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## STANDARD TERMS AND CONDITIONS OF PURCHASE

In these conditions:

"Agreement"	means these standard terms and conditions of purchase;
"Buyer"	means <b>Ferry Cap &amp; Set Screw</b> whose office is at 13300 Bramley Avenue Lakewood, Ohio 44107 USA or its affiliate which has issued the Purchase Order to the Supplier;
"Contract"	means the Purchase Order, the Specification and this Agreement;
"Goods"	means the goods (if any) which are the subject of the Purchase Order issued by the Buyer to the Supplier;
"Party" or "Parties"	means Buyer or Supplier, individually or collectively;
"Purchase Order"	means the order or orders of purchase placed by the Buyer for the supply of the Goods and/or Services;
"Services"	means the services (if any) which are the subject of the Purchase Order issued by the Buyer to the Supplier;
"Specification"	means the specification and any additional drawings or information agreed in writing by the Parties relating to the purchase of the Goods and/or Services;
"Supplier"	means the person, firm or company to whom the Purchase Order is issued.

### 1. SCOPE OF THE CONTRACT REQUIREMENTS

The Supplier shall be responsible for providing all services, facilities, equipment, materials, personnel and other resources necessary to deliver the Goods and/or perform the Services in accordance with the Contract. The Buyer shall not be liable to pay any extra amount because the Supplier has failed to consider factors that may affect the price of the Contract or the time for completion of the Contract.

### 2. APPLICATION OF THIS AGREEMENT



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- 2.1 This Agreement shall apply to all Purchase Orders and Specifications between the Buyer and the Supplier. No other terms or conditions (including those, which the Supplier 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 Purchase Order shall prevail over the Specification and shall prevail over this Agreement; and
  - 2.2.2 the Specification shall prevail over this Agreement.

### 3. **ORDERING PROCEDURE**

The Purchase Order shall only be valid if signed by an authorized employee of the Buyer and containing a valid Purchase Order number.

### 4. **DELIVERY**

- 4.1 The Supplier shall deliver the Goods freight paid (unless otherwise stated in the Purchase Order) to the point of delivery specified on the Purchase Order. The Supplier shall perform the Services at the location specified on the Purchase Order.
- 4.2 The Supplier shall deliver the Goods and perform the Services on the applicable date specified on the Purchase Order and the time of such delivery and performance shall be of the essence of the Contract.
- 4.3 The Supplier shall not deliver the Goods or perform the Services before or after the date specified in the Purchase Order without the prior written consent of the Buyer.
- 4.4 The Supplier shall deliver the full quantity of the Goods specified in the Purchase Order at one time or in accordance with the rate specified therein. The Buyer may refuse delivery of part only. The Buyer shall be entitled to return, at the Supplier's expense, any quantity of Goods delivered in excess of the quantity ordered by the Buyer.
- 4.5 The Supplier shall ensure that accurate information is provided to the Buyer as to the country of origin of the Goods and shall be liable to the Buyer for any additional costs or losses, duties or taxes which the Buyer may incur or suffer should the country of origin prove to be different from that advised by the Supplier.



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- 4.6 The Goods shall be at the risk of the Supplier until delivered to and accepted by an authorized representative of the Buyer.
- 4.7 The Supplier shall be responsible for insuring all Goods, with an insurer of good repute, against all risks and to the full market value of the Goods during transit from the Seller's premise to the point of delivery specified on the Purchase Order.

#### 5. **PACKAGING MATERIALS**

- 5.1 Unless otherwise agreed in writing in the Purchase Order, the Supplier shall bear the costs of all packing cases, boxes, drums, pallets and/or packing materials ("Packaging Materials"). It is the responsibility of the Supplier to collect any Packaging Materials within a reasonable time after delivery.
- 5.2 The Supplier shall so package the Goods that they shall be safe and secure in transit by rail, road, air or ship. The Supplier shall promptly reimburse to the Buyer all additional costs reasonably incurred by the Buyer as a result of any inadequate or improper packaging of the Goods.
- 5.3 The Supplier shall ensure that any Packaging Materials containing the Goods shows clearly, on the outside thereof, the Buyer's Purchase Order number.

