

Hydrojet, Inc.

Purchase Order Standard Term & Conditions

1.0 ACCEPTANCE:

Acceptance of the offer represented by this Purchase Order ("Order") is expressly limited to the terms of this Order. Signing and returning the acknowledgment copy of this Order shall constitute acceptance of this Order. This Order is the entire contract and no changes are binding on the Buyer unless they are in writing and signed by an authorized representative of Buyer's Purchasing Department. Any references to or attachment of Seller's terms and conditions or any overprinting on the acknowledgment or invoicing of this order shall not alter the terms and conditions of this order and shall be disregarded by the Buyer.

2.0 WARRANTY:

Seller warrants that all articles furnished hereunder will be merchantable, free from defects in material and workmanship, and will conform to applicable specifications, drawings, or descriptions. If seller is responsible for design of the articles according to performance specifications established by the buyer, Seller warrants that the articles will be fit and sufficient for the purposes intended by Buyer and will meet Buyer's performance specifications. Buyer's approval of designs furnished by Seller shall not relieve Seller of its obligations under this warranty. Such warranties shall survive inspection, test and acceptance. The warranties of Seller, together with its service guaranties, shall extend to Buyer and/or its customers. Seller will promptly reimburse Buyer for any loss incurred by Buyer due to any defects in such items and will hold Buyer harmless from any claims of third parties due to any defects in such items. The warranties are in addition to all express, implied, or statutory warranties. Notice of any breach of warranty shall be given by Buyer to Seller within a commercially reasonable time after discovery thereof by Buyer.

3.0 PAYMENT:

The time of payment of Seller's invoices shall commence with date of actual receipt of invoices or the date of actual receipt of the items ordered, in complete accordance with the requirements of this Order, whichever is later.

4.0 PACKING AND SHIPMENT:

4.1 Unless otherwise specified in this Order, all items to be delivered shall be boxed, crated, or stored without charge and shall be packed in suitable containers for protection in shipment and storage. An itemized packing slip bearing the Buyer's purchase order number must accompany each delivery, and each container must be marked to show the purchase order number and purchase order item number. Buyer's count will be accepted as conclusive on shipments not accompanied by a packing slip.

4.2 Material must be routed in accordance with Buyer's instructions as to method. All shipments are to be sent via a carrier selected by Buyer.

4.3 Specialized instructions will over rule general notes 4.1 & 4.2

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5.0 DELIVERY:

- 5.1 Time is expressly made of the essence herein. Delivery shall be made as specified and strictly in accordance with the delivery schedule of this Order. If Seller's deliveries fail to meet such schedule with the result that Buyer elects to call upon Seller for expedited shipments, Seller will pay the difference between the method of shipping specified in this Order and premium transportation rates unless the delay in delivery arises out of causes beyond the control and without the fault negligence of Seller.
- 5.2 Buyer reserves the right, without loss of discount privileges, to pay invoices covering items shipped in advance of the schedule on the normal maturity after the date specified for delivery. Material delivered under this Order in excess of the amount ordered herein, taking into account contractually authorized tolerances, if any shall be retained by Buyer. If at any time during the performance of this Order Seller expects that it will not be able to deliver the item(s) being procured hereunder, in accordance with the delivery schedule as set forth herein Seller will promptly notify Buyer regarding the anticipated delay in delivery, regardless of the reason for the anticipated delay in delivery.

