

**QUOTATIONS:** All written quotations automatically expire, unless an order is placed against the quotation, within 90 days from the date quoted. Quotations to be binding must specifically identify each product and list the actual quantities involved. All stenographic and clerical errors are subject to correction.

**CURRENCY:** Aeroprobe deals only in United States Dollars (USD) and Buyer is responsible for paying Aeroprobe in said currency. Buyer must take into account exchange rates and be sure the final amount Aeroprobe receives (after exchange) is the correct total in (USD). Buyer is encouraged to specify US Dollars on checks and in funds transfers.

**PAYMENT TERMS:** Aeroprobe’s Standard Payment Terms are 100% Advance Payment. Alternative payment terms may be offered to customers of satisfactory credit history at Aeroprobe’s discretion. Customers may submit a credit application to Aeroprobe’s accounting department to request alternative payment terms. However, orders for which alternative payment terms are requested will be placed on hold pending credit approval.

**PAYMENT METHODS:** Aeroprobe’s preferred payment method is Electronic Funds Transfer to a bank account specified by Aeroprobe. Checks, Cash on Delivery, Documentary Collections, Letters of Credit, and Credit Card payments may be accepted only upon prior approval by Aeroprobe and at Aeroprobe’s discretion.

**PRICING:** The quoted price is contingent on the quantity stated in the quote. Advance payment (unless waived) must accompany the order. If customer-driven delays exceed 30 days, an interim billing may occur for work to date.

**SHIPMENT:** Standard North American shipping terms are FOB Destination, Freight Pre-Paid and Charged Back. Standard international shipping Incoterms shall be CIP (Carriage and Insurance Paid to) warehouse or other point designated by Customer and agreed upon by Aeroprobe. Unless otherwise agreed in writing, shipping, handling, and insurance will be Pre-Paid by Aeroprobe and added to the Buyer’s invoice. Scheduled or stipulated shipping dates are approximate and based upon prompt receipt of all necessary information from Buyer. Aeroprobe shall not be liable for any loss, damage or delay in delivery due to causes beyond its reasonable control, or acts of God, acts of the buyer, acts of civil or military authority, fires, strikes, floods, epidemics, quarantine restrictions, war, riots, delays in transportation embargoes, or inability due to causes beyond its reasonable control. In the event of such

delay, the delivery date shall be extended for that length of time as may be reasonably necessary to compensate for the delay.

**ORDERS:** For orders to be accepted by Aeroprobe, the shipping method and payment terms must be clearly indicated. Orders will not be accepted until all terms are agreed upon by Aeroprobe. In addition, if the payment is to be made via a Letter of Credit, the terms of the Letter of Credit must be agreed upon by Aeroprobe before the order can be accepted.

**COMMISSIONING:** Commissioning, when purchased, must be scheduled to occur within one year of the product ship date and is non-refundable. Buyer may request a credit equal to the amount invoiced for the commissioning. Credit must be requested within one year of the product ship date. However, credit is subject to Aeroprobe approval and must be used within one year of issue date.

**DAMAGE CLAIMS:** All claims for breakage and damage, whether concealed or obvious, must be made to the carrier by the Buyer as soon as possible after receipt of the shipment. Aeroprobe will render the Buyer reasonable assistance in the securing of adjustment for such damage claims.

**TAXES:** The Buyer shall pay or reimburse Aeroprobe for all sales, use, excise or similar taxes.

**CUSTOM PRODUCTS:** Aeroprobe will supply design, drawings and/or statements of work, as appropriate for custom probes and projects. In order to proceed with manufacturing, construction and/or calibration of these products, Aeroprobe will require a confirmation in writing from the Buyer that the design, drawings and/or statement of work is satisfactory to the Buyer.

**PRODUCT SPECIFICATION CHANGES:** If the BUYER requests changes to previously confirmed design, drawings or statements of work for which an order has been placed, Aeroprobe reserves the right to refuse said changes. If such changes are accepted, Aeroprobe reserves the right to re-quote the work based on the requests, with all effort on a project suspended until a change order is placed by the Buyer.

