

VALVETECH, INC.
TERMS & CONDITIONS – ALL SALES

All quotations issued by ValveTech, Inc. (hereinafter referred to, as "ValveTech") shall be considered offers by ValveTech to sell the goods described therein (collectively, "Product" or "Products") to the purchaser of such goods ("Customer"). Any sale of ValveTech's Products will be solely upon these terms and conditions, regardless of any terms set forth in any quotation or other contractual document or accepted purchase order from the Customer. Any acceptance of any offer shall be limited to the terms hereof. Additional or conflicting terms contained in any Customer documents are expressly rejected.

1. ACCEPTANCE OF TERMS OF SUPPLY: These terms and conditions shall control all sales of Products by ValveTech, unless otherwise specifically agreed upon to the contrary, in a separate written document executed by ValveTech. ValveTech will not be bound by any terms of Customer's purchase orders, requests for proposals or terms and conditions that are inconsistent with the terms herein, unless otherwise specifically agreed upon to the contrary, in a separate written document executed by ValveTech. All purchase orders issued to ValveTech by Customer shall be subject to and governed only by these terms and conditions notwithstanding any preprinted or other terms and conditions on Customer's purchase order, or terms incorporated therein and any contradictory terms and conditions on Customer's purchase documents are deemed to be material alterations hereto, for which notice of objection is hereby given by ValveTech. Customer's acceptance of the quote or placement of a purchase order constitutes Customer's acceptance of these terms and conditions, all of which are incorporated by reference therein.

Notwithstanding any provision to the contrary, no purchase order shall be binding upon ValveTech until accepted by ValveTech in writing, and ValveTech shall have no liability to Customer with respect to purchase orders that are not accepted.

2. PRICE and PAYMENT TERMS: Prices for Products shall be ValveTech's quoted prices for the quantities specified in such quote or accepted purchase order ("Purchase Price"); however, a quotation or estimate does not constitute a firm offer by ValveTech and may be altered or withdrawn without notice at any time prior to ValveTech's acceptance of a purchase order related thereto from Customer. ValveTech reserves the right to revise a Purchase Price upon written notice to Customer. Price revisions will apply to all purchase orders received after the effective date of the price revision. Unless otherwise specified in any written agreement to the contrary, prices are F.O.B ValveTech's facility in Phelps, New York. Customer shall be responsible for, in addition to the Purchase Price, any and all customs, duties and all sales, use, value added, excise, and/or other taxes payable by reason of the sale of the Products, together with any interest and penalties thereon. Customer shall reimburse ValveTech for any such taxes,

including interest and penalties thereon, as may be paid by ValveTech, together with any expenses connected therewith.

Payment terms shall be net thirty (30) days from the date of ValveTech's invoice. Customer will make payments in United States dollars by check, wire transfer, letter of credit, or other acceptable payment method as agreed to by ValveTech. Any invoice amount not paid when due shall be subject to a service charge equal to the lesser of one and one-half percent (1.5%) per month or the maximum rate permitted by law and Customer shall pay ValveTech's reasonable attorneys' fees and other collection costs of collecting overdue invoices. ValveTech may transmit invoices by facsimile, e-mail or other electronic means.

3. INSPECTION AND ACCEPTANCE: Acceptance shall take place at ValveTech's facility upon completion of agreed upon acceptance test procedures as set forth in any specifications previously agreed to by the parties ("ATP"). The ATP results shall be verified by a representative of the Customer in accordance with the applicable specifications related to any Purchase Order.

Prior to the ATP, ValveTech shall notify Customer that the Product is ready for ATP and if so requested by Customer, shall submit any data package as required by any applicable deliverable requirement previously agreed upon by the parties. Upon execution of the ValveTech Facility Non-Disclosure Agreement required for admittance to ValveTech's facility, the Customer shall be permitted, but is not required, to attend the ATP to certify the successful compliance of the Product with the ATP. Upon a showing of compliance to the specifications for the Product as evidenced by the Product's successful passage of the ATP, whether witnessed by the Customer or otherwise, the Product shall be deemed accepted by the Customer, ("Acceptance"). Title to the Product and risk of loss for the Product shall pass to Customer upon Acceptance of the Product.

