

HACHETTE UK DISTRIBUTION LIMITED
TERMS AND CONDITIONS OF TRADE SUPPLY

Hachette UK Distribution Limited is appointed by individual publishers as that publisher's agent for the supply of the publisher's goods. Any such goods are supplied by Hachette UK Distribution Limited on the terms and subject to the conditions set out below. These terms and conditions apply only to the supply of goods to Trade Customers. Supplies of goods to Private Individuals are governed by Hachette UK Distribution Limited's Terms and Conditions for Private Individuals which can be found on our website, <https://www.hachetteukdistribution.co.uk>.

A. GENERAL

- In these Conditions:
"Hachette UK Distribution" means Hachette UK Distribution Limited and, where applicable, any other company which is part of the Hachette UK group of companies (including subsidiaries, the holding company and all such holding companies or subsidiaries of such parties from time to time (with the terms **subsidiary** and **holding company** having such meanings assigned to them by s.1159 of the Companies Act 2006 (as amended)).
"Contract" means any contract between the Customer and the Publisher or Hachette UK Distribution (as agent of the Publisher) for the sale and purchase of Goods;
"Customer" means the person who places an order for Goods with either the Publisher or Hachette UK Distribution and, in respect of delivery of Goods, includes the person to whom Goods are to be delivered in accordance with the Customer's instructions;
"Delivery Address" means the delivery address of the Customer, its agent, supplier or other person within the United Kingdom provided to the Publisher or Hachette UK Distribution by the Customer to which the Goods are to be delivered or, where no such address is provided, the address shown on Hachette UK Distribution's invoice or dispatch documentation;
"Goods" means any goods to be purchased by the Customer and to be supplied by Hachette UK Distribution as agent of the Publisher;
"Losses" in respect of any matter, event or circumstance includes all demands, claims, actions, proceedings, damages, payments, losses, costs, expenses or other liabilities;
"Private Individuals" means any Customer who is a natural person purchasing Goods as a consumer as defined by the Consumer Rights Act 2015;
"Publisher" means the publisher of the Goods, for whom Hachette UK Distribution acts as agent, and includes its officers, employees, representatives, agents (other than Hachette UK Distribution) and contractors; and
"Trade Customer" means any Customer who is not a Private Individual.
- Each order or acceptance of a quotation, given by the Publisher or Hachette UK Distribution as agent of the Publisher, for Goods by the Customer shall be deemed to be an offer by the Customer to purchase Goods subject to these Conditions.
- All orders are accepted and all Goods are supplied subject to these Conditions. These Conditions form part of the Contract and cannot in any way be altered, added to or superseded by any terms and conditions of the Customer, however communicated to Hachette UK Distribution. No order placed by a Customer shall be deemed to be accepted by the Publisher or Hachette UK Distribution until the order is confirmed in writing (either directly or through EDI, PubEasy or otherwise). Except as expressly provided otherwise, no amendment of, addition to or variation from these Conditions shall be binding on Hachette UK Distribution unless it is in writing and signed by a duly authorised representative of Hachette UK Distribution. The Customer acknowledges that it has not relied on or been induced to enter into the Contract by any representation or warranty other than those expressly set out in the Contract.
- The Customer shall not sell or make available to the general public or any third party any Goods before the publication date of such Goods unless authorised specifically in writing by Hachette UK Distribution. Where the Customer is a wholesaler it shall use its best endeavours to procure that retailers to which it has made available any Goods prior to the publication date do not sell or make available to the general public such Goods prior to the publication date. The Customer hereby indemnifies Hachette UK Distribution against all and any loss, damage, cost or expense (including but not limited to legal expenses) whatsoever incurred by Hachette UK Distribution directly or indirectly arising from the Customer's sale or making available to the general public any Goods before the publication date of such Goods.

