

KYMONO

GENERAL TERMS AND CONDITIONS OF SALE

01/05/2021

1. Application of the general sales conditions

1.1 KYMONO is a service company, specializing in the personalization and creation of textiles, the personalization of objects, the personalization of offices, advice on corporate culture, and the organization of professional events accessible through the site www.kymono.co

1.2 These general sales conditions (hereinafter "GSC") are applicable to all KYMONO services except for express exceptions written in the detailed estimate (hereinafter "Quotation") or in the special conditions addressed to the Customer. Any contrary stipulation that may appear in the GSC or any other contractual document issued by the Customer is unenforceable against KYMONO. These GSC will also apply to future contractual relations with the Customer, without prior notification.

1.3 The Customer declares to have read the GSC and to have accepted them without reservation before calling on the services of KYMONO.

2. Definitions and interpretation

In these GSC, unless the context requires otherwise, the following terms have the following meaning:

- "Good for printing" means the document on which is indicated the technical specificities of the personalization of the Product, such as the dimensions, the colors used, the visual used and / or any other indications specific to the customization technique.
- "Customer" means the person having accepted and signed these GSC, as well as the Estimate / Quote issued by KYMONO. This includes high school and student associations as part of the Kermess sales process.
- "GSC" means the general conditions of sale stipulated in this document.
- "Contract" means the agreement concluded between the Customer and KYMONO concerning the sale and purchase of Products and / or Services. The Contract includes these Terms & Conditions and the signed Quote.
- "Creations" means the decorative content created by KYMONO, its employees or consultants within the framework of Services, and intended to be reproduced on the Products. The Creations include all new designs, visual identities as well as adaptations of the Client Logo.
- "Quote" means the document on which is indicated in particular the price of the Products and / or Services mentioned by the Customer in the Form. Each Quote will contain the price, quantity, payment terms and an estimated date of Delivery of the Products or performance of the Services.
- "Delivery" means the moment when the Products are made available to the Customer at the place provided for in the signed Estimate and / or the moment when the Services are performed and received by the Customer under the conditions provided for in the signed Estimate. The terms "Delivered" and "Delivered" must be interpreted in the same way.
- "Customer Logo" means the visual transmitted by the Customer for its affixing on the Products.
- "Failure" means any act, declaration, omission, breach of an obligation (whether express or implied, a condition or a guarantee) contained in the Contract or agreed before or concomitantly with the conclusion of the Contract, any breach of an obligation legal related to the subject of the Contract. Several breaches which result in or together contribute to the occurrence of the same damage or the same loss must be treated as constituting a single breach, the date of which will be the date of the occurrence of the last breach.
- "Parties" means KYMONO and the Customer
- "Services" means the work of creating designs and producing visual identities carried out by KYMONO in accordance with these GSC and as agreed by the Parties to the Quotation.
- "Products" designate the products and / or other deliverables that KYMONO must deliver in accordance with the Customer's request.
- "Kermess" means a line of business of the KYMONO Company focused on the development and sale of personalized textile products to high school and student customers.
- "KYMONO" means the company KYMONO, a simplified joint stock company with a capital of 1.080 Euros, registered with the Paris RCS under number 830 268 207 and having its registered office at 8 rue Danielle Casanova, 75002 Paris
- "Visual" means the logo that the Customer wishes to affix on the Products

3. Sales process

(a) KYMONO

(i) Contact via the contact form

3.1 The Customer contacts KYMONO through the contact form on the website www.kymono.co

3.2 The Customer is contacted by KYMONO in order to establish his needs. If the Customer cannot be reached by telephone then KYMONO will send an email containing a link to its catalog and a link to an order form.

(ii) Contact via the order form

3.3 The Customer contacts KYMONO through the order form on the website www.kymono.co

3.4 The Customer is contacted by KYMONO in order to specify his needs. If the Customer cannot be reached by telephone then KYMONO will send an email including a link to its catalog and any technical information on its order.