4. DELIVERY & SHIPMENT: Delivery to a common carrier, F.O.B. ValveTech's facility, shall constitute delivery to Customer. ValveTech will use commercially reasonable efforts to deliver Products at the times specified in Customer's accepted purchase order, understanding, however, that all delivery dates are estimates only. Unless otherwise agreed between the parties, all Products delivered hereunder will be packed for shipment in ValveTech's standard containers, marked for shipment to Customer's address specified in Customer's purchase order, and shipped FOB, ValveTech's facility. All freight, insurance and other shipping expenses from the ValveTech's facility will be borne by Customer unless otherwise agreed to by ValveTech. Unless otherwise specified, for sales outside the United States, Customer shall be the importer of record. No Product or material may be returned by Customer without ValveTech's prior written approval. Product held beyond scheduled shipment date at Customer's request is subject to reasonable storage and incidental charges. Methods and routes of shipment, unless specified by Customer and made a part of the quote, shall be accepted as chosen by ValveTech. If Customer

or the carrier refuse delivery or delay shipment, the Product may be stored according to ValveTech's direction, as Customer's agent, at Customer's risk and expense. During any such period of storage, Customer shall have title to the Product and bear the risk of loss. All costs subsequent to delivery, including but not limited to the cost of shipment and installation of the Product described herein, shall be borne by Customer unless otherwise specifically agreed in writing by the parties.

5. SUSPENSION OF WORK and CANCELLATION:

Upon receipt of payment in full for all completed work to date, Customer may, by written notice, suspend all or part of the work to be performed under any accepted Purchase Order for a period not to exceed ninety (90) days. ValveTech shall resume work whenever a suspension is canceled. If any suspension of work under this clause causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment shall be made in price or delivery schedule or both, and the Purchase Order shall be modified in writing accordingly and ValveTech shall invoice Customer in the amount ValveTech identifies as the additional cost resulting from the change, and Customer shall pay such invoice in accordance with the net payment terms identified herein. ValveTech shall submit its fully supported request for equitable adjustment, no later than sixty (60) days, or such other time as Customer may allow, after the suspension is canceled.

No contract between ValveTech and the Customer is subject to cancellation by Customer without ValveTech's written consent. Such consent will be granted, if at all, only upon the condition that Customer pay ValveTech reasonable cancellation charges determined by ValveTech, including but not limited to all costs incurred by ValveTech to the date of cancellation, and all overhead, profit and other expenses. Any cancellation or rescission by Customer shall constitute a discharge of any claim by Customer relating to this transaction.

6. CHANGE ORDERS: Customer may from time to time, in writing, request changes within the general scope of any previously accepted Purchase Order in any one or more of the following: (i) technical requirements and descriptions, specifications, drawing or designs; (ii) shipment or packing methods; (iii) place of delivery or inspection; or (iv) reasonable adjustments in quantities or delivery schedules or both. ValveTech and Customer shall communicate regarding implementation of the requested changes and any related change to the cost of the Product, as well as any impact on the delivery schedule. If any such change causes an increase in the cost of or the time required for performance of the Purchase Order, equitable adjustment in the prices and schedules shall be made to reflect such increase and the Purchase Order shall be modified in writing accordingly ("Change Order Adjustment"). Pending mutual agreement of the Parties as to the Change Order Adjustments to the prices and/or schedules, ValveTech shall

take no action to implement any such change. ValveTech reserves the right to stop production of the Product while any Change Order Adjustment is pending.

Any added expenses incurred by ValveTech because of delays in receipt of details, specifications, approvals, Customer inspections and other pertinent information, or because of changes in material or design requested by Customer, shall be chargeable to Customer. If ValveTech considers that Customer's conduct has constituted a change hereunder, ValveTech shall promptly notify Customer in writing as to the nature of such conduct, its effect upon ValveTech's performance and the terms of the Change Order Adjustment necessitated by such conduct.

