

# General Terms and Conditions

Our terms and conditions aim at establishing binding and fair provisions for the business relationship between you and us. You can easily print the terms and conditions here and in case of need..

## § 1 General

MYMITO GmbH is the exclusive marketer of Cubit and is responsible for the business relationship between the Cubit purchaser and the orderer. In this respect, the version of the following General Terms and Conditions valid at the time of the order shall apply exclusively. They also apply to all future transactions even if they are not agreed upon again expressly. The orderer's general terms and conditions, in particular terms and conditions of purchase, delivery and payment, shall not apply to the extent they conflict with Cubit-Shop.com General Terms and Conditions. Deviations from these terms and conditions will not become effective unless MYMITO confirms them in writing. By placing an order, the orderer expressly agrees to the application of MYMITO General Terms and Conditions.

## § 2 Formation of a contract

Your order constitutes an offer to us for the conclusion of a sales contract. When you place a Cubit order, we will immediately send you an e-mail confirming the receipt of the order and indicating its details (acknowledgement of order). Given the great variety of modules, we hope that you will understand that we cannot always have any desired quantity of all Cubit sizes in stock. Thus, our confirmation of order does not constitute an acceptance of your offer, but is only intended to inform you of the fact that we have received your order and no transmission error has occurred. We will then inform you of the scheduled delivery term. As a general rule, we shall be able to deliver within 2 weeks, but if, in exceptional situations, some sizes are not in stock, the delivery of the entire order will be kept back. A sales contract will only be valid when the ordered product is delivered to you. Please note that we sell any product only in small, not-commercial amounts.

## § 3 Storage of contract of sale

All orders are being stored by us. If you lose your order documents, just send an email or fax - or call us. We will send you a copy of your order documents.

## § 4 Payment

(1) The price indicated for the object of purchase is stated as the final price in EURO including any turnover tax that might apply and other price components, exclusive of any applicable packaging and forwarding charges.

(2) The latest version of the content of the website [www.cubit-shop.com](http://www.cubit-shop.com) is valid in each case.

(3) The conditions valid at the time of the submission of the offer by the purchaser shall prevail for the performance of the contract and the invoicing.

(4) The purchase price shall become payable upon receipt of the confirmation email from Cubit.

(5) The orderer can choose to pay the purchase price plus shipping charges by credit card or advance payment before delivery or cash on delivery. A purchase against invoice can be

authorised expressly in writing for business customers after free examination by MYMITO in the individual case. In case the orderer's account then is not sufficiently covered, MYMITO will be entitled to charge the orderer a handling fee amounting to EUR 9.00 / collection failed. In case the orderer is in delay of payment, MYMITO will be entitled to claim interest for delay amounting to 6 %, and if no consumer is involved of 9 %, over the basic interest rate p.a. published from time to time by the European Central Bank and a lump sum of EUR 7.50 per reminder except for the first reminder. The assertion of further damage is not excluded. In case MYMITO can provide evidence of the fact that MYMITO has incurred a greater damage caused by delay, MYMITO shall be entitled to assert it. In the above-mentioned cases, the orderer may provide evidence for the fact that MYMITO has not sustained any damage / has sustained damage under the claimed lump sum.

(6) In case the purchaser is in delay of payment and does not make payment within 7 days after written request sent by MYMITO, MYMITO will be entitled to refrain from the purchase; in case of purchase against invoice, MYMITO shall have a right of withdrawal. In this case, the purchaser shall bear the costs incurred by reverse transaction.

(7) Notes on payment: Financial transactions will be settled through MYMITO GmbH, Walzwerkstr. 14, 40599 Düsseldorf, Germany. The transactions are made using SSL 128 bit encryption according to the latest standards. Your credit card statement will state the purchase as MYMITO GmbH, email [contact@mymito.de](mailto:contact@mymito.de) / phone +49 211 7490960. Your credit card will be debited immediately after purchase. All incoming orders will be processed immediately; all inquiries will be answered within two business days. We recommend you print all transaction data and store them at an easily accessible place.

## **§ 5 Delivery, shipping charges**

We organise transportation for you. We are working together with several professional shipping service providers with which we can negotiate good conditions for you.

(1) Delivery shall take place against the stated packaging and shipping charges broken down for each product in the shopping cart. If the purchaser desires a special type of shipment, the purchaser shall bear the extra costs incurred.

