

## **PURCHASE AND USE TERMS AND CONDITIONS**

### **1. INTRODUCTION**

This document (together with the documents mentioned herein) establishes the conditions governing the use of each and every webpage designed and addressed to Belgium under the domain [www.bershka.com](http://www.bershka.com) as well as their respective subdirectories, irrespective of whatever application, digital medium, support or device is used to access said webpages (hereinafter, jointly, the "Platforms") and the purchase of products on them (hereinafter referred to as the "Conditions").

We urge you to carefully read these Conditions, our Cookies Policy and our Privacy Policy (hereinafter, jointly, the "Data Protection Policies") before using the Platforms. When you use these Platforms or place an order on them, you are aware that you are bound by these Conditions and our Data Protection Policies, so if you do not agree with all of the Conditions and with the Data Protection Policies, you must not use our Platforms.

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

If you have any query regarding the Conditions or the Data Protection Policies you may contact us by using any of the contact methods available on the Platforms.

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

### **2. OUR DETAILS**

Sale of goods through the Platforms is carried out under the trading name "BERSHKA" by INDITEX BELGIQUE S.A., a Belgian company registered with the Banque Carrefour des Entreprises (B.C.E.) under number 0450.661.802, with VAT Number BE0450661802 and whose registered office is located at Rue aux Laines 68-72, 1000 Brussels (Belgium) (hereinafter referred to as "BERSHKA"). BERSHKA, as appropriate, will be also referred hereinafter to as "us", "we" and "our".

You can contact us at:

Tel: 0 800 784 06

Email: [contact@bershka.com](mailto:contact@bershka.com)

### **3. YOUR DETAILS AND YOUR VISITS TO THE PLATFORMS**

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

### **4. USE OF OUR PLATFORMS**

When you use the Platforms and place orders through them, you agree to:

- Use the Platforms to make legally valid enquiries and orders only.
- 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 authorised to cancel it and inform the relevant authorities.
- 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 if necessary (see our Privacy Policy).

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

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

## **5. SERVICE AVAILABILITY**

The articles offered on the Platforms are available for delivery in Belgium only.

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

## **6. FORMALISING THE CONTRACT**

The information contained in these Conditions and the details contained on the Platforms 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 "Authorise Payment". After doing so, you will receive an e-mail confirming receipt of your order (the "Order Confirmation").

If you are placing an order through one of the electronic devices made available by BERSHKA at certain Bershka shops in Belgium for this purpose, you must follow the steps of the purchase process that appear on the electronic device. You will be required to pay for your order upon completing the purchase process. If the payment is successful, the Order Confirmation will be sent by email or by SMS, depending on whether or not you are a registered user.

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 approval, which you will be informed of via an e-mail in which we will confirm that the order is being sent (the "Shipment Confirmation"). If you are a non-registered user placing an order via an electronic device made available by BERSHKA, the Shipment Confirmation shall be sent by SMS.

An electronic ticket with your order details shall be attached to the Shipment Confirmation (the "E-ticket"). If you are a non-registered user placing an order via an electronic device made available by BERSHKA, the E-ticket shall be accessible via a link sent to you by SMS.

The contract between us to buy a product (the "Contract") shall be formalised only when we send you the Shipment Confirmation.

Only the products listed in the Shipment 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 Shipment Confirmation.

## **7. 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 items 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.

## **8. REFUSAL TO PROCESS AN ORDER**

We reserve the right to remove any product from the Platforms 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 the Platforms for removing or modifying any material or content from the Platforms, or not processing an order once we have sent the Order Confirmation.

## **9. DELIVERY**

Notwithstanding clause 7 above regarding product availability and save for extraordinary circumstances, we will endeavour to send the order consisting of the product(s) listed in each Shipment Confirmation prior to the date indicated in the Shipment 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.

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. With regard to virtual Gift Card, we will send it on the date indicated by you when you place an order. Keep in mind in any case that we do not make home deliveries on Saturdays, Sundays and bank holidays, except in the case of the virtual Gift Card which will be delivered on the date indicated by you.

For the purposes of these Conditions, "delivery" shall be understood to have taken place or the order "delivered" as soon as you or a third party indicated by you acquires physical possession of the goods, which will be evidenced by the signing of the receipt of the order at the agreed delivery address.