B. ORDERS

- The quantity and description of the Goods shall be as set out in Hachette UK Distribution's invoice or other dispatch documentation.
- Hachette UK Distribution reserves the immediate right, at any time (without prejudice to any other remedy) to terminate any Contract or to cancel any uncompleted order or to suspend delivery of Goods in total or in relation to any one Publisher's Goods in the event that any amounts payable by the Customer are overdue or there is any breach by the Customer of these Conditions or for any other reason which in the opinion of Hachette UK Distribution or a Publisher justifies such action. Hachette may refuse the supply of Goods produced or published by a particular Publisher if directed to do so by that Publisher.
- Hachette UK Distribution reserves the right to cancel any order placed by a Customer where Hachette UK Distribution is unable to fulfil the order in whole or in part.
- Where there are any orders outstanding with Hachette UK Distribution after the termination or expiry of the agreement between Hachette UK Distribution and the Publisher, Hachette UK Distribution will transfer such orders to the Publisher's new agent, together with (if relevant) any monies paid in advance of dispatch of the order for cash sales. Hachette UK Distribution shall not be liable for any non-performance of any order or part of any order where such non-performance is due to the termination (for whatever reason) or expiry of the agreement between Hachette UK Distribution and the Publisher.

C. DELIVERY AND RISK

- Goods will be delivered to the Delivery Address or such other address outside the United Kingdom as agreed with Hachette UK Distribution. Any delivery dates are given by Hachette UK Distribution and the Publisher as estimates only and the time of delivery shall not be made of the essence by notice. If no delivery dates are specified, delivery shall be within a reasonable time. Delivery is deemed to occur (and risk to pass) at the time Hachette UK Distribution, or its carriers, attempt delivery of the Goods.
- If for any reason the Customer fails to accept delivery of any of the Goods, Hachette UK Distribution may arrange for the Goods to be stored until delivery is accepted and the Customer shall be liable for all related costs and expenses (including, without limitation, storage, insurance and re-delivery costs).
- Neither Hachette UK Distribution nor its carriers are obliged to provide loading or unloading facilities on delivery except where such facilities have been expressly agreed with Hachette UK Distribution, in which case Hachette UK Distribution shall be entitled to make an additional charge for the provision of such services.
- Hachette UK Distribution may deliver the Goods in separate consignments. Each separate consignment of Goods may be invoiced separately and paid for separately by the Customer in accordance with the terms of the Contract. Each consignment shall be a separate Contract and no cancellation or termination of one Contract relating to a consignment shall entitle the Customer to repudiate or cancel a Contract relating to any other consignment.
- Unless otherwise agreed between Hachette UK Distribution and the Customer, where Goods are to be delivered to an address outside the United Kingdom (whether or not the shipment is arranged by Hachette UK Distribution), the INCOTERMS 2010 shall apply to the shipment of those Goods. The applicable incoterm shall be Free Carrier (FCA) unless otherwise agreed between Hachette UK Distribution and the Customer.
- Unless otherwise agreed between Hachette UK Distribution and the Customer, the risk of loss and/or damage (but not title) to Goods shall pass to the Customer at the time of delivery (or deemed delivery pursuant to Condition C1), whether expressly or by implication, and Hachette UK Distribution shall not be liable for the safety of the Goods after delivery. Accordingly, the Customer shall insure the Goods following delivery or deemed delivery against such risks as may be commercially prudent.
- Hachette UK Distribution shall not be liable for any Losses incurred as a result of or in connection with any delay in the delivery of the Goods (even if caused by Hachette UK Distribution's negligence), nor shall any delay entitle the Customer to terminate or rescind the Contract. Any liability of Hachette UK Distribution for non-delivery of Goods shall be limited to replacing the Goods within a reasonable time or crediting the Customer the pro-rata price (as determined in accordance with the Contract) against any invoice raised for the non-delivered Goods.

