

## **TERMS AND CONDITIONS OF USE AND PURCHASE [WWW.BERSHKA.COM](http://WWW.BERSHKA.COM)**

### **1. INTRODUCTION**

This document (along with all documents mentioned) establishes the terms and conditions governing the use of this website ([www.bershka.com](http://www.bershka.com)) and the purchase of products on it (the “Terms and Conditions”), regardless of the application, digital media, support or device used to access the website. Please read these Terms and Conditions carefully as well as our Privacy and Cookies Policy (“Privacy and Cookies Policy”) before using this website. By using this website or placing an order via the website, you are consenting to these binding Terms and Conditions and to our Privacy and Cookies Policy. If you do not agree with all the Terms and Conditions and with the Privacy and Cookies Policy, you should not use this website.

If you have any queries regarding the Terms and Conditions or Privacy and Cookies Policy, you can contact us using our contact channels.

You may choose to formalise the contract in any of the languages in which the Terms and Conditions are available on this website.

### **2. OUR DETAILS**

Items are sold on this website under the BERSHKA brand name by MODA ACTUAL, S.A. with registered address at Av. Carlemany 109, Escaldes-Engordany, AD700 Escaldes-Engordany, registered in the Commerce Register under number 921597K, NRT A-708107-K, classification of economic activities number (CAEA) “52.40” and email [i\\_contact\\_ad@bershka.com](mailto:i_contact_ad@bershka.com).

### **3. YOUR DETAILS AND YOUR VISITS TO THIS WEBSITE**

The information or personal data that you provide us about yourself shall be processed in accordance with the Privacy and Cookies Policy. By using this website, you consent to the processing of this information and data and declare that all the information and data you provide are accurate.

### **4. USE OF OUR WEBSITE**

By using this website and placing orders on it, you agree to:

- i. Use this website for legally valid consultations or orders only.
- ii. Not place any false or fraudulent orders. If we can reasonably assume that an order of this kind has been made, we shall be authorised to cancel the order and inform the relevant authorities.
- iii. Provide your email address, postal address and/or other contact information truthfully and correctly. You also consent to our using this information to contact you if necessary (see our Privacy Policy).

If you do not provide us with all the information we need, we will not be able to process your order.

When placing an order through this website, you declare that you are over 18 years of age and have the legal capacity to enter into contracts.

## **5. SERVICE AVAILABILITY**

The items offered through this website are only available for shipping in the Principality of Andorra.

## **6. HOW TO PLACE AN ORDER**

To place an order, you must follow the online purchase procedure and click on "Authorise Payment". After this, you will receive an email acknowledging the receipt of your order (the "Order Confirmation"). We will likewise inform you via email that the product is being shipped (the "Dispatch Confirmation").

## **7. TECHNICAL MEANS OF CORRECTING ERRORS**

If you see that an error was made in entering your personal information when registering as a user of this website, you can modify said information in the "My Account" section.

In any event, you can correct errors related to the personal data provided during the purchase process by contacting customer service by the chat available on the website, as well as exercise your right to correction set out in our Privacy and Cookies Policy.

This website displays confirmation windows in several sections of the purchase process that do not allow you to continue with your order if the data in these sections was not provided correctly. Furthermore, this website offers the details of all of the items you've added to your basket during the purchase process, so that you can modify your order before making the payment.

If you notice an error in your order after the payment has been processed, please contact customer service immediately by the chat available on the website, in order to correct the error.

## **8. PRODUCT AVAILABILITY**

All orders will be subject to the availability of the products. If problems should arise in supplying the products or if items are out of stock, we will refund the paid amount.

## **9. DELIVERY**

Unless there are circumstances arising from customisation of the products, or unexpected or extraordinary circumstances occur, we will send you the order consisting of the product or products listed in each Dispatch Confirmation within the time indicated on the website for the selected delivery method, and in any case, within the maximum period of 30 days from the date of the Order Confirmation.