The virtual Gift Card shall be deemed to be delivered in accordance with the Terms and Conditions of the Gift Card, and in all cases on the delivery date of the virtual card to the e-mail address indicated by you.

#### **10. INABILITY TO DELIVER**

If it is impossible for us to delivery your order, we will attempt to find a safe place to leave it. 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 what to do to have it delivered again. If you will not be at the place of delivery at the agreed time, we ask you to contact us to organize delivery on another day.

If after 15 days from the date your order is available for delivery, the order could not be delivered for reasons not attributable to us, we shall assume that you wish to cancel the Contract and it will be terminated. As a result of the termination of the Contract, 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 least expensive ordinary delivery method that we offer) without any undue delay, and at any rate, within 14 days of the date on which we deem the Contract to have been terminated.

Please keep in mind that transport derived from the termination of the Contract may have an additional cost which we will be entitled to pass on you.

This clause shall not apply to the virtual Gift Card for which the delivery shall be governed by the Terms and Conditions of the Gift Card and clause 9 above.

#### **11. TRANSMISSION OF RISK AND OWNERSHIP OF THE PRODUCTS**

The product risks shall pass to you upon delivery as defined in clause 9 above.

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 upon delivery (as defined in clause 9 above), if that were to take place at a later time.

#### **12. PRICE AND PAYMENT**

The price of the products will be as stipulated at all times on the Platforms, except in the case of an obvious error. Although we make every effort to ensure that the prices featured on the Platforms 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 Shipment Confirmation ) if the error in the price is obvious and unmistakable and could have reasonably been recognised by you as an incorrect price.

The prices on the Platforms include VAT, but exclude delivery fees, which are added to the total price as indicated in our Help menu – “Delivery” section.

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 articles 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 help section. Also, if you are a registered user, a record of all the orders placed by you is available in "My Account" area.

You may use, as payment method, the cards Visa, Mastercard, American Express, Bancontact, Bancontact QR code and Paypal. Alternatively, you can pay all or part of the price of your order with a Gift Card or Voucher Card for Belgium issued by INDITEX Belgique S.A.

Please be informed that Fashion Retail, S.A. with 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 will collect and make refunds on behalf of INDITEX Belgique S.A. in relation to all payments made through the Platforms.

If you are placing your order through one of the electronic devices that are available at certain Bershka shops in Belgium for this purpose, you may also be given the option to pay for your order at the till, and in which case, your payment can be made by any of the means of payment available in those shops.

To minimise the risk of non-authorized access, your credit card details will be encrypted. Once we receive your order, we will make 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 PayPal, Gift Card or Voucher Card for Belgium issued by INDITEX Belgique S.A. the charge will be made when we confirm your order.

When you click "Authorise Payment", you are confirming that the credit card is yours or that you are the legitimate holder of the Gift Card or the Voucher Card, as applicable

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

### **13. EXPRESS CHECKOUT**

The express checkout feature (hereafter "Express Checkout") makes it easier for you to make purchases on the Platforms as you do not have to enter shipping, billing and payment information for each purchase. Express Checkout is available in the Basket section.

To use Express Checkout you will have to save your card information. You may do so when making a payment with any of the cards accepted by the Platforms by clicking the "Save my card information" option. This will result in the following card information being saved: card number, card holder name exactly as it appears on the card and card expiry date.

To save your card information and use Express Checkout, you will have to accept the applicable Privacy Policy and Conditions.

By agreeing to use Express Checkout, you authorize that purchases paid through the tool be charged to the respective card linked to the tool. Card usage shall be governed by the written terms between you and the card issuer in all cases.

You may save card information in Express Checkout for as many cards as you like, to do so must make at least one payment with each of them. If you wish to save card information for more than one card, the card whose information was saved most recently will be considered your "Favourite Card", and will be charged for Express Checkout purchases by default. However, you may change your Favourite Card in the My Account section of the Platforms.

To use Express Checkout, you only have to click on the "Express Checkout" button that appears in the Basket. A screen will immediately appear with the shipping, billing and payment information for your purchase. The information available on this screen cannot be edited, so if there is incorrect information do not complete the purchase. To make purchases using different details please do not use the Express Checkout service.

