

Bertrams

TERMS OF TRADE

These Terms and Conditions shall apply to each contract between the Publisher (as defined below) and Bertram Trading Limited (registered no. 6849888) ("**Bertrams**") in respect of the supply and purchase of Product and, where applicable, to all supplies of the Product made by the Agent (as defined below) to Bertrams on and after 1st November 2010 until further notice. These Conditions supersede any other terms and conditions put forward by or on behalf of the Publisher and/or the Agent at any time. Acceptance of the Purchase Order indicates acceptance of these Conditions and of any other express conditions agreed in writing between the parties or otherwise contained in, or attached to, the Purchase Order. In the event of any inconsistency between these Conditions and any such express conditions then those express conditions shall prevail.

1 Interpretation

1.1 In these Conditions the following terms shall have the following meanings:

"**Agent**" means the person, firm, company or corporation (if any) appointed by the Publisher to distribute Product on its behalf, whose details are set out in the Purchase Order;

"**Business Day**" means any day between Monday and Friday inclusive in any week, but excluding English bank or public holidays or any other days that the clearing banks are not open for normal business in the City of London;

"**Carrier**" means the deliverer of the Product to Bertrams at the Delivery Address;

"**Conditions**" means the standard terms and conditions of purchase set out in this document, and (unless the context otherwise requires) includes any special terms and conditions, service level agreements or key performance indicators agreed in writing between the parties;

"**Confidential Information**" means information of a kind referred to in Condition 14.1, subject to Condition 14.3;

"**Contract**" means the contract for the purchase of the Product from time to time, comprising the Conditions, the Purchase Order, the Delivery Requirements Manifesto and any other document agreed by the parties in writing to be part of the Contract;

"**Delivery Address**" means the address stated on the Purchase Order as the point of delivery or otherwise agreed by the parties from time to time;

"**Delivery Requirements Manifesto**" means the document recording Bertrams' delivery requirements at the Delivery Address, as set out in the Appendix to these Conditions;

"**Embargo**" means an agreement in writing between Bertrams and the Supplier that Bertrams will not sell or otherwise deal with specified Product before a specified date;

"**Force Majeure**" means any cause beyond the control of either party including but not limited to strikes and labour disputes (other than, in each case, by its own employees or workers), compliance with any law or governmental order, rule, regulation or direction, unlawful intervention of, or violation by, a third party and Acts of God, including fire, flood, earthquake, windstorm or other natural disaster;

"**Price**" means the price of the Product as calculated in accordance with Condition 6.1;

"**Product**" means books as described in the Purchase Order in all formats, including but not limited to hard cover, jacketed, laminated, board, softcover, paperback or unbound sheets published or distributed by the Publisher and point of sale material and such other non-book products in the Supplier's range that are supplied or to be supplied by the Agent and/or the Publisher to Bertrams pursuant to the Contract;

"**Recommended Retail Price**" (**RRP**) means the cover price (exclusive of VAT) of a Product based on which the Supplier offers trade discounts to customers like Bertrams;

"**Publisher**" means the publisher of the Product, for whom the Agent (if any) acts as agent, and includes its officers, employees, representatives, agents (other than the Agent) and contractors;

"**Purchase Order**" means Bertrams' order (if any) submitted to the Supplier specifying the Product to be supplied, to which these Conditions are annexed or available under separate cover;

"**Rejections**" means Product rejected by Bertrams pursuant to Condition 8.1;

"**Returns**" means Product that Bertrams returns or makes available to the Supplier pursuant to Condition 2.6;

"**Sale or Return**" means the practice whereby Bertrams purchases Product from the Supplier with the proviso that if it is not sold full credit will be given;

"**Supplier**" means the Publisher and (where appointed) the Agent, as the context shall admit or require.

1.2 Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

1.4 The expression 'person' shall mean any person, body corporate, unincorporated association or partnership.

2 Basis of Purchase

2.1 The Purchase Order constitutes an offer by Bertrams to purchase the Product subject to these Conditions. Orders may be placed by post, telephone, facsimile, e-mail, order form or electronic transmission, including via a website, to the Supplier.

