



## Standard sales terms and conditions

These Standard Sales Terms and Conditions apply to Customer's purchases (whether from PROBEWELL or from PROBEWELL channel partners, distributors, resellers or other third-party sales agents) of PROBEWELL's testing solutions which include equipment, software and services ("Products"), unless Customer has a separate written agreement with PROBEWELL that expressly applies to Customer's purchase of such Products. Depending on the Products purchased, other specific terms and conditions may apply. These Standard Sales Terms and Conditions, along with all other published PROBEWELL Terms and Conditions, are available at [www.Probewell.com/how-to-buy/sales-terms-conditions](http://www.Probewell.com/how-to-buy/sales-terms-conditions) or from PROBEWELL upon request, and, when applicable, constitute the entire contract between the Customer and PROBEWELL ("Agreement"). "PROBEWELL" means the direct or indirect affiliate or subsidiary of PROBEWELL Inc. named on an PROBEWELL quotation, order confirmation, invoice or other sales documents. "Customer" means the entity that places an order for Products with PROBEWELL. The Agreement may not be altered, supplemented, or amended by the use of any other document(s) unless otherwise agreed to in a written agreement duly signed by both Customer and PROBEWELL. Customer's acceptance of this Agreement in its entirety is expressed by ordering, accepting delivery, keeping, or using the Products or any other act or expression of acceptance by Customer.

### 1. ORDERS

- 1.1 All Customer purchase orders ("PO") are subject to written acceptance by PROBEWELL by the issue of a Sales Acknowledgement, even if the PO is received elsewhere by a salesperson, sales agent or representative.
- 1.2 Customer's PO must be placed to PROBEWELL in writing (e-mail, fax or letter) in English, Spanish or in French (only in French-speaking countries and the province of Quebec). PROBEWELL shall send an acknowledgement within five (5) business days from the date the PO is received by PROBEWELL.
- 1.3 If the Customer's PO is not fully completed, in the reasonable judgment of PROBEWELL, at the latest five (5) business days before the scheduled shipping date mentioned in the Sales Acknowledgement, PROBEWELL, at its sole discretion, reserves the right to reschedule, as a whole or in part, any delivery.
- 1.4 Customer's PO is non-cancelable and considered final. All requests to cancel or reschedule an order are subject to acceptance by PROBEWELL and in no event shall the shipping date be postponed by more than three (3) months. PROBEWELL reserves the right to apply cancellation or restocking charges.
- 1.5 All requests to consolidate several POs are subject to acceptance by PROBEWELL and must be made at least five (5) business days before the first scheduled shipping date.
- 1.6 All requests to amend, supplement or replace this Agreement by Customer must be made within forty-eight (48) hours after the date of the Sales Acknowledgement issued by PROBEWELL. Otherwise, Customer's acceptance of this Agreement in its entirety is automatically expressed by ordering the Products.

### 2. PAYMENT TERMS

Unless otherwise specified by PROBEWELL, payments are due net thirty (30) calendar days from the date of the invoice for established accounts and subject to credit approval. Otherwise, the reception by PROBEWELL of a letter of credit (as approved by PROBEWELL at its sole discretion) or prepaid payment is required at the latest five (5) business days before the scheduled shipping date mentioned in the Sales Acknowledgement. In the event that such letter of credit or prepaid payment is not received within the required timeframe, any scheduled shipping will be delayed for a minimum period of five (5) business days after the actual reception by PROBEWELL of the letter of credit or prepaid payment.

### 3. INVOICING

The invoicing company of PROBEWELL is defined in the quotation (either PROBEWELL Inc. or PROBEWELL Lab Inc.). Invoices are established in one of the following currencies: USD, MXN or CAD, unless the parties otherwise agree in writing. Payments must be made following the instructions and in the currency indicated on the invoice. Overdue payments are subject to a late payment charge, calculated and compounded monthly, and calculated at an annual rate of twenty-four percent (24%). If the amount of the late payment charge exceeds the maximum permitted by law, the charge will be reduced to that maximum amount.

