

**Standard Warranty****Ebara International Corporation**

1651 Cedar Line Drive  
Rock Hill, SC 29730

**STANDARD CONDITIONS OF SALE**

These STANDARD CONDITIONS OF SALE ("Conditions") exclusively define the contractual relationship between EBARA INTERNATIONAL CORPORATION ("EIC") and the Purchaser, and no terms proposed by the Purchaser in conflict with or additional to these Conditions shall become a part of the contract of sale unless expressly accepted in writing by EIC. Any EIC proposal to which these Conditions are attached shall be for information purposes only, and Purchaser's order is subject to acceptance and acknowledgment by EIC as the supplier of the equipment ordered in accordance with these conditions.

**TERMS OF PAYMENT**

Terms of Payment for any order based on these Conditions shall be included in the EIC Proposal of which these Conditions are a part.

**PRICE ADJUSTMENT**

The price clauses applicable to the contract of sale of which these Conditions are a part are included in the EIC Proposal and are based on the proposed shipping date of the equipment cited. In the event of delays in release to manufacture or in shipment for any reason, the contract price shall be adjusted to the price in effect at the time of shipment. Some equipment to be provided hereunder which is not manufactured by EIC ("Other Equipment") may be subject to different pricing adjustment policies than those stated for the EIC-manufactured equipment ("EIC Products"), which Other Equipment shall be identified in the Proposal of which these Conditions are a part and which shall be incorporated in the contract.

**I. WARRANTY, REMEDY, DISCLAIMER**

EIC warrants for a period of twelve months from the date of initial startup or eighteen months from the date of shipment, whichever shall first occur (the "Warranty Period") the EIC Products to be delivered hereunder against defects in material and workmanship, under normal use and service when installed, used and maintained in accordance with instructions supplied by EIC. This is EIC's sole and exclusive warranty. It applies only to EIC Products and specifically excludes Other Equipment, whether or not such Other Equipment is included in EIC's scope of supply hereunder. Such Other Equipment is warranted only by its manufacturer. If such a defect appears in EIC Products within the Warranty Period and Purchaser has given EIC immediate written notice of same, EIC will either repair the part, or at its option replace the part, by shipping a similar part F.O.B. EIC's shipping point, or at its option refund an equitable portion of the purchase price. EIC may require the return of the defective part, transportation prepaid, to establish the claim. All costs of removal, reinstallation, field labor and transportation shall be borne by the Purchaser. No allowance will be made for repairs without EIC's written consent or approval, and the Warranty Period shall not be suspended upon stopping operation for warranty repairs, nor recommence upon completion of the warranty repairs, but shall run continuously from commencement until normal expiration. Repair parts shall carry no greater warranty than the remaining balance of the underlying EIC Product into which they may be installed, expiring at the same time as said underlying warranty.

Any descriptions of the EIC Products or Other Equipment, any specifications, and any samples, models, bulletins, or similar material used in connection with this sale are for the sole purpose of identifying the said Equipment and are not to be construed as express or implied warranties. Unless during the warranty period all repairs or replacements or parts or components for EIC Products are with EIC-approved parts or components, and all warranty service is performed by EIC or its authorized distributor or representative, the warranty responsibility of EIC shall immediately terminate.

EIC MAKES NO OTHER WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED; AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED BY EIC AND EXCLUDED FROM THESE CONDITIONS. The Purchaser's sole and exclusive remedy, whether upon warranty, contract or tort, including negligence, will be to proceed under this warranty. All liability of EIC shall terminate no later than the expiration of the Warranty Period.

N.B.: If the Equipment being sold hereunder is designated "Municipal: Permanent Installations," there is attached hereto, incorporated by reference herein and made a part hereof, as Attachment A., EIC's "5 Year (10,000 Hour) Pump Warranty" (hereinafter, "Municipal Warranty"). Said Municipal Warranty replaces and supersedes in its entirety this Warranty, Remedy, Disclaimer Paragraph I. All other terms and conditions of these STANDARD TERMS AND CONDITIONS OF SALE remain unchanged.

**II. INSPECTIONS, TESTS**

Any Purchaser inspections or shop testing of EIC Product at EIC's facilities prior to its shipment must be authorized by EIC in writing at least ten (10) days prior to such inspection, and shall be subject to EIC's manufacturing cycle availability and facility security requirements. Field testing of EIC Products may be conducted by Purchaser to confirm mechanical compatibility of the EIC Product and that there has been no damage in transit, but compliance with specifications shall be conclusively established by shop tests at EIC's facilities.

**III. LIMITATION OF LIABILITY**

EIC shall not in any event be liable for special, indirect, incidental or consequential damages, including liquidated damages in any amount. EIC's liability on any claim of any kind, including negligence, for any loss or damage arising out of, connected with, or resulting from a contract based on these Conditions, or the performance or breach thereof, or the design, manufacturer, sale, delivery, resale, installation, technical direction of installation, inspection, repair, operation or use of any EIC Products covered by or furnished hereunder shall in no case exceed the price paid by the Purchaser for the Equipment. EIC also disclaims liability, whether in contract, tort, warranty or otherwise, to any party other than Purchaser, and EIC's sole responsibilities with respect to Other Equipment furnished hereunder shall be to ensure mechanical compatibility of EIC Equipment with the Other Equipment and to pass through to the Purchaser whatever warranty the Other Equipment manufacturer has provided to EIC.