2.2 Bertrams' offer is accepted when either written confirmation of the Purchase Order is communicated to Bertrams or, in the absence of earlier notification thereof, when and to the extent that the Product is picked and packed by or on behalf of the Supplier ready for delivery. Acceptance of the Purchase Order indicates acceptance of these Conditions and of any other express conditions contained in, or attached to, the Purchase Order.

- 2.3 These Conditions shall apply to the Contract to the exclusion of any other terms and conditions which the Supplier has sought to or subsequently seeks to impose on Bertrams. No conduct by Bertrams shall be deemed to constitute acceptance of any terms put forward by the Supplier.
- 2.4 No variation or addition to the Purchase Order or these Conditions shall be binding on the parties unless agreed in writing between the duly authorised representatives of each of the parties.
- 2.5 Where so appointed, the Agent is the agent of the Publisher for the purposes of agreeing or refusing credit facilities, receiving, accepting or rejecting orders for the Product, arranging delivery and return of the Product, collecting payment for Product, and allowing applicable credits.
- 2.6 The Supplier will supply all Product strictly on a fully sale or return basis in accordance with the Book Industry Standards as outlined by BIC unless otherwise agreed between the parties. Accordingly, Bertrams may return at any time to the Supplier (wherever possible via the Independent Returns Initiative – IRI – electronic channels) any title and quantity of Product that it so chooses, including but not limited to where sales expectations fail to be met. In this case, the Supplier shall promptly produce a credit note in favour of Bertrams for the aggregate value of the Returns as had been so invoiced earlier pursuant to Condition 8.9.

3

Orders

- 3.1 Bertrams' orders shall be based upon Nielsen bibliographic data. The Supplier shall keep such data regularly updated in order to ensure accuracy and reliability of this source and will ensure that it provides Bertrams in a timely manner with all other information relating to the Product that is required by law or appropriate British, EC or international standards to be disclosed or to accompany the Product at the time of its sale, including without limitation, any information required by the Toy Safety Directive (2009/48/EC).
- 3.2 The quantity and description of the Product shall be specified in the Purchase Order supplied by Bertrams to the Supplier. Bertrams reserves the right not to accept over-deliveries of Product for any reason, including but not limited to because of pack sizes, error or convenience. In these cases, any over-delivery shall be at the Supplier's sole risk and expense. Accordingly, Bertrams reserves the right (without restraint of time) to return or request collection of and, where more than fourteen (14) days pass from the specified collection or return date, to destroy any consignments which are not ordered, damaged, in excess of ordered quantities or duplicated.
- 3.3 The Supplier shall comply with all applicable regulations and/or other legal requirements concerning the manufacture, packaging, and delivery of the Product. In particular, the Supplier shall ensure that it complies at all times with the Delivery Requirements Manifesto in force from time to time.
- 3.4 It is a condition of the Contract that the Product or any component part thereof, shall (unless otherwise agreed in writing):
