

Marini Manufacturing Standard Terms and Conditions

These terms and conditions shall apply to all sales by Marini Manufacturing, Inc. ("Marini") to Buyer. All references in these terms and conditions of sale to "products" includes all parts, pieces, assemblies, tooling and other items which are manufactured or machined by Marini whether the raw materials manufactured or machined are owned by Marini or by Buyer. These terms and conditions also describe Marini's responsibility as to Buyer's property in Marini's possession.

1. Offer, Governing Provisions. These terms and conditions apply to any contract for the sale of products from Marini to Buyer to which these terms and conditions have been attached or into which these terms and conditions have been incorporated by reference whether in written or electronic form,. **MARINI DOES NOT ACCEPT ANY OFFER MADE BY BUYER. NO ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS SHALL BE BINDING UPON MARINI NOR CAN BUYER'S ACCEPTANCE LIMIT OR ALTER MARINI'S TERMS AND CONDITIONS, UNLESS SPECIFICALLY AGREED TO IN WRITING SIGNED BY DULY AUTHORIZED PERSONNEL OF MARINI. MARINI HEREBY REJECTS ANY SUCH ADDITIONAL OR DIFFERENT PROVISIONS CONTAINED IN ANY PURCHASE ORDER, REQUEST FOR QUOTE, ACKNOWLEDGEMENT, CONFIRMATION OR OTHER COMMUNICATION FROM BUYER.**

2. Price. Quotations are open for acceptance sixty (60) days from issuance. After sixty (60) days, prices and terms are subject to change without notice unless otherwise specified. Marini reserves the right to re-quote based on changes in material pricing or surcharges for raw materials, castings, or purchased components from those in effect at the time of the quote.

Marini reserves the right, at its option, to reject any orders or to make an extra charge for machining any part below agreed standards. In the event the results of machining are unsatisfactory due to imperfections in materials, usages for which the plating or other finishing operation was not reasonably designed, or similar variables over which Marini has no control, Buyer agrees to pay the contracted amount for the finishing operation performed. For special or experimental machining, Marini's charges are not contingent upon the success of the work or the benefit derived therefrom by Buyer.

3. Payment Terms. Net THIRTY (30) DAYS from the date of invoice on approved credit, unless otherwise specified in writing. If during the period of performance of an order, the financial condition of Buyer shall no longer justify the payment terms specified, or if Buyer shall fail to make any payments in accordance with Marini's terms, Marini may require full or partial payments in advance before proceeding with the order. Late payments accrue a late charge of 1½ % per month, but shall not exceed the maximum rate allowed by law. Buyer shall reimburse Marini for all costs incurred in collection (including reasonable attorneys' fees). Title to the products shall remain in Marini until the purchase price due hereunder is paid in full. If Buyer fails or refuses to pay any part of the price when due, then title to the products will not pass to Buyer, and Marini can repossess itself of the products.

Buyer hereby grants to Marini a priority lien, purchase money security interest, and/or chattel mortgage in the products, in any accounts receivable or cash from the resale thereof, and in all of

Buyer's materials or other property in Marini's possession until full payment is made by Buyer to Marini for the price of all products purchased, as well as any interest, finance charge, late fees, and Marini's costs of collection, including reasonable attorneys' fees. On request of Marini, Buyer agrees to file any financing statements or other appropriate documents with any appropriate government authority to assure the validity, priority and enforceability of Marini's lien. Furthermore, Marini may file any such financing statements to perfect the security interest herein and is hereby appointed Buyer's attorney-in-fact for purposes of making any such filing. This section is not meant to alter the parties' agreement that title to the products remains with Marini until the purchase price is paid in full, but rather, is meant to give Marini a security interest in the products in the event Buyer is ever found to have received title to the products by operation of law or equity contrary to the terms hereof.

4. Taxes and Other Charges. All taxes (including any manufacturer's tax, retailer's occupation tax, use tax, sales tax, excise tax, duty, custom, inspection or testing fee, or any other tax, fee or charge of any nature whatsoever) imposed by any governmental authority on or measured by the transaction between Marini and Buyer shall be paid by Buyer in addition to the price quoted or invoiced. The price quoted or invoiced includes only those taxes separately stated on the face hereof. In the event Marini is required to pay any liability for such tax, Buyer shall indemnify Marini and hold Marini harmless from and against all liability relating to such tax. This indemnification and hold harmless shall also apply to any liability resulting from any exemption certificate or other indication of exempt status provided by Buyer not being acceptable to the authority imposing the same.

