

# **BERSHKA TERMS AND CONDITIONS OF USE AND PURCHASE**

## **1. INTRODUCTION**

This document (together with all the documents mentioned herein) establishes the terms and conditions that regulate use of this website ([www.bershka.com](http://www.bershka.com)) and the purchase of products from the site (hereinafter, the “Terms and Conditions”). We ask that you carefully read the Terms, our Cookies Policy, and our Privacy Policy (together, the “Data Protection Policies”) before using the website. By using this website or placing an order through it, you agree to be bound by these Terms and by our Data Protection Policies. If you do not agree to these Terms and Data Protection Policies, you should refrain from using this site. These Terms and Conditions may be subject to amendment. It is your responsibility to read the Terms on a regular basis, as those currently in force at the moment of conclusion of each contract (as defined below) or in default thereof, at the time of using the website, shall be applicable.

If you have any questions regarding the Terms or the Data Protection Policies, you may contact us through our contact form.

The contract (as defined below) may be formalised in any of the languages in which these Terms are available on this website by selection.

## **2. OUR DETAILS**

The sale of articles through this website is carried out under the name BERSHKA by ITX Retail México, S.A. de C.V., a Mexican company domiciled at Poniente 146 No. 730, Col. Industrial Vallejo, C.P. 02300, Cd. de México, registered in the Registro Público de la Propiedad y del Comercio (Public Property and Trade Register) of Mexico City, under the reference R.F.C. BME0004112J6.

## **3. YOUR DETAILS AND VISITING THE WEBSITE**

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

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

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

- i. Only use the website to make legitimate enquiries or orders.
- ii. Not make any false or fraudulent orders. If it could reasonably be considered that such an order was made, we shall be entitled to cancel the order and inform the relevant authorities.
- iii. Provide us with your truthful and accurate email address, postcode and/or other contact details.
- iv.

Likewise, you agree to us using said information to contact you if necessary (see our Privacy Policy).

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

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

## **5. SERVICE AVAILABILITY**

The items offered through the website are only available for shipment within the Republic of Mexico.

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

There is no contract between you and us with regards to any product until we have expressly accepted your order. If for any reason your order has not been accepted but your account has been charged, the total cost of the product will be fully reimbursed.

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 (the "Order Confirmation").

All orders are subject to our acceptance, of which you shall be informed by an email confirming that your product is being delivered (the "Delivery Confirmation"). The contract between you and us for the purchase of a product (the "contract") will only be formalised once we send you the Delivery Confirmation.

Only those products specified in the Delivery Confirmation will be the object of the contract. We will not be required to supply any other product that may have been ordered until we confirm the delivery of said product via a Delivery Confirmation.

## **7. PRODUCT AVAILABILITY**

All product orders are subject to availability. If for reasons of force majeure, or if there are problems with product supply or if by exception there are no items in stock, we reserve the right to provide you with information about substitute products of equal or greater quality that you may order. If you do not wish to order these substitute products, we will reimburse you for any amounts you may have paid, reiterating that we will always do our best to keep the website up to date.

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

We reserve the right to remove any product from this website at any time and to remove or modify any material or content therein. Although we will do our best to always process all orders, there may be exceptional circumstances that force us to refuse the processing of an order after we have sent the Order Confirmation; we therefore reserve the right to do so at any time.

## **9. DELIVERY**

In accordance with clause 7 above with regards to products, and provided there are no extraordinary circumstances, we will endeavour to ensure that the order we send matches the product(s) specified in each Delivery Confirmation, before the quoted delivery date on the Delivery Confirmation in question, or if no delivery date has been specified, within the estimated time period given when selecting the type of delivery. The maximum period will be 10 working days, and in exceptional cases, the maximum period for delivery will be 30 working days from the date of the Order Confirmation.

However, delays may occur due to reasons such as products being personalised, or unforeseen circumstances in the delivery area.