If, for some reason, we are not able to comply with the delivery date, we will inform you of such a circumstance and give you the option to continue with the purchase, establishing a new delivery date, or to cancel the order with a full refund of the price paid. In any case, keep in mind that we do not make home deliveries on Saturdays or Sundays.

For the purposes of these Conditions, it will be understood that the "delivery" has taken place or that the order has been "delivered" at the time you or a third party indicated by you acquires material

possession of the products, signing to confirm receipt of the purchase at the agreed delivery address.

## **10. UNSUCCESSFUL DELIVERIES**

If we are unable to deliver your order to you, we will try to find a safe place to leave it. If we cannot find a safe place, your order will be returned to our warehouse. In this event, we will leave a note explaining where your order is located and what to do to have it delivered again. If you are not going to be at the delivery location at the time of delivery, please contact us to arrange for the delivery to be made another day.

If 15 days have elapsed since your order became available for delivery and the order has not been delivered for reasons not attributable to us, we will understand if you wish to cancel the contract and we will consider it terminated. Following the termination of the contract, we will refund all payments received from you, including delivery costs (with the exception of any additional charges resulting from your choice of a delivery method other than the least expensive ordinary delivery method we offer) without any undue delay and, in any case, in a maximum of 14 days from the date we consider the contract to be terminated. Please note that the transport arising from the termination may incur an additional cost, and we will therefore have the right to charge you for the corresponding costs.

## **11. TRANSFER OF RISK AND OWNERSHIP**

Product risks shall be your responsibility from the moment of delivery.

You will acquire ownership of the products when we receive payment in full for all amounts owed in relation to said products, including shipping costs, or at the time of delivery (according to the definition in clause 9 above) if the delivery takes place subsequently.

## **12. PRICE AND PAYMENT**

The prices on the website include VAT but exclude delivery costs, which are added to the total amount owed as explained in our Shopping Guide - Delivery.

Prices may be subject to change at any time, however (except in the aforementioned circumstance) the possible changes shall not affect orders for which you have already received our Order Confirmation.

When you have selected all the items you wish to purchase, they will have been added to your shopping basket and the next step will be to process the order and complete payment. To do this, you should follow the steps of the purchasing process, filling out or verifying the information that is requested in each step. Additionally, during the purchase process, you will be able to modify the details of your order before making the payment. You may refer to a detailed description of the purchasing process in the Shopping Guide. Furthermore, if you are a registered user, a list of all the orders you have placed is available in the My Account section.

You can pay using Visa and Mastercard.

By clicking "Authorise Payment", you are confirming that the credit card is yours.

To minimise the risk of unauthorised access, your credit card details will be encrypted. Credit cards are subject to verification and authorisation by the issuing entities. However, if the entity does not authorise

the payment, we will not be held liable for any delay or failure to deliver, and we will be unable to formalise any contract with you.

### **13. QUICK PURCHASE**

The quick purchase feature ("Quick Purchase") streamlines the purchase process on this website, as you will not have to enter delivery, invoicing and payment details for each purchase. Quick Purchase is available in the "Shopping Basket" section.

To use Quick Purchase, you must have saved your credit card information. You can do this when paying with any of the cards accepted on this website by clicking the option "Save my card information". This will save the following card information: card number, name of cardholder as it appears on the card and expiry date.

To save your card information and use Quick Purchase, you must accept the applicable Terms and Conditions and Privacy and Cookies Policy.

By agreeing to use Quick Purchase, you accept that purchases paid for using this feature are charged to the associated card. In any case, the use of your card will be governed by the terms and conditions you have agreed with the card issuer.

You can save information on as many cards as you want to use Quick Purchase. To do this, you must make at least one payment with one of them. If you want to save the information of more than one card, the most recently saved will be the "Favourite Card" and will be used by default to pay using Quick Purchase. However, you can change your Favourite Card in the My Account section on the website.

