

GENERAL TERMS AND CONDITIONS

Ware Industries, Inc. d/b/a Marino\WARE Design Group

This agreement ("Agreement") is made and entered into on the Acknowledgement of Receipt Date on the Work Order by and between Ware Industries, Inc. d/b/a Marino\WARE Design Group ("Seller" and "we"), and Contractor or Distributor ("Customer" and "you").

Terms and Conditions to Govern: Acceptance of Work Orders (defined below) is based on the express condition that Customer agrees to all of the terms and conditions set forth in this Agreement. The terms and conditions set forth in this Agreement will govern unless Customer notifies Seller in writing or by e-mail of their unacceptability within ten (10) days from Customer's receipt of this Agreement. Customer's failure to object to any of these terms and conditions within ten (10) days, or its acceptance of a Work Order, will constitute Customer's consent to this Agreement. This Agreement, together with any Work Order or subsequent Work Order, shall constitute the entire Agreement between the parties. This Agreement will represent the final and complete agreement of the Parties and no terms or conditions in any way modifying or changing the provisions stated herein shall be binding upon Seller unless made in writing and signed and approved by an authorized person. No modification or waiver of any term and condition contained in this Agreement shall be effected by any conduct or oral statement of Seller.

Contact Persons: Each party will appoint a person to act as that party's point of contact ("Contact Person"). The Customer Contact Person must be an agent or employee with the authority to sign and accept this Agreement and any Work Orders, to approve materials and services provided by Seller, and to make decisions and approvals which Seller may rely upon. The Customer Contact Person will manage all communications with Seller, and, when Services are performed at a Customer-designated location, the Customer Contact Person will be present or available. The parties' Contact Persons shall be authorized to approve changes in personnel and associated rates for services under this Agreement. Either party may change its Contact Person by notifying the other in writing, and such change take effect five (5) days after receipt.

Work Orders: This Agreement may be modified or amended only in a writing issued by Seller and signed by both Customer and Seller ("Work Order"). The Work Order shall set forth Customer's specifications for the work to be performed by Seller ("Project") and shall set forth Seller's required compensation for such work. No Work Order will be effective unless it is fully executed by both parties within thirty (30) days from the date it was originally issued by Seller, unless Seller otherwise agrees. In the event Seller agrees to execute a Work Order returned to it by Customer more than three (3) days following the date it was originally received by Customer, a new estimated delivery date will be issued by Seller. In the event of a conflict between the terms and conditions set forth in a fully-executed Work Order and those set forth in this Agreement or a prior fully-executed Work Order, the terms and conditions of the most recent fully-executed Work Order shall prevail. All completion estimates are subject to change based on the Seller's schedule.

Payment Terms: Except as otherwise agreed by the parties, Customer will pay invoices containing amounts authorized by this Agreement or by any subsequent Work Order within thirty (30) days of Customer's receipt of such invoice. All invoices paid after thirty (30) days shall be subject to a monthly interest charge of 1.5%. Any objections to an invoice must be made to the Seller Contact Person within fifteen (15) days of the invoice date. Seller reserves the right to suspend, revoke, or modify terms of payment or extension of credit with or without written notice. Credit card payments may be subject to a convenience fee at Seller's discretion. Payments received will be credited first to any interest owed to Seller and then to principal.

Liability for Payment: Customer agrees that it shall be and remain liable to Seller for the payment of all Work Orders until Seller has been indefeasibly paid in full all amounts owed to it under such Work Orders, whether or not Customer has made payment in respect of such Work Orders to any entity other than Seller, as any such payment shall not serve to discharge Customer's payment obligations to Seller.

Customer's Default: In the event that Customer defaults on any of its obligation under this Agreement, including, but not limited to, its payment obligations, Seller may, after giving seven (7) days written notice, suspend its performance of services under this Agreement until the default is cured. Customer waives any and all claims against Seller for any such suspension. In the event that any balance due hereunder is referred for collection, reasonable attorneys' fees and collection costs shall be added to the balance due and payable to Seller by Customer.