With regards to the virtual gift card, we will deliver this on the date you indicated when placing the order. 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, please remember that we do not make home deliveries on Saturdays, Sundays or national holidays, 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” shall 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 shall 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 Conditions of Use of the Gift Card 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, it 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 10 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 shall understand this to mean that you wish to withdraw from the Contract and it shall be deemed rescinded. Following the termination of the contract, we will refund the total cost of the products as soon as possible and, in any case, within a maximum period of 30 days from the date we consider the Contract to be terminated.

Please be aware that there may be additional costs incurred from any shipping required following termination of the contract, and as such we shall have the authority to recoup the corresponding costs from you.

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 under your ownership and therefore at your risk from the time of delivery.

#### **12. PRICES AND PAYMENT**

The prices on the website include VAT, 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".

The following payment methods may be used: Visa card, Mastercard, American Express card and Affinity Card Banamex, PayPal, and cash for a maximum of \$10,000.00 (ten thousand Pesos, zero Centavos) in OXXO stores (within 48 hours of the date of receiving the order confirmation email). Likewise, you may pay for all or a part of the price of your purchase with a BERSHKA gift card or credit voucher card issued by ITX Retail México, S.A. de C.V. However, if you place an order through any of the electronic devices available at certain BERSHKA stores in the Mexican Republic, you may, at some of them, also pay for your order with any of the payment methods available at the till in said stores. Also, you may pay cash on delivery of the same, using any of the payment methods available at the till in said stores.

To minimise the risk of unauthorised access, your credit card details will be encrypted. Once we have received your order, we will run a pre-authorisation check on your card to ensure there are sufficient funds to complete the transaction. Your card will be charged at the moment your order is dispatched from our warehouses. If you are paying via PayPal, gift card or credit voucher card issued by ITX Retail México, S.A. de C.V., you will be charged when we confirm your order, and only when payment is made in OXXO stores will the charge be made when payment is specifically made in these stores. However, if the payment method used is cash on delivery, the sums shall be charged at the same moment as any of the other payment methods available at said stores.

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 shall not be liable for any delay or failure of delivery and we shall not be able to formalise a Contract with you.

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

This 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 website 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 said details by paying with any of the cards accepted on the website 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 Privacy Policy. By accepting the use of Express Purchase, you authorise that payment for purchases made through said feature shall be charged to the corresponding card associated with said feature. The use of your cards shall 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 shall not be applicable if you make a purchase as a guest.

## **15. VALUE ADDED TAX (VAT)**

In accordance with the Value Added Tax Law, the sale of goods in Mexico is considered a taxable activity for the purposes of this tax. It is understood that a sale is made in Mexico when the goods are in the country, when it is sent to the purchaser or when, not having shipped, the country makes the material delivery of the goods on behalf of the seller.

Considering the above, placed orders are subject to the current general rate of value added tax.

## **16. RETURNS POLICY**

### **16.1 Right to terminate the Contract**

#### **16.1.1 Rights**

If you enter into a contract as a user and consumer, you have the right to terminate the contract within a maximum period of 30 days from the Delivery Confirmation, without any need to justify said termination, in accordance with the terms and procedure set forth in section 16.1.

In order to exercise your right to terminate the contract, you should notify ITX RETAIL MÉXICO, S.A DE C.V., by sending an email to [contact\\_mx@bershka.com](mailto:contact_mx@bershka.com) or via our contact form, of your wish to cancel your purchase, including with this a clear statement of your decision.

You shall not have the right to terminate the contract when it is for the provision of any of the following items:

- i. Customised items.
- ii. Music CDs/DVDs not in their original packaging.
- iii. Items sealed for reasons of hygiene that have been unsealed after delivery.
- iv. Tights.
- v. Lingerie.
- vi. Swimwear without the hygiene sticker.
- vii. Hair accessories.
- viii. Accessories without their original packaging.
- ix. Perfumes without their original packaging or which may have been opened.
- x. Garments that have been modified at the Customer's request.
- xi. Items purchased in other countries.