**CHANGE ORDER AND CANCELLATIONS:** In order for a change to be accepted after Aeroprobe receives a purchase order, a change order must be submitted to Aeroprobe, and subsequently approved. Any order placed with Aeroprobe can be canceled by the Buyer only upon payment of reasonable cancellation charges, which shall take into account expenses already incurred and commitments made by Aeroprobe. Orders for modified or custom products are non-cancelable and non-returnable except at the sole discretion of Aeroprobe.

**ACCESS:** Unless approved in writing by an officer of Aeroprobe, any access to Aeroprobe facilities, records, or data by Buyer or customer(s) of Buyer, as well as respective agents or representatives, for whatever purpose, shall exclude access to proprietary processes and information.

**PRODUCT CATALOG:** Publications and specifications are subject to change without notice and are not to be construed as a definite quotation or offers to sell by the Company. Such literature is maintained only as a source of general information, and any prices shown therein are subject to confirmation with a specific quotation.

**WARRANTY:** Aeroprobe warrants for a period of one (1) year from date of the Aeroprobe invoice that product furnished under the order will be of merchantable quality and free from defects in material,

workmanship, and design as determined at the date of shipment by Aeroprobe. This determination will be made by generally recognized, applicable, and accepted practices and procedures in the industry, to include any specifications specifically agreed to in writing by Aeroprobe prior to the date of shipment.

This warranty is in lieu of all other warranties, whether expressed, implied, or statutory, including implied warranties of merchantability or fitness, and hereby excludes certifications or the like for product performance, use, or design with respect to any standard, regulation, or requirement (unless and to the extent independently approved in writing at Aeroprobe headquarters). In addition, the warranty extends only to the Buyer or customer purchasing directly from Aeroprobe or an authorized Aeroprobe distributor.

Satisfaction of this warranty, consistent with other provisions herein, will be limited to the replacement or repair or modification of, or issuance of a credit for, the products involved, at Aeroprobe's option, with Aeroprobe to determine the availability of service personnel and any absorption of associated service expenses; such warranty satisfaction available only if (a) Aeroprobe is promptly notified in writing upon discovery of an alleged defect and (b) Aeroprobe's examination of the subject product discloses to its satisfaction that defect has not been caused by misuse; neglect; improper installation; improper operation, repair or alteration; accident; or unusual deterioration or degradation of the parts.

**RETURN of PRODUCT:** Authority for return of product, whether under the warranty clause or otherwise must be obtained from Aeroprobe. Such authority shall be granted for each reasonable request. Unless such authority has been granted, shipment will be refused. All products returned should include an Aeroprobe-issued product return material authorization number. If requested, Buyer will provide all information pertaining to the product order, including but limited to the purchase order, part numbers, serial numbers. Repair, replacement, or credit for returned parts will be made only after Aeroprobe has determined that the parts are covered by the terms of the warranty and at Aeroprobe's discretion. Aeroprobe reserves the right to charge a restocking fee for returned products.

**REPAIRS:** Except in the case of product repair and replacement made under the warranty clause, Aeroprobe is not under any obligation to the Buyer to accept product returns for the purposes of the repair. At Aeroprobe's discretion, the return of a product for a repair effort may be accepted. In such cases, Aeroprobe offers no guarantee that the product can be repaired to an operable condition, or the original condition. In addition, Aeroprobe offers no guarantee of ability to supply all information about the accuracy of data resulting from the use of any repaired product that cannot be returned to the original condition. Such information will be supplied at the discretion of Aeroprobe.

**RE-CALIBRATION:** Returns of existing Aeroprobe products for the purposes of calibration will be accepted as long as the following conditions are met: (1) The product to be calibrated is in satisfactory condition to sustain the calibration. Unsatisfactory conditions include, but are not limited to, leaks, blocks, contamination, changes in geometry and/or finish from original condition, compromised integrity of materials or components and changes/additions to the product made by the Buyer after original shipment from Aeroprobe (2) The original product geometry does not preclude a re-calibration by Aeroprobe. This applies mainly to probes which were assembled after an aerodynamic calibration, that are now too long to calibrate within the Aeroprobe calibration facilities.

