

## **1. INTRODUCTION**

This document (together with any documents herein mentioned) sets forth the terms and conditions governing the use of this website and the purchase of products through such website (hereinafter, the "Terms"). Please read through these Terms prior to using this website. By using this website or placing an order through it, you are consenting to be bound by these Terms. If you do not agree to all of the Terms, do not use this website.

These Terms may be amended. It is your responsibility to regularly read through them, as the Terms in force at the time that you use the website or at the time of the formation of the Contract (as defined below) shall be the applicable ones.

## **2. OUR DETAILS**

Your contract for sale of items through this website is with ITX Retail Ireland Limited, an Irish company with company number 347364 whose registered office is at Fifth Floor, Block 5, Harcourt Centre, Dublin 2 with VAT No. IE 6367364Q ("us"/"we"/"our"/"ITX Retail Ireland"). ITX Retail Ireland, part of the Inditex group of companies, sells items through this website under the UTERQÛE name

## **3. YOUR DETAILS AND YOUR VISITS TO THIS WEB PAGE**

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

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

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

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

By placing an order through the website, you warrant that you are at least 18 years old and are legally capable of entering into binding contracts.

## **5. SERVICE AVAILABILITY**

Items offered over this website are only available for delivery to the following Countries: Germany (except for the island of Helgoland and the town of Büsingen), Spain, France (except for the Overseas Departments), Portugal, United Kingdom (only in Mainland) and Switzerland.

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

The information set out in the Terms and the detail contained on this website do not constitute an offer for sale but rather an invitation to treat. No contract in respect of any products shall exist between us and you

until your order has been expressly accepted by us. If we do not accept your offer and funds have already been deducted, these will be fully refunded.

To place an order, you will be required to follow the shopping process online and press the "Authorize payment" button to submit the order. After this you will receive an e-mail from us acknowledging that we have received your order (the "Acknowledgement of Receipt"). Please note that this does not mean that your order has been accepted. Your order constitutes your offer to us to buy one or more products from us. All orders are subject to acceptance by us, and we will confirm such acceptance to you by sending you an e-mail that confirms that the product has been dispatched (the "Order Confirmation").

The contract for the purchase of a product between us ("Contract") will only be formed when we send you the Order Confirmation. The Contract will relate only to those products whose dispatch we have confirmed in the Order Confirmation. We will not be obliged to supply any other products which may have been part of your order until the dispatch of such products has been confirmed in a separate Order Confirmation.

## **7. AVAILABILITY OF PRODUCTS**

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

## **8. REFUSAL**

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

We will not be liable to you or any other third party by reason of our withdrawing any product from this website, whether or not it has been sold, removing or editing any materials or content on this website or for refusing to process an order after we have received it or sent you an Acknowledgement of Receipt.

## **9. DELIVERY**

Subject to the provisions of Clause 7 above, we will endeavor to fulfill your order for product(s) listed in the Order Confirmation by the delivery date set out in the Order Confirmation or, if no estimated delivery date is specified, then within 15 days of the date of the Order Confirmation unless there are exceptional circumstances.

Reasons for delay could include:

- i. Customisation of products;
- ii. Specialist item;
- iii. Unforeseen circumstances; or
- iv. Delivery area.

If for any reason we cannot meet the delivery date you will be kept informed and offered a choice of either continuing with the extended delivery time or cancellation with a full refund. Please note however that we do not deliver on Saturdays or Sundays.

For the purpose of these Terms "delivery" or "delivered" shall be deemed to have occurred upon signing for receipt of the products at the agreed delivery address.

## **10. UNABLE TO DELIVER**

If we are unable to deliver after two attempts, we will try to find a safe secure place to leave your parcel. We will leave a note explaining where your parcel is and how you can pick it up. If you are not at the delivery location at the time agreed, please contact us again to rearrange delivery for another day.

Upon lapse of 15 days of the moment when your order is ready for delivery, without such order having been delivered on grounds not attributable to us, we shall understand that you wish to cancel the Contract and it shall be treated as terminated. As a result of the termination of the Contract, we will refund the price paid for such products as soon as possible and anyway within 30 days of the date on which we shall deem the Contract terminated. In such cases, we shall be authorized to pass on you any delivery costs and costs incurred in the termination of the Contract.