Your right to cancel the contract shall be exclusively applicable to those items that are returned in the same condition as you received them. While it's acceptable that products may have been opened, no refund will be applied to items that have been used and are not found to be in the same condition as when delivered, or if items have been damaged in some way. For this reason, we ask that items be handled with care while they are in your possession. Please return items using or including all the original accompanying packaging, instructions and other documents where applicable. In all circumstances, together with the product, you must present your electronic receipt that you received with the Delivery Confirmation. You can also find this in your account on the Bershka website and on the Bershka mobile application.

The return of gift cards is regulated by the Gift Card Terms and Conditions of Use.

#### **16.1.2 Returning a Product**

As included in the exercising of rights, you shall be responsible for returning the product. You must either directly return the items to us at any of the Bershka stores in the Mexican Republic, or request delivery via Courier service from our website, without undue delay. Items should be returned within the stated period in order to exercise the right to terminate, as indicated in clause 16.1.1.

Returns to Bershka stores.

You may return items to any of our Bershka stores in the Mexican Republic, provided that they have the department that corresponds to the items that you wish to return. In this case, you should visit any of said 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 website and on the Bershka mobile application.

Returns via messenger/Courier.

You should contact us via our returns request so that we can send a returns label to your email address. You should attach this to the returns package and take it to the offices or branch of the courier company indicated in the email we will send you with these details. You must return the item in the same packaging in which you received it, and follow the instructions found in the "RETURNS" section of this website. If you have purchased the item as a guest, you can request to return your items via courier service under the same terms indicated in the previous paragraph, by requesting said return using the link that will be included in the corresponding order confirmation email.

There will be no additional charge for selecting either of the two options.

If you do not wish to return the items via any of the available options that are free of charge, you shall be responsible for the return costs. 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. When orders have been placed through the electronic devices available at certain Bershka stores in the Mexican Republic and paid for at the till of a physical store, returns must always be carried out at Bershka stores in the Mexican Republic.

For orders paid for by cash on delivery and paid at the till of a physical store, returns must always be carried out at Bershka stores in the Republic of Mexico. In the case of cancellation on your part, we will refund you all payments received and proceed to reimburse you using the same payment method that you used for the initial transaction.

If 5 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 shall understand this to mean that you wish to withdraw from the contract and it shall be deemed terminated.

**16.1.3 Inspection of product condition and potential refunds.** In the event that you have opted to return an item or items, we will inspect the product to establish whether it is in the same condition as when it was delivered to you. After examining the item, we will notify you of whether you have the right to receive a refund for the amount paid. The refund shall be processed as soon as possible and, in any case, within the 20 days following the date on which we sent you email confirmation of the refund. We will proceed to reimburse you using the same payment method that you used for the initial transaction: Visa card, Mastercard, American Express, Affinity Card Banamex, or PayPal, for purchases made directly in OXXO stores, the refund amount will be provided on a credit voucher card which will be sent to your email address. No fees shall be incurred as a result of the refund, unless a refund was not possible due to one of the options mentioned in section 16.1.2 above.



## **16.2 Purchase cancellation due to faults or hidden defects.**

### **16.2.1 Rights**

In addition to the right to terminate stated in the above section 16.1, ITX RETAIL MÉXICO, S.A. DE C.V. grants consumers the right to cancel due to faults or hidden defects in accordance with the terms and procedure established in this section, 16.2.

This right confirms our commitment to accept an exchange or the return of products within the first 90 days from the day that you, or a third party indicated by you, other than the carrier, physically acquired the items or, in the case of an order with multiple items delivered separately, 90 calendar days from the day that you or a third party indicated by you, other than the carrier, physically acquired the last of said items, when said items arrived with faults or hidden defects making them unfit for normal purpose or reducing their quality or usability, or are not considered to be safe to use in the way that would be reasonably expected.

Your right to cancel the contract shall be exclusively applicable to those items that are returned in the same condition as you received them, excluding those items where a fault or hidden defect is present. Please return items using or including all the original accompanying packaging, instructions and other documents where applicable. In all circumstances, together with the product, you must present your electronic receipt that you received with the Delivery Confirmation. You can also find this in your account area of the Bershka website and on the mobile application.