3.5 In the order form, the Customer indicates as precisely as possible the Products and their specifications that he wishes to order. This document is only a purely informative document intended for KYMONO to be able to assess the Customer's needs. This document is therefore not contractually binding, which the Customer acknowledges.

(iii) Making contact in the context of a commercial canvassing

3.6 The Customer is contacted by KYMONO in order to specify his needs. If the Customer cannot be reached by telephone then KYMONO will send an email containing a link to its catalog and any information on the progress of an order.

3.7 In all cases (i), (ii) and (iii), on the basis of the Form or any exchanges with the Customer, KYMONO publishes one or more Models. The Model is purely indicative, in particular on the rendering of the visual, the size of the visual, as well as its location, which the Customer expressly recognizes.

3.8 KYMONO also issues a Quote ("Quote").

3.9 Following any adjustments and if the terms of the Quote suit him, then the Client sends KYMONO the Quote and these signed GSCS, of which KYMONO must acknowledge receipt by email. The acknowledgment from KYMONO is considered the starting point of the Contract and the start of the performance of the Service.

3.10 Quotes accepted by KYMONO can only be canceled by the Customer with the prior express written consent of KYMONO and provided that the Customer indemnifies KYMONO for all losses (including loss of profit), costs, damages, costs and expenses incurred by KYMONO as a result of the cancellation.

(b) Kermess

3.1 The Customer contacts KYMONO using the contact form on the website www.kermess.co. The Customer can also spontaneously contact a Kermess sales ambassador directly by telephone or by email. Finally, the Customer can be approached by a Kermess sales ambassador or a KYMONO sales representative as part of a sales canvassing.

3.2 The Customer is contacted by all means by KYMONO in order to establish his needs.

3.3 Based on the indications provided by the Customer, KYMONO publishes one or more models which represent (s) an overview of the Product desired by the Customer with the size, colors and location of the Visual ("Model"). The Model is purely indicative, in particular on the rendering of the visual, the size of the visual, as well as its location; Kymono then communicates a Quote to the Customer.

3.4 If the terms of the Quote suit him, then the Customer sends back to KYMONO the Quote and these signed T & Cs, of which KYMONO must acknowledge receipt by email. The acknowledgment from KYMONO is considered the starting point of the Contract and the start of the performance of the Service.

3.5 Quotes accepted by KYMONO can only be canceled by the Customer with the prior express written consent of KYMONO and provided that the Customer indemnifies KYMONO for all losses (including loss of profit), costs, damages, costs and expenses incurred by KYMONO as a result of the cancellation.

3.6 As part of the performance of the Service and in certain cases, KYMONO may be required to issue a Draft Order (hereinafter "proof") which will be validated in writing in advance by the Customer.

4. Prices of Products and Services

4.1 The price of the Products and / or Services, as well as the price of transport, if applicable, is that indicated in the Quotation/ Quote. .

4.2 Any tax, duty, duty or other service payable under foreign legislation is the sole responsibility of the Customer.

5. Payment terms and security

5.1 The payment of the price by the Customer for each order will be made upon acceptance of the Quote by the Customer in cash by bank transfer to the bank account communicated by KYMONO or by credit card via a Paypal link sent by KYMONO to the Customer. In the event of a bank transfer, proof of the transfer must be sent to KYMONO.

5.2 Under no circumstances may payments be suspended or be the subject of any set-off or withholding.

5.3 Complaints relating to invoices must be reported without delay, which in no way affects the due date of payment.

5.4 Payments must be made in full, in euros (unless a particular currency has been agreed in the Quote) without deduction or compensation of any kind.

6. Late payment

6.1 The non-payment of an invoice within the time limits provided for in article 5.1 hereof will lead, at KYMONO's discretion, to the suspension or termination of Orders in progress without prejudice to any other course of action, which the Customer expressly acknowledges and accepts.

6.2 Any delay in payment automatically entails the liability of interest per day of delay, the rate of which is equal to that applied by the European Central Bank to its most recent refinancing operation increased by 10 percentage points, in accordance with the provisions of the Commercial Code.