**UP-SCREENING:** Products subjected to environmental screening by the customer or their designee, either standalone or at the system level, exceeding or as a continuation of the environmental screening level defined per the Aeroprobe published datasheet limits against the specific screening level option the product was originally procured, will be at the full risk and liability of the customer. Determination of up-screening will be the sole opinion of Aeroprobe. In addition, if in the sole opinion of Aeroprobe results could have been effected by the customer procuring a product that had received a higher level of environmental screened product from Aeroprobe, Aeroprobe will not be held responsible and will be held harmless from any and all liability, including but not limited to replacement of the devices or credit for the devices procured.

**FAILURE ANALYSIS:** A failure analysis report of returned product will be performed by Aeroprobe at its discretion. In the case of commercial off-the-shelf products Aeroprobe can typically provide this service subject to Aeroprobe's scheduling and discretion. No guarantee of such service is made for custom products and Aeroprobe may choose to provide replacement products without analysis.

**PATENTS:** Aeroprobe shall defend any suit or proceeding brought against Buyer or customer of Buyer, so far as based upon a claim that the design or construction of product sold by Aeroprobe infringes a United States Patent (excepting a claim based upon a design or modification incorporated in such product at the request of Buyer); provided that Buyer promptly notifies Aeroprobe of any such suit or proceeding in writing and provided that at Aeroprobe's expense (a) Buyer gives Aeroprobe the right to defend or control the defense of any such suit or proceeding to include settlement, and (b) Buyer provides all necessary information and assistance for such defense. This obligation to defend shall extend, in the case of non-standard product sold by Aeroprobe to Buyer to a claim based upon the use of the product but only when such use is not in combination with any other apparatus and only to the extent that Aeroprobe was informed by Buyer of such use in writing prior to the date of shipment. Aeroprobe will pay all costs and damages finally awarded or agreed upon by Aeroprobe that are directly related to any such claim. In the event said product or any part thereof, is in such suit held to constitute infringement and the use of said product or part is enjoined, Aeroprobe will, at its own expense and obligation, either procure for the Buyer the right to continue using said product or part, or replace same with non-infringing product, or modify it so it becomes non-infringing or remove said apparatus and refund the purchase price and the transportation and installation costs thereof. This paragraph sets forth Aeroprobe's entire liability with respect to patents.

**LAW GOVERNING:** This Order shall be governed by and construed in accordance with the laws of the State of Virginia of the United States of America, exclusive of the International Sales Convention and excluding conflicts of law and choice of law principals. The rights, duties and obligations described herein arose and are performed in Montgomery County, Virginia. However, if any items under this order are to be provided to or performed for order to Aeroprobe, the rights, duties and obligations described herein shall be deemed to have arisen and to be performed in Montgomery County, Virginia.

**GOVERNMENT CLAUSES AND CONTRACTS:** Government contract clauses and any clauses essentially based upon the Government Contract Regulations shall only apply to sales subject to a government contract. In the event this sale is subject to a government contract, the terms and conditions of this sale shall include if any, only those government contract clauses - not inconsistent with terms and conditions herein - which applicable regulations (and the prime contract and/or sub-contract to which this

sale is subject) require to be included in a prime contract or sub-contract such as this sale and only for the minimum necessary purposes of the clause.

**ASSIGNMENT:** This agreement may not be assigned by either party without the written consent of the other party except (1) to a successor corporation by merger or consolidation of either party, or (2) to any corporation acquiring by sale, lease or otherwise substantially all of the property, assets and business of either party, or any division or segment thereof having control of the activities or business to which this agreement relates, or (3) to any corporation controlling, controlled by, or under common control with, either party.

**LIMIT OF LIABILITY:** In no event will Aeroprobe assume responsibility for or be liable (a) for penalties or penalty clauses of any description, or (b) for indemnification of buyer or others for costs, damages, or expenses arising out of or related to the product or services of this order or (c) for indirect or consequential damages under any circumstances.