7. LIMITED WARRANTY: ValveTech designs, manufactures, tests, and qualifies its Products in strict compliance with the specifications provided by its Customer. ValveTech warrants that at the time of Acceptance, the Product will function in all material respects in substantial compliance with Customer's specifications for the Product, as evidenced by the ATP results. ValveTech further warrants that the Product will be shipped free from material defects in materials and workmanship for one (1) year from the date of Acceptance. When ValveTech adheres to designs, drawings and/or specifications furnished or approved by Customer (even if ValveTech prepared or approved the same), ValveTech shall not be responsible for them or their suitability for the application intended.

These expressed limited warranties do not cover damage or defects to the extent resulting from: (i) accident, disaster, neglect, abuse, misuse or transportation; insufficient or excessive electrical supply, excessive pressurization, abnormal mechanical or environmental conditions, or any unauthorized disassembly (ii) alterations or modifications made by Customer and/or its contractors, or contract manufacturers (iii) incorporation of the Product with or into Customer's product if the damage or defect would not have occurred but for such incorporation; or (iv) Customer's or its contractors, or contract manufacturer's failure to provide a suitable environment for incorporating the Product into Customer's product. No employee or agent of ValveTech is authorized to make any warranty other than that which is specifically set forth herein, unless such other warranty is set forth in a separate document and is executed by ValveTech. The foregoing limited warranties extend to Customer only and may be invoked only by Customer. ValveTech will not accept returns of Product or warranty claims from Customer's customers.

Customer and ValveTech agree to the following process for warranty claims:

(i) Customer must notify ValveTech, in writing, within ten (10) days after the discovery of an apparent defect or anomaly.

(ii) ValveTech shall provide instructions to the Customer on the handling of the alleged defective Product and Customer shall follow such instructions, which shall include packing and shipping the Product to ValveTech for its review and assessment.

(iii) ValveTech will examine the Product, and upon determination that the Product is defective and that the defect is a qualifying warranty claim, ValveTech shall have the option of refunding the Purchase Price as paid by the Customer, repairing the non-compliant Product, or replacing the non-compliant Product. The cost for the repair or the replacement will be the responsibility of ValveTech.

(iv) ValveTech testing and verification expenses shall be borne by Customer if Products returned for defective purposes are found to be working properly or if the cause of the defect or anomaly is the result of Customer or Customer's end user's mishandling or misuse of the Product.

THE EXPRESSED WARRANTIES LISTED ABOVE ARE IN LIEU OF ALL OTHER WARRANTIES, INCLUDING ANY EXPRESSED ORAL REPRESENTATIONS REGARDING THE PRODUCT(S), ANY EXPRESSED WRITTEN WARRANTY NOT CONTAINED HEREIN OR CONTAINED IN ANY TERM OR CONDITION IN ANY CUSTOMER DOCUMENT OR CONTRACT INCLUDING ANY CUSTOMER END USER CONTRACT, AND ANY IMPLIED WARRANTY INCLUDING WARRANTIES AS TO CONDITION, DESCRIPTION, FITNESS FOR A PARTICULAR PURPOSE, AND MERCHANTABILITY. VALVETECH DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

8. LIMITATION OF LIABILITY: IN NO EVENT SHALL VALVETECH BE LIABLE TO THE CUSTOMER FOR ANY CAUSE OF ACTION, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, BROUGHT BY THE CUSTOMER AGAINST VALVETECH, OR BROUGHT BY A THIRD PARTY AGAINST CUSTOMER, ARISING OUT OF THE PURCHASE, OR SUBSEQUENT USE, OF THE PRODUCT, FOR DAMAGES, ATTORNEY FEES, OR COURT COSTS THAT EXCEED THE PURCHASE PRICE OF THE PRODUCT ACTUALLY RECEIVED BY VALVETECH FROM THE CUSTOMER. IN NO EVENT SHALL VALVETECH BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES ARISING, DIRECTLY OR INDIRECTLY, FROM THE PURCHASE, SUBSEQUENT USE, OR RESALE OF THE PRODUCT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL VALVETECH BE LIABLE TO CUSTOMER FOR ANY LOST PROFITS, LOSS OF DATA, OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER FOR BREACH OF CONTRACT OR

