

UNITED BOOK DISTRIBUTORS

United Book Distributors (a division of Pearson Australia Group Pty Ltd ABN 40 004 245 943)

ACN 004 246 943

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TRADING TERMS AND CONDITIONS OF SALE

1. APPLICATION

1.1 These Conditions relate to the ordering, delivery and supply of all books and other materials (Goods) from United Book Distributors (A division of Pearson Australia Group Pty Ltd.) to you. In this document, (unless the contrary intention appears) references to we and us mean Pearson Australia Group Pty Ltd (ABN 40 004 245 943), its divisions, employees, representatives and distribution clients.

2. ORDERS

2.1 You may order Goods from us and we will endeavour to supply Goods which you order and which we agree to supply.

2.2 We will notify you if we are unable to supply those Goods, either at all or by the date you require. We will notify you if there will be a delay in supply of Goods to you and we will use our reasonable endeavours to fill your order as soon as possible, unless you cancel your order.

2.3 We reserve the right to reduce the quantity of Goods ordered where Goods are in short supply.

2.4 You agree that any order you place will be deemed to incorporate Conditions of Sale and Trading Terms.

3. DELIVERY

3.1 We will endeavour to deliver Goods ordered by you, and which we have agreed to supply, to your premises, or such other address as agreed, as soon as is reasonably practicable. Delivery will be at our cost within Australia, unless otherwise agreed in writing.

3.2 We may deliver to you Goods which you have not ordered. You may return them (see 4.1, 4.3 and 4.4), but you agree that if you retain them you will be deemed to have ordered and accepted them on these Conditions.

3.3 An invoice will accompany the Goods delivered and will describe the type and quantity of Goods, the total purchase price, any discount applied to the order, GST and any other charges payable by you under our Trading Terms.

4. SALE, RETURN, BACKORDERS

4.1 Some Goods may be returnable for full credit. Return conditions and procedures are detailed in our applicable Trading Terms.

4.2 Indented Goods are supplied firm sale.

4.3 If you return Goods to us in a manner which does not comply with our applicable Trading Terms, they may be returned to you and any charge relating to the return of Goods to you will be debited to your account.

4.4 Return claims will not be recognised until the returns have been delivered to our warehouse.

4.5 Claims

a) Claims concerning short supply or other order and delivery problems must be made to our Customer Service

Department(s) which will issue a credit or replacement if the claim is accepted.

b) Claims should be made within 30 days of invoiced date, quoting our invoice number. Claims which do not quote our invoice number cannot be processed.

c) Damaged Books – Books damaged in transit, with faulty binding or printers' errors etc. may be returned to our distribution centre in the same manner and under the same conditions set out for Errors and Over-Supplied Titles.

d) Errors and Over Supplied Titles – Permission to return is required from United Book Distributors and a returns authorisation will be provided and must accompany the return.

e) United Book Distributors will provide a freight note to facilitate the return of any Goods not ordered by you, wrongly supplied, over-supplied or damaged.

4.6 Backorders (Dues)

a) Orders for unsupplied titles will be recorded (for later supply):

- i) If you have instructed us to record all titles.
- ii) If the title is not yet published.
- iii) If stocks of the titles are temporarily unavailable.

b) Orders for previously published (backlist) titles will be recorded unless:

- i) we have received an instruction from you not to record any of your orders,
- ii) we have received an instruction from you not to record that particular order, or
- iii) the title is out of print or we expect unreasonable delay in completing the order.

c) Confirmation and Cancellation of Backorders

- i) We will provide, if requested, a monthly 'Backorders by Customers' report.
- ii) Cancellations received will be confirmed in the following month by removal of that order from the same document.

iii) Returns cannot be authorised where duplication has occurred as a result of reorders of already recorded titles.

5. PAYMENT, CHARGES AND DISCOUNTS

5.1 You agree to pay the amount invoiced by us in accordance with the terms set out in the invoice, these Conditions and our applicable Trading Terms.

