

## **1. INTRODUCTION**

This document (together with any documents herein mentioned) sets forth the terms and conditions governing the use of this website and the purchase of items through such website (hereinafter, the "Terms"). Please read through these Terms, our Cookies Policy and our Privacy Policy (together the "Data Protection Policies") prior to using this website. By using this website or placing an order through it, you are consenting to be bound by these Terms and our Data Protection Policies. If you do not agree to all of the Terms and the Data Protection Policies, do not use this website. These Terms and the Data Protection Policies may be amended. It is your responsibility to regularly read through them, as the Terms and the Data Protection Policies in force at the time that you use the website or at the time of the formation of the Contract (as defined below) shall be the applicable ones. By purchasing any item from this website, you enter into a contract with us on these Terms.

## **2. OUR DETAILS**

Sale of items through this website is carried out under the BERSHKA name by ITX UK Limited, a UK company with registered offices at Lumina House, 89 New Bond Street, London W1S 1DA, company registration number 02245999, with VAT No, GB 649 927871 ("us"/"we"/"our"/"ITX"). You may contact our customer service department by using the contact form on our website, or by emailing us at [contact\\_gb@bershka.com](mailto:contact_gb@bershka.com), or by calling our freephone number 0808 2340209.

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

The information or personal details that you provide us with shall be processed pursuant to the Data Protection Policies. By using this website you are consenting to the processing of such information and details, and you represent that the whole information or details you have provided us with are true and accurate.

When you access your user account via the Bershka App, your session will remain active, so it will not be necessary to enter your login details again when you access your account via the App later on. If you access your user account through the Website, you can choose to keep your session active by checking the relevant box.

However, in order to perform certain operations and for security reasons, we may ask you to enter your login details again.

You may also end your user session at any time by clicking the 'log out' button under 'My account'.

Any information or personal data you provide will be handled in accordance with the provisions of the Data Protection Act. By using this website you consent to the handling of said information and data, and declare that all the information or data you provide are truthful and correspond to reality.

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

By using this website and/or by placing any order through it, you undertake:

- i) To use the website exclusively to make legitimate enquiries or orders.
- ii) Not to make any speculative, false or fraudulent orders. If we are reasonably of the opinion that such an order has been made we shall be entitled to cancel the order and inform the relevant authorities.
- iii) To provide correct and accurate e-mail, postal and/or other contact details to us and acknowledge that we may use these details to contact you in the event that this should prove necessary (see our Data Protection Policies).

If you do not give us all of the information that we need, we may not be able to complete your order. By placing an order through the website, you warrant that you are at least 18 years old and are legally capable of entering into binding contracts.

## **5. SERVICE AVAILABILITY**

Items offered over this website are only available for delivery to the United Kingdom mainland, Northern Ireland and the Isle of Man.

If you wish to order items from another EU member state outside of the UK via this website, you are of course welcome to do so, however the ordered items can only be delivered to a Bershka store or a delivery address within the United Kingdom mainland, Northern Ireland or the Isle of Man.

## **6. HOW THE CONTRACT IS FORMED**

The information set out in the Terms and the detail contained on this website do not constitute an offer for sale but rather an invitation to treat. No contract in respect of any items will exist between us and you until your order has been expressly accepted by us (whether or not funds have been deducted from your account). If we do not accept your offer and funds have already been deducted, these will be fully refunded. To place an order, you must follow the shopping process online and click on "Authorise payment" to submit the order. After this, you will receive an e-mail from us confirming receipt of your order (the "Order Confirmation"). Please note that this does not mean that your order has been accepted. Your order constitutes your offer to us to buy one or more items from us. All orders are subject to acceptance by us, and we will confirm such acceptance to you by sending you an e-mail that confirms that the item is being sent (the "Shipping Confirmation"). The contract for the purchase of an item between us (the "Contract") will only be formed when we send you the Shipping Confirmation. The Contract will relate only to those items whose dispatch we have confirmed in the Shipping Confirmation. We will not be obliged to supply any other items which may have been part of your order until the dispatch of such items has been confirmed in a separate Shipping Confirmation.

