



A LINCOLN ELECTRIC COMPANY

## WHOLESALE - TERMS AND CONDITIONS OF SALE

Effective April 1, 2019

- 1. ACCEPTANCE AND AGREEMENT:** The provisions on the HARRIS order acknowledgement and these terms and conditions of sale constitute the entire agreement between HARRIS<sup>1</sup> and the Purchaser, and supersede the Purchaser's purchase order and all other communications between the parties, whether written or oral. ANY ADDITIONAL OR DIFFERENT TERMS IN THE PURCHASER'S PURCHASE ORDER, ACCEPTANCE FORM OR BY ANY OTHER WRITTEN COMMUNICATION ARE HEREBY DEEMED TO BE MATERIAL ALTERATIONS AND NOTICE OF OBJECTION TO AND REJECTION OF SUCH TERMS IS HEREBY GIVEN. No text or other information set forth on any of Purchaser's documents and/or Purchaser's website shall add to or change an Agreement. No purported modification or waivers of the provisions hereof shall be binding on HARRIS for any purpose unless contained in writing signed by an authorized representative of HARRIS. The provisions hereof shall be deemed to have been accepted by the Purchaser's acceptance of all or any part of the Products covered hereby.
- 2. PRICE CHANGES AND TAXES:** a. The prices which the Purchaser shall pay to HARRIS for the Products identified on the face hereof are those prices set forth on the face hereof. Notwithstanding the foregoing, HARRIS prices are subject to change from time to time at HARRIS's discretion in connection with its adoption of a new price schedule or modification of existing schedule, generally applicable to Products of the kind covered hereby, and the Purchaser shall pay to HARRIS such increased prices. Upon receipt of notice of an increase of prices Purchaser may cancel that part of the order scheduled to be shipped four or more weeks after the date of the notice by giving written notice to HARRIS within 7 days after Purchaser receives the notice of increased prices. b. Because alloy pricing changes daily, pricing for Harris Products shall be based upon written quotation or contract. c. HARRIS' prices are exclusive of all federal, state, and local taxes imposed on the manufacture, sale, delivery, or use of any Products covered hereby. All such taxes shall be paid by the Purchaser in addition to the contract price.
- 3. PAYMENT TERMS:** Net 30 days from invoice date. Invoice for shipment of Products will be due 30 days following the date of shipment. Invoices carry date of shipment information. HARRIS may deliver the Products to the Purchaser in installments. If so, the Purchaser shall pay for each installment in accordance with within Net 30 days from invoice date. Minimum invoice shall be \$50.00 on all purchase orders. No cash discounts are allowed. Orders will be invoiced at the price in effect at the time of order. In addition to any other remedies set forth herein or by applicable law, HARRIS reserves the right to bill late payment charges of 1.5% per month on Purchaser's past due sales invoice(s) or maximum legal rate, whichever is less, as well as to revoke payment terms on future orders. Purchaser shall also be responsible for the payment of HARRIS' reasonable attorney's fees, court costs, and any other costs or fees incurred by HARRIS in the collection of amounts due. Should HARRIS determine, in its sole discretion, which the credit of Purchaser shall hereafter become impaired or its financial condition becomes such that the credit extended to Purchaser for any sales order(s) should be curtailed or eliminated, and all amounts pending payment shall become immediately due and payable. Further, HARRIS shall have the right to require full payment in advance prior to any shipment of all future sales of Products.
- 4. FREIGHT AND SHIPPING SCHEDULE:** F.O.B. HARRIS shipping point. HARRIS prepays and absorbs standard shipping charges on shipments within the contiguous United States on orders of \$2,500 or more at net price (EXCEPT SPECIAL ORDERS). When HARRIS absorbs shipping charges, HARRIS reserves the right to route the freight by the most expeditious and economical mode of transportation. Any additional charges, including but not limited to: customs brokers, freight forwarder fees, warehouse and terminal charges, insurance, inspection, storage, special notifications and/or special equipment/handling shall be at the Purchaser's expense unless otherwise agreed in writing by HARRIS. Such expenses shall be separately invoiced to Purchaser. Where HARRIS makes a partial shipment of an order that qualifies for freight prepayment, HARRIS will absorb transportation charges on any shipment applying to that order. SHIP DATES PROVIDED BY HARRIS ARE ESTIMATES ONLY AND HARRIS IS NOT LIABLE FOR FAILURE TO SHIP ON THE DESIGNATED DATES. Shipments shall be made from Seller's chosen facility or from another of HARRIS' warehouses at HARRIS' discretion. Shipments shall be made using HARRIS' preferred carriers. If expedited delivery is required, additional charges may apply at HARRIS' sole discretion and at the expense of the Purchaser. SPECIAL ORDERS: Special Order Products may be shipped and invoiced with up to a 10% manufacturing quantity overage. Normal shipping lead-time for Special Order Products is within four (4) weeks of the Order Acknowledgment, contingent upon the availability of the Special Order Products. Special Order Products may carry an extended delivery time. Purchaser shall contact HARRIS for lead times and other specifics. Shipment dates are based upon HARRIS' best estimate and are subject to factory schedules and product limitations and hence are not guaranteed. The responsibility of HARRIS for all shipments ceases upon delivery of Products in good order to designated delivery point. HARRIS may ship the Products in one or more lots; such lots may be separately invoiced and shall be paid for when due per invoice, without regard to subsequent deliveries. Shipment dates are estimates only and indicate the date the Product is scheduled to ship from HARRIS' factory. No contract has been made to ship in a specified time and any "time is of the essence" clause or language and claims for back-charges are specifically rejected. Delay in the delivery of Products hereunder shall not relieve PURCHASER of its obligation to accept and pay for Products under any other agreement or purchase order.
