

PERFECT FLAME

SALES AGREEMENT

THIS AGREEMENT ("Agreement"), made and entered into as of _____, 201_ (the "Effective Date"), by and between J.W. Harris Co., Inc. d/b/a The Harris Products Group, an Ohio corporation ("Harris"), with offices at 4501 Quality Place, Mason, Ohio 45040, and _____, a _____ corporation having a place of business at _____ ("End User").

WHEREAS, Harris will provide End User certain brazing equipment, branded "Perfect Flame", referred to hereinafter as the "Equipment", at cost, and use of related software (the "Software") that is subject to a separate End User Software License Agreement, to be used with the Product Groups (defined below); and

WHEREAS, in exchange for purchase of Equipment at cost and continuous use of Software, End User, agrees to purchase from Harris its requirements for the Product Groups for use with the Equipment.

THEREFORE, each party agrees as follows:

1. **Estimated Annual Usage.** End User shall input its Estimated Annual Usage ("EAU") for the current calendar year for each of the brazing and soldering consumables product groups (each is a "Product Group") listed on Exhibit B and shall input all other information necessary to complete Exhibit B.
2. **Sale of Equipment.**
 - A. Harris shall sell the Equipment to End User for its Cost as set forth on Exhibit A, and not the List Price set forth on Exhibit A, provided that End User and its affiliates will purchase all of their requirements for each Product Group from Harris. End User and its affiliates may only purchase the Product Groups from vendors other than Harris in the event that Harris notifies End User in writing that Harris will be unable to satisfy the requirements of End User or its affiliates, and only to the extent that Harris is unable to fulfill such requirements.
 - B. In the event that End User breaches Section 2.A of this Agreement in the first twelve (12) months, End User agrees to pay the difference between the List Price of the Equipment and the Cost to Harris within thirty (30) days of such breach.
 - C. Harris's OEM Distributor Terms and Conditions Governing All Sales of Harris Products (the "Terms and Conditions") will apply to all transactions related to End User's purchase of the Equipment or the Product Group. To the extent of an inconsistency between this Agreement and the Terms and Conditions, this Agreement will control.
3. **Restrictions on Use.** End User agrees not to modify, alter, reverse engineer or copy the Equipment or its design.
4. **Confidentiality.** End User agrees to keep confidential and not disclose to any third party any confidential or proprietary information of Harris, including, without limitation, the terms of this Agreement and any information related to the Equipment or Software.
5. **Warranty.**
 - A. EXCEPT FOR HARRIS'S WARRANTY AS SET FORTH IN ITS TERMS AND CONDITIONS, HARRIS MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE EQUIPMENT, INCLUDING, WITHOUT LIMITATION, ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (C) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY.
 - B. THE REMEDIES SET FORTH IN HARRIS'S TERMS AND CONDITIONS SHALL BE END USER'S SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF SUCH WARRANTY.
 - C. IN NO EVENT SHALL HARRIS BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY END USER OR COULD HAVE BEEN REASONABLY FORESEEN BY END USER, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
 - D. IN NO EVENT SHALL HARRIS'S AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, WHETHER ARISING OUT OF A BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY END USER TO HARRIS FOR THE PURCHASE OF THE EQUIPMENT. The foregoing limitation of liability will not apply to liability resulting from Harris's gross negligence or willful misconduct.
6. **Shipping Equipment.** Delivery of the Equipment shall be made FOB (origin), freight collect. End User will be responsible for all shipping fees associated with the Equipment. Title and risk of loss pass to End User upon delivery of the Equipment to the shipping carrier.
7. **Indemnification.** End User will indemnify, defend, and hold harmless Harris, its affiliates, and their directors, shareholders, officers, employees, agents, and representatives from any liability, costs, damages, or expenses (including reasonable attorneys' fees) arising from or related to the use of the Equipment by End User, its affiliates, contractors or any other party End User permits to use the Equipment.
8. **Force Majeure.** Harris shall not be liable or responsible to End User, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in performing any term of this Agreement that is caused by strikes, war, governmental actions, natural disaster, terrorist threat or other events outside of Harris's control.
9. **Governing Law; Venue.** This Agreement shall be governed by and construed in accordance with the law of the State of Ohio, without giving effect to any principles or rules of conflict of laws that apply the laws of another jurisdiction. Jurisdiction and venue for all actions arising under this Agreement shall be in the federal or state courts located in Hamilton County, Ohio, unless Harris chooses an alternative venue.

10. **Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld.
11. **Waiver.** The failure of any party hereto to enforce at any time any provision hereof shall not be construed to be a waiver of such provision or of the right of such party to enforce any such provision.
12. **Intellectual Property Protections.** Harris owns intellectual property rights that are incorporated into the Equipment and Software, including copyrights and patents. Harris can pursue all available remedies for any infringement of its intellectual property rights, including, without limitation, seeking statutory damages for copyright infringement that may be equal to \$30,000 per work or \$150,000 per work for willful infringement and/or actual damages for copyright and patent infringement.
13. **Entire Agreement; Amendment.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement. This Agreement may only be amended by a writing signed by both parties. The headings used in this Agreement are for convenience only and are not a part of this Agreement. All attachments to this Agreement are made a part of this Agreement.

IN WITNESS WHEREOF, Harris and End User have executed this Agreement as of the date first written above.

J.W. Harris Co., Inc. d/b/a
The Harris Products Group

End User _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Perfect Flame Equipment

QUANTITY	PART NO.	DESCRIPTION	LIST PRICE	COST
1	4300945	Perfect Flame	\$4,995	\$995
1	4404945	Perfect Flame with Model 50 Valveless Torch	\$5,205	\$1,205

Brazing and Soldering Consumables

PRODUCT GROUP	PART NO.	DESCRIPTION	EAU	UOM
PHOS-COPPER				
HIGH SILVER				
ALUMINUM				
SOLDER				
FLUX				

"EAU" means Estimated Annual Usage. "UOM" means Unit of Measurement.

Brazing and Soldering Gas Apparatus

PRODUCT GROUP	PART NO.	DESCRIPTION
TORCH		
MIXER		
TIP TUBE		
TIP		
TIP		
TIP		
TIP		
HOSE		
SAFETY		
SAFETY		



A LINCOLN ELECTRIC COMPANY