

## KAVX / Kyros Hydrogen Solutions GmbH General Conditions of Commercial Sales for Standard Solutions

### § 1 Scope of application

1. *KAVX*: Kyros Hydrogen Solutions GmbH is a company specialized in the field of hydrogen. It focuses on the development and manufacture of technical equipment in the production and use of hydrogen such as *inter alia* electrolysis systems. Kyros Hydrogen Solutions GmbH, being part of the Kyocera AVX Group, is hereinafter also referred to as "**KAVX**".
2. *Inclusion of General Conditions of Sale*: All deliveries, any and all services and all offers of standard solutions and products are exclusively based on these General Conditions of Sale. These are part of all contracts, which KAVX concludes with its contractual partners (hereinafter also "**Customer**") about the deliveries or services offered by KAVX. Unless otherwise agreed, the GTC, in the version valid at the time of the Customer's order or in any case in the last version communicated to him in text form, apply as framework agreement to similar future contracts without KAVX having to refer to them again in each individual case.
3. *Definition*: "**Standard Solutions**" or "**Products**" are all standard solutions, products, parts, spare parts and components, as well as services, specified in the purchase order which are intended for use by the Customer or its customers and sold under these General Conditions of Sale by KAVX to Customer. Software supplied by KAVX is considered part of the Standard Solutions or Products.
4. *Exclusion of Customer's GTC*: Terms and conditions of the Customer or third parties do not apply, even if KAVX does not separately object to their validity in individual cases. Even if KAVX refers to a letter, which contains or refers to terms and conditions of the Customer or of a third party, this does not imply any agreement with the validity of those terms and conditions.
5. *Statutory Provisions*: References to the application of statutory provisions have only clarifying meaning. Even without such a clarification, the statutory provisions shall therefore apply, unless these GTC do not directly amend or expressly exclude them.

### § 2 Offer and conclusion of contract

1. *Offer and acceptance*: All offers of KAVX are non-binding and non-committal, unless they are expressly marked as binding. Orders of the Customer are considered as a binding contract offer. If nothing else results from the order, KAVX can accept this contract offer within thirty (30) days after receipt. The acceptance can be declared either in writing (e.g. by order confirmation) or by delivery of the Standard Solution to the Customer.
2. *Content of contract/Documents*: The legal relationship between KAVX and the Customer shall be governed solely by the written contract including the order documents consisting of the Customer's offer as confirmed by KAVX's through order confirmation or delivery and the documents referred to therein, including the technical specifications (hereinafter "**Technical Specifications**") and these GTC. It fully reflects all agreements between KAVX and the Customer on the subject matter of the contract. Individual agreements made with the Customer

in particular cases (including supplementary agreements, additions and changes) have in any case priority over these GTC. A written contract or the written confirmation of KAVX is decisive for the content of such agreements, subject to proof to the contrary.

3. *Documentation:* KAVX will provide Customer with the documentation specified in the Technical Specification.
4. *Description of quality:* Information provided by KAVX regarding the object of delivery or service (e.g. weights, dimensions, utility values, robustness, tolerances and technical data) as well as depictions thereof (e.g. drawings and illustrations) are only approximately authoritative, unless the usability for the contractually intended purpose requires exact conformity. They are no guaranteed characteristics of quality, but descriptions or identifications of the delivery or service. Deviations customary in the trade and deviations, which are due to statutory provisions or represent technical improvements as well as the replacement of components by equivalent parts are permissible, provided they do not impair the usability for the contractually intended purpose.

### **§ 3 Change request**

1. *Change request:* The Customer may request changes to the content and scope of the deliveries and/or services. This also applies to parts already provided and delivered.
2. *Evaluation:* KAVX will determine the time delays and the additional expenditure resulting from the desired changes and the Parties will agree on a corresponding adjustment of the contract. If the Parties do not reach an agreement, KAVX shall be entitled to reject the request for modification. KAVX shall also be entitled to reject the request for modification if it is technically not feasible or can only be implemented with disproportionate effort on the part of KAVX or if there is any other important reason.
3. *Supplementary agreement:* All changes to deliveries and/or services must be regulated in a written supplementary agreement before the start of the execution, in which the additional remuneration and any changes to the time schedule must be recorded.