## **11. RISK AND TITLE**

The products will be at your risk from the time of delivery. Ownership of the products will only pass to you when we receive full payment of all sums due in respect of the products, including delivery charges, or upon delivery (as defined in clause 9), whichever is the later.

## **12. PRICE AND PAYMENT**

The price of any products will be as stipulated on our site from time to time, except in cases of obvious error. While we try to ensure that all prices on the website are accurate, errors may occur. If we discover an error in the price of products you have ordered, we will inform you as soon as possible and give you the option of reconfirming the order at the correct price or cancelling it. If we are unable to contact you, the order will be treated as cancelled and if you have already paid for the products you will receive a full refund.

We are under no obligation to provide the product(s) to you at the incorrect (lower) price (even after we have sent you an Order Confirmation) if the pricing error is obvious and unmistakable and could have reasonably been recognised by you as incorrect price.

The prices on the website include VAT but exclude delivery costs, which will be added to the total amount due as set out in our Delivery Costs Guide.

Prices are liable to change at any time, but (other than as set out above) changes will not affect orders in respect of which we have already sent you an Acknowledgement of Receipt. Once you have finished shopping all the items you wish to purchase are added to your basket, your next step will be to go the checkout process and make payment. To do this:

- i. Click the "Shopping bag" button at the top of the page.
- ii. Click on the "Process order button".
- iii. Check the items on your shopping bag and click again on "Process order button".

- iv. Fill-in or check your contact details, the details of your order, the address to which you wish the order to be delivered and the invoicing address.
- v. Fill in your credit card details.
- vi. Click "Authorize Payment"

Payment can be made by Visa, Mastercard, American Express and Paypal. To minimise the possibility of unauthorised access, your credit card details will be encrypted. You can also pay all or part of the price of your purchase with a Zara, Zara Home, Massimo Dutti, Bershka, Pull & Bear, Stradivarius or Oysho gift card or voucher card, for the Republic of Ireland. Upon receipt of your order, we will make a pre-authorization on your credit card to ensure there are enough funds to complete the transaction. The amount of the purchase will not be charged to your card until your order is dispatched from our warehouses.

If payment is made via PayPal, a gift card or a voucher card, the amount will be charged upon confirmation of your order.

By clicking the "Authorize Payment" button, you are representing that you are the owner of the credit card. Credit cards are subject to validation checks and authorisation by your card issuer but if your card issuer fails to authorise payment to us, we will not be liable for any delay or non-delivery and may not be able to form a Contract with you.

Please note that Fashion Retail, S.A. of Avenida de la Diputación, Edificio Inditex, Arteixo, A Coruña, Spain, registered in the commercial register of A Coruña, vol. 3425, page 49, C-47731, 1<sup>st</sup> entry, and tax identification number A-70301981, will collect and make refunds on behalf of ITX Retail Ireland Limited in relation to all payments made through this online platform.

### **13. VALUE ADDED TAX**

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

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

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

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

### **14. EXCHANGES / RETURNS POLICY**

#### **14.1 Statutory right to cancel your purchase**

Under the Consumer Protection (Distance Selling) Regulations, if you are contracting as a consumer, you have up to 7 working days after you have received your delivery to cancel your order (other than in respect of goods made to your specification or are clearly personalised).

In such case, you will be refunded the price paid for such products. Direct costs incurred in the return of such products will be borne by you where none of the free return methods addressed in Clause 14.3 below is used. You may provide evidence of the right of cancellation through any of the means provided by law, and in any event such right shall be deemed to have been validly exercised by sending the returns form that we provide you with (hereinafter, the “Returns Form”) or by returning the products. This provision does not affect your statutory rights.

### **14.2 Contractual right to cancel your purchase**

In addition to the statutory right of cancellation of consumers and users referred to in Clause 14.1 above, we grant you a 30 day period from the date of the Order Confirmation to proceed to any return of products (except for those referred to in Clause 14.3 below, regarding which the cancellation right is exempted). In the event of any return, you will be refunded the price paid for the returned products. Direct costs incurred in the return of such products will be borne by you where none of the free return methods addressed in Clause 14.3 below is used. You shall exercise your right of cancellation by sending the Returns Form we provide you with or by returning the products.

