

# HAMMERHEAD CERTIFIED USED EQUIPMENT

## EQUIPMENT: PORTABURST LIGHTNING LATERAL BURSTING DOWN HOLE UNIT

SERIAL NUMBER	PB30-10415
LOCATION	OCONOMOWOC, WI USA
HOURS/USAGE (IF APPLICABLE)	N/A
AS IS PRICE	CALL FOR QUOTE
WARRANTY OFFERED	AS IS
CONDITION	FAIR

Note: All equipment is shipped in working condition. "Condition" only refers to the aesthetics of the equipment, tires and/or cable.

"Excellent condition" means that the equipment looks new, has never had any paint or body work and is free of rust.

"Good condition" means that the equipment is free of any major defects. The paint and body have minor blemishes. There should be little or no rust on this equipment.

"Fair condition" means that the equipment has some cosmetic defects. The paint and body may have repairable rust damage and/or blemishes. The tires or cable may need to be replaced (if applicable).

"Poor condition" means that the equipment has severe cosmetic defects, dents, un-repairable rust damage and/or severe blemishes. The tires and/or cable are in need of replacement (if applicable).

ADDITIONAL COMMENTS Price includes down hole unit only. Power pack, cable, and other accessories are not included.



DATE LAST INSPECTED: 02/20/2009. Equipment moves daily, product information and prices are subject to change.

**Call 800-331-6653 and ask for the used equipment manager to reserve your HammerHead Certified Used Trenchless Equipment.**

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**HAMMERHEAD**  
TRENCHLESS EQUIPMENT

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## Terms & Conditions of Sale

