



# MODOMOTO

## TERMS OF SERVICE

MODOMOTO is a service by OUTFITTERY GmbH:  
OUTFITTERY GmbH (subsequently 'MODOMOTO')

Leuschnerdamm 31  
10999 Berlin

Internet: [www.modomoto.de](http://www.modomoto.de)  
Email: [team@modomoto.de](mailto:team@modomoto.de)

Managing Director: Julia Bösch

Registered office: Berlin  
Registration: Registered with Charlottenburg Berlin  
District Court, HRB140519 B  
VAT No. DE282541484

### 1. SCOPE OF APPLICATION

**1.1.** The terms and conditions mentioned below apply for the usage of the website [www.modomoto.de](http://www.modomoto.de) including its domains [ch.modomoto.com](http://ch.modomoto.com), [www.modomoto.at](http://www.modomoto.at) as well as [www.modomoto.com](http://www.modomoto.com) (subsequently all referred to as 'modomoto.de' or MODOMOTO), the MODOMOTO-App as well as by telephone for offers, deliveries, services, and contracts conducted with MODOMOTO's customer consultants. Separate conditions are not recognized unless MODOMOTO explicitly agrees to do so in written form.

**1.2.** These terms and conditions exclusively bind and authorize consumers. A consumer as defined by the below-mentioned regulation is every natural person entering into an agreement for reasons which are predominantly of neither commercial nor self-employed character. Consumers will subsequently also be referred to as 'customers'.

### 2. PREFACE

**2.1.** MODOMOTO is an online service provider which enables interested parties to provide individual information about their person and taste in men's fashion within the context of a questionnaire or phone call. Based on this information about the customer, MODOMOTO assembles an outfit for the customer which consists of several items of clothing, and sends this outfit to the customer. The responsibility of assembling the outfit lies exclusively with MODOMOTO. After receiving the articles, a contract of purchase is validated only when the customer accepts the articles (tentative purchase following paragraphs 4.1 to 4.4). The customer thereby agrees, that MODOMOTO will assemble an individual selection of clothes for him and send it to him.

**2.2.** MODOMOTO reserves the right to continuously update and adjust individual functionalities of its service, and, if necessary, limit them.

**2.3.** MODOMOTO reserves the right to change these terms and conditions at any time by deleting, replacing, or supplementing sections. Every order is subject to the terms and conditions which are valid from the effective date, unless a mandatory change of these terms for legal or regulatory reasons becomes inevitable (in this case the most recent version of the terms will also apply to orders placed before they came into effect).

### 3. REGISTRATION AT MODOMOTO

**3.1.** For usage of MODOMOTO's Internet-based services it is necessary to register in MODOMOTO's online system. The customer must enter a valid email address when registering and must set a password. It is the customer's



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sole responsibility to make sure that no rights of others are violated in this process. The customer is obliged to keep his personal login credentials confidential and prevent unauthorized third parties from accessing them.

**3.2.** Registration is free of charge. A right to membership at MODOMOTO does not exist. MODOMOTO can tie the registration to additional requirements (e.g. data check). The customer is obliged to disclose the given information accurately and in due form when registering. While holding an active membership at MODOMOTO, changes to the given data must be disclosed without delay or solicitation on the part of MODOMOTO. Regardless of successful registration, no legal claim for usage of the services offered inherently exists.

**3.3.** The customer is obliged to provide an email address to MODOMOTO. MODOMOTO is entitled to send relevant statements for the customer to this email address unless a more binding form of communication is legally or contractually specified.

**3.4.** The customer authorizes MODOMOTO to contact him for the settling of a contract via phone or any other means of communication.

**3.5.** The customer is only authorized to use the Internet-based services provided by MODOMOTO via the usual programs (Internet browsers) or via software provided by MODOMOTO if need be. Improper usage is, in particular, access via automated software (e.g. scripted programs). This applies especially if the software in use serves for generating or claiming specific data.

**3.6.** It is prohibited to copy or otherwise make use of content from MODOMOTO's web pages without prior approval by MODOMOTO.

## 4. CONCLUSION OF CONTRACT

**4.1.** Customers purchase on a trial basis at MODOMOTO. A purchase contract on trial in accordance with § 454 BGB is subject to the condition of approval by the customer.

A contract on trial is set in effect by way of offer and acceptance.

**4.2.** An offer to buy is set by the customer when dispatching an order by activation of the relevant button. This offer is binding for the customer for four weeks. MODOMOTO reserves the right to refuse customers' offers without stating reasons for doing so. Mailing of a confirmation by MODOMOTO does not constitute an acceptance of this purchase offer. It only serves as a confirmation of receiving the order. The offer is accepted by MODOMOTO only when this acceptance has been stated (via email) to the customer or when MODOMOTO dispatches the articles.