### **14.3 Common provisions**

You may not cancel the Contract whose subject matter is the supply of any of the following products:

- i. Customized items.
- ii. Music CDs/DVDs; whose original wrapping has been removed.

Your right to cancel a Contract only applies to products which are returned in the same condition as you received them. Where possible, please use or include with the product being returned all original boxes, instructions/documents and wrappings and return the products in the same conditions as received. In any case, you shall return the product with the Returns Form received on delivery duly completed. No refund will be made if the product has been used beyond opening or if it is damaged. Therefore, you should take reasonable care of the products while they are in your possession. Failure to exercise such reasonable care may, depending on the circumstances, give rise to a right of action against you for breach of statutory duty. Exchange is limited to exchange for the same product, of a different size or colour. You will be provided with a summary on the exercise of your right to cancel upon receiving the Order Confirmation. You may return any product at any UTERQÛE store in the country where your product was delivered (should there be one), or by Courier arranged by us.

#### **i. Returns at any UTERQÛE store**

You may return any product at any UTERQÛE store in the country where your product was delivered (should there be one). In such case, you should go to such store and present with the good a fully completed Returns Form included with the delivery of the product.

#### **ii. Returns by Courier**

When returning the product(s) by Courier arranged by us, you should contact us through the section “My account” to arrange for the product to be collected at your home. You should send the product in the same package received by following the directions on the “RETURNS” section of this website.

Neither of the above options will entail any additional cost to you.

Where you would not wish to use neither of the free return methods available, you will be responsible for the return costs. Please bear in mind that if you wish to return the goods to us freight collect we may charge you any costs incurred in such return. We will fully examine the returned product and will inform you of your right to refund (if any). We will process your refund as soon as possible and in any case, within 30 days of giving us notice of cancellation. We will refund any money received from you using the same method used to make payment. Should you have any doubt, please contact us through our web form or by telephone at 1 800 55 34 32.

#### **14.4 Returns of defective products**

In circumstances where you consider that the product does not conform to the Contract at the time of delivery, you should promptly contact us via our web form with details of the product and its damage. Alternatively you can contact us by telephone at 1 800 55 34 32 where you will receive instructions from us.

You may return the product to us at any UTERQÛE store in the country where your product was delivered (should there be one) or by giving it to the Courier arranged by us.

Upon receipt of the returned product, we will fully examine it and notify you of your right to a replacement or refund (if any) via e-mail within a reasonable period of time. The refund or replacement will take place as soon as possible and, in any case, within 30 days of the day we confirmed to you via e-mail that you are entitled to a refund or replacement for the non conforming product.

Defective products will be refunded in full, including a refund of the delivery charges and any reasonable costs incurring by you in returning the item. We will always refund any money using the method used to make payment.

THE PROVISIONS SET OUT IN THIS CLAUSE 14 DOES NOT AFFECT YOUR STATUTORY RIGHTS RELATING TO FAULTY OR MISDESCRIBED GOODS OR YOUR RIGHT TO CANCEL ORDERS UNDER THE CONSUMER PROTECTION (DISTANCE SELLING) REGULATIONS.

#### **15. LIABILITY AND DISCLAIMERS**

Unless otherwise expressly stated in these Terms, our liability in connection with any product purchased through our site is strictly limited to the purchase price of that product.

Notwithstanding the above, nothing in these Terms shall exclude or limit in any way our liability:

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

Subject to the foregoing paragraph and to the fullest extent permitted by law, and unless otherwise stated in these Terms, we accept no liability for indirect losses which happen as a side effect of the main loss or

damage however arising and whether caused by tort (including negligence), breach of contract or otherwise, even if foreseeable, including (without limit) for any:

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

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

All product descriptions, information and materials posted on this website are provided "as is" and without warranties express, implied or otherwise howsoever arising.