5. Warranties. Marini warrants that its products have been manufactured in accordance with the specifications supplied by the Buyer in writing, if any, subject to any changes agreed to between Marini and Buyer. If the Buyer specifies methods and procedures to be followed, Marini will assume no responsibility for the correctness of such methods and procedures or the results when they are followed. Marini otherwise warrants products to be free from defects in materials and workmanship for a period of ninety (90) days from date of delivery, provided they have not been subjected to misuse, structural or chemical alteration, abuse, unauthorized repair, processing, or assembly. If, within such period, any such products shall be proven to Marini's satisfaction to be defective, such products shall be either repaired, refinished, or replaced, or their price refunded, at Marini's option. Marini's obligation for non-performance, defective products, or any damage caused by its products or their use, and Buyer's exclusive remedy therefor, shall be limited to such repair, refinishing, replacement or refund and shall be conditioned upon: (i) Marini receiving written notice, together with a demand for such repair, replacement or refund, within ninety (90) days after the date of delivery of such products; and (ii) the Buyer's return of any product or products for Marini's inspection. No claim shall be allowed until such inspection is performed by us. The exclusive remedy provided herein shall not be deemed to have failed its essential purpose under any circumstances so long as Marini is willing and able to repair or replace defective products or refund the purchase price within the time specified.

6. Disclaimers of Warranty. THE FOREGOING WARRANTIES PROVIDED IN SECTION 5 HEREOF ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Marini does not

warrant its products to be suited for any particular purpose. Any suggestions made by Marini concerning the product, its use, its performance, its production capabilities, quality requirements and/or suggestions with respect to design, engineering, use or the like, are to be construed as suggestions only and any and all specified intended uses should be confirmed by Buyer's independent testing. Any description of the product given to Buyer by Marini is for the sole purpose of identifying it, is not part of the basis of the bargain, and does not constitute a warranty that the product shall conform to that description. The use of any sample in connection with the sale is for illustrative purposes only, is not part of the basis of the bargain and is not to be construed as a warranty that the product will conform to that sample. Marini assumes no responsibility for defective machining on materials or merchandise previously machined or finished by others. None of Marini's agents, employees, or representatives have any authority to bind Marini to any affirmation, representation or warranty other than those stated herein.

7. Partial Shipments, Inspection, Claims and Delays. Deliveries made by Marini within ten (10) days of the time specified shall be deemed in full compliance with the contract. Marini reserves the right to make delivery in installments, unless otherwise expressly stipulated herein. All such installments shall be separately invoiced and paid for when due per invoice, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve Buyer of its obligations to accept remaining deliveries.

Except as may otherwise be expressly provided, Buyer shall be responsible to inspect the products delivered and to notify Marini in writing within three (3) days after receipt of shipment of any complaint that relates to such products (including without limitation claims for shortages), and failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by Buyer. Claims for loss or damage to products in transit shall be made to the carrier and not to Marini. No claim for shortage in weight or count will be allowed unless made within the three (3) days after receipt of shipment of products by Buyer or the Buyer's consignee to whom it was delivered, provided, however, a shrinkage or defective quantity in bulk machining of three (3%) percent shall be allowed without charge or liability. Marini will, in no event, be responsible for weight counts or other inspection functions for merchandise received from third parties on behalf of Buyer.

Marini shall not be liable for any damage as a result of any delay due to any cause beyond Marini's reasonable control, including, without limitation, any act of God, act of Buyer, embargo or other governmental act, regulation or request, fire, accident, strike, slow-down, war, riot, delay in transportation, or inability to obtain necessary labor, materials, or manufacturing facilities.

8. Delivery, Risk of Loss and Transportation Costs. All products are sold F.O.B. Marini's plant/warehouse in Racine, Wisconsin, unless otherwise specifically agreed in a writing signed by Marini. Delivery of products to a carrier at Marini's plant/warehouse or other loading point shall constitute delivery to Buyer; and regardless of shipping terms or freight payment, all risk of loss or damage in transit shall be borne by Buyer (even if shipped in trucks or vehicles owned by Marini). Method and route of shipment shall be at the discretion of Marini unless Buyer shall specify otherwise; any additional expenses of the method or route of shipment specified by Buyer shall be borne entirely by Buyer, unless specifically agreed otherwise in a writing signed by Marini. Marini assumes no liability for any loss or damage to products or material while in transit..

Marini shall not, under any circumstances, be considered as an insurer of Buyer's material or other property in its possession, and shall not be liable, regardless of cause, for loss by fire, explosion, theft, pilferage, vandalism, casualty, acts of God or other cause outside of Marini's reasonable control. Unless agreed to in a writing signed by Marini, special tools, racks, and fixtures required for the performance of the work herein described which have been designed and/or built by Marini shall be and remain property of Marini, whether or not Buyer is charged with time and/or material in connection therewith. During storage and transportation of Buyer's material or other property, Buyer's containers used for delivery to Marini may be used for reshipment and any damage resulting from the use of such containers shall be at Buyer's risk. Should Buyer desire other packaging or containers, Marini will charge for material and handling and will provide such service upon receipt of a written order. Additional charges may be incurred by Buyer for repackaging goods to other specifications.