- 5. CANCELLATION:** Orders may not be cancelled except upon HARRIS' written approval which shall be subject to the Purchaser's payment of HARRIS' reasonable cancellation charges. Such charges shall include all reasonable costs incurred by HARRIS in preparing to meet the Purchaser's delivery schedule including, without limitation, commitments by HARRIS to its suppliers, the cost of inventory (raw material, work in process, and finished Products) allocated to the Purchaser's order, any related unamortized special costs, and a reasonable allowance for prorated expenses and profits. Standard Orders may be cancellable at any time prior to shipment without ANY charge to Purchaser, provided Purchaser notifies HARRIS in writing, no later than two (2) business days prior to the time HARRIS tenders the Standard Products to the first transportation carrier. All Special Orders are NON-CANCELLABLE. Purchaser shall be responsible for the payment of the total amount for all Special Orders, less any advance payments, with the remaining balance due to be received by HARRIS thirty (30) days from the date of invoice. HARRIS reserves the right to unilaterally cancel any Agreement for the sale of Products at any time, without notice and at the sole discretion of HARRIS. If the cancellation involves any sales order(s) in which advanced payments have been made by Purchaser, HARRIS shall refund the amount of the advanced payment, less costs and expenses incurred by HARRIS. This refund amount shall be the sole remedy available to Purchaser for HARRIS' cancellation.
- 6. TITLE AND DELIVERY:** Title to the Products and risk of loss shall pass to the Purchaser upon tender of the Products to the first transportation carrier. Shipping dates are approximate only. HARRIS shall not be liable for any loss or expense (consequential or otherwise) incurred by the Purchaser if HARRIS fails to meet the specified delivery schedule. Purchaser shall be liable for detention, demurrage, storage, or auxiliary charges assessed by carriers or warehousemen resulting from the Purchaser's requirements for special service or the Purchaser's failure to accept delivery in a timely manner. HARRIS will not allow any claim of the Purchaser with respect to shortages or error in shipment unless reported to HARRIS in writing within 10 days after the Purchaser receives the Products. Purchaser will inspect Products on delivery. Any defects, errors, shortages, nonconformance or damage to Products must be reported to HARRIS within ten (10) days from the date of delivery. All claims for shortages or damage due to negligence or error on part of transportation carriers should be made by PURCHASER with delivering carrier. If Purchaser does not notify HARRIS within the ten (10) day period, Purchaser shall be deemed to have irrevocably accepted the Products. After acceptance of the Products, Purchaser's sole and exclusive remedy for Products alleged to be defective are set forth in HARRIS' warranty.
- 7. TOOLS AND DIES:** All special tools, dies, equipment, machinery and plans which HARRIS manufactures, develops, or purchases in connection with the manufacture of Products to the Purchaser's specifications, whether or not they are covered by a purchase order from the Purchaser, will remain on the property of, and in the possession and control of, HARRIS. All charges for such tools, dies, equipment, machinery, or plans are for the use thereof only and do not convey to the Purchaser any interest therein.
- 8. RETURN POLICY:** a. To be eligible for credit, Products returned to Harris must meet the following requirements: 1. Product must be listed in the current published price list (SPECIAL ORDERS ARE NON-RETURNABLE); 2. All returned unused Products must be undamaged, unopened and in their original packaging. 3. Packaging of software and printed circuit boards must be unopened. 4. Product must have been purchased within the last twelve months; 5. All returns must be accompanied by a copy of the original purchase invoice, or provide the purchase order number; 6. Approval for the return must be obtained in writing from the Sales Department, Gainesville, Georgia in the form of an RMA listing the items accepted for return; 7. Returned unused Products that do not have a RMA, are damaged or show signs of use shall be rejected and no credit will be issued. b. Transportation charges must be prepaid by the Purchaser. c. Returned Products accepted for credit are subject to a minimum handling charge of \$50.00 or 20% of the returned Products, whichever is greater. d. Any reconditioning or repackaging cost, if necessary, will be charged extra. We reserve the right to issue credit on returned Products at purchase price or current price. e. Restocking Charges: • For unused Products (excluding software) purchased pursuant to Standard Orders

