

Terms and Conditions of Supply

1. APPLICABILITY OF CONDITIONS

1.1 These Conditions shall be deemed to be incorporated in and shall govern all contracts (whether in writing or otherwise) between HarperCollins Publishers Limited having its registered office at Westerhill Road, Bishopbriggs, Glasgow G64 2QT or any of its subsidiaries and any Customer for or in relation to the supply of Goods and/or Services by the Company (a "relevant contract"). These Conditions shall not apply if the Customer is an individual acting for the purposes which are outside his business.

1.2 These Conditions shall prevail over and have effect to the exclusion of, any terms, conditions and/or provisions which may conflict with these Conditions and which the Customer may seek to establish as forming part of or as applicable to a relevant contract whether by having brought the same to the notice of the Company or by being implied by any trade, custom or practice, course of dealing or otherwise.

1.3 No waiver, alteration or modification of or addition to any of the provisions of these Conditions shall have any effect or be binding upon the Company unless the same shall be in writing and signed by an authorised representative of the Company.

2. DEFINITIONS

2.1 "Affiliate" means any subsidiary from time to time of the Company, the holding company from time to time of the Company and any subsidiary from time to time of such holding company, the expressions "subsidiary" and "holding company" having the meanings ascribed to them in Section 1159 and Schedule 6 of the Companies Act 2006.

2.2 "Carrier" means the agent or agents from time to time of the Company for the carriage of Goods acting on behalf of the Company.

2.3 "Company" means HarperCollins Publishers Limited as principal or agent on behalf of any third party.

2.4 "Customer" means a person, firm, corporation or other body of persons contracting with the Company for the supply of Goods and/or Services by the Company under a contract for the purchase of the Goods or the supply of Services.

2.5 "Firm Sale" means an arrangement whereby Goods are sold to a Customer by the Company on a non-returnable basis.

2.6 "Goods" means all products supplied by the Company on its own behalf or on behalf of any third party to the Customer under a relevant contract including, but not limited to, books, printed sheets, printed cards, magazines, cassettes, magnetic tapes, computer tapes and discs, records, video discs, compact discs and other storage material, selling aids and all other items which the Company offers for sale from time to time.

2.7 "Publication Date" means that date in respect of any of the Goods which is shown on the invoice or despatch documentation or which the Company otherwise indicates as the first date they may be sold to the general public.

2.8 "Services" means all services provided by the Company on its own behalf or on behalf of any third party.

2.9 "United Kingdom" means Scotland, England, Wales, Northern Ireland, the Channel Islands and the Isle of Man.

2.10 "Working Day" means a day, from Monday to Friday inclusive and excluding weekends, on which the London clearing banks are open for over-the-counter business.

3. PRICE

3.1 No quotation made by the Company constitutes an offer and any quotation may be withdrawn or revised at any time prior to acceptance by the Company of the Customer's order.

3.2 Prices quoted by the Company for Goods and/or Services are SUBJECT TO VARIATION, (unless otherwise agreed in writing by an authorised representative of the Company) and may be increased at any time prior to delivery to take account of any increases in costs incurred by the Company in the supply of the Services and/or supply of the Goods including (without limitation) the cost of any goods or materials, carriage, labour, insurance or overheads, the imposition of any tax, duty or other levy and any variation in exchange rates or as a result of interruption or alteration of work through the Customer's instructions or lack of instructions, all of which shall be treated as an additional part of the price and paid by the Customer contemporaneously with the price.

3.3 Prices unless otherwise expressly stated in writing are exclusive of VAT, other duties and taxes and do not include the costs of any performance testing requested by the Customer.

3.4 If, at the request of the Customer, the Company agrees to carry out any extra work or to provide additional Goods or Services to those specified in a relevant contract or to vary any part of the Services or Goods specified in a relevant contract any such extra work, additional Goods or Services or variations thereto will be supplied on the terms and conditions herein set out for such price as shall be agreed between the Company and the Customer.

3.5 Unless otherwise agreed by the Company in writing, invoiced prices will include packaging and delivery to trade customers only within the United Kingdom and Eire. Any special request by the Customer for Goods to be delivered by any means other than the

Company's normal arrangements shall be subject to an additional charge to cover the extra cost, plus VAT. The Company reserves the right to levy small order surcharges, reduce discount entitlements or refuse orders which are below the Company's minimum order quantity and/or value in force at the time the Company receives the order.