D. RETURNS

- Unless otherwise agreed with the Publisher, Goods are supplied on a firm sale basis. Where the Publisher has agreed to supply Goods on a sale or return basis, the provisions of Conditions D2 to D7 inclusive shall, unless the Publisher agrees otherwise, apply to any such return.
- Prior written authorisation for returned Goods must be obtained from the Publisher or Hachette UK Distribution by Customers either in writing or electronically under the Industry Returns Initiative. Prior written authorisation by the Publisher or Hachette UK Distribution does not confer automatic credit for returns if the Customer fails to comply with the remaining provisions of the Publisher's and/or Hachette UK Distribution's returns policy.
- For authorisation requests placed by electronic means under the Industry Returns Initiative, the rules of that Initiative will apply. These rules are published on the Book Industry Communication website (<http://www.bic.org.uk>). For authorisation requests placed in writing, the following details the rules for determining the validity of the request:
 - Audio cassettes, compact discs and bibles cannot be returned and will not be accepted.
 - The provisions of this Condition D3 are subject always to the provisions of Condition D5. The terms contained in this Condition D3 are not exhaustive and, in addition, the returns policy of the Publisher in respect of Goods will apply to the return of Goods by the Customer.
- Returned Goods will not be credited against the Customer's invoice or account unless they are in mint condition and are accompanied by a signed returns authorisation note that

corresponds to the Goods returned. ISBN and full details of the Goods proposed to be returned must be provided in writing. The relevant invoice numbers for the returned Goods must be quoted wherever possible.

5. Unauthorised returns will not be sent back to the Customer and will not be credited.
6. Only complete books may be returned unless otherwise authorised by Hachette UK Distribution or the Publisher in writing.
7. All returns are made at the Customer's expense and accordingly Hachette UK Distribution will not accept any charges levied by shipping or transport agents. Hachette UK Distribution is not liable for any returns lost in transit. Returns remain the responsibility and property of the Customer until receipt in Hachette UK Distribution's warehouse. The Customer is liable for any shortages in or damage to Goods during transit.

E. TITLE

1. Notwithstanding any other provision of these Conditions, legal and beneficial title in all Goods supplied pursuant to these Conditions shall remain vested in the Publisher until Hachette UK Distribution, as agent of the Publisher, has received payment in full of all debts (including value added tax and any interest payable under Condition F3) owing by the Customer to the Publisher. Until such time and upon the happening of any of the events referred to in Condition J2, the Customer shall hold the Goods as the Publisher's fiduciary agent and bailee and the Publisher and/or Hachette UK Distribution as agent of the Publisher may require the return of the Goods. For the purposes of recovery of the Goods, the Customer grants the Publisher (and Hachette UK Distribution as agent of the Publisher) an irrevocable licence to enter on any premises where the Goods are situated (or are reasonably thought to be situated) to repossess them and the Customer agrees to pay all such costs of repossession.
2. The Customer will store the Goods separately and in such a way as to enable them to be clearly identified as the Publisher's property. Notwithstanding the above, risk in the Goods shall pass to the Customer at the time of delivery as set out in Conditions C1 and C6. Notwithstanding the provisions of Condition E1, the Customer shall be entitled to sell the Goods.
3. The Customer will deliver the Goods up to the Publisher forthwith upon demand (and any such demand shall not constitute a breach of contract by the Publisher) the Publisher shall be entitled upon reasonable prior notice to the Customer to enter, on the Customer's or any premises where the Goods are situated (or, reasonably thought to be situated) to recover all and any such Goods and the Customer agrees to pay all such costs of repossession.
4. The Customer will be entitled to resell the Goods to a bona fide third party only in the ordinary course of business at full market value or other price that the Customer in its sole discretion may decide. A resale in the ordinary course of business shall not include any sale of the Goods by a receiver, administrative receiver, administrator, liquidator, provisional liquidator, compulsory manager or any other similar officer.