#### 6. **ADVICE NOTES / RELEASE NOTES**

- 6.1 The Supplier shall ensure that every advice note or release note shall bear the Buyer's Purchase Order number and item numbers. The Supplier shall either send advice notes or release notes to the address specified in the headings of the Purchase Order by separate post on the date the Goods are shipped or Services performed or a packing note shall accompany the delivery of any Goods.
- 6.2 Where the Goods are to be delivered to, or Services performed at, a location other than the address of the Buyer, the Supplier shall send an additional advice note or release note to the recipient of the Goods or Services at the address of the delivery point or as directed by the Buyer.

#### 7. **PRICE AND PAYMENT**

- 7.1 All prices are inclusive of all cost of freight, insurance, import duties and taxes, VAT (if applicable) and any other applicable duties and taxes and are not subject to escalation.
- 7.2 The Buyer shall pay the Supplier's undisputed invoice within 60 days of the end of the month in which it was received by the Buyer.



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- 7.3 The Buyer shall pay for the Goods and/or Services in the currency stated on the Purchase Order.
- 7.4 The Buyer shall have the right to set off from any monies due or to become due to the Supplier any monies due to the Buyer from the Supplier.
- 7.5 Where the Supplier is required to deliver the Goods by installments or perform the Services in stages, the Supplier shall render a separate invoice for each such installment or stage and every invoice shall bear the Buyer's Purchase Order number and item number and be fully detailed. The Supplier shall submit monthly statements of accounts in such form and in such manner as the Supplier may reasonably require.

## 8. DRAWINGS

- 8.1 Any drawings provided to the Supplier by the Buyer are on loan only and shall be and remain the exclusive property of the Buyer.
- 8.2 The Supplier shall prepare, at its own expense, and submit to the Buyer, such drawings as the Contract may require. The Supplier shall supply reproducible copies of each drawing on its own paper and at its own expense when they are required by the Contract.
- 8.3 All drawings shall be subject to approval by the Buyer but such approval shall not relieve the Supplier of any of its obligations under the Contract. All drawings provided by the Buyer or provided by the Supplier and approved by the Buyer shall constitute part of the applicable Specification. The Supplier shall not deviate from such drawings without the Buyer's written permission.

## 9. ORDER OF EXECUTION OF WORK

The Supplier shall complete the Contract by the time stated. The Buyer may, by written notice, require the Supplier to perform the Contract in such order as the Buyer may decide or to suspend or postpone it or any part thereof. If the Contract or part thereof is so suspended or postponed the date for its completion shall be extended to such later date as the Buyer shall reasonably decide. The Supplier shall submit detailed work programs and progress reports monthly or as the Buyer may from time to time require.

## 10. INSPECTION, TESTING AND QUALITY

- 10.1 The Supplier hereby grants to the Buyer, its customers, all applicable regulatory



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- authorities and representatives of any of the foregoing the right to enter onto its premises, at all reasonable times, to inspect and test the Goods or any materials or equipment on which the Services are being performed at any time until such Goods and Services are accepted by the Buyer. Such inspection shall include all appropriate records held by the Supplier for the total period defined by the Contract. Where non-destructive testing is required under the Contract, the Supplier shall ensure that the operators and procedure used have been approved by the applicable regulatory authority and, if requested by the Buyer, shall promptly provide to the Buyer such evidence as the Buyer may reasonably require of such approval.
- 10.2 All Goods shall be of first class quality, new and shall be supplied strictly in accordance with the quantities, drawings, specifications, standards and stipulations contained in the Contract and, unless otherwise agreed in writing by the Buyer, shall conform to all applicable standards, laws, regulations, specifications and conditions and all work and Services performed by the Supplier shall be performed in a competent, professional and workman-like manner in accordance with the best practice in the applicable industry.
- 10.3 The Buyer shall have full power to reject all or any part of the Goods and/or Services that it considers defective, inferior in quality of material workmanship or design, or not in strict compliance with the applicable Purchase Order or Specification. If requested by the Buyer, the Supplier shall, at its own expense and at the Buyer's option, immediately replace or rework any Goods, or re-perform any Services, which have been so rejected unless instructed otherwise by the Buyer in writing. The Supplier shall be responsible for all costs and expenses associated with such rejected Goods and Services (including, without limitation, all shipping and insurance costs).
- 10.4 No inspection, test or acceptance shall relieve the Supplier from his responsibility for the quality of materials and workmanship. The Supplier shall supply, free of charge such certificates of analysis, test, inspection or origin as may be requested by the Buyer or required by any applicable laws or regulations.
- 10.5 The Supplier shall obtain and maintain all rights, permits, permissions, licenses, and approvals by regulatory authorities necessary in connection with the provision of the Goods and Services, and shall be responsible for all related fees and expenses.
11. **MARKING**
- The Supplier shall ensure that each separate part of the Goods shall be tagged or indelibly marked with the Buyer's Purchase Order number, item number, and any other identity number specified in the Purchase Order. The Supplier shall also ensure that such numbers shall also be shown on all other documents