## **7. AVAILABILITY OF ITEMS**

All orders for items are subject to availability and in this regard, in the event of supply difficulties or because items are no longer in stock, we reserve the right to give you information about substitute items of an equal or higher quality and value which you can order. If you do not wish to order the substitute items we will reimburse any monies that you may have paid.

## **8. REFUSAL OF ORDER**

We reserve the right to withdraw any items from this website at any time and/or remove or edit any materials or content on this website. Whilst we will use our reasonable endeavours to process all the orders submitted to us, there may be exceptional circumstances which mean that we may need to refuse to process or accept an order after we have received it or sent you an Order Confirmation, which we reserve the right to do at any time.

We will not be liable to you or any other third party by reason of our withdrawing any item from this website, removing or editing any materials or content on this website or for refusing to process or accept an order after we have received it or sent you an Order Confirmation.

## **9. DELIVERY**

Subject to availability (see Clause 7 above), and unless there are any exceptional circumstances, we will endeavour to fulfil your order for items listed in the Shipping Confirmation by the delivery date set out in the Shipping Confirmation or, if no estimated delivery date is specified, then within a maximum of 30 days of the date of the Order Confirmation. If we fail to deliver the items within 30 days of the date of the Order Confirmation, you may cancel the Contract and we will reimburse you the price paid for the items and any delivery costs paid. Please note that the items included in your order may be shipped from different locations and therefore, they may be delivered separately and at different times.

If our supply of the items is delayed by an event outside our control then we will contact you as soon as possible to let you know and we will take steps to minimize the effect of the delay. Provided we do this we will not be liable for delays caused by the event, but if there is a risk of substantial delay you may contact us to end the Contract and receive a refund for any items you have paid for but not received. With regard to the virtual gift card, we will send it to you on the date indicated by you when you place your order.

Please note however that we do not deliver on Saturdays or Sundays, except in the case of the virtual gift card, which will be delivered on the date indicated by you.

For the purpose of these Terms "delivery" or "delivered" shall be deemed to have occurred when you or a third party nominated by you acquires physical possession of the items, which will be evidenced by the signing for receipt of the items at the agreed delivery address. The virtual gift card will 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. UNABLE TO DELIVER**

If we are unable to deliver, we will try to find a safe secure place to leave your parcel. If we cannot find a safe and secure place, your item(s) will be returned to our depot. We will leave a note explaining where your parcel is and how you can rearrange delivery. If you are not at the delivery location at the time agreed, please contact us again to rearrange delivery for another mutually convenient day.

If after 14 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 charges (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 of the date on which this Contract has been terminated. This clause shall not apply to the virtual gift card, for which the delivery is governed by the Terms and Conditions of the Gift Card and clause 9 above.

## **11. RISK AND TITLE**

The items will be at your risk from the time of delivery.

Ownership of the items will only pass to you when we receive full payment of all sums due in respect of the items, including delivery charges, or upon delivery (as defined in Clause 9), whichever is the later.

## **12. PRICE AND PAYMENT**

The price of any items will be as stipulated on our site from time to time, except in cases of obvious error. While we try to ensure that all prices on the website are accurate, errors may occur. If we discover an error in the price of items you have ordered, we will inform you as soon as possible and give you the option of reconfirming the order at the correct price or cancelling it. If we are unable to contact you, the order will be treated as cancelled and if you have already paid for the items you will receive a full refund. We are under no obligation to provide the items to you at the incorrect (lower) price (even after we have sent you a Shipping Confirmation) if the pricing error is obvious and unmistakable and could have reasonably been recognised by you as incorrect price. The prices on the website include VAT but exclude delivery costs, which will be added to the total amount due as set out in our Buying Guide. Prices are liable to change at any time, but (other than as set out above) changes will not affect orders in respect of which we have already sent you an Order Confirmation. Therefore, except as provided above, price adjustments on previous orders are not permitted.

