

# **Berlin est à nous**

## **Individual sales contract on berlinestanous.com**

**Special Conditions between Berlin est à nous (e-trader) represented by Christelle Traoré and the Individual selling on Berlin est à nous (berlinestanous.com)**

### **Contract summary**

**Berlin est à nous** sells on its online concept store the products offered by the Individual against a commission of 20% of sales (VAT included and shipping costs excluded). The Individual must deposit or send the products to **Berlin est à nous** within a short time after acceptance of the sale.

### **1 - Definitions**

In these terms, the following terms used with a first letter in capital letters will have the meaning specified below, it being specified that terms in the plural may be understood in the singular and vice versa. Unless specifically mentioned herein, the other terms used with a capital letter in these Terms have the meaning given to them by the General Terms.

**Source code:** Set of instructions written in a computer programming language, markup or presentation formats, including all multimedia or other elements included, used by the Individual for the needs of customizable services.

**Contract:** The Special Conditions, which set the contractual relationship between **Berlin est à nous** and the Individual.

**Parties:** **Berlin est à nous** and the Individual subject to compliance with the Terms.

### **2 - Conditions of access to certain services**

The activation of the services referred to in articles 2.3 for the benefit of the Individual is the result of a unilateral decision by Berlin. We take into account the Individual's Performance and Confidence Indicators.

Any activation of these services is subject to the subscription of specific commitments.

**Berlin est à nous** reserves the right to suspend the benefit of the services, in particular in the event of violation of their conditions of use.

### 3 - Special obligations of the Individual

#### • 3.1 - Commercial activity of the Individual

The Individual is expressly informed that **Berlin est à nous** attaches paramount importance to the smooth running of purchases made by its users from Individuals involved in **Berlin est à nous**. In particular, **Berlin est à nous** understands that orders placed in **Berlin est à nous** constitute a fully satisfactory experience for Buyers.

Conscious of these decisive requirements, the Individual undertakes in general to process questions and complaints received in a reasonable and informed manner.

In this context, he undertakes to:

- Use moderation and courtesy in all circumstances in any dealings with Members;
- Comply with all German and Community legislation, in particular with regard to tax obligations and social;

The Individual undertakes to deposit or send his article upon acceptance of the sale in **Berlin est à nous**.

#### • 3.2 - Sale offers and order processing

The Individual presents their offer in **Berlin est à nous** who unilaterally chooses the items to be offered for sale. **Berlin est à nous** will sell the articles of according to the editorial line of **Berlin est à nous**.

The Individual presents their offer within the strict framework of the laws and regulations in force, and in particular that relating to the prohibition of unfair, deceptive or aggressive commercial practices, that relating to sales, that relating to waste electrical equipment and electronic, that relating to legal and commercial guarantees and to the marketing of regulated products which he declares to know perfectly. The Individual is able to communicate to **Berlin est à nous**, without delay and on first request, any authorization of holder of intellectual property rights that may be required for the marketing of its Products in **Berlin est à nous**.

The prices mentioned in the offers displayed in list mode represent the total basic prices fixed by the Individual. The prices mentioned on each product page are the total prices including tax. They include all the components of the price: the total basic price, all accessory taxes and the shipping costs charged by the transporter of **Berlin est à nous**.

The Individual sends at his expense (or drop-off) to **Berlin est à nous** (except special mention) the products accepted for sale within 72 hours.

Any acceptance of the sale of a product whose shipment is not confirmed within 72 hours is automatically considered to be canceled. In this context, the Individual consults daily their e-mail box (indicated during registration) and / or the sales management interface on Berlin is ours.

For deposits, the Individual must agree on a date and time for an appointment by e-mail.

The Individual provides to **Berlin est à nous**, according to the terms and deadlines indicated by the latter, any information relating to the status and shipping, this information can be communicated freely to those interested by **Berlin est à nous**.

### 4 - Financial conditions

#### • 4.1 - Payment of sales and Commission of Berlin est à nous

**Berlin est à nous** returned to the Individual after each sale deemed to be perfect, that is to say for which the Buyer has confirmed that the Product has been received in accordance with the Terms and conditions, the agreed sale price minus the applicable commission on the sale price (Shipping costs

excluded) and more generally any sum due by the Individual in Berlin is to us in application of the Contract.

Payment for deemed perfect sales is made by bank transfer every Monday. Sales for which the Buyer has not confirmed that the Product has been received in accordance with the advertisement shall be paid no later than 30 days after the date of confirmation of the sale.

#### • 4.2 - Commission

In return for the service or services included in the subscribed offer, **Berlin est à nous** charges a commission.

