



## TERMS & CONDITIONS

### VnV TRADING & DISTRIBUTION LIMITED TERMS AND CONDITIONS OF TRADE SUPPLY

VnV Trading & Distribution Limited is appointed by individual publishers as that publisher's agent for the supply of its goods. Any such goods are supplied by VnV Trading & 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 VnV Trading & Distribution Limited's Terms and Conditions for Private Individuals which can be found at its website and /or by the individual's publisher's terms and conditions found on the individual publisher's website.

#### A. GENERAL

1. In these Conditions:
  - “**VnV Trading & Distribution**” means VnV Trading & Distribution Limited and, where applicable, any other company which is part of the VnV Trading & Distribution Company UK.
  - “**Contract**” means any contract between the Customer and the Publisher or VnV Trading & 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 VnV Trading & 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;
  - “**Data Protection Legislation**” means the Data Protection Act 1998, the Data Protection Directive 1995, the Privacy and Electronic Communications Regulations 2003, the E-Privacy Directive (2002/58/EC), and all applicable laws and regulations relating to the processing of Personal Data and Privacy, including any legislation that replaces, repeals and/or supersedes any of the foregoing such as, from 25 May 2018, the General Data Protection Regulation (2016/679) (GDPR);
  - “**Delivery Address**” means the delivery address of the Customer, its agent, supplier or other person within the United Kingdom provided to the Publisher or VnV Trading & Distribution by the Customer to which the Goods are to be delivered or, where no such address is provided, the address shown on VnV Trading & Distribution's invoice or despatch documentation;
  - “**Goods**” means any goods to be purchased by the Customer and to be supplied by VnV Trading & 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 or who purchases Goods as a consumer as defined by the Consumer Rights Act 2015
  - “**Publisher**” means the publisher of the Goods, for whom VnV Trading & Distribution acts as agent, and includes its officers, employees, representatives, agents (other than VnV Trading & Distribution) and contractors; and
  - “**Trade Customer**” means any Customer who is not a Private Individual
2. Words in the singular include the plural (and vice versa), a reference to one gender includes the other genders, a reference to a person includes any individual, firm, corporation, unincorporated association, association, partnership, joint venture, state or agency of state and paragraph headings do not affect the interpretation or construction of these Conditions.

3. Each order or acceptance of a quotation, given by the Publisher or VnV Trading & 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.
4. 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 VnV Trading & Distribution. No order placed by a Customer shall be deemed to be accepted by the Publisher or VnV Trading & Distribution until the Goods are delivered. Except as expressly provided otherwise, no amendment of, addition to or variation from these Conditions shall be binding on VnV Trading & Distribution unless it is in writing and signed by a duly authorised representative of VnV Trading & 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.
5. Goods may be sold to the general public before their publication date, namely that date in respect of any of the Goods which is shown on either trade databases or the invoice or despatch documentation, unless VnV Trading & Distribution otherwise indicates a first date before which the Goods may not be sold to the general public (or resold without the same conditions being imposed).

## **B. ORDERS**

1. The quantity and description of the Goods shall be as set out in VnV Trading & Distribution's invoice or other despatch documentation.
2. VnV Trading & 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 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 VnV Trading & Distribution justifies such action.
3. VnV Trading & Distribution reserves the right to cancel any order placed by a Customer where VnV Trading & Distribution is unable to fulfil the order in whole or in part.
4. Where there are any orders outstanding with VnV Trading & Distribution after the termination or expiry of the agreement between VnV Trading & Distribution and the Publisher, VnV Trading & Distribution will transfer such orders to the Publisher's new agent, together with (if relevant) any monies paid in advance of despatch of the order for cash sales. VnV Trading & 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 VnV Trading & Distribution and the Publisher.

## **C. DELIVERY AND RISK**

1. Goods will be delivered to the Delivery Address or such other address outside the United Kingdom as agreed with VnV Trading & Distribution. Any delivery dates are given by VnV Trading & 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 VnV Trading & Distribution, or its carriers, attempt delivery of the Goods.
2. If for any reason the Customer fails to accept delivery of any of the Goods, VnV Trading & 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).
3. Neither VnV Trading & Distribution nor its carriers are obliged to provide loading or unloading facilities on delivery except where such facilities have been expressly agreed with VnV Trading & Distribution, in which case VnV Trading & Distribution shall be entitled to make an additional charge for the provision of such services.
4. VnV Trading & 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.

