



27850 COMMERCIAL PARK DRIVE | TOMBALL, TEXAS 77375 | 281-357-0101 | [WWW.CHEMVALVE.COM](http://WWW.CHEMVALVE.COM)

## Standard Terms and Conditions of Sale

1. **ORDERS, CANCELLATIONS, AND CHANGES:** ChemValve (herein "Seller") has the absolute discretion to accept or reject customer orders for any reason. Once accepted by Seller, Customer may only cancel orders with Seller's written approval and could be subjected to a restocking fee. All orders for buyout automation products and accessories may not be cancelled under any circumstances.
2. **ESTIMATES:** Estimates are not offers subject to the purchaser's acceptance but are information upon which the purchaser may base his purchase order. Estimates are valid for (30) days from the date of proposal unless stated otherwise in writing on the Estimate. Estimates do not include Sales Tax. All deliveries on Estimates are subject to prior sales.
3. **RETURNS:** Out of stock purchases may not be returned to seller for credit or exchange without written Returned Valve Form (RVF) issued by Seller. Engineered custom valves and buyout automation products/accessories are unique products and cannot be returned. Product ordered in error by the customer may be returned for a restocking fee only with seller's written approval.
4. **EXPEDITED DELIVERIES:** All shipments are F.O.B. origin unless otherwise agreed in writing. Expedited shipping requests by Customer will be reviewed against the then current production schedule and shipped upon Customer's written agreement to pay an Expediting Fee unless otherwise agreed between parties.
5. **PACKING AND SHIPPING:** Seller reserves the right to determine the best method for product delivery, select a carrier, and to specify the routing of all shipments, unless customer has furnished shipping instructions in writing to Seller with purchase order and prior to the time seller has completed packaging and shipping. Shipment schedules are based upon process time, material availability, and labor conditions. Seller shall not be liable in any way for failure or delay in making shipments as scheduled. Seller reserves the right to add shipping, packaging and processing charges on orders. Delivery lead time does not begin until an agreement has been reached regarding payment terms, drawing approval (If required), and receipt of Customer Purchase Order with full release to manufacture, purchase, or repair. If credit terms are pre-paid, lead time, manufacturing, ordering, or repair will not begin until funds are received unless a different arrangement has been agreed upon in writing. In case the buyer does not meet the payment obligations the seller is entitled to withhold all or partial shipment. No claims will be considered unless Seller is notified within 48 hours from receipt of the products. Specified delivery dates are estimates of when products will be shipped. Unless explicitly stated in writing, export packaging and/or crating is not included.
6. **RETENTION:** ChemValve does not accept retention clauses on any orders, unless explicitly agreed to in writing and signed by an officer of the company.
7. **CONFIDENTIALITY:** If Customer visits Seller's facility or Customer otherwise receives any proprietary or confidential information from Seller, such information will be retained as confidential by Customer and not be used or disclosed to any third party without Seller's prior written consent. Certain information, including but not limited to Seller practices, pricing and procedures is confidential information of Seller, and shall not be disclosed by Customer to any third party.
8. **PRICING AND PAYMENT TERMS:** All prices are in US dollars unless otherwise specified by Seller. For shipments within the United States of America, all payment terms are net 30 (If credit is granted), no discount from invoice date, unless otherwise agreed in writing. Orders shipping to destinations outside the United States of America will require payment prior to shipment unless agreed to otherwise in writing. Prices, payment terms, and specifications are subject to change without advance notice, unless otherwise agreed in writing. No set offs or counterclaims by Customer are allowed unless Seller agrees to them in writing.
9. **TAXES:** Customer agrees to pay any federal, state or local excise, use, occupational, or similar tax now in force or as enacted in the future, assessed against Seller or Customer by reason of this transaction, or provide Seller with the appropriate Sales Use and Tax Permits.
10. **CREDIT APPROVAL:** Seller, at its absolute discretion, may establish a credit limit for Customer for its purchases from seller. Customer will furnish to Seller all financial information reasonably requested by Seller from time to time for the purpose of establishing or continuing Customer's credit limit.
