

General terms and conditions of sale for GKN Hydrogen Corp. based in United States

1. Definitions and introduction

“We”, “us” and “our” refers to GKN Hydrogen Corp. as a seller or other companies of the GKN Hydrogen Group based in United States. “Group” means GKN Hydrogen Ltd and its direct and indirect subsidiaries.

2. Order acceptance; Exclusion of conflicting conditions; Investigation obligations

2.1 These Terms and Conditions of Sale (these “Terms and Conditions”), together with the terms of any other document in which these Terms and Conditions are attached or are incorporated (collectively, this “Agreement”) apply to (i) any quotation, proposal, or offer to sell (“Offer”) made by GKN Hydrogen Corp. or one of its affiliates or subsidiaries (collectively, “Seller”) for the sale of (x) Seller’s metal power based HY2 storage system (the “Products”) and (y) any related services performed by Seller for the Products (the “Services” and together with the Products, as applicable, the “Goods”), in each case, as described in the Agreement; (ii) any purchase order or related attachments, schedules, exhibits, designs and drawings (collectively, an “Order”), issued by the buyer-party purchasing the Goods or that party’s subsidiaries and affiliates (collectively, “Purchaser”); and (iii) any written master purchase or supply agreement executed by Seller and Purchaser for the sale of the Goods. Purchaser accepts, and will be deemed to be bound by, the terms of this Agreement upon the first to occur of the following: (A) Purchaser’s written acknowledgment of this Agreement in writing; (B) Purchaser placing an Order with Seller; (C) delivery of the Goods by Seller pursuant to any Order or similar type of request by Purchaser; (D) acceptance of the Goods by Purchaser; or (E) payment for the Goods by Purchaser.

2.2 Purchaser’s acceptance is expressly limited to the terms of this Agreement, and this Agreement exclusively governs the sale of Goods by Seller. This Agreement expressly supersedes and excludes any terms and conditions set forth in any Order placed by Purchaser or any other document issued or deemed to be issued by Purchaser to Seller (including, without limitation, Purchaser’s general terms and conditions of purchase), each of which are expressly rejected; provided, however, Seller will be deemed to accept those portions of an Order issued by Purchaser that contain terms and conditions that are the same as the terms and conditions set forth in this Agreement. Any reference in this Agreement to any request for quotation, request for proposal, or any other similar bid document made by Purchaser is solely for the purpose of incorporating the description and specifications of the Goods contained in such document, but only to the extent that such description and specifications do not conflict with the description and specifications contained in this Agreement or otherwise agreed to, or accepted by, Seller in writing. Any additional or different terms proposed by Purchaser, whether in Purchaser’s Order or otherwise, or any attempt by Purchaser to vary the terms of this Agreement in any way, are expressly rejected by Seller, are not part of this Agreement and do not apply to the sale of Goods and are not binding on Seller without the express prior written acceptance of such terms by Seller’s authorized representative.

2.3 None of the terms, provisions or conditions of this Agreement may be modified, altered or added to except by written instrument signed by a duly authorized representative of Seller and Purchaser. Any agreed upon change may be subject to an equitable adjustment in the purchase price and/or time for performance.

3. Duration

Unless otherwise agreed by Seller in writing or terminated earlier in accordance with these Terms and Conditions, the term of this Agreement shall take effect immediately and will expire on the later twelve (12) months following the delivery of the Goods under an Order (the "Term").

4. Quantity

Even if this Agreement does not require Seller to supply a specified quantity of Products, or an Order is designated as "blanket" or does not contain a specific quantity, and unless otherwise stated in this Agreement, this Agreement is not a requirements contract and Seller is only obligated to supply Purchaser the Products in an amount not less than one (1) unit. Each Order for Goods must be separately accepted by Seller to be binding and Seller may accept such Order or request by agreeing to deliver the Goods in writing or delivering the Goods.