### 4. DELIVERY

- 4.1 The deliveries of Products will be under FCA, PROBEWELL's shipping point (Incoterms 2020). VAT, sales, use, excise or similar taxes are not included. Consequently, these taxes may be added to the prices stated herein. If the shipping instructions are not provided by Customer to PROBEWELL at the latest five (5) business days before the scheduled shipping date mentioned in the Sales Acknowledgement, PROBEWELL shall: i) have the sole discretion with respect to mode of transportation routing and any other matters related to transportation of Products. All costs incurred by PROBEWELL associated with the transportation of Products to Customer, including the custom brokerage fees and custom duties, will be invoiced to Customer by PROBEWELL; or ii) delay the delivery. If Customer wishes that another Incoterm be applied to the sale, such other Incoterm shall need to be agreed in writing by PROBEWELL prior to shipment.
- 4.2 PROBEWELL will make every reasonable effort to meet Customer's delivery requirements. Scheduled delivery and shipping dates are estimated and not guaranteed. PROBEWELL shall not be liable for late delivery or non-delivery due to any reason.

### 5. WARRANTIES AND DISCLAIMER OF WARRANTIES

- 5.1 Basic warranty is, depending on the Product purchased, for a period from one (1) year to three (3) years from the date of shipment with some limited hardware product ranges having a five (2) year basic warranty period (the "Warranty Period"). The applicable Warranty Period for each Product is indicated on the quotation, the user manual and PROBEWELL's website upon Product registration.
- 5.2 Certain third-party products are excluded from this basic warranty. Excluded third-party products are identified, as applicable, within the PROBEWELL quotation. Post sales services for such third-party products shall be honored directly with the third-party manufacturer indicated within the PROBEWELL quotation and shall be according to the warranty terms of the third-party manufacturer and not according to this basic warranty.
- 5.3 During the Warranty Period, Products are warranted under normal use: i) to be free from any defect in design, material and workmanship; ii) to conform to applicable specifications and approved samples; and iii) to be fit and sufficient for the intended purpose.
- 5.4 PROBEWELL warranties do not cover recalibration, additional performance verification and equipment or parts subjected to misuse, negligence, accidental destruction, incoming power problems or that are not used as per the user manual. All consumable parts are excluded from any kind of warranty including but not limited to batteries, connectors and adapters, cleaning tools, cases, chargers and patchcords.
- 5.5 PROBEWELL will repair or replace, free of charge, any Product proven to be defective within the Warranty Period. Only return-to-Customer shipping costs will be paid by PROBEWELL for Product under warranty. Shipping insurance is at Customer's expense.
- 5.6 Any claims on shipping errors, missing items or dead-on-arrival must be submitted in writing to PROBEWELL within thirty (30) days of delivery. In case of shipping errors or dead-on-arrival claims, PROBEWELL, at its discretion, can authorize a return and immediate replacement. In such event, Customer will have forty-five (45) calendar days to return the faulty product to PROBEWELL. If the product is

not returned within such period, PROBEWELL will, without further notice, invoice Customer for the replacement product at current list price.

- 5.7 The warranties stated herein are exclusive and in lieu of all other warranties, expressed or implied, including warranties of merchantability or fitness for a particular purpose.
- 5.8 The complete PROBEWELL warranty terms, including the Warranty Period, are included in the user manual or the documentation of the Products.
- 5.9 Customer may purchase extended warranties that include the same advantages of the basic warranty, except that Customer is responsible for all shipping costs during the extended warranty period. Extended warranties are subject to the full payment of the applicable fees published by PROBEWELL or as set forth in the applicable quotation.
- 5.10 Any Product repaired or replaced within the Warranty Period or under extended warranty, is warranted for thirty (30) days, or for the period remaining in the original Warranty Period or extended warranty period of the Product, whichever is longer.

## 6. SERVICES

6.1 For services requests, PROBEWELL's Technical Support Group will determine the type of services required. If the Product must be sent to an authorized PROBEWELL Lab service center, PROBEWELL will issue a Return Merchandise Authorization ("RMA") with instructions. PROBEWELL reserves the right to modify the content of the RMA after evaluation of the Product at the PROBEWELL Lab. At its sole discretion, PROBEWELL reserves the right to charge an evaluation fee to Customer.