6.0 INTELLECTUAL PROPERTY INDEMNITY:

- 6.1 To the extent that the items ordered have not originated with Buyer, Seller guarantees that the sale and/or use of such items delivered hereunder and their manufacture by Seller shall not infringe any U.S. or foreign patents, trademarks, copyrights, or trade secrets. Seller shall, at its own expense, indemnify and hold harmless Buyer and/or its successors, assigns, or customers (in this clause collectively "Buyer"), against any action, suit, or claim ("Suit") brought against Buyer which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under this Order, for Buyer's use (including resale) thereof, constitutes an infringement of any patent, trademark, copyright, or trade secret. Provided Buyer duly notifies Seller as to such Suit against Buyer seller shall defend and pay all damages, royalties, and costs awarded against, and reasonable expenses incurred by Buyer the right to continue the use of such goods or services in such Suit are held to constitute infringement and the use thereof is enjoined. Seller shall, at its own expense and at its option, either procure for the Buyer the right to continue the use of such goods and/or services or, in a manner acceptable to Buyer, make a replacement or modification to avoid infringement. Buyer agrees to the extent of its ability to do so, to supply any pertinent evidence needed to defend any Suit but only at the expense of the Seller.
- 6.2 The foregoing indemnity shall not apply where such goods or services are allegedly infringing as a result of Seller's compliance with specific written instructions from Buyer directing use by Seller of a feature not customarily used by Seller. Seller waives any rights to be held harmless by Buyer against any claims for infringement.

7.0 TAXES:

Federal State or Local taxes of any nature which are billed to Buyer shall be stated separately in Seller's invoices. Seller shall not bill taxes subject to Buyer's tax exemption certificate.

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8.0 TERMINATION:

Buyer may, in accordance with the paragraph (a), (b), and (c) below, terminates work under this Order in whole or in part, at any time by written or telegraphic notice to Seller. Upon such notice of termination Seller will, as to the terminated portion of the Order stop work immediately, notify subcontractors to stop work, and protect properly in Seller's possession in which Buyer has or may acquire an interest.

8.1 Buyer reserves the right to cancel, amend or modify this Order in any manner and at the sole discretion of Buyer in the event of default by Seller as to any of the terms and conditions hereof. The exercise by the Buyer of the rights set forth hereunder shall not constitute a waiver by Buyer of any other claim or right, whether existing by contract or by law or otherwise, and buyer shall have all remedies for default or breach available and shall be entitled to damages, including loss of anticipated profits resulting therefrom, and recovery of its attorney's fees as the prevailing party in any action in law or equity to remedy the breach.

8.2 Where such termination is for convenience of the Buyer, Seller may claim reimbursement for Seller's actual costs incurred up to and including the date of termination which are properly allocable to or apportionable under recognized accounting practices to the terminated portion of the Order, including liabilities to subcontractors which are so allocable and acceptable finished units at contract price not previously billed or paid for, but excluding any charge for interest or any material which Seller may be able to divert to other orders. Seller may also claim a reasonable profit on the work actually done by Seller prior to such termination, rate of which shall not exceed the rate used in establishing the rate of Order price. Seller's claim for reimbursement under such termination shall not include anticipatory profits. The total of such claims shall not, however exceed the cancelled commitment values of the Order.

8.3 In the event of any suspension of payment or the institution of and proceedings by or against Seller, voluntary or involuntary, in bankruptcy or insolvency, or under any provisions of the United States Bankruptcy Act, or the appointment of a receiver or trustee or an assignee for the benefit of creditors or a determination that the Seller has become unable to pay debts as they become due, Buyer may cancel this order without liability or loss of anticipated profits.

9.0 CHANGES:

The Buyer may at any time make changes by written order signed by Purchasing Manager without notice to the sureties, if any, make changes within the general scope of this Purchase Order, in any one or more of the following: (1) drawings, designs, or specifications; (2) in the shipping and packing instructions; (3) place of inspection, delivery, or acceptance; (4) the amount of Government or Buyer's furnished property; (5) increase or decrease the quantity of supplies and/or service; and (6) make changes in the delivery schedule. If any such change causes an increase or decrease in the estimated cost of, or the time required for, the performance of any part of the work under this Purchase Order, whether changed or not changed by any such order, or otherwise affects any other provision of this Purchase Order, an equitable adjustment shall be negotiated (1) in the estimated cost or delivery schedule; or both (2) in the amount of any fee to be paid to Seller; and (3) in such other provisions of the Purchase Order as may be so affected, and Purchase Order shall be modified in writing accordingly. Any claim by Seller for adjustment hereunder shall be deemed waived unless asserted in writing to the Buyer's Purchasing Manager within 30 days from the date the seller

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9.0 **CHANGES (continued):**

received notification of the change. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this Purchase

Order entitled "Disputes." However, nothing in this clause shall excuse Seller from proceeding with the Purchase Order as changed.

