1 Definitions and introduction

“we”, “us” and “our”: refers to the applicable purchaser among GKN Driveline Celaya, S.A. de C.V., GKN Driveline Services, S.A. de C.V., GKN Driveline Trading, S.A. de C.V., GKN Driveline Villagrán, S.A. de C.V. or other 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 data sheet module order (an “Order”) that we issue to you if you confirm; (iii) these General Purchasing Conditions; (iv) any specifications and safety, health and environmental requirements that we agree with you; (v) any intellectual property or information for which you agree to ensure that we 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 parts of the Contract, the parts placed higher in the list will prevail.

2 Your obligations

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.

3 Delivery

3.1 You must deliver goods and/or services that we order in accordance with the delivery terms and dates set out in the Contract. If any goods and/or services are not delivered on time or are delivered incorrectly, we may terminate the relevant Order.

3.2 Goods must be delivered DDP (as defined in Incoterms) unless another delivery term is set out in the Contract. Ownership of the goods you deliver will transfer to us on delivery.

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.

4 Quality, rejection and indemnity

4.1 Any services supplied by you must be: (i) of the quantity and description specified in the Contract; (ii) of satisfactory quality; (iii) fit for their normal purpose and any specific purpose for which you are or ought reasonably to be presumed to know; (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 specifications or instructions of practice; (ii) so performed as would reasonably be expected from a skilled and experienced operator providing equivalent services in the same circumstances.

4.3 Any services you supply (or any associated technology) supplied by you must: (i) comply with all applicable legal requirements and regulations, including without limitation those relating to transportation, health, safety and the environment; (ii) not infringe the intellectual property rights of any third party; (iii) conform to any specifications 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 reasonably be expected from a skilled and experienced operator providing equivalent services in the same circumstances.

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 us or our group) arising out of any negligence or other breach of contract committed by you in breach of 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 conform with the terms of this Order.

4.6 You will reimburse us for the cost of inspecting and testing the goods and services supplied by you, all of which must be complete and accurate.

4.7 You and your employees, agents and sub-contractors must abide by applicable site and safety rules when on our property and you shall provide evidence of the same to us.

4.8 Our rights or remedies under the Contract will not limit any of our other rights or remedies, whether under the Contract or otherwise.

4.9 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.

5 Invoicing and payment

5.1 We will pay you the price set out in the Contract (which will be inclusive of delivery costs and exclusive of sales tax including VAT) for the goods and services that you deliver in accordance with the Contract. You may only invoice us for goods and/or services ordered by us and in accordance with any payment schedule 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 specified 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 valid invoice.

5.4 We may 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.

6 Confidentiality and Intellectual Property

6.1 You must not disclose to any other person or entity any confidential information belonging to the Group or 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) or use such information for any purpose except for the 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 and you acknowledge that this information and any other information, by whatever means unauthorized possession of Confidential Information or industrial secrets constitute criminal conduct in terms of articles 210, 211 and 211 bis of the Mexican Criminal Code for the Federal District, and 223 sections IV, V and VI of the Mexican Industrial Property Law.

6.2 You must, on request, transfer to us, free of charge and free from encumbrances, any documents, specifications, plans, drawings, samples, information or goods created or purchased by us or your employees, subcontractors and consultants, which we may use without any charge.

6.3 Intellectual property rights in any information, documentation, prototypes or tools provided by us to you shall remain owned by us 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 in performing the Contract then such rights shall be owned by us.

7 Our Property

7.1 This section relates to all property (including toying of any kind) and any related information, documentation and intellectual property rights therein: (i) purchased by us and/or manufactured by you pursuant to an Order, (ii) provided by us to you and included in the Contract, and (iii) any of our other property; whether or not modified, repaired or replaced (“Our Property”).

7.2 Our Property (and any scrap resulting from it) is solely owned by us and we shall keep it for our use only. Where you and we disagree as to who owns any of Our Property, the presumption will be that we do.

7.3 Where you are in possession or control of Our Property it is on a fiduciary basis as our bailee and you have no rights in it. You have a revocable non-exclusive licence to use Our Property for the purpose of performing the Contract until we request its return, which we may do at any time. You may not sub-license the use of Our Property or use it for any other purpose.

7.4 Risk in Our Property passes to you on delivery and remains with you until it is returned to us. Whilst Our Property is in your possession or control you shall: (i) be responsible for any loss or damage to it (other than fair wear and tear); (ii) store it safely and in a way that we agree with you; and (vii) 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 parts of the Contract, the parts placed higher in the list will prevail.

8 Termination

8.1 We may cancel all or any part of any Order by giving you notice at any time prior to your full performance of the Order and in such event we will not be liable to pay the price for the goods and/or services supplied.

8.2 We may terminate the Contract: (i) for convenience by providing you with written notice; (ii) immediately if you or your parent company become subject to a bankruptcy or insolvency procedure or in either case a new procedure arising out of or in connection with any of your creditors; or (iii) if you breach the Contract, and, if the breach can be remedied, you fail to remedy such breach within 10 days of receiving notice of the breach.

8.3 Termination of all or part of an Order or the Contract will not prejudice accrued rights and remedies under the Contract or arising otherwise.

8.4 You may be required to continue to supply spare parts and related services up to 15 years after termination or expiry of the Contract.

9 General

9.1 You and your suppliers must comply with all applicable laws, regulations and codes, including without limitation the requirements of the GKN Supplier Code of Conduct available at www.GKNAutomotive.com/SupplierCodeofConduct. We have the right to visit your premises on reasonable notice to audit and ensure compliance.

9.2 You must provide us with any information we request relating to the goods and services supplied by you, all of which must be complete and accurate.

9.3 You and your employees, agents and sub-contractors must abide by applicable site and safety rules when on our property and you shall provide evidence of the same to us.

9.4 Our rights or remedies under the Contract will not limit any of our other rights or remedies, whether under the Contract or otherwise.

9.5 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.

9.6 Any failure or delay by us to enforce, or partially enforce any provision of the Contract will not be a waiver of any of its rights.

9.7 You hereby agree that no employment relationship, of any nature whatsoever, is created or exists between you and any of our officers and/or employees, or any other person or entity, by virtue of your personal or collective obligations under the Contract.

9.8 If any of your employees transfer to us by law then we may dismiss him/her and you shall indemnify us and hold us harmless for all costs and claims arising from such dismissal. If any of your personnel bring any claim against us, including under Mexican labor and social security laws, you shall indemnify us from all losses and costs arising from such claim.


10 Applicable Law

This Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of the United Mexican States, without giving effect to any conflicts-of-law rule or any other principle that might require the application of the laws of another jurisdiction.

11 Jurisdiction

11.1 Mexican Supplier

If the Supplier is incorporated or otherwise legally resident in Mexico, the Parties hereby agree to submit to the exclusive jurisdiction of the Federal District Court for Mexico City, (the “Court”), and the subject matter (“Claims”) to the Courts of Mexico City, without regard to the any other jurisdiction that may be applicable because of their present or future domiciles.

11.2 Foreign Supplier

If the Supplier is not a Mexican company either by incorporation or by change of nationality, or in case its is not a resident in Mexico, the Parties hereby agree that any disputes or Claims arising out of or in connection with this Order, the Contract or its subject matter (“Claims”) to the Courts of the Arbitration Center of Mexico (CAM) by one or more arbitrators appointed in accordance with said Rules. The language of the arbitration shall be Spanish.