9. Cancellation and Return. No order accepted by Marini may be canceled or altered by Buyer except upon terms and conditions acceptable to Marini as evidenced by written consent signed by duly authorized personnel of Marini. In the event of such approved cancellation by Buyer, Marini shall be entitled to payment for all finished and in-process products, as well as any costs incurred in the preparation of Buyer's order to the date of cancellation, including, without limitation, costs of tooling and engineering expenses incurred in connection with such order and any lost profit.

Products may be returned to Marini only with Marini's written permission, signed by duly authorized personnel of Marini, having been obtained by Buyer, in advance. Products may not be returned unless they are in marketable condition. Products manufactured to special order are not subject to return. Returned products must be securely packaged to reach Marini without damage; and any cost incurred by Marini to put products in marketable condition will be charged to Buyer.

10. Disclaimer of Consequential Damages and Other Liability; Buyer's Indemnity. Marini's liability with respect to breaches of warranties shall be limited as provided in Sections 5 and 6 hereof. With respect to other breaches of this contract, Marini's liability shall in no event exceed the contract price. MARINI SHALL NOT BE SUBJECT TO AND DISCLAIMS: (a) ANY OTHER OBLIGATIONS OR LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR OF WARRANTY; (b) ANY OBLIGATIONS WHATSOEVER ARISING FROM TORT CLAIMS OR ARISING OUT OF OTHER THEORIES OF LAW WITH RESPECT TO PRODUCTS SOLD OR SERVICES RENDERED BY MARINI, OR ANY UNDERTAKING, ACTS OR OMISSIONS RELATING THERETO; WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MARINI SPECIFICALLY DISCLAIMS LIABILITY FOR THE TORTS OF NEGLIGENCE, MISREPRESENTATION, AND STRICT LIABILITY; AND (c) ALL CONSEQUENTIAL, INCIDENTAL AND CONTINGENT DAMAGES WHATSOEVER.

Without limiting the generality of the foregoing, Marini specifically disclaims any liability for penalties (including administrative penalties), special or punitive damages, DAMAGES FOR LOST PROFITS OR REVENUES, loss of use of products or any associated equipment, cost of capital, facilities or services, down time, cost of recalls, shut down or slow down costs, or for any other types of economic loss. All of the limitations and disclaimers contained in this section 10 and in the rest of this contract shall apply to claims of Buyer's customers or any third party.

Buyer shall indemnify Marini against any and all losses, liabilities, damages and expenses (including, without limitation, attorneys' fees and other costs of defending any action) which Marini may incur as a result of any claim by Buyer or others arising out of or in connection with the products and/or services sold hereunder and based on product or service defects not proven to have been caused solely by Marini's negligence.

MARINI'S PRICES ARE BASED ON THE POLICIES STATED HEREIN WHICH LIMIT ITS LIABILITY. IF BUYER DESIRES FOR MARINI TO PROVIDE A WARRANTY GREATER THAN THAT WHICH IS STATED ABOVE, THEN MARINI WILL ADJUST UPWARDS THE PRICE FOR THE PRODUCTS DESCRIBED HEREIN OR ON THE FACE HEREOF TO REFLECT THE ADDITIONAL EXPENSE TO MARINI WHICH SUCH A WARRANTY OBLIGATION COULD CAUSE. BUYER ACKNOWLEDGES THAT MARINI'S PRICE IS LOWER THAN IT OTHERWISE WOULD BE BECAUSE OF MARINI'S DISCLAIMER OF TORT LIABILITY, AND SPECIFICALLY BECAUSE OF MARINI'S DISCLAIMER OF THE TORTS OF NEGLIGENCE, MISREPRESENTATION, AND STRICT LIABILITY. BUYER FURTHER ACKNOWLEDGES THAT THE LOWER CONTRACT PRICE GIVEN IN EXCHANGE FOR SUCH DISCLAIMERS FORMS PART OF THE BASIS OF THIS BARGAIN.

11. Patents, Trademarks and Copyrights. Buyer assumes all liability for patent, trademark and copyright infringements when products are made to Buyer's specifications.

12. Solvency. Buyer hereby represents and warrants to Marini that Buyer is solvent as of the date of this writing and will remain solvent at the time of delivery. In the event Buyer is not solvent at the time of delivery, the fact of such insolvency shall in and of itself constitute a rejection of the products under §402.602 of the Wisconsin Statutes. Buyer agrees to provide Marini with immediate written notice of such insolvency by facsimile to Marini at (262) 554-6811. Furthermore, in the event Buyer is not solvent at the time of delivery, this document shall serve as notice of Marini's intent to reclaim all products delivered hereunder and shall create a security interest in all such products.