To use Quick Purchase, just click on the "Quick Purchase" button that appears on the Shopping Basket page. Next you will see a screen with the delivery, invoicing and payment information for the purchase. The information on this screen cannot be changed. Therefore, if there are any errors, please do not complete the purchase process. To shop using other information, please do not use the Quick Purchase service.

You can change your Favourite Card associated with Quick Purchase in the My Account section of this website.

### **14. RETURN POLICY**

#### **14.1 Legal right to withdraw from the purchase**

##### **Right to cancellation**

If you are signed up as a consumer and user, you have the right to withdraw from this contract in a period of 7 working days, without providing justification.

The withdrawal period expires after 7 working days from the day that either you or a third party chosen by you, excluding the carrier, acquired material possession of the goods. In the event that the goods included in the order are delivered separately, the period shall expire after 7 working days from the day

that you or a third party chosen by you, excluding the carrier, acquired material possession of the last of these items.

To exercise your right to withdrawal, you must notify BERSHKA, by the chat available on the website, of your decision to withdraw from the contract by means of a clear written statement. You may use the attached example withdrawal form that is included as an Appendix to these Terms and Conditions, however it is not obligatory. In order to comply with the withdrawal deadline, you need only communicate that you are exercising this right within the stipulated time period.

### **Effects of withdrawing**

If you decide to withdraw, we will refund all the payments received from you, including delivery charges (except for any additional charges due to your choice of a delivery method other than the cheapest ordinary delivery method we offer) without any undue delay, and in any case, in a maximum of 14 days from the date on which you notified us of your decision to withdraw from this contract. We will make the reimbursement using the same payment method used for the initial transaction, unless you indicate otherwise by expressly detailing the payment method by which you would prefer to receive the reimbursement. You will not incur any fees as a result of such reimbursement. Notwithstanding the foregoing, we may withhold reimbursement until we have received the returned goods or you have presented proof of having returned the goods, depending on which condition is met first.

You must return or deliver the products directly to us at any of our BERSHKA stores in the Principality of Andorra, without undue delay and, in any event, in a maximum period of 7 working days from the date you inform us of your decision to withdraw from the contract. The deadline is met if you send back the goods before the time period specified has expired.

Except where returns are made to a BERSHKA store in the Principality of Andorra, you will have to bear the direct cost of returning the goods.

You shall only be liable for decreasing the value of the goods if it is as a result of any handling which is not necessary for establishing the nature, characteristics and function of the goods.

## **14.2 Contractual right of withdrawal**

In addition to the consumer's and user's legally recognised withdrawal right mentioned in clause 14.1 above, we grant you a period of 30 days from the date of the Shipping Confirmation to return any products (except those mentioned in clause 17.3 below, regarding those excluded from the right to withdraw).

In the event of products returned within the contractual period for the right of withdrawal, but once the legal period has expired, only the price paid for the products will be refunded. You will have to bear the direct costs associated with returning the product when you do not return them to a BERSHKA store in the Principality of Andorra.

You may exercise your right to withdraw pursuant to clause 14.1 above. However, if you inform us of your intention to withdraw from the contract after the legal withdrawal period has expired, you should

in any event deliver the goods to us in a period of 30 days from the Dispatch Confirmation.

### **14.3 Common provisions**

You will not have the right to withdraw from a contract whose purpose is to supply one of the following products:

- Customised items.
- Music CDs/DVDs without their original packaging.
- Goods pre-sealed for health or hygiene reasons which have been opened after delivery.

Your right to withdraw from the contract only applies to those products returned in the same conditions in which they were received. No refund will be made if the product has been used beyond merely opening it, if products are not in the same conditions in which they were delivered or if they have suffered any damage; please be careful with the product/s while in your possession. Please return the item using or including all its original packaging, instructions and other accompanying documents.

You can return items to any BERSHKA store in the Principality of Andorra:

You may return products to any of our BERSHKA stores in the Principality of Andorra that contain the same section as the goods you wish to return. In this case, you can go to any of these stores and bring the item and the e-receipt that you will have received along with the Shipping Confirmation, which is also available in your account on the website and the BERSHKA mobile application. You can show the electronic receipt digitally on the screen of your mobile device or by printing it and bringing it to the store.