5. Price and Payment

5.1. Prices for the Goods will be as agreed by Seller and Purchaser in a signed writing or, if there is no writing signed by the Parties as to the price of the Goods, the price specified in the Offer or Seller's price list as of the date Seller accepts the Order. Notwithstanding the foregoing, and unless otherwise agreed by Seller in a signed writing, Seller's prices do not include transportation for the Products, freight, handling, special handling, delivery and insurance costs or any all federal, state, provincial and local taxes (including sales, use, value-added and excise taxes), assessments, tariffs, duties, and any similar fiscal contribution related to the sale, use, shipment, or delivery of the Goods, all of which shall be the sole responsibility of Purchaser and payable by Purchaser (whether directly or by reimbursement to Seller) in addition to Seller's price.

5.2. Purchaser will pay for Goods without setoff, recoupment, or deduction of any kind, in U.S. funds (or the currency agreed upon by Purchaser and Seller in a signed writing). Payment for the Goods will be due and payable within thirty (30) days (or such other timeframe as agreed upon by Purchaser and Seller in a signed writing) following the earlier of (i) Purchaser's receipt of Seller's invoice or (ii) Purchaser's receipt of the Goods. Purchaser will not be entitled to any discount for early payment. If payment is not made as provided in this Agreement, Seller may, at its option and without notice: (A) suspend performance of its obligations under this Agreement, including, without limitation, delay or suspend shipments to Purchaser until such breach has been cured; (B) require payment in advance as to future deliveries or require security to ensure payment; (C) demand return from Purchaser of any Products for which payment has not been made; or (D) cancel this Agreement. If Seller's performance or shipment is delayed or suspended at the request of Purchaser, payment shall become due on the date when the Seller is prepared to make shipment or perform, and such payments shall be made based on the purchase price and the percentage of completion. All amounts due to Seller but not paid by Purchaser on the due date will bear interest on the unpaid balance of amounts due at a rate that is equal to three (3%) percent until paid. Purchaser agrees to indemnify and hold harmless Seller from any and all legal fees and costs that may be required to collect any overdue balances. If deliveries of Products are to be made in installments, the purchase price of each installment shall, at Seller's option, be recoverable as a separate sale. The remedies contained in this Section 4 are cumulative and shall be in addition to any other remedies available to Seller under applicable law.

6. Delivery, Risk of loss, Transportation Charges

Subject to Seller's lead times, Seller will use commercially reasonable efforts to deliver the Goods on dates requested by Purchaser. Unless otherwise agreed in writing by Seller, Seller will deliver the Products EX WORKS (Incoterms 2020) to Purchaser's carrier at Seller's facility. Title and risk of loss to the Products will pass to Purchaser when the Products are placed in the possession of Purchaser's carrier; provided, however, Seller shall retain a purchase-money security interest in the Products as security until payment in full is received. Seller may, at its option, deliver all Products in one lot or several lots from time to time, as long as such delivery are within the time frame set forth in the Order or this Agreement, as the case may be. To the extent delivery is in several lots, Purchaser agrees that the prices for the Products can be apportioned and can be demanded for in each lot.

7. Excusable Delays

Excluding any payment obligations, neither party will be held liable, or deemed in default, for any failure or delay in fulfilling or performing any of its obligations under this Agreement if such failure or delay is caused by, or results from, acts beyond a party's reasonable control, including fire, flood, drought, acts of nature, pandemics or epidemics, war, hostilities, terrorist threats or acts, riot or other civil unrest, strikes, lockouts, slowdowns or other labor unrest, delays in transportation, shortage of power, unavailability of raw materials, unforeseen increased costs in raw materials or related components (including any increase in costs by governmental action that were not in place at the commencement of this Agreement), embargo, government action (including any law, rule, order or action of any court or instrumentality of the federal or of any state government), earthquake, explosion, or national or regional emergency (collectively, the "Excusable Delays"). During the period of Excusable Delay, at Seller's option, either (i) the date of delivery shall be extended for a period equal to the time lost by reason of any Excusable Delay, or (ii) any quantity of Products affected by an Excusable Delay shall be deducted from the total quantity required to be sold to Purchaser. Seller, during any period of shortage due to an Excusable Delay, may allocate its available supply of Products among itself and its customers on whatever basis it deems desirable.