Once you have finished shopping all the items you wish to purchase are added to your basket and your next step will be to go to the checkout process and make payment. To do this, you must follow the steps of the purchase process, completing or verifying the information requested in each step. Throughout the purchase process, before payment, you can modify the details of your order. There is a detailed description of the purchase process in the Buying 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 by Visa, Mastercard, American Express, Paypal and Apple Pay (only for iPhone or iPad APP). You can also pay all or part of the price of your order with a BERSHKA gift card or credit voucher card for the United Kingdom issued by ITX UK Limited (or under its previous company name, Bershka UK Limited), or with a Bershka, Zara, Zara Home, Massimo Dutti, Pull & Bear, Stradivarius or Oysho gift card or credit voucher card for the United Kingdom issued on or after 28 October 2020 by ITX UK Limited or Zara UK Limited. If you subsequently wish to exchange your order due to "change of size", this option will only be available for Bershka items, and only if you have used any of the following means of payment: Visa, Mastercard and American Express.

To minimise the possibility of unauthorised access, your credit card details will be encrypted. By clicking "Authorise payment" you are confirming that the credit card is yours or that you are the legitimate holder of the gift card or the credit voucher card. Credit cards are subject to validation checks and authorisation by your card issuer, but if your card issuer fails to authorise payment to us, we will not be liable for any delay or non-delivery and may not be able to form a contract with you.

#### *Ordering through electronic devices in store, and making payment for those purchases*

If you are placing your order through one of the electronic devices that are available at certain Bershka stores in the United Kingdom for this purpose, you must follow the steps of the purchase process that appear on the device, completing or verifying the information requested in each step. Throughout the purchase process, before payment, you can modify the details of your order. You must choose your payment method, and whether or not you require a gift receipt (if one is available), before you place your order. Please note that a binding order is placed at the time that you press the relevant "Authorise Payment" button on the device screen, and you are required to pay for your order once it has been placed.

Payment can be made by Visa, Mastercard, or American Express card, and the above provisions regarding validation checks and authorisation of your card will apply. 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 stores.

Please note that if you place your order through an instore electronic device, but wish to cancel the order, you must pay for the order and wait for the items to be delivered, before returning them in accordance with the returns policy described below.

### **13. BUYING ITEMS AS A GUEST**

The functionality of buying items as a guest is also available on the website. For this type of purchase, we will only request from you the essential data that is required to process your order. Upon completion of the purchase process, you will be offered the possibility of registering as a user or continuing as a non-registered user.

### **14. EXPRESS CHECKOUT**

You can use the express checkout feature ("Express Checkout") to make it easier for you to shop on this website, as you do not have to enter shipping, billing and payment information for each purchase. Express Checkout is available in the View Basket section.

To use Express Checkout you will have to save your card information. You can do this when making a payment with any of the cards accepted by this website by clicking the "Save my card information" option. This will result in your card number and card expiry date being saved.

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

By agreeing to use Express Checkout, you give your authority that purchases paid through Express Checkout will be charged to your linked card. Card usage will be governed by the terms and conditions you have agreed to with your card issuer.

You can save the details of as many cards as you like in Express Checkout; to do so you must have made at least one payment with each of them. If you have card information saved 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 this website.

To use Express Checkout, all you need to do is click on the "Express Checkout" button that appears in the Shopping 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 Express Checkout.

You can change your Favourite Card linked to Express Checkout in the My Account section of this website. The provisions of this clause will not apply if you are buying items as a guest.

## **15. VALUE ADDED TAX**

All purchases done through the web site are subject to statutory the Value Added Tax (VAT). In this regard, and pursuant to Chapter I of Title V of the Council Directive 2006/112/EC of 28 November 2006, the place of supply will 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 the items are to be supplied in accordance with the order placed. The prices displayed on this website include VAT.

## **16. RETURNS POLICY**

You may cancel your order for any reason up to 30 days from the date on which you receive the Shipping Confirmation, by notifying us of your decision to cancel using the following contact details: by using the contact form on our website, or by calling our Freephone number 0808 234 0209, or by emailing us at [contact\\_gb@bershka.com](mailto:contact_gb@bershka.com). To meet the cancellation deadline, it is sufficient for you to have sent your communication concerning your exercise of the right to cancel before the cancellation period has expired.

If you have been charged for any items, we will process a refund via your original payment method. Please refer to our Returns and Exchanges Policy in our Buying Guide for further information.