### **16.2.2 Exercising of Rights**

In cases where you consider that the item does conform to that stipulated by the contract due to faults or hidden defects, you should contact us immediately, and at the latest, within a period of ninety days as mentioned in the above sub-section 16.2.1, via our contact form, providing details of the product and its damage or hidden defects.

### **16.2.3 Returning a Product**

As included in the exercising of rights, you shall be responsible for returning the product. You must either directly return the items to us at any of the BERSHKA stores in the Mexican Republic, or request delivery via Courier service from our website, without undue delay. Items should be returned within the stated period in order to exercise the right to terminate, as indicated in clause 16.2.1.

Returns to Bershka stores.

You may return items to any of our BERSHKA stores in the Mexican Republic, provided that they have the department that corresponds to the items that you wish to return. In this case, you should visit any of said 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 website and on the Bershka mobile application.

Returns via messenger/Courier.

You should contact us via our returns request so that we can send a returns label to your email address. You should attach this to the returns package and take it to the offices or branch of the courier network indicated in the email we will send you with these details. You must return the item in the same packaging in which you received it, and follow the instructions found in the "RETURNS" section of this website. If you have purchased the item as a guest, you can request to return your items via courier service under the same terms indicated in the previous paragraph, by requesting said return using the link that will be included in the corresponding order confirmation email.

There will be no additional charge for selecting either of the two options.

If you do not wish to return the items via any of the available options that are free of charge, you shall be responsible for the return costs. 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. When orders have been placed through the electronic devices available at certain BERSHKA stores in the Mexican Republic and paid for at the till of a physical store, returns must always be carried out at BERSHKA store in the Mexican Republic.

For orders paid for by cash on delivery and paid at the till of a physical store, returns must always be carried out at BERSHKA stores in the Republic of Mexico. In the case of cancellation on your part, we will refund you all payments received and proceed to reimburse you using the same payment method that you used for the initial transaction.

If 8 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 shall understand this to mean that you wish to withdraw from the contract and it shall be deemed terminated.

#### **16.2.4 Inspection of the product condition and refunds where appropriate**

We will inspect the product's condition to establish whether it has any faults or hidden defects. After examining the item, we will notify you of whether you have the right to receive a refund for the amount paid. The refund shall be processed as soon as possible and, in any case, within the 20 days following the date on which we sent you the email confirmation of the refund or the substitution of the defective item.

The reimbursement will always be made with the same payment method that you used for the initial transaction: Visa card, Mastercard, American Express, Affinity Card Banamex, or PayPal, for purchases made directly in OXXO stores, the refund amount will be provided on a credit voucher card which will be sent to your email address.

Where items that have been returned have, in fact, been found to have faults or defects, the amount paid shall be refunded in full, including delivery charges that you may have paid.

If you have any questions, you can contact us via our contact form or by phoning 800 668 43 89.

## **17. LIABILITY AND LIABILITY EXEMPTION**

Except as otherwise specifically provided in these Terms, our liability regarding any product purchased from the website shall be strictly limited to the purchase price of said product.

Notwithstanding the above, our liability is not excluded or limited in any matter in which it would be illegal or unlawful for us to exclude or limit, or attempt to exclude or limit our liability.

Notwithstanding the provisions of the preceding paragraph and to the extent legally permitted, and unless otherwise provided in these Conditions, we will not accept any liability for the following losses, regardless of their origin:

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

Due to the open nature of this website 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 website unless otherwise expressly set forth on the website.

All the descriptions of products, information and materials on this website are provided “as a true body” and without express or implied warranties on them except those legally established. In this sense, if you enter into the contract as a consumer and user, we are obliged to deliver you articles that are in accordance with the contract, responding to you for any defect that exists at the time of delivery of the product. 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 this website, (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.

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.