F. PRICE AND PAYMENT

1. The price and currency for Goods and any applicable discount, special deal, credit or other such terms applicable to the purchase of Goods by the Customer shall be as agreed between the Customer and the Publisher. The price for Goods shall be exclusive of value added tax (if applicable). Each of the Publisher and Hachette UK Distribution, as agent of the Publisher, reserve the right to charge the Customer, in addition to the price for the Goods, for all costs or charges, if applicable, in relation to packaging, loading, unloading, carriage, insurance and storage. Hachette UK Distribution reserves the right to charge to the Customer any extra or increased costs incurred by Hachette UK Distribution in meeting any specific order requirements.
2. Payment terms in respect of the price for the Goods are as agreed between the Customer and either the Publisher or Hachette UK Distribution in writing. Time for payment shall be of the essence. The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by Hachette UK Distribution to the Customer. Notwithstanding any other provision of these Conditions, all payments payable to Hachette UK Distribution shall become due immediately on termination of the Contract.
3. Hachette UK Distribution reserves the right to charge interest on overdue amounts accruing on a daily basis from the date payment is due until the date that actual payment is received by Hachette UK Distribution. The rate charged will be equal to 4% above Barclays Bank plc's base rate from time to time in force.
4. Sums owed to Hachette UK Distribution are collected on behalf of each Publisher under these Conditions. Each Publisher shall be entitled to enforce these Conditions against the Customer in respect of its Goods.

G. LIABILITY

1. Hachette UK Distribution does not make or give any warranty, representation or undertaking as to the quality of the Goods, their correspondence with description or fitness for purpose, that the Goods are not defamatory, injurious, obscene, unlawful or in breach of copyright or in any other manner whatsoever.
2. Hachette UK Distribution shall not be liable to the Customer for any claim (whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise) under or in connection with these Conditions for:
 - (a) any loss of profit, revenue, anticipated savings, business or contract; and
 - (b) any special, indirect or consequential loss.
3. Save as and to the extent provided by these Conditions, Hachette UK Distribution shall not in any circumstances be liable to the Customer or any successor of the Customer in respect of any Losses incurred by the Customer as a result of or in connection with the supply of Goods (including, without limitation, in respect of damage to or loss of Goods owing to any act or omission by Hachette UK Distribution (including negligence) or any cause not within Hachette UK Distribution's control including (without limitation) fire, flood, accident, strike, riot, lock-out, trade dispute, industrial action, terrorism, nuclear accident, war, insurrection, act or restraint of Government).
4. Hachette UK Distribution's total aggregate liability arising out of or in connection with these Conditions whether for breach of contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise, shall not exceed the replacement value of the Goods.
5. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from these Conditions and the Contract.
6. Nothing in these Conditions excludes or limits the liability of Hachette UK Distribution for death or personal injury caused by its negligence or for fraudulent misrepresentation. Hachette UK Distribution shall be liable for death or personal injury resulting from the negligence of Hachette UK Distribution or its servants (but not independent contractors) while acting in the course of their employment by Hachette UK Distribution.
7. The Customer agrees to indemnify and hold Hachette UK Distribution harmless from all liabilities, claims, actions, demands, writs, summons, (including but not limited to all legal fees) arising directly or indirectly out of any breach or alleged breach or non-performance or non-observance by the Customer of any of the terms of a relevant Contract, including but not limited to these Conditions.

H. CLAIMS

Any claims for damage to Goods in transit, or shortage in Goods delivered, must be notified to both the relevant carrier and Hachette UK Distribution within seven (7) days after the date of delivery (packaging and contents to be held for inspection). Any other claims for credit must be notified to Hachette UK Distribution within twenty-eight (28) days after the date of delivery. On no account will claims be considered if notified outside these periods. The Customer must afford Hachette UK Distribution or its agents reasonable opportunity to verify any shortage and/or inspect any damaged Goods as delivered.

I. INSPECTION COPIES AND APPROVALS

Inspection copies of Goods may be provided to Customers only by prior arrangement with the Publisher and subject to the terms agreed with the Publisher.