8. Acceptance and Return of Goods

Purchaser will inspect the Goods immediately upon receipt. Unless Purchaser provides Seller with written notice stating with specificity any defects, nonconformities, or shortage relating to the Goods within the Warranty Period, such Goods will be deemed fully and finally inspected, checked and accepted by Purchaser, and any such claims for defects, nonconformities, or shortages will be waived by Purchaser. Upon acceptance of Goods, Purchaser waives any right to revoke such acceptance for any reason, whether known or unknown to Purchaser at the time of acceptance. Seller has a reasonable period of time to cure any nonconformity. Products may not be returned without Seller's prior written return authorization and, once authorized, Purchaser may return the Products Delivery Duty Paid (Incoterms 2020) to destination determined by Seller and in accordance with instructions issued by Seller. Failure to follow Seller's return procedures may result in lost Products, delays, additional service, restocking charges, warranty denial, or refusal of a shipment. Seller has the right to reject Products returned without Seller's approval. Buyer's sole and exclusive remedy, and Seller's sole and exclusive obligation, with respect to any defective or nonconforming Goods are those remedies set forth in Section 12(b) below.

9. Cancellation and Changes

Purchaser may not cancel Orders, change the timing of scheduled shipments, or direct temporary suspension of scheduled shipments without Seller's prior written consent. Cancellations of Orders or rescheduling of shipments shall be subject to cancellation charges which will include payment of any finished Products, completed Services, work-in-progress, and all other materials made, purchased by Seller, or otherwise committed for the Order. All changes to Orders must be submitted by Purchaser to Seller in writing and will not be effective unless and until Seller consents in writing to the change(s). Seller will not be required to accept any changes without Purchaser's written acknowledgement of any price and/or delivery schedule adjustments, if any.

10. Allocation

Seller will not be required to sell a greater quantity of Goods than it has available or has allocated for this Agreement. If Seller is unable to supply the total demands for any Goods, Purchaser acknowledges and agrees that Seller may allocate its available supply among its customers in any manner Seller deems fair and equitable. Seller will not be obligated under any circumstances to purchase goods from others to meet purchaser's demand, nor will it be liable for any damages or claims arising therefrom.

11. Intellectual Property

Except to the extent provided in a separate written agreement between Purchaser and Seller, this Agreement will not be deemed to transfer, assign, or license any right, title, or interest in and to, any idea, invention, concept, discovery, work of authorship, patent, copyright, trademark, trade secret, know-how, formula, design, engineering drawing, device, compilations of information, manufacturing methods or processes, tooling or other intellectual property owned by a party or its third party licensors (collectively "Intellectual Property"). Notwithstanding the foregoing, each party hereby provides the other party with a limited, revocable, and royalty free license to such party's Intellectual Property solely to the extent required for a party to perform its obligations under this Agreement. Neither party will use the other party's Intellectual Property, in whole or in part, to copy, redesign, reverse engineer, replicate or manufacture (or enable manufacture by itself or any third party) all or any portion of the Goods, products similar to the Goods, or products derived from the Goods. Unless set forth in a separate agreement by the parties, Purchaser agrees that all Intellectual Property for the Goods are owned solely and exclusively by Seller.

