**VALVETECH, INC.**
**TERMS & CONDITIONS FOR ALL VENDOR PURCHASES**

**Any sale of goods and services provided by the vendor (*"Vendor"*) to ValveTech, Inc. (*"ValveTech"*) shall be governed exclusively by these terms and conditions (*"Terms and Conditions"*). ValveTech and/or Vendor may collectively be referred to as the *"Parties"* or individually as a *"Party"*. These Terms and Conditions shall supersede and control over any inconsistent, conflicting or differing provisions contained in any quotation, purchase order, or other communication with ValveTech. Any acceptance of any offer is expressly limited to these Terms and Conditions. Additional or conflicting terms contained in any document from the Vendor are expressly rejected and shall be of no force or effect.**

1. **No Other Terms.** The Terms and Conditions set forth in this Agreement shall control all sales of goods and services provided by Vendor to ValveTech (the "***Work***") unless otherwise explicitly agreed upon to the contrary in a separate written document executed by ValveTech. ValveTech will not be bound by any terms of Vendor's purchase orders, acceptance, confirmation, communication, course of performance, contractual document, or any other 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 an authorized representative ValveTech. All purchase orders issued to ValveTech by Vendor shall be subject to and governed only by this Agreement notwithstanding any preprinted or other terms and conditions on Vendor's purchase order, or terms incorporated therein, and any contradictory terms and conditions on Vendor's purchase documents are deemed to be material alterations hereto for which notice of objection is hereby given by ValveTech. Notwithstanding any provision to the contrary, no quotation shall be binding upon ValveTech until accepted by ValveTech in writing by the issuance of a purchase order by ValveTech to Vendor, and ValveTech shall have no liability to Vendor with respect to quotations that are not accepted.

2. **Price and Payment Terms.** Prices for the Work will be the quoted prices as set forth on the accepted purchase order. Payment terms may be individually negotiated but will never be less than net thirty (30) days from the date of Vendor's invoice.

3. **ValveTech Visits to Vendor's Facility.** Vendor agrees, upon the prior written request of ValveTech, to allow ValveTech to visit the Vendor's facilities to review progress pertaining to the requirements of any accepted purchase order.

4. **Inspection and Acceptance.**

a. Work shall be subject to inspection, surveillance and testing at reasonable times and places and upon reasonable notice. All such inspections, surveillance, and testing shall be conducted by ValveTech which shall perform inspections, surveillance and tests on the Work, so as not to unreasonably delay, impede or interrupt the production of the Work.

b. If the Work is accepted by ValveTech, acceptance shall take place upon ValveTech's final inspection of the Work ("***Final Inspection***"). All Final Inspections shall take place at ValveTech's facility located at 1391 Phelps Junction Road, Phelps, New York 14532 ("***Facility***"). At least fifteen (15) days prior to any Final Inspection, Vendor shall notify ValveTech that the Work is ready for Final Inspection. ValveTech shall thereafter be granted access to Vendor's facility, so that it is permitted, but is not required and in its sole discretion, ValveTech may elect to conduct an inspection of the Work at the Vendor's facility. If ValveTech does not conduct an inspection of the Work at Vendor's facility, ValveTech will conduct Final Inspection of the Work at ValveTech's Facility. If ValveTech determines that the Work is fully compliant with the specifications for the Work, as evidenced by the Work's successful passage of Final Inspection, the Work shall be deemed accepted by ValveTech ("***Acceptance***").

5. **Delivery and Shipment.**

a. Delivery to ValveTech's facility in Phelps, New York, FOB destination, shall constitute delivery to ValveTech. Title and risk of loss shall pass upon delivery. Methods and routes of shipment shall be accepted as chosen by ValveTech.

b. Time is of the essence for delivery and shipment. If it appears that Vendor will not meet the delivery schedule set forth in the accepted purchase order or if Vendor fails to meet such schedule, Vendor shall, upon request of ValveTech and in addition to all of ValveTech's rights and remedies at law and equity, ship via expedited routing, and Vendor shall bear all costs of such expedited shipping.

c. Unless otherwise agreed upon to the contrary by the Parties, all Work delivered hereunder will be packed for shipment in Vendor's standard containers, marked for shipment to ValveTech's address specified in the accepted purchase order, and shipped FOB destination. All freight, insurance and other shipping expenses from the Vendor's facility will be borne by ValveTech, if set forth in any purchase order except for those expedited shipping expenses that result from Vendor's failure to timely deliver the Work, as set forth in Section 5(b).

6. **Change Orders.** ValveTech may from time to time, in writing, direct changes within the general scope of the accepted purchase order in any one or more of the following:

a. Technical requirements and descriptions, specifications, drawing or designs;

b. Shipment or packing methods;

c. Place of delivery; and

d. Reasonable adjustments in quantities or delivery schedules or both.