(2) Unless otherwise specified, the price for packaging and shipping for foreign deliveries will be calculated separately according to volume and weight.

(3) Delivery shall take place from stock / place of business of MYMITO to the address stated by the purchaser to the front door. Obvious damage in transit has to be notified immediately.

(4) If the purchaser is in default of acceptance regarding the goods, MYMITO can choose to withdraw from the contract or to file a suit for the acceptance after having fixed a period of 5 days.

(5) In case of delivery of goods and provision of services to purchasers abroad, all court and out-of-court expenses incurred for the assertion of rights by MYMITO in case of the purchaser's default of payment shall be payable by the purchaser.

(6) In case of force majeure, industrial action, regulatory action as well as interruption of operations without MYMITO's fault, the term of delivery will automatically be extended by the duration of the obstruction.

(7) The delivery lead time is 6 weeks. Please find eventual exceptions in the product details site.

(8) In case of delays we will contact the buyer straight away.

### **§ 6 Liability**

Claims for damages from positive breach of an obligation, negligence in contracting or other compulsory legal provisions, in particular the Produkthaftungsgesetz [German Product Liability Act], both against MYMITO and against their legal representatives and vicarious agents are limited to wilful or grossly negligent acts. Damages towards business owners as defined by § 14 BGB [German Civil Code] are limited to damage typically incurred in case of transactions of the present type. Claims for damages for at least negligent injury to life, body or health shall remain unaffected.

According to the current state of the art, data communication via the Internet cannot be guaranteed to be free from errors and / or available at any time. Therefore, MYMITO will not be liable for the uninterrupted availability of the Internet shop.

### **§ 7 Warranty and defects**

(1) The legal warranty period of 24 months, in each case from the time of the handing-over of the purchased good shall apply to all new goods.

(2) In case MYMITO supplies an object of purchase free of defect for the purpose of supplementary performance, MYMITO shall be entitled to claim the return of the defective object of purchase by the purchaser.

(3) The purchaser is aware of the fact that pieces of furniture are subject to environmental influences, can change their impression and colourfulness and fade. MYMITO does not provide warranty for such inevitable and characteristic processes of change. Pieces of furniture must not be placed in the immediate vicinity of radiators and the like and not exposed to air humidity exceeding the level of normal living rooms. Thus, pieces of furniture are not suitable for outside or basement rooms, bathrooms and kitchens unless they are intended for these kinds of rooms according to manufacturer's express information. As a general rule, pieces of furniture are highly susceptible to scratches and stains and therefore must only be moved using gloves or a comparable protection.

(4) The warranty does not cover damage either that is attributable to natural wear and tear, improper use and lack of or wrong care or storing.

(5) For reasons outside MYMITO's control (customer's monitor settings, quality of customer's graphic card etc.), the colours of the products shown on the Internet may slightly differ from the original. Such mild colour deviations do not entitle to the exercise of warranty claims or claims for damages. In case of doubt, the colour description selected by the purchaser according to the colour sample / palette or stated on the Internet for the respective product shall be considered to be the contractual colour.

(6) If the purchaser is a business owner as defined by § 14 BGB, the following will apply in addition: The purchaser has to notify MYMITO of obvious defects within 8 days after receipt of the goods in writing, otherwise the goods shall be deemed to be approved. Commercial or mild deviations of quality, colour, width, weight, equipment or design of the goods shall not entitle the purchaser to exercise warranty claims or claims for damages. In case of defects,

MYMITO shall be entitled to remedy the defects or to supply replacement at MYMITO's option. If this supplementary performance fails, the purchaser can claim the reduction of the purchase price or withdrawal from the contract at the purchaser's option with respect to the defective goods.

## **§ 8 Your right of cancellation**

### **Your right of cancellation**

If the purchaser is a consumer, they will be entitled to the legal right of cancellation. That is, they can cancel their declaration of agreement within two weeks without giving reasons in writing (e.g. by mail, fax, email) or by returning the goods. The period of a month will start only after receipt of the information on the right of cancellation and upon the receipt of the goods purchased by the purchaser. The deadline will be met if the cancellation or the goods are sent in time to the seller.

The notice of cancellation has to be addressed in writing (e.g. by mail, fax, and email) to MYMITO GmbH, Managing Directors: Minou Farkhondeh & Thomas Reichel, Walzwerkstr. 14, 40599 Düsseldorf, Germany, fax: 0211 – 749 09 61, email: [contact@cubit-shop.com](mailto:contact@cubit-shop.com). However, the goods have to be returned to the address of MYMITO GmbH Walzwerkstr. 14 in 40599 Düsseldorf after announcement by telephone.