<sup>1</sup> J.W. Harris Co., Inc d/b/a Harris Products Group, an Ohio corporation



## WHOLESALE - TERMS AND CONDITIONS OF SALE

A LINCOLN ELECTRIC COMPANY

returned within thirty (30) days from the date of shipment, no restocking charge is applicable. \*Software Only: For software returned from Purchaser unused and in its original, unopened packaging, Purchaser shall pay a restocking charge equal to the greater of 20% of the total individual Price of the Software or US \$25.00. All software that has been downloaded is non-returnable.

9. **CHANGES:** HARRIS reserves the right to alter, modify, or redesign its Products without any obligation to notify Purchaser or replace previous Products sold to Purchaser.

10. **INDEMNITY AGAINST INFRINGEMENT OF PATENTS, DESIGNS, COPYRIGHT AND TRADEMARKS:** With respect to all Products manufactured either in whole or part to the Purchaser's specification, Purchaser warrants that the Products manufactured will not infringe any United States letters, patent or any design, copyright, or trademark of any third party. Purchaser agrees to defend, indemnify, and hold harmless HARRIS, its successors and assigns, against any loss, damage, liability, cost, and expenses from any suit, claim, judgment, or demand involving any infringement or alleged infringement of any United States letters patent or any design, copyright or trademark of any third party by the sale or use of the Products manufactured hereunder. Likewise, HARRIS shall defend any suit or proceeding brought against the Purchaser insofar as such suit or proceeding is based on a claim that any Products manufactured and supplied by HARRIS to the Purchaser constitute direct infringement of any duly issued United States patent and HARRIS shall pay all damages and cost finally awarded therein against the Purchaser, provided that HARRIS is promptly informed and furnished a copy of each communication, notice or other action relating to the alleged infringement and is given authority, information, and assistance (at HARRIS' expense) necessary to defend or settle said suit or proceeding. If at any time such Products, or any part thereof, or their use, are considered by HARRIS to constitute infringement, HARRIS may, at its own expense, either (1) procure for the Purchaser the right to continue using such Products; or (2) modify them so they become non-infringing; or (3) remove them and refund the purchase price and the transportation costs thereof, if any. The foregoing states the entire liability of HARRIS for patent infringement by such Products or their use. HARRIS retains title and all associated rights to its intellectual property, but not limited to trademarks, trade names, copyrights, patents, designs and trade secrets. This Agreement does not in any way constitute an assignment of any of HARRIS's intellectual property to PURCHASER. Further, such intellectual property may not be copied, removed, disguised, or changed in any form by PURCHASER. This intellectual property includes, at a minimum, product packaging and associated markings, advertising or marketing materials, and manuals. PURCHASER agrees not to reverse engineer the Products.

11. **WARRANTY:** HARRIS warrants to the Purchaser all of its Products to be free from defects in workmanship and materials for the following, from date of shipment: a. 7 years - Standard Industrial Regulators. b. 1 year - Specialty Gas Brass Regulators. c. 90 days - Specialty Gas Stainless Steel Regulators. d. 1 year - All Stick Electrodes, Welding Wire and Flux. E). 1 year - All other Harris Products. HARRIS extends no warranties on Products not of its own manufacture. The foregoing constitutes HARRIS' only warranty in connection with this sale and is in lieu of all other warranties, expressed or implied, written or oral. THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE THAT APPLY TO THIS SALE. No employee, agent, dealer, or other person is authorized to give any warranties on behalf of HARRIS, nor to assume for HARRIS any other liability in connection with any of its Products, except an officer of HARRIS as signed in writing. HARRIS assumes no liability for faulty or improper application of its Products to any end Product. All claims under the HARRIS warranty must be made in writing and received by HARRIS prior to the expiration of the warranty period (time being of the essence) and the Product claimed to be defective or nonconforming must be returned by the Purchaser to HARRIS at the Purchaser's expense. HARRIS' warranties shall not be expanded, diminished, or affected by, and no obligation or liability shall arise or grow out of, HARRIS' rendering technical advice or service in connection with the Purchaser's order of the Products furnished hereunder.