11. **PAST DUE ACCOUNTS:** If Customer is in default on any order, Seller in its absolute discretion may delay shipment, change the payment terms, change the credit limit, not accept new orders, and/or declare any outstanding amounts immediately due and payable. Interest on all past-due accounts shall accrue and shall be payable by Customer to Seller at the lesser of 3% per month or the maximum rate allowed by law.
12. **ASSIGNMENT:** This Agreement and any order or any claim against Seller arising directly or indirectly out of or in connection with this Agreement or any order under it will not be assignable by Customer without Seller's prior written consent.
13. **PROGRAMS:** All volume and/or shipping discounts, pricing breaks, and protection under any programs offered by Seller from time to time (collectively "Programs") are valid only if Customer's accounts are current. If the accounts are not current, Programs are considered not earned or in force. Any earned discount may be withheld or be used to satisfy any of the accounts or other obligations.
14. **PATENTS, INVENTIONS, TECHNICAL DATA:** Customer does not and will not acquire ownership or any rights in Seller's intellectual property under this Agreement or any order under it, regardless of when such intellectual property has been issued, conceived, generated or produced. All of Seller's intellectual property is reserved by Seller, and the same will not be reproduced or used by Customer for any purpose whatsoever without Seller's written permission.
15. **LIMITED WARRANTY** ChemValve warrants as follows:
  - (a) Each new ChemValve product and service is free from defects in material and workmanship if installed and used in accordance with ChemValve's applicable installation and operation instructions and operated within specification limits; (b) Any valve repair, service, or modification not performed following ChemValve instructions has no implied or express warranty; (c) Each new ChemValve product and service is fit for the purpose for which similar product and services are ordinarily intended. The purchaser shall be solely responsible for determining suitability for use and in no event shall ChemValve be liable in this respect.



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- (b) **DURATION:** The warranty period shall begin on the date of shipment to the first purchaser and extend for twelve (12) months.
  - (c) **EXCLUSIVE REMEDY:** ChemValve will repair or replace at its sole discretion any product and service it finds to be defective under this warranty, upon return of the product and service prepaid to ChemValve at 27850 Commercial Park Drive, Tomball, TX 77375. Such repairs or replacements are clients' exclusive remedy and ChemValve SHALL NOT BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM BREACH OF THIS WRITTEN WARRANTY OR ANY IMPLIED WARRANTY OR ANY OTHER THEORY OR RECOVERY.
  - (d) **DISCLAIMER:** ChemValve excludes from this warranty: failures due to corrosion, erosion, abrasion, cavitations, or other application related failures. Further, it is the end user's responsibility to account for environmental influences and to manage service conditions. There are no warranties that extend beyond the terms hereof and no one is authorized to assume for ChemValve any other liability in connection with the sale of total product and services. This warranty supersedes all previous warranties.
  - (e) **CUSTOM VALVE WARRANTY (manufactured valves to customer specifications):** ChemValve personnel shall perform the services in accordance with the care, skill, and diligence of applicable industry standards currently recognized as of the date of the execution of this agreement. ChemValve disclaims all other warranties, presentations and statements, express or implied, statutory or otherwise. No oral or written information or advice given by ChemValve or its agents, Representatives or employees, shall create a warranty or in any way increase the scope of these warranties and the client may not rely on any such information or advice unless it is set forth in writing, signed by an authorized officer of ChemValve.