6.2 Any services provided to Customer not covered by a warranty are at Customer's sole risk and expense, including all shipping costs.

6.3 Repair service, whether performed within the Warranty Period or outside warranty, does not include a calibration service, unless required to complete the repair service.

6.4 Should the services require the presence of PROBEWELL's technical personnel at a Customer's site, Customer will be responsible for all expenses, including but not limited to, parts, labor at the current hourly rate, travel and living. Customer will provide PROBEWELL's technical personnel with a suitable work environment and full and immediate access to the Product, being understood that any wait times will be billed to Customer.

6.5 Services are covered by a warranty period of three (3) months from the date of the return-to-Customer shipping.

6.6 Caution: Only PROBEWELL's trained personnel may open the case of an instrument, as permanent damage to the unit may occur. All PROBEWELL warranties will immediately become null and void if i) any unauthorized third party opens an instrument case, removes the warranty sticker from across the seam of the case or removes any of the case screws; ii) the Product serial number is altered, erased or removed; iii) the hardware or software is altered; or (iv) units are not installed as per manufacturer's instructions or applicable security standards.

6.7 Additional support services may be purchased by Customer and are subject to separate terms and conditions and to the full payment of the applicable fees published by PROBEWELL or as set forth in the applicable quotation.

## 7. SOFTWARE

Software is provided under license and is subject to the Software warranty, if any, and other terms set out in a separate license agreement, a copy of which is located at [www.Probewell.com/how-to-buy/sales-terms-conditions](http://www.Probewell.com/how-to-buy/sales-terms-conditions) or may be obtained upon request.

## 8. LIMITED LIABILITY

ANY LIABILITY OF PROBEWELL FOR ANY LOSS, DAMAGE, OR COST UNDER THESE STANDARD TERMS AND CONDITIONS SHALL BE LIMITED TO ACTUAL DIRECT DAMAGES INCURRED BY CUSTOMER BUT IN NO EVENT SHALL THE AGGREGATE LIABILITY OF PROBEWELL HEREUNDER EXCEED THE AMOUNT ACTUALLY PAID BY THE PURCHASER TO PROBEWELL HEREUNDER FOR THE PRODUCTS PURCHASED RESPONSIBLE FOR SUCH DIRECT DAMAGES. To the maximum extent permitted by the applicable law, in no event shall PROBEWELL be liable for any special, indirect, incidental or consequential damages, under any legal doctrine. This shall include loss of data, loss of use and/or profits, business interruption or downtime costs, capital costs or claim of third parties, whether caused by defects, performances, non-performances, delays, personal injuries, property damages or otherwise, regardless whether PROBEWELL has been advised of the possibility of such damages and whether the stated remedies have failed of their essential purpose.

## 9. CONFIDENTIALITY

All information (whether written, visual, oral or stored in any computer or other electronic magnetic or optical storage system) relating to the operation and activities of PROBEWELL, and all technical information related to the Products and Software shall be deemed "Confidential Information". The term "Confidential Information" shall not include such portions of the Confidential Information which (i) are rightfully in Customer's possession before receipt from PROBEWELL; (ii) are or become a matter of public knowledge other than as a result of disclosure hereunder; (iii) are rightfully received by Customer from a third party who has no duty of confidentiality; or (iv) are independently developed by Customer without use of PROBEWELL's Confidential Information. Customer agrees not to disclose, use, communicate, reveal nor make available to any person whomsoever in any manner whatsoever, any Confidential Information other than for performing its obligations or exercising its rights under this Agreement. Furthermore, Customer shall only furnish and provide access to Confidential Information to those of its employees who need to know the Confidential Information for performing Customer's obligations or exercising Customer's rights under this Agreement and who agree to receive the Confidential Information under terms at least as restrictive as those specified in this Agreement. Customer shall be responsible for the use of the Confidential Information by its employees.