The provisions of this clause shall not apply if you buy goods as a guest.

#### **14. BUYING GOODS AS A GUEST**

The functionality of buying goods as a guest is also available on the Platforms. 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.

#### **15. VALUE ADDED TAX**

Pursuant to the prevailing rules and regulations in force, all purchases done through the Platforms are subject to the Value Added Tax (VAT), except for those to be supplied directly to customers of the Canary Islands, Ceuta and Melilla.

In this regard and pursuant to Chapter I of Title V of Council Directive 2006/112/EC of 28 November 2006, on the common system of value added tax, the place of supply shall be deemed to be within the Member State of the address where items shall be delivered, and applicable VAT shall be at the prevailing rate in each Member State where items are to be supplied as per the orders placed.

Pursuant to the applicable rules and regulations in each jurisdiction, the rule of the "reverse charge" (article 194 of Directive 2006/112) may apply to goods supplied in certain Member States of the European Union if the customer is or is required to be a taxable person for VAT purposes. If this is the case, no VAT would be charged by us, subject to the confirmation by the recipient that the VAT on the items supplied would be accounted for by the customer under the reverse charge procedure.

As regards orders to be supplied in the Canary Islands and Ceuta and Melilla, they would be VAT exempt as provided under article 146 of the above referred Directive, subject to the application of the relevant taxes and custom duties pursuant to the prevailing rules and regulations.

## **16. EXCHANGE/RETURN POLICY**

### **16.1 Legal right of withdrawal**

#### *Right of withdrawal*

You have the right to withdraw from the Contract (except for the products mentioned in clause 16.3 below for which the right of withdrawal is excluded) within 14 days, without giving any reason.

The withdrawal period will expire after 14 days from the day on which you acquire, or a third party other than the carrier and indicated by you acquires physical possession of the goods or, in case of multiple goods in one order delivered separately, after 14 days from the day on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the last good.

To exercise the right of withdrawal, you may notify us, either by writing us at BERSHKA, Pol. industrial INDITEX, Camino de Tordera a Palafolls S/N. Km.0.608490 Tordera - Barcelona (Spain) or through any of the communication methods available on our Platforms, of your decision to withdraw from the Contract by an unequivocal statement. You may use the model withdrawal form as set out in Annex, but it is not obligatory.

To meet the withdrawal deadline, it is sufficient for you to inform us about your exercise of the right of withdrawal before the withdrawal period has expired.

#### *Effects of withdrawal*

If you withdraw from the Contract, we shall reimburse to you all payments received from you, including the costs of delivery to the original delivery place within Belgium (with the exception of the supplementary costs resulting from your choice of a type of delivery other than the least expensive type of standard delivery offered by us and after deduction of the costs for returns via drop off method, as the case may be (please refer to clause 16.3 below)) without undue delay and in any event not later than 14 days from the day on which we are informed about your decision to withdraw from the Contract. We will carry out such reimbursement using the same means of payment as you used for the initial transaction unless if you agree expressly to another mean of payment. In any event, you will not incur any fees as result of such reimbursement. Notwithstanding the foregoing, we may withhold reimbursement until we have received the goods back or you have supplied evidence of having sent back the goods, whichever is the earliest.

You shall return the goods to us either by sending them back (together with a print-out of the E-ticket attached to the Shipment Confirmation) to SPEDIMEX – BERSHKA, Sosnowiec 15a, 95-010 Stryków (Poland) or by handing them over at any Bershka shop in Belgium showing the E-ticket or by dropping them off at a Drop off point in Belgium using a return label that we will send you upon your request. You must return the goods without undue delay and in any event not later than 14 days from the day on which you communicate your withdrawal from the Contract to us. The deadline is met if you send back the goods before the period of 14 days has expired.

Unless you hand the goods over at any Bershka shop in Belgium or you drop off at a drop off point in Belgium, within the statutory withdrawal period, the good of an order made of

a single product or the first good of an order made of multiple goods, you shall bear the direct cost of returning the goods.