4. DELIVERY

4.1 The Company will use its reasonable endeavours to provide the Goods or Services on the date or dates or in accordance with the timetable (if any) agreed with the Customer. The Company shall incur no liability whatsoever in respect of any loss or damage arising as a consequence of any deviation from the date or dates or timetable (if any) agreed between the Customer and the Company.

4.2 Delivery shall be at the Customer's premises unless otherwise stipulated or agreed by the Company. Delivery shall be effected at the time when Goods arrive at the Customer's premises or such other place as may be agreed. In the event that the Customer does not accept delivery of the due date (or such other time as the Goods are delivered) the Company shall be entitled to charge the Customer for storage of the goods until such time as the Customer accepts such delivery and for additional or increased transportation charges together with interest at 3% above the base lending rate from time to time of Lloyds Bank plc on the invoice value of the Goods.

4.3.1 The Customer must:-

4.3.1.1 examine any Goods delivered in terms of Clause 4.2 above within two Working Days of delivery;

4.3.1.2 notify the Company in writing within seven Working Days of delivery of any shortage of or damage to the Goods and, in the event of non-delivery, within ten Working Days of any delivery date specified by the Company in writing; and

4.3.1.3 afford the Company or its agents reasonable opportunity to verify any shortage and/or inspect any damaged Goods as delivered.

4.3.2 The Customer must notify the Company in writing of any Services which are defective or inadequate within seven Working Days of such Services being carried out and in the event of Services not being carried out, within ten Working Days of the date on which the Company has agreed in writing that such Services were due to be carried out.

4.3.3 If the Customer fails to comply with all or any of sub-clauses 4.3.1.1, 4.3.1.2, 4.3.1.3 or 4.3.2 above, the Company shall not be liable for any non-delivery or shortage or for Services which are defective, inadequate or not carried out and, in addition, the Customer may not reject Goods for damaged delivery.

4.4 The Customer undertakes to provide all necessary loading and unloading facilities for Goods. Nothing shall oblige the Company to load or unload Goods at the place of delivery or elsewhere unless the Company has so agreed in writing.

5. PUBLICATION DATES

5.1 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 the Company. 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 Company reserves the right to amend the Publication Date of any Goods and shall not be liable for any loss or damage whatsoever incurred by any Customer arising directly or indirectly from any such amendment.

5.2 The Customer hereby indemnifies the Company against all and any loss, damage, cost or expense (including but not limited to legal expenses) whatsoever incurred by the Company 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.

5.3 The Customer shall notify the Company forthwith in writing of any claim for infringement of patent, copyright, design right, trademark or other industrial or intellectual property rights in the Goods of which the Customer becomes aware.

6. RETURNS

6.1 Goods must not be returned to the Company unless previously authorised in writing by the Company and in accordance with the Company's returns policy. Only authorised returns in re-salable condition will be accepted and credited to the Customer. Unauthorised returns will not be credited to the Customer but may be sent back by the Company to the Customer or pulped, in each case, at the Customer's request and expense.

6.2 If Goods have been supplied on a Firm Sale basis, then, subject to Clause 4.3, no returns will be accepted by the Company and such Goods which have been sent back by the Customer may, at the option of the Company and at the Customer's sole cost and expense, be returned immediately to the Customer or pulped.

7. PAYMENT

7.1 Payment is due to the Company and shall be made in Sterling or, if different, in the currency specified on the invoice, on or before the last working day of the month following the month during which the invoice was dated. Any extension of time to pay shall not be effective unless agreed to in writing by a director of

the Company. Time shall be of the essence for such payment. Amounts may not be withheld or delayed by the Customer for unauthorised returns or otherwise without the written agreement of an authorised representative of the Company.

7.2 The Company shall be entitled to charge interest on a daily basis from the date on which payment is due until the date on which payment in full is received at the rate of 3% per annum above Lloyds Bank plc base rate from time to time in force and shall be calculated on a daily basis and compounded monthly.

7.3 All costs incurred in recovering overdue debts including, without limitation, legal expenses will be payable by the Customer.

7.4 The Company may terminate a relevant contract and/or withhold further supplies in the event of amounts payable being overdue, breach of any of these Conditions or for any other reason which, at the sole discretion of the Company, warrants such action.

7.5 If payment in respect of any invoice rendered by the Company is overdue in whole or in part then the whole of any amounts not standing to the Company shall immediately become payable whether or not such monies would have been payable at the time.

7.6 Any credit notes issued by the Company shall only be allowed after the payment date of the original invoice has passed and no payment has been made. In the case of authorised returned books, credit notes will only be allowed in accordance with the agreed credit period applied from the date of the credit issued.