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referring to the Contract. The Supplier shall affix these numbers to the Goods and no other identification except that required by it for its internal controls and use.

## 12. TRANSFER OF PROPERTY

- 12.1 Title to the Goods shall pass to the Buyer upon delivery of the Goods to the Buyer. All Goods should be conveyed to the Buyer with good and marketable title, free and clear of all liens and encumbrances. The Supplier shall bear the risk of loss associated with all Goods until the Goods are delivered to and accepted by an authorized representative of the Buyer.
- 12.2 If, under the Contract, any part of the price is payable before delivery, the ownership of all material allocated to the Goods shall vest in the Buyer when it is so allocated and the Supplier shall mark the material accordingly but it shall be at the Supplier's risk until delivered.
- 12.3 If an incoterm (e.g., "Ex Works", "FOB", "CIF", "DDP" or others) is specified in the Purchase Order, such incoterm shall be interpreted in accordance with "Incoterms 2000" published by the International Chamber of Commerce.

## 13. ASSIGNMENT AND SUBCONTRACTING

The Supplier shall not assign or transfer any of its rights or obligations under the Contract (including, without limitation, by entering into any transaction whereby equity or management control of the Supplier, or all or substantially all of the Supplier'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 from the Buyer, which consent may be withheld at the Buyer's sole discretion. The Buyer may assign or transfer its rights or obligations under the Contract, in whole or in part, without the consent of the Supplier. The Supplier may not sub-contract any part of the Contract without prior written consent from the Buyer, which consent may be withheld at the Buyer's sole discretion. The Supplier shall supply such details of any sub-contract as the Buyer may require but such consent to sub-contract shall not relieve the Supplier from its obligations under the Contract, nor constitute the Buyer's approval to further sub-contracting. The country of origin of the sub-contract works shall be declared by the Supplier to the Buyer. The Supplier shall retain responsibility for the acts or omissions of all of its sub-contractors and the Supplier shall ensure that its sub-contractors comply with the terms and conditions of the Contract where relevant. The Supplier shall be the Buyer's sole point of contact regarding the provision of the Goods and Services, including with respect to payment.



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**14. FREE ISSUE MATERIAL**

- 14.1 Where the Buyer or its customers provide materials to the Supplier for use in connection with the Contract ("Buyer Materials"), such Buyer Materials shall be and remain the property of the Buyer or the Buyer's customer as the case may be. The Supplier shall, as far as practicable, keep such Buyer Materials separate and identifiable as the property of the Buyer or the Buyer's customer (as the case may be).
- 14.2 The Supplier shall be liable for any losses, damages, costs, expenses or liability incurred or suffered by the Buyer as a result of any defects that arise due to the work carried out by the Supplier in relation to the Buyer Materials.
- 14.3 The Supplier shall, at its expense, maintain such Buyer Materials in good order and condition and shall use them only in connection with the Contract. Risk of loss associated with such Buyer Material shall pass to the Supplier upon delivery to the Supplier and the Supplier shall ensure such Buyer Materials are insured to their full replacement value in accordance with Section 21.2. All Buyer Material which is lost or becomes damaged for any reason or has not been used in a manner consistent with first class engineering practice or usage shall be charged to the Supplier.
- 14.4 The Supplier shall at any time forthwith upon the Buyer's request immediately return to the Buyer (or, if requested by the Buyer, to its customer) any Buyer Materials issued by the Buyer.