6.3 Interest is calculated on the amount including tax of the principal due.

6.4 Interest is payable without any formal notice being necessary.

6.5 Pursuant to article D. 441-5 of the French Commercial Code, in the event of late payment, the Customer will be automatically liable to KYMONO, in addition to late penalties, already provided for by law, a lump sum indemnity for recovery costs of 40 euros.

6.6 In addition to interest and the lump sum recovery indemnity, compensation of 15% of the amount of the receivables will be due by the defaulting customer covering the ancillary costs incurred by KYMONO.

7. Delivery

7.1 The Products and / or Services will be delivered to the Customer by KYMONO at the place indicated in the Quotation.

7.2 The Customer is responsible for unloading the Products.

7.3 The Products travel at the risk and peril of the Customer, regardless of the mode of shipment.

7.4 KYMONO will endeavor to Deliver the Products and / or Services on the Delivery date indicated in the Quote, it being specified that the actual Delivery date is given only as an indication and without obligation on the part of KYMONO.

7.5 Deliveries are only made according to availability and in the order of arrival of orders.

7.6 KYMONO is authorized to make full or partial deliveries.

7.7 Delays in shipping may not, under any circumstances, give rise to damages and may not result in the termination of the Contract on the part of the Customer. Indeed, compliance with the Delivery dates does not constitute an essential condition of the Contract.

7.8 No complaint relating to the Delivery will be accepted if it could not take place due to an error in the address indicated by the Customer, the absence of the Customer when the Products were delivered, or -claim for Products delivered by the Customer, or non-payment of the items referred to in Article 4.2. as part of a delivery abroad.

7.9 In the hypotheses mentioned above, the Customer will not be able to claim any reimbursement from KYMONO and will in no case be able to engage the responsibility of KYMONO. The Customer must, if necessary, organize and pay for a new delivery.

8. Transfer of risk and ownership

8.1 Ownership of the Products will not pass to the Customer until KYMONO has received full payment in principal and accessories in cash or freely available funds of the price of the Products.

8.2 The transfer of risks on the Products will take place in accordance with the time of their Delivery, the Products therefore travel at the risk and peril of the Customer.

9. Complaints and returns

9.1 It is the Customer's responsibility to check the Products upon receipt.

9.2 No complaint relating to the colors or sizes of the models (XS, S, L, etc.), ordered by the Customer, will be taken into account by KYMONO, the Customer is solely responsible for the choice of these elements when ordering. It is recalled that the latter has the possibility of asking KYMONO to send the raw product (without logo) to check these elements. This shipment will be invoiced by KYMONO to the Customer.

9.3 Complaints concerning the Logo will be studied on a case-by-case basis, the Customer having to send the logo in the format requested by KYMONO and having been informed that the reproduction of the Logo, and in particular that of the colors, cannot be perfectly identical to the Logo. in particular because of the reproduction technique chosen by the Customer.

9.4 Complaints relating to the quantities delivered, to apparent defects or to the non-conformity of the goods delivered in relation to the products ordered must be made immediately by the Customer, in a precise manner, justified, and entered on the delivery note of the carrier. and confirmed within 48 hours by registered mail to the carrier, keeping a copy and sending a copy to KYMONO.

9.5 Said complaint, including photos, inventories of damage and / or missing items (reference and batch number), annotated consignment note and description of the circumstances must be notified to KYMONO customer service by registered letter with acknowledgment of receipt on the day of the delivery.

9.6 No complaint can be validly accepted in the event of non-compliance with these formalities and deadlines by the Customer.

9.7 Under no circumstances may the Customer return the Products without the prior and express agreement of KYMONO. If agreed, only Products in perfect condition for resale and in their original packaging (cardboard only) may be returned.

9.8 In all cases, any shipping costs are the sole responsibility of the Customer who agrees and returns travel at the expense and risk of the Customer.

9.9 In the event of proven complaints, KYMONO will offer the replacement at its expense of the Products concerned or the reimbursement of the price of the Products actually paid by the Customer for the order in question, within five working days from receipt of the returned Products. .