### **§ 4 Prices and payment**

1. *Prices:* The prices are valid for the scope of deliveries and services listed in the order confirmation ("**Price**"). Additional or special services will be charged separately.
2. *Invoicing and due dates:* Invoices shall be issued by KAVX at the point in time stated in the order confirmation or after delivery. Invoiced amounts shall be paid within (14) fourteen days from receipt of invoice without any deduction to the bank account named by KAVX, unless otherwise agreed in writing. If the Customer fails to pay when due, the outstanding amounts shall bear interest at the respective applicable default interest rate during the period of default; the right to assert further damages caused by default is reserved.
3. *Set-off:* The offsetting with counterclaims of the Customer or the retention of payments due to such claims is only permitted if the counterclaims are undisputed or have been legally established. In case of defects of the Standard Solutions, the counter rights of the Customer remain unaffected, especially according to § 9 No. 5 of these GTC.
4. *Prepayment:* KAVX is entitled to execute or render outstanding deliveries or services only against prepayment or provision of security, if, after conclusion of the contract circumstances become known to it, which are suitable to substantially reduce the creditworthiness of the Customer and by which the payment by the Customer of the outstanding claims of KAVX from the sales contract is endangered.

## § 5 Dates and Delivery

1. *Reservation of Self-Supply*: All dates are subject to timely self-supply.
2. *Delivery dates*: Deadlines and dates for deliveries and services indicated by KAVX, in particular the delivery dates automatically generated by the KAVX ordering system, shall always be approximate unless a fixed deadline or date has been expressly promised or agreed.
3. *Date postponement/Grace Period*: KAVX can demand – without prejudice to its rights from default of the Customer – from the Customer an extension of delivery and performance periods, or a postponement of delivery and performance dates, by the period in which the Customer does not fulfil his contractual obligations towards KAVX. In case the Standard Solutions cannot be delivered in time, the Parties agree on a grace period of four (4) weeks ("**Grace Period**"). Nevertheless, the Parties shall make every effort in good faith to avoid and, if necessary, limit any delays.
4. *INCOTERMS*: Unless otherwise agreed, deliveries are made for FCA premises of KAVX (INCOTERMS 2020), which is also the place of performance for deliveries and any subsequent performance. The Customer is obliged to organize for the transportation with due regard to the special requirements of the Products and their nature. The persons employed by both Parties (e.g. vicarious agents, people of the carrier) are entitled to assist in unloading. The Customer shall provide KAVX with an export certificate and all necessary additional information (including a Certificate of Arrival - *Gelangensbestätigung*), required by KAVX to obtain a VAT exemption and to comply with its applicable reporting obligations to the authorities. If KAVX handles customs formalities on behalf of the Customer, KAVX shall invoice the Customer for the corresponding costs.
5. *Force majeure*: KAVX is not liable for impossibility of delivery or for delays in delivery, as far as these are caused by force majeure or other events not foreseeable at the time of conclusion of the contract and for which KAVX is not responsible for (e.g. war, operational disturbances of all kinds, difficulties in the procurement of material or energy, transport delays, strikes, lawful lockouts, lack of workers, energy or raw materials, difficulties in the procurement of necessary official permits, official measures or the missing, incorrect or not punctual delivery by suppliers, cyber-attacks and IT malware). If such events make the delivery or performance substantially more difficult or impossible for KAVX and the hindrance is not only of temporary duration, KAVX is entitled to revoke the contract. In case of hindrances of temporary duration, the delivery or service periods are extended or the delivery or service dates are postponed, by the period of the hindrance plus an appropriate start-up period. If the Customer cannot be expected to accept the delivery or service due to the delay, he may revoke the contract by immediate written declaration to KAVX.
6. *Material Shortage*: Shortages, or full unavailability of raw materials or components, which are caused by any circumstances or occurrences beyond Supplier's reasonable control shall be deemed as Force Majeure Event. If such circumstances occur during the term of any Individual Supply Contract, the Parties will discuss in good faith the consequences and agree on an appropriate adjustment of delivery schedules and prices, as applicable, with due regard to the interests of both Parties and the circumstances at hand. KAVX undertakes to inform Customer as soon as it anticipates to face such a shortage so that the Parties can agree on possible mitigation measures such as e.g. on extended raw material authorizations.
7. *Delay*: If and under consideration of the Grace Period, KAVX is in delay with a delivery or service, KAVX shall pay to Customer a contractual penalty of 0.25% of the purchase price (§ 4) for each completed week of delay (hereinafter referred to as "**Contractual Penalty**"), as lump-sum damages for delay, but in total not more than 2.5 % of the purchase price. Further claims due to delays are excluded.