**15. BUYER'S PROPERTY INCLUDING TOOLS**

- 15.1 All patterns, drawings, designs, specifications, dies, tools and jigs supplied or paid for, in whole or in part, by the Buyer in connection with the Contract ("Buyer Tools") shall at all times be the Buyer's property, and shall be immediately returned to the Buyer upon Buyer's request.
- 15.2 Such Buyer Tools shall be marked property of the Buyer and shall not be used in the production, manufacture or design of any goods or materials other than those contracted for in the Contract nor for larger quantities than those specified in the Contract.
- 15.3 For the purpose of taking possession of such Buyer Tools, the Buyer shall be entitled to enter any premises of the Supplier at any time during business hours where the Buyer Tools may be located.
- 15.4 The Supplier shall, at its expense, at all times maintain all Buyer Tools in good working order and condition (fair wear and tear excluded) and, if requested by the Buyer, shall immediately return such Buyer Tools to the Buyer.



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15.5 The Supplier shall be liable for any damage to, or loss of, the Buyer Tools until they have been delivered to the Buyer. The Supplier shall insure all such property to its full replacement value with an insurer of good repute in accordance with Section 21.2.

16. **LIEN**

In addition to any lien to which the Buyer may, by statute or otherwise be entitled, the Buyer shall be entitled to a general lien on all Goods of the Supplier whether in the Buyer's or Supplier's possession or in transit.

17. **INTELLECTUAL PROPERTY RIGHTS**

17.1 All designs, inventions, patents, know-how, new technology, improvements and all similar matters made, designed or developed by the Supplier in connection with the Contract, along with all associated patents, patent applications, copyrights, trade secrets and other intellectual property, shall be the sole and exclusive property of the Buyer. The Supplier hereby assigns and agrees to assign to the Buyer all right, title and interest in the foregoing. In addition, all copyrights and copyrightable works included in the foregoing shall be deemed works made for hire pursuant to United States copyright laws and/or similar laws of other jurisdictions, and owned by the Buyer from the moment of creation. The Supplier shall, at no charge to the Buyer, promptly take all reasonable actions and procure the execution of any and all papers necessary to perfect ownership by the Buyer.

17.2 All material, drawings, patterns, gauges, samples, specifications and other technical data prepared by the Buyer in connection with the Contract, along with all associated patents, patent applications, copyrights, trade secrets and other intellectual property, shall be and shall at all times remain the sole and exclusive property of the Buyer who shall be entitled to reproduce and use all such data at any time for any purpose whatsoever. The Supplier shall not use any of the foregoing except solely in connection with the Contract.

18. **DEFECTS LIABILITY**

18.1 Should any part of the Goods be found either during or after processing by the Buyer or after the part has been sold to the Buyer's customer, to be defective or not in full conformance with the Contract, the Supplier shall promptly reimburse to the Buyer any costs incurred by the Buyer as a result (including, without limitation, any costs incurred by the Buyer in respect of remedial work on the Goods).



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- 18.2 The Supplier represents and warrants that the Goods and the provision of the Services are free from defects in design, workmanship and materials and strictly conform to the applicable Purchase Orders and Specification (including any service level or performance requirements set forth therein) for a period of (a) 24 months from (i) (in the case of Goods) the date when the Goods are put into commercial operation by the Buyer or the Buyer's customer, or (ii) (in the case of the Services) the date when the Services were completed, or (b) (in both cases) such longer period as the Buyer and Supplier may have agreed in writing (each, a "Warranty Period"). If a defect or non-conformity arises in the Goods or Services through faulty design, workmanship or materials or for any other reason during the Warranty Period, the Supplier shall (at its own expense and at the Buyer's option) (a) make good the defective Goods or Services including full replacement or re-performance where necessary, or (b) refund the full prices of such Goods or Services to the Buyer. The Supplier shall be responsible for all costs and expenses associated with such defective or non-conforming Goods and Services (including, without limitation, all shipping and insurance costs).
- 18.3 The Supplier represents and warrants that any replacement Goods and/or rectification work or Services carried out under Section 18.2 shall meet the warranty requirements under Section 18.2 for a period of 24 months from the date on which such replacement Goods were delivered or rectification works or Services carried out.
- 18.4 Where a defect arises during the Warranty Period but does not become apparent until after the Warranty Period has expired, the Supplier's liability shall not cease merely because the Buyer has been unable to give notice of the defect to the Supplier within the said Warranty Period.
- 18.5 If any defects which the Supplier is obligated to remedy under this Article 18 are not remedied within a reasonable time, the Buyer may exercise its rights under Article 19 but without prejudice to any other right of the Buyer arising from such defects and in any event at the sole cost of the Supplier.
- 18.6 If the Buyer specifies a required level of performance in the Contract, the Supplier shall be deemed to have represented and warranted that the Goods or Services shall attain such level of performance, notwithstanding that the Buyer has specified in the Contract details of the manner in which or the materials out of which the Goods are to be constructed. The Buyer is at all times relying on the skill and knowledge of the Supplier. Failure to attain the required level of performance at any time within the period set out in this Article 18 shall be deemed to be a defect within the meaning of this Article 18.
- 18.7 The Supplier represents and warrants that all software contained in the Goods shall be reasonably free of bugs and viruses. The Supplier shall remedy any bug