9.10 If the Delivery is not refused and the Customer does not contact KYMONO under the conditions of this clause within forty-eight (48) hours from the Delivery, the Service and the Delivery will be deemed to comply with the request of the Customer, in quantity and quality.

10. Exclusion of warranty and liability

10.1 Unless expressly stipulated otherwise in these GSC, all contractual guarantees or implicit guarantees provided for by law are excluded to the extent permitted by law.

10.2 KYMONO's liability is limited to direct material damage to the exclusion of any indirect damage of any kind.

10.3 Under no circumstances will KYMONO be required to compensate non-material damage consecutive or not to material damage such as in particular, financial losses, including overheads, loss of profit, activity, contracts, income, customers and production as well as any damage related to damage to the image of the Customer.

10.4 IN ANY CASE, KYMONO'S TOTAL RESPONSIBILITY, IN THE EVENT OF ANY DEFAULT, WILL BE LIMITED TO THE TOTAL AMOUNT OF THE ORDER SUBJECT TO AND / OR RELATED TO THIS DEFAULT.

10.5 KYMONO cannot be held liable for damages resulting from errors arising from documents or information provided by the Customer.

10.6 KYMONO would also be exempt from all liability in the event that the Customer does not provide all the information necessary for the delivery of the Products and / or the performance of the Services.

10.7 The limitations of liability provided for in Articles 10.2, 10.3, 10.5 and 10.6 above will not apply in the event of:

- (a) Death or injury; and
- (b) Loss or damage resulting from willful misconduct, willful misconduct or gross negligence by KYMONO; and
- (c) Breach by KYMONO of an essential obligation of the Contract.

11. Force Majeure

11.1 KYMONO will not be held liable towards the Client or may not be considered as having failed in any of its obligations due to a delay in performance or due to the non-performance of its obligations regarding the sale of the Products and / or the performance of the Services if the delay in performance or non-performance is due to a case of force majeure as defined by French case law in force at the time of the occurrence of the event ("Force Majeure Event").

11.2 In the event of a Force Majeure Event, KYMONO will notify the Customer in writing, in particular by email unless it is prevented by the said event, within two (2) working days of the date of its knowledge of the Force Majeure Event, the sale and / or the Service then being automatically suspended without compensation, from the date of occurrence of the Force Majeure Event and for the duration thereof.

11.3 If the Force Majeure Event lasts for more than thirty (30) calendar days from the date of its occurrence or should, although shorter, constitute a definitive impediment, the sale and / or the Service may be terminated by the most diligent party, without KYMONO or the Customer being able to claim damages in this regard of any kind.

This termination will take effect on the date of the first presentation of the registered letter with acknowledgment of receipt denouncing the said order.

12. Intellectual property

12.1 As a preliminary point, it is recalled that the Customer undertakes not to use or provide KYMONO with photographs, drawings, samples of clothing or other creations made by third parties and of which the Customer is not the owner of the related rights.

12.2 The Customer will be solely responsible for any disregard of this obligation and guarantees KYMONO against any direct or indirect damage and costs that may result from actions or claims initiated in this respect by a third party.

12.3 License granted by the Customer

- The Customer grants to KYMONO, for the duration of the Contract and on French territory, a non-exclusive license to use the Customer Logo transmitted under the Contract and on which the Customer declares and guarantees to hold all the property rights, intellectual.
- Under the terms of this license, the Customer grants KYMONO the right to reproduce, adapt, modify, assemble, compile and, if necessary, translate the Customer Logo by any means and on any media, whether or not they are known on the date of the signing of the Contract.
- These modifications, adaptations, assemblies and compilations will be carried out by KYMONO for technical and / or aesthetic needs in consideration of the Product (s) chosen by the Customer.
- In addition, and beyond the term of the Contract, KYMONO may reproduce and distribute any photographs of the Product (s) associated with the Customer Logo, as professional references on any KYMONO promotional medium, in particular on its website and on its social media pages and content sharing platform accounts.