16. **LIMITATIONS ON ACTIONS AND LIABILITY:** The statute of limitations applicable to all claims against Seller for the sale of any product will be one year from the date the claim accrues, not to exceed a one year period from Seller's original invoice date. SELLER'S MAXIMUM LIABILITY, IF ANY, FOR ALL DAMAGES, INCLUDING WITHOUT LIMITATION CONTRACT DAMAGES FOR INJURIES TO PERSON OR PROPERTY, WHETHER ARISING FROM SELLER'S BREACH OF THE APPOINTMENT OR THESE TERMS, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT WITH RESPECT TO THE PRODUCTS OR ANY SERVICE IS LIMITED TO AN AMOUNT NOT TO EXCEED THE PRICE OF THE PRODUCT(S). IN NO EVENT WILL SELLER BE LIABLE TO CUSTOMER FOR ANY INCIDENTAL, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST REVENUES AND PROFITS, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE RIGHT TO RECOVER DAMAGES WITHIN THE LIMITATIONS SPECIFIED IS CUSTOMERS'S EXCLUSIVE ALTERNATIVE REMEDY IN THE EVENT THAT ANY OTHER REMEDY AVAILABLE UNDER THESE TERMS FAILS OF ITS ESSENTIAL PURPOSE.
17. **TECHNICAL ASSISTANCE:** Technical assistance and information, if any, that Seller furnishes to Customer in connection with the sale of the Products are furnished for Customer's accommodation. Customer assumes all liability for the proper application of such information, utilizing customer's own technical expertise and know-how.
18. **TOOLING AND NON-REFUNDABLE ENGINEERING (NRE):** Tooling and engineering fees included in ChemValve estimates are considered non-refundable unless otherwise agreed between the parties in writing.
19. **DESIGN:** ChemValve reserves the right to make changes to the design without notice.
20. **DRAWING APPROVAL:** Seller reserves the right to adjust the pricing and/or delivery of an order if the customer makes changes to drawings during approval. Quoted lead time begins after customer drawing approval and receipt of formal purchase order from customer. Seller reserves the right to adjust pricing and/or delivery of an order if the customer does not return approval drawings within 2 weeks after receipt.
21. **EXCUSE OF PERFORMANCE:** Seller will not be liable for any delay in delivery or for non-delivery, in whole or in part, caused by the occurrence of any contingency beyond Seller's control or the control of Seller's supplies, including but not limited to failure or delay in transportation, acts of any government, judicial action, labor disputes, fire, accident, acts of nature, shortage of labor, fuel, raw material or machinery or technical failure. If any contingency occurs, Seller may allocate production and deliveries among its customers.
22. **REMEDIES:** Seller's rights and remedies will be cumulative and additional to all remedies provided by law or equity. Seller will be entitled to recover cost and attorney fees in the enforcement or defense of any of its rights
23. **ADDITIONAL TERMS:** Seller's failure to insist on performance of any term or condition or to exercise any right or privilege here included, shall not thereafter waive any such term, condition, right of privilege. This estimate, acknowledgement, or acceptance is expressly limited to and made conditional upon Customers acceptance of the terms and conditions contained herein and, in the quotation, if any, previously furnished to Customer by Seller. Any of the Customer's terms and conditions which are in addition to or different from those contained herein which are not separately agreed to in writing (except additional provisions specifying quantity, description of the products ordered and shipping instructions) are deemed material and are hereby objected to and rejected. Objection to any terms and conditions contained herein shall be deemed to have been waived if written notice of such objection is not received by Seller within ten days of the date hereof. Customer will in any event be deemed to have assented to all terms and conditions contained herein if any part of the products described herein is accepted. Please note particularly the Limited Warranty, Limitations of Remedies and Limitations on Actions and Liability provisions set forth above. Customer acknowledges that the prices stated are predicated on the enforceability of these terms and condition, and on the Limited Warranty, Limitation of Remedies and Limitation of Actions and Liability provision below, that the price would be substantially higher if Seller could not limit its liability as herein provided and that Customer accepts the provisions in exchange for such lower prices.
24. **GOVERNING LAW:** All orders shall be construed, interpreted and the rights of the parties determined in accordance with the laws of the State of Texas without giving effect to conflict of law principles.
25. **ENTIRE AGREEMENT:** This is the entire agreement between the parties relating to the subject matter hereof and may not be waived, changed, modified, extended or discharged orally but only by agreement in writing and signed by the party against whom enforcement of any such waiver, change, modification, extension or discharge is sought. If there is a conflict between these terms and materials published or distributed previously, these terms shall control.