This option will not incur any additional cost for you.

If you prefer not to return the products using one of the available free options, you will have to pay the costs of the return. Please remember that if you decide to return the items as freight collect, we will be authorised to charge you with any costs it may entail.

After examining the item, we will inform you whether you are entitled to a refund for the amount paid. Delivery costs will only be reimbursed when the right of withdrawal is exercised within the legal time frame and all items included in the order in question are returned. The refund will be paid as soon as possible and in all cases within 14 days from the date on which you notified us of your intention to withdraw. However, we may withhold reimbursement until we have received the returned goods or you have presented proof of having returned the goods, depending on which condition is met first. The refund will always be made using the same payment method you used to make the purchase. You will be responsible for the cost and risk of returning the products, as indicated above. If you have any queries, you can contact us using our contact channels.

#### **14.4 Return of faulty products**

If you consider that, at the time of delivery, the product was not as specified in the contract, you must contact us immediately using our contact channels, providing the product information and describing the damage. At this point, we will tell you what to do next.

The product can be returned to any of our BERSHKA stores in the Principality of Andorra.

We will examine the returned product thoroughly and inform you by email within a reasonable period whether it can be returned or replaced (where appropriate). The return will be processed or the item will be replaced as soon as possible and in all cases within 14 days of the date on which we send you the email confirming that the item can be returned or replaced.

The amounts paid for items returned due to a faulty or defective nature will be reimbursed in full when the items are determined to be truly defective, including shipping fees incurred for delivering the item and the costs that you have incurred to return it to us. The refund will always be made through the same means of payment you used to pay for the purchase.

Your legal rights will not be affected in any of these cases.

#### **15. GUARANTEES**

If you are entering a contract as a consumer or user, we offer guarantees on products sold on this website in the terms established by law for each type of product, therefore responding to any lack of conformity if non-conformity becomes apparent within a period of two years after the product's delivery.

It is understood that the products are as stated in the contract provided that (i) they conform to the description made by us and possess the qualities we have presented on this website, (ii) are suitable for the uses ordinarily intended for products of the same type and (iii) present the usual qualities and performance of a product of the same type, as reasonably expected. In this regard, if any of the products do not conform to the contract, you should bring this to our attention by following the process explained in the above section 17.6 and through any of the means of communication established for that purpose.

The products we sell, especially handmade products, may sometimes present characteristics typical of the natural materials used for their manufacturing. These characteristics, such as variations in grain, texture, knots or colour, will not be considered defects or flaws. On the contrary, they should be regarded as necessary and desirable. We select only products of the highest quality, but natural variations are unavoidable and should be accepted as part of the individual appearance of the product.

#### **16. LIABILITY AND EXEMPTION FROM LIABILITY**

Unless expressly indicated otherwise in these Terms and Conditions, our liability in relation to any product acquired on our website is limited strictly to the purchase price of this product.

However, unless there is a legal ruling to the contrary, we will not accept any liability for the following losses, regardless of their origin:

- (i) loss of income or sales;
- (ii) loss of business;
- (iii) loss of profits or loss of contracts;
- (iv) loss of anticipated savings;
- (v) loss of data; and
- (vi) loss of management time or office hours.

Due to the open nature of this website and the possibility of errors occurring in the storage and transmission of digital information, we do not guarantee the accuracy and security of the information transmitted or obtained from this website, unless it is otherwise expressly established here.

## **17. INDUSTRIAL AND INTELLECTUAL PROPERTY**

You recognise and agree that all copyrights, registered brand names and other industrial and intellectual property rights over the material or content provided as part of this website belong to us or to the owners who have granted us a licence for their use. You may only use this material as expressly authorised by us or whoever has granted us a licence for its use. This will not prevent you from using this website as needed to copy information regarding your order or Contact information.

