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STANDARD TERMS AND CONDITIONS OF SALE

In these conditions:

- "Agreement"** means these standard terms and conditions of sale;
- "Buyer"** means the person, firm or company receiving a quotation from, and/or placing an Order for Goods and/or Services with, the Seller;
- "Contract"** means the Order, the Specification, the Schedule, and this Agreement;
- "Goods"** means the goods which are the subject of the Order placed by the Buyer with the Seller;
- "Order"** means the order or orders of purchase placed by the Buyer on the Seller for the supply of Goods and/or Services and accepted in writing by the Seller;
- "Party" or "Parties"** means Buyer or Seller, individually or collectively;
- "Schedule"** means the delivery schedule issued and agreed in writing by the Parties in relation to the delivery of the Goods and/or Services;
- "Seller"** means **Ferry cap and Set Screw** whose office is at 13300 Bramley Avenue Lakewood, Ohio 44107 USA or its affiliate whose Goods or Services are the subject of the Order;
- "Services"** means the services (if any) which are the subject of the Order placed by the Buyer;
- "Specification"** means the specification and any additional drawings or information which shall be mutually agreed in writing by the Parties and if provided by the Buyer shall be agreed by the Seller or if provided by the Seller shall be approved by the Buyer;
- "Warranty Period"** means a period of 12 months from the delivery of the Goods or performance of the Services.

1. GENERAL

- 1.1 Orders, Specifications and Schedules are only accepted subject to this Agreement. No variation of this Agreement or of the Buyer's Order, Specification or Schedule shall apply unless expressly agreed in writing by the Seller.
- 1.2 A quotation by the Seller is not an offer and may be withdrawn at any time without notice.



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An Order, Specification or Schedule given by the Buyer is not binding on the Seller until accepted in writing by the Seller.

2. APPLICATION OF THIS AGREEMENT

2.1 This Agreement shall apply to all Orders, Specifications and Schedules between the Buyer and the Seller. No other terms or conditions (including those which the Buyer may purport to apply to the transaction) shall apply to the Contract.

2.2 In the event of any conflict between any of the documents forming the Contract:-

2.2.1 the Order and Schedule shall prevail over (i) the Specification and (ii) this Agreement; and

2.2.2 the Specification shall prevail over this Agreement.

3. DELIVERY

3.1 Any date for delivery quoted by the Seller is for information only and the Seller shall have no liability (whether in contract, tort (including without limitation, negligence) or otherwise) for the consequences of delay in delivery unless the Seller shall have previously agreed in writing specifically to make payment in respect of such delay in which case the Seller's liability shall be limited to the amount so agreed.

3.2 Delivery of the Goods shall occur at the Seller's premises unless the Seller has specifically agreed in writing to arrange transport for the Goods in which case delivery shall occur when the Goods arrive at the designated place of delivery.

3.3 If manufacture or delivery of the Goods and/or performance of the Services is prevented or delayed by any cause beyond the Seller's control (including without limitation fire, war, civil disorder, industrial dispute, acts of Government, shortage of labor, materials, power, equipment, transportation or supplies) delivery and/or performance may be suspended by the Seller on giving notice in writing to the Buyer. In these circumstances the time for delivery and/or performance shall be extended by the period during which manufacture, delivery or performance is so prevented or delayed.

3.4 Unless otherwise agreed, delivery may be by installments. Neither failure to deliver nor delivery of defective Goods in one or more installments shall entitle the Buyer to cancel or reject subsequent installments.

3.5 Where Goods are sent by the Seller to the Buyer in circumstances where it is customary for the Buyer to insure, the Seller shall not be obliged to give notice to the Buyer to enable the Buyer to insure the Goods during transit. Delivery to the carrier shall constitute delivery to the Buyer and the Seller shall not be required to make any contract with the carrier on behalf of the Buyer. The Seller shall not be responsible for any loss or damage to the Goods in the course of transit.