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- or virus which occurs within the period of 24 months from the date of supply of the Goods (or such longer period as the Buyer and the Supplier may have agreed in writing).
- 18.8 The Supplier represents and warrants that (a) all Goods provided by the Supplier under this Contract shall be of first class quality, new and manufactured in a competent, professional and workmanlike manner in accordance with the best practice in the applicable industry; (b) all Services provided by the Supplier under this Contract shall be performed in a competent, professional and workmanlike manner in accordance with the best practice in the applicable industry; (c) none of the Goods or Services provided by the Supplier under this Contract infringe or misappropriate any patent, copyright, design, trade secret or other intellectual property right of any third party; and (d) all Goods provided by the Supplier under this Contract shall be conveyed with good and marketable title, free and clear of all liens and encumbrances.
- 18.9 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.
19. **SUPPLIER'S DEFAULT**
- 19.1 Should it appear to the Buyer that the Supplier is either:-
- 19.1.1 not performing in accordance with the Contract;
  - 19.1.2 refusing to carry out the reasonable instructions of the Buyer for the performance of the Contract; or
  - 19.1.3 has committed any breach of Contract, then the Buyer may give the Supplier seven days written notice to cure such default.
- 19.2 If the Supplier fails to comply with any notice given by the Buyer under Section 19.1, the Buyer may, at its option, at the expense of the Supplier and without prejudice to any other rights it may have:
- 19.2.1 require the Supplier to complete the uncompleted portion of the Contract,



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- including, without limitation, requiring the Supplier to deliver the Goods (whether or not completed) ordered by the Buyer prior to such termination;
- 19.2.2 terminate the Contract, in whole or in part, on giving immediate notice in writing to the Supplier and appoint a third party to provide the Goods or Services; or
- 19.2.3 make such modifications, substitutions or additions to the Contract as it considers necessary to ensure the satisfactory performance thereof and the Supplier shall then be required to perform its obligations under the Contract in accordance with such modifications, substitutions or additions.
- 19.3 Except as set forth in this Article 19 or in Article 20 or Article 24, the Buyer shall not be liable for any loss, damage and/or liability suffered or incurred by the Supplier as a result of the Buyer's action under this Article 19 or under Article 20 or Article 24.
- 19.4 Upon termination of the Contract, in whole or in part, for any reason, the Supplier shall immediately deliver to the Buyer all of the following that relates to the Contract or relates to the terminated portions of the Contract: (a) all Buyer Materials and Buyer Tools, (b) all tangible embodiments of patents, copyrights, designs, trade secrets or other intellectual property owned by the Buyer; and (c) all Goods required to be delivered under Sections 19.2.1 and 24.2; the Buyer shall be entitled, on reasonable notice, to enter the premises of the Supplier for the purposes of taking possession of the foregoing, including, without limitation, such Goods as may have already been produced and/or recovering any property of the Buyer located on such premises.
- 19.5 If the Buyer terminates the Contract under Section 19.2, it may (at its discretion) pay to the Supplier such proportion of the price of the Goods and/or Services as it considers to be fair and reasonable having regard to the value of the work done, the Goods previously delivered and the Services performed.
- 19.6 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 8.1, 12.1, 18.1 through 18.8, 19.3 through 19.6, and 21.1, and Articles 13, 14, 15, 16, 17, 22, 23, 24, 25, 26 and 27.