5.2 If you have a current credit account with us you must pay for Goods delivered to you as provided in the applicable Trading Terms.

5.3 If you fail to pay us any amount by the due date, we may recover from you interest on the unpaid amounts at the rate equivalent to the prime rate of interest charged on overdrafts of \$100,000 by Westpac Banking Corporation plus two percentage points from the due date until full payment has been made.

5.4 If you fail to pay us any amount by the due date, you will be liable for all costs, fees, charges and disbursements,

including collection agency commissions and solicitor/client costs incurred by us in recovering the amount due ("collection charges").

5.5 If you fail to pay us any amount by the due date, we may, at our discretion and without notice to you, cease supply of Goods to you until full payment, including any interest and collection charges, has been made.

5.6 If you do not have a current credit account with us, you must pay the invoiced amount to us prior to despatch of the Goods.

5.7 If we agree to supply you with Goods at a discount, we will notify you of the discount and may change this discount at any time.

5.8 The supply of Goods will generally be subject to GST which is passed on to, and payable by, you. If any other tax, impost or duty is applicable to the supply of the Goods, the amount levied or payable will also be passed on to, and payable by, you.

6. RISK AND TITLE

6.1 The risk in Goods passes to you upon delivery and you must insure them.

6.2 Property and ownership in the Goods will not pass to you but will remain with us until:

(a) the full purchase price and all other amounts owing to us are paid; or

(b) you sell or dispose of the Goods to your customers in the ordinary course of business.

6.3 While property and ownership in Goods remains with us:

(a) you shall have no ownership, property or rights in the Goods and shall, while in possession of the Goods, hold them as a fiduciary bailee for us;

(b) you agree not to damage or deface the Goods; and

(c) you agree not to dispose of the Goods other than pursuant to clause 6.2 (b)

6.4 In addition, and without prejudice to any other right or remedy available to us, if:

(a) you fail to pay the full purchase price for the Goods by the Payment Date; or

(b) before property in the Goods passes to you, you become insolvent or unable to pay your debts when they become due;

then, provided the Goods are in your possession or control, we will be entitled to recover possession of the Goods,

wherever they may be and you will assist and indemnify us in relation to such recovery.

6.5 If you are entitled to return Goods to us for full credit and property and ownership have passed to you under clause 6.2, they will pass back to us (together with the risk) on redelivery of the Goods to our distribution centre.

7. LIMITATION OF LIABILITY

7.1 Subject to your rights and remedies available under the Trade Practices Act 1974 (Cth) or equivalent State legislation, we shall not be liable to you for any loss, damage, cost, expense or other claim, howsoever caused (including our negligence, or the negligence of our employees, agents or representatives) and distribution clients which arise out of or in connection with the Goods.

8. INTELLECTUAL PROPERTY RIGHTS

8.1 You must notify us immediately in writing if you:

(a) become aware of any claim made that any of the Goods infringe patent, copyright, design, trade mark or any other rights; or

(b) become aware of any infringement of our patent, copyright, design, trade mark or other rights.

9. FORCE MAJEURE

9.1 If we are prevented from or delayed in complying with any obligation under these Conditions or our Trading Terms by anything which is beyond our reasonable control, that obligation will be suspended during the time we are affected.

10. RECOMMENDED PRICES

10.1 Prices applied to Goods or recommended in relation to Goods are recommended only. There is no obligation to comply with the recommendation.

11. ENTIRE AGREEMENT

11.1 These Conditions and the applicable Trading Terms for the Goods constitute the entire agreement between you and us. You agree that none of the terms of purchase (or similar terms) which you forward to us form part of that agreement or of any offer you may make to us in relation to the Goods.

12. GENERAL

12.1 The Conditions and our Trading Terms are governed by the law in force in Victoria and you agree to submit to the jurisdiction of Victorian courts and tribunals.

12.2 The application of these Conditions and our Trading Terms (or either) may be terminated by us giving you 30 days prior written notice of such termination.