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

You do not have the right to cancel the Contract when it is for the delivery of any of the following three categories of "Excluded items":

### **Excluded Items**

1. Items that have been made to your specifications or clearly personalised.
2. Sealed audio recordings, sealed video recordings or sealed computer software, once they are unsealed/unwrapped after you have received them.
3. Sealed items that are not suitable for return for health protection and hygiene reasons (eg underwear, swimwear, earrings, hosiery, socks and fragrances), and that have been unsealed after delivery, or if the hygiene label is no longer in place.

When you receive the items, you may handle them to establish their nature, characteristics and functioning.

Acceptable handling of the items is that which would reasonably be allowed in a shop. Items should not have been damaged, soiled, washed, altered or worn (other than to try the item on) and any labels or tags must be intact. If your handling goes beyond what is acceptable and the items are damaged or diminished in value, we may deduct from the amount we reimburse to you, or you may be liable to us for, an amount equal to the diminished value of the items.

Items sent with special packaging (such as fabric bags, special boxes, suit carriers, tie-dye items) or additional accessories, must be returned with this special packaging or accessories also in the same condition.

#### **Returns Methods.**

To return an item, just choose one of the flexible return options below:

##### **a) Returns at any Bershka store**

You may return any item at any Bershka store in the UK. You just need to present, as well as the item, the e-ticket that was attached to the Shipping Confirmation, which is also saved under your account on our website, and on the Bershka mobile app. You can present the e-ticket either by showing it in digital form on your mobile phone, or by bringing to the store a print-out of the e-ticket.

##### *Return of items ordered through electronic devices in store, and paid for at the till*

Please note that in respect of orders that were originally placed through an electronic device in a Bershka store in the United Kingdom and that were paid for at the till of that store, returns can only take place in any Bershka store in the UK, and not via method b) or c) below, or by any other method.

##### **b) Returns by Courier**

We can arrange for a courier to collect the item that you wish to return. In order to do this, you should request this via the "Your Account/Returns" section of the website/App, to arrange for the item to be collected at your home. You must send the item in the same package that you received it, and follow the directions on the "Returns" section of the website/App. If you have bought items as a guest, you may request returns by courier by following the link to the returns process that was contained in both the Order Confirmation and Dispatch Confirmation emails.

You will be charged the cost of the return as specified in the HELP Section – "Exchanges and Returns".

##### **c) Returns to UK Post Office or Royal Mail collection sites**

You can request from us a pre-paid postage label for you to be able to attach to the parcel and drop your parcel off at your local Post Office, or Royal Mail collection site, in the UK. In order to do this, please follow the directions in the "My Account / Returns" section of this website, to obtain the parcel label. You must send the item in the same package that you received it, and follow the directions on the "Returns" section of this website. If you have bought any items as a guest, you may obtain the prepaid label by following the link to the returns process that was contained in both the Order Confirmation and Delivery Confirmation emails. Please note that you cannot use this returns method for items that were paid for at a till instore.

Returns at approved collection sites are free of charge for the first return that is done within 14 days from the shipping date, or, in the case of multiple shipments, within 14 days from the shipping date of the last shipment in the order.

You will be charged for returns at approved collection sites in the case of: (i) returns done after the expiry of 14 days from the shipping date, or, in the case of multiple shipments, after 14 days from the shipping date of the last shipment in the order; and (ii) second or subsequent returns of the same order.

You will be charged the cost of the return as specified in HELP Section – "Exchanges and Returns".

If you do not wish to use any of the return methods available, you will be responsible for the return costs.

Please bear in mind that if you wish to return the items to us freight collect/cash on delivery, we may charge you any costs incurred in such return.

After examining the items, we will inform you of whether you have the right to reimbursement of the amounts paid (deducting any postage charges as outlined above). Delivery costs will be reimbursed when the right of withdrawal is exercised within the statutory period and all the items which the relevant parcel consisted 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. Notwithstanding this, we may withhold the reimbursement until we have received the items back, or until you have supplied sufficient evidence of having sent back the items, whichever is the earlier. The refund will always be paid using the same payment means you used to pay for your purchase, except when a gift receipt is presented with the returned items. In this last instance, the refund will be made via a credit receipt or voucher.

