

## **TERMS AND CONDITIONS**

### **1. INTRODUCTION**

This document (together with all the documents mentioned herein) establishes the terms and conditions that regulate use of the website [www.bershka.com](http://www.bershka.com) and its App (hereinafter, together, “the Platforms”) and the purchase of products from the site (hereinafter, the “Terms and Conditions”).

Please carefully read these Terms and Conditions, our Cookies Policy, and our Privacy Policy (together, the “Data Protection Policies”) before using the Platforms. You must adhere to all of these rules regulating the use of the Platforms. In order to place an order, you must also explicitly accept these Terms and Conditions and read the information provided in our Privacy Policy, and agree to be bound by them. If you do not accept all of the Terms and Conditions, you must not use the Platforms.

If you have any questions regarding the Terms or the Data Protection Policies, you may contact us through our contact form. The contract may be formalised in your choice of any of the languages in which these Terms and Conditions are available on these Platforms.

### **2. OUR DETAILS**

The sale of items through the Platforms is carried out under the BERSHKA name by BERSHKA BSK ESPAÑA, S.A., a Spanish company with registered office address at Avda. de la Diputación, Edificio Inditex, 15143-Arteixo (A Coruña), registered with the Commercial Registry of A Coruña, in Volume 1980. General Section, Folio 179. Sheet C-19163 and Tax ID A78276854, telephone number 900 456 003 and email: [contact@bershka.com](mailto:contact@bershka.com).

### **3. YOUR DETAILS AND YOUR USAGE OF THE PLATFORMS**

Any information or personal data you provide will be handled in accordance with the provisions of the Data Protection Policies. All of the information or data that you provide to us is truthful and corresponds to reality.

We therefore inform you that when you access your user account via the App (computer application designed to work on smart phones, tablets or other mobile devices available for using the features provided by BERSHKA), 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”.

### **4. USING OUR PLATFORMS**

By using our Platforms and placing orders through them, you agree to:

- Only use our platforms to make legitimate enquiries or orders.
- Not make any false or fraudulent orders. If it could reasonably be considered that such an order was made, we will be entitled to cancel the order and inform the relevant authorities.
- Provide us with your truthful and accurate email address, postcode and/or other contact details. Likewise, we will be able to make use of this information to contact you, if necessary (see our Privacy Policy).

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

By placing an order through our Platforms, you declare that you are over the age of 18 and are legally capable of entering into a binding contract.

### **5. SERVICE AVAILABILITY**

The items offered through our Platforms are only available for shipment within Spanish territory.

If you would like to place an order from another country via the Platforms, you may, of course, do so. However, remember that we only provide delivery to one of the Bershka Spain stores or an address within Spanish territory.

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

To place an order, you must follow the online purchasing process and click on the “Authorise payment” button. You will then receive an email acknowledging receipt of your order (“Order Confirmation”). We will also notify you by email once your order has been dispatched for delivery (“Delivery Confirmation”). An electronic receipt containing the details of your order will also be attached to the Delivery Confirmation (the “electronic receipt”).

## **7. PRODUCT AVAILABILITY**

All orders are subject to product availability. In the event of issues regarding stock supply or if products are no longer in stock, we will refund you the amount that you may have paid.

## **8. TECHNICAL MEASURES FOR CORRECTING ERRORS**

In the event that you detect an error upon entering your personal details during user registration on our Platforms, you may modify this information under “My Account”.

In any event, you may correct errors relating to the personal details that you supplied during the purchasing process by contacting customer service, calling 900 456 003, or emailing [contact@bershka.com](mailto:contact@bershka.com). Likewise, you may exercise your right to rectification as described in the Privacy Policy.

Our Platforms display confirmation windows throughout various stages of the purchasing process that do not allow you to proceed with the order if the details for these sections are not entered correctly. Similarly, the website provides information for all items added to the basket during the purchase process so that, before payment, you may modify or change the details of your order.

In the event that you detect an error in your order following completion of the payment process, you should immediately contact customer service, via the telephone number or email address cited above, in order to correct the error.

## **9. DELIVERY**

Before placing your order, you must select the most suitable delivery method for your needs. Unless we have agreed otherwise, we will send your order with the products listed in each Delivery Confirmation as soon as possible and, within a maximum period of 30 calendar days from the Order Confirmation date.

Scenarios resulting from item customisation or unforeseen or exceptional circumstances may arise which may affect the delivery date.

Please note that the products included in your order may be shipped from different centres, so they may be delivered separately on different days.

If, for some reason, we are not able to deliver by the delivery date, we will notify you of the situation and provide you with the option to proceed with the purchase, thus establishing a new delivery date, or to cancel the order with a full refund of the amount paid. In any case, remember that we do not make home deliveries on Saturdays or Sundays, except in the case of virtual gift cards, which will be delivered on the date you indicate.