5. Unless otherwise agreed between VnV Trading & 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 VnV Trading & Distribution), the INCOTERMS 2010 shall apply to the shipment of those Goods. The applicable incoterm shall be Free Carrier (FCA) unless otherwise agreed between VnV Trading & Distribution and the Customer.
6. Unless otherwise agreed between VnV Trading & 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 VnV Trading & 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.
7. VnV Trading & 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 VnV Trading & Distribution's negligence), nor shall any delay entitle the Customer to terminate or rescind the Contract. Any liability of VnV Trading & 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**

1. 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.
2. Prior written authorisation for returned Goods must be obtained from the Publisher or VnV Trading & Distribution by Trade Customers either in writing or electronically under the Industry Returns Incentive. Prior written authorisation by the Publisher or VnV Trading & Distribution does not confer automatic credit for returns if the Customer fails to comply with the remaining provisions of the Publisher's and/or VnV Trading & Distribution's returns policy.
3. For authorisations 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 validity of the request:
  - (a) Audio cassettes, compact discs and bibles cannot be returned and will not be accepted.
  - (b) 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.
4. 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 VnV Trading & Distribution or the Publisher in writing.
7. All returns are made at the Customer's expense and accordingly VnV Trading & Distribution will not accept any charges levied by shipping or transport agents. VnV Trading & Distribution is not liable for any returns lost in transit. Returns remain the responsibility and property of the Customer until receipt in VnV Trading & 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 VnV Trading & 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 K2, the Customer shall hold the Goods as the Publisher's fiduciary agent and bailee and the Publisher and/or VnV Trading & 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 VnV Trading & 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 Condition C5. 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 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 VnV Trading & 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. VnV Trading & Distribution reserves the right to charge to the Customer any extra or increased costs incurred by VnV Trading & Distribution in meeting any specific order requirements of VnV Trading & Distribution.
2. Payment terms in respect of the price for the Goods are as agreed between the Customer and either the Publisher or VnV Trading & 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 VnV Trading & Distribution to the Customer. Notwithstanding any other provision of these Conditions, all payments payable to VnV Trading & Distribution shall become due immediately on termination of the Contract.
3. VnV Trading & Distribution reserves the right to charge interest on overdue amounts accruing on a daily basis from the date payment is due until the date of actual payment both before and after Judgment. 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 VnV Trading & 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. VnV Trading & 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. VnV Trading & 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, VnV Trading & 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 VnV Trading & Distribution (including negligence) or any cause not within VnV Trading & 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. VnV Trading & 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 VnV Trading & Distribution for death or personal injury caused by its negligence or for fraudulent misrepresentation. VnV Trading & Distribution shall be liable for death or personal injury resulting from the negligence of VnV Trading & Distribution, its servants or agents (but not independent contractors) while acting in the course of their employment by VnV Trading & Distribution.

## **H. CLAIMS**

1. Any claims for damage to Goods in transit, or shortage in Goods delivered, must be notified to both the relevant carrier and VnV Trading & Distribution within 7 days after the date of delivery (packaging and contents to be held for inspection). Any other claims for credit must be notified to VnV Trading & Distribution within 28 days after the date of delivery. On no account will claims be considered if notified outside these periods.

## **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. DATA PROTECTION**

As VnV Trading & Distribution acts as agent for the Publisher, VnV Trading & Distribution will pass personal data relating to the Customer to the Publisher. For the purposes of the Data Protection Legislation the "data controller" of any "personal data" supplied by the Customer in connection with any Contract is the Publisher and VnV Trading & Distribution will be a "data processor" in respect of any such personal data which will only be processed by VnV Trading & Distribution in accordance with the instructions of the Publisher. For details see the individual Publisher's privacy policy

## **K. 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 VnV Trading & Distribution, to its registered office or such other address as notified by VnV Trading & Distribution; or
  - (b) in the case of communications to the Customer, to the registered office (if a company) or (in any other case) to any address set out in any document forming part of the Contract or as notified to VnV Trading & Distribution by the Customer.

Any communication shall take effect if delivered, upon delivery; if posted, at the earlier of delivery and, 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) or a hard copy sent by post or delivered by hand, has been received at the appropriate address.

2. Either party may, without liability to the other party, terminate the business relationship set out in this trading agreement 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; or;
- 3. Without prejudice to VnV Trading & 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 VnV Trading & Distribution’s prior written consent and without first having appointed VnV Trading & Distribution as its agent to have sole conduct of all legal proceedings involving that person. Save as so provided, neither VnV Trading & 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 VnV Trading & Distribution.
- 5. The termination of the agreement constituted by these Conditions shall not affect any rights or obligations of the parties arising prior to such termination.
- 6. 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.
- 7. 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.
- 8. 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.