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4. TITLE AND RISK

- 4.1 The Buyer shall not obtain title to the Goods until full payment to the Seller of all sums due from the Buyer to the Seller under this Contract (whether or not the sums are immediately payable) has been completed.
- 4.2 Risk of loss associated with the Goods shall pass to the Buyer (so that the Buyer is then responsible for all loss and deterioration of the Goods or for any damage occurring) at the time delivery takes place in accordance with Section 3.2.
- 4.3 The Seller may recover Goods in respect of which title has not passed to the Buyer at any time and the Buyer irrevocably licenses the Seller, its officers, employees and agents to enter upon any premises of the Buyer, with or without vehicles, for the purpose either of satisfying itself that Section 4.4 below is being complied with by the Buyer or of recovering any Goods in respect of which title has not passed to the Buyer.
- 4.4 Until title to the Goods has passed to the Buyer under this Agreement, it shall possess the Goods as bailee to the Seller. The Buyer shall ensure that the Goods are kept properly stored and protected and are kept separate from other goods and shall ensure that they are clearly identifiable as belonging to the Seller. During such time as the Buyer possesses the Goods with the Seller's consent, the Buyer may in the normal course of its business sell the Goods as principal but without subjecting the Seller to any liability to the party dealing with the Buyer.
- 4.5 The Buyer shall insure the Goods, with an insurer of good repute, against all risks and to the full market value of the Goods.

5. PRICE AND PAYMENT

- 5.1 The price for the Goods and/or Services shall be as agreed in writing from time to time. Unless otherwise agreed, all duties or taxes on the Goods, Services or the Contract and all bank charges are excluded from the price and are for the account of the Buyer.
- 5.2 Unless otherwise agreed in writing, all prices shall include packaging but exclude transportation and insurance costs.
- 5.3 Unless otherwise agreed with the Buyer, the Seller shall be entitled to submit its invoice when the Goods are delivered and/or the Services performed or at any time thereafter. Unless otherwise agreed, payment is due at the end of the month of delivery of the Goods or performance of the Services. In the event of late payment the Seller shall (without prejudice to its other remedies) be entitled to suspend further deliveries of the Goods to the Buyer or further performance of the Services. All past due payment shall accrue interest at a rate of 12% (or, if less, the maximum amount allowed under law) during the period from the date it was due until paid. The Seller's right to interest payments under this Section 5.3 is in addition to any other remedy, including, without limitation, termination



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of this Contract under Article 10 that the Seller may have for failure of the Buyer to make timely payments.

- 5.4 Where Goods are delivered by multiple deliveries or installments, the Seller may invoice each delivery or installment separately and the Buyer shall pay such invoices in accordance with this Contract.
- 5.5 The Buyer shall not have any right to set off from any monies due or to become due to the Seller any monies due to the Buyer from the Seller.
- 5.6 In addition to its other rights, the Seller shall be entitled to a general lien on all Goods of the Buyer in the Seller's or Buyer's possession for the unpaid price of any Goods sold or Services performed by the Seller for the Buyer under this Contract or any other contract.

6. SPECIFICATION

- 6.1 The Buyer shall be solely responsible for ensuring that the Specification and all drawings, information, advice and recommendations given to the Seller, either directly or indirectly by the Buyer are accurate, correct and suitable for the Goods and/or Services in question. Examination or consideration by the Seller of the Specification and drawings, information, advice or recommendations shall not limit the Buyer's responsibility.
- 6.2 The Buyer shall defend, indemnify and hold harmless the Seller, and its affiliates and their directors, officers, shareholders, employees, agents, successors and assigns ("Indemnified Parties") from and against all actions, claims, losses, costs, expenses, damages, liabilities, and proceedings (including, without limitation, reasonable attorneys' fees) ("Losses") arising out of or related to: (a) any errors, omissions, inappropriateness or defects in the Specification; (b) any alleged infringement or misappropriation of a patent, copyright, design, or trade secret or other intellectual property right of any third party by Goods manufactured or Services performed in accordance with the Specification; (c) any breach of this Contract by the Buyer; (d) any errors, omissions, inappropriateness or defects in any information, instructions or materials provided by the Buyer; (e) any negligence or willful acts or omissions of the Buyer, its officers, employees or agents; (f) any failure of the Goods or Services to comply with the requirements of any law, regulation, and/or any relevant standard applicable to such Goods or Services, provided that such Goods are manufactured and such Services are provided in accordance with the Specification; (g) any abuse, damage, alteration, modification or misuse of the Goods or Services by the Buyer; and (h) any bodily injury or damage to tangible property caused, or alleged to be caused, by the Goods or Services to the extent that such injury or damage is not caused by the Seller's breach of the warranty set forth in Article 7.
- 6.3 The Specification and all intellectual property rights therein shall vest in the providing Party. All other intellectual property rights developed by either Party in relation to the Goods and/or Services shall vest in the Seller.



