



## TERMS AND CONDITIONS OF PURCHASE

1. **Acceptance:** This Purchase Order becomes a binding contract when it is accepted by the Seller according to the terms and conditions set forth herein. No revisions of this order or any of the terms and conditions thereof shall be valid unless expressly accepted in writing by an authorized representative of the Buyer.
2. This order may be canceled at any time by Buyer prior to acceptance of Seller.
3. Shipment of any part of this order constitutes acceptance of the order by Seller together with all the instructions, terms and conditions hereof without reservation. No part of this order may be subcontracted or assigned by operation of law or otherwise, without Buyer's prior written consent.
4. Materials and goods furnished and work performed under this order shall at all times be subject to Buyer's inspection and approval prior to acceptance and / or payment. If in the opinion of the Buyer such materials, goods or work fail to conform to specifications therefore or otherwise be defective, Buyer shall have the right to reject same and require Seller's prompt replacement thereof. Rejections may, at Buyer's option, be returned to Seller at Seller's expense and risk.
5. Quantities in excess of variation specified on Purchase Order may, at Buyer's option, be returned to Seller at Seller's expense and risk.
6. If goods are designed by Buyer, Seller agrees not to reproduce any of such goods without Buyer's prior written consent, nor shall, without such consent, disclose any information regarding such goods or make any other use of such confidential information.
7. **WARRANTY** - Seller warrants that all supplies furnished hereunder will be free from defects in material and workmanship, conform to applicable specifications, drawings, samples and descriptions, and if of Seller's design, be free from design defects. All warranties shall be construed as conditions as well as warranties and shall not be deemed to be exclusive. All warranties shall pass to Buyer and its customers.
8. **CHANGES** - Buyer may at any time, by a written order, and without notice to the sureties, make changes, within the general scope of this order in any one or more of the following:
  - (a) drawings, designs, or specifications, where the supplies to be furnished are to be specifically manufactured for Buyer in accordance therewith,
  - (b) (ii) method of shipment or packaging; and
  - (c) place of delivery.
  - (d) If any such change causes an increase or decrease in the cost, or the time required for the performance of any part of the work under this order, whether changed or not changed by any such order, an equitable adjustment shall be made in the order price or delivery schedule, or both, and the order shall be modified in writing accordingly. Any claim by Seller for adjustment under this clause must be asserted within twenty (20) days from the date of receipt by Seller of the notification of change, provided, however, that Buyer if it decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this order. Where the cost of property made obsolete or excess as a result of a change is included in Seller's claim for adjustment, Buyer shall have the right to prescribe the manner of disposition of such property. Nothing in this clause shall excuse Seller from proceeding with the order as changed.
9. All special drawings, dies, patterns or other items supplied by Buyer shall be the property of the Buyer and shall be confidential, preserved by Seller, used exclusively for production for the Buyer of articles required by this order and shall be returned when the work on this order has been completed or terminated.
10. Title to supplies purchased under this order passes from Seller to Buyer at F.O.B. Destination (Buyer's plant). Regardless of passage of title, loss and damage discovered after transfer of title determined to be the result of faulty package or handling by Seller shall be Seller's responsibility. Acceptance by Buyer shall be final only after completion of inspection at Buyer's plant. Seller shall bear all risk for rejected supplies after notice of rejection.
11. Material will not be considered received until which time that all Quality Assurance Purchasing Requirements (GEM076), as called out for on the face of this Purchase Order are met. As such all terms for payment will become effective only after receipt of material and all subsequent Purchase Order requirements.

If the Quality Assurance Purchasing Requirements do not accompany the shipment, Gavial Engineering and Manufacturing, Inc. reserves the right to:

  - (a) Consider the shipment as not meeting the purchase order requirements.
  - (b) Withhold payment until such requirements are met.
  - (c) Return the shipment at the supplier's expense.
12. Buyer is an equal opportunity employer. By acceptance of this order, Seller agrees to comply with the provisions of Executive Orders 11246, 22373 and any amendments thereto (nondiscrimination in employment). Provided Seller is not exempted from compliance by reasons of the provisions thereof.
13. This Purchase Order is governed in all respects by the laws of the State of California.
14. Gavial Engineering and Manufacturing, Inc. reserves the right of access to the vendors facility and records or that of their subcontractors for the purpose of witnessing any tests or examinations, performing inspections or conducting audits.
15. **Termination for Convenience:** The Buyer may terminate this contract for convenience at any time. The Seller agrees to perform or have performed work on the items up to the point at which, in the event of termination of this Contract, the total amount payable by Buyer (including amounts payable in respect of subcontracts and settlement costs) would, in the reasonable judgment of the Seller, approximate the total amount at that time allotted to the Contract. The Seller is not obligated to continue performance of the work beyond that point. Buyer is not obligated in any event to pay or reimburse the Seller in excess of the amount from time to time allotted to the Contract, notwithstanding anything to the contrary in any other clause of the Contract. The Seller shall furnish upon request to Buyer a schedule showing its anticipated requirements for periodic funding under this clause.
16. **Termination for Default:** Failure of the Seller to deliver within the time specified in this order shall, at sole Buyer's option, permit Buyer to terminate this Purchase Order, or parts as to which there has been delay, without penalty to Buyer. Seller will not however, be liable for damages occasioned by delay in performance or delivery due to causes beyond its control and without fault or negligence on its part, provided Seller promptly notifies Buyer in writing as soon as such delay is apparent. The remedies herein reserved shall be cumulative and in addition to all other remedies provided in law or equity.
17. Seller shall submit an OSHA compliant Material Safety Data Sheet (MSDS) with each shipment of hazardous materials.
18. **PACKING AND SHIPMENT**
  - (a) Unless otherwise specified, all work is to be packed in accordance with good commercial practice.
  - (b) A complete packing list shall be enclosed with all shipments. Seller shall mark containers or packages with necessary lifting, loading, and shipping information, including the Buyer Contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bill of lading shall include this Contract number.
  - (c) Unless otherwise specified, delivery shall be FOB destination.

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