For the purpose of these Terms and Conditions, “delivery” will be understood to have taken place, and the order to have been “delivered”, at the moment in which you, or a third person designated by you, physically acquires the items; this will be confirmed when receipt of the order is signed for at the agreed delivery address.

The virtual gift card will be understood to be delivered in accordance with that set forth in the Gift Card Conditions of Use and, in any case, on its delivery date to the email address indicated by you.

## **10. UNABLE TO DELIVER**

If we are unable to deliver your order, we will try to find a secure place to leave it for you. If we are unable to find a secure place, your order will be returned to our warehouse. We will also leave you a note with an explanation of where your order is and how to arrange a second delivery attempt. If you will not be present at the delivery location at the agreed upon time, we ask that you contact us in order to arrange delivery for a different day.

If 15 days have passed from your order being available for delivery, but it has not been delivered due to causes not attributable to the company, we will understand this to mean that you wish to withdraw from the contract and it will be deemed terminated. As a result of termination of the contract, we will refund any payments received from you, including delivery costs (with the exception of additional costs resulting from your selection of a delivery method other than the regular, least expensive delivery method we offer) without any undue delay and, in any case, within a maximum period of 14 days from the date on which we deemed the contract terminated. Please note that shipping derived from termination of the contract may incur additional costs, and as such we will have the authority to pass on to you the corresponding costs.

This clause is not applicable to the virtual gift card, the delivery of which is regulated according to that set forth in the Gift Card Conditions of Use and that set forth in clause 9 above.

## **11. OWNERSHIP AND RISK**

The items will be your responsibility from the time of delivery.

You will acquire ownership of the items once we receive full payment of all the due sums associated with said products, including the shipping costs, or at the time of delivery (according to the definition in clause 9 above), whichever is the later.

## **12. PRICES AND PAYMENT**

The prices displayed on the Platforms include VAT (when this tax is applicable), but exclude delivery costs, which will be added to the total amount due according to that set forth in our Shopping Guide - Delivery.

Prices are liable to change at any time, but possible changes will not affect those orders for which we have already sent you an Order Confirmation. Once you have selected all the items you wish to purchase, and these have been added to your basket, the next step is to process the order and make payment. To do so, you must follow the purchase process steps by filling in or verifying the information requested at each step. Additionally, during the purchase process, and before payment, you may modify or change the details of your order. A detailed description of the purchase process is available in the Shopping Guide. Also, if you are a registered user, you are provided with a record of all your placed orders under "My Account".

You may pay by Visa, Mastercard, American Express, cash on delivery, Affinity Card and PayPal. Likewise, you may pay for all or a part of the price of your purchase with a gift card, a card or credit voucher card issued by Fashion Retail, S.A. You may also pay the price of your order by cash on delivery, with the option of using any of those payment methods admitted at the BERSHKA de España collection stores.

If you place an order through any of the electronic devices available at certain BERSHKA de España stores, you may, at some of them, also pay for your order with any of the payment methods available at said stores.

Fashion Retail, S.A., with registered address at Avenida de la Diputación, Edificio Inditex, Arteixo, A Coruña (Spain), and registered in the A Coruña Commercial Registry, Vol. 3425, Page 49, Sheet C-47731, with Tax Identification Number A-70301981, will carry out, on behalf of Bershka BSK España, S.A., collections and, where applicable, refunds related to payments made through our Platforms.

To minimise the risk of unauthorised access, your credit card details will be encrypted.

By clicking on "Authorise Payment", you are confirming that the credit card is yours, or that you are the legitimate owner of the gift card or credit voucher card.

Credit cards are subject to validation checks and authorisations by the card issuer; if your card issuer does not authorise the payment, we will not be liable for any delay or failure of delivery and we will not be able to formalise a Contract with you.

## **13. PURCHASE AS A GUEST**

Our website also allows you to make purchases using the "purchase as a guest" feature. With this purchase method, you will only be asked for the information that is essential for processing your order. Once the purchase process has been completed, you will be given the option to register as a user or to continue as an unregistered user.

## **14. EXPRESS PURCHASE**

Using the express purchase feature (hereinafter, “Express Purchase”), you can make purchases on the Platforms more easily, without having to enter shipping, billing or payment details for each purchase. Express Purchase is available in the Shopping Basket section. To use Express Purchase, you must save your card details. You may save these details by paying with any of the cards accepted on the Platforms and selecting the “save my card details” option. This implies storage of the following card details: card number, name of the card holder exactly as it appears written on the card, and card expiration date. To save your card details and use Express Purchase, you must accept the current Terms and Conditions and agree to your personal data being processed as per the current Privacy Policy. By accepting the use of Express Purchase, you authorise that payment for purchases made through said feature will be charged to the corresponding card associated with said feature. The use of your cards will in all events be regulated by the terms and conditions signed between you and your card issuer. You may save details for as many cards as you wish in the Express Purchase option. To do this, you must make at least one payment with each of the cards. If you wish to save card details for more than one card, the card you have most recently saved will be deemed your “Preferred Card,” and will by default be charged with any purchases made through Express Purchase. However, you may change your Preferred Card in the “My Account” section of the website. To use Express Purchase, all you have to do is click on the “Express Purchase” button that appears in the Shopping Basket. A screen will immediately appear with the delivery, billing and payment details for your purchase. The information displayed on this screen may not be edited; if any of the details are not correct, do not complete your purchase. To make a purchase with other details, please do not use Express Purchase. You may change your Preferred Card that is linked to the Express Purchase option in the “My Account” section of the website. That set forth in this clause will not be applicable if you make a purchase as a guest.

