

1. INTRODUCTION

This document (together with the documents mentioned herein) establishes the conditions that govern the use of this website (www.bershka.com) and the purchase of physical products (within the meaning of § 1 Abs 1 VGG, hereinafter "product") on it (hereinafter referred to as the "Conditions").

We urge you to read the Conditions and our Privacy and Cookies Policy (hereinafter, jointly, the "Data Protection Policies") carefully before using this website. When you use this website or place an order on it, you are aware that you are bound by these Conditions and our Data Protection Policies, so if you don't agree with the Conditions and with the Data Protection Policies, you mustn't use this website.

These Conditions may be modified. It is your responsibility to read them periodically, as the current conditions at the time of concluding the relevant Contract (as defined further on) or of use of this website shall be those that apply.

If you have any query regarding the Conditions or the Data Protection Policies you may contact us by using the contact form.

The Contract (as defined below) may be executed, at your option, in any of the languages in which the Conditions are available on this website.

2. OUR DETAILS

Sale of products through this website is carried out under the name Bershka by Inditex Österreich GmbH, an Austrian company with registered address at Kärntner Straße 11 / Top 6, 1010 Vienna, registered in the commercial register of the commercial court in Vienna under the number FN 176276 f, with VAT Identification Number ATU 464 002 01.

3. YOUR DETAILS AND YOUR VISITS TO THIS WEBSITE

The information or personal details that you provide us shall be processed in accordance with the Data Protection Policies. When you use this website, you agree to the processing of the information and details and you state that all information and details provided are true and correspond to reality.

4. USE OF OUR WEBSITE

When you use this website and place orders through it, you agree to:

- i. Use this website to make legally valid enquiries and orders only.
- ii. Not to make any false or fraudulent orders. If an order of this type may reasonably be considered to have been placed, we shall be authorized to cancel it and inform the competent authorities.

- iii. Provide us with your e-mail address, postal address and/or other contact details truthfully and exactly. You also agree that we may use this information to contact you in the context of your order if necessary (see our Data Protection Policies).

If you do not provide us with all the information we need, you cannot place your order.

When you place an order on this website, you state that you are over the age of 18 and are legally eligible to enter into binding contracts.

5. SERVICE AVAILABILITY

The products offered on this website are only available for deliveries within Austria.

If you wish to order products from another EU member state outside of Austria via this website you are of course welcome to do so; however, the ordered product(s) can only be delivered to a Bershka shop or a delivery address within Austria.

6. FORMALISING THE CONTRACT

The information contained in these Conditions and the details contained on this website do not constitute an offer of sale, rather an invitation to treat. There shall be no contract between you and us in relation to any product until your order has been expressly accepted by us. If your offer is not accepted and your account has already been charged, the amount of the same shall be reimbursed in full.

To place an order, you must follow the online purchasing procedure and click "order subject to costs". After doing so, you will receive an e-mail confirming receipt of your order (the "Order Confirmation"). Keep in mind that this does not mean that your order has been accepted, since it constitutes an offer that you are making to us to buy one or more products. All orders are subject to our acceptance, which you will be informed of via an e-mail in which we will confirm that the order is being sent (the "Delivery Confirmation"); please see also the provisions in clause 12.2 (Ordering with the help of electronic devices). A summary of the details of your order will be attached to the Delivery Confirmation ("e-ticket").

The contract between us to buy a product (the "Contract") is concluded only when we send you the Delivery Confirmation.

Only the products listed in the Delivery Confirmation shall be subject to the Contract. We are not obliged to provide you with any other product that has not been ordered until we confirm that these have been sent in a Delivery Confirmation.

We use electronic invoices. Herewith you agree that you receive invoices electronically. Electronic invoices will be made available to you in PDF format under "My Account" on this website. We will inform you for each purchase in the Delivery Confirmation if the electronic invoice is available.

7. REFUSAL TO PROCESS AN ORDER

We reserve the right to remove any product from this website at any time and to remove or modify any material or content from the same. Although we will always do everything possible to process all orders, there may be exceptional circumstances that force us to refuse to process an order after having sent the Order Confirmation, and we reserve the right to do so at any time.

We shall not be liable to you or to any third party for removing any product from this website for removing or modifying any material or content from the website, or not processing an order once we have sent the Order Confirmation.