The goods shall be returned or delivered to BERSHKA in a reasonable way and in accordance with a standard of care. You are liable for any diminished value of the goods resulting from the handling other than what is necessary to establish the nature, characteristics and functioning of the goods.

### **16.2 Contractual right of cancellation (right of commercial return)**

In addition and without prejudice to the legally recognised right to withdraw from the Contract for consumers mentioned in clause 16.1 above, we grant you a period of 30 days from the date of the Shipment Confirmation (except for those products mentioned in clause 16.3 below, for which the right to cancel is excluded) to return the products.

Return of Gift Cards is governed by the Terms and Conditions of the Gift Card.

In case you return the goods within the contractual term of the right of withdrawal, but once the statutory period has expired, you will be reimbursed, only, with the amount paid for said products.

You will be responsible for the direct costs of returning the goods when the return is not carried out in a Bershka shop in Belgium.

You may exercise your right of withdrawal in accordance with the provision of clause 16.1 above, however should you inform us about your intention of cancelling the Contract after the legal term for withdrawal, you shall, in any case, return the goods to us within the 30 day term as from the Shipment Confirmation.

While exercising the contractual right of cancellation, the goods must mandatorily be returned in the same conditions in which you received them, with their original labels, packaging, instructions, and other documents, if any, accompanying them. Failing this, we reserve the right not to reimburse you.

### **16.3 Common provisions**

You shall not have the right to cancel the Contract when it is for the delivery of any of the following goods:

- Customised goods
- Music CDs/DVDs without their original wrapping.
- Sealed goods which are not suitable for return due to hygiene reasons or health protection and were unsealed after delivery.

Your statutory right to cancel the Contract shall apply exclusively to the goods that are returned or delivered to BERSHKA in a reasonable way and in accordance to the standards of care. Please remember that you are liable for the diminished value of the goods resulting from the handling other than what is necessary to establish their nature, characteristics and functioning, so take care of the goods while in your possession.

While exercising the contractual right of cancellation, the goods must mandatorily be returned in the same conditions in which you received them, with their original labels,



packaging, instructions, and other documents, if any, accompanying them. Failing this, we reserve the right not to reimburse you.

Upon cancellation, the respective goods shall be returned as follows:

- (i) You can make the returns at any Bershka shop in Belgium, going to the shop and returning the goods together with the E-ticket that was attached to the Shipment Confirmation, which is also saved under your account on the Platforms, and that you may show in digital form on your mobile device or in a print-out form. Where appropriate, you must also present the card that was used to pay for the goods.

Please note that in respect of orders that were originally placed through an electronic device made available at a Bershka shop in Belgium and that were paid for at the till of the shop, returns can only take place in any Bershka shop in Belgium and not via method (ii) below or any other method.

This option is always free of charge.

- (ii) You can also make the returns by dropping the goods off at a Drop off point in Belgium. In order to do this, you should request a return by means of “drop off return” method of the “My account” section of our Platforms and we will send you an e-mail with a return label that must be pasted on the package you will then drop off at a Drop off point in Belgium. You must follow the directions on the “RETURNS” section on the Platforms.

Please note that only the return of the unique good of an order or the return of the first good of an order made of multiple goods, and provided that such return is requested within the period of 14 days (the 14<sup>th</sup> day being included) from the receipt of the order, is free of charge.

By contrast, the costs resulting from returns via drop off of:

- any additional good of an order made of multiple goods, when the return of a first good of such order has already been made via drop off, although such additional return has been requested within the period of 14 days (the 14<sup>th</sup> day being included) from the receipt of the order, and
- any good, when the drop off return has been requested after the 14<sup>th</sup> day (included) from the receipt of the order

will be charged to you at a fixed amount. Such fixed amount will be directly deducted from the total amount to be reimbursed to you, if applicable.

For further information with regard to the costs of drop off returns, please refer to the Help Section, “returns” on our Platforms.

If you do not want to return the goods using the above mentioned options, you will be responsible for the costs and risks of returning the goods. In this case, please remember to attach a print-out of the E-ticket attached to the Shipment Confirmation, together with the returned goods.

We urge you to return the goods as soon as possible.