- 3.4.1 be of good and sound design, materials and first class workmanship;
 - 3.4.2 be equal in all respects to the samples, patterns or description provided or given by either party;
 - 3.4.3 be free from any defects in title;
 - 3.4.4 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for the purpose for which they are supplied under the Contract (being, in addition to any purpose specified in the Purchase Order, any purpose for which such goods are usually supplied in the ordinary course of business);
 - 3.4.5 be free from defects in design, material and workmanship;
 - 3.4.6 comply with all statutory requirements and regulations and byelaws relating to the sale of the Product including, but not limited to, the appropriate British, EC or international standards or equivalent specifications relevant to the Product;
 - 3.4.7 be delivered as part of a healthy and safe system of work in the environment intended by Bertrams; and
 - 3.4.8 be delivered in accordance with the agreed consolidation arrangements on the Bertrams account or, in the absence of such agreement, on the next Business Day following receipt of the Purchase Order.
- 3.5 If the Supplier cannot deliver the ordered Product immediately or at all by reason of insufficient quantities being available to it, it shall promptly notify Bertrams in writing of this (and in any case within 48 hours of receipt of the relevant Purchase Order), the reasons for it and the likely date in which it will be able to deliver the Product in the required volumes. In this case, Bertrams may, without liability, and at its absolute discretion) cancel the Purchase Order and terminate the Contract or accept deliveries of the Product in instalments in a sequence to be agreed at that time. For the avoidance of doubt, unless otherwise agreed EAN substitutions will not be accepted by Bertrams and will simply be treated as Rejections. Any proposed EAN substitutions (if notified to and accepted by Bertrams) will simply be re-ordered by Bertrams as a separate Purchase Order.
- 3.6 The Supplier may, upon written notification, refuse Bertrams' offer within its Purchase Order on any grounds, at its discretion, including but not limited to the following, if:
- 3.6.1 Bertrams is in breach of any of these Conditions;
 - 3.6.2 the Supplier reasonably believes that Bertrams may become unable to pay its debts as they fall due; or
 - 3.6.3 the Product is no longer in publication or production.
- 3.7 The Supplier shall not unreasonably refuse any request by Bertrams to inspect and test the Product during manufacture, processing, or storage at the premises of the Supplier (or any third party) prior to dispatch, and the Supplier shall provide Bertrams with all facilities reasonably required for inspection and testing.
- 3.8 If as a result of inspection or testing carried out in accordance with Condition 3.7, Bertrams is not satisfied that the Product will comply in all respects with the Contract, the Supplier shall take such steps (to the satisfaction of Bertrams) as are necessary to ensure such compliance and shall keep Bertrams fully abreast of such steps being taken.
- 3.9 The Supplier will keep records of Bertrams' orders, Returns and Rejections for a period of not less than 18 months (NYP titles) and 12 months (all other titles) and shall allow Bertrams to request and take copies of any such records as it so chooses from time to time.