8. AVAILABILITY OF PRODUCTS

All product orders are subject to availability of the same. Along this line, if there are difficulties regarding the supply of products or there are no more products left in stock, we reserve the right to provide you with information on substitute products of the same or higher quality and value that you may order. If you do not wish to order the substitute products, we will reimburse any amount that you may have paid.

9. DELIVERY

Notwithstanding clause 8 above regarding product availability and save for extraordinary circumstances, we will endeavour to send the order consisting of the product(s) listed in each Delivery Confirmation prior to the date indicated in the Delivery Confirmation in question or, if no delivery date is specified, in the estimated timeframe indicated when selecting the delivery method and, in any case within a maximum period of 30 days from the date of the Order Confirmation.

Nonetheless, there may be delays for reasons such as the customization of products, the occurrence of unforeseen circumstances or the delivery zone.

As for the virtual gift card (hereinafter referred to as "eCard") we will deliver it on the date indicated by you when placing the order.

If for any reason we are unable to comply with the delivery date, we will inform you of that situation and we will give you the option to continue with the purchase, establishing a new delivery date, or cancel the order with full reimbursement of the amount paid. Keep in mind in any case that we generally do not make home deliveries on Saturdays or Sundays, except in the case of the eCard which will be delivered on the date specified by you.

For the purposes of these Conditions, "delivery" shall be understood to have taken place or the order to have been "delivered" as soon as the product has been handed over to you or to a third party indicated by you, which will be evidenced by the signing of the receipt of the order at the delivery address indicated by you or if you consented to lodgment by the delivery service with deposit of the product.

The eCard will be considered delivered as set out in the Terms of Use of the gift card and, in any case, at the time of sending this to the e-mail address specified by you.

If you have chosen "Deliver to store" as the delivery method we will inform you after your order if "instant delivery" is available for the products in your order. Since this service depends on inventory and other factors, it cannot be guaranteed for all orders. If we have informed you that "instant delivery" is available, your order will be ready for collection at the Bershka store of your choice earlier than the estimated delivery date stated in our Shopping Guide on our website. In this case, we will inform you of the earliest possible pick-up time as soon as your order has been prepared at the store. You can either collect the order yourself (by showing the order number and proof of identity) or authorise another person to collect it on your behalf. In this case, the authorised person must provide order number and proof of identity.

10. INABILITY TO DELIVER

If it is impossible for us to handover your order even after 2 attempts, we will attempt to find a safe place for handover by deposit. If we cannot find a safe place, your order will be returned to our warehouse. We will also leave a note explaining where your order is located and how it can be handed over to you. If you will not be at the place of handover at the agreed time, we ask you to contact us to organise the handover on another day.

If after 30 days from the date your order is available for handover, the order could not be handed over for reasons not attributable to us, we shall assume that you wish to withdraw from the Contract, which will then automatically convert to a contractual obligation for refund. As a result of the withdrawal, we will return to you all payments received from you, including delivery charge (except for any additional costs resulting from your choice of any delivery method other than the ordinary delivery method that we offer) without any undue delay, and at any rate, within 14 days after the withdrawal.

This clause does not apply to the eCard, whose delivery is governed by the provisions of the Terms of Use of the Gift Card and the provisions of clause 9 above.

11. TRANSMISSION OF RISK AND OWNERSHIP OF THE PRODUCTS

From the moment of handover, the risk of loss or damage to the product(s) passes to you.

You will take ownership of the products when we receive full payment of all amounts due in relation to the same, including delivery fees, or at the moment of handover (as defined in clause 9 above), if that were to take place at a later time.

12. PRICE AND PAYMENT

12.1 General information

The price of the products will be as stipulated at all times on our website, except in the case of an obvious error. Although we make every effort to ensure that the prices featured on the web page are correct, error may occur. If we discover an error in the price of any of the products that you have ordered, we will inform you as soon as possible and give you the option of confirming your order at the correct price or cancelling it. If we are unable to contact you, the order will be considered cancelled and all amounts paid will be reimbursed to you in full.

We are not obliged to provide you with any product at the incorrect lower price (even when we have sent the Delivery Confirmation) if the error in the price is obvious and unmistakable and could have reasonably been recognized by you as an incorrect price.

