

**KIOTO CLEAR ENERGY SA DE CV**  
**GENERAL TERMS AND CONDITIONS OF BUSINESS**

**1. General**

1. These general terms and conditions of business form an integral part of every offer from the company Kioto Clear Energy SA de CV, (henceforth referred as Kioto) and all sales contracts concluded with the company. Any general terms and conditions of business of any kind which contravene these terms and conditions of business are deemed to be invalid and legally ineffective.

**1.2 Terms:**

Terms used are the following:

-Client/Customer: Any person who conducts a business or deal with Kioto, understanding that could be from purchase of products, receive quotations, request information about our products and/ or service, etc.

-Products: Any product which is manufactured or commercialized by Kioto.

-Order: Request of product made by the customer, whom specifies which products require, description, aprox. delivery date and location.

-Distributor: It a client and intermediary of Kioto, who is in charge of the commercialization of the products of Kioto, who is able to sell them with their own brand, which will previously be given in the certificates or licenses in the name of Kioto, or where appropriate, using the own brand Kioto.

User: It's the end customer who purchases the Kioto's products directly for his own use, without intermediation in a subsequent sale.

- 1.3 Any deviations from these terms and conditions are only effective if expressly agreed in writing by the contractual parties.

## **2. Offers**

2.1 Offers made by Kioto are not binding, and are subject to technical modifications and developments. All technical documents remain as intellectual property of Kioto, and cannot be reproduced or sent to third parties without the express permission of Kioto.

2.2 Public declarations issued by Kioto or by an associated third party, in particular in advertising or in details supplied together with the goods, are only as contractual content if they have been included in writing as a part of the offer or where the offer makes an express reference to these.

## **3. Prices**

3.1 All prices are ex works (EXW) and exclude packing, loading, installation, insurance and VAT, unless otherwise stated by written. They are list prices only. If some increases emerge in materials or services or costs that are beyond the control of Kioto between the signing of the contract / issuance of a sales order and the realization of the service by Kioto, the costs involved will be increased accordingly, except where the time of the placed order to delivery is less than 3 months.

3.2 Unless otherwise indicated, the quotes will be effective only for 30 days from the date of issue.

## **4. Delivery periods and dates**

4.1 Unless a time limit has been expressly agreed in written form, Delivery periods are not mandatory. In the case of an agreed modification of the contract, Kioto has the right to establish a new delivery date. Kioto does not accept responsibility for any delay in delivery caused by the negligence of a third part, between others delay in production of raw material by the supplier, delay by the forwarder, delays in national or foreign custom, etc. In these cases, the customer is not allowed to withdraw the purchase and claims for Damages will not be accepted.

## **5. Payments**

5.1 Unless otherwise agreed, the goods shall be supplied followed by payment of cash in advance before delivery.

5.2 Unless a prior exchange rate is agreed, for the payments stipulated in US Dollars that are made in pesos, the exchange rate for pay must be taken directly from the SAT Web page of the day of payment.

5.3 In the case of payment by wire transfer, this will be considered done until the deposit would be confirm for finance department of Kioto

## **6. Shipment, acceptance, change**

6.1 Immediately after receipt of the goods at the delivery location, the customer is required to verify and accept the goods or have the goods checked or accepted by an authorized representative and shall, immediately, make a claim for missing and / or damages in the merchandise in accordance with the shipping note and invoice.

6.2 If the customer, explicitly or implicitly fails to verify the goods, the objects of purchase are understood to have been delivered and accepted in line with contracts or agreements.

6.3 Shipment takes place at the client's expense and risk, once the goods have been delivered into the hands of the freight understood that Kioto has fulfilled the obligation to deliver the goods when these are delivered through a carrier, and the risk is transferred to the customer.

This does not apply, only when as part of the agreements with the customer, the delivery is the delivery of the products in their facilities.

6.4 It will be understood that the signature and / or stamp of the name expressed in the document "Note Shipment "or" Delivery Note "by the carrier / freighter and / or forwarder, or any name with which the operator of the transport service is designated, It shall be understood that the goods have been delivered directly to the customer/client and perfect conditions of use and / or commercialization.