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7. WARRANTY AND LIMITATION OF LIABILITY

- 7.1 Subject to this Article 7, the Seller warrants only that, for the Warranty Period, the Goods and Services comply with the Specification. Subject to Section 7.2, any Goods shown not to comply with their agreed Specification will, when practicable, be repaired or replaced (at the Seller's sole discretion), or in the case of Services, re-performed as originally ordered, provided that the Buyer immediately notifies the Seller of such defect within the Warranty Period. If repair or replacement is not practicable, the price will be refunded or credited to the Buyer.
- 7.2 Notwithstanding Section 7.1, the warranty in respect of defects in Goods not manufactured by the Seller is limited to the warranty (if any) which the Seller receives from the manufacturer or supplier of such Goods.
- 7.3 The limited warranties set forth in Sections 7.1 and 7.2 do not apply to, and the Seller makes no representations and warranties whatsoever with respect to: (a) defects in Goods or Services resulting from any information, instructions or materials provided by the Buyer; (b) defects in Goods or Services resulting from the Specification or the design of the Goods or Services; (c) Goods or Services that have been abused, damaged, altered, modified or misused by any person or entity other than the Seller; or (d) first articles, prototypes, pre-production units, test units or other similar Goods. The Buyer shall be solely responsible for all costs and expenses associated with the foregoing exclusions to the limited warranty.
- 7.4 The Buyer represents and warrants that (a) all information, instructions and materials provided by the Buyer and the Specification are accurate, correct, complete and suitable for the Goods and Services in question (even if the Seller has had the opportunity to examine or consider the same); (b) the use of information, instructions and materials provided by the Buyer and the Specification do not infringe or misappropriate any patent, copyright, design, trade secret or other intellectual property right of any third party; (c) the materials provided by the Buyer are of satisfactory quality, fit for its intended purposes, and comply with the applicable specification; and (d) the Specification and Goods manufactured and Services provided in accordance with the Specification comply with the requirements of all laws, regulation, and/or any relevant standards applicable to such Goods or Services.
- 7.5 Each Party represents and warrants that (a) it has all requisite power and authority to enter into this Contract and to carry out the transactions contemplated by this Contract; and (b) the execution, delivery and performance of this Contract and the consummation of the transactions contemplated by this Contract (i) have been duly authorized by all requisite action on the part of such Party and (ii) will not conflict with, result in a breach of, constitute a default under, or require the consent of any third party under, any license, sublicense, lease, contract, agreement, or instrument to which such Party is bound.
- 7.6 THE WARRANTIES STATED IN SECTIONS 7.1, 7.2, 7.3, 7.4 AND 7.5 ABOVE ARE IN



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LIEU OF ANY OTHER WARRANTY, WHETHER EXPRESS OR IMPLIED, BY STATUTE OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE GOODS OR SERVICES PROVIDED UNDER THIS CONTRACT, ALL OF WHICH ARE HEREBY EXCLUDED, SO FAR AS PERMITTED BY LAW.

- 7.7 Except as expressly stated in this Contract, the Seller shall not be liable to the Buyer for damages of any kind arising from or related to this Contract whether in contract, tort (including without limitation negligence) or otherwise.
- 7.8 In no circumstances shall the Seller be liable (whether in contract, tort (including without limitation negligence) or otherwise) for any consequential, special, indirect, incidental, exemplary or punitive damages of any kind (including, without limitation, any loss special to particular circumstances of the Buyer, or for any indirect losses, or any work required in connection with the removal of defective goods and the installation of repaired or replacement goods, or any recall costs, loss of profits, loss of revenue, loss of goodwill, loss of anticipated savings, increased costs, damage to property, wasted expenditure or any claims from third parties or for any consequential losses whatsoever), even if the Seller has been advised of the likelihood or possibility of such damages.
- 7.9 Nothing in this Article 7 shall operate to exclude the Seller's liability for death or personal injury caused by its gross negligence or for fraudulent misrepresentation.
- 7.10 The Seller's total aggregate liability, in respect of all claims that the Buyer may have against the Seller whether in contract, tort (including without limitation negligence) or otherwise (other than claims for death or personal injury to the extent that the same is caused by a failure of the Seller to take reasonable care) arising in connection with the performance of this Contract shall be limited to the portion of the Order price of the Goods and/or Services paid by the Buyer on which such liability is based and the Buyer agrees to ensure adequately to cover claims in excess of such amount.