## **18. VIRUSES, PIRACY AND OTHER CYBERATTACKS**

You may not make undue use of this website by intentionally introducing viruses, Trojans, worms, logic bombs, or any other technologically damaging or harmful program or material. You may not try to gain unauthorised access to this website, the server on which this website is hosted, or any server, computer, or database related to our website. You undertake to not attack this website through a denial-of-service attack or a distributed denial-of-service attack.

Breaching this Clause may lead to offences as described in applicable legislation. We will inform the competent authorities of any breach of this norm and will cooperate with them to discover the attacker's identity. Additionally, anyone in breach of this clause will immediately no longer be authorised to use this website.

We shall not be liable for any damages or loss resulting from a denial of service attack, virus or any other program or technologically damaging material that may affect your computer, computer equipment, data or materials as a result of using this site or downloading content from it or those to which it redirects.

## **19. LINKS FROM OUR WEBSITE**

In the event our website contains links to other websites and third-party material, these links are facilitated for solely informative purposes, and we do not have any control over the content of these websites or materials. Therefore, we will accept no liability for any loss or damages arising from their use.



## **20. WRITTEN COMMUNICATION**

Applicable regulations require that the information or communications we send you be in writing. By using this website, you accept that most of our communications with you will be electronic. We will contact you by email or provide information by publishing announcements on this website. For contractual purposes, you consent to using this electronic means of communication and you recognise that all contracts, notifications, information, and other communications we send you electronically comply with the legal requirement that they be in writing. This does not affect your legal rights.

## **21. NOTIFICATIONS**

You must send any notifications by the chat available on the website. In accordance with the above Clause 22 and unless otherwise stipulated, we may send you communications either to your email address or to the postal address provided when you place an order.

The notifications will be understood to have been received and to have been issued correctly as soon as they are published on our website, 24 hours after sending you an email or three days after the postmarked date of any letter. Proof that the notification has been sent shall only require, in the case of a letter, that it was correctly addressed, that the correct postage was paid and that it was duly delivered to the post office or to a post box, and in the case of an e-mail, that the notification was sent to the e-mail address specified by the recipient.

## **22. ASSIGNMENT OF RIGHTS AND OBLIGATIONS**

The contract is binding both for you and for us, as well as for our respective successors, grantees and assignees. You may not transmit, cede, pledge or transfer in any other way a contract or any of the rights or obligations arising from it without previously obtaining our consent in writing.

We may transmit, cede, pledge, subcontract or transfer in any other way a contract or any of the rights or obligations arising from it at any time during the lifetime of the contract. To avoid any ambiguity, such transmissions, cessions, pledges or other transfers will not affect any of your legally recognised rights as a consumer, nor will they cancel, reduce or limit in any other way any explicit or tacit guarantees we may have given you.

## **23. EVENTS BEYOND OUR CONTROL**

We will accept no liability for any failure to comply or delay in complying with any contractual obligations if this should be due to events beyond our reasonable control ("Force Majeure").

Force Majeure includes any action, event, failure to act, omission or accident that is beyond our reasonable control, including but not limited to:

- a. Strikes, lock-outs or other industrial action.
- b. Civil unrest, uprising, invasion, terrorist threat or attack, war (declared or undeclared) or the threat of or preparations for war.
- c. Fire, explosions, storms, floods, earthquakes, subsidence, epidemic or any other natural disaster.

- d. Impossibility of use of trains, boats, planes, motor vehicles or other means of transport, whether public or private.
- e. Impossibility of use of public or private telecommunications systems.
- f. Acts, decrees, legislation, regulations or restrictions by any government or public authority.

Our obligations will be understood to be suspended while the Force Majeure event is happening, and we will be allowed to extend the time in which our obligations must be fulfilled by a period as long as the duration of the Force Majeure event. We will use all reasonable means to bring the Force Majeure event to an end or find a solution that will let us fulfil our obligations despite the Force Majeure event.