12.4 Assignment of intellectual property rights

- In the event of the provision of Services, KYMONO assigns to the Customer all of its economic copyright attached to the Creations and in particular all rights of reproduction, representation, translation, adaptation, compilation or assembly, on all media and by all distribution methods, whether or not they are known on the day the Contract is signed. KYMONO also assigns to the Customer the right to deposit any Creation made in the specific context of an order, in its name, as a trademark or designs or copyright.
- This transfer takes place for the entire duration of legal protection of intellectual property rights and for the entire world. The price of the transfer is included in the price invoiced to the Customer in consideration for the performance of the Service.

- In the event that the Services include, beyond the creation of a visual identity or a design (decorative element), the creation of a communication medium (new form of a Product or new Product), KYMONO will be the sole owner of the intellectual property rights relating to said media, and will be free to make any deposits to obtain a title deed in its name and to market these media to other customers.

12.5 Pre-existing intellectual property rights

- KYMONO may occasionally be required, in order to illustrate its recommendations and advice on fashion trends, to reproduce photographs, drawings, clothing samples or other creations made by third parties, as references. (hereinafter referred to as "pre-existing rights") in the working documents. These documents are not intended to be disseminated outside the internal teams of KYMONO and the Client who are involved in the execution of this Contract.
- KYMONO not being the holder of pre-existing Rights, the Customer undertakes not to use these pre-existing Rights outside the strict framework defined above and in particular not to manufacture, market or distribute Products reproducing these pre-existing Rights. The Customer will be solely responsible for any failure to comply with this obligation and guarantees KYMONO against any damage and costs that may result from actions or claims initiated in this regard by a third party.
- If the Client wishes to obtain all or part of the rights attached to these pre-existing Rights, KYMONO will make its best efforts to obtain their transfer, at the Client's expense, and under conditions which will be negotiated on a case-by-case basis.

13. Protection of personal data

13.1 KYMONO processes the Customer's personal data as data controller. As part of the execution of the Contract, the only personal data collected by KYMONO are the contact email addresses of the Customer's employees; they are only processed for the purposes of the order.

13.2 These data are kept for a period of three years from the date of the order, then are destroyed.

In addition, KYMONO may need to process the Customer's personal data for marketing / newsletter communication purposes via email. The data subject (i.e. the holder of the email address) may, at any time, withdraw their consent to the sending of such emails by KYMONO.

Any data subject has the following rights with regard to their personal data:

- The right of access: the right to obtain from KYMONO confirmation that their personal data is or is not processed by KYMONO
- The right to rectification: the right to ask KYMONO to take measures to correct their personal data if they are inaccurate or incomplete.
- The right to erasure: this right allows, in simple terms, to request the erasure or deletion of personal data when, for example, there is no compelling reason for KYMONO to continue to use it or if their use is illegal.
- The right to restrict processing: the right to "block" or prevent further use of one's personal data.
- The right to data portability: the right to obtain and reuse certain personal data for own purposes in different companies (which are separate data controllers).
- The right to object: the right to object to certain types of processing, for reasons related to one's particular situation, at any time, to the extent that such processing takes place for the purposes of the legitimate interests pursued by KYMONO.
- The right to withdraw consent: when KYMONO processes personal data on the basis of consent, the data subject has the right to withdraw consent at any time. However, such withdrawal does not affect the lawfulness of the processing which took place before such withdrawal.
- The right to provide KYMONO with instructions on the use of his personal data after his death: the right to provide KYMONO with instructions on the management (for example, retention, erasure and disclosure) of the data after his death. The person concerned can modify or revoke his instructions at any time.

14. Compensation

The Client will indemnify KYMONO for the costs, expenses including attorneys' fees related to arbitration or legal proceedings and other reasonable expenses resulting from litigation or pre-litigation, and claims incurred by KYMONO:

- (a) due to the Customer's failure to comply with any law or regulation relating to the promotion, marketing and / or distribution of the Products and / or Services; and or
- (b) originating from the violation of any intellectual property right by the Client and / or one of its clients; and or
- (c) related to bodily injury or material damage, if such damage is caused by acts or omissions of the Customer and / or one of its customers.