The prices on the website include VAT, but exclude delivery fees, which are added to the total price as indicated in our Shopping Guide - Delivery Fees. The total price including the price for the purchased product(s), delivery fees and VAT will be shown before you finally place the order.

Prices may change at any time. However, except as stipulated above, the changes shall not affect the orders for which we have sent an Order Confirmation.

Once you have selected all products that you wish to buy, those will have been added to your basket and the next step will be to process the order and make payment. To that end, you must follow the steps of the purchase process, filling up or verifying the information requested in each step. Furthermore, throughout the purchase process, before payment, you can modify the details of your order. You are provided with a detailed description of the purchase process in the Shopping Guide. Also, if you are a registered user, a record of all the orders placed by you is available in "My Account" area.

Payment can be made with Visa, MasterCard, American Express, INCARD, Klarna and PayPal. In addition, you can pay all or part of the price of your purchase with a gift card, an eCard or a voucher card issued by Inditex Österreich GmbH for Austria.

To minimize the risk of non-authorized access, your credit card details will be encrypted. Once we receive your order, we request a pre-authorization on your card to ensure that there are sufficient funds to complete the transaction. The charge on your card will be made at the time your order leaves our warehouse.

If your payment method is Klarna or PayPal, the charge will be made when we confirm your order.

When you click "order subject to costs", you are confirming that the credit card is yours or you are the rightful holder of the gift card / eCard or the voucher card.

Credit cards are subject to verification and authorization by the card issuing entity, but if the entity does not authorize the payment, we shall not be liable for any delay or failure to deliver, and we will be unable to conclude any Contract with you.

Inditex Österreich GmbH has commissioned Fashion Retail, S.A. with its corporate seat at Avenida de la Diputación, Edificio Inditex, Arteixo, A Coruña (Spain), registered in the commercial register of A Coruña, vol. 3425, page 49, C-47731, 1st entry, and tax identification number A-70301981, with the processing of all payments made via this website and making refunds.

12.2 Ordering with the help of electronic devices

If you wish to place an order by using an electronic device provided by us in a Bershka store, you must follow the steps that appear on the device during the purchase process. You can change all the details of your order during that process, e.g., you can choose the payment method before completing the order. Please note that by pressing the button "order subject to costs" you agree to pay for your order. After doing so, you will receive the Order Confirmation e-mail or a SMS (if you have only provided us with your mobile number) confirming receipt of your order. You will be informed by the Delivery Confirmation e-mail or via SMS (if you have only provided us with your mobile number) that the order is being accepted and sent; please see also the provisions in clause 6 (FORMALISING THE CONTRACT) above. A summary of the details of your order will be attached to the Delivery Confirmation or the SMS. If you have chosen "Deliver to store" as the delivery method we will also contact you by e-mail or SMS (if you have only provided us with your mobile number), when the order is ready to be collected.

13. BUYING PRODUCTS AS VISITOR / GUEST

The functionality of buying products as visitor / guest is also available on the website. Under this type of purchase, only such data which are essential to process your order will be requested from you. Upon completion of the purchase process, you will be offered the possibility of registering as a user or continue as a non-registered user.

14. QUICK PURCHASE

The function Quick Purchase (hereinafter "Quick Purchase"), facilitates purchases through this site, you won't need to enter data about shipping, invoice and payment for each purchase.

See "Quick Purchase" in the "Shopping Basket".

To use Quick Purchase, you must sign up for an account and save your card information. You can do this for a payment, by selecting "Save my card details" button, with all credit cards accepted by this site. The following card data will be stored: Card number, name of the card holder (as specified on the card) and expiration date. If you use Quick Purchase, the payment must be made by credit card.

To save your card data and to use Quick Purchase, you must accept the applicable Data Protection Policies.

By agreeing to use the Quick Purchase function, you authorize that the purchases are charged to the card that is linked to the tool. The use of the card is subject in all cases to written agreements conditions between you and the card issuer.

You can store data for up to 15 cards under Quick Purchase. In order to do this you must pay with each card at least once. If you want to save data for more than one card, the card whose data was last stored is your "preferred card" and will be loaded by default on purchases via Quick Purchase. You can,

however change your "preferred card" that is associated with the Quick Purchase under "My Account" on this website.