#### • 4.3 - Amount of the Commission

The amount of the 20% Commission is taken directly from the amount of your sales (VAT included and shipping costs excluded if these are not personalized).

Any modification in the amount of the Commission will come into force, at the latest, at the beginning of the month following that during which the modification will have occurred and this contract will be updated.

## 5 - Personal guarantees

The Individual guarantees **Berlin est à nous** against all troubles, claims or actions on the part of any person having for cause, foundation or origin the activity of the Individual. This guarantee includes litigation or actions based on consumer law, intellectual property, banking regulations, and any other basis whatsoever. The Individual undertakes to assume the payment of all sums, including all possible convictions, even not final, legal and mediation costs, including attorney's fees, which would be due in this respect, provided that the Individual has been informed of any prosecution within a reasonable time.

The responsibility of each of the Parties cannot be sought if the execution of the Special Conditions is delayed or prevented due to force majeure, as defined by the case law of the German courts.

## 6 - Level of service

**Berlin est à nous** makes every effort to operationalize the servers hosting the services offered 24 hours a day, seven days a week, subject to the occurrence of an event arising from force majeure, periods of maintenance and upkeep and operations updates and any exceptional interruptions.

These services may be interrupted to allow maintenance and service work to be carried out. As far as possible, this work will be carried out at times when the server is least used by the public, generally between midnight and 6 am CET.

**Berlin est à nous** may, after notifying the Individual within a reasonable time, complete stops related to technical reasons such as, in particular, the change of computers, the extension of the system, or the profound modification of the system.

The Individual is informed and recognizes that **Berlin est à nous** may make changes to the services.

The Individual recognizes that networks having unequal transmission capacities and their own usage policies, no one can guarantee the proper functioning of the Internet as a whole. The Individual thus accepts to bear within the reasonable limits of the diligence of **Berlin est à nous**, risks of imperfection or unavailability of the services (examples: accessibility of the contents, delay of display of the pages).

## 7 - Protection of personal data

Each of the Parties undertakes to comply with the provisions of German law relating to personal data, in particular as regards information which is incumbent upon it and information for the Member. Each of the Parties shall take all appropriate measures to ensure the protection, integrity and confidentiality of the personal data it holds on its customers. The Individual therefore undertakes to take all useful precautions in order to preserve the security, integrity and confidentiality of all personal data of which he would be required to be the custodian in the context of his activity with **Berlin est à nous**.

In accordance with German law, Buyers have the right to access, modify, rectify and oppose data concerning them. These prerogatives are exercisable with **Berlin est à nous** in its capacity as data controller. In the event of receipt of any request for the exercise of one of the aforementioned rights by a Buyer, the Individual therefore undertakes to inform without delay **Berlin est à nous** who will process the request.

## 8 - Suspension - Termination

### • 8.1 - Suspension and termination at the fault of the Individual

The Individual will have to remedy any violation of its contractual obligations and this within the time limit fixed on a case by case basis by **Berlin est à nous**. Depending on the gravity or the repetition of the violation of the Individual's contractual obligations such as for example a manifest price error in its offers, a succession of complaints or cancellation of orders or an order cancellation rate equal to or greater than 5% of all orders from Members over a rolling month, **Berlin est à nous** may suspend the account (s) of the Individual and any associated offer as well as its access to **Berlin est à nous**, without notice and until perfect and lasting resolution of the problems observed.

In the event of a particularly serious and / or repeated violation of the obligations of the Individual or serious and / or repeated problem affecting his / her account (s), **Berlin est à nous** reserves the right to terminate the Contract without notice, to prohibit the access to **Berlinestಾನous.com** at the Individual, to delete its offers and to cancel its current sales.

Are understood in particular as a violation or a particularly serious problem within the meaning of the preceding paragraph any fraudulent or illicit behavior and any offer for sale or sale of Prohibited Product (including counterfeit products, dangerous and illegal substances, etc.).

The Private individual cannot claim in these hypotheses any compensation for the costs possibly exposed by him for the diffusion and the promotion of his offers.

### • 8.2 - Amicable termination

The Contract is an open-ended contract. As such, it can be canceled at any time by **Berlin est à nous** or by the Individual without specific reason by simple notification by e-mail or by registered letter addressed to:

#### **Berlin est à nous**

Choriner Str. 57  
10435 Berlin  
Germany

The termination of the Contract by the Individual will take effect at the end of the month during which it will have been notified in **Berlin est à nous**, provided that this notification was made before the 20th of the month and that this day is neither a Saturday, nor a Sunday, nor a public or non-working day. In the absence of notification of termination within these deadlines, it will take effect at the end of the month following that in which the notification is received by **Berlin est à nous**.