12. Confidentiality

All Intellectual Property, and all other confidential and proprietary information provided by a party (the "Disclosing Party") to another party (the "Receiving Party") under this Agreement including, without limitation, any samples, drawings, know-how, processes, and other technical, business, or financial information, whether provided orally, in writing, by demonstration, or otherwise (collectively, "Confidential Information"): (a) is owned by the Disclosing Party; (b) must be kept confidential by Receiving Party and may not be disclosed by Receiving Party to third parties without the express prior written consent of Disclosing Party; provided, however, Receiving Party may disclose Disclosing Party's Confidential Information to Receiving Party's employees, attorneys, agents, and subcontractors who have a "need to know" the Confidential Information for purposes of carrying out Receiving Party's obligations under this Agreement as long as such individual and entities are bound by confidentiality terms no less restrictive than those contained in this Agreement; and (c) may not be used by Receiving Party other than is required for Receiving Party to perform its obligations under this Agreement. The confidentiality restrictions in this Section 11 do not apply to information which is (i) already known by the Receiving Party prior to the date of this Agreement and without breach of the confidentiality restriction that the Receiving Party was subject; (ii) acquired by the Receiving Party from a third party which was not, to the knowledge of Receiving Party, under an obligation to the

Disclosing Party not to disclose such information; (iii) which is or becomes publicly available through no breach by Receiving Party of confidentiality restrictions to which such Party is or was subject; or (iv) independently developed by the Receiving Party without the use of the Disclosing Party's Confidential Information. Notwithstanding the above, a Receiving Party may disclose Disclosing Party's Confidential Information if required by a judicial or government request, requirement, or order as long as (A) to the extent not prohibited by law, Receiving Party gives Disclosing Party written notice prior to such disclosure and (B) Disclosing Party only discloses that portion of Confidential Information required to comply with such requirement, request, or order. Upon the termination or expiration of this Agreement, Receiving Party agrees to return, or destroy (to the extent feasible), Disclosing Party's Confidential Information in Receiving Party's possession; provided, however, Receiving Party may retain one (1) copy of Confidential Information to the extent required to comply with any legal obligation as long as Receiving Party continues to comply with the provisions of this Agreement.

13. Warranty

13.1 Seller Warranty. Subject to the limitations set forth in this Agreement, and for a period of 12 months following Seller's delivery of the Products (the "Warranty Period"), Seller warrants to Purchaser (and not to any third party) (x) the Products will conform to the written specifications for the Products agreed upon Purchaser and Seller and (y) the Services will be performed in a timely, professional, and workmanlike manner in accordance with generally-accepted industry and professional standards by qualified personnel, sufficiently competent in skills and experience (collectively, the "Seller Warranty"). The seller warranty is in lieu of all other warranties, either express, statutory or implied by statute, custom of trade course of dealing, or otherwise, all of which are hereby disclaimed and excluded by seller, including without limitation, any warranty of merchantability, fitness for a particular purpose or use, and all or liabilities on the part of seller for damages arising out of, or in connection with, the use, repair, or performance of the goods. The Seller Warranty will not apply if the alleged defect was caused or contributed to by (i) failure of, or any defect in, any goods into which the Products were installed or incorporated and not attributable solely and exclusively to such Product; (ii) any system processing, design or installation (unless performed by Seller as part of the Services), (iii) failure to follow any directions, manuals and precautions provided by Seller, if any; (iv) transportation, storage or handling of the Products; (v) misuse, mishandling, misapplication (including improper maintenance), accident, neglect, improper installation (unless performed by Seller as part of the Services), wear and tear, abnormal use (including any application not originally specified by Seller for the Products); or (vi) adjustments or repairs performed by anyone other than Seller or one of Seller's expressly authorized agents. Purchaser is solely and exclusively responsible for (x) ensuring that the purchase, delivery, and installation of the Products complies with any laws, rules, and regulations applicable to Purchaser and the Goods and (y) obtaining and maintaining any licenses, permits, authorizations, or consents required to purchase or install the Products.

13.2. Exclusive Remedy. Purchaser's exclusive remedy against seller, and seller's sole obligation for any and all claims, whether for breach of contract, warranty, tort (including negligence), or otherwise, shall be limited to, at seller's option, sellers replacing the Non-conforming products with conforming products, repairing the applicable products, re-performing the services, or refunding the purchase price paid by purchaser to seller for the applicable goods. In no event shall seller have any liability for damages in an amount exceeding the purchase price of the goods at issue.