13. Mandatory Arbitration. The mandatory arbitration provisions of these terms and conditions shall be liberally construed so as to require the arbitration of all claims and disputes of every kind and nature, whether arising out of contract, tort, statute, common law or any other theories of liability and/or recovery in law and/or equity.

Without in any way limiting the above expressed intent, all "Disputed Claims" shall be resolved by mandatory arbitration and shall include, but not be limited to: any differences, claims, matters in dispute, or controversies of every kind or nature as to the existence, construction, validity, interpretation, meaning, performance, non-performance, enforcement, operation, breach, continuance, termination, misrepresentations (both in its formation or its execution), compliance with Federal, State or Local statutes, ordinances, or regulations and any other theories of liability and/or recovery in law and/or equity, arising from or related, either directly or indirectly, to these terms and conditions, the contract of which they are a part, or the matters discussed herein.

All Disputed Claims shall be submitted by the parties to arbitration in accordance with this Agreement and the Wisconsin Arbitration Act, Chapter 788 of the Wisconsin Statutes, if that Act is applicable, and if not, in accordance with the provisions of the United States Arbitration Act, 9 U.S.C. §1 et. seq., or any revisions or recreations of those Acts. In the event of arbitration, each party shall select an arbitrator within thirty (30) days of submission of any Disputed Claims to arbitration. If an arbitrator timely selected by a party is unable, for any reason, to serve until the making of a decision or an award, that party may name a successor arbitrator. If either party fails to designate an arbitrator within the thirty (30) day period, that party's right to name an arbitrator (or any successor arbitrator) is forfeited, and any arbitrator timely named shall select a second arbitrator. The first two arbitrators shall then [within thirty (30) days of the selection of the last of them] jointly select a third arbitrator, the three arbitrators of which shall constitute the "Arbitration Panel". If the two arbitrators to be selected by the parties are unable to agree upon the selection of a third arbitrator, the third arbitrator shall be supplied by the Circuit Court for Racine County, Wisconsin. Unless all parties agree otherwise, any arbitration hearings shall be held within Racine County, Wisconsin. Each party shall reach an agreement with the arbitrator named by that party on the compensation to be paid to that arbitrator and shall disclose that agreement to the other party and the other arbitrator. The Arbitration Panel shall render its final decision within six (6) months of the selection of the Arbitration Panel.

In the event a party forfeits its right to select an arbitrator, then the second arbitrator shall be paid by the forfeiting party upon the same terms as the non-forfeiting party compensates its appointed arbitrator. The parties shall each pay one-half (1/2) of the fees and expenses of the third arbitrator as billed by that arbitrator to the parties.

Notwithstanding any other provision to the contrary, the parties agree and consent to the taking of depositions and the use of discovery in accordance with the Federal Rules of Civil Procedure and the Wisconsin Statutes. Furthermore, an aggrieved party prior to the naming of the Arbitration Panel as provided for in this Agreement, may petition the Circuit Court for Racine County, Wisconsin, for such temporary equitable relief as the court may determine is appropriate under the circumstances to maintain the status quo until the appointment of the Arbitration Panel as provided for herein.

After submission of the Disputed Claims to arbitration, but not less than ten (10) business days prior to commencement of the arbitration proceeding in which the Arbitration Panel will finally and fully resolve the Disputed Claims, each party shall provide the other party with a final confidential written settlement offer which shall not be disclosed to the arbitrators prior to the arbitration proceeding. If no settlement is reached, the "Prevailing Party", as defined below, shall be entitled to reimbursement of its reasonable legal fees and expenses and its share of all fees and expenses paid to the arbitrators as part of its final award. In addition to the resolution of the Disputed Claims the Arbitration Panel shall also determine which of the parties, if any, shall be deemed the "Prevailing Party". A party shall be deemed the "Prevailing Party" only if the award rendered by the arbitrators is more favorable to the Prevailing Party than the Prevailing Party's final written settlement offer to the other party, which shall only be disclosed to the arbitrators after they have reached their final decision with respect to the Disputed Claims. The Arbitration Panel may also determine that neither party is a Prevailing Party for purposes of the standard set forth in this subparagraph.

The arbitrators shall be prohibited from awarding punitive damages even if a party would have otherwise been entitled to recover such damages under Federal, State or Local statutes, ordinances or regulations absent this Agreement. The arbitrators shall prepare detailed findings of fact and conclusions of law when rendering their decision.

14. Severability. Each provision of the agreement shall be considered severable and if for any reason any provision or provisions hereof are determined to be invalid and contrary to law, to the extent permitted by law, such invalidity shall not impair the operation of or affect those portions of this agreement which are valid.

15. Final Agreement. This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms and conditions of their agreement. Any subsequent modification or amendment to it may be made only in writing signed by both parties hereto. This writing and these terms and conditions shall be governed by and construed according to the internal laws of the State of Wisconsin.