7.7 Payment will, if so required by the Company, be made by confirmed irrevocable letter of credit issued by a bank acceptable to the Company and lodged at a bank nominated by the Company not later than the date on which a relevant contract is entered into. The Company shall be entitled to payment under any such letter of credit on presentation to the bank of such letter of credit.

8. RETENTION OF TITLE

8.1 Until the Customer has paid the Company the full purchase price of the Goods under a relevant contract and subject to all other Goods at any time supplied by the Company (on its own behalf and on behalf of any third party) and all other sums due to or become due to or liabilities, present, future, or contingent of the Customer to the Company:-

8.1.1 ownership of the Goods shall not pass to the Customer although the risk therein passes to the Customer on delivery;

8.1.2 the Customer shall be entitled to sell the Goods in the ordinary course of business on the basis that, to the extent permitted by law, the proceeds of sale shall be the property of the Company. The Customer agrees to account to the Company on demand in respect of such proceeds and, if so required by the Company, to execute a formal assignment of all claims against its sub-customer;

8.1.3 any and all Goods returned to the Customer by its customers shall be the property of the Company;

8.1.4 the Company reserves the right at any time by giving written notice to terminate the Customer's power of sale;

8.1.5 if the Customer's power of sale is so terminated, the Customer shall immediately make the Goods available for collection by the Company and the Customer hereby irrevocably authorises the Company to enter upon any premises belonging to the Customer or under its control for the purpose of recovering the Goods.

8.2 In the event that the Company shall exercise its right hereunder to repossess the Goods:-

8.2.1 the Company shall have no obligation to account to the Customer for any amount received by it on the sale thereof whether in excess of that due by the Customer to the Company or not;

8.2.2 if the amount received by the Company on the sale of such repossessed Goods shall be less than the amount due by the Customer either in respect thereof or on any other ground whatsoever, such repossession shall not extinguish the liability of the Customer either for any deficiency in the amount received by the Company on such sale or for damages in respect of any loss occasioned by the Company as a result of its exercising its rights hereunder;

8.2.3 the Customer shall be liable to the Company in addition to any other amount for which it may be liable, for all costs, charges and expenses (including legal costs) on a full recovery basis occasioned by such exercise by the Company of its right to repossess the Goods.

8.3 The Customer agrees to store the Goods until they have been paid for in such a way that they are readily identifiable as the property of the Company.

8.4 Nothing in this clause shall confer any right on the Customer to return the Goods to the Company or to refuse or delay payment therefor. If any such return is so agreed, the Customer shall be liable to the Company for any loss suffered by the Company there by and the return of the Goods shall not extinguish any claim by the Company in respect thereof.

8.5 The illegality or unenforceability of any part of Clause 8 shall not affect the validity and enforceability of the remainder of Clause 8 and if any part of Clause 8 is held not to be valid but would be valid if part of the wording were deleted or modified then that provision shall apply with such modification as may be necessary to make it enforceable.

9. RISK

All Goods supplied by the Company are at the Customer's risk from the time they are received at the Customer's delivery address or, if the Customer and the Company have agreed in writing that the Customer is responsible for collecting the Goods, from the time they leave the Company's premises. The Customer will be responsible for insuring the Goods while they are at its risk.

10. COMPANY'S LIABILITY

10.1 Subject to Clause 10.2, no collateral contract, representation, warranty, condition, stipulation, liability or obligation whatsoever is given, made or undertaken by or on behalf of the Company or any of its Affiliates in relation to the Goods, or the Services, without limitation whether:-

10.1.1 in contract or tort including but not limited to negligence; or

10.1.2 expressly, impliedly, at common law, by statute, custom, usage, course of dealing; or

10.1.4 in relation to the Goods' description, correspondence with sample, state, condition, performance, safety, durability, merchantable, satisfactory or other quality, fitness for any particular purpose, appearance, finish or freedom from defects on delivery or at any other time; or

10.1.5 in relation to any claim that any Goods are defamatory, injurious, obscene, unlawful or infringe copyright;

or otherwise, all of which are hereby excluded and extinguished.

10.2 Nothing in these Conditions will exclude, restrict or limit any liability of the Company under the applicable law of any part of the United Kingdom being:-

(a) liability for breach of any term implied by section 12 of the Sale of Goods Act 1979 (title etc);

(b) liability for death or personal injury resulting from negligence or breach of duty (as defined in sections 1 and 25(1) of the Unfair Contract Terms Act 1977);

(c) liability for fraudulent misrepresentation; or

(d) any other liability if and to the extent that, by virtue of such applicable law, it cannot be excluded, restricted or limited; and accordingly no such conclusion, restriction or limitation which would otherwise apply will affect the statutory rights of a consumer.

