



APPH Wichita
DBA Heroux Devtek

1445 Sierra Drive,
Wichita, Kansas
67209 USA

Telephone: +1 (316) 943-5752
Toll Free: +1 (866) 817-9995
Fax: +1 (316) 943-9655

Web: www.apph.com
www.herouxdevtek.com

APPH Wichita, Inc. Standard Terms and Conditions of Sale

GOODS SOLD BY APPH WICHITA, INC. (SELLER) ARE EXPRESSLY SUBJECT TO THE TERMS AND CONDITIONS SET FORTH BELOW. ANY DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS SET FORTH IN BUYER'S PURCHASE ORDER OR SIMILAR COMMUNICATION ARE OBJECTED TO AND SHALL NOT BE BINDING OR APPLIED UNLESS AGREED TO IN WRITING BY AN APPH CORPORATE OFFICER. BUYER'S ACCEPTANCE OF SHIPMENT AND/OR PAYMENT FOR THE GOODS CONSTITUTES ACCEPTANCE OF APPH WICHITA'S TERMS AND CONDITIONS.

PRICE: Prices in effect at time of shipment shall prevail. All prices quoted by SELLER are subject to change without notice. Prices do not include any present or future sales, use, excise, value-added or similar taxes and, where applicable, such taxes shall be billed as a separate item and paid by Buyer. A late payment charge of 1 1/2% per month (an annual percentage rate of 18%) shall be charged on all past due accounts and Buyer shall pay SELLER all costs incurred related to collecting any past due account from Buyer, including all court costs and attorney's fees, provided, however, if the foregoing charges exceed that rate which may be lawfully charged under applicable law, then such charges shall be calculated so as not to exceed the highest lawful rate.

Unless otherwise noted, all sales are made f.o.b. point of shipment and, in all cases, title shall pass upon delivery to the carrier at point of shipment and thereafter all risk of loss or damaged shall be upon Buyer.

DELIVERY: Delivery dates given in advance of actual shipment are estimates and shall not be deemed to represent fixed or guaranteed delivery dates.

SELLER shall not be liable for failure to deliver or for delay in delivery or performance due to (i) a cause beyond its reasonable control, or (ii) an act of God, act or omission of Buyer (including but not limited to pricing, cycle times, etc.), act of civil or military authority, governmental priority or other allocation or control, fire, strike, or other labor difficulty, riot or other civil disturbance, insolvency or other inability to perform by the manufacturer, delay in transportation, or (iii) any other commercial impracticability. In the event of any such delay, the date of delivery or performance shall be extended for a period equal to the time lost by reason of delay.

Deliveries will be delayed in the instance Buyer exceeds established credit limit or has outstanding past due invoices.

MRO HOLDING CHARGE: If buyer does not respond to or disposition a repair estimate within thirty (30) days of submittal by seller, a charge equal to 15% of the standard overhaul/repair charge, per month, will be added to the final invoice amount. If no response is received within six (6) months from the date of quotation, SELLER will assume title of product and reserves the right to sell or otherwise dispose of the product as compensation for costs incurred.

CHANGE IN BUYER'S FINANCIAL CONDITION: SELLER reserves the right by written notice to cancel any order or require full or partial payment or adequate assurance of performance from Buyer without liability to SELLER in the event of (i) Buyer's insolvency, (ii) the filing of a voluntary petition in bankruptcy by Buyer, (iii) the appointment of a receiver or trustee for Buyer, or (iv) the execution by Buyer of an assignment for the benefit of creditors. SELLER reserves the right to suspend its performance until such payment or adequate assurance of performance has been received. SELLER also reserves the right to cancel Buyer's credit at any time for any reason.

Buyer, in order to provide security for the payment of the full price of goods furnished hereunder, grants SELLER a security interest in the goods. Buyer agrees to execute any documents or furnish information necessary to perfect this security interest.

WARRANTIES: SELLER MAKES NO OTHER WARRANTY AND ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS ARE HEREBY EXCLUDED. Buyer is responsible for installation and use in accordance with manufacturer's instructions. SELLER personnel are not authorized to alter this policy.

LIMITATION OF LIABILITY: SELLER'S liability on any claim for loss or damage arising out of this contract or from the performance or breach thereof or connected with the supplying of any good hereunder, or the sale, resale, operation or use of such goods, whether based on contract, warranty, tort (including negligence) or other grounds, shall not exceed the price allocable to such goods or part thereof involved in the claim, REGARDLESS OF CAUSE OR FAULT. THIS LIMITATION OF LIABILITY REFLECTS A DELIBERATE AND BARGAINED-FOR ALLOCATION OF RISKS BETWEEN SELLER AND BUYER AND CONSTITUTES THE BASIS OF THE PARTIES' BARGAIN, WITHOUT WHICH SELLER WOULD NOT HAVE AGREED TO THE PRICE OR TERMS OF THIS CONTRACT. SELLER shall not, under any circumstances, be liable for any labor charges without its prior written consent.

SELLER SHALL NOT IN ANY EVENT BE LIABLE whether as a result of breach of contract, warranty, tort (including negligence) or other grounds (1) FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES including, but not limited to, loss of profits or revenue, loss of use of the goods or any associated product, cost of capital, cost of substitute products, facilities or service, downtime costs, or claims of customers of the Buyer for such damage.

If SELLER furnished Buyer with advice or other assistance which concern any goods supplied hereunder, or any system or equipment in which any such goods may be installed, and which is not required pursuant to this contract, the furnishing of such advice or assistance will not subject SELLER to any liability, whether based on contract, warranty, tort (including negligence) or other grounds.

NUCLEAR OR OTHER HAZARDOUS ACTIVITIES: Unless specifically agreed to in writing by an authorized representative of SELLER, goods sold hereunder are not intended for use in connection with any nuclear facility or any other hazardous activity. If so used, SELLER disclaims all liability for any nuclear damage, contamination or other damage or injury and Buyer shall indemnify and hold SELLER harmless from such liability whether as a result of breach of contract, warranty, tort (including negligence) or other grounds. SELLER and its suppliers shall not be liable to Buyer or its insurers based on contract, warranty, tort (including negligence) or other grounds for onsite damage to any property located at a nuclear facility.

CANCELLATION: Buyer may cancel an order by mutual agreement based upon payment to SELLER of reasonable and proper cancellation charges.

RETURNED GOODS: Goods may not be returned without the prior written consent of SELLER.

ASSIGNMENT OF DELEGATION: Buyer shall not assign or delegate any or all of its duties or rights hereunder without the prior written consent of SELLER.

EQUAL OPPORTUNITY: The contract provisions set forth in Section 202 of Executive Order 11246, as amended, and the regulations promulgated there under (41 CFR §60-1.4(a) or (b) as applicable) are incorporated by reference as if fully written with respect to any order.

GENERAL: All orders subject to acceptance by SELLER. Any representation, affirmation of fact and course of dealing, promise or condition in connection therewith or usage of trade not incorporated herein shall not be binding on either party. If any provision hereof shall be unenforceable, invalid or void, for any reason, such provision shall be automatically voided and shall not be part of this agreement and the enforceability or validity of the remaining provisions of this agreement shall not be affected thereby.