Insurance Coverage: Seller maintains professional liability insurance. Endorsements and listing of third parties as named insureds is not permitted by Seller's carriers. The professional liability insurance protects Seller against claims for errors and omissions existent in our work product. Seller is not a guarantor of the Project for which its services have been provided, and our responsibility is limited to work performed by us as described in the Agreement. Seller will provide certificates of insurance upon request.

Revisions, Expiration and Termination: Seller may, after giving five (5) days written notice to Customer, place Project on hold or terminate this Agreement if Seller's performance has been substantially delayed through no fault of Seller. Customer may place Project on hold or terminate this Agreement after serving Seller with written notice at its principal place of business if Seller has

substantially failed to perform in accordance with this Agreement and/or any signed Work Order. Seller shall have thirty (30) days from its receipt of such notice to cure the alleged default. Customer may place Project on hold or terminate this Agreement for any reason whatsoever upon the service of written notice to Seller. The effective date of any request to hold or terminate shall be fifteen (15) days from the date upon which Seller receives the written notice ("Termination Date") to allow Seller to demobilize personnel, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble materials in orderly files. Notwithstanding the foregoing, no Project may be placed on hold for more than ninety (90) days. If the party who requested that the Project be placed on hold has not requested in writing for the work to resume, then, unless otherwise agreed to in writing by the parties, the Termination Date of the Project shall be the 91st day after the original written request to place the Project on hold. Revisions by Customer to original specifications or to a signed Work Order must be sent in writing to Seller who must indicate its consent to each requested revision in writing. Seller reserves the right to reject a proposed revision to the original specifications or to a signed Work Order or may, at its discretion, elect to terminate its services under this Agreement. In the event of termination by either party for any reason whatsoever, Customer shall pay Seller for all services rendered up to the Termination Date, all reimbursable expenses incurred prior to the Termination Date, and all reasonable expenses incurred as a result of the termination. Seller shall have no liability to Customer on account of any such termination.

Site Access & Field Inspection: If Seller is required to access Customer's jobsite for activities necessary for the performance of the services, Seller will take reasonable precautions to minimize damage due to these activities. Notwithstanding the foregoing, Seller shall not be liable for any cost of restoration resulting from any damage which occurs while Seller is at the jobsite. Any costs incurred as a result of access to the jobsite or field inspections will be billed separately and are the responsibility of the Customer.

Information for the Sole Use and Benefit of the Customer: All opinions and conclusions of Seller, whether written or oral, and any plans, specifications, or other documents and services provided by Seller are the intellectual property of Seller and are licensed to Customer solely for its internal use and benefit, and Customer is not to provide such information to any other person or entity without the prior written consent of Seller. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, any third party against either Seller or the Customer.

Certification, Guarantees and Warranties: Seller shall not be required to execute any documents that would result in Seller certifying, guaranteeing or warranting the existence of any conditions. Seller does not guarantee the completion or performance of any contractor or any other third parties nor does it assume responsibility for any contractor's or third party's failure to furnish and perform the work in accordance with the Project requirements. Seller shall not be responsible or liable in any way for the acts, errors or omissions of such contractor or other third parties at the jobsite, or for any decision made regarding the Project requirements, or any application, interpretation, or clarification of the work performed by Seller by those other than Seller. In providing its professional engineering services, Seller shall exercise such professional judgment and competence as that of similar firms currently providing similar services in this area under Customer-supplied specifications, similar operating conditions, similar time, budgetary, and other constraints. NO OTHER WARRANTY, EXPRESS OR IMPLIED, IS APPLICABLE TO THE PROJECT OR SELLER PROPOSALS, CONTRACTS, DESIGNS, OR REPORTS, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER WARRANTIES OF ANY KIND OR NATURE WHATSOEVER ARE EXPRESSLY DISCLAIMED.

In the event that the Work Order places time limits for the design phase of the Project, it is understood that Seller cannot and will not be responsible or liable for any delays that are beyond its direct control.

Force Majeure: Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence such as fires, floods, wars, riots, civil commotion embargoes, governmental regulations.