15. Confidentiality

15.1 The Parties undertake to treat as confidential all information of which they become aware in the context of their relationship (activity data, commercial information, etc.):

15.2 The provisions of this article shall not, however, apply to confidential information of which the receiving Party can prove:

- that they were, at the time of their communication, already in the public domain or that they subsequently became because of a third party in good faith, through no fault on their part or on their employees and / or agents;
- that it has lawfully obtained them, in their entirety, from a source independent of the issuing Party;
- that it lawfully obtained them from a third party not required to keep them confidential.

16. Miscellaneous

16.1 These GSCS, effective May 1, 2021, apply to all orders for Products and / or Services made with KYMONO, including the Forms and Quotes exchanged between KYMONO and the Customer for the purposes of the command. They cancel and replace those previously applicable to any order placed by the Customer with KYMONO after this date.

16.2 In the event of a contradiction between these GSC and the general conditions of purchase or any other contractual document issued by the Customer, the Customer agrees that the clauses of these GSC will prevail.

16.3 Any notification sent by each of the parties must be in writing, signed by the notifying party or in the name and on behalf of the notifying party. Any notification must be sent by registered letter with acknowledgment of receipt, by email, to the address of the party notified in writing, unless it is delivered by hand.

16.4 The partial or sole exercise of a right, the failure to exercise or the delay in the exercise of a right or of a remedy or power by one or the other of the parties shall not constitute a waiver. by that party to the subsequent exercise of that right, power or remedy under the Contract or otherwise by that party.

16.5 In the event that one or more clauses of these GSCs will be deemed null, illegal or unenforceable by a court or competent authority, this (these) clause (s)) will be considered as not forming part of the GSC. This will neither affect the enforceability of the other clauses of the GSC nor the validity, legality and enforceability of said clause in any other jurisdiction. The invalid provision will be replaced by a valid provision, coming as close as possible to the economic goal pursued by the Parties.

16.6 Any reference in these GSC to a provision of a law should be interpreted as referring to this provision as amended, re-adopted or extended at the time of this reference.

16.7 The T & Cs correspond to the entire agreement between the parties and prevail over any other previous agreement (whether oral or written) concerning the subject of the T & Cs.

16.8 Any modification of these T & Cs will only be effective with the written consent of the duly authorized representative of KYMONO.

16.9 The fact that a Party does not require strict compliance with any obligation of the GSC, on any occasion whatsoever, will not be considered a waiver of any of the aforementioned rights and will not deprive that Party of the right. to demand strict compliance with this obligation or any other obligation of the GSC at all times.

17. Applicable law and competent jurisdiction

17.1 These GSC and any order for Products or Services are governed by French law and interpreted in accordance with it. The 1980 United Nations Convention on Contracts for the International Sale of Goods (CISG) does not apply to these T & Cs and to the sale of Products by KYMONO.

17.2 The Parties expressly recognize and declare that they will make their best efforts to favor an amicable solution in any blocking situation. The amicable settlement request is notified to the other Party by registered letter with acknowledgment of receipt.

17.3 It sets out the grounds for the dispute or dispute as well as the documents justifying the merits of the request.

17.4 The Parties will meet within 10 working days from the date of receipt of the aforementioned request.

17.5 ANY LITIGATION RELATING TO ANY ORDER FOR PRODUCTS OR SERVICES AND / OR THESE GSCS, AND IN PARTICULAR THEIR INTERPRETATION, NEGOTIATION AND / OR THEIR PERFORMANCE OR FAILURE TO PERFORM, WILL BE THE EXCLUSIVE JURISDICTION OF THE PARIS COMMERCIAL COURT, INCLUDING IN MATTER OF REFERENCE AND IN CASE OF PLURALITY OF DEFENDANTS AND / OR CALL IN GUARANTEE.