14. Limitation of Liability

Excluding a breach of a party's confidentiality obligations or a breach of a party's intellectual property rights in the goods, in no event shall either party be liable to the other party or any third party, whether in contract or in tort or under any other legal theory, for (i) any special, indirect, incidental, exemplary or consequential losses or damages, including, but not limited to, any direct or indirect lost profits or revenue regardless of whether such loss or damage was foreseeable or a party was advised of the possibility of such potential loss or damage or (ii) any direct damages in an amount exceeding the price paid or payable for the goods at issue. purchaser agrees that payment for the price of the goods does not constitute lost profits (or any other indirect damages) and are direct damages recoverable by seller.

15. Termination for Cause

Either party may terminate this Agreement for cause prior to expiration of the Term by providing written notice to the other party specifying the applicable date of termination, upon the occurrence of any one or more of the following events: (a) excluding payment obligations, a party materially breaches this Agreement and does not cure such breach within thirty (30) days after receipt of written notice of such breach; (b) a party fails to make any payment due to the other party under this Agreement on or before the due date; or (c) a party (i) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (ii) is dissolved or liquidated or takes any corporate action for such purpose; (iii) makes a general assignment for the benefit of creditors; or (iv) has a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of, or sell any material portion of, its property or business. In addition to the above, Seller may terminate this Agreement if (x) any governmental authority imposes any antidumping or countervailing duties or other penalties on the Goods that are payable by Seller or (y) Seller determines that the sale of the Goods may violate any applicable law, rule, or regulation. Any termination by a party pursuant to this Section 14 will not constitute a waiver of any rights or remedies under this Agreement or otherwise provided by law. Except as otherwise provided by law, this Section 14 set forth the sole and exclusive rights to terminate this Agreement and, unless otherwise agreed by the parties in writing, this Agreement may not be terminated for convenience or at the option of Purchaser.

16. Indemnification

To the maximum extent allowed by law, Purchaser will defend, indemnify and hold harmless Seller and its present and future directors, officers, shareholders, members, employees, attorneys, agents, representatives, parents, affiliates, and subsidiaries from and against any and all claims, costs, demands, losses, indirect and direct damages (including lost profits, incidental, consequential, and punitive damages), liabilities, causes of action, judgments, settlements, awards, fines, penalties, assessments, and expenses (including costs of defense, mediation, settlement and reasonable attorneys' and other professionals' fees), however described or denominated, brought by any third party (including, Purchaser's employees, subcontractors, laborers, agents, and assigns) arising out of, incidental to, or resulting from (i) Purchaser's negligence, use, installation, ownership, maintenance, transfer, transportation or disposal of Products; (ii) any infringement or alleged infringement of the industrial and intellectual property rights of others arising

from Purchaser's plans, specifications (including Purchaser's trademarks and brand names) or any unique characteristics for Goods ordered by Purchaser outside of Seller's specifications for the Goods; (iii) Purchaser's violation or alleged violation of any federal, state, county or local laws or regulations including those related to the use of the Goods; (iv) any negligent or willful act or omission of Purchaser or its respective subcontractors, agents, employees or other representatives; or (v) Purchaser's breach of this Agreement.

17. Export

The Goods may be subject to export controls and regulations of the U.S., the country of manufacture, or the country of shipment and such export may require a valid export license. Seller's acceptance of Purchaser's Order and delivery of the Goods is conditioned on Purchaser's compliance with applicable export controls and regulations. Seller will have no obligation to sell or deliver any Good until all required U.S. and/or other export licenses have been granted and there are no other impediments arising from any applicable export regulations. No Goods sold to Purchaser may be exported or re-exported unless such export or re-export complies fully with all applicable export regulations.

18. Advertising/Use of Trade Names.

Except to the extent a party has consented in a signed writing, neither party will use any of the other party's trademarks or trade names in such party's advertising or promotional materials.

19. General Terms.

19.1. Notices. All notices, claims, and other communications to required or permitted under this Agreement will be made in writing and will be effective only upon receipt.