Buyer's engineering and technical personnel may assist or give technical advice in an exchange of information with Seller's personnel concerning the articles to be furnished under this Purchase Order. Such exchange of information or advice shall not authorize the Seller to change any of the terms, conditions, or the provisions of this Purchase Order, nor shall such assistance or technical advice operate as a waiver or relinquishment of any rights reserved to Harris hereunder or at law. Except as otherwise provided in this Purchase Order, no changes to the purchase conditions, including product or process configuration shall be made unless such change is authorized in writing by Buyer's Purchasing Manager.

10.0 **DISPUTES:**

Seller further consents to service of process on its by certified mail to its place of business as set forth in this order in addition to or in lieu of other means provided by the laws of Pennsylvania. The parties agree that any action at law or equity against the Buyer, based upon this order, or breach thereof, may be brought only in the Courts of the State of Pennsylvania or in the Federal courts located therein, and that such Courts shall have exclusive jurisdiction over any such actions. No action commenced or removed to the Federal Courts, located in the State of Pennsylvania, shall be transferred to any Federal Court located without the State.

11.0 **ASSIGNMENT:**

Seller shall not assign or subcontract this Order, or any part thereof, without the prior consent of Buyer, and not unless the assignee or subcontractor agrees to be bound by all the terms and conditions of the Order. Any such assignment or sub-contract made in derogation of this provision is expressly void.

No assignment of monies due or become due hereunder shall be binding upon Buyer until its written consent thereto is obtained and provided further that payment to an assignee of any claim under this Order shall be subject to setoff or recoupment to any present or future claim or claims which Buyer may have against Seller.

12.0 **PROPRIETARY DISCLOSURES:**

Seller agrees that devices, drawings, data, design reports, and other technical information or any information contained therein, supplied by Buyer and relating to this Order is the proprietary property of Buyer and such information shall be held in confidence by Seller. Such information shall only be used for the purposes of this Order and shall not be reproduced, used, or disclosed to others without Buyer's prior written consent except as necessary for the performance of this Order. Except with Buyer's prior written agreement, information which Seller shall have disclosed or may hereafter disclose to Buyer in connection with the placement and performance of this Order shall be deemed non-confidential and non-proprietary, and Seller agrees not to assert any claims (except for claims for patent infringement) by reason of the use, duplication or disclosure thereof by Buyer and/or its successors assigns or customers. Upon completion of this Order, Seller shall, at Buyer's order, return all such devices, drawings, data, design reports and other technical information, and all copies which have been made thereof to Buyer.

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13.0 **PROPERTY FURNISHED TO SELLER BY BUYER:**

Title to and the right of immediate possession of all property furnished by Buyer to Seller for use hereunder, including but not restricted to tooling, designs, patterns, drawings, and materials, shall be and remain in Buyer in all stages of production. Such property shall not be used in the production of larger quantities than those specified herein except with express written consent of the Buyer. All such property supplied by the Buyer shall be segregated by the Seller in the Seller's plant and, whenever possible, clearly marked so as to be easily identified as Buyer's property. Seller shall be fully responsible for all such property upon delivery to Seller until redelivery thereof to Buyer and shall protect, preserve, and maintain such property in its possession which is furnished by the Buyer as may be required. At the completion or termination of this Order all such property together with all excess materials shall be disposed of as Buyer shall direct. In the event such property is damaged or made unfit for its intended use of the property in accordance with the provisions of this Order, the Buyer's cost of replacement thereof is to be paid by Seller.