The items we sell, particularly artisan items, often present inherent characteristics of the natural materials used in their manufacture. These characteristics, such as variations to the weave, texture, knots and colour, shall 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.

The provisions of this clause shall not affect your rights as a consumer and user, or your right to withdraw from the contract.

## **18. INTELLECTUAL PROPERTY**

You acknowledge and agree that all copyright, trade marks and other intellectual property rights of the materials or content supplied as part of the website shall 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 shall not prevent you from using the website to the extent necessary to copy information regarding your order or Contact details.

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

You must not misuse the website by intentionally introducing any viruses, trojans, worms, logic bombs or any other program or material that is technologically malicious or damaging. You shall not attempt to gain unauthorised access to this website, to the server that hosts the site, or to any other server, computer or database associated with our website. You commit to not attack this website 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 this website shall 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 this website or from downloading content from the site or sites to which it redirects.

## **20. LINKS FROM OUR WEBSITE**

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

## **21. WRITTEN COMMUNICATIONS**

Applicable regulations require a part of the information or communications we send you to be in writing. By using the website, you accept that the majority of said communication with us will be electronic. We will contact you by email or we will provide you with information by posting notices on this website. 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.

## **22. NOTIFICATIONS**

Any notifications you send us should preferably be sent through our contact form. As set out in clause 21 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 shall be deemed to have been received and properly served at the moment they are posted on the website, 24 hours after delivery by email, or three days after postage of any letter. To prove that a notification 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 mailbox, while, in the case of email, that it was sent to the email address specified by the consumer.

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

The Contract is binding for both you and for ITX Retail México, S.A. de C.V., 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.

ITX Retail México S.A. DE C.V. 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 shall not affect your statutory rights as a consumer, nor shall they cancel, reduce, or otherwise limit the warranties that we may have provided you, whether express or implied.

## **24. EVENTS OUTSIDE OUR CONTROL**

We shall not be liable for any breach or delay of performance of any of the obligations we assume under a contract, the cause of which is due to events that are beyond our reasonable control ("Unforeseen Circumstances and Force Majeure").

Unforeseen Circumstances and Force Majeure include any act, event, non-happening, omission or accident beyond our reasonable control and, among others, include the following:

- i. Strikes, lockouts or other industrial action.
- ii. Civil unrest, riot, invasion, terrorist attack or terrorist threat, war (whether declared or not) or threat or preparation for war.

- iii. Fire, explosion, storm, flood, earthquake, subsidence, epidemic or any other natural disaster.
- iv. Impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport.
- v. Impossibility of the use of public or private telecommunications networks.
- vi. Acts, decrees, legislation, regulations or restrictions of any government or public authority.
- vii. Any shipping, postal or other relevant transport strike, failure or accident.

Any of our obligations arising from contracts shall be deemed suspended while the Unforeseen Circumstances or Force Majeure continues, and we shall have an extended period of time to perform such obligations that equals the length of the term of the Unforeseen Circumstances or Force Majeure.

We will employ all reasonable means to bring an end to the Unforeseen Circumstances or Force Majeure or to find a solution that allows us to perform our obligations despite the Unforeseen Circumstances or Force Majeure.

## **25. 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, shall not constitute any waiver or limitation whatsoever in relation to said rights or actions, nor shall it relieve you from compliance with said obligations.

No waiver on our part of a specific right or action shall constitute a waiver of other rights or actions resulting from the Contract or the Terms.

No waiver by us of any of these Terms or the rights or actions arising from the Contract shall 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 Notifications section above.

## **26. PARTIAL ANNULMENT**

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

## **27. FULL AGREEMENT**

These Terms, and any document expressly referred to in them, constitute the full agreement between you and ITX Retail México S.A. de C.V. in relation to the subject matter of said terms, and substitute any other agreement, understanding or commitment previously agreed upon between you and ITX Retail México S.A. de C.V., whether verbally or in writing.

You and ITX Retail México S.A. de C.V. 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 the two parties prior to the contract, except that expressly stated in these Terms and Conditions.