LIMITATION OF REMEDY: HARRIS will repair or replace, at HARRIS' option, F.O.B. factory, freight prepaid, any HARRIS Product defective in workmanship or materials if such Product is returned, freight prepaid, within the warranty period. It is agreed that such replacement or repair is the exclusive remedy available from HARRIS should any of HARRIS' Products prove defective. In no event shall HARRIS be liable for any special, indirect, or consequential damages of any character, including but not limited to loss of use of Productive facilities or equipment, lost profits, or lost Production, irrespective of whether claims or actions for such damages are based upon contract, warranty, tort (including negligence), strict liability or otherwise. Purchaser hereby acknowledges that it is aware of and understands the risks involved with the use of the Products, including but not limited to risks of personal injury and death. Purchaser agrees to provide adequate warnings to its employees, agents, contractors and downstream customers of the risks associated with the use of the Products. This warranty does not apply to any Products which: (1) have been opened, disassembled, repaired, or altered by anyone other than an employee or authorized agent of HARRIS; (2) have been subjected to misuse, misapplication, negligence, accidents, damage, abuse, improper storage, or abnormal use or service; (3) have been operated or installed in a manner contrary to HARRIS's printed instructions; (4) have been installed in an incorrect or improper application; (5) have become corroded or subject to abrasion; or (6) have been subject to other than normal wear and tear.

THE WARRANTIES SET FORTH HEREIN ARE THE ONLY WARRANTIES MADE BY HARRIS IN CONNECTION WITH THE PRODUCTS AND THE TRANSACTIONS CONTEMPLATED AS A RESULT OF THIS SALE. HARRIS MAKES NO OTHER WARRANTIES OR REPRESENTATIONS TO PURCHASER OR END USER, WHETHER EXPRESS OR IMPLIED. HARRIS SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. HOWEVER, IF APPLICABLE LAW REQUIRES ANY OF THESE WARRANTIES, THEN THEY ARE LIMITED IN DURATION, TO THE LIMITED WARRANTY PERIOD. PRODUCTS SOLD HEREUNDER ARE SOLD ONLY TO THE SPECIFICATIONS SET FORTH BY HARRIS IN AN ORDER. HARRIS WILL NOT ACCEPT RESPONSIBILITY OR LIABILITY FOR REPAIRS OR MODIFICATIONS MADE BY ANY INDIVIDUAL OR ENTITY OTHER THAN HARRIS AND/OR AN ASF. HARRIS' LIABILITY UNDER THIS WARRANTY SHALL NOT EXCEED THE COST OF REPLACING THE PRODUCTS, CORRECTING THE DEFECT, OR REFUNDING AN AMOUNT EQUAL TO THE TOTAL SALE COST OF THE PRODUCTS, OR THE COST OF THE REPAIR OR REPLACEMENT OF THE PRODUCTS; WHICHEVER REMEDY HARRIS CHOOSES IN ITS SOLE DISCRETION. HARRIS WILL NOT BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES (SUCH AS LOSS OF BUSINESS) CAUSED BY THE DEFECT OR THE TIME INVOLVED TO CORRECT THE DEFECT.

12. **LIMITATIONS ON LIABILITY:** No claim by Purchaser of any kind including, but not limited to, warranty, indemnification or otherwise, whether as to quality or amount of Products delivered or non-delivery, shall be greater in amount than the purchase price for the Products in respect of which damages are claimed. IN NO EVENT SHALL HARRIS BE LIABLE TO PURCHASER FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, STATUTORY, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOSS OF USE, LOSS OF TIME, INCONVENIENCE, LOSS BUSINESS OPPORTUNITIES, DAMAGE TO GOODWILL OR REPUTATION, OR LOSS OF DATA ARISING OUT OF OR AS A RESULT OF THE SALE, DELIVERY, SERVICING, USE OR LOSS OF THE PRODUCTS SOLD HEREUNDER, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT, STRICT LIABILITY OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN.