Limitation of Liability: In recognition of the relative risks and benefits of the Project to both the Customer and Seller, the risks have been allocated such that the Customer agrees, to the fullest extent permitted by law, to limit the liability of Seller and Seller's officers, directors, partners, employees, shareholders, owners, and outside consultants for any and all claims, losses, costs, damages of any nature whatsoever, or claims and expenses from any cause or causes of action, including attorneys' fees and costs and expert-witness fees and costs, to those arising out of Seller's sole negligence or willful misconduct. Notwithstanding the foregoing, Customer further agrees that the total aggregate liability of Seller and Seller's officers, directors, partners, employees, shareholders, owners, and outside consultants shall not exceed the Seller's total fee for services rendered on the Project. It is intended that this limitation shall apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

Corporate Protection: It is intended by the parties to this Agreement that the Seller's services in connection with the Project shall not subject the Seller's individual employees, officers or directors to any personal legal exposure for the risks associated with the Project. Therefore, and notwithstanding anything to the contrary contained herein, Customer agrees that as the Customer's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against Seller, a New Jersey corporation, and not against any of the Seller's individual employees, officers or directors.

Ownership of Documents: All documents produced by Seller or its consultants under this Agreement are instruments of Seller's professional service and shall remain the property of Seller and may not be used by the Customer for any other purpose without the prior written consent of Seller.

Indemnification: Customer shall, to the fullest extent permitted by law, indemnify and hold harmless Seller and its officers, directors, employees, agents, and outside consultants from and against all damage, liability, and cost, including reasonable attorneys' fees and defense costs, arising out of or in any way connected with the performance of the services under this Agreement, excepting only those damages, liabilities, or costs attributable to the sole negligence or willful misconduct of Seller. This Indemnification is subject to the Limitation of Liability previously set forth in this Agreement.

Dispute Resolution: Any claims or disputes between the Customer and Seller arising out of the services to be provided by Seller or out of this Agreement shall be submitted to nonbinding mediation. Customer and Seller agree to include a similar mediation agreement with all contractors, outside consultants, subcontractors, suppliers, and fabricators, providing for mediation as the primary method for dispute resolution among all parties.

Jobsite Safety: Neither the professional activities of Seller nor the presence of Seller or its employees and outside consultants at a construction/project site shall impose any duty on Seller, nor relieve any contractor of its obligations, duties, and responsibilities including, but not limited to, construction means, methods, sequence, techniques, or procedures necessary for performing, superintending, and coordinating the Project, in accordance with the Project documents and any health or safety precautions required by any regulatory agencies. Seller and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. Customer agrees that its contractor shall be solely responsible for jobsite and worker safety and warrants that this intent shall be carried out in the Customer's contract with the contractor. Customer also agrees that the contractor shall defend and indemnify the Customer, Seller and Seller's outside consultants. Customer also agrees that Seller and Seller's outside consultants shall be made additional insureds under the contractor's policies of general liability insurance.

Miscellaneous: There are numerous standard form documents of AIA, AGC or NSPE including but not limited to "General Conditions of the Contract for Construction," "Owner-Contractor Agreement," and "Application and Certificate for Payment" that may be incorporated into the contract documents for this Project, which contain language wherein Seller is required to "certify" some action, event or date. For purposes of Seller providing services under this Agreement, the word "certify" and the process of certification is defined as follows: "Certification" shall mean a statement signed and/or sealed by a Seller professional engineer or architect representing that the services have been provided and performed by the design professional, to the design professional's best knowledge, information, and belief, in accordance with commonly accepted procedures consistent with applicable standards of practice and is not a guarantee or warranty, either express or implied. The certification is to be construed only as an expression of professional opinion regarding the facts or findings related to the certification.

Signatures: Electronic signatures on this Agreement or on any Work Order (or copies of signatures sent via electronic means) are the equivalent of handwritten signatures. This Agreement is the proprietary and confidential information of Seller. In acknowledgement that the parties below have read and understood this Agreement and agree to be bound by it, each party has caused this Agreement to be signed and delivered by its authorized representative.

New Jersey Law Governs: Seller agrees that this Agreement shall be construed pursuant to and in accordance with the Laws of New Jersey and all parties agree that in the event of any dispute, suit or claim, arising out of any order, the same shall be brought and maintained in a court of competent jurisdiction with the county of Middlesex, State of New Jersey, regardless of where Customer may reside, maintain offices, or a principal place of business, or where the good may be delivered. In trial conducted in said court, Customer hereby waives its right to a trial jury.