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## 20. DEATH, BANKRUPTCY OR LIQUIDATION

20.1 The Buyer may exercise its rights under Section 19.2 as though the notice required by that Section had been given and expired if:-

20.1.1 the Supplier:-

- (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 any action, step, legal proceedings or other procedure taken in respect of it by its directors, shareholders, bankers, creditors of 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) gives the Buyer reasonable grounds for believing that it is unable to meet its debts as they fall due;
- (f) makes an assignment for the benefit of its creditors; or
- (g) ceases or threatens to cease to carry on business.

20.1.2 anything analogous to any of the events described in Section 20.1.1 occurs under the law of any other jurisdiction to which the Supplier is subject.

## 21. INDEMNITY AND INSURANCE

21.1 The Supplier agrees to defend, indemnify and hold harmless the Buyer, 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:-

21.1.1 the Supplier's failure to fulfill its express or implied obligations under this Contract;



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- 21.1.2 any claims for infringement or misappropriation of any patents, designs, copyrights, trade secrets, trademarks, or other intellectual property rights of any third party by reason of the use or sale of the Goods or Services supplied (save where the same shall have been manufactured in accordance with specifications or designs supplied solely by the Buyer);
  - 21.1.3 all claims in respect of royalties payable by the Supplier in respect of the Goods or Services;
  - 21.1.4 all claims arising out of errors and omissions in drawings, calculations, packing details or other particulars supplied by the Supplier;
  - 21.1.5 all claims made against the Buyer arising out of the acts and omissions of the Supplier, its employees, agents or its sub-contractors; and
  - 21.1.6 failure of the Goods or Services to comply with the requirements of any law, regulation, or standard applicable to the Goods or Services.
- 21.2 The Supplier shall procure and maintain, with an insurer of good reputation, (a) property and business interruption insurance covering all of its operations, facilities, equipment, and fixtures, as well as the Buyer Materials and Buyer Tools in its possession, and (b) comprehensive general liability insurance (including, without limitation, personal injury, property damage, and product liability) for USD \$10 (ten) million (or equivalent) or such other sum as required by the Buyer and upon terms which are approved in writing by the Buyer. If requested by the Buyer, the Supplier shall promptly produce to the Buyer such evidence as the Buyer may reasonably require that the Supplier has procured and continues to maintain such insurance upon the terms approved by the Buyer and that the premiums due in respect of such insurance have been paid. The Supplier shall be liable under all the provisions of this Agreement (including, without limitation, Section 21.1) whether or not it complies with the provisions of this Section 21.2.
- 21.3 The Supplier shall establish and apply disaster recovery and business continuity plans (as approved by the Buyer and as modified pursuant to this Contract) that (a) are designed to continue the Supplier's business operations that are necessary to the provision of the Goods and Services under the Contract; and (ii) specify procedures and frequency of testing. Without limiting the generality of the foregoing, the disaster recovery and business continuity plans shall provide a mechanism for the redundancy or back-up of the Supplier's business operations designed to keep the provision of Goods and Services from becoming unavailable for a significant amount of time and to permit all related business operations of the Supplier to be re-instituted as soon as possible.

## 22. PUBLICITY



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The Supplier shall not permit any information about or photograph of the Goods or Services to be published without the prior written consent of the Buyer. The Supplier shall supply to the Buyer such photographs of any part of the Goods or Services as the Buyer may require or afford facilities to the Buyer to take such photographs for the purposes of indicating progress, technical description or publicity. The Supplier shall not use the name of the Buyer or any adaptation thereof in any commercial activity, marketing or advertising without the prior written consent of the Buyer.

**23. CONFIDENTIALITY**

The Supplier shall only use the information and drawings provided by the Buyer in connection with this Contract ("Confidential Information") in the performance of the Supplier's obligations under this Contract and for no other purpose whatsoever. Whether or not any such information is designated as "Confidential" the Supplier shall treat such Confidential Information in confidence and with secrecy and shall not use, disclose, sell, assign, lease or license to any third parties, or otherwise commercially exploit, the same nor shall the Supplier have any rights or interests in the same. The Supplier shall ensure that any of its employees, suppliers, sub-contractors, or agents to whom it discloses such information and data are aware of and comply with the obligations of the Supplier as provided in this Article 23.