## **24. WAIVER**

If we do not require you to comply strictly with your obligations arising from a contract or from these Terms and Conditions, or if we do not exercise the rights or take the actions to which we are entitled by virtue of such a contract or these Terms and Conditions, this will not mean that we waive or limit such rights or actions, nor does it exempt you from complying with such obligations.

If we waive a specific right or action, this will not imply that we waive any other rights or actions arising from a contract or these Terms and Conditions. No waiver by us of any of these Terms and Conditions or to the rights or actions derived from a contract will take effect unless expressly stipulated that it is a waiver of rights and it is formalised and communicated to you in writing pursuant to the provisions of the Notifications section above.

## **25. PARTIAL ANNULMENT**

Should any of these Conditions or any provision of a contract be declared null and void by a final decision issued by the corresponding authority, the remaining terms and conditions shall remain in effect without being affected by this declaration of nullity.

## **26. COMPLETE AGREEMENT**

These Terms and Conditions and any document that is expressly referenced herein constitute the full agreement between you and us with regard to the purpose thereof, and they replace any other prior pact, agreement or promise made between you and us, whether verbally or in writing.

We both recognise that we have agreed on a contract without relying on any statement or promise made by the other party or which could be inferred from any statement or written text in the negotiations between both parties before the contract, except for that explicitly mentioned in these Terms and Conditions.

Neither of us will be entitled to any action regarding any untrue verbal or written statement by the other party before the date of a contract (unless the untrue statement was made fraudulently) and the only action to which the other party will be entitled will be for a breach of the contract, as established in these Terms and Conditions.

## **27. OUR RIGHT TO MODIFY THESE TERMS AND CONDITIONS**

We reserve the right to modify the Terms and Conditions. We will keep you informed of any substantial

changes made thereto. These introduced changes will not be retroactive and, barring possible exceptions depending on the specific case, they will take effect 30 days after they are published in the corresponding notice.

If you do not agree with the changes made, we recommend you do not use our website.

## **28. APPLICABLE LEGISLATION AND JURISDICTION**

The use of our website and contracts for purchasing products through said website shall be governed by legislation of the Principality of Andorra.

Any dispute that arises or is related to the use of the website or these contracts shall be subject to the non-exclusive jurisdiction of the courts of the Principality of Andorra.

If you are entering into the contract as a consumer, this Clause does not affect the rights applicable to you under current legislation.

## **29. COMMENTS, SUGGESTIONS, COMPLAINTS AND CLAIMS**

We welcome your comments and suggestions. Please send any comments, suggestions or queries via our contact channels indicated in these Terms and Conditions. We also have official complaint forms available to consumers and users. You can ask for one by sending an email to [contact\\_ad@bershka.com](mailto:contact_ad@bershka.com) or using our contact channels.

You can also send your complaints and claims using our contact channels or by email to [contact\\_ad@bershka.com](mailto:contact_ad@bershka.com). They will be handled by our customer service department as soon as possible and, in any case, within the legally established period. Additionally, they will be registered with an ID code that we will make available to you so that you can follow up.

## **30. CONTACT**

Please note that the email [contact\\_ad@bershka.com](mailto:contact_ad@bershka.com) is enabled to offer easy and direct access to the identification details of MODA ACTUAL, S.A. as the company marketing goods, and so that you can file any complaints or claims you deem necessary. To send comments, suggestions, queries or any other matter different to the above, you can use our usual contact channels.

For more information, please visit the “Contact” section of the website.

### **Withdrawal Form template**

**(Only fill in and send this form if you wish to withdraw from the contract)**

To MODA ACTUAL, S.A. acting under the BERSHKA brand name, with registered address at Av. Carlemany 109, Escaldes-Engordany, AD700 Escaldes-Engordany.

I hereby inform you that I withdraw from my sales contract for the following item:

Ordered/received (\*):

Consumer name: Consumer

address:

Consumer signature (only if this form is in paper format) Date:

(\*) Cross out any which are not applicable