14.0 **NON-DISCRIMINATION AND FAIR LABOR STANDARDS:**

The Seller performing the work required by this Order shall comply with the Equal Employment Act. Seller warrants that the goods called for by this Order have been or will be produced in compliance with the Fair Labor Standards Act of 1938 (29 U.S.C. 201-219) and with any amendments to this act as well as with the provisions of any other Federal Law with respect to labor relations, minimum wages and hours of employment, now in effect or hereafter enacted, and with any and all rules and regulations issued under each and every Act. Seller also warrants that it does not maintain or provide segregated facilities for its employees and that it will not maintain such facilities and that it will not permit or require its employees to perform services at any location where segregated facilities are provided.

15.0 **RECORDS:**

Supplier agrees to maintain all records, books, and any other documents evidencing goods supplied and services rendered pursuant to this Order for ten (10) years from this Order's expiration date unless stated for a greater period.

16.0 **CONTRACT NONDISCLOSURES OF EXISTENCE:**

The parties hereto agree that this Order and the acceptance thereof shall be a contract made in the State of Pennsylvania, that its formation and performance are governed by the laws thereof, and that the Courts of Pennsylvania shall have exclusive jurisdiction of any cause of action arising there from. This Order, as the same may be modified or amended in writing, and any documents referred to herein, supersede all prior understandings, transactions, or communications, with respect to the matter referred to herein. The invalidity in whole or part of any condition of this Order, shall not affect the validity of other communications.

Neither party shall disclose any information about this Order, including its existence, without the prior written consent of the other.

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17.0 **GOVERNING-LAW:**

This order is to be construed according to the laws of the State of Pennsylvania. Seller irrevocably consents to the bringing of any action arising in connection with this order or breach thereof in the courts of the State of Pennsylvania or in the Federal Courts located therein regardless of whether, absent such consent, personal jurisdiction could otherwise be obtained. In the event it becomes necessary for Buyer or Seller to take any legal action concerning this Purchase Order, any lawsuit must be brought in the United States District Courts for the Eastern District of Pennsylvania or in the Berks County Court of Common Pleas

18.0 **PARTIAL INVALIDITY:**

If in any instance, any provision of this order shall be determined to be invalid or unenforceable under any applicable law, such provision shall not apply in such instance, but the remaining provisions shall be given effect in accordance with these terms.

19.0 **ADVERTISING ANNOUNCEMENTS AND NEWS RELEASES:**

Seller shall not, without first obtaining written consent of Buyer, in any manner advertise, publish or issue any news releases or make any public announcements or denial or confirmation of same concerning the fact that Seller has furnished or contracted to furnish Buyer the goods or work herein mentioned.

20.0 **CAPTIONS:**

Captions as used herein are for convenience of reference only and shall not be construed to limit or extend the language of the provisions to which such caption may refer.

21.0 **FORCE MAJEURE:**

The performance by either party under this Agreement (except the payment of money which shall not be excused for any reason) shall be excused to the extent and during the duration of any event which reasonably prevents the affected party from fulfilling its obligations hereunder, and is beyond the control of such party. Such events shall include, but not be limited to, fire, explosion, storm damage, flood, labor troubles including strikes, lockouts or slowdowns, government intervention (not including fines for violations of permits), war, sabotage, riot or civil disturbance or governmental regulation or statute. In the event of a force majeure, the affected party shall promptly notify the other in writing, describing the nature and expected duration of the situation. The affected party shall take all reasonable steps to alleviate the situation and mitigate damages to the other party. The term of this Agreement shall not be extended by the occurrence of a force majeure.

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22.0 INSPECTION:

Prior to payment or acceptance of any goods tendered, delivered, or identified to the contract or any services performed hereunder, the Buyer, agent of the Buyer, or agent of the Buyer's Customer shall have the right to inspect such critical items, goods or services at any reasonable place and time and in any reasonable manner, including at the seller's facility. All such goods, items or services must conform to the design and development controls; specifications, special requirements, key characteristics, and data set forth on the face hereof or incorporated herein by reference and the Buyer may reject or refuse acceptance of any items or services which do not conform to relevant requirements or traceability (e.g., specifications, drawings, process requirements, work instructions, or approved suppliers).