After examining the good, we will inform you of whether you have the right to reimbursement of the amounts paid. Delivery costs – after deduction of the costs of drop off returns, if the case may be - will be reimbursed when the right of withdrawal is exercised within the statutory period and all the goods in which the relevant parcel consists of 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 cancel the Contract. Notwithstanding the foregoing, we may withhold the reimbursement until we have received the goods back, or until you have supplied evidence of having sent back the goods, whichever is the earliest.

The refund will always be paid using the same payment means you used to pay for your purchase.

If you have any questions, you may contact us through any of the communication methods available on the Platforms.

#### **16.4 Returns of defective goods**

In the cases in which you consider that, upon delivery, the good is not as stipulated in the Contract, you must contact us immediately through any of the communication methods available on the Platforms, providing the good details and the damage sustained and we will indicate what you need to do.

You can return the good (together with a print-out of the E-ticket attached to the Shipment Confirmation) to SPEDIMEX – BERSHKA, Sosnowiec 15a, 95-010 Stryków (Poland) or at any Bershka shop in Belgium together with the E-ticket that you can show to us in digital form on your mobile device or that you can print it out, or by dropping them off at a Drop Off point in Belgium, using a return label that we will send you upon your request.

We will carefully examine the returned good and will notify you by e-mail within a reasonable period if the good may be refunded or replaced (as appropriate). The refunding or replacement of the good shall take place as soon as possible and in all cases within 14 days from the date on which we send you an email confirming the that refund or replacement of the good is going ahead.

The amounts paid for the products returned due to any damage or defect, when it actually exists, will be reimbursed in full, including the delivery costs related to sending the good and the costs to you for returning it to us. The refund shall be paid by the same payment means you used to pay from the purchase.

All rights recognised in current legislation shall be, in any case, safeguarded.

#### **16.5 Right of withdrawal and return for orders from abroad**

If you have ordered goods from outside Belgium from another EU member state via the Platforms the above clauses 16.1, 16.2, 16.3 apply.

At the same time, we would like to inform you that we are under no circumstances (with exception of clause 16.4 to which this clause 16.5 does not apply) obliged to pay shipping costs to destinations other than the original delivery address within Belgium nor the return costs from destinations outside Belgium.

## 17. YOUR GUARANTEE AND OUR LIABILITY

All product descriptions, information and materials shown on the Platforms are provided "as is", with no express or implied guarantees on the same, except those legally established. In this sense, if you are contracting as a consumer, we are obliged to deliver goods 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 goods 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 the Platforms, (ii) are fit for the purposes for which goods of the kind are normally used and (iii) show the quality and performance which are normal in goods of the same type and can which can reasonably be expected.

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 color, 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.

Although we exclude all guarantees to the extent permitted by law, please keep in mind that, as a consumer, you benefit from all the statutory guarantees in favour of consumers and more specifically from the legal guarantee of conformity as defined in articles 1649bis à 1649octies of the Belgian civil code.

Unless otherwise indicated expressly in these Conditions, our liability regarding any product acquired on the Platforms 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:

- In case of death or personal harm caused by our negligence;
- In case of fraud or fraudulent deceit; or
- 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:

- loss of income or sales;
- loss of business;
- loss of profits or contracts;
- loss of forecast savings;
- loss of data; and
- loss of management time or office hours.

Due to the open nature of the Platforms and the possibility of errors in storage and transmission of digital information, we do not guarantee the accuracy and security of the information transmitted or obtained by means of the Platforms, unless otherwise indicated expressly.

The provisions in this clause shall neither affect your rights as a consumer nor your right to cancel the Contract.

## **18. INTELLECTUAL PROPERTY**

You recognise and agree that all copyrights, registered trademarks and other intellectual property rights to the materials or contents provided as part of the Platforms 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 authorise it expressly. This does not prevent you from using the Platforms 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 the Platforms by intentionally introducing a virus, Trojan horse, worm, logic bombs or any other software or technologically damaging or harmful material. You shall not attempt to make unauthorised access to the Platforms, the server on which the Platforms are housed or any server, computer or database related to our Platforms. You agree not to attack the Platforms 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, authorisation to use the Platforms 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 the Platforms or downloading content from the same or those to which the Platforms redirect you.