13. **PURCHASER'S WARRANTY:** Notwithstanding any other provision contained herein or any other obligation of Purchaser hereunder, Purchaser, upon acceptance of Products that are the subject of this agreement, warrants that Purchaser, its successors, assigns, agents and employees are industrial users of such Products and possess the knowledge and expertise to use the same in accordance with (i) accepted industry standards (ii) all applicable laws, (iii) prudent safety practices and (iv) operating manuals or other instructions provided by Seller, if any.

14. **INDEMNIFICATION AND INSURANCE:** Purchaser shall indemnify, defend and hold HARRIS, its directors, officers, agents, successors and assigns harmless against all liabilities, damages, claims, losses, costs and expenses (including reasonable legal fees) arising out of Purchaser's use of Products or performance under any agreements to which these terms and conditions of sale are applicable in full or in part which liability, claim, loss or expense is occasioned by Purchaser's actions or omissions. Purchaser shall maintain general liability insurance including coverage in an amount no less than two \$2 Million (U.S. \$2,000,000) dollars per claim, for property damage, bodily injury and contractual liability. HARRIS agrees to indemnify Distributor for any loss or injury it may incur to the extent that the loss or injury was directly caused by: a). the negligence of HARRIS, or b). the failure of HARRIS Products to substantially perform according to HARRIS' published specifications and the standards to which HARRIS states the Product conforms. The loss of the Product itself, if caused by the above, shall be handled according to Harris's standard warranty for the Product. It is agreed that welding Products may substantially change their properties when utilized in the arc welding process. The chemical and mechanical properties of the deposited filler metal are significantly influenced by factors not within the control of HARRIS including, for example, other welding materials and the base metal used, the welding procedure and shielding gases etc. Excluded from this indemnification is any loss or injury to the extent it is caused by: a). inadequate or poor workmanship or negligence of Purchaser or by a party other than HARRIS, or b). the failure to install, operate, use, store or maintain the Product properly according to HARRIS' instructions and safety precautions, or applicable laws and regulations, or c). the inadequate design of Purchaser's application, or d). the improper application by Purchaser of HARRIS' Product, or e). other factors over which HARRIS has no control. Indirect or consequential losses or damages are also excluded from this indemnification. This indemnification shall be subject to a total cap, in the aggregate, of \$5,000,000. Purchaser shall be responsible to mitigate any damages by executing reasonable Products inspection procedures to identify and prevent obviously defective Products from being used. HARRIS will maintain general liability insurance coverage in an amount no less than



## WHOLESALE - TERMS AND CONDITIONS OF SALE

A LINCOLN ELECTRIC COMPANY

\$5,000,000 subject to HARRIS' included self-insured retention (currently \$2,000,000 per claim), and will, upon request, provide Distributor with a certificate of general liability insurance evidencing that coverage. Products sold by HARRIS are intended for use by industrial and commercial users and by persons trained and experienced in the use of welding, cutting and brazing equipment and related Products.

**15. WAIVERS:** Failure of Harris to insist upon performance of any provision of the Terms and Conditions of Sale shall not be construed as a waiver of such provision or any other provisions herein, and shall not affect the right of HARRIS thereafter to enforce each and every provision of the Terms and Conditions of Sale.

**16. DISPUTES AND APPLICABLE LAW:** In the event of any controversy, claim or dispute arising out of or relating to any agreements to which these terms and conditions of sale are applicable in full or in part (a "Dispute"), HARRIS and Purchaser shall seek to resolve the matter amicably through mutual discussions to be initiated by written notice of the aggrieved party to the other party as promptly as possible after a Dispute arises. Such discussions are to be conducted diligently in good faith by both HARRIS and Purchaser. If the Dispute cannot be resolved through mutual discussions, either party may commence an action to resolve the Dispute in the Federal or State courts of Ohio. The parties shall submit to personal jurisdiction and venue in the State of Ohio, County of Cuyahoga. These terms and conditions of sale and any agreements arising therefrom shall be governed and construed under the laws of the State of Ohio, as applied to contracts entered into and performed in that State, specifically excluding any conflict or choice of law provisions. The United Nations Convention on Contracts for the International Sale of Products shall not be applicable to these terms and conditions of sale or any agreements created thereby or construed therewith.