ValveTech and Vendor shall communicate about implementation of the requested changes, and any related change to the cost and expense of the changes as well as any impact on the delivery

schedule. If any such change causes an increase or decrease in the cost of or the time required for performance of the accepted purchase order, equitable adjustment in the prices and schedules shall be made to reflect such increase or decrease and the accepted purchase order shall be modified in writing accordingly.

7. **Suspension of Work.** ValveTech may, by written notice, suspend all or part of the work to be performed under any accepted purchase order. Vendor 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 based on the Parties' mutual agreement, and the accepted purchase order shall be modified in writing accordingly. Vendor shall submit its fully supported request for equitable adjustment no later than twenty (20) days after the suspension is canceled.

8. **Rejection.** Upon completion of Final Inspection, ValveTech may refuse acceptance of any and all Work ("***Rejection***" or "***Rejected Work***") or any tender thereof which is not strictly in conformance with all the requirements and product specifications under the accepted purchase order. All Rejected Work will be returned to Vendor at Vendor's sole cost for immediate repair, replacement and other correction and retesting by ValveTech.

9. **Termination for Convenience.** ValveTech may terminate any accepted purchase order in writing for any reason or no reason whatsoever, in whole or in part, effective as of the date specified by ValveTech. In such event, Vendor will be reimbursed for costs incurred through the date of termination including work in process, materials procured and paid for that are not cancellable, similarly incurred termination costs, fees and charges owed to Vendor, and overhead and profit amounts demonstrated to be in proportion to the aggregate amount of the labor and material costs incurred under the accepted purchase order up to the termination date, as compared to the accepted purchase order price. Except as set forth herein, ValveTech is not liable for unabsorbed overheads, lost profits, or other economic losses from terminated work.

10. **Termination for Default.** Either Party may, by notice in writing served on the other Party, terminate the accepted purchase order immediately if the other Party is in material breach of any of the terms of the Agreement and the Party in breach fails to remedy such breach within fourteen (14) days of service of a written notice from the Party not in breach, specifying the breach and requiring it to be remedied. Failure to deliver Work on time and without noncompliance, or failure to pay any undisputed sums due in accordance with the Agreement are examples of material breach of the terms of the Agreement. ValveTech may cancel the accepted purchase order in whole or from time to time in part, effective on the date specified by ValveTech or in the event of Vendor's suspension of business, insolvency, reorganization or arrangement or liquidation proceedings, assignment for the benefit of creditors, or actual or constructive rejection by bankruptcy trustee, or appointment of a receiver for Vendor's property. ValveTech is not liable for expenditures or cost commitments of or by the Vendor during any cure period unless the termination is withdrawn by ValveTech in its sole and absolute discretion after a successful cure of the breach or default. The Parties may negotiate a resolution of the breach or default. The termination of accepted purchase order(s) howsoever arising is without prejudice to the rights,

duties and liabilities of either ValveTech or Vendor accrued prior to termination and the Conditions which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

11. **Warranty.** At the time of Acceptance, the Work shall conform to the most current, agreed upon requirements and specifications as called out on the accepted purchase order and shall be free from defects in material and workmanship for a period equal to the Vendor's standard warranty period, but no less than twelve (12) months after ValveTech's Acceptance of the Work (the ***"Warranty Period"***). During the Warranty Period, any Work, which is proven to be in nonconformance with the requirements and specifications due to defects in material or workmanship shall be repaired or replaced free of charge by Vendor.

12. **Proprietary Information.** The Vendor has previously executed and delivered a certain Vendor Nondisclosure and Proprietary Rights Agreement (the ***"NDA"***), to ValveTech, the terms of which are incorporated into these Terms and Conditions as if fully set forth herein. If any terms set forth in the NDA conflict with the Terms herein, the terms of the NDA shall be controlling.

13. **Miscellaneous.**

a. This Agreement and the rights and obligations hereunder may not be transferred or assigned by any Party without the prior written approval of the other Party. Notwithstanding the above, the obligations of a Party contained in this Agreement shall be binding upon any and all affiliates, subsidiaries, parent companies and any other entity or individual that the Party discloses the Proprietary Information to.

b. No amendment or modification to this Agreement shall be binding or effective unless made in writing and signed on behalf of both Parties by their respective duly authorized representatives.

c. No failure or delay by the either Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege hereunder.

d. The failure of either Party 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 that right or power for all or for any other times.

e. 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 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 Vendor, and Vendor hereby consents to the jurisdiction of such courts.

f. In the event ValveTech seeks to enforce any of the provisions set forth herein, Vendor agrees that it shall pay, upon demand, any and all costs related in any way to that enforcement, including, but not limited to, ValveTech's actual attorney fees.