Neither you nor ITX Retail México S.A. de C.V. shall 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.

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

We reserve the right to revise and amend the present Terms and Conditions at any moment.

You shall be subject to the Terms and Conditions and policies in force at the moment you use this website or place each order, unless any change to said policies, Terms or Privacy Policy is required to be made by law or governmental authorities, in which case, the potential changes will also affect the orders you previously placed.

## **29. APPLICABLE LAW AND JURISDICTION**

The use of our website and the contracts for the purchase of items through said website are governed by Mexican law.

Any dispute arising from or related to the use of the website or said contracts shall be subject to the exclusive jurisdiction of the courts of Mexico City, expressly renouncing any other jurisdiction that may correspond to them due to their present or future domiciles or for any other reason.

If you are contracting as a consumer, nothing in this clause will affect your rights as recognised by current legislation.

## **30. COMMENTS AND FEEDBACK**

We welcome your comments and feedback. Please send any comments and feedback through our contact form.

15/11/2022

## **TERMS AND CONDITIONS OF USE OF 'BERSHKA' APP FEATURES**

These Terms and Conditions of Use (the "Terms") specifically govern the access to and use of the services and various features available on BERSHKA's app (as defined below). These Terms are in addition and without prejudice to the Purchase Conditions of [www.bershka.com.mx](http://www.bershka.com.mx).

Features available on the app include: (i) the option to purchase goods via BERSHKA's app (the "App"), this being deemed to be a purchase made on the BERSHKA México Online Store (the "Online store"), and therefore subject to the Purchase Conditions of [www.bershka.com.mx](http://www.bershka.com.mx) ; (ii) the option to manage receipts for purchases made on the Online Store and, (iii) the option to receive the electronic receipt or electronic proof of purchase, by showing at BERSHKA's Physical Stores the designated exclusive QR for such purposes. Both Physical Store and Online Stores are represented in Mexico by ITX Retail México, S.A. de C.V. (the "Company"), with registered address at Poniente 146 No. 730, Col. Industrial Vallejo, C.P. 02300, Cd. de México.

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

Purchase of goods on [www.bershka.com.mx](http://www.bershka.com.mx) via the App.

Customers can purchase goods [www.bershka.com.mx](http://www.bershka.com.mx) via the 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.mx](http://www.bershka.com.mx), which you need to accept upon purchasing any good.

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

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

#### **1.3 Obtaining an electronic receipt**

When paying for a purchase in Physical Stores, you may request a receipt in electronic format. To do so, the QR code on the App that will be displayed for this purpose must be presented so that the receipt can be automatically sent to the App.

From this moment on, you may make exchanges or returns at Physical Stores using said receipt, under the applicable Terms and Conditions, according to the commercial policy of BERSHKA, and, in any event, in accordance with current legislation.

In this instance, you will not be issued a paper receipt. Therefore, it is paramount that you understand that by using this QR code you expressly request the e-receipt or the proof of purchase in electronic form, thus opting out of receiving it in paper form. In any case, you may always request the paper receipt by contacting our Customer Service, via any of the means of communication advertised on the BERSHKA website.



In any case, the governing regulation on e-receipts or any other regulation applicable, and those to which these Terms and Conditions are bound, shall always prevail.

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

#### **1.4 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 use this electronic receipt to 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 OFFERED VIA THE APP**

In accordance with applicable laws, we reserve the right to amend, suspend or delete, at any time, at our sole discretion and without prior notice, be it generally or in particular for one or more users, any or all of the Apps features, and to modify, suspend or delete, under the same terms, the availability of all or part of the Service.

### **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 the App in its different features. You agree to use the App 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 the App.

You will be liable in the following cases:

- a) when, where applicable, your equipment or terminals associated with the app, SIM cards, email addresses and/or any Passwords are used by a third party authorised by you without our knowledge;
- b) when errors or malfunction occur when you are using the App's 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.

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

Any of the elements that form part or are included in the App 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.