To use Quick Purchase, you just need to click on "Quick Purchase", which is displayed in the "Shopping Basket". A window will then appear with the shipping, receipt and payment methods of your purchase. The data contained in this window cannot be edited. If you insert incorrect data, the purchase will not be finalized. When you perform purchases using different details, please do not use the Quick Purchase service.

15. VALUE ADDED TAX

Pursuant to the prevailing rules and regulations in force, all purchases done through the web site are subject to the Value Added Tax (VAT).

16. RIGHT OF REVOCATION AND RETURN

16.1 Statutory right of revocation

REVOCATION INSTRUCTION

Right of revocation

If you, as a consumer, conclude a contract, you are entitled to revoke it without specifying reasons within the statutory revocation period.

The revocation period ends 14 days from the day on which you or a third party appointed by you, who is not the carrier, took possession of the product or in the case of several products in a separately delivered order, 14 days from the day on which you or a third party appointed by you, who is not the carrier, took possession of the last product.

In order to exercise your right of revocation you must inform us that you wish to revoke the contract in one of the following ways:

- i. By post:
Inditex Österreich GmbH
- brand name Bershka -
Kärntner Straße 11 / Top 6
1010 Vienna
- ii. By email:
contact@bershka.com
- iii. By phone:
0800 297 670

iv. By web contact form

If you wish you can use our revocation form template to do so.

In order to comply with the revocation period, it is sufficient for you to dispatch your notification about exercising the right of revocation prior to the expiry of the revocation period.

You do not have the right to revoke if it involves the delivery of one of the following products:

- i. Products that have been customized.
- ii. Music CDs/DVDs with their original seal removed.
- iii. Separate parts of a set.
- iv. Sealed products that are not suitable for return due to hygiene reasons and that have had their seal broken after delivery.

Consequences of revocation

If you revoke this Contract, we will immediately refund all payments received from you including shipping costs to the original delivery place (with the exception of additional costs arising because you have chosen a shipping method other than the standard shipping method offered by us) and in any event, no later than 14 days from the date on which this notification about your revocation is received by us. For this refund, we use the same payment method that you used for the original transaction. Under no circumstances will we charge you for this refund. Notwithstanding the aforementioned, we may refuse the refund until we have received the returned products or until you have provided evidence that you have returned the products, depending on which takes place sooner.

You must return or hand over the products to us immediately and no later than 14 days from the day on which you informed us of your revocation of the contract. The period shall be deemed to have been complied with if you dispatch the products prior to the expiry of the period of 14 days.

Products can be returned using one of the following options:

i. Returns to any Bershka store:

You can return all products to any Bershka store in Austria that has the same department to which the products that you intend to return belong. We ask you to present in such case in the store, as well as the product(s), the e-ticket that was attached to the Delivery Confirmation, which is also saved under "My Account" on our website, and on the Bershka app. You can present the e-ticket either by showing it in digital form on your mobile, or by bringing to the store a print of the e-ticket. This option is always free of charge for you.

ii. Returns at collection points:

You may return products by handing them in at a collection point in Austria (post office or packing station). In order to do this please follow the instructions under "My Account> Returns". If you do not have a customer account, please use the link you received in the Delivery Confirmation. After your request has been verified, you will receive a confirmation e-mail and the franked return form for printing and affixing it to the parcel. We would like to inform you that we will bear the cost of the first return organized this way within one and the same order. For each subsequent return (e.g. in case of a later revocation concerning other items of the same order) within the same order, the return cost will be borne by you; we will charge a fixed amount of EUR 3,95 which we will immediately deduct from the amount to be refunded to you.

iii. Returns by courier:

If you want to return the products via a courier instructed by us, please follow the instructions under "My Account> Returns" on our website. If you do not have a customer account, please use the link you received in the Delivery Confirmation. We will offer to arrange collection by courier from your home. We would like to inform you that you will bear the cost of the return organized this way; we will charge a fixed amount of EUR 6,95 which we will immediately deduct from the amount to be refunded to you.

Alternatively you can return the products to the following address at your own expense:

Arvato Polska, ul. Kolumba 8, Komorniki k. Poznania, Poland

If you choose to return the products to us "cash on delivery", please note that we are entitled to charge you for any costs incurred.