8. WORK ON BUYER'S MATERIAL

- 8.1 If the Contract provides for the Seller to carry out work on material supplied by the Buyer, the Seller shall have liability only in respect of work done by the Seller and any such liability shall be limited to the value of the materials. Such materials shall remain at the risk of the Buyer at all times, unless otherwise agreed.
- 8.2 Where materials are supplied by, or on behalf of, the Buyer to the Seller, the Buyer shall be responsible for ensuring that the material is of satisfactory quality and fit for purpose and shall defend, indemnify and hold harmless the Indemnified Parties from and against any Losses arising out of or related to any actual or alleged defect in or incorrect specification of such materials.
- 8.3 The Buyer shall defend, indemnify and hold harmless the Indemnified Parties from against



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any Losses (including, without limitation, damage to tooling or additional processing cost incurred) arising out of or related to the material supplied by the Buyer not being of good quality, not being fit for purpose or not complying with its specification.

8.4 All metal removed from the Buyer's material shall become the property of the Seller unless otherwise agreed.

9. **DIES AND TOOLS**

Unless otherwise agreed, dies and tools shall be owned by the Seller even when their cost is charged to the Buyer. Where dies and tools are supplied by the Buyer they will remain entirely at the risk of the Buyer while in the possession of the Seller. The Seller will normally retain dies and tools for a reasonable time in expectation of further Orders but without obligation to do so.

10. **TERMINATION**

10.1 The Seller may terminate the Contract, in whole or in part, or suspend deliveries thereunder at any time by notice in writing having immediate effect if:-

10.1.1 the Buyer:

- (a) goes into compulsory or voluntary liquidation or passes a resolution for voluntary winding up or its directors convene a meeting of shareholders for that purpose; or
- (b) has an administrative receiver or receiver appointed over all or any part of its assets or undertaking; or
- (c) has an action, step, legal proceedings or other procedure taken in respect of it by its directors, shareholders, bankers, creditors or any person seeking to appoint a liquidator or an administrator or takes any such act or step itself; or
- (d) institutes a proceeding seeking a judgment of insolvency or bankruptcy, or files a petition for its winding up or liquidation;
- (e) makes an assignment for the benefit of its creditors;
- (f) ceases or threatens to cease to carry on business; or
- (g) gives the Seller reasonable grounds for believing that the Buyer is unable to meet its debts as they fall due.

10.1.2 anything analogous to any of the events described in Section 10.1.1 occurs



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under the law of any jurisdiction to which the Buyer is subject.

- 10.1.3 the Buyer is in breach of any of the terms and conditions of the Contract.
- 10.2 The Seller may terminate the Contract, in whole or in part, for any reason or no reason by giving thirty (30) days written notice of termination to the Buyer.
- 10.3 Termination of the Contract, in whole or in part, shall not prejudice the rights, obligations and duties of each Party arising prior to the termination taking effect.
- 10.4 Termination of the Contract, in whole or in part, for any reason shall not prejudice the rights, obligations and duties of each Party arising prior to the termination taking effect. The rights and obligations of the Parties under the Contract that the Parties have expressly agreed shall survive termination of the Contract or that, by their nature, would continue beyond the termination of this Contract, shall survive the termination of this Contract for any reason. Without limiting the generality of the foregoing, the Parties intend that the following provisions shall survive termination of the Contract: Defined Terms, Sections 5.3 through 5.6, 7.7 through 7.10, 10.3 and 10.4, and Articles 4, 6, 8, 9, 11, 12, 13 and 14.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 The Buyer represents and warrants that any drawings, designs or Specifications that it provides to the Seller in relation to the manufacture and supply of the Goods and/or the Services will not infringe or misappropriate any patent, copyright, design, trade secret or other intellectual property rights of any third party.
- 11.2 Without prejudice to any other right or remedy of the Seller, the Buyer shall defend, indemnify and hold harmless the Indemnified Parties against all Losses arising out of or related to any infringement or misappropriation of a patent, copyright, design, trade secret or other intellectual property right of any third party resulting from compliance with the Buyer's instructions express or implied.
- 11.3 The Buyer hereby grants to the Seller a non-exclusive, royalty-free, worldwide license (with the right to sublicense) to use the intellectual property owned by the Buyer that is necessary for the Seller's performance of its obligations under the Contract.