## **20. LINKS FROM OUR PLATFORMS**

If the Platforms contain 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 COMMUNICATIONS**

The applicable regulations require that some of the information or notification that we send to you be in written form. By using the Platforms, you agree that most of the communication with us will be electronic. We will contact you by e-mail - or by SMS if you are a non-registered user placing an order through the electronic devices made available by certain Bershka shops - or we will provide you information by posting alerts on the Platforms. 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 comply with the legal requirements of providing them in writing. This condition will not affect your rights as recognised by law.

## **22. NOTIFICATIONS**

The notifications that you send us must be sent preferably through any of the communication methods available on the Platform. Pursuant to the provisions in clause 21 above, and unless otherwise stipulated, we may send you notifications either by e-mail, by SMS 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 Platforms, 24 hours after they have been sent by e-mail, or three days after the postage date on any letter or as soon as the SMS is sent to you without error message. 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, in the case of an email, that the notification was sent to the email address specified by the recipient and, in the case of an SMS, that the SMS was sent to the correct mobile telephone number provided by a non-registered user.

### **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 recognised by law or cancel, reduce or limit in any way the express and tacit guarantees that we may have given you.

### **24. FORCE MAJEURE**

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:

- Strike, lockout or other forms of protest which have not been announced in advance.
- Civil unrest, revolt, invasion, terrorist attack or terrorist threat, war (declared or not) or threat or preparation for war.
- Fire, explosion, storm, flood, earthquake, collapse, epidemic or any other natural disaster.
- Inability to use trains, ships, aircraft, motorised transport or other means of transport, public or private.
- Inability to use public or private telecommunication systems.
- Acts, decrees, legislation, regulations or restrictions of any government or public authority.
- 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 these 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 formalised and notified to you in accordance with the provisions of the Notifications section above.

## **26. PARTIAL ANNULMENT**

Should any of these Conditions or any provision of a Contract be declared null and void by firm resolution from the corresponding authority, the remaining terms and conditions shall remain in effect without being affected by said declaration of annulment.

## **27. 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.

## **28. OUR RIGHT TO VARY 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 the Platforms or place each order, except when by law or decision of governmental entities we must make changes retroactively to said policies, Conditions or Privacy Statement, in which case the possible changes will also affect orders made previously by you.

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

## **29. APPLICABLE LEGISLATION AND JURISDICTION**

The use of the Platforms and the product purchase contracts executed through said Platforms shall be governed by Belgian legislation.

Any controversy that arises or is related to the use of the Platforms or said Contracts shall be subject to the jurisdiction of the Belgian courts.

## **30. COMMENTS AND SUGGESTIONS**

Your comments and suggestions are always welcome. Please send any comments and suggestions through any of the communication methods available on the Platforms.

If you think that, as a consumer, your rights have been infringed, you may fill a complaint by sending an e-mail to [contact@bershka.com](mailto:contact@bershka.com) with a view to requesting an amicable settlement.

If the sale has taken place on-line through our Platforms, we inform you that, in accordance with Regulation (EC) N° 524/2013, you are also entitled to pursuing an out-of-court settlement of our dispute through the EU on-line dispute resolution platform accessible at the internet address <http://ec.europa.eu/consumers/odr/>.

You may also contact the Belgian ombudsman service for consumers, North Gate II, Boulevard du Roi Albert II, 8 1000 Brussels (tel. 02 702 52 20 – Fax 02 808 71 29- e-mail: [contact@mediationconsommateur.be](mailto:contact@mediationconsommateur.be) – web site accessible at the internet address <https://www.consumerombudsman.be/en>)

Last Update : 04/06/2024

**ANNEX**

**Model withdrawal form**

(Complete and return this form only if you wish to withdraw from the contract)

To BERSHKA, Pol. industrial INDITEX, Camino de Tordera a Palafolls S/N. Km.0.608490  
Tordera, Barcelona, (Spain) (e-mail: [contact@Bershka.com](mailto:contact@Bershka.com) )

I hereby give notice that I withdraw from my contract of sale of the following goods:

Ordered on/received on (\*):

Name of consumer:

Address of consumer:

Signature of consumer (only if this form is notified on paper)

Date

(\* ) Delete as appropriate



## **TERMS AND CONDITIONS OF USE OF THE BERSHKA APPLICATION AND OF THE FEATURES**

These Terms and Conditions of Use (the "Terms") specifically govern the access to and use of the services available on BERSHKA's App (the "App") and of various features, all of them available on the App and, some of them available on other platforms (the "Features"). These Terms are in addition and without prejudice to the purchase and use conditions of [www.bershka.com](http://www.bershka.com), where applicable.