## **15. VALUE-ADDED TAX AND BILLING**

Pursuant to that set forth in article 68 of Law 37/1992, 28 December, regarding Value-Added Tax, the delivery of items will be deemed to be within the Spanish territory of VAT application if the delivery address is located in Spanish territory, with the exception of the Canary Islands, Ceuta and Melilla. The applicable sales tax rate will be that which is legally in force at any time according to the specific item in question. Regarding orders destined for the Canary Islands, Ceuta and Melilla, deliveries will be exempt from sales tax as provided under article 21 of Law 37/1992, without detriment to the application of the relevant taxes and duties pursuant to the prevailing regulations in each of these territories.

You expressly authorise us to issue the receipt in electronic format. However, at any moment you may request a receipt in paper format, in which case we will issue said receipt and send it to you.

## **16. RETURNS POLICY**

Statutory right to cancel a purchase

### **16.1 Right to cancel**

If you are contracting as a consumer and user, you have the right to cancel the contract within a period of 14 calendar days without providing any reason. The cancellation period will expire after 14 calendar days from the day that you, or a third party indicated by you, other than the carrier, physically acquires the items or, in the case of an order with multiple items delivered separately, 14 calendar days from the day that you or a third party indicated by you, other than the carrier, physically acquires the last of said items. To exercise the cancellation right, you must notify BERSHKA at the following address: Pol. industrial INDITEX. Camino de Tordera a Palafolls S/N. Km.0.6 08490 Tordera. (Barcelona), by calling us on 900 456 003, or by sending us an email at [contact@bershka.com](mailto:contact@bershka.com), or through our contact form, informing us in a clear statement of your decision to cancel the contract (for example, a letter sent by post or by email). You may use the cancellation form template included as an Annex to these Terms and Conditions, though its use is not compulsory. To comply with the cancellation period, your notification to exercise said right must be sent before the cancellation period expires.

### *Effects of cancellation*

Should you cancel, we will refund any payments received from you, including the costs of delivery to the initial delivery address (with the exception of additional costs resulting from your selection of a delivery method other than the regular, least expensive delivery method that we offer) without any undue delay and, in any event, no later than 14 calendar days from the date on which you notified us of your decision to cancel the contract. We will proceed to reimburse you using the same payment method that you used for the initial transaction, unless you indicate otherwise, clearly specifying the payment method that you would like us to use for making the refund. No fees will be incurred as a result of said reimbursement. Notwithstanding the above, we may withhold

reimbursement until we have received the items, or until you have supplied proof of having returned said items, depending on whichever occurs earlier.

You must either directly return or deliver the items to us at any of the BERSHKA de España stores, or deliver the items to one of the established delivery points in Spain using the return label we sent you with your request, or send the items to Bershka. Pol. Ind. Inditex, Ctra. Tordera - Palafolls S/N, KM 0.6.0849.Tordera (Barcelona) Spain, without undue delay and, in any event, no later than 14 calendar days from the date on which you communicated to us cancellation of the Contract. The return period will be deemed to be met if the items are returned before the aforementioned period has expired.

Unless you return the items to a BERSHKA de España store or at one of the established delivery points in Spain, you must bear the direct costs of returning the items. In this last instance, remember that you must provide, together with the items, a printed copy of the electronic receipt that you should have received with the Order Confirmation.

You will only be liable for the diminished value of the items resulting from any handling other than that deemed necessary to establish the nature, characteristics and functioning of the items.

## 16.2 Contractual right to cancel

In addition to the consumer's legal right to cancel referred to in clause 16.1 above, we provide you a 30 day period, starting from the day of order confirmation of the items, to return said items (except for those items referred to in clause 16.3 below, for which the right to cancel is excluded). The return of gift cards is regulated by the Gift Card Terms and Conditions of Use.

In the event of the return of items within the contractual cancellation period, once the statutory period has passed, you will be reimbursed only the price paid for those returned items. You must bear the direct costs of the return of items when not returning said items to one of the BERSHKA de España stores or at any of the established delivery points in Spain. In this last instance, remember that you must provide, together with the items, a printed copy of the electronic receipt that you should have received with the Order Confirmation.

You may exercise your right to cancel according to that set forth in clause 16.1 above; however, if you inform us of your intent to cancel the contract after the statutory cancellation period, you must in any case deliver us the items within a 30 day period from the date of the Order Confirmation for the items.