**4.3.** The customer grants MODOMOTO the unilateral right to determine power according to § 315 BGB with respect to the articles. This means that the selection of articles which will be sent to the customer falls to MODOMOTO exclusively, whereby every postal package will - as a general rule - contain articles with a max. worth of € 1.500. The individual articles' worth can be understood from the price list included in the delivery.

**4.4.** The purchase contract closed according to paragraph 4.2 becomes binding when the customer declares his acceptance of the delivered articles to MODOMOTO within ten days after receiving them ('period of endorsement'). Articles which are not returned by the customer to MODOMOTO within the period of endorsement count as accepted. Remaining silent counts as acceptance according to § 455 BGB. Articles which the customer doesn't wish to retain can be returned within the period of endorsement free of charge and without limitations. The customer is asked to use the enclosed return form and return ticket if possible. The right of revocation as stated in paragraph 9 of this document remains unaffected.

**4.5.** MODOMOTO collects or uses probability values for the purpose of determining the reason, execution, or termination of the contractual relationship which - inter alia - make use of address data.

## 5. DELIVERY AND RETURNS

**5.1.** Delivery, as well as returns of articles, are free of charge for the customer. Delivery of articles is generally carried out within 3 to 5 working days after MODOMOTO has accepted the offer by the customer, that is from the time the articles are shipped respectively after confirming the order via email. MODOMOTO currently delivers to Germany, Austria and Switzerland exclusively.

**5.2.** MODOMOTO uses various shipping companies for dispatch. Not all providers offer a digital tracking system, therefore in certain cases the expected delivery date is determined based on our experience.

**5.3.** Customers are asked to use the enclosed return ticket when returning a package. MODOMOTO only accepts returned articles which are being returned with original labels and MODOMOTO barcode. In the event that the customer wishes to make use of his right of revocation in accordance with paragraph 9 of these terms, and returns the articles without original labels, he is required by law to compensate MODOMOTO for the loss in value.

## 6. RESERVATION OF PROPERTY RIGHTS

Articles sent by MODOMOTO remain the property of MODOMOTO until complete settlement of the account balance.

## 7. PURCHASING PRICE AND METHOD OF PAYMENT

**7.1.** The customer will receive a delivery note with delivery of the articles including a price list. The specified prices are final, including, in each case, the relevant German VAT and other price components. No additional costs for delivery apply.

**7.2.** After expiration of the period of endorsement according to paragraph 4.4, MODOMOTO will prepare a digital invoice with the total payable amount for the accepted articles to be sent to the customer via email.

**7.3.** MODOMOTO provides the payment methods credit card and purchase on invoice as payment options to the customer. The customer can, before ordering, find all information on accepted methods of payment at any time on the website. MODOMOTO reserves the right to not offer individual methods of payment or only offer them for particular orders.

**7.4.** Payment of the invoiced amount is due five days after receiving the invoice.

**7.5.** At the selection of the “purchase on invoice” or the “decide later” payment option MODOMOTO conducts, after an order has been placed, a solvency check based on mathematical-statistical methods with CRIF Bürgel GmbH, Radlkofersstraße 2, 81373 München and - for customers in Germany - additionally with SCHUFA Holding AG, Kormoranweg 5, 65201 Wiesbaden. Within the limits of legal regulations and taking into consideration the relevant interests that need to be protected, we will transfer personal data to the credit agency. We will transfer, alongside name and birthdate of the customer, also address data. Based on this information, a statistical probability of loan default will be calculated and based on this calculation it will be determined whether a contract will come into effect. Prior to purchase, the credit check may result in MODOMOTO not offering a single form of payment or pre-authorisation of the credit card. At the selection of the payment method “credit card” a solvency check is not conducted by MODOMOTO.

For more information regarding the solvency check, please refer to the FAQ section which can be accessed on MODOMOTO's website at anytime.

## 8. GUARANTEE AND LIABILITY LIMITATIONS

**8.1.** Guarantee is given according to the Defects Liability Law.

**8.2.** The customer has no right to damage compensation. Exempt from this are claims regarding physical injuries and life-threatening injuries, injuries to health or resulting from a breach in core elements of the contract (cardinal duty), as well as liabilities for other damages resulting from

intentional or gross negligence by MODOMOTO, its legal representatives or auxiliary persons. Core elements of the contract are those which are relevant for reaching the goal of the contract.