In case of an effective cancellation, the performances already received will have to be returned and any advantages derived from them (e.g. interests) will have to be surrendered. The goods have to be returned together with all accessories and must be accompanied by the original invoice. The goods always have to be packed in a way to protect them against damage. If the purchaser is completely or partially not able to return the performance received or can return it in deteriorated condition only, they will have to indemnify MYMITO in this respect. This shall not apply to the surrender of goods to the extent the deterioration of the good is exclusively due to their inspection – as it would have been possible for the purchaser in the shop. The purchaser can avoid the obligation to compensate for the value of the goods by not using them as an owner and by refraining from doing anything that might affect their value. In the case of furniture, this mainly includes tears, scratches, stains and breaks all of which equal a total loss.

The goods always have to be returned insured to MYMITO. To this effect, please call our hotline in advance so that the return voucher to be used can be sent to you. Basically, the return is completely free of charge for the purchaser; MYMITO will bear all required costs actually incurred. The purchaser will have to bear the costs of return only exceptionally, that is if the goods supplied do not correspond to the goods ordered and if the purchase price of the goods to be returned does not exceed EUR 40.00 or if, in case of a higher purchase price of the goods, the purchaser has not yet made the payment in return or a contractual partial payment at the moment of the cancellation. The purchaser has to meet obligations for the refund of payments within 30 days after sending the notice of cancellation.

The right of cancellation does not cover goods manufactured according to special customer specification or clearly customized to their personal needs. MYMITO shall neither bear the costs of return nor assume any liability for loss of damage for goods returned after the legal period.

The purchaser assigns to the seller any claims under the transport insurance for deterioration or loss of the goods.

## **§ 9 Offsetting, retention**

The orderer shall only be entitled to a right of offsetting if the counterclaims have been declared to be legally enforceable and recognised by MYMITO. Furthermore, the orderer is

only authorised to exercise a right of retention to the extent their counterclaim is based on the same contractual relationship.

#### **§ 10 Assignment**

MYMITO is entitled to assign their trade accounts receivable for the purpose of financing.

#### **§ 11 Retention of title**

MYMITO will remain proprietor of the delivered goods until complete and final payment. Pledging, assignment as security, processing or transformation is not permissible without MYMITO's express and written consent before complete transfer of title.

#### **§ 12 No granting of rights, exhibitions**

By purchasing Cubit, you only acquire the right in rem in the individual item. No other rights of use are granted. Any reproduction (duplication), diffusion, renting, public disclosure or any other analogous or digital exploitation is not allowed. However, you can resell furniture at any time in a non-commercial manner.

#### **§ 13 Collection, processing and use of personal data**

The data and information that you give us help us to create an individual shopping experience with MYMITO for you and to improve it continuously. We use these pieces of information for processing orders and payments (in case of purchase on order also for required examinations), delivering goods and perform services. Besides, we use your information in order to communicate with you on orders, products, marketing offers or the newsletter as well as for updating our records and for keeping and maintaining your customer account as well as for showing contents e.g. your wish list or shopping cart and - in case of consent - for recommending you products and services that might be of interest for you. Furthermore, we use your information for improving our offer, for preventing an abuse of our website or for detecting such an abuse or for enabling third persons to perform technical, logistical or other services on our behalf. You can revoke your consent to this type of use of your data at any time per telefax, email or mail sent to us.

#### **§ 14 Final provisions**

The contractual relationship is governed by German law for both parties. The application of UN sales law is excluded. If the purchaser does not have a domestic place of general jurisdiction or if the purchaser is a merchant, a legal person governed by public law or a special fund under public law, the place of jurisdiction for all disputes arising out of or in close connection with the contractual relationship shall be Düsseldorf.

The unenforceability of any of the provisions above shall not affect the validity of the other provisions. The unenforceable provision shall be replaced by an enforceable provision coming closest to the economic purpose intended by the unenforceable provision.

#### **§ 15 About us**

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We are available via telephone on Mon-Fri, 9 am - 1 pm & 2 pm - 6 pm

Managing Director: Thomas Reichel

Commercial register: Amtsgericht [local court] of Düsseldorf

VAT ID DE 814724622, established 2006

Commercial register number: HRB 53951