## 16.3 Common provisions

You will not have the right to cancel the Contract when it is for the provision of any of the following items:

- Customised items.
- Music CDs/DVDs not in their original packaging.
- Items sealed for reasons of hygiene that have been unsealed after delivery.

Your right to cancel the contract will be exclusively applicable to those items that are returned in the same condition as you received them. No reimbursement will be made for any items used beyond the mere opening of the product, items that are found to not be in the same condition as when delivered, or that have been damaged in some way, so please handle items carefully while they are in your possession. You may return items at any BERSHKA de España store, or at one of the established delivery points in Spain, in accordance with the below.

### *Returns to BERSHKA stores.*

You may return items to any of our BERSHKA stores in Spain, provided that these have the department that corresponds to the items that you wish to return. In this case, you should visit any of these stores and present the item together with the electronic receipt that you should have received with the Delivery Confirmation, which is also saved in your account on the Platforms. You may present the electronic receipt by digitally displaying it on the screen of your mobile device, or by printing it out and bringing it to the store.

### *Returns at established delivery points in Spain*

You may return the items at one of the established delivery points in Spain that you will find in the "Orders and Returns" section of 'My Account' on the Platforms. For this option, you must request a return through the "delivery point" method in the cited section, at which point we will send you via email a return label that you must attach to the package which you must then drop off at the local post office. You must leave the item in the same package and then take it to the local post office. You must put the item in the same packaging that you received it in and

follow the instructions given in the “Orders and Returns” section of “My Account” on the website, “My Returns” on the App or in the email. If you made the purchase as a guest, you can request to return the item at one of the established delivery points in Spain by clicking on the link that should have been sent with the Order Confirmation. After performing the necessary checks, you will receive an email with a label that you must attach to the package, which you must then return to any of the established points mentioned.

Neither of the two options will incur any additional cost to you.

If you do not wish to return the items via any of the available options that are free of charge, you will be responsible for the return costs. In this last instance, remember that you must provide, together with the items, a printed copy of the electronic receipt that you should have received with the Order Confirmation. Please bear in mind that if you decide to return the items to us using freight collect, we are authorised to charge you for any costs incurred.

After examining the item, we will notify you of whether you have the right to reimbursement of the amounts paid. Delivery costs will only be reimbursed when the right to cancel is exercised within the statutory period and all items comprising the order in question are returned. We will refund you as soon as possible and, in any event, within the 14-day period from the date on which you notified us of your intention to cancel. However, we may withhold reimbursement until we have received the items, or until you have supplied proof of having returned said items, whichever occurs earlier. Reimbursements will always be made using the same payment method you used to make your purchase, except for when a gift receipt is presented with the return. In this last instance, reimbursement will be made via a credit receipt or voucher.

You will bear the costs and risk of returning the items to us, as indicated above. If you have any questions, you can contact us through our contact form or by phoning 900 456 003.

For orders paid for by cash on delivery and paid at the cash register of a physical store, in all cases returns must be carried out at a BERSHKA de España store. If 10 days have passed since your order was available for collection and payment in-store, and the order has not been collected due to causes not attributable to us, we will understand this to mean that you wish to withdraw from the contract and it will be deemed terminated. Likewise, when orders have been placed through the electronic devices available at certain Bershka de España stores and paid for at the till of a physical store, in all cases returns must be carried out at a BERSHKA de España store. In the case of cancellation on your part, we will refund you all the payments received from you and proceed to reimburse you using the same payment method that you used for the initial transaction.

#### 16.4 Returns in the Canary Islands, Ceuta and Melilla

If you wish to return an item that was delivered in the Canary Islands, Ceuta or Melilla, you may do so by visiting any BERSHKA store, according to that cited in this clause. If this is not possible, you should contact us by phoning 900 456 003 to arrange with us, or one of our representatives, the collection of the item by a courier or to arrange the return of the item at your own expense.

#### 16.5 Return of defective products

In circumstances where, at the time of delivery, you consider that the item does not conform to that stipulated by the contract, you should contact us immediately through our contact form with the details of the product and its damage, or by phone on 900 456 003, whereupon we will indicate you on how to proceed. You may return the item to any of our BERSHKA stores in Spain, at one of the established delivery points in Spain, or by sending it to the aforementioned address. We will proceed to carefully examine the returned product and will notify you by email within a reasonable period of time if you will be refunded or the product will be replaced (whichever the case may be). The refund or item replacement will be processed as soon as possible and, in any case, within the 14 days following the date on which we sent you email confirmation of the refund or defective item replacement.

The sums paid for products returned because of a defect, where one exists, will be refunded in full, including the delivery charges incurred to deliver you the item and the charges you may have incurred in returning the item to us. The refund will always be made using the same payment method used to pay for your purchase. In any case, this condition does not affect your statutory rights.