To the fullest extent permissible pursuant to law, but without excluding anything that may not lawfully be excluded in the case of consumers, we disclaim all other warranties of any kind.

Nothing in this Clause will affect your statutory rights as a consumer, or your Contract cancellation rights.

## **16. INTELLECTUAL PROPERTY**

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

## **17. VIRUSES, HACKING AND OTHER CYBERCRIMES**

You may not misuse this website by knowingly introducing viruses, Trojans, worms, logic bombs or other material which is malicious or technologically harmful. You will not attempt to have any unauthorized access to this website, to the server which hosts this site or to any other server, computer or data base related to our website. You undertake not to attack this website via a denial of service attack or a distributed denial of service attack.

By breaching this provision you may commit a criminal offence under the applicable regulations. We will report any such breach to the relevant law enforcement authority and we will co-operate with the appropriate authority to disclose the identity of the hacker. Likewise, in the event of such a breach, your right to use this website will cease immediately.

We accept no liability for any loss or damage resulting from any denial of service attack, virus or any other software or material which is malicious or technologically harmful to your computer, equipment, data or material resulting from the use of this website or from the downloading of the contents thereof or of such contents to which this website redirects.

## **18. LINKS FROM OUR WEBSITE**

We may have links from our website to other third party websites and materials; such links are provided exclusively for information purposes and we do not have any control whatsoever over the contents of such

websites or materials. Accordingly, we accept no liability whatsoever for any loss or damage which may arise from the use of such links.

## **19. WRITTEN COMMUNICATIONS**

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

## **20. NOTICES**

All notices given by you to us should be given to us via our web form. Subject to and as otherwise specified in clause 19 we may give notice to you at either the e-mail or postal address you provide to us when placing an order.

Notice will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

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

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

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

## **22. EVENTS BEYOND OUR CONTROL**

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

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

- i. Strikes, lock-outs or other industrial action.
- ii. Civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war.
- iii. Fire, explosion, storm, flood, earthquake, subsidence, epidemic or 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. The acts, decrees, legislation, regulations or restrictions of any government.
- vii. Any shipping, postal or other relevant transport strike, failure or accidents.

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

### **23. WAIVER**

If we fail, at any time during the term of a Contract, to demand strict performance of any of your obligations under the Contract or any of these terms and conditions, or if we fail to exercise any of the rights or remedies to which we are entitled under the Contract, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with such obligations.

A waiver by us of any default shall not constitute a waiver of any subsequent default whether arising from the Contract or the Terms.

No waiver by us of any of these terms and conditions shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing in accordance with the paragraph on Notices above.

### **24. SEVERABILITY**

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

### **25. ENTIRE AGREEMENT**

These Terms and any document expressly referred to in them represent the entire agreement between you and us in relation to the subject matter of any Contract and supersede any prior agreement, understanding or arrangement between you and us, whether oral or in writing.

Both you and us acknowledge that, in entering into a Contract, neither you nor us has relied on any representation, undertaking or promise given by the other or be implied from anything said or written in negotiations between you and us prior to such Contract except as expressly stated in these Terms.

Neither you nor us shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date of any Contract (unless such untrue statement was made fraudulently) and the other party's only remedy shall be for breach of contract as provided in these Terms.

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

We have the right to revise and amend these Terms from time to time.

You will be subject to the policies, Terms in force at the time that you order products from us, unless any change to those policies, Terms or Privacy Statement is required to be made by law or governmental authority (in which case it will apply to orders previously placed by you).

### **27. LAW AND JURISDICTION**

Contracts for the purchase of products through our site will be governed by Spanish law.

Any dispute arising from, or related to, such Contracts shall 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 statutory rights as such.

## **28. FEEDBACK**

We welcome your comments and feedback. Please send all feedback and comments to us via our web form.

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

In this regard, if the purchase from us was concluded online through our website, we, in line with EU Regulation No. 524/2013, hereby inform you that you are entitled to seek the consumer dispute with us out-of court, through the platform for the online dispute resolution accessible through the Internet address [//ec.europa.eu/consumers/odr/](https://ec.europa.eu/consumers/odr/).

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