19.2. Entire Agreement. This Agreement, including any attachments, exhibits or supplements attached hereto, and other matter incorporated herein by specific reference, constitutes the entire agreement between Seller and Purchaser with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous oral or written discussions, understandings, representations, and agreements.

19.3. Severability. If any clause in this Agreement is determined by a court of competent jurisdiction to be invalid, the invalidity of such clause shall not affect the validity of the remainder of this Agreement.

19.4. Remedies. Except to the extent limited by this Agreement, the right and remedies reserved to a party under this Agreement are cumulative and in addition to all other rights and remedies provided by law or equity.

19.5. Assignment. Purchaser may not assign this Agreement or assign or delegate its rights or obligations under this Agreement, without Seller's prior written consent. Any purported assignment in violation of this Section will be null and void and of no force or effect.

19.6. Governing Law; Venue. This Agreement, and all related documents and matters arising out of, or relating to, this Agreement, are governed by, and will be construed in accordance with, the laws of the State of Michigan, without regard to any conflict of law provisions. The United Nations Convention on Contracts for the International Sale of Goods is expressly excluded from applying to this Order. Purchaser and Seller each irrevocably and unconditionally agree that the sole and exclusive forum, venue, and jurisdiction for any legal or equitable action or proceeding arising out of, or in connection with, this Agreement will lie in the United States District Court for the Eastern District of Michigan, the courts in the State of Michigan, sitting in Oakland County, and any appellate court with jurisdiction over such courts. The parties hereby irrevocably and unconditionally (i) waive any objection which it may have or hereafter have to the laying of the venue of any such suit, action or proceeding and any claim that any such suit, action or proceeding has been brought in an inconvenient forum including, without limitation, any defense of forum non conveniens, international comity, or any other defense based on the location of the parties and (ii) submits to the sole and exclusive personal jurisdiction of such courts. To the extent Purchaser is located outside of the United States of America, Purchaser agrees that any breach of this Agreement and any resulting injury will be deemed to occur in the State of Michigan, United States of America.

19.7. Relationship of Parties. Seller and Purchaser are independent contracting parties and nothing in this Agreement will make either party the agent or legal representative of the other for any purpose, nor does it grant either party any authority to assume, or to create any obligation on behalf of or in the name of the other.

19.8. No Third-Party Beneficiary. Except as otherwise provided in this Agreement, the parties agree that the rights and interests of the parties under this Agreement are intended to solely benefit Seller and Purchaser.

19.9. Interpretation. For purposes of this Agreement (i) whenever the word "including" (or any variation thereof) is used, it is deemed to be followed by the words "without limitation;" (ii) the word "or" is not exclusive; (iii) section headings are for convenience or reference only, and do not affect the meaning of this Agreement; and (iv) any agreement, instrument, statute, law, regulation or rule defined or referred to herein shall be deemed to mean such agreement, instrument, statute, law, regulation or rule as from time to time amended, modified or supplemented, and includes, in the case of agreements and instruments, references to all attachments thereto and instruments incorporated therein. No provision in this Agreement may be construed against Seller as the drafting party.

19.10. Survival. To the extent that any provisions of this Agreement are meant to remain valid after this Agreement has terminated, expired, or otherwise ended, such provisions have continued validity even after termination including, without limitation, Sections 10, 11, 12, 13, 15, and 18.

19.11. Consultation with counsel. purchaser and seller acknowledge that they have been given the opportunity to consult with counsel of their choice before entering into this agreement and are doing so without duress, intimidation, or coercion and without reliance upon any representations, warranties, or commitments other than those representations, warranties, or commitments set forth in this agreement.

19.12. Jury trial waiver. purchaser and seller acknowledge that the right to trial by jury is a constitutional one, but that it may be waived. each of purchaser and seller, after consulting (or having the opportunity to consult) with counsel of its choice, knowingly, voluntarily, and intentionally waives any right to trial by jury in any action or other legal proceeding arising out of or relating to this agreement or any other document pertaining to this agreement.