**Standard Warranty****IV. SHIPPING DATES/FORCE MAJEURE**

The time for shipment given herein is approximate and is estimated from the date of receipt of order with complete manufacturing information and approval of drawings as may be necessary. EIC shall not be liable for any loss or damage for delay or non-delivery due to the acts of civil or military authority, acts of the Purchaser or by reason of "force majeure", which shall be deemed to mean all causes whatsoever not reasonably within the control of EIC, including, but not limited to, acts of God, war, riot or insurrection, blockades, embargoes, sabotage, epidemics, fires, strikes, lockouts or other industrial disturbances, delays of carriers and inability to secure materials, labor or manufacturing facilities.

**V. PAYMENTS**

The prices quoted herein are specified in U.S. Dollars and shall be payable to EIC free of all exchange, conversion and collection fees or charges. Pro rata payments shall be made for partial shipments. If shipment is temporarily suspended or postponed at the Purchaser's request, or prevented per paragraph IV., above, then all dates of payment based on date of shipment shall relate instead to the date of completion of manufacture. Letters of credit or other credit instruments established for the Equipment specified herein shall provide for such payment on completion of manufacture where shipment is prevented or postponed under such circumstances. In the event delay in shipment is requested by Purchaser, all costs and risk of storage and reinspection to make Equipment ready for shipment shall be borne by Purchaser. When in the opinion of EIC the financial condition of the Purchaser renders it prudent, EIC may require cash payment or satisfactory security before shipment. Interest at the highest legal rate permitted, not to exceed one and one-half (1 1/2%) percent per month, will apply to all invoices not paid when due.

**VI. CHANGES AND DRAWINGS**

EIC reserves the right to change or modify the design and construction of Equipment and to substitute materials of construction. Such changes, modifications or substitutions, however, shall not affect EIC's commitment to Purchaser to provide Equipment in accordance with specifications as accepted by EIC. If drawings are furnished, they are submitted to show general style and arrangement of the Equipment offered.

**VII. CANCELLATION, SUSPENSION, TERMINATION FOR CONVENIENCE OF PURCHASER**

The Purchaser may terminate this order for the convenience of the Purchaser at any time upon written notice and payment to EIC of cancellation charges as shall be specified by EBARA, which charges may include reasonable anticipated profits and unabsorbed burden costs for EIC. EIC shall use its best efforts to mitigate these latter costs to Purchaser, but shall be under no obligation to act to its overall detriment thereby.

If EIC's performance of the work is delayed for a period of more than three (3) months either by reason of the request or acts of the Purchaser, acts of civil or military authority or by "force majeure," upon removal of the cause of any such delay EBARA's performance shall be resumed, delivery will be rescheduled, and the purchase price shall be adjusted to that in effect at the time of resumption of performance, as may then be notified by EIC to Purchaser. If Purchaser is unwilling to accept the adjustment price and/or projected delivery date, he may cancel his order by giving written notice thereof to EIC within ten (10) days after EIC's notification. In such event, Purchaser shall be liable for payment of reasonable cancellation charges as specified by EIC, but such charges shall be equitably determined, based on the reason for such termination and EIC's reasonable ability to reutilize such terminated Equipment. In no event shall EIC be liable hereunder for cover or other consequential damages.

**VIII. RISK OF LOSS, SECURITY**

The Purchaser shall bear all risk of loss of or damage to the Equipment after delivery to EIC's transportation facility at shipping point. Purchaser agrees that EIC shall retain a security interest in the Equipment only until the purchase price has been paid, and Purchaser agrees to perform all acts necessary and/or require to perfect and assure EIC's security interest.

**IX. TAXES, DUTIES, FREIGHT**

The Purchaser shall pay to EIC, in addition to the purchase price, the amount of all Customs duties, fees and charges, Sales, Use, Privilege, Occupation, Excise or other taxes, Federal, state, local, or foreign, which EIC may be required to pay in connection with furnishing Equipment or services to the Purchaser. Purchaser shall also be responsible for payment of all transportation charges, including such increases in cost as may be imposed from rate changes between the time of quotation and shipment, and any additional costs required by changes in Purchaser's shipping requirements.

**X. DISPUTES**

The parties shall use their best efforts to resolve any disputes amicably, in realization that costs associated with litigation of differences may be disproportionate to the matter in dispute. Should amicable resolution prove unsuccessful, the parties hereby consent to the jurisdiction of the Nevada Courts and the application of Nevada laws, rules and regulations in adjudication of any such dispute. By mutual agreement the parties may elect to submit any dispute to binding arbitration in lieu of litigation, in which event such arbitration shall be conducted in Reno or Carson City, Nevada before the American Arbitration Association in accordance with its Rules of Conciliation and Arbitration and applying the laws of the State of Nevada. Each party shall bear its own costs of arbitration.

**XI. MISCELLANEOUS**

In the event any of the Conditions herein is determined to be legally unenforceable, such Condition shall be deemed severed from these Conditions, and the balance shall remain in full force and effect. In the event, however, that such severing materially alters the nature of the relationship between the parties hereto, then at the option of EIC the contract of sale of which these Conditions are a part may be terminated for the convenience of EIC, and an equitable adjustment shall be made for any funds previously paid by Purchaser for which Equipment has not yet been shipped.

These Conditions constitute the entire agreement relating to Conditions of Sale between the parties hereto, and all previous negotiations, discussions and agreements are deemed merged into and superseded by these Conditions.