## § 6 Commissioning of the Standard Solutions

1. *Commissioning at Customer's site:* Commissioning of the Standard Solutions after delivery at Customer's site respectively the commissioning site contractually agreed upon shall be carried out by KAVX after unloading and connection of the interfaces (including water, electricity etc.) by KAVX as set out in the Technical Specifications ("**Commissioning**"). In case the Commissioning requires more than one week and the reason for such longer time period is not in KAVX' responsibility, the additional working hours of KAVX shall be remunerated according to the current hourly rates of KAVX.
2. *Failure of Commissioning due to Customer's fault:* In case the Commissioning fails or is not possible due to Customer's fault (including, but not limited to failure to comply with the requirements of § 7), KAVX shall be released of its obligation of Commissioning and the final instalment of the purchase price shall become due.
3. *Commissioning Protocol:* The Parties will document the completion of the Commissioning in a Final Acceptance Protocol signed by the Parties.

## § 7 Customer's obligation to cooperate, provision of materials and consequences of breach

1. *Cooperation:* The Customer is aware that KAVX's performance under the contract needs the cooperation of the Customer. For this, Customer shall make available to KAVX all information and documents required for the performance of KAVX under the contract in due time and shall perform all obligations of cooperation incumbent upon it without undue delay. In particular, Customer undertakes to check in time the operator obligations for the Standard Solution and its commissioning in the contractually foreseen country of operation and ensure that Customer complies with the applicable statutory requirements.
2. *Specific Obligations regarding the Environment and Interfaces:* Customer will at its own responsibility ensure that the specific conditions and requirements set out in the Technical Specifications regarding the environment and the interfaces between the Standard Solutions and other systems and equipment connected to it are met at the latest upon delivery and Commissioning of the Standard Solutions and that these requirements comply with the legal requirements in the country of installation. The requirements concern *inter alia*, as applicable:
  - The load-bearing capacities of the foundations;
  - The frost-proof water supply line;
  - The frost-proof service/waste water pipe;
  - The grounding;
  - The lightning protection;
  - The fire protection and safety distances;
  - The access roads;
  - The Hydrogen outlet on container;
  - A crane (incl. crane operator);
  - Construction, chaulking and plastering works;
  - The unloading and in-house transport and alignment of the components at the installation site;
  - The provision of forklift trucks, lifting equipment, assembly scaffolding, ladders and lifting platforms;
  - The provision of compressed air, tap water, nitrogen and/or any other required substances
  - The electrical power supply;
  - The provision of electrical power supply of the switch cabinets and loop impedance

measurement;

- The provision of electrical power interfaces/connections (The electrical power interface is regularly the terminal point in the control cabinet of the respective Product. The connection cable supplied by the Customer must be connected here.).

The connection of the Standard Solutions to the electrical power supply, the water supply and the water disposal system and other connections are carried out by the Customer according to the KAVX instructions. Service water can be fed to the sewer system.

3. *Delays following from non-compliance:* If the Customer does not comply with his obligations to cooperate, KAVX shall not be liable for any delays resulting therefrom.
4. *Commissioning in case of non-compliance with Specific Obligations regarding the Environment and Interfaces upon request of Customer:* In case Customer insists on the Commissioning of the Standard Solutions despite requirements, regarding environment and interfaces, are not met and subject to the Commissioning still being technically possible and no danger for life and health is expected by KAVX, KAVX shall perform such Commissioning. However, in that scenario KAVX shall not be liable for any claim, loss or damage resulting from the failure to comply with the requirements regarding environment and interfaces. Customer will indemnify and hold harmless KAVX from any third-party claims in this regard.