WARRANTY OR TORT (INCLUDING NEGLIGENCE) OR THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED FOR HEREIN

9. APPLICABLE LAW AND CHOICE OF FORUM: This Agreement will be governed by and interpreted in accordance with the laws of the State of New York, without giving effect to its provisions regarding conflicts of laws. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded in its entirety. The Federal and State courts located in Monroe County, New York will have exclusive jurisdiction and venue over any dispute arising out of any agreement between ValveTech and Customer, and Customer hereby consents to the jurisdiction of such courts.

10. OWNERSHIP: ValveTech retains all intellectual rights in and to all designs, engineering details, and other technology and information pertaining to the Products in any format or media (“Intellectual Property”). The Products are offered for sale and are sold by ValveTech subject in every case to the condition that such sale does not convey any license, expressly or by implication, to manufacture, duplicate, or otherwise copy the Products or any Intellectual Property related thereto. The Products are offered and sold to the Customer on the condition that such sale does not convey any license, expressly or by implication, estoppel, or otherwise, under any patent, trademark, copyright or know-how with respect to which Customer can grant licenses.

ValveTech shall own all copyrights and other Intellectual Property rights in all drawings and specifications prepared by or for it, in connection with the Products. ValveTech shall own all patents and other Intellectual Property rights in any inventions made by it in the course of its design or manufacturing of the Products, subject to a limited license to Customer to use such Intellectual Property rights so that it can use the Product for its stated purposes. ValveTech shall be the sole owner of all tooling, dies, jigs, gauges and fixtures used in producing the Product and not supplied by Customer.

11. LIMITED INTELLECTUAL PROPERTY LICENSE: Subject to the limitations set forth in Section 10. ValveTech hereby grants to the Customer:

- (a) An irrevocable, non-exclusive, worldwide and royalty-free right to use (but not to disclose to any third party except as specifically provided otherwise in any accepted Purchase Order) ValveTech’s applicable Intellectual Property insofar as is necessary for the purposes of integration into, verification of, delivery of, and pre-and post-launch support operations of any spacecraft for which the Product was procured (“Spacecraft”). The Spacecraft is to be identified in the Purchase Order prior to award; and
- (b) the right to grant to the owner of any such Spacecraft, including in the event of the sale or transfer of the spacecraft, the right to transfer this right to use the Product as integrated into the Spacecraft, an irrevocable, non-exclusive, worldwide royalty-free right (with the right to grant

further sub-licenses to any user or operator of the said Spacecraft, ground control or other system) to use the Products (but not to disclose to any other third party). Such right of use is strictly limited to operation of the Spacecraft. In the event of a proposed sale or transfer of the Spacecraft, the owner of the spacecraft shall have the right to transfer this right to use the Goods as integrated into the Spacecraft, only after obtaining ValveTech's prior written consent for such transfer.

Notwithstanding the grant of the License, ValveTech does not transfer or assign any of its Intellectual Property rights to Customer. All such Intellectual Property rights are Confidential Information as that term is defined in the Mutual Nondisclosure Agreement, as referred to in Section 12.

12. CONFIDENTIALITY: Prior to submission of any quote or response to any request for proposal, the parties shall have entered in a non-disclosure agreement, the terms of which are mutually acceptable to the parties ("Non-Disclosure Agreement"). The terms of such executed Non-Disclosure Agreement are incorporated into this provision as if fully set forth herein.

