Definitions and introduction

1. Definitions and introduction

"we", "us" and "our" refers to the applicable purchaser among GKN Driveline
Bruno SpA, GKN Driveline Bremzze SpA or members of the Group.
"Group" means GKN plc and its group companies.
Our agreement with you (the "Contract") consists of: (i) any duly signed contract which applies to our purchase of goods and/or services from you; (ii) any purchase order or delivery schedule order (an "Order") that we issue to you and you confirm; (iii) these General Purchasing Conditions; (iv) any specifications, safety and environmental requirements that we agree with you; (v) any supplementary terms and conditions of purchase that we agree with you and (vi) our quality and other requirements or procedures made available to you (via GKN's Supplier Portal or otherwise). If there is any inconsistency between any of the Contract's parts placed higher in the list will prevail.

Your conditions

2. Your conditions

If you seek to impose additional or different terms on our purchase, they will not form part of the Contract and are excluded and rejected by these General Purchasing Conditions.

Delivery

3. Delivery

3.1. You must deliver goods and/or services that we order in accordance with the delivery dates and terms set out in the Contract. If any goods and/or services are not delivered on time, we may terminate the Contract pursuant to Art. 1456 of the Italian Civil Code. In case of incorrect delivery, we may terminate the Contract pursuant to the provisions of the Italian Civil Code, without prejudice to our right to claim damages.
3.2. Goods must be delivered DDP (as defined in current Incoterms) unless otherwise agreed.
3.3. All goods must be packaged so as to protect them adequately before, during and after delivery and if, we require, each delivery shall be accompanied, in a form acceptable to us, by a certificate of conformity and/or an up-to-date material safety data sheet.
3.4. Quality, rejection and indemnity

4. Quality, rejection and indemnity

4.1. Any goods supplied by you must be: (i) of the quantity and description specified in the Order and consistent with the specification provided, and of satisfactory quality; (ii) of good and workmanship and fit for their normal purpose and any other specific purpose we inform you about which you ought reasonably be aware of; (iv) free from defects in design, material and workmanship; and (v) free from any encumbrances.
4.2. Any services supplied by you must be: (i) performed efficiently, safely and competently by suitably qualified and experienced personnel, in conformity with any applicable industry code of practice; and (ii) of the quality which would reasonably be expected from a skilled and experienced operator providing equivalent services in the same circumstances.
4.3. Any goods or services (and any associated technology) supplied by you must: (i) comply with all applicable requirements and regulations, including those relating to transportation, health, safety and the environment; (ii) not infringe the intellectual property rights of any third party; (iii) conform to any specification or other requirements referred to in the Contract; and (iv) conform to any sample approved by us.
4.4. We may (but are not obliged to) inspect and test the goods delivered by you and may reject and return (at your risk and expense) any goods that fail to conform with the terms of the Contract. You must replace such rejected goods within a reasonable time (being not more than 15 days after notice of rejection) with goods which do comply with the Contract.
4.5. You will reimburse each member of the Group for all losses, damages, costs and expenses (including reasonable legal fees) or other claims (including third party claims and costs relating to recalls and service measures implemented by our customers or your customers) arising from or incurred as a result of: (i) any breach of you of the Contract; and (ii) any negligent act or omission by you or your employees, agents or sub-contractors in supplying goods and/or services pursuant to the Contract.

Invoicing and payment

5. Invoicing and payment

5.1. We will pay you the price set out in the Contract (which will be inclusive of delivery, service and exclusive of sales tax) for the goods and services that you deliver in accordance with the Contract. You may only invoice us after delivery of the goods and/or services ordered by us and in accordance with any payment terms notified in the Contract.
5.2. Invoices must show: the date of delivery, Order number, delivery address and description of goods and/or services delivered, and must be sent to the invoice address notified in the Contract.
5.3. Unless otherwise set out in the Order, payment will be due from us within 90 days of the Thursday following the end of the month of receipt by us of a validly issued invoice.
5.4. We can deduct from the price of the goods and/or services ordered by us any sums due to the Group under the Contract or any other contract between you and the Group.

Confidentiality and Intellectual Property

6. Confidentiality and Intellectual Property

6.1. You must not disclose to any other person or entity any confidential information belonging to the Group and any of its divisions, customers, suppliers or collaboration partners (including, without limitation, this Contract, specifications, formulae, manufacturing processes, know-how and any technical or commercial information, data or any other information for any purpose) except for supply of goods and/or services to us or as expressly authorised in writing by us. You must return to us such information and any copies if requested.
6.2. You may only use the information or data provided by us or obtain same from encumbrances, any documents, specifications, plans, drawings, samples, information or goods created or prepared for us by you or your employees, subcontractors and consultants, which we may use without any charge.
6.3. Intellectual property rights are protected by any information, documentation, prototypes or tools provided by us to you shall remain owned by us or our customers or our suppliers and shall only be used for the sole purpose of supplying goods and/or services to us. If any intellectual property rights are created or generated from such information, documentation, prototypes or tools or in performing the Contract then such rights shall be owned by us.

Our Property

7. Our Property

7.1. This section relates to all property (including tooling of any kind) and any related information, documentation and intellectual property rights therein: (i) purchased by or for you pursuant to an Order; (ii) provided by you to us for use in the supply of goods and/or services for any other purpose, whether or not modified, repaired or replaced ("Our Property");
7.2. Our Property is (and will be) your property and shall remain your property at all times. We shall keep title to it at all times. If we disagree as to who owns any of Our Property, the presumption will be that we do.
7.3. Any tooling and/or machine in the possession of the Group is it is on a fiduciary basis with you and you have no rights in it. You may have a revocable non-exclusive licence to use Our Property at your premises only for performing the Contract

Termination

8. Termination

8.1. We reserve the right to withdraw from any or all part of the Contract by giving notice at any time prior to your performance of the Contract and in such event we will not be liable to pay the price for such goods or services. If the Contract qualifies, in full or in part, as a contract to be performed continuously or periodically, we may terminate the Contract, by giving you written notice, in full or in part, in any time, in which case we shall only reimburse you the costs you incurred, with the exception of any work done and any lost profit.
8.2. The Contract terminates immediately by law if you or your parent company become subject to a bankruptcy or insolvency event or enter into a composition with any of your creditors.
8.3. If you breach the Contract, we may request you to remedy such breach within 15 days of receiving notice of the breach, whereas failure to remedy such breach within the set term will cause the Contract to be automatically terminated.
8.4. Termination of all or part of the Contract will not prejudice accrued rights.
8.5. You will not be entitled to transfer or subcontract any of your rights or obligations under the Contract without our prior written consent. Each company within our Group shall have the benefit of the Contract and may purchase goods and or services pursuant to the terms of the Contract.
8.6. The sale or export by us to ensure that any remedies is not a waiver of any of our rights.

Law and Jurisdiction

10. Law and Jurisdiction

10.2. If you are incorporated or otherwise legally resident in any member state of the European Union, Iceland, Switzerland or Norway, the courts of the seat of the Italian members of the Group shall have non-exclusive jurisdiction to settle any dispute arising out of or in connection with any purchase order or contract or any subject matter ("Claims"). If not, any Claims shall be referred to and finally resolved by arbitration in Milan under the rules of the Milan Chamber of Arbitration and one arbitrator will be appointed in accordance with those rules. The language of the arbitration shall be Italian.