Should you decide to return the products to us at your own expense or "cash on delivery", please enclose the e-ticket, which was attached to the Delivery Confirmation received for the respective product and is also saved under "My Account" on our website or the Bershka App, with the return in printed form.

We will check the returned products and inform you about your right to a refund for the amounts paid. The refund (less return costs if applicable, please see above) will take place as quickly as possible, and in any event, within 14 days from the date on which we received notification of your revocation. Notwithstanding the aforementioned, we may refuse the refund until we have received the returned products or until you have provided evidence that you have returned the products, depending on which takes place sooner.

The refund will always take place with the same payment method that you used to pay for the purchase.

You are only required to cover any loss in value of the products, if this loss in value is due to handling of the products that is not necessary for inspecting the quality, characteristics and function of the products.

END OF REVOCATION INSTRUCTION

16.2 Voluntary contractual right of return

In addition to the statutory right of revocation for consumers and users, mentioned in clause 16.1 above, we, Inditex Österreich GmbH, grant you a contractual right of return. This allows you to return the products to us within a period of 30 days from the receipt of the Delivery Confirmation for the respective product and by presenting the e-ticket. Your warranty claims, to which you are entitled by law, are not restricted by this contractually granted right of return.

The return of the gift card / eCard is governed by the Terms of Use of the Gift Card.

To exercise your right of return, it is sufficient to return the goods to us by one of the following methods:

i. Returns to any Bershka store:

You can return all products to any Bershka store in Austria that has the same department to which the products that you intend to return belong. In such case, you should go to such store and present, as well as the product, the e-ticket that was attached to the Delivery Confirmation, which is also saved under "My Account" on our website, and on the app. You can present e-ticket either by showing it in digital form on your mobile, or by bringing to the store a print of the e-ticket. This option is always free of charge for you.

ii. Returns at collection points:

You may return products by handing them in at a collection point in Austria (post office or packing station). In order to do this please follow the instructions under "My Account> Returns". If you do not have a customer account, please use the link you received in the Delivery Confirmation. After your request has been verified, you will receive a confirmation e-mail and the franked return form for printing and affixing it to the parcel. We inform you that we will bear the cost of the first return organized this way within one and the same order, if you request this return within a period of 14 days from the receipt of the Delivery Confirmation. For requesting the return from the 15th day after receiving the Delivery Confirmation, as well as for each subsequent return (e.g. if you decide at a later stage that you want to return more items of the same order) within the same order, the return cost will be borne by you; we will charge a fixed amount of EUR 3,95 which we will immediately deduct from the amount to be refunded to you.

iii. Returns by courier:

If you want to return the products via a courier instructed by us, please follow the instructions under "My Account> Returns" on our website. If you do not have a customer account, please use the link you received in the Delivery Confirmation. We will offer to arrange collection by courier from your home. We would like to inform you that you will bear the cost of the return organized this way; we will charge a fixed amount of EUR 6,95 which we will immediately deduct from the amount to be refunded to you.

You may also return the products to the address specified under clause 16.1 at our own expense.

If you choose to return the products to us "cash on delivery", please note that we are entitled to charge you for any costs incurred.

Should you decide to return the products to us at your own expense or by “cash on delivery”, we ask you to enclose the e-ticket attached to the Delivery Confirmation e-mail received for the respective product and which is additionally saved under “My Account” on our website or on Bershka App in printed form.

Please note that if you make use of the contractual right of return and organize the transport yourself, i.e. do not use any of the above return alternatives, you bear the return risk yourself.

If possible, the return must be made using the original packaging.

We will check the returned products and inform you about your right to a refund for the amounts paid. The refund (less return costs if applicable, please see above) will take place as quickly as possible, and in any event, within 14 days from the date on which we received notification of your cancellation. The refund will always take place via same payment method that you used to pay for the purchase.

Please be aware that your right to return only applies to products that were returned in the condition in which you received them. If the use of a product goes beyond mere inspection such as could be carried out in, for example, a shop, no refund will be given for damaged products or products that are not in the same condition as when you received them.