1. **AGREEMENT.** The terms and conditions set forth in this agreement shall constitute the entire agreement between Earth Tool Company LLC (ETC) and Buyer and supersedes all other agreements and understandings, written or oral between the parties with respect to the subject matter. ETC's acceptance of any offer by Buyer is expressly made conditional upon Buyer's acceptance of the terms and conditions as set forth herein and none of Buyers additional or different terms shall apply. Acceptance of ETC's offer to sell is expressly limited to acceptance of the terms and conditions herein and no other terms and conditions shall apply unless expressly agreed to by ETC in writing.
  2. **PRICE.** All prices exclude federal, state or local taxes, customs, duties, permits and license fees and any other taxes, fees and expenses will be added to the price or billed separately to Buyer where ETC has the legal obligation to collect or pay such taxes, fees or expenses. Unless ETC's written quotation indicates otherwise prices in quotations are subject to change without notice. Prices may increase as a result of delays due to changes requested by Buyer or Buyer's failure to furnish information requested. ETC reserves the right to charge, at any time, a monthly service charge of one percent (1 %) or the highest rate allowed by law, whichever is lower, on accounts outstanding more than thirty (30) days from the date of invoice, effective as of the thirty first (31st) day from the date of the invoice.
  3. **PAYMENT TERMS.** a. Domestic Sales. Unless otherwise stated on the front of this agreement payment terms for domestic sales are net thirty (30) days after date of ETC's invoice, except for progress billings which are due in full upon receipt of invoice. If Buyer fails to fulfill the terms of payment or if ETC shall have any doubt at any time as to Buyers financial situation ETC may decline to make further deliveries except upon receipt of cash or satisfactory security. This requirement will not release Buyer from any previous obligations. ETC's rights under this Section shall be in addition to all other rights and remedies available to ETC upon Buyer default. b. Export Sales. Unless otherwise stated on the front of this agreement payment terms for export sales are 100% net cash in United States currency upon presentation of invoice, bills of lading or other appropriate shipping documents for each shipment of products. In addition, unless otherwise agreed to in writing by ETC, buyer shall have established an irrevocable letter of credit in favor of ETC in an amount sufficient to cover the price of goods and all additional expenses which are for Buyers account and which includes such other terms and conditions which are acceptable to ETC. This letter of credit must be issued and confirmed by a United States bank acceptable to ETC, and shall by its length remain in full force and effect for a period agreed to by ETC to be sufficient for ETC to complete its performance of the sales contract and shipment of the products to the buyer. If the letter of credit should expire prior to completion of the order, Buyer is obligated to extend the letter of credit on terms acceptable to ETC. Any and all bank handling charges, taxes and other expenses related to such letter of credit are the responsibility of the Buyer.
  4. **ORDERS.** No order shall be valid until accepted by ETC at its offices in Oconomowoc, Wisconsin, United States of America.
  5. **FORCE MAJEURE.** ETC shall not be liable for any delays in delivery of orders due in whole or in part, directly or indirectly, to fire, act of God, war, strike, shortage of raw materials, supplies or components, retooling, upgrading of technology, delays of carrier, embargo, governmental order or directive or any other difficulties beyond ETC's control. Buyer agrees that ETC shall not be liable for any direct, indirect, consequential or special damages which may result from such delays.
  6. **DELIVERY TERMS.** Unless otherwise stated on the front of this agreement all deliveries shall be F.O.B. ETC's factory. All delivery expenses including transportation, freight, insurance, risk of loss and any other shipping costs, shall be for the account of Buyer. Unless otherwise directed selection of method and routing of shipments shall be at ETC's discretion. All boxing and packaging charges for export sales shall be added to the price. When special packaging is specified for domestic or export sales involving greater expense than that customarily supplied, a charge may be made to recover such extra expense. Shipment dates for export sale are approximate and are subject to receipt of all necessary buyer information, letters of credit, if required and all necessary licenses, permits and other documents.
  7. **INSPECTION AND ACCEPTANCE.** Buyer must inspect delivered goods and report claims for defects, damages or shortages in writing within ten (10) days of delivery or the goods shall be considered accepted and such claims shall be deemed waived.
  8. **LIMITED WARRANTY.** EARTH TOOL COMPANY LLC, hereinafter sometimes referred to as ETC warrants each new industrial product of its own manufacture to be free from defects in material and workmanship, under normal use and service for one full year after delivery to the owner or 1000 operating hours, whichever occurs first. During the warranty period, the authorized selling Hammer-Head Dealer shall furnish parts without charge for any HammerHead product that fails because of defects in material and workmanship. Warranty is void unless warranty registration card is returned within ten days from the date of purchase. This warranty and any possible liability of Earth Tool Company LLC hereunder is in lieu of all other warranties, express, implied, or statutory, including, but not limited to, any warranties of merchantability or fitness for a particular purpose.
- The parties agree that the Buyer's **SOLE AND EXCLUSIVE REMEDY** against ETC, whether in contract or arising out of warranties, representations, instructions, or defects shall be for the replacement or repair of defective parts as provided herein. In no event shall ETC's liability exceed the purchase price of the product. The Buyer agrees that no other remedy (including, but not limited to, incidental or consequential loss) shall be available to him. If, during the warranty period, any product becomes defective by reason of material or workmanship and Buyer immediately notifies ETC of such defect, ETC shall, at its option, supply a replacement part or request return of the product to its plant in Oconomowoc, Wisconsin. No parts shall be returned without prior written authorization from ETC, and this Warranty does not obligate ETC to bear any transportation charges in connection with the repair or replacement of defective parts. Earth Tool Company LLC will not accept any charges for labor and/or parts incidental to the removal or remounting of parts repaired or replaced under this Warranty.
- This Warranty shall not apply to any part or product which shall have been installed or operated in a manner not recommended by ETC nor to any part or product which shall have been neglected, or used in any way which, in ETC's opinion, adversely affects its performance; nor negligence of proper maintenance or other negligence, fire or other accident; nor with respect to wear items; nor if the unit has been altered or repaired outside of a ETC authorized dealership in a manner of which, in the sole judgment of ETC affects its performance, stability or reliability; nor with respect to batteries which are covered under a separate adjustment warranty; nor to any product in which parts not manufactured or approved by ETC have been used, nor to normal maintenance services or replacement of normal service items. Equipment and accessories not of our manufacture are warranted only to the extent of the original Manufacturer's Warranty and subject to their allowance to us, if found defective by them.
- ETC reserves the right to modify, alter, and improve any product or parts without incurring any obligation to replace any product or parts previously sold with such modified, altered, or improved product or part. No person is authorized to give any other Warranty, or to assume any additional obligation on ETC's behalf unless made in writing, and signed by an officer of ETC.
9. **LIMITATION OF ACTIONS.** Any claim by Buyer under this agreement must be brought within 12 months after delivery of the product(s) sold by ETC hereunder.
  10. **CHANGES.** After acceptance by ETC Buyer's order shall not be subject to cancellation, reduction in amount or shifting by Buyer of delivery window without ETC's prior written permission.
  11. **CONFIDENTIAL INFORMATION.** Buyer agrees that all information furnished hereunder by ETC is proprietary to ETC and such information shall be held in confidence and shall not be used or disclosed by Buyer without ETC's prior written consent, except for the fulfillment of this Agreement.
  12. **INSTALLMENT.** ETC's failure to adhere or nonconformity with any increment of the Agreement shall not be a breach of the entire agreement.
  13. **EXPORT REGULATIONS AND PERMITS.** Buyer will comply with the provisions of the United States Government's Export Administration regulations, related documentation requirements and internal control procedures. Buyer shall be responsible for obtaining any necessary export licenses and permits.
  14. **APPLICABLE LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin, United States of America.
  15. **VALIDITY.** If any principle of these Terms and Conditions of Sale is found to be invalid or unenforceable in any way the validity and enforceability of the remaining Conditions shall not be affected.
  16. **MISCELLANEOUS.** All clerical errors are subject to corrections. The failure of ETC to enforce, at any time, any one of the provisions of this Agreement shall not be construed to be a waiver of such provisions or the right of ETC to enforce such provisions in the future. Buyer may not assign any rights under this Agreement without the prior written consent of ETC.