The App's services and Features include: (i) enabling you to purchase products via the App, such purchases being regarded as purchases made on the BERSHKA's online store (the "Online Store"), and therefore subject to the purchase and use terms and conditions of [www.bershka.com](http://www.bershka.com), (ii) enabling you to manage receipts for purchases made on the Online Store, (iii) enabling you to use the QR code (the "QR ID") to identify yourself as a BERSHKA user, (iv) enabling you to receive an electronic receipt or electronic proof of purchase, by previously selecting the option "Digital receipt" on the App and then presenting at BERSHKA's physical stores (the "Physical Stores") the QR ID designed for this purpose. You may, for each transaction, opt to receive a digital receipt instead of a paper receipt, and (v) the option to use the Camera Kit available in the App, through which users may simulate using products available along with virtual props ("Camera Kit") under the terms and conditions set out below.

Both Physical Store and Online Store are operated in Belgium by INDITEX BELGIQUE S.A., a Belgian company registered with the Banque Carrefour des Entreprises (B.C.E.) under number 0450.661.802, with VAT number BE0450661802 and whose registered office is located at Rue aux Laines 68-72, 1000 Brussels (Belgium) (hereinafter referred to as "BERSHKA"). BERSHKA, as appropriate, will be also referred hereinafter to as "us", "we" and "our".

### **1. GENERAL DESCRIPTION OF THE SERVICES/FEATURES**

#### **1.1 Purchasing products on [www.bershka.com](http://www.bershka.com) via the App**

Customers can purchase products on [www.bershka.com](http://www.bershka.com) via the App. Therefore, purchases made using the App are regarded as purchases made on the Online Store and, as such, are subject to the purchase and use conditions of [www.bershka.com](http://www.bershka.com), which customers need to accept upon purchasing any product.

#### **1.2 Management of receipts for purchases made on the Online Store**

The receipts for purchases made on the Online Store will be stored on the App, more specifically in the 'My Purchases' section.

#### **1.3 Identifying yourself as a BERSHKA user by showing your QR ID**

The QR ID enables you to identify yourself at the Physical Stores, simplifying the procedure and offering you a better experience. Your QR ID may also allow you to participate in promotional actions and receive other advantages, which will be subject to the corresponding terms and conditions applicable for each case.

#### **1.4 Obtaining an electronic receipt**

When paying for a purchase in Physical Stores, you may request a receipt in electronic format instead of in a paper one. To do so, you must first activate the option “Digital receipt” on the App and then show the QR ID and the receipt will automatically be sent to the App.

From this moment on, you will be able to make exchanges or returns at Physical Stores using the QR ID, under the terms and conditions which will apply at all times, according to our commercial policy, and, in any event, in compliance with current legislation.

In this instance, you will not be issued a paper receipt. Therefore, it is paramount that you understand that by activating the option “Digital receipt” on the App and using the QR ID, you are expressly requesting a purchase receipt or a proof of purchase in electronic form, thus opting out of receiving it in paper form. In any event, you may request a paper receipt at any time by contacting our Customer Service via any of the communication methods advertised on the BERSHKA’s Platforms.

In any case, the governing regulation on electronic receipts or any other applicable regulation to which these Terms are bound shall always prevail.

If you choose to de-register as a user of the App, you may request, during the de-registering process, that all the receipts stored in the App be sent to an email address that you have provided to us for such purposes.

### **1.5 Scan receipts**

If your original receipt is in paper format, you can generate a digital version of such paper receipt by scanning the QR code that is printed on it. From then on, you can use this electronic receipt to make returns at Physical Stores under the terms and conditions which will apply at all times, in accordance with our commercial policy and, in any event, in compliance with current legislation.