11. FORCE MAJEURE

The Company 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 the Company. 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 the Company's business with which the Company, 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.

12. SHORTAGES

12.1 In the event of inability, for any reason, to supply the total demands for goods of the description of Goods specified in a relevant contract, the Company may allocate its available supply of such Goods among any and all purchasers of such Goods on such basis as the Company may deem fair and practical without liability for any failure of performance which may result therefrom. For the avoidance of doubt nothing in these Conditions shall entitle the Customer to reject Goods for short delivery.

13. TERMINATION

13.1 The Company may, without prejudice to any of its other rights, stop any Goods in transit and/or suspend further deliveries and/or stop or suspend any Services and/or by notice in writing to the Customer, terminate a relevant contract:-

13.1.1 if the Customer enters into a trust deed for the benefit of its or his creditors or a deed of arrangements or commits an act of bankruptcy or becomes insolvent or compounds with its or his creditors; or

13.1.2 if (being a company) an order is made or a resolution is passed for the winding up of the Customer; or

13.1.3 if a receiver, administrator or administrative receiver is appointed over any of the Customer's assets or undertaking; or

13.1.4 if the Customer takes or suffers analogous action or proceedings

under foreign law in consequence of debt or commits any breach of this or of any other contract between the Company and the Customer; or

13.1.5 the Customer fails to pay any sum on the due date or in any other manner whatsoever breaches any condition of a contract (whether or not a relevant contract) with the Company.

13.2 This Agreement may be terminated at the sole discretion of the Company if an order is made for bankruptcy of or resolution is passed for the winding-up of the Customer or if the Customer being a company is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or any statutory re-enactment or modification thereof, or makes a composition with its creditors or if a receiver, administrator, administrative receiver or other encumbrancer takes possession of or is appointed over the whole or any part of the assets of the Customer.

13.3 The Company may terminate a relevant contract at any time on written notice to the Customer.

13.4 The termination of a relevant contract shall not affect any rights or obligations of the Company or the Customer arising prior to such termination.

14. INDEMNITY

The Customer agrees to indemnify and hold the Company 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.

15. SET-OFF

The Company reserves the right to deduct from any monies due or becoming due from the Company to the Customer, any monies due from the Customer to the Company or to any of its Affiliates.

16. NON-ASSIGNABILITY

The Customer shall not be entitled, without the prior written consent of the Company, to assign its rights under a relevant contract. The Customer shall not be entitled to set-off any amount payable under a relevant contract to the Company or any of its Affiliates against any monies not then presently payable by the Company or any of its Affiliates or for which the Company or any of its Affiliates disputes liability.

17. CONFIDENTIAL INFORMATION

All information and/or advice, whether written or oral, given by the Company to the Customer shall not be disclosed to any third party without the prior written consent of the Company, save to the extent that:-

(a) such information and/or advice is in the public domain otherwise than by virtue of a breach of this conditions; or

(b) the disclosure is required by law provided that the Customer shall promptly give notice to the Company of such requirement and the Company shall seek an appropriate remedy to prevent such disclosure. The Customer undertakes to fully co-operate with the Company (at the Company's expense) if the Company elects to contest the validity of such a requirement.

18. INTELLECTUAL PROPERTY

All intellectual property rights in the Goods (including, but not limited to, copyright and trade marks) are reserved by the rights-holder. Any right other than the right of resale must be independently agreed with the intellectual property rights-holder.

19. NOTICE

Any notice required to be given by either the Company or the Customer to the other shall be deemed validly served if served by:-

(i) pre-paid registered letter post to the address for the recipient given herein or such other address as may from time to time be notified in writing for this purpose; or

(ii) personal delivery by hand; or

(iii) (if appropriate) by telex or facsimile machine during normal business hours;

Any notice so served shall be deemed to have been served:-

(a) in the case of (i) above 48 hours after posting the same; and

(b) in the case of (ii) above upon delivery; and

(c) in the case of (iii) above when sent.

In proving the service it shall be sufficient to prove that the notice was properly addressed and posted, or that delivery took place, or that the telex message began and ended with the recipient's telex number and was properly transmitted, or that the facsimile message was properly transmitted evidenced by a 'correctly transmitted' transmission report from the sender's facsimile machine (as the case may be).

20. LAW

All relevant contracts shall be governed by and construed in accordance with the laws of England and the Customer hereby submits to the exclusive jurisdiction of the English courts.