#### 16.6 Right to cancel and return of orders from a different country.

If you have placed an order via the Platforms in a European Member State other than Spain, the above clauses 16.1, 16.2, 16.3, and 16.4 will be applied. The only restriction is that the return must be made using a messenger/courier organised by us and can only be made from the original delivery address in Spain.

Likewise, under no circumstances (except that established in clause 16.5 to which the current clause 16.6 is not applicable) are we obliged to refund delivery costs other than those incurred to the original delivery address in Spain, or return costs from a destination outside Spanish territory.

## **17. WARRANTIES**

If you are purchasing as a consumer and a user, we offer warranties over products sold through the Platforms under the legally established conditions for each type of product, thereby covering products that do not conform to the contract within a period of two years from delivery of the product. However, please note that you must provide sufficient evidence regarding the item's lack of conformity with the contract if this were to arise once six months have passed from delivery of the item.

Items are deemed to be in conformity with the contract as long as they (i) comply with the description given by us and possess the qualities we have presented on the Platforms, (ii) are fit for the purposes that items of the same type are ordinarily used for and (iii) present the quality and performance that are typical and would reasonably be expected in items of the same type.

In this sense, if any of the items are not in conformity with the contract, you should notify us by following the procedure described in section 16.5 above, and by means of any of the communication channels made available for such purposes.

The items we sell, particularly artisan items, often present inherent characteristics of the natural materials we use in their manufacturing. These characteristics, such as variations to the weave, texture, knots and colour, will not be deemed to be faults or defects. On the contrary, these should be expected and appreciated. We only select the highest quality products, but natural characteristics are unavoidable and should be accepted as part of the individual appearance of the item.

## **18. LIABILITY AND LIABILITY EXEMPTION**

Except as otherwise specifically provided in these Terms and Conditions, our liability relating to any product purchased from our Platforms will be strictly limited to the purchase price of that product.

Nevertheless, and unless otherwise legally provided, we will not accept liability for any of the following losses, independent of their origin:

- Loss of income or sales;
- Loss of business;
- Loss of contracts;
- Loss of anticipated savings;
- Loss of data; and
- Loss of management or office time

Due to the open nature of these Platforms and the potential for errors during storage and transmission of digital information, we do not guarantee the accuracy and security of information transmitted or obtained through the Platforms unless otherwise expressly set forth on the Platforms.

To the extent permitted by law, we disclaim all other warranties except those that may not be lawfully excluded in the case of consumers and users.

## **19. INTELLECTUAL AND INDUSTRIAL PROPERTY**

You acknowledge and agree that all copyrights, trademarks and other industrial and intellectual property rights for the materials or content supplied as part of the Platforms will remain at all times vested in us or in our licensors. You may use said material solely as expressly authorised by us or our licensors. This will not prevent you from using these Platforms to the extent necessary to copy information relating to your order or Contact details.

## **20. VIRUSES, HACKING AND OTHER CYBER CRIME**

You must not misuse the Platforms by intentionally introducing any viruses, trojans, worms, logic bombs or any other program or material that is technologically malicious or damaging. You must not attempt to gain unauthorised access to these Platforms, to the server that hosts the site, or to any other server, computer or database associated with our Platforms. You will not attack these Platforms through a denial of service attack or a distributed denial of service attack. Lack of compliance with this clause could constitute a criminal offence under the applicable regulations. We will inform the relevant authorities of any breach of said regulations and we will cooperate with them to uncover the identity of the attacker. Likewise, in the event of a breach of this clause, your right to use these Platforms will be revoked immediately. We accept no liability for any loss or damage resulting from a denial of service attack, virus or any other program or material that is technologically malicious or harmful and could affect your computer, equipment, data or materials resulting from the use of these Platforms or from downloading content from the site or sites to which they redirect.

## **21. LINKS FROM OUR PLATFORMS**

In the event that the Platforms contain links to third party websites and materials, these links are provided solely for information purposes, and we claim no control whatsoever over any of the contents of these websites or materials. Accordingly, we accept no liability whatsoever for any loss or damage resulting from the use of these links.

## **22. WRITTEN COMMUNICATIONS**

Applicable regulations require a part of the information or communications we send you to be in writing. By using the Platforms, you accept that the majority of these communications with us will be electronically based. We will contact you by email or we will provide you with information by posting notices on these Platforms. For contractual purposes, you agree to use this electronic means of communication and you acknowledge that all contracts, notifications, information and other communication that we send you electronically, comply with the legal requirements of the aforementioned in writing. This condition does not affect your statutory rights.

## **23. NOTIFICATIONS**

Any notifications you send us should preferably be sent through our contact form. As set out in clause 22 above, and unless otherwise stipulated, we may send you communications to either your email or the postal address you supply when placing an order. Notifications will be deemed to have been received and properly served when they are posted on our Platforms, 24 hours after delivery by email, or three days after postage of any letter. To prove that a notice has been served, in the case of a letter, it will be sufficient to prove that it showed the correct address, that it was properly sealed and was delivered correctly to the post office or postbox, while, in the case of email, that the notice was sent to the email address specified by the receiver.