12. CONFIDENTIALITY

- 12.1 All information and data provided by either Party in connection with the Contract shall be used solely in connection with the performance of the Contract (the "Information"). Both Parties shall treat the Information as confidential and shall not disclose the Information to any third party unless necessary for the production of the Goods and/or Services. Both Parties shall ensure that any of its employees, agents or sub-contractors to whom it discloses the Information are aware of and comply with the obligations under this Article 12.



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13. MISCELLANEOUS

- 13.1 A failure by the Seller to exercise, or a delay in exercising, any right or remedy under the Contract shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies which the Seller may otherwise have and no single or partial exercise of any right or remedy under the Contract shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.
- 13.2 If any provision of the Contract is or shall become void in whole or in part, the other provisions of the Contract shall remain fully valid and enforceable and the void provisions shall, where appropriate, be replaced in accordance with the meaning and purpose of the Contract.
- 13.3 Except as provided in Section 4.3, a person who is not a Party to the Agreement shall have no rights under the Contract to enforce any terms or conditions of the Contract.
- 13.4 The Seller may perform any of its obligations or exercise any of its rights under the Contract by itself or through and for the benefit of any of its affiliates, provided that any act or omission of any such affiliates shall be deemed to be the act or omission of the Seller.
- 13.5 Nothing in the Contract shall prevent the Seller exercising any other rights or remedies it may have.
- 13.6 The Buyer shall not be entitled to assign any of its rights or obligations or sub-contract any of its obligations under the Contract (including, without limitation, by entering into any transaction whereby equity or management control of the Buyer, or all or substantially all of the Buyer's assets to which this Contract relates, is transferred to any person or entity, whether such transaction is structured as a sale or exchange of capital stock or assets, merger or otherwise) without prior written consent of the Seller, which consent may be withheld at the Seller's sole discretion. The Seller may assign or sub-contract its rights or obligations, in whole or in part, under the Contract to any third party, without the Buyer's consent.
- 13.7 The Buyer warrants that any person placing an order on behalf of the Buyer with the Seller is acting within his or her authority and is authorized to do so by the Buyer.
- 13.8 This Agreement, the Orders, Schedules and Specifications constitute the entire and exclusive agreement between the Parties relating to the subject matter hereof, superseding all prior negotiations, representations, agreements and understandings (whether written or oral) relating to the subject matter hereof.
- 13.9 This Contract creates no partnership, joint venture, employer/employee relationship, franchise, or agency between the Parties. The relationship created hereby is strictly that of an independent contractor. Neither Party has the right to assume or create, either directly or indirectly, any liability or any obligation of any kind, expressed or implied, in the



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name of or on behalf of the other Party, and neither Party will represent that it has such authority.

- 13.10 The Buyer shall comply with all laws and regulations (including, but not limited to, governmental export and import controls, such as the U.S. Export Administration Regulations and International Traffic in Arms Regulations) applicable to the Buyer's use, distribution, and sale of the Goods or Services (as well as technical data or information related thereto). The Buyer acknowledges and agrees that the Goods or Services (as well as technical data or information related thereto) are or may be subject to certain restrictions on export from, and/or import into, certain jurisdictions.
- 13.11 All notices, requests, demands, waivers, and other communications required or permitted to be given under this Contract are to be in writing and are duly given if delivered personally or by overnight courier with delivery charges prepaid, or sent by facsimile, to the other Party at its address shown in the Order or to such other person or address as either Party may specify in writing to the other Party. Notices delivered personally shall be deemed received as of actual receipt; all other notices, requests, demands, waivers and communications are deemed received as of two (2) days after mailing.
14. **DISPUTES AND LAW**
- 14.1 Any dispute or difference between the Buyer and the Seller arising out of or in connection with the Contract shall first be referred to managers of the Parties to be resolved within 30 days of such referral.
- 14.2 The formation, interpretation and operation of the Contract shall be governed and construed in accordance with the laws of the State of New York, United States, without regard to conflicts of laws rules thereof, and the Parties hereby irrevocably consent to the exclusive jurisdiction of and venue in any federal or state court of competent jurisdiction located in the State of New York, United States.
- 14.3 THE PARTIES UNCONDITIONALLY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL FOR ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATING TO, DIRECTLY OR INDIRECTLY, THE CONTRACT.