In addition you cannot return the following products:

- i. Customized products.
- ii. Music CDs/DVDs with their original seal removed.
- iii. Separate parts of a set.
- iv. Sealed products that are not suitable for return due to hygiene reasons and that have had their seal broken after delivery.

If you have any questions, you can contact us on our contact form or by calling 0800 297 670.

16.3 Return of defective products

If you believe that a product does not correspond to the contractual Terms and Conditions valid at the time of the delivery, i.e. is defective, you should contact us immediately using our web form and notify us of the details of the product and the deficiency. You can also call us on 0800 297 670 and we will advise you of how to proceed.

You may return the product to the address specified under clause 16.1 or to any Bershka store in Austria.

Our stores are entitled to ask for a proof of purchase, which could be a copy of the e-ticket attached to the Delivery Confirmation that is additionally saved under “My Account” on our website or on the Bershka app. You can present the e-ticket either by showing it in digital form, or by bringing to the store a print of the e-ticket.

You first have the right to request either an improvement or a replacement of the product, provided that the improvement or replacement of the product is reasonable. The improvement or replacement will take place as quickly as possible, and in any event, within 14 days of the date on which we notified you by e-mail that you are entitled to a improvement or replacement of the product. Should an improvement or a replacement be connected with disproportionately high expenditure, we will notify you and reimburse you the amount. You have the right to reduce the price or to dissolve the contract only under the conditions specified in § 12 para 4 VGG. You may not dissolve the contract under any circumstances if the defect is minor.

The amounts paid for products that are returned due to defects - if available - shall be fully refunded, including the shipping costs associated with the shipment of the products and the costs that you have incurred as a result of the return shipment to us. The refund shall take place via the same payment method that you used to pay for the purchase.

If you are entitled to further statutory rights outside the VGG, these shall remain unaffected by this in any case.

16.4 Right of revocation and return for orders from abroad

If you have ordered products from outside Austria from another EU member state via this website, the above clauses 16.1 and 16.2 apply with the restrictions that the collection by a courier commissioned by us can only be made from the original delivery address within Austria. At the same time we would like to inform you that we are under no circumstances (with the exception of cases of statutory warranty law to which this provision does not apply) obliged to reimburse shipping costs to places other than the original delivery address and/or the return costs from places outside Austria.

17. LIABILITY AND WAIVING LIABILITY

Unless otherwise indicated expressly in these Conditions, our liability regarding any product acquired on our website shall be limited strictly to the price of purchase of said product.

Notwithstanding the above, our liability shall not be waived nor limited in the following cases:

- i. In case of death or personal harm caused by our negligence;
- ii. In case of fraud or fraudulent deceit; or
- iii. In any case in which it were illegal or illicit to exclude, limit or attempt to exclude or limit our liability.

Notwithstanding the paragraph above, and to the extent legally allowed, and unless these Conditions indicate otherwise, we shall 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 contracts;
- iv. loss of forecast 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 in storage and transmission of digital information, we do not warrant the accuracy and security of the information transmitted or obtained by means of this website, unless otherwise indicated expressly on this website.

All product descriptions, information and materials shown on this website are provided "as is", with no express or implied warranties on the same, except those legally established. In this sense, if you are contracting as a consumer or user, we are obliged to deliver products that are in conformity with the Contract, being liable to you for any lack of conformity which exists at the time of delivery. It is understood that the products are in conformity with the Contract if they: (i) comply with the description given by us and possess the qualities that we have presented in this website, (ii) are fit for the purposes for which products of the kind are normally used and (iii) show the quality and performance which are normal in products of the same type and can which can reasonably be expected.

To the extent permitted by law, we exclude all warranties, except those that may not be excluded legitimately in favor of consumers and users.

The products that we sell, especially artisan products, often have the characteristics of the natural materials used in manufacturing them. These characteristics, such as variations in grain, texture, knots and colour, may not be considered defects or damage. On the contrary, you must count on their presence and appreciate them. We select only products of the highest quality but natural characteristics are inevitable and should be accepted as part of the individual appearance of the product.

The provisions in this clause shall not affect your statutory rights as a consumer under the VGG, in particular the right to dissolve the contract

18. INTELLECTUAL PROPERTY

You recognised and agree that all copyrights, registered trademarks and other intellectual property rights on all materials or contents provided as part of the website belong to us at all times or to those who grant us license for their use. You may use said material only to the extent that we or the usage licensors authorize it expressly. This does not prevent you from using this website to the extent necessary to copy the information on your order or contact details.