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

The contract is binding for both you and us, as well as for our respective heirs, successors and assigns. You may not transfer, assign, charge or in any other manner dispose of a contract or any of its resulting rights or obligations without our prior written consent. We may transfer, assign, charge, subcontract or in any other manner dispose of a contract or any of its resulting rights or obligations, at any moment during its validity. For the avoidance of doubt, such transfers, assignments, charges or other disposition will not affect your statutory rights as a consumer, nor will they cancel, reduce, or otherwise limit the warranties that we may have provided you, whether express or implied.

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

We will not be liable for any breach or delay of performance of any of the assumed obligations when said delay or breach is due to events that are outside our reasonable control (“Case Force Majeure”). Cases of Force Majeure include any act, event, non-happening, omission or accident beyond our reasonable control and, among others, include the following:

- Strikes, lockouts or other industrial action.
- Civil commotion, riot, invasion, terrorist attack or terrorist threat, war (whether declared or not) or threat or preparation for war.
- Fire, explosion, storm, flood, earthquake, subsidence, epidemic or any other natural disaster.
- Impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport.
- Impossibility of the use of public or private telecommunications networks.



- Acts, decrees, legislation, regulations or restrictions of any government or public authority.
- Any shipping, postal or other relevant transport strike, failure or accident.  
Any obligations will be deemed suspended while the Case of Force Majeure continues, and we will have an extended period of time to perform such obligations equal to the length of the term of the Case of Force Majeure. We will employ all reasonable means to bring an end to the Case of Force Majeure or to find a solution that allows us to perform our obligations despite the Case of Force Majeure.

## **26. WAIVER**

Failure on our part to require strict compliance on your part of any of your obligations under the contract or these Terms and Conditions, or failure on our part to exercise the rights or actions that correspond to us under such contract or Terms and Conditions, will not constitute any waiver or limitation whatsoever in relation to said rights or actions, nor will it relieve you from compliance with said obligations. No waiver on our part of a specific right or action will constitute a waiver of other rights or actions resulting from a contract or the Terms and Conditions. No waiver by us of any of these Terms and Conditions or the rights or actions arising from a contract will be effective unless it is expressly stated to be a waiver and is formalised and communicated to you in writing according to that set forth in the Notices section above.

## **27. PARTIAL ANNULMENT**

If any of these Terms and Conditions or any provision of a contract are determined by a competent authority to be null and void, the remaining terms and conditions will remain in force and unaffected by said statement of nullity.

## **28. FULL AGREEMENT**

These Terms and Conditions and any document expressly referred to in them constitute full agreement between you and us in relation to the subject matter of the same, and replace any other agreement, understanding or commitment previously agreed upon between you and us, whether verbally or in writing. You and we acknowledge having entered into a contract without having relied on any declaration or promise given by the other or that could be implied from anything stated or written in the negotiations between you and us prior to the contract, except that expressly stated in these Terms and Conditions. Neither you nor we will have any remedy in respect of any untrue statement made by the other party, orally or in writing, prior to the contract date (unless such untrue statement was made fraudulently), with the other party's only remedy being for breach of contract according to that set forth in these Terms and Conditions.

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

We reserve the right to modify the Terms and Conditions. These are not retroactive in nature.

If you do not agree with the modifications made, we recommend that you refrain from using our Platforms.

## **30. APPLICABLE LAW AND JURISDICTION**

The use of our Platforms and the contracts for the purchase of items through these Platforms are governed by Spanish law. Any dispute arising from or related to the use of the Platforms or these contracts will be subject to the non-exclusive jurisdiction of the Spanish courts. If you are contracting as a consumer, nothing in this clause will affect your rights as recognised by current legislation.

## **31. COMMENTS, FEEDBACK, COMPLAINTS AND CLAIMS**

We welcome your comments and feedback. Please send any comments and feedback, as well as any queries, complaints or claims through our contact form, by telephone, or to our physical address or email address indicated in clause 2 of these Terms and Conditions. Official complaint forms are also available to consumers and users.

You may request these by calling 900 456 003 or through our contact form. Complaints and claims made to our customer service will be attended to as quickly as possible and, in any event, within a maximum period of one month. They will be registered with an identification number that we will provide you with so you may monitor and follow-up with them.

If you, as a consumer, consider your rights to have been breached, you may address your complaints to us by email at [contact@bershka.com](mailto:contact@bershka.com) in order to seek an out-of-court settlement.

In this regard, if your purchase from us was made online through our Platforms, according to EU Regulation No. 524/2013, we hereby inform you of your right to seek an out-of-court settlement for customer disputes, accessible at the following Internet address: <http://ec.europa.eu/consumers/odr/>.