You are responsible for the cost and risk of returning the items to us, as indicated above. If you have any questions, you can contact us by calling 0808 234 0209

#### d) Returns of defective items

If the item that you have received is defective, please notify us through the contact form on our website, or by calling 0808 234 0209, or by emailing us at [contact\\_gb@bershka.com](mailto:contact_gb@bershka.com), and return the item in accordance with the Returns Methods described in a) or b). Please provide proof of purchase, for example a copy of the E-ticket attached to the Shipping Confirmation. We will examine the item and if we deem it to be defective, we will provide a full refund including delivery charges, and the refund will be paid using the same means of payment that you originally used to pay for your purchase. These provisions do not limit any applicable statutory rights.

### **17. RIGHT OF WITHDRAWAL**

You have the right to withdraw from your order within 14 days, without giving any reason, although please note you have no right to withdraw items that are classed as 'Excluded Items' as mentioned above. The withdrawal period is counted from the day of the delivery of the last item(s) in your order. The easiest way to exercise your right of withdrawal is to contact us through the contact form on our website, or by calling 0808 234 0209, or by emailing us at [contact\\_gb@bershka.com](mailto:contact_gb@bershka.com), and returning the goods to us using one of the returns methods described above.

However, to meet the withdrawal deadline, it is sufficient for you to let us know about your decision to withdraw from your order before the withdrawal period has expired.

You may also use the model cancellation form as set out in the Appendix to these terms, although it is not obligatory.

If you have ordered items from outside the United Kingdom, from another EU member state via this website, then:

- the provisions of this Clause 17 shall apply regarding withdrawal, returns and exchanges, save that the "Returns to UK Post Office or Royal Mail collection sites" option can only be selected if it is from the original delivery address within the UK mainland; and
- we are under no obligation to repay shipping costs to destinations other than to the original UK/Isle of Man delivery address, nor will we repay the return costs from destinations outside the United Kingdom or Isle of Man;

except if the item is defective, in which case the provisions of the paragraph above entitled "Returns of defective items" will apply in all cases.

#### **Effects of withdrawal**

We will refund all payments received from you, including the costs of delivery to the original delivery address

(although we will not refund any supplementary delivery costs if you chose an enhanced type of delivery rather than our least expensive type of standard delivery), less the fixed return costs if applicable, without undue delay and in any event no later than 14 days from the day on which we are informed about your decision to withdraw. We will use the same means of payment that you used to pay for your order and this will not cause you any extra fees.

We may withhold the refund until we have received the items back, or you have supplied evidence of having sent back the items, whichever is the earlier.

You must send back the items or hand them over to us without undue delay, and in any event no later than 14 days from the day on which we are informed about your decision to withdraw. Please use one of the returns methods described above. If you do not use one of these returns methods, you will need to bear the cost of returning the items to us.

You are only liable for any diminished value of the items resulting from their handling, other than that which is necessary to establish the nature, characteristics and functioning of the items.

## **18. LIABILITY AND DISCLAIMERS**

Nothing in these Terms shall exclude or limit in any way our liability:

1. For death or personal injury caused by our negligence;
2. For fraud or fraudulent misrepresentation; or
3. For any matter for which it would be illegal or unlawful for us to exclude or limit, or attempt to exclude or limit, our liability.

We are responsible to you for foreseeable loss and damage caused by us. If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking the Contract or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the Contract was made, both we and you knew it might happen, for example, if you discussed it with us during the sales process.

We are not liable for business losses. We only supply the items for domestic and private use. If you use the items for any commercial, business or re-sale purpose we will have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

Due to the open nature of this website and the potential for errors in the storage and transmission of digital information, we do not warrant the accuracy and security of information transmitted to or obtained from this website unless otherwise expressly set out on this website.

We have a legal duty to supply items to you that are in conformity with the Contract, however, without affecting that duty and to the fullest extent permitted by law, all item descriptions, information and materials posted on this website are provided "as is" and without warranties express, implied or otherwise howsoever arising. Where you are contracting as a consumer, in line with our obligations at law, we will be responsible for delivering items to you that: (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 items of their kind are normally used and (iii) show the quality and performance which are normal in items of the same type and can which can reasonably be expected.