19. VIRUSES, PIRACY AND OTHER COMPUTER ATTACKS

You must not make undue use of this website by intentionally introducing viruses, Trojans, worms, logic bombs or any other software or technologically damaging or harmful material. You shall not attempt to make unauthorized access to this website, the server on which the site is hosted or any server, computer or database related to our website. You undertake not to attack this website through any attack of denial of service or an attack of distributed denial of service.

Failure to comply with this clause shall be considered an infraction as defined under the applicable regulations. We will report any failure to comply with this regulation to the corresponding authorities, and we will co-operate with them to determine the identity of the attacker. Likewise, in the event of failure to comply with this clause, authorization to use this website shall be suspended immediately.

We shall not be held liable for any damage or harm resulting from a denial of service attack, virus or any other software or technologically damaging or harmful material that may affect your computer, IT equipment, data or materials as a result of using this website or downloading content from the same or those to which this site redirects you.

20. LINKS FROM OUR WEBSITE

If our website contains links to other websites and third-party materials, said links are provided for information purposes only and we have no control whatever over the content of those websites or materials. Therefore, we shall not accept any liability for any damage or harm deriving from their use.

21. WRITTEN COMMUNICATION

The applicable regulations require that some of the information or notification that we send to you be in written form. By using this website, you agree that most of the communication with us will be electronic. We will contact you by e-mail or we will provide you information by posting alerts on this website. For contractual purposes, you agree to use this electronic means of communication and accept that all contracts, notifications, information and other communication that we send you electronically complies with the legal requirements of providing it in writing. This condition will not affect your statutory rights.

22. NOTIFICATIONS

The notifications that you send us must be sent preferably through our contact form. Pursuant to the provisions in clause 21 above and unless otherwise stipulated we may send you notifications either by e-mail or to the postal address you provided us when placing an order.

It shall be understood that the notifications have been received and have been carried out correctly as soon as they are posted on our website, 24 hours after they have been sent by e-mail, or three days after the postage date on any letter. As proof that the notification has been sent it shall be sufficient to prove, 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 mail box, and in the case of an email, that the notification was sent to the email address specified by the recipient.

23. TRANSFER OF RIGHTS AND OBLIGATIONS

The Contract is binding both, for you and for us, as well as for our respective successors, transferees and heirs.

You may not transmit, cede, levy or in any other way transfer a Contract or any of the rights or obligations derived from the same, without having obtained our written consent in advance.

We may transmit, cede, levy, subcontract or in any other way transfer a Contract or any of the rights or obligations derived from the same, at any time during the life of the Contract. To avoid any doubt, said transmissions, cessions, levies or other transfers shall not affect the rights that, as applicable, you have as a consumer recognized by law or cancel, reduce or limit in any way the express and tacit warranties that we may have given you.

24. EVENTS BEYOND OUR CONTROL

We will not be liable for any non-compliance or delay in compliance with any of the obligations we assume under a Contract when caused by events that are beyond our reasonable control ("Force Majeure").

Force Majeure shall include any act, event, failure to exercise, omission or accident that is beyond our reasonable control, including, among others, the following:

- i. Strike, lockout or other forms of protest.
- ii. Civil unrest, revolt, invasion, terrorist attack or terrorist threat, war (declared or not) or threat or preparation for war.
- iii. Fire, explosion, storm, flood, earthquake, collapse, epidemic or any other natural disaster.
- iv. Inability to use trains, ships, aircraft, motorized transport or other means of transport, public or private.
- v. Inability to use public or private telecommunication systems.
- vi. Acts, decrees, legislation, regulations or restrictions of any government or public authority.
- vii. Strike, failure or accident in maritime or river transport, postal transport or any other type of transport.

It shall be understood that our obligations deriving from Contracts are suspended during the period in which Force Majeure remains in effect, and we will be given an extension of the period in which to fulfil these obligations by an amount of time equal to the time that the situation of Force Majeure lasted. We will provide all reasonable resources to end the situation of Force Majeure or to find a solution that enables us to fulfil our obligations by virtue of the Contract despite the situation of Force Majeure.