Date of most recent update: 13/10/2020

ANNEX

Cancellation form

Fill in and send this form should you wish to cancel the contract with

BERSHKA BSK España, S.A, which operates under the trade name BERSHKA, at the following

address: “Avda. de la Diputación, Edificio Inditex, 15143-Arteixo (A Coruña)”, or by email to: [contact@bershka.com](mailto:contact@bershka.com).

Via this form, I hereby inform that I am cancelling the sales contract featuring the following data (required fields marked with an asterisk):

Ordered on / received on (\*):

Consumer’s name:

Consumer’s address:

Consumer’s signature (only if this form is presented as a paper copy):

Date:

(\* Delete as appropriate

**TERMS AND CONDITIONS OF USE OF THE  
BERSHKA APP FEATURES**

These terms and conditions (hereinafter, the “Terms and Conditions”) specifically govern access and use of the services and different features available on the BERSHKA App (as it will be referred to below), in addition to the Terms and Conditions of Use and Purchase for [www.bershka.com](http://www.bershka.com).

The App’s functions include: (i) enabling you to purchase products via the App, which are regarded as Online Store purchases and therefore subject to the Terms and Conditions of Use and Purchase for [www.bershka.com](http://www.bershka.com); (ii) enabling you to process payments on purchases (hereinafter, “Wallet”) that you make in BERSHKA physical stores (hereinafter, and depending on the relevant reference, the “Physical Store” or the “Physical Stores”); (iii) managing receipts for purchases made in BERSHKA online stores (hereinafter, “Online Store”), both of which are operated in Spain by BERSHKA BSK ESPAÑA, S.A., (Tax ID no. [N.I.F.] A78276854), which has its registered offices at Avenida de la Diputación, Edificio Inditex, Arteixo, 15143, A Coruña; (iv) in addition, enabling you to obtain an electronic receipt or electronic proof of purchase, by presenting the QR in BERSHKA physical stores for this sole purpose.

## **1. GENERAL DESCRIPTION OF THE SERVICE**

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

Customers can use the App to purchase products on [www.bershka.com](http://www.bershka.com). Therefore, these purchases are regarded as Online Store purchases subject to the Terms and Conditions of Use and Purchase for [www.bershka.com](http://www.bershka.com), which they must accept when making purchases.

### **1.2. Wallet feature**

By using the Wallet feature, you will be able to:

- i. Access electronic receipts for your purchases in Physical Stores when you initiate payments with Wallet, or electronic receipts which you have requested or generated as set out in subsections (iv) and (v) below. In addition, you will be able to access electronic receipts for the Online Store;
- ii. Manage payment cards and gift cards: You will be able to add cards which will be used to make payments which have been initiated using Wallet in Physical Stores. Should there already be cards saved via the express purchase option used for online sales, they will automatically be available to make it easier for you to activate them as Wallet payment cards.

By entering details for a new card, you are authorising us to check the validity of cards and gift cards whose details you would like to save. The process for this check includes potentially debiting your card via the micropayment security system.

If so, this micropayment amount will be refunded within a maximum period of one month from the date that your card is debited. As well as managing the cards themselves, Wallet may ask you to create a password for them, depending on the security mechanisms enabled on the device running the App.

- iii. Initiate payments using Wallet: In order to process payments with Wallet in Physical Stores authorised for such purposes, you must follow the instructions provided by staff from the store in question.

In any event, please be advised that in order to initiate payments via Wallet, you must present the QR code generated by the App so that it can be checked by staff and read by the technical equipment in place in the till area in the Physical Store.

Wallet may ask you to enter the Wallet Password in order to generate the QR code to enable you to process the payment, depending on the security mechanisms enabled on the device running the App.

On payments initiated via Wallet, you acknowledge and accept that you will be provided with an electronic receipt and that you will not be given a paper receipt. When you initiate a payment via Wallet in a Physical Store, this will be charged to the card that you select on the Service when initiating the payment.

The items will be handed over when you authorise the initiation of the payment for purchasing them, by presenting the QR code to store staff and having the technical equipment in place in the till area in the Physical Store read this code.

In any event, purchases where you have initiated the payment via Wallet will be governed by the terms and conditions of purchase of the Physical Store in question. Therefore, any complaint relating to the contract between you and the Physical Store in question must be submitted to BERSHKA BSK ESPAÑA, S.A., or, if relevant in a specific case, for example, due to purchases being made in physical stores located in countries other than Spain, to the company, as appropriate. Wallet is a free service.

However, your card issuer may charge fees for payments made using it. For more information, please check the terms of your contract with your card issuer. Furthermore, your telecommunications services operator may charge you for using the telecommunications network for accessing Wallet.

For more information, please check the terms of your contract with your network provider. You may only use Wallet for initiating payments at the stores outlined. Using Wallet for other purposes is strictly prohibited.