**17. CUSTOMER ASSISTANCE POLICY:** The business of The Harris Companies is manufacturing and selling high quality gas cutting and welding equipment, consumables, fluxes, solders, pressure regulation and flow control equipment. Our challenge is to meet the needs of our customers and to exceed their expectations. On occasion, Purchasers may ask The Harris Companies for advice or information about their use of our Products. We respond to our customer based on the best information in our possession at that time. Harris is not in a position to warrant or guarantee such advice, and assumes, no liability, with respect to such information or advice. We expressly disclaim any warranty of any kind, including any warranty of fitness for any customer's particular purpose, with respect to such information or advice. As a matter of practical consideration, we also cannot assume any responsibility for updating or correcting any such information or advice once it has been given, nor does the provision of information or advice create, expand or alter any warranty with respect to the sale of our Products. Harris is a responsive manufacturer, but the selection and use of specific Products sold by Harris is solely within the control of, and remains the sole responsibility of the customer. Many variables beyond the control of Harris affect the results obtained in applying these types of fabrication methods and service requirements. Subject to change- This information is accurate to the best of our knowledge at the time of printing.

**18. FORCE MAJEURE:** HARRIS shall not be liable to the Purchaser for any delay in any performance or for failure to render any performance, and any such delay or failure shall for all purposes be excused, when such delay or failure is directly or indirectly caused by governmental laws or regulations (whether or not valid); acts of war; acts of government; acts of God; acts of terrorism; sabotage; civil disturbances; strikes or other labor disturbances; equipment failure; the inability to procure Raw Materials, power, equipment, labor or other supplies on an economical or other basis; explosions; accidents; transportation delays or shortages; floods; landslides; epidemics; or similar or dissimilar events which events are beyond the reasonable control of HARRIS, in any of the foregoing cases whether or not foreseeable (collectively hereinafter the "Force Majeure Event"). Upon the occurrence of any Force Majeure Event, HARRIS shall have the right to allocate Products among its Purchasers in its sole discretion. This paragraph shall be effective and apply even if the Force Majeure Event invoked by HARRIS had been in effect on the date of an Agreement. This paragraph supplements, and does not replace, any remedies available to HARRIS under applicable law.

**23. COMPLIANCE WITH LAWS:** Purchaser shall comply with all applicable laws and regulations with respect to the business conducted by Purchaser with or on behalf of HARRIS, and in connection with the resale or marketing of HARRIS Products, including (without limitation) all applicable "Anti-bribery Laws," which prohibit the payment or transfer directly or indirectly of anything of value to governments, government officials, state-owned enterprises, political parties, political party officials, or to relatives or associates of such officials, in connection with obtaining or maintaining business or an improper business advantage. Purchaser agrees that it will not participate in the sale of Harris Products to any entity in or for export to any country that is deemed to be a "prohibited country" under U.S. export control laws (currently, Crimea Region of Ukraine, Cuba, Iran, North Korea, Sudan or Syria) or for use in nuclear, chemical or biological weapons or rocket or missile applications. Ethical Business Conduct. Purchaser shall be committed to fair, honest and ethical business practices. Purchaser acknowledges that Harris is a subsidiary of Lincoln Electric, which has adopted a Code of Corporate Conduct and Ethics (a copy of which is available on Lincoln's website at [www.lincolnelectric.com](http://www.lincolnelectric.com)) and Purchaser agrees to conduct itself in its dealings with or on behalf of Harris, or in connection with the resale or marketing of Harris Products, in a manner that is consistent with and facilitates compliance such Code.

**24. MISCELLANEOUS:** The Purchaser shall be considered an independent contractor. HARRIS' relationship with Purchaser shall not be construed to be that of employer and employee, or a partnership, joint venture or agency of any kind. Unless otherwise specified under the Agreement, the Purchaser agrees to pay, and shall solely bear, all of its incurred expenses in connection with the Agreement. The Purchaser shall have no right to enter into any contracts or commitments in the name of, or on behalf of, HARRIS or to bind HARRIS in any respect whatsoever. Purchaser may not assign any rights or obligations under these terms and conditions of sale without the express written consent of HARRIS. Any action for breach of an Agreement must be commenced within eighteen (18) months of the date of the alleged breach of the Agreement without regard to the date the breach is discovered. Any action not brought within eighteen (18) months shall be barred without regard to any other limitations period set forth by law or statute. If any provision in these terms and conditions of sale is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless remain in full force without being impaired or invalidated in any way. The provisions of these terms and conditions of sale that are intended to survive termination by their nature, shall survive termination. These provisions include, but are not limited to: title and risk of loss; cancellation; warranty; confidentiality; indemnification; patent indemnity; compliance of laws; disputes and applicable law. No waiver of any of the provisions of this Agreement shall be valid and enforceable unless such waiver is in writing and signed by the parties to be charged, and unless otherwise stated therein, no such waiver shall constitute a waiver of any other provision hereof (whether or not similar) or a continuing waiver.