23.0 QUALITY MANAGEMENT SYSTEM (QMS)

The Seller will maintain a quality management system ensuring their suppliers meet the required standards. The Seller will ensure prevention of counterfeit parts and non-conforming products. Seller may be required to provide documentation or test specimens for design approval, inspection/verification, investigation, or auditing. Buyer will establish similar accountability flow down through approved external providers. The Seller using their QMS will hold and segregate any product pursuant to this purchase order that through Inspection at the Seller's facility, by the Buyer or Seller's personnel, has been found to be non-conforming to the product requirements. Non-conforming product may not be shipped to the Buyer without written Authorization from the Buyer's Quality Manager. In addition, the Seller is required to notify the Buyer of any suspected non-conforming product conditions that may be present in product lots already delivered under this purchase order. Seller and Buyer will document non-conformance issues in process or product through Supplier corrective action processes. If the goods threaten to decline in value speedily, Buyer shall dispose of goods rightfully rejected in accordance with the Uniform Commercial Code of Pennsylvania. In all cases, disposal shall be at Seller's expense and risk.

24.0 RIGHT OF ACCESS:

The Buyer reserves the right of access to Seller facilities for audit or inspection of the product at reasonable times during the life of this contract when the product is being manufactured/processed. This right of access shall be extended to the Buyer's customer and government representatives.

25.0 COMPLIANCE:

In addition, Seller hereby guarantees and warrants that as of the date of shipment and delivery all items hereunder comply with all other federal, state, and local laws and regulations of which the Seller has knowledge either independently or by specific direction from Buyer. Seller expressly warrants that all the items sold and services rendered hereunder are sold or rendered in full compliance with the Federal Trade Commission Act and the Clayton Act, as amended, and all other federal and state antitrust statutes.

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26.0 **INDEMNITY:**

Seller agrees to indemnify and hold Buyer harmless from any and all claims, loss or damage or any kind whatsoever, including consequential damages, along with all costs including reasonable attorney's fees connected therein, brought by or on behalf of any person or persons arising out of, directly or indirectly, the performance of this contract, including but not limited to claims or actions made or brought by or on behalf of Seller's employees, agents, representatives or assigns or subcontractors or their employees, agents or representatives, or assigns regardless of Buyer's negligence.

27.0 **ASSIGNMENT:**

Neither this Purchase Order nor any rights or obligations herein may be assigned by Seller nor may Seller delegate the performance of any of its duties hereunder without, in either case, Buyer's prior written consent. The terms and conditions of this Purchase Order shall bind any permitted successors and assigns of Seller.

28.0 **ENTIRE CONTRACT:**

The Purchase Order and all exhibits or attachments hereto constitute the entire agreement between Buyer and Seller and may not be amended unless in writing signed by the authorized representative of Buyer and Seller.

29.0 **QUALIFICATION OF PERSONNEL, QMS, PROCESSES AND FACILITIES**

All specialized processes must be performed by certified / qualified personnel. Significant changes in the status of your QMS product, processes, suppliers, and facilities must be forwarded to HSI.

30.0 **FLOW DOWN REQUIREMENTS**

Flow down to sub-tier suppliers the applicable requirements in the purchasing documents, including key characteristics where required. If you have questions, contact HSI.

31.0 **ITAR:**

Companies that supply parts for use with the military (where known) must be ITAR registered. Companies supplying a service (ie: plating, coating, IT, etc) must be ITAR compliant.

32.0 **PENALTIES:**

Where such contractual conditions exist when penalties are assessed by the end user due to the defects from products covered by this order, the seller shall be held liable for such penalty.

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33.0 **ETHICS:**

Supplier shall have management systems, tools and processes in place that:

33.1 Ensure compliance with applicable laws and;

33.2 Promote an awareness of and commitment to ethical business practices;

33.3 Facilitate the timely discovery, investigation (including cooperation with any Buyer initiated investigation involving Supplier), disclosure (to Buyer and others as appropriate) and implementation of corrective actions for violations of law, regulations, this Agreement, or an Order; and

33.4 Provide training to its employees on compliance requirements.