Therefore, we reserve the right to remove you as a user and, for that purpose, cancel your account and hold users appropriately accountable for improper or fraudulent usage, or for failing to comply with the rules and procedures included in these Wallet Terms and Conditions and/or other legal texts applying to Wallet, the App and/or the Service.

- iv. “Scan” receipts: Using a paper receipt, you can generate a digital copy of this receipt by scanning a QR code printed on the receipt. From then on, you will be able to make returns in Physical Stores using this receipt, under the terms and conditions which will apply at all times, in accordance with BERSHKA’s sales policy and, in any event, in compliance with current legislation.
- v. Obtain electronic receipts: When making payments for purchases in Physical Stores, you may ask to receive an electronic receipt. In order to do so, you must show the QR code displayed on the App for that purpose and the receipt will automatically be sent to the App.

From then on, you will be able to make exchanges or returns in Physical Stores using this receipt, under the terms and conditions which will apply at all times, in accordance with BERSHKA’s sales policy and, in any event, in compliance with current legislation.

In this instance, you will not be given a paper receipt. Therefore, you must understand that by using this QR, you are specifically requesting a digital receipt or proof of purchase and are therefore opting not to receive a paper copy. In any case, you may request a paper receipt whenever you deem necessary, by contacting our Customer Service team, via any of the communication methods stated on the BERSHKA website.

In any case, regulations on electronic receipts or any other applicable regulations will always prevail for any of Wallet's features. These Terms and Conditions are also subject to these regulations.

If you decide that you would like to deregister as a user, when processing your deregistration, you have the option of asking us to send all of the receipts stored on the App to you at the email address that you have provided to us for that purpose.

### **1.3. Specific feature for obtaining electronic receipts for purchases in Physical Stores**

If you are a registered user and have therefore installed the App, but you do not want to register any payment cards (specifically for the Wallet feature), the App will automatically display a QR code solely to enable you to receive electronic receipts and electronic proofs of purchase on the App.

**By using this QR, you are specifically requesting a digital receipt or proof of purchase and are therefore opting not to receive a paper copy. In any case, you may request a paper receipt whenever you deem necessary, by contacting our Customer Service team, via any of the communication methods stated on the BERSHKA website.**

## **2. AVAILABILITY OF SERVICES OFFERED BY THE APP**

Fully complying with applicable legislation, we reserve the right to amend, suspend or remove, at any time, at our sole discretion and with no warning, either on a general basis or more specifically focussing on one or more users, any or all of the BERSHKA App features, as well as amend, suspend or remove, in the same manner, the availability of all or some of the Service.

## **3. LIABILITY**

Except in cases where exclusion of liability is legally limited, we are not liable for any damages that you may suffer as a result of using the BERSHKA App and its various features.

You will only use the BERSHKA App for the purposes for which it has been designed and therefore will not use it improperly or fraudulently. You will be liable to the Company or any other third party for damages that they may suffer for improper usage of the App.

You will be liable in the following cases:

- a) when, where appropriate, your equipment or devices linked to the App, SIM cards, email addresses and/or any of the passwords are used by a third party authorised by you without our knowledge.
- b) when errors or faults occur when you use the App's various features as a result of your hardware, software or devices malfunctioning or you not having installed the required security mechanisms on the device running the App.

## **4. INTELLECTUAL, INDUSTRIAL AND OTHER PROPERTY RIGHTS FOR THE APP.**

Any of the features that form part of or are included in the App or Wallet belong to or fall under the control of the Company or third parties that have been authorised to use them. Below, they will all be referred to as the "Property" as a whole.

Users will not remove, delete, alter, tamper with or amend in any way:

- Any notes, captions, signs or symbols that either the Company or the legitimate right-holders include in their property in relation to intellectual or industrial property (such as copyright, ©, ® and ™).

- Technical protection or identification features that the Property may contain (such as watermarks and digital fingerprints). Users recognise that, under these Terms and Conditions, the Company will not assign or transfer any rights over its Property or over any third party property to users.

The Company will only authorise users to access and use them in compliance with the provisions set out in these Terms and Conditions.

Users will not be authorised to copy, distribute (including via email or the internet), disseminate, broadcast, amend, alter, transform, assign or, in any other way, engage in activities which involve commercial use of the Property, either partially or fully, without explicit consent from the legitimate holder of the operating rights, provided in writing.

The Property will always be accessed and used for strictly personal reasons only, and never for commercial reasons.

The Company will reserve all rights applying to the Property, including, but not limited to, all intellectual and industrial property rights that it holds over them.

The Company will grant no other usage licence or authorisation to users over its Property other than those explicitly listed in this clause. The Company will reserve the right to terminate or modify the licences provided under these Terms and Conditions at any time.

Notwithstanding the above, the Company may bring legal action against any usage by users which:

- does not comply with the terms and conditions specified herein;
- infringes or violates the Company's or any other third-party legitimate holder's intellectual and industrial property rights or other similar rights; or infringes any applicable regulation.

Date of most recent update: 13 October 2020