- 4 Packaging and Carriage of the Product**
- 4.1 The Supplier shall observe all United Kingdom and international agreements relating to packaging, labelling and carriage of dangerous goods.
- 4.2 The Product shall be packaged and carried so as to reach the Delivery Address undamaged, in good condition and in all respects meeting the requirements of the Contract. In particular, each consignment must be watertight and securely packaged to ensure that the Product arrive in a mint and saleable condition.
- 4.3 The Carrier is the agent of the Supplier.
- 4.4 Unless otherwise stated in the Contract all packaging and carriage shall be included in the Price. Whether or not the Product is accepted by Bertrams, Bertrams shall not be responsible for returning to the Supplier any cases, packaging and other containers and, unless expressly authorised in writing by Bertrams, the Supplier shall not contract with any carrier for such carriage on behalf of Bertrams.
- 4.5 In addition to any other documentation specified in the Contract, the Supplier shall send, in respect of each consignment:
- 4.5.1 prior to despatch, an advice note giving details of the Purchase Order number, date of order, description, code numbers (if any) and the quantity of the items consigned. Such advice note shall, where appropriate, specify the estimated time of arrival of the consignment at the Delivery Address; and
- 4.5.2 with the consignment, a packing note giving details of the Purchase Order number, date of order, description, code number (if any), number of packages, contents and quantity of the items consigned, the name of the person to receive the goods and full and clear instructions regarding their handling, storage and use and, in the case of part delivery, the outstanding balance remaining to be delivered and the proposed date(s) and time(s) of the outstanding balance.
- 4.6 When quoting the Purchase Order number, the Supplier shall ensure that it is quoted in full at line level and in its original format without spaces, hyphens, abbreviations or other modifications.
- 4.7 In respect of NYP titles, the following conditions must be satisfied by the Supplier:
- 4.7.1 clear external labelling must appear on each consignment showing the relevant publisher, titles, NYP status and publication date(s); and
- 4.7.2 The NYP title(s) must be delivered in separate packaging consignments.
- 5 Status of Product**
- 5.1 Bertrams agrees with the Supplier that:
- 5.1.1 (subject to Condition 5.2) it will not (unless otherwise agreed, such as to certain retailers by agreement) sell, provide or display for purchase, lend or otherwise make available or dispose of Product that is subject to an Embargo before the date specified in that Embargo, and then only in their publisher covers;
- 5.1.2 it will not vary in any way, including but not limited to amending, deleting or adding to the contents of the Product and its point of sale packaging; and
- 5.1.3 it will observe all intellectual property or moral rights asserted in connection with the Product.
- 5.2 In respect of Product that is subject to an Embargo, the following conditions must be satisfied by the Supplier:
- 5.2.1 advance written notice of the Embargo and the expected delivery schedule should be provided to Bertrams;
- 5.2.2 clear external labelling must appear on each consignment showing the relevant publisher, embargo date and title(s) affected; and
- 5.2.3 the title(s) subject to the Embargo must be delivered in separate packaging consignments.
- 6 Price and Payment**
- 6.1 The Price of the Product shall be:
- 6.1.1 the RRP based on information supplied from Nielsen bibliographic data or other reliable data source in force at the date of the Purchase Order;
- 6.1.2 less any discount which the Supplier has agreed to grant to Bertrams;
- 6.1.3 plus Value Added Tax chargeable under English law for the time being at its then prevailing rate.
- 6.2 Unless stated otherwise, the Price shall be inclusive of all costs and charges for packaging, shipping, carriage, insurance and delivery of the Product to the Delivery Address, and any duties or levies applicable to the Product other than Value Added Tax.
- 6.3 Unless otherwise agreed, no increase in the Price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) on or after the Purchase Order has been placed by Bertrams.
- 6.4 The Supplier's official VAT invoice should be sent promptly to Bertrams on or after delivery of the Product to the address indicated on the Purchase Order, unless otherwise instructed and must show:
- 6.4.1 Bertrams' Purchase Order number, which must be quoted in full at line level and in its original format without spaces, hyphens, abbreviations or other modifications;
- 6.4.2 an invoice number;
- 6.4.3 a full description of the Product and its respective quantities;
- 6.4.4 full details of the payment due;
- 6.4.5 any discount allowed;
- 6.4.6 current Value Added Tax requirements; and
- 6.4.7 Bertrams' contact details of the person having placed the order where known.
- 6.5 Any Product chargeable to Bertrams under the Contract which is not reported in accordance with the provisions of Condition 6.4 within sixty (60) days of supply of the Product shall cease to be chargeable,

and, for the avoidance of doubt, any invoices submitted by the Supplier in respect of such unreported Product shall not be payable by Bertrams.

- 6.6 Upon confirmation by an officer of Bertrams that the Product has been provided to Bertrams' satisfaction, the payment of the Price, less any credit notes in favour of Bertrams, will be payable within 90 days of the end of the calendar month in which the tax point date of a properly prepared invoice pursuant to Condition 6.4 falls, unless alternative credit terms are agreed in writing by both parties.
- 6.7 Bertrams shall be entitled to set-off against any of the Supplier's invoices, any amount due (howsoever arising) from the Supplier to Bertrams (or to a member of its group) whether under the Contract or under any other contractual arrangement between the same, including but not limited to any credits given or expected to be given for Returns or Rejections made pursuant to the Sale or Return facility or otherwise.
- 6.8 Value Added Tax (or other applicable sales tax), where applicable, shall be shown separately on all invoices as a strictly extra charge. All invoices containing Value Added Tax must conform to the requirements of HM Revenue and Customs. A pro-forma is available upon request from Bertrams.
- 6.9 If either party ("**the Defaulting Party**") fails to pay any amount payable by it to the other ("**the Beneficiary**") in accordance