25. WAIVING RIGHTS

The lack of requirement on our part for strict compliance on your part with any of the obligations assumed by you by virtue of a Contract or of these Conditions or a lack of exercising on our part of the rights or actions that correspond to us by virtue of this Contract or of the Conditions shall not constitute the waiving or limitation of said rights or actions, nor exonerate you from fulfilling said obligations.

The waiving on our part of a specific right or action shall not constitute the waiving of other rights or actions derived from the Contract or from the Conditions.

The waiving on our part of any of these Conditions or of the rights or actions derived from the Contract shall not take effect unless expressly stipulated that it is a waiving of rights and is formalized and notified to you in accordance with the provisions of the Notifications section above.

26. ENTIRE AGREEMENT

These Conditions and any document referenced in the same constitute the entire agreement between you and us as regards the purpose of the same, replacing any previous pact, agreement or promise made between you and us verbally or in writing.

You and ourselves acknowledge that we have agreed to enter into the Contract without depending on any declaration or promise made by the other party or that could have been inferred from any statement or document in the negotiations entered into by the two parties prior to said Contract, except those expressly mentioned in these Conditions.

Neither you nor ourselves shall take any action regarding any untrue statement made by the other party, verbally or in writing, prior to the date of the Contract (unless said untrue statement was made fraudulently) and the only action that may be taken by the other party shall be due to breach of contract in accordance with the provisions of these Conditions.

27. OUR RIGHT TO MODIFY THESE CONDITIONS

We have the right to review and modify these Conditions at any time.

You are subject to the policies and Conditions in effect at the moment in which you use this website or place an order, except when by law or decision of governmental entities we must make changes retroactively in which case the possible changes will also affect orders made previously by you.

28. APPLICABLE LEGISLATION AND JURISDICTION

The use of our website and the product purchase contracts through said website shall be governed by Austrian legislation.

Any controversy that arises or is related to the use of the website or said contracts shall be subject to the exclusive jurisdiction of the Austrian courts.

If you are entering into the contract as a consumer, nothing in this clause shall affect the rights you have, as recognized in any applicable legislation in effect.

29. COMMENTS AND SUGGESTIONS

Your comments and suggestions are always welcome. Please send any comments and suggestions through our contact form.

Moreover, there are official claim forms available to consumers and users. Those can be requested by calling 0800 297 670 or through our contact form.

30. ONLINE DISPUTE RESOLUTION

If you as a buyer consider your rights have been breached, you can address your complaints to us via the email address contact@bershka.com in order to seek an out-of-court settlement.

If you are a consumer, Bershka has to provide you with the link to the online dispute settlement platform in accordance with the Alternative Dispute Settlement Law. This link reads as follows: <https://ec.europa.eu/consumers/odr/main/index.cfm?event=main.home.chooseLanguage>. You can also address any complaint to the above e-mail address.

31. CAMERA KIT FEATURE

The Camera Kit feature available in the Bershka app is a technology provided by SnapChat which enables private users to simulate using products with virtual props using their camera, which can take photographs or videos of them. The photographs/videos can only be stored in the gallery of user's device or be shared directly by the user on social media platforms that they have connected and are available for this feature; photographs/videos will not be stored by us. We will only use your image, that does not leave your device, for this function (i.e. only for the purpose of simulating how the clothing / accessories will look on you).

We (Inditex Österreich GmbH) does not guarantee that any result obtained will suit the needs of users or be fit for any purpose or aim sought. We cannot guarantee the quality of the result or any exclusivity over the props.

As the user, you confirm to us that: (i) you are the holder of all economic and moral rights over the photograph, exonerating us from any type of legal liability relating to the copyright and intellectual property over this content, and that (ii) this photograph (a) will not infringe the rights (incl., by way of example, intellectual property or industrial property rights, the right to self-image or personal privacy or any other rights) or interests of third parties, or any applicable standard or legislation (whether international, Austrian or other) and (b) will not reproduce the image of people other than you, nor will it include any element that may be considered offensive or discriminatory (be it on the grounds of race, religion, gender, sexual orientation, or political or union affiliation), unlawful, threatening, libelous, defamatory, obscene, pornographic or indecent, or otherwise inappropriate.

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