We warrant to you that any item purchased from us through this website is of satisfactory quality and reasonably fit for all of the purposes for which items of the kind are commonly supplied. To the fullest extent permissible pursuant to law, but without excluding anything that may not lawfully be excluded in the case of consumers, we disclaim all other warranties of any kind, whether express or implied, in relation to the items available on this website. Items (including handicraft items) sold by us will often contain the natural characteristics of the materials used in the manufacture of the completed item. Natural characteristics such as grain, texture, knots and colour variation should not be classed as faults or defects. Inconsistencies in these natural characteristics should be expected and appreciated. We select only items of the highest quality but natural characteristics are inevitable and should be accepted as part of the individual appearance of the item. Nothing in this Clause will



affect your statutory rights as a consumer, or your Contract cancellation rights.

## **19. INTELLECTUAL PROPERTY**

You acknowledge and agree that all copyright, trademarks and all other intellectual property rights in all material or content supplied as part of the website shall remain at all times vested in us or our licensors. You are permitted to use this material only as expressly authorised by us or our licensors. This does not prevent you using this website to the extent necessary to make a copy of any order or Contract details.

## **20. VIRUSES, HACKERING AND OTHER CYBERCRIMES**

You may not misuse this website/App by knowingly introducing viruses, Trojans, worms, logic bombs or other material which is malicious or technologically harmful. You will not attempt to have any unauthorized access to this website/App, to the server which hosts this site/App or to any other server, computer or data base related to our website/App. You undertake not to attack this website via a denial of service attack or a distributed denial of service attack. By breaching this provision you may commit a criminal offence under the applicable regulations. We will report any such breach to the relevant law enforcement authority and we will co-operate with the appropriate authority to disclose the identity of the hacker. Likewise, in the event of such a breach, your right to use this website will cease immediately. We will use reasonable care and skill to ensure that the website and App are safe, secure and free from bugs, viruses and other defects. Except to the extent it results from our failure to do so, we accept no liability for any loss or damage resulting from any denial of service attack, virus or any other software or material which is malicious or technologically harmful to your computer, equipment, data or material resulting from the use of this website or from the downloading of the contents thereof or of such contents to which this website/App redirects.

## **21. LINKS FROM OUR WEBSITE**

We may have links from our website to other third party websites and materials; such links are provided exclusively for information purposes and we do not have any control whatsoever over the contents of such websites or materials. Accordingly, we accept no liability whatsoever for any loss or damage which may arise from the use of such links.

## **22. WRITTEN COMMUNICATIONS**

Applicable laws require that some of the information or communications we send to you should be in writing. When using our site, you accept that communication with us will be mainly electronic. We will contact you by e-mail or provide you with information by posting notices on our website. For contractual purposes, you agree to this electronic means of communication and you acknowledge that all contracts, notices, information and other communications that we provide to you electronically comply with any legal requirement that such communications be in writing. This condition does not affect your statutory rights.

## **23. NOTICES**

All notices given by you to us should be given to us by post to ITX UK Limited, Lumina House, 89 New Bond Street, London W1S 1DA. Subject to and as otherwise specified in Clause 22 we may give notice to you at either the e-mail or postal address you provide to us when placing an order. Notice will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

## **24. TRANSFER OF RIGHTS AND OBLIGATIONS**

The Contract between you and us is binding on you and us and on our respective successors and assigns. You may not transfer, assign, charge or otherwise dispose of the Contract, or any of your rights or obligations arising under it (aside from our guarantee), without our prior written consent.

However, you may transfer our guarantee in respect of defective products, which is stated in clause 15, to a person who has acquired the item. We may require the person to whom the guarantee is transferred to provide reasonable evidence that they are now the owner of the relevant item or property, for example by providing

proof of purchase or producing a letter or chain of letters from the original Purchaser and subsequent Purchasers (where appropriate) transferring the benefit of the guarantee to the new owner of the item in question.