J. TERMINATION AND GENERAL

1. All communications relating to this Agreement shall be in writing and delivered by hand or sent by post, facsimile or electronic mail:
 - (a) in the case of communications to Hachette UK Distribution, to its registered office or such other address as notified by Hachette UK Distribution; or
 - (b) in the case of communications to the Customer, to the registered office or such other address set out in any document forming part of the Contract or as notified to Hachette UK Distribution by the Customer.Any communication shall take effect: if delivered, upon delivery; if sent by first class registered post, 10 am on the second business day after posting; and if sent by facsimile or electronic mail, when a complete and legible copy of the communication, whether that sent by facsimile or electronic mail (as the case may be) has been received at the appropriate address.
2. Either party may, without liability to the other party, terminate the business relationship set out in these Conditions by giving notice in writing to the other party at any time if:
 - (a) the other party is unable to pay its debts as they fall due for the purposes of section 123 of the Insolvency Act 1986 ("Act"), suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness
 - (b) the value of the other party's assets is less than its liabilities (taking into account contingent and prospective liabilities) for the purposes of section 123 of the Act;
 - (c) the other party ceases, or threatens to cease, to carry on business;
 - (d) in relation to the other party, any corporate action, legal proceedings or other procedure or step is taken (or any analogous procedure or step is taken in any jurisdiction) in relation to:
 - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution or administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) other than a solvent liquidation of any of its associates or a solvent reorganisation of any of its associates;
 - (ii) a composition, assignment or arrangement with any creditor; or
 - (iii) the appointment of a liquidator (other than in respect of a solvent liquidation of any of its associates), receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of its assets.

Hachette UK Distribution may terminate the business relationship set out in these Conditions by immediate notice to the Customer if: (1) the Customer commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach to Hachette UK Distribution's satisfaction within a period of ten (10) days after being notified to do so.

3. Without prejudice to Hachette UK Distribution's rights and remedies under this Agreement, the Publisher may enforce the provisions of these Conditions pursuant to the Contracts (Rights of Third Parties) Act 1999 provided that:
 - (i) these Conditions may be varied from time to time or rescinded without the consent of the Publisher; and
 - (ii) the Publisher may not take any steps to enforce all or any of its rights under these Conditions without Hachette UK Distribution's prior written consent and without first having appointed Hachette UK Distribution as its agent to have sole conduct of all legal proceedings involving that person. Save as so provided, neither Hachette UK Distribution nor the Customer intends any term of the Contract or provision of these Conditions to be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999.
4. The Customer shall not be entitled to assign or transfer any of its rights or purport to assign any of its obligations under these Conditions without the prior written consent of Hachette UK Distribution.
5. Hachette UK Distribution shall have the right to cancel or delay deliveries or performance or to reduce the quantity of Goods delivered and shall under no circumstances be responsible for failure or delay in performing or fulfilling any relevant Contract or otherwise failing to implement its obligations to the Customer if such failure or delay shall be due to any cause or circumstance beyond the control of Hachette UK Distribution. Such cause or circumstance shall include, but shall not be limited to, fire, flood, riot, terrorism, strike, freight embargoes or transportation delays, shortage of labour, inability to procure or secure fuel, material, supplies or power at current prices or on account of shortages thereof, acts of God or of a public enemy, or any existing or future laws or acts of H.M. Government or the government of any other state or territory (including specifically but not exclusively any orders, rules or regulations issued by any official or agency of H.M. Government or of any other such government) affecting the conduct of Hachette UK Distribution's business with which Hachette UK Distribution, in its judgement and discretion, deems it advisable to comply as a legal duty. Subject to the foregoing the occurrence of such circumstances or events will not operate so as to affect or suspend any other rights or obligations of either party hereunder.
6. The Customer acknowledges and agrees that the Contract and any business, operational, financial or sensitive information disclosed to the Customer pursuant to the Contract or these Conditions is confidential and shall not disclose such confidential information to any third party without Hachette UK Distribution's prior written consent.
7. The termination of the agreement constituted by these Conditions shall not affect any rights or obligations of the parties arising prior to such termination.
8. If all or any provision in these Conditions shall be or become illegal, invalid or unenforceable in any respect, then the remainder of such provision and/or all other provisions shall remain valid and enforceable and the remaining liabilities of the parties shall not be affected or impaired.
9. No delay in exercising or non-exercise of any right, power or remedy provided by law or under these Conditions shall impair or otherwise operate as a waiver or release of that right, power or remedy. Any single or partial exercise of any right, power or remedy provided by law or under these Conditions shall not preclude any other or further exercise of that right or the exercise of any other right, power or remedy.
10. These Conditions shall be governed by and construed in accordance with the laws of England and all disputes shall be submitted to the exclusive jurisdiction of the English courts.