**8.3.** In the event of a breach in core elements of the contract, MODOMOTO is only liable for damages typical to the contract and predictable in the case that they have been caused by negligence, except for claims by the customer based on injuries of life, body or health.

**8.4.** The limitations specified in paragraphs 8.2 and 8.3 are also valid for MODOMOTO's legal representatives and auxiliary persons, if claims are asserted directly towards them.

## 9. CANCELLATIONS

After approval of the goods in accordance with section 4.4, the following right of revocation shall be given to the customer:

### 9.1. Right of revocation

You are entitled to the cancellation of this contract within 14 days without stating any reason. Your right of revocation is valid for 14 days from the day on which you, or an appointed third party who is not the carrier, have respectively accepted the articles. However, the period does not begin until the purchase contract has become binding by the approval of the purchased goods.

To exercise your right of revocation, you must inform us (OUTFITTERY GmbH, Leuschnerdamm 31, D-10999 Berlin, Phone: +49 (0)30 57701510, Email: team@modomoto.de) by way of an unambiguous statement (e.g. a letter sent by mail, a fax, an email) of your decision to cancel this contract. You can use the attached Cancellation Form, however, this is not mandatory.

To meet the deadline for cancellations it's sufficient to inform us that you are executing your right of revocation before the period for cancellation is over.

### 9.2. Effects of cancellations

In the case of the cancellation of this contract, we are bound to immediately refund all previously received payments, including delivery costs (excluding additional costs resulting from any alternative forms of delivery you may have chosen in place of the offered, cheapest standard delivery option) within 14 days at the latest from the day on which we are notified of your cancellation of the contract.

We will use the same method of payment which you used for the initial transaction to process your refund, unless otherwise agreed upon with you; under no circumstances will we charge you any fees for reimbursement. We can refuse to issue a refund until we have received the articles back or until you can prove that you returned the articles, depending on which comes first.

You are obliged to return the articles immediately within 14 days at the latest from the day on which you notify us of the cancellation of the contract. The deadline is met if the articles are posted or personally returned before the period of 14 days is over.

The cost of the return delivery of the articles will be paid by MODOMOTO. You will only be responsible for paying for any consequential loss in the value of the articles which may result from their being handled in a manner unnecessary for checking their quality, properties, and functionalities.

## 10. DATA PROTECTION

Collection, processing and the storage of data is exclusively done in accordance with the guidelines provided by the German Privacy Law. For more information concerning the consent of the customer and regarding the collection, processing, and usage of data please refer to the Privacy section which can be accessed on MODOMOTO's website at anytime via the menu item 'Privacy'.

## **11. TRANSFERRAL OF RIGHTS AND OBLIGATIONS TO THIRD PARTIES**

MODOMOTO is authorised to transfer any rights and obligations resulting from the contract in full or in part onto third parties. In the case of such a partial or full transfer of rights and obligations onto a third party, the customer is entitled to cancel the contract at the time of handover.

## **12. CESSION OF CLAIMS ONTO THIRD PARTIES**

Permission is granted to MODOMOTO by the customer to sell any outstanding debt to a third party for the purpose of collection ('Factoring').

## **13. FINAL CLAUSE**

**13.1** For contracts concluded between MODOMOTO and its customers, German law applies to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods. In the case of contracts with consumers, this choice is valid only in so far as the protection afforded by mandatory provisions of the law of the country in which the consumer is habitually resident is not withdrawn.

**13.2.** These terms and conditions remain valid for all remaining items in the event that individual paragraphs become ineffective. Statutory provisions replace any existing ineffective paragraphs. In the case that this constitutes an unreasonable hardship for one of the parties, the terms and conditions become invalid as a whole.

**13.3.** Link to the European Commission online dispute resolution platform: [www.ec.europa.eu/consumers/odr](http://www.ec.europa.eu/consumers/odr) (according to the regulation for online dispute resolution in consumer affairs).



# MODOMOTO

## CANCELLATION FORM

*If you wish to revoke the contract, please fill out this form and send it back to us.*

**TO:**  
**OUTFITTERY GMBH**  
**LEUSCHNERDAMM 31**  
**10999 BERLIN**

**EMAIL:**  
**TEAM@MODOMOTO.DE**

I / We (\*) hereby revoke the contract concluded for the purchase of the following goods:

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Ordered on (\*) / received on (\*): \_\_\_\_\_

Customer name(s): \_\_\_\_\_

Customer address: \_\_\_\_\_

Customer signature (only relevant if handed in on paper):

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Date:

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(\*) Please cross out irrelevant options.