We may transfer, assign, charge, sub-contract or otherwise dispose of a Contract, or any of our rights or obligations arising under it, at any time during the term of the Contract. For the avoidance of doubt, any such transfer, assignment, charge or other disposition will not affect your statutory rights as a consumer or your rights under the Contract or cancel, reduce or otherwise limit any warranty or guarantee which may have been provided by us to you, whether express or implied.

## **25. EVENTS OUTSIDE OUR CONTROL**

We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under a Contract that is caused by events outside our reasonable control.

An event outside our control includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:

1. Strikes, lock-outs or other industrial action.
2. Civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war.
3. Fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster.
4. Impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport.
5. Impossibility of the use of public or private telecommunications networks.
6. The acts, decrees, legislation, regulations or restrictions of any government.
7. Any shipping, postal or other relevant transport strike, failure or accidents.

Our performance under any Contract is deemed to be suspended for the period that any event outside our control continues, and we will have an extension of time for performance for the duration of that period. We will use our reasonable endeavours to bring the event outside our control to a close or to find a solution by which our obligations under the Contract may be performed despite the event outside our control.

## **26. WAIVER**

If we fail, at any time during the term of the Contract, to insist upon strict performance of any of your obligations under the Contract or any of these Terms, or if we fail to exercise any of the rights or remedies to which we are entitled under the Contract, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with such obligations. A waiver by us of any default shall not constitute a waiver of any subsequent default arising from the Contract or the Terms. No waiver by us of any of these Terms shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing in accordance with the paragraph on Notices above.

## **27. SEVERABILITY**

If any of these Terms or any provisions of the Contract are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

## **28. OUR RIGHT TO VARY THESE TERMS**

We have the right to revise and amend these Terms from time to time. You will be subject to the policies and Terms in force at the time that you use this website or order items from us, unless any change to those policies, Terms or Privacy Statement is required to be made by law or governmental authority, in which case, any potential changes will also apply to orders previously placed by you.

## **29. LAW AND JURISDICTION**

The use of our website and the Contracts for the purchase of items through such website will be governed by English law. Any dispute arising from, or related to the use of the website or to such Contracts shall be subject to the non-exclusive jurisdiction of the English courts. If you are contracting as a consumer, nothing in this Clause will affect your statutory rights as such. If you live in Scotland you can bring legal proceedings in respect of the items in either the Scottish or the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of the items in either the Northern Irish or the English courts. If you live in the Isle of Man you can bring legal proceedings in respect of the items in either the Isle of Man or the English courts.

## **30. FEEDBACK**

We welcome your comments and feedback. Please send all feedback and comments to us via our contact form on our website, or at the e-mail address [contact\\_gb@bershka.com](mailto:contact_gb@bershka.com), or by calling 0808 234 0209.

If you as a buyer consider your rights have been breached, you can address your complaints to us via the email address [contact\\_gb@bershka.com](mailto:contact_gb@bershka.com) or via the contact form on our website, or by calling Freephone 0808 234 0209.

In the unlikely event that our Customer Services team are unable to resolve your complaint, and you are still not satisfied following the conclusion of our complaints handling procedure, then you may refer your complaint to RetailADR, which is an organisation authorised to resolve disputes between consumers and retailers ([retailadr.org.uk](http://retailadr.org.uk)). They may be contacted via post to RetailADR 12 Walker Avenue, Stratford Office Village, Wolverton Mill, Milton Keynes, MK12 5TW (Tel: +44 203 540 8063), or via email to [enquiries@retailadr.org.uk](mailto:enquiries@retailadr.org.uk). We will review any complaint passed on to us RetailADR.

Last updated on 18 October 2023

APPENDIX

Model cancellation form

(complete and return this form only if you wish to cancel the contract)

To ITX UK Limited, Lumina House, 89 New Bond Street, London W1S 1DA by post or via email at contact\_gb@bershka.com.