## **§ 8 Subcontractor**

KAVX is entitled to engage third parties (subcontractors) at any time to provide the contractually agreed service.

## **§ 9 Warranty, material defects**

1. *Material defects and defects of title:* For the rights of the Customer in case of material defects and defects of title the statutory provisions apply, as far as nothing else is determined in these GTC.
2. *Warranty Scope, Technical Specifications:* Decisive for the quality and the scope of the Standard Solution are the Technical Specifications of KAVX. References to technical standards shall be deemed to be a performance description and shall not constitute a guarantee of quality. Tolerances customary in the industry shall apply. KAVX warrants that the Products comply with the Technical Specifications and are free from defects in material and workmanship. These warranties are exclusive and in lieu of any other warranties, whether express or implied.
3. *Definition of defect:* There shall be no defect in the event of only insignificant deviation from the agreed quality, only insignificant impairment of usability, natural wear and tear or damage that occurs after the transfer of risk as a result of incorrect or negligent handling, excessive strain, unsuitable operating materials unsuitable underground (foundation), as a result of failure of the Customer to comply with the requirements of § 7 No. 2 “*Specific Obligations regarding the Environment and Interfaces*” or due to special external influences that are not provided for under the contract, as well as non-reproducible software errors. If improper modifications or repair work are carried out by the Customer or by third parties, there shall be no claims for defects against KAVX.
4. *Knowledge of the defect/ obligation to give notice of defects:* KAVX is not liable for defects, which the Customer knows at the time when the contract is entered into or when signing the Final Acceptance Protocol except for those reserved in the Final Trial Protocol, or which he does not know due to gross negligence (§ 442 BGB). With regard to other defects the Standard Solution is considered to be approved by the Customer if KAVX does not receive the complaint of defects within seven working days after the point of time in which the defect became apparent. However, if the defect was already apparent under normal use at an earlier point of

time, this earlier point of time is decisive for the beginning of the complaint period. Upon choice of KAVX, the rejected Standard Solution shall either be sent back to KAVX or repaired or replaced by KAVX at the place of performance pursuant to § 5 No. 4. In case of a justified complaint of defect, KAVX will refund the costs of the cheapest way of dispatch; this does not apply if the costs increase because the Standard Solution is located at another place than the place of the intended use.

5. *Repair or replacement:* In case of material defects of the delivered Standard Solution, KAVX is entitled and obliged to choose, within a reasonable period of time, first between cure or replacement. In case of failure, i.e. impossibility, unreasonableness, refusal or unreasonable delay of the cure or of the replacement delivery, the Customer can revoke the contract or reduce the purchase price appropriately.
6. *Maintenance and Repair within the Warranty Period:* During the warranty period, any maintenance and repair work regarding the Standard Solutions shall be carried out by KAVX. The Parties will enter into a separate maintenance agreement.
7. *Right of retention:* KAVX is entitled to make the cure owed dependent on the payment by the Customer of the due price according to § 4 of these GTC. However, the Customer is entitled to retain a part of the due price that is reasonable in relation to the defect.
8. *Possibility of examination:* The Customer must give KAVX the time and opportunity necessary for the supplementary performance owed, in particular to hand over the Standard Solution complained about for inspection purposes. In case of a replacement delivery, the Customer must return the defective item to KAVX.
9. *Expenses:* KAVX shall bear or reimburse the expenses necessary for the purpose of testing and subsequent performance, in particular transport, travel, labor and material costs, in accordance with the statutory provisions if a defect actually exists. Otherwise, KAVX can demand reimbursement from the Customer for the costs incurred as a result of the unjustified demand for the removal of defects (in particular testing and transport costs), if the lack of defect was apparent to the Customer.
10. *Limitation of removal/installation expenses:* The supplementary performance does neither include the removal of the defective item nor the reinstallation or the reimbursement of the expenses arising therefrom, if KAVX was originally not obliged to install the item.
11. *Prevention of danger:* In urgent cases, e.g. in case of danger to the operational safety or to prevent disproportionate damages, the Customer has the right to remedy the defect himself and to demand compensation from KAVX for the objectively necessary expenses. KAVX has to be informed immediately, if possible in advance, about such a self-remedy. The right of self-remedy does not exist, if KAVX would be entitled to refuse a corresponding supplementary performance according to these GTC or the statutory provisions.
12. *Defects of other manufacturers:* In case of defects of components of other manufacturers, which KAVX is not able to eliminate for reasons of licensing law or factual reasons, KAVX will, at its choice, either assert its warranty claims against the manufacturers and suppliers for the account of the Customer or assign them to the Customer. Warranty claims against KAVX exist for such defects only if the legal enforcement of the above mentioned claims against the manufacturer and supplier was unsuccessful or, for example due to insolvency, is hopeless. For the duration of the legal dispute the limitation of the Customer's warranty claims against KAVX is inhibited.
13. *Modification of the Standard Solution:* The warranty is void if the Customer changes the Standard Solution or lets them be changed by a third party without the agreement of KAVX and the removal of the defect is impossible or unreasonably complicated as a consequence of this change. In any case, the Customer has to bear the additional costs of the removal of defects