**24. CANCELLATION**

24.1 In addition to its rights under Section 19, the Buyer may, for any reason or no reason, terminate the Contract, whether in whole or part, by 30 days' written notice to the Supplier. In such cases the Buyer's sole liability to the Supplier shall be to pay a reasonable proportion of the Contract price to the Supplier for all costs incurred by the Supplier in manufacturing the Goods and/or performing the Services as at the date of the notice to cancel. The Buyer shall not be liable for any costs of the Supplier incurred in terminating its commitments to third parties.

24.2 If the Buyer so requests, all Goods paid for by the Buyer under Section 24.1 (whether or not completed) shall be delivered to the Buyer.

24.3 The Buyer shall not be liable to make any payment under Section 24.1 unless and until a properly documented and complete claim is submitted by the Supplier within 30 days of the date of termination notice under Section 24.1 and agreed by the Buyer.

24.4 If the termination is solely due to the Buyer's customer having terminated its contract with the Buyer, then the Supplier shall only be liable to charge for Goods



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delivered or Services performed to the extent that the Buyer's customer pays the Buyer for goods delivered or services performed by the Buyer.

**25. VARIATIONS**

- 25.1 Any amendments to the Purchase Order shall be made by agreement evidenced in writing.
- 25.2 Where the Buyer's customer has ceased to purchase from the Buyer the goods to which the Goods or Services relate or has reduced its requirements for such goods, the Buyer shall be entitled to cease to purchase the Goods and/or Service or to reduce its requirements there for by changing the Purchase Order accordingly without liability. The Buyer shall use commercially reasonable efforts to give the Supplier notice in the circumstances of such cessation or reduction.

**26. MISCELLANEOUS**

- 26.1 The Supplier represents and warrants that it has complied with, and will continue to comply with, all laws, regulations and standards applicable to it from time to time in the provision of the Goods and/or Services.
- 26.2 A failure by the Buyer to exercise, or a delay in exercising, any right or remedy under this Contract shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies which the Buyer may otherwise have and no single or partial exercise of any right or remedy under this Contract shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.
- 26.3 Any waiver of a breach of any of the terms and conditions of this Contract or any default under this Contract shall not be deemed a waiver of any subsequent breach or default and shall not affect the other terms and conditions of this Contract.
- 26.4 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.
- 26.5 Except as provided in Article 10 and Section 26.6, a person who is not a party to this Contract shall have no rights pursuant to the Contracts to enforce any term or conditions of this Contract.
- 26.6 The Buyer may perform any of its obligations or exercise any of its rights under the Contract by itself or through any of its affiliates, provided that any act or



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- omission of any such affiliates shall be deemed to be the act or omission of the Buyer.
- 26.7 Nothing in the Contract shall prevent the Buyer exercising any other rights or remedies it may have.
- 26.8 This Agreement, the Purchase Orders 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.
- 26.7 No amendment or modification of this Agreement, the Purchase Order or the Specification may be made except by an instrument in writing signed by the Parties hereto.
- 26.8 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 name of or on behalf of the other Party, and neither Party will represent that it has such authority.
- 26.9 The Supplier 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 Supplier's handling, distribution, and sale of the Goods or Services (as well as technical data or information related thereto). The Supplier 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.
- 26.10 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 Purchase 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.
27. **DISPUTES AND LAW**
- 27.1 Any dispute or difference between the Buyer and the Seller arising out of or in connection with the Contract shall first be referred to an executive board member of the Parties to be resolved within 30 days of such referral.



The Ferry Cap Set & Screw Company  
13300 Bramley Avenue - Lakewood, OH 44107

Revision: January 1, 2009

- 27.2 If the dispute or difference is not resolved in accordance with Section 27.1, either Party may bring legal proceedings against the other Party (unless both Parties agree in writing to refer the dispute or difference to arbitration or other method of dispute resolution).
- 27.3 The formation, interpretation and operation of this 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.