## 10. GRAY MARKET

PROBEWELL at its discretion, may decide not to honor warranty, install, maintain, repair, calibrate, provide technical support nor make any support contracts available for gray market products. Please refer to PROBEWELL's Policy Regarding Gray Market Products located at <https://www.Probewell.com/en/how-to-buy/sales-terms-conditions/gray-market/>.

## 11. ASSIGNMENT

Customer may not assign or transfer the rights or obligations of these Terms and Conditions without the prior express written consent of PROBEWELL. Such consent will be at the sole discretion of PROBEWELL. Any attempted assignment without such consent shall be void and without effect. If PROBEWELL grants its consent to any assignment or transfer or where applicable change of user name, the assignee, transferee or other new user must obtain a new user name and password from PROBEWELL prior to exercising any rights under this Agreement. Consent by PROBEWELL to any assignment, transfer or change in user name shall not be deemed a consent to any subsequent assignment, transfer or change of user name.

## 12. EXPORTATION

PROBEWELL Products may be subject to export restrictions. Customer undertakes to comply with all applicable international and national laws, including the U.S. Export Administration Regulations, as well as the end-user and destination restrictions issued by the governments of U.S., Mexico, Canada and other countries. As such, if requested by an Export Control Administration, Customer will promptly provide to PROBEWELL an end-user statement certifying the name and address of the end-user, the final destination and the end-use of the Products. Customer agrees that neither it nor its subsidiaries or affiliates will directly or indirectly export, re-export, transfer, release or cause to be exported or re-exported (herein referred to as "Export") any Product to any destination or entity prohibited or restricted under EU, U.S., Mexican or Canadian laws including but not limited to embargoed or sanctioned countries, entities or nationals thereof, unless it shall prior to export, obtain an authorization from the applicable government agency either in writing or as provided by applicable regulation. Customer also agrees to comply with all trade laws applicable in other country jurisdictions as they pertain to import, use, export or distribute the Products.

## 13. SPECIFIC TERMS

PROBEWELL Service Assurance, Systems and Services ("SASS") Specific Sales Terms and Conditions and Support Program are located at [www.Probewell.com/SASS](http://www.Probewell.com/SASS).

## 14. PRIVACY NOTICE

PROBEWELL is committed to protecting the privacy and security of Customer's personal information. Please refer to [Customer Privacy Notice](#), applicable when (i) Customer orders or inquires about PROBEWELL Products solutions or services; and (ii) PROBEWELL quotes, accepts purchase orders, send order acknowledgments, invoices, sells, licenses or delivers Products, solutions or services to Customer.

## 15. ENTIRE AGREEMENT

These Standard Sales Terms and Conditions and where applicable, the Software License Agreement and any other Specific Sales Terms and Conditions including but not limited to those for [Service Assurance](#), [Systems and Services](#), constitute the entire agreement between the parties with respect to the subject matter of this Agreement and supersede (i) all prior agreements, oral or written; (ii) any conflicting terms in Customer's purchase order or PROBEWELL's invoice; and (iii) all other communications relating thereto. All Sections that by their sense and context are intended to survive the execution, delivery, performance and termination of this Agreement, will survive and continue in effect.

## 16. URLs

Any reference to information contained in an URL form an integral part of this agreement and Customer hereby confirms that it has access to the Internet and confirms that prior to entering into this agreement it has read and agrees with the terms and conditions set out in those documents.

## 17. FORCE MAJEURE

Neither party will have any liability for delay or non-delivery in the performance of its obligations under this Agreement when attributed to Acts of God, superior force, and compliance in good faith with any applicable legislation or governmental regulation, or any other cause beyond reasonable control of such party.

## 18. HEADINGS

The headings used herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

## 19. GOVERNING LAW

These Standard Sales Terms and Conditions shall be interpreted and governed in accordance with the laws of the Province of Quebec, Canada, and the laws of Canada applicable therein, without regard to its rules of conflict of laws, except for the reference to the Incoterm FCA, which incorporates to this document all the present rules of the International Chamber of Commerce pertaining to the 2020 Incoterms.