If **Berlin est à nous** terminates the contract, the products of the Individual on deposit will be returned to it free of charge.

If the termination of the contract is due to the Individual, the latter will have his articles shipped at his expense. The costs inherent to the shipment will be payable by the Individual before sending. Individuals can collect their items free of charge directly on site, by appointment confirmed by e-mail.

### • 8.3 - Termination and closure of the Individual's account

In order to guarantee the proper performance of the obligations which it would owe to the Buyers, the Individual accepts that the closing of his account will take place after the effective date of the termination of the Contract.

## 9 - General provisions

### • 9.1 - Declaration of reciprocal independence

**Berlin est à nous** and the Individual declare and recognize that they are and remain, throughout the duration of the Contract, independent commercial partners, each insuring the risks of their own activity.

### • 9.2 - Berlin est à nous Intellectual Property Rights Reserve

The Individual recognizes that the intellectual property rights, whatever their nature, as well as the know-how used by **Berlin est à nous** within the framework of the Contract will remain the sole property of **Berlin est à nous**.

Any commercial use by the Individual of the figurative, semi-figurative and nominative marks of **Berlin est à nous** is prohibited, unless prior, express and written authorization of **Berlin est à nous**.

### • 9.3 - Non-bashing

The Individual formally prohibits himself, under penalty of damages, to disparage, in any way whatsoever, **Berlin est à nous**, its brand or its products and services, and more generally obliges itself to a duty of reserve.

### • 9.4 - Assignment and Subcontracting

The Individual authorizes **Berlin est à nous** is for us to transfer the Contract to any company of the group to which it belongs, or to any company controlling it or controlled by it, within the framework of German legislation. The Individual will be informed if necessary by any means chosen by **Berlin est à nous**.

With the exception of subcontracting the delivery of Products to a transport or postal service provider, the Individual is prohibited from entrusting a third party with the performance of all or part of his contractual obligations without having previously got express and written agreement from **Berlin est à nous**.

### • 9.5 - Non-waiver

The fact for **Berlin est à nous** not to ask the Individual for the performance of one or more of the obligations stipulated in the Contract can not be interpreted as a waiver of **Berlin est à nous** to avail ourselves for the future of the of the obligations in question.

### • 9.6 - Modifications

**Berlin est à nous** has the power to modify these Special Conditions according to the evolution of its offer and the market. Any modification will take effect immediately for online offers upon notification to the Individual by any means chosen by **Berlin est à nous**. They will not apply for transactions in progress at the time of their entry into force.

• **9.7 - Accuracy of Personal details**

The Individual undertakes to fill in valid contact details in their account and to keep them perfectly up to date, including contact details including name, company name, e-mail and postal addresses, telephone number and bank account statement.

• **9.8 - Agreement on the evidence**

The Individual acknowledges that the electronic media constitute at least the beginning of proof in writing and that in the event of a dispute, the electronic documents produced by **Berlin est à nous** shall prevail over those produced by the Individual, unless the latter demonstrates this. the lack of reliability or authenticity of the documents produced by **Berlin est à nous**.

• **9.9 - Notifications**

Any notification made by registered letter with acknowledgment of receipt request will be deemed to have been received by the receiving Party on the date indicated on the acknowledgment of receipt or on the calling card. In the event that this date does not correspond to that of a working day, the date of receipt will be that of the first following working day. Saturdays will be presumed not to be working days. Apart from this presumption, it will be up to the addressee of the notification if necessary to prove, by objective elements and prior to the notification, that the day of receipt of the notification was not a working day.

The text of the notification will be written in French, or in English or German and must be clear and unequivocal on its subject.

• **9.10 - Applicable law and settlement of disputes**

**The Contract is governed by German law, even though the Individual is of foreign nationality and / or the Contract is executed in whole or in part abroad.**

Before any referral to the competent jurisdictions defined below, the Parties have the possibility of having recourse to the Mediator of the companies with a view to resolving any dispute arising from the conclusion, interpretation, execution or termination of the Contract. duration of mediation may not exceed 3 months, unless otherwise agreed by the Parties. All exchanges between the Parties in the context of mediation will be, unless the Parties agree, confidential for an unlimited period.

**With the exception of the Individual's guarantee call by Berlin est à nous, any dispute arising from the conclusion, interpretation, execution or termination of the Contract will be exclusively submitted to the competent court, notwithstanding plurality of defendants, motion for interim measures or warranty claim.**

**Berlin est à nous, represented by Christelle Traoré**

Address: Choriner Str. 57, 10435 Berlin, Germany