resulting from the change.

14. *Final provisions on warranty:* Any further or other claims of Customer against KAVX and its vicarious agents or assistants due to a material defect than those regulated in this § 9 shall be excluded. Limitations and exclusions of liability under this § 9 shall not apply to the extent that liability is mandatory under applicable law, such as under the Product Liability Act (§ 14 ProdHaftG) or in cases of intent (§§ 202 para. 1, 276 para. 3 BGB).

## § 10 Intellectual property rights

1. *Definition: "Intellectual property rights"* are industrial property rights, in particular patents, utility models, designs, trademarks and corporate signs (whether registered or not, as well as applications for the aforementioned property rights), as well as copyrights, know-how, trade secrets and rights of the same kind throughout the world.
2. *Property of KAVX:* All intellectual property rights regarding the Standard Solutions shall remain the property of KAVX.

## § 11 Liability for damages due to fault

1. *Supplement by law:* Unless otherwise stated in these GTC, KAVX is liable for a violation of contractual and non-contractual obligations according to the statutory provisions.
2. *Liability for direct damages:* KAVX shall be liable for all damages directly caused to the legal assets of Customer in the execution of this contract. KAVX shall not be liable - also during the warranty period - for indirect or consequential damages, for loss of profit, loss of production, loss of use or loss of business, loss of business opportunities or other lost opportunities and costs of replacement of equipment.
3. *Liability for Fault:* KAVX is liable for damages - for whatever legal reason - within the scope of the liability for fault in case of intent and gross negligence.
4. *Maximum Liability Limit:* The liability of Kyros for all claims arising from or in connection with the sale of a specific Product shall be limited to a total of 100% of the purchase price agreed for that specific Product. The limitations and exclusions of liability according to this section shall not apply if liability is mandatory according to applicable internationally mandatory law.
5. *Persons employed by KAVX:* The limitations of liability resulting from this § 11 are also valid for third parties as well as for breaches of duty by persons (also in their favour), whose fault KAVX is responsible for according to statutory provisions.
6. *No limitation of liability:* The limitations and exclusions of liability according to this section 11 shall not apply if liability is mandatory according to applicable internationally mandatory law. They shall not apply if a defect has been fraudulently concealed or a guarantee for the condition of the Standard Solution has been assumed and for claims pursuant to applicable mandatory product liability legislation.

## § 12 Limitation of actions

1. *General limitation period:* The general limitation period for claims arising from material defects and defects of title is one year from delivery. If acceptance has been agreed, the limitation period shall commence upon acceptance. Any mandatory statutory special regulations on the statute of limitations shall remain unaffected.
2. *Claims for damages:* The aforementioned limitation periods of the law of sale shall also apply

to contractual and non-contractual claims for damages of the Customer which are based on a defect of the Standard Solution, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in individual cases.

### § 13 Retention of title

The delivered Products remain property of KAVX until complete payment is made by the Customer. The Customer keeps the property of KAVX free of charge.

### § 14 Secrecy

1. *Definition:* The Parties are obliged to treat as confidential all information of a technical and commercial nature, as well as their intentions, experience, knowledge, designs and documents, which they receive from the other Party - whether directly or indirectly - in connection with any contract under these GTC ("**Confidential Information**") and to use such information exclusively for the purposes of such contract. All Confidential Information shall at the same time also be considered a trade secret within the meaning of the German Trade Secret Act of April 19, 2019. The obligation of confidentiality shall in particular include neither passing on the information to third parties nor making it available to third parties.
2. *No secrecy:* The secrecy obligations of this § 14 do not apply to information that
  - a) are already known to the public at the time of their disclosure or become known thereafter without either Party being responsible for their being known or becoming known;
  - b) were already known to the receiving Party at the time of disclosure by the providing Party without breach of confidentiality; or
  - c) the receiving Party is subsequently notified or otherwise made known to the receiving Party by a third party, without such notification or disclosure by the third party being in breach of any provision of law, these GTC or any other agreement entered into between the Parties or between a Party and the third party.
3. *Duration:* This obligation of confidentiality shall continue to apply until two years after the termination of a contract based on these GTC or its full implementation.
4. *Non-Disclosure Agreement:* If the Parties have entered into a non-disclosure agreement or any other confidentiality agreement ("**Non-Disclosure Agreement**"), the provisions of the Non-Disclosure Agreement shall take precedence over the confidentiality provisions of these GTC, provided that they provide more extensive protection for the confidential information of a Party.

### § 15 Effects of COVID-19 (Coronavirus)

1. *Exclusion of Corona Risk:* The Parties acknowledge that they enter into purchase contracts under these GTC during a worldwide COVID-19 pandemic. Each Party confirms vis-à-vis the other Party, that it has applied best efforts to adjust its business operations (e.g. production lines, production output, logistics, supply etc.) to comply with the COVID-19 pandemic restrictions set up by the relevant public authorities and in force at the time of signing a purchase contract, as far as these restrictions could reasonably already be implemented by the respective Party. While both Parties have experienced various restrictions applied by the authorities in the past starting with the official declaration of the COVID-19 pandemic, the further development of this pandemic (including possible mutations) and the ensuing serious and fundamental restrictions to life and business in general and for supply chains and the business covered by these GTC in particular ("**Future CORONA Restrictions**"), are still not known, as the e.g. governmental restrictions are unpredictable and often change at short



notice. As such, the Future CORONA Restrictions cannot reasonably be taken into account by either Party. Because the scope and nature of such Future CORONA Restrictions after the effective date of a purchase contract under these GTC cannot be reasonably determined, the Parties jointly consider them to be not reasonably foreseeable or predictable at the time of their entry into force. Because the Future CORONA Restrictions may lead to serious economic consequences to either or both Parties, including production delays, non-delivery or delay of deliveries by subcontractors and service providers of KAVX ("**CORONA Consequences**"), the Parties agree that

- a) the risk of such a Future CORONA Restriction is not attributed to either Party;
  - b) such Future CORONA Restrictions are beyond the control of one of the Parties
  - c) the Parties will monitor Future CORONA Restrictions and inform each other adequately and reasonably promptly about any CORONA Consequences;
  - d) any CORONA Consequence preventing either part to perform its contractual obligations is recognized as force majeure within the meaning of this purchase contract.
2. *Occurrence of CORONA Consequence:* Upon occurrence of a CORONA Consequence, one Party shall be entitled to demand from the other Party a reasonable adjustment of a purchase contract under these GTC, which shall be assessed from the point of view of a reasonable person acting with due regard to the circumstances and the nature and purpose of such a purchase contract. Such a request shall be made as soon as commercially feasible and shall set out the effects of the CORONA Consequence and the intended adjustment.
3. *Duty to negotiate:* Each Party hereby declares its willingness to enter into serious negotiations and to conduct these negotiations in accordance with the principles of good faith and fair dealing with the aim of reaching a speedy and economically reasonable solution for both Parties.

## § 16 Miscellaneous

1. *Legally relevant declarations and notifications:* Legally relevant declarations and notifications of one Party to the other with regard to the contract (e.g. setting of a deadline, notification of defects, withdrawal or reduction) must be made in writing. "**Written**" means a document or any information transmitted in text form, including email or any digital data transmitted by means of EDI or other systems. "**EDI**" means Electronic Data Interchange, i.e. the transmission of data via electronic communication links between the Parties or other machine-readable data media. Legal formal requirements and further evidence, especially in case of doubt about the legitimacy of the person making the declaration, remain unaffected. The notification shall be made to the registered office of the Party or to another address and/or contact person which was notified at the relevant time in accordance with the respective purchase contract or which was otherwise notified to the Party making the notification. A notice shall be deemed duly received if it is (i) delivered in person or by courier to the address and contact person specified in this § 16 No. 1 on a Business Day, or (ii) sent by prepaid mail with proof of delivery, electronically or by fax, at 9:00 a.m. on the second Business Day after posting.
2. *Applicable Law:* If the **Customer is domiciled in Germany**, the substantive law of the Federal Republic of Germany shall apply exclusively to the respective purchase contract under these GTC and to all disputes, claims or legal disputes arising from or in connection with this Agreement, including questions of its creation or validity. In the event of application of the German Civil Code (BGB), the validity of §§ 305-310 BGB is excluded. If the **Customer is domiciled outside of Germany**, the purchase contract and all disputes, claims or legal disputes arising out of or in connection with the respective purchase contract, including questions of its creation or validity, shall be governed exclusively by the neutral legal rules available in 15 languages UNIDROIT Principles of International Commercial Contracts (2016 version)

<https://www.unidroit.org/instruments/commercial-contracts/unidroit-principles-2016>).

3. *Arbitration proceedings*: All disputes arising out of or in connection with the respective purchase contract under these GTC, including disputes about its conclusion and/or validity, shall be settled exclusively by arbitration. Up to a claim value of EUR 500,000, the arbitration institution shall appoint a sole arbitrator, unless the Parties jointly agree on a sole arbitrator. If the value of the claim exceeds EUR 500,000 during the arbitration proceedings (determined by final decision of the sole arbitrator), the sole arbitrator shall become the chairman. In this case, the arbitral institution will give each Party the opportunity to appoint a co-arbitrator within a short period of time. The place of arbitration shall be Hamburg, Germany. The language to be used in the arbitration proceedings shall be English, as KAVX is a subsidiary of the U.S. company KYOCERA AVX Components Corporation. Documents can be submitted in German or English. Arbitrators must be fluent in German and English. The chosen arbitration rules are (a) **for Customers with seat in Germany**, the arbitration rules of the German Institution of Arbitration (DIS); (b) for **Customers with seat outside Germany**, the arbitration rules of the International Chamber of Commerce (ICC), unless the Customer opts in writing at the time of contract conclusion for the applicability of the DIS arbitration rules (in case of a dispute more cost-effective). Any arbitration pursuant to this provision shall be governed by the IPBA (“Inter-Pacific Bar Association”) Guidelines on Privilege and Attorney Secrecy in International Arbitration adopted by the IPBA Council resolution of 13 October 2019 (<https://ipba.org/sites/main/media/fck/files/2020/IPBA%20Guidelines.pdf>).
4. *Severability Clause / Gaps*: Insofar as the respective purchase contract or these GTC contain loopholes, the legally effective regulations which the contractual partners would have agreed upon in accordance with the economic objectives of the contract and the purpose of these GTC if they had been aware of the loophole shall be deemed agreed upon to fill these loopholes. Should individual provisions of the respective purchase contract or these GTC be declared invalid, in whole or in part, by a court or other competent authority, such provisions shall be disregarded and the validity of the purchase contract in all other respects shall not be affected, the remaining provisions shall remain valid and enforceable.

Neuhaus-Schierschnitz, July 1, 2022