



EVAPCO, Inc.  
P.O. Box 1300  
Westminster, MD 21158  
410-756-2600

## EVAPCO PASSIVATION SERVICES Special Terms and Conditions

### APPLICATION OF SPECIAL TERMS AND CONDITIONS

These special terms and conditions apply when the Buyer has purchased EVAPCO factory and/or field passivation services as part of, or in connection with, the purchase of an EVAPCO closed circuit cooler or evaporative condenser which includes a galvanized coil.

### DESCRIPTION OF SERVICES AND NOTICE REGARDING WHITE RUST

EVAPCO will use reasonable care and diligence in applying its proprietary factory and/or field passivation process to the coil that is being provided as part of the equipment sale. EVAPCO passivation services are designed to enable the Buyer to commission the unit under a heat load while minimizing the potential for white rust formation. These passivation services are designed to minimize, but may not eliminate the presence of white rust on the galvanized surfaces of a newly commissioned unit. In addition, the longevity of the passivated galvanized layer is dependent upon proper and consistent maintenance and water treatment following start up.

### EVAPCO EQUIPMENT FOR FIELD PASSIVATION SERVICES

If the Customer purchases field passivation services EVAPCO may supply supplemental feed and control equipment and charge a rental or use fee. This Equipment shall remain the sole property of EVAPCO even though attached to the evaporative cooling equipment on a temporary basis. Customer shall not use the Equipment with any materials or products other than those supplied or approved by EVAPCO. Customer shall operate the Equipment in accordance with EVAPCO's recommendations and make Equipment accessible to EVAPCO and EVAPCO's Authorized Service Providers during normal business hours. Customer assumes all risk of damage, liability, or loss arising from its possession and use of Equipment, and agrees to indemnify EVAPCO from all such occurrences.

### EXPRESS WARRANTY

EVAPCO warrants the factory and/or field passivation services against failure caused by defects in materials and workmanship for a period of six (6) months from the date installation is completed in accordance with good engineering practices or twelve (12) months from the date of shipment, whichever occurs first. EVAPCO warrants that (a) its Services are warranted against defects in materials and workmanship, (b) chemical products supplied by EVAPCO shall conform to EVAPCO's standard product specifications in effect at the time of shipment, and (c) services EVAPCO provides shall be performed in a good and workmanlike manner. All defective parts to be repaired or replaced shall be delivered to EVAPCO, shipping prepaid, with return shipment to the Buyer by EVAPCO to be made F.O.B. the factory, shipping prepaid by the Buyer.

The warranty is predicated on system installation, startup, on-going operation and maintenance in accordance with EVAPCO's recommended operation and maintenance procedures. Failure to follow EVAPCO's recommended operation and maintenance procedures will void these warranties. Labor costs associated with any repair work performed under the terms of the warranties are NOT included within the warranty.

The Buyer assumes responsibility for compliance with any regulations, codes, standards or ordinances applicable to the installation, location, operation or maintenance of the products. No person, agent, or dealer is authorized to enlarge upon the warranties set out herein or the obligations of EVAPCO hereunder.

### LIMITATION OF LIABILITY

**THE SOLE REMEDY FOR BREACH OF THE EXPRESS WARRANTIES DESCRIBED HEREIN SHALL BE REPASSIVATION, REPAIR, OR REFUNDING THE PURCHASE PRICE FOR THE PASSIVATION SERVICES, SET FORTH ON THE PURCHASE ORDER. IT SHALL BE IN EVAPCO'S SOLE DISCRETION AS TO WHETHER REPASSIVATION, REPAIR, OR REFUND IS THE APPROPRIATE REMEDY. IF EVAPCO DECIDES TO MAKE REPAIRS, EVAPCO HAS THE OPTION OF COMPLETING ALL NECESSARY REPAIRS ITSELF, OR AUTHORIZING A THIRD PARTY TO PERFORM SUCH REPAIRS AT EVAPCO'S EXPENSE. EVAPCO IS NOT RESPONSIBLE FOR ANY REPAIR WORK PERFORMED BY A THIRD PARTY THAT EVAPCO DID NOT APPROVE IN WRITING PRIOR TO THE COMMENCEMENT OF SUCH REPAIRS.**

**NOTWITHSTANDING ANYTHING ELSE IN THIS DOCUMENT, EVAPCO'S LIABILITY OF ANY KIND WHATSOEVER SHALL NOT EXCEED THE PURCHASE PRICE FOR THE PASSIVATION SERVICES SET FORTH ON THE PURCHASE ORDER. UNDER NO CIRCUMSTANCES SHALL EVAPCO BE LIABLE FOR LOST PROFITS, LOST SAVINGS, PERSONAL INJURIES, INCIDENTAL DAMAGES, ECONOMIC LOSS, PROPERTY DAMAGE, DAMAGE TO OR SHORTENED LIFE OF THE CLOSED CIRCUIT COOLER OR EVAPORATIVE CONDENSER, OR ANY OTHER CONSEQUENTIAL, INDIRECT, INCIDENTAL, OR PUNITIVE DAMAGES, EVEN IF EVAPCO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ADDITION EVAPCO SHALL NOT BE RESPONSIBLE FOR ANY INJURIES OR DAMAGES OF ANY KIND WHATSOEVER UNDER ANY THEORY OF TORT TO THE EXTENT THE INJURIES OR DAMAGE ARE CAUSED BY MISUSE OF THE PRODUCT BY BUYER OR ANY THIRD PARTY.**

### DISCLAIMER OF IMPLIED WARRANTIES

**OTHER THAN THE EXPRESS WARRANTY DESCRIBED HEREIN, THERE ARE NO OTHER WARRANTIES. EVAPCO HEREBY DISCLAIMS AND EXCLUDES ALL IMPLIED WARRANTIES OF ANY KIND WHATSOEVER, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, THAT THE SERVICE IS FIT FOR A PARTICULAR USE OR PURPOSE, THAT THE SERVICE IS FIT FOR A PARTICULAR APPLICATION OR ENVIRONMENT, AND ANY WARRANTIES THAT MIGHT OTHERWISE ARISE OUT OF A COURSE OF DEALING BETWEEN THE PARTIES OR USAGE OF TRADE.**