I hereby give notice that I cancel my contract of sale of the following items:[customer to insert description of items]

Ordered on/received on (\*)Name of customer

Address of customer

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

Date

(\*) Delete as appropriate

## T&C APP&FEATURES

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

Features include: (i) the option to purchase items via the App, this being deemed to be a purchase made on Bershka's online store (the "Online Store"), and therefore subject to the Purchase Conditions of [www.bershka.com](http://www.bershka.com); (ii) the option to manage receipts for purchases made on the Online Store; (iii) the option to use your QR code to identify yourself as a Bershka user; and (iv) the option to receive an electronic receipt (e-receipt) or electronic proof of purchase, by previously selecting the option "*Digital receipt*" on your App and showing at Bershka's Physical Stores your QR ID, for such purposes. You can, for each transaction, opt to receive a digital receipt rather than a paper receipt.

Both Physical Stores and Online Stores are operated in the United Kingdom by ITX UK Limited, a company registered in England and Wales with company number 02245999 whose registered office address is Lumina House, 89 New Bond Street, London W1S 1DA and VAT number GB 649 927871 ("ITX" or the "Company").

### 1. GENERAL DESCRIPTION OF THE FEATURES

#### 1. Purchase of items on [www.bershka.com](http://www.bershka.com) via Bershka's App

Customers can purchase items on [www.bershka.com](http://www.bershka.com) via Bershka's App. Therefore, purchases made using the App are deemed to be purchases made on the Online Store and as such, are subject to the Purchase Conditions of [www.bershka.com](http://www.bershka.com), which you need to accept upon purchasing any item.

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

Receipts for purchases made on the Bershka Online Store are stored on the App, specifically in the 'My Purchases' section.

#### 1.3 Identify yourself as a Bershka user by showing your QR ID.

Your QR ID is valid to identify yourself in the store, simplifying procedures and allowing you to have a better experience. Your QR ID may also allow you to participate in promotional actions and get other advantages, which will be subject to the corresponding terms applicable in each case.

#### 1.4 Obtaining an electronic receipt

When paying for a purchase in Physical Stores, you can obtain a receipt in electronic format instead of the paper one. To do this, you must have previously activated the option "*Digital receipt*" on the App, and then present your QR ID code so that the receipt can be automatically sent to the App.

From then on, you may make exchanges or returns at Physical Stores using your QR ID, in accordance with the applicable Terms and Conditions, Bershka's commercial policy, and all relevant 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 your App you are expressly requesting the e-receipt or the proof of purchase in electronic form, and are therefore opting out of receiving it in paper**

**form.** You can, before each transaction, opt whether to receive the digital receipt or the paper receipt, depending on which is convenient for you.

At all times, any governing statute on e-receipts or any other applicable regulation, and those to which these Terms and Conditions are bound, shall always prevail.

If you wish to de-register as a user of the App, you can request, during the de-registering process, that all your receipts stored in the App can be sent by email to an email address that you designate for this purpose.

### 1.5 Scan receipts

If your original receipt is in paper format, you can generate a digital version of the same receipt by scanning the QR code that is found printed on the receipt. From then on, you can make returns in Physical Stores, although please note that any returns will always be in accordance with the relevant terms and conditions, Bershka's commercial policies, and all relevant legislation.

## 2. AVAILABILITY OF SERVICES AND FEATURES

In accordance with applicable laws, ITX reserves the right to amend, suspend or delete, at any time, at our sole discretion and without prior notice, whether generally or specifically for one or more users, the availability of the Bershka's App or of any or the Features, and to modify, suspend or delete, under the same terms, the availability of the App / 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 Bershka's App / the different Features. You agree to use Bershka's App / the Features exclusively for the purposes for which it is intended and therefore, to not make any improper or fraudulent use thereof, and you will be liable to the Company and/or any third party for any damage which may arise from an improper use of Bershka's App / 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 malfunctions occur when you are using the different Features as a result of defective hardware, software, devices or terminals or of a lack of the necessary security measures installed on the device on which you are using the App/ the Features.

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

Any of the elements that form part or are included in the App/Features are the property or are under the control of the Company 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 the Company or the legal right holders incorporate into their property 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, the Company does not assign or transfer any rights over their Property or over any third-party properties.

The Company 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), transmit, communicate, 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.

The Company reserves all rights over the Property that it owns including, but not limited to, all intellectual and industrial property rights that it holds over the Property.

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

Notwithstanding the foregoing, the Company 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 the Company or of any other third-party legal right holder, or violates any other applicable laws.