### **1.6 Camera Kit**

The Camera Kit feature available in the App is a technology provided by SnapChat which enables users to simulate using products with virtual props using their camera, which can take photographs or videos of themselves. The photographs or videos can only be stored in the gallery of the user’s device or be shared directly by the user on the social media platforms that they have connected and are available for this feature.

BERSHKA does not guarantee that any result obtained will suit the needs of users or be fit for any purpose or aim sought. It cannot guarantee the quality of the result or any exclusivity over the virtual props.

As the user, you confirm to us that: (i) you are the holder of all economic and moral rights over the photographs or videos, exonerating BERSHKA from any type of legal liability relating to the copyright and intellectual property over this content, and that (ii) this photographs or videos (a) will not infringe the rights or interests of third parties (including, by way of example, intellectual property or industrial property rights, the right to self-image or personal privacy or any other rights), or any applicable standard or legislation (whether international or Belgian) and (b) will not reproduce the image of people other than you, nor will it include any element that may be considered offensive, unlawful, threatening, libelous, defamatory, obscene, pornographic or indecent,

discriminatory (be it on the grounds of race, religion, gender, sexual orientation, or political or union affiliation) or otherwise inappropriate.

## **2. AVAILABILITY OF SERVICES OFFERED VIA THE APP AND OF THE FEATURES**

In accordance with applicable laws, we reserve the right to amend, suspend or delete, at any time, at our sole discretion and without prior notice, be it generally or in particular for one or more users, the App itself or of all or part of the App's services or of all or part of the Features.

## **3. LIABILITY**

Except in those cases where the exclusion of liability is legally limited, we are not liable for any damage that you may suffer from using the App's services or any of the Features. You agree to use the App's services and the Features exclusively for the purposes for which they are intended and therefore, to not make any improper or fraudulent use thereof, and you will be liable to BERSHKA and/or any third party for any damage which may arise from an improper use of the App and/or of the Features.

You will be liable in the following cases:

- a) when, where applicable, your equipment or terminals associated with the App, SIM cards, email addresses and/or any passwords are used by a third party authorised by you without our knowledge;
- b) when errors or malfunction occur when you are using the service available on the App or any of the Features as a result of defective hardware, software, devices or terminals or of a lack of the necessary security measures installed on the device running the App or the Features.

## **4. INTELLECTUAL PROPERTY, INDUSTRIAL PROPERTY AND OTHER RIGHTS ASSOCIATED WITH THE APP AND WITH THE FEATURES**

Any of the elements that form part or are included in the App or in the Features are the property or are under the control of BERSHKA or third parties having authorised their use. All of the above shall be hereinafter referred to as the "Property".

Users agree not to remove, delete, alter, manipulate or in any other way amend:

- The notes, legends, signs or symbols that either BERSHKA or the legitimate right holders incorporate into their properties with regard to intellectual or industrial property (e.g. copyright, ©, ® and ™, etc.).
- Protection or identification technical devices that the Property may contain (e.g. watermarks, fingerprints, etc.). Users acknowledge that, under these Terms, BERSHKA does not assign or transfer to users any rights over their Property or over any third-party properties.

BERSHKA only authorises users to access and use the Properties in accordance with these Terms.

Users are not authorised to copy, distribute (including by email or on the Internet), broadcast, disseminate, amend, alter, transform, assign, or in any other way, engage in

activities that entail the commercial use of the Property, whether in whole or in part, without the express written consent of the legal holder of the exploitation rights.

Access to and use of the Property will always and in all cases be for strictly personal and non-commercial purposes.

BERSHKA reserves all rights applying to the Property, including, but not limited to, all intellectual and industrial property rights that it holds over them.

BERSHKA does not grant users any licences or authorisations to use the Property other than those expressly set forth in this clause. BERSHKA reserves the right to terminate or amend at any time and on any grounds any licences granted under these Terms.

Notwithstanding the foregoing, BERSHKA may take legal action against any other use by users which:

- does not comply with the terms and conditions herein laid down;
- infringes or breaches the intellectual and industrial property rights or other equivalent rights of BERSHKA or of any other third-party legitimate right holder, or violates any other applicable laws.

Last updated on 04/06/2024