Each party acknowledges that Proprietary or Confidential Information of the other party is being disclosed on a confidential and fiduciary basis and that the disclosing party may be irreparably harmed if the recipient party discloses or uses the Proprietary or Confidential Information contrary to this Agreement or the Non-Disclosure Agreement and that the disclosing party may not be adequately compensated by the award of damages for improper use or disclosure of the disclosing party's Proprietary or Confidential Information. Therefore, each party agrees that in the event a recipient party uses or discloses Proprietary or Confidential Information contrary to the terms of this Agreement or the Non-Disclosure Agreement, the disclosing party shall be entitled to any and all remedies under applicable law, including an action to seek injunctive relief and an order of specific performance without the necessity of proving actual damages.

If the U.S. Government or any subdivision thereof, including but not limited to NASA, makes any request of any party, pursuant to the terms of any prime contract, for Proprietary or Confidential Information of ValveTech, then Customer shall disclose such fact to ValveTech and ValveTech shall have the right to provide Customer with the appropriate "form, fit and function data" that would satisfy such governmental submission requirements. Except as specifically permitted, the Customer may only disclose such form, fit and function data to the US Government and shall not disclose any Proprietary or Confidential Information received hereunder to the U.S. Government, or any subdivision thereof, including but not limited to NASA.

13. NOTICE: Any notice required or permitted to be given will be in writing and will be prepaid, and may be personally served, sent by an overnight delivery service, or by first-class

mail. Any such notice will be deemed to have been given: (i) if personally given, or sent by a delivery service, when received, (ii) if mailed, three (3) business days after deposit in the United States mail with a correct address.

14. EXPORT: Customer will not export any Product or information relating thereto except in compliance with all applicable U.S. laws and regulations controlling the export of technical data. All parties agree to comply with all applicable export laws and regulations, including the requirement for obtaining any export authorization (license or agreement), if applicable. Without limiting the foregoing, the Customer agrees that it will not transfer any export controlled goods, technical data, and/or services, to include transfer to non-U.S. persons (as defined in the ITAR and EAR) employed by or associated with, or under contract to Customer, without the authority of an export license, agreement, or applicable exemption or exception, if required.

15. FEDERAL ACQUISITION REGULATIONS: Unless otherwise agreed in writing by ValveTech, no Federal Acquisition Regulations or other government procurement rules or regulations will apply to any accepted purchase order, and Customer expressly represents and warrants that no Product is being purchased in performance of any U.S. or other government contract that would, or under which Customer is obligated to, subject ValveTech to any of the Federal Acquisition rules or regulations.

16. FORCE MAJEURE: If the affected Party is unable to perform any of its obligations as a result of a Force Majeure Event for more than ninety (90) consecutive days, the non-affected Party may terminate a previously accepted Purchase Order, without further liability, upon the serving of no less than thirty (30) days' prior written notice. Force Majeure Event means any circumstance beyond a Party's (the affected party) reasonable control, including but not limited to the following: war or other action of military forces, terrorism, riot, public disorder, civil commotion, insurrection, sabotage, vandalism, explosions, accident, fire, flood, lightning, storm, hurricane, tornado and/or other natural disaster or occurrences, acts of God, strike, lock-out or other industrial disputes not involving employees of the relevant Party, legislative, government or administrative interference or inaction PROVIDED THAT no circumstances or cause shall be considered to be beyond the reasonable control of a Party if it arises as a result of that Party's failure to take reasonable care.

17. WAIVER: The failure or delay of either of the undersigned to insist on strict compliance with any of the terms, covenants or conditions of this Agreement shall not be deemed a waiver of that term, covenant or condition, or a waiver of any other term, covenant or condition; nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or for any other times.

18. ENTIRE AGREEMENT: These Terms and Conditions constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all previous communications, written or oral, with respect to the subject matter, and no representations or statements of any kind made by any representative of ValveTech that are not stated herein will be binding on ValveTech. No course of dealing or usage of trade or course of performance will be relevant to explain or supplement any of these terms. If the parties have entered into a separate written agreement, signed by the parties, setting forth terms and conditions for the sale of Product to Customer by ValveTech, then the terms of such agreement shall control to the extent such terms and conditions are contrary to the terms herein.