6.5 For those customers who use the credit granted to them by Kioto, it will be understood that the signature and / or name document "Shipment Note" or "Delivery Note" by the carrier / and / or forwarder, or any name with which the transportation service, the product shall be deemed to have been delivered directly to the client, and therefore, from that moment will have the obligation of the debt with Kioto for the goods indicated in the mentioned document.

6.6 For that customer who at the date of shipment of his order has overdue one or more invoices, the product will not be delivered and / or shipped, even having previously a purchase order by the customer and an order of sale issued by Kioto; And only the product / purchase order will release, until the overdue invoices have been paid covered, without impact of non-compliance on Kioto to have.

## **7 Warranties and Claims.**

I.- In order to make a guarantee valid, the process must be as follows:

7.1 Under the warranty policy, the Kioto's products are guaranteed by manufacturing defects, but not in the case of no proper installation, damage caused by meteorological phenomena, vandalism, to mention only some.

7.2 In order to guarantee the products and / or systems warranty, the customer must first inform to the quality area of Kioto about the problem/ defect in the product and / or system, it must also send out sufficient photographic evidence of the product and / or system in which it has been installed, in order to observe and find the defect or detail (when applicable).

7.3 The quality department of Kioto, will determine by means of the photographic evidence, if the warranty proceeds or if the product was not installed according with the instructions (only applicable for some systems); And in case that photographic evidence do not allow determine the defect, the quality department will coordinate with the client the visit of a specialized technician, who will go to the place where the product and / or system is physically installed.

7.4 In the event that the technician determines that the product and / or system has a manufacturing defect, Kioto, at its own discretion, will replace the product and / or system for a new one or will issue a credit note to the customer up to the amount had invoiced.

7.5 For those cases where, after performing a physical inspection in the product and / or system, it is not possible to determine a failure, and yet the system does not have optimum performance, the product will be replaced for a new one, making an invoice with charge to the client.

The product and / or system should be sent to the Kioto's facilities where it will be tested for a week.

7.6 Once in the Kioto's testing area, if the product and / or system continues generating a performance below the standard, the customer will be informed and a credit note will be issued for the invoice of the new equipment that would have been replaced.

7.7 For all cases where a guarantee for manufacture, Kioto may, in its judgment, replace the equipment and / or system with one new or issue a credit note to the customer up to the price at which invoiced the equipment and / or system.

7.8 For cases where a guarantee is required and Kioto decides to replace the product and / or system with a new one, unless there is a prior written agreement, the obligation will be corrected and fulfilled with the delivery of the product and / or equipment at the Kioto's facilities, the customer having to cover the costs of transportation.

7.9 The customer expressly disclaims any claim for direct or indirect damages (direct or consequential damages) or losses against Kioto or its legal successors caused by a defect in the article bought.

7.10 It is imperative that, for the purposes of a guarantee, the end user must show evidence of having carried out the preventive maintenance stipulated in the guides and instructions provided on the Kioto's products.

## **II.- GUARANTEES COMING FROM SALES OF DISTRIBUTORS AND INTERMEDIARIES**

7.11 For those cases where a claim for a warranty is received, and the product was directly sold/ distributed or marketed by a distributor, this one will be the first person responsible to attend and deal with the customer's claim to determine the possible cause of the fault.

7.12 For those cases where the failure has been caused by a poor installation, dimensioning or evident lack of skill, technique or knowledge on the part distributor or its personnel, the distributor will be the only responsible to solve the problem of the product, without making responsible to Kioto.

7.13 The distributor is responsible for delivering the documentation to the final user , provided in turn by Kioto, either directly or by unloading from its website, which will contain at least the following:

- Installation Manual
- Guide for the execution of the maintenance of the elaborated products or systems by Kyoto.

7.14 If the end user does not receive the documentation referred to in the previous point It is the distributor's responsibility to provide it, in addition to the possible consequences for not having carried out the maintenance of the products, for lack of these guides for example.

## **8. Place of performance and jurisdiction**

8.1 The place of performance for both parties is the Kioto headquarters.

8.2 The competent court in Guadalajara and/ or El Salto Jalisco, México has jurisdiction in any dispute arising directly or indirectly from a contract signed with Kioto including with regard to the legality of any events taking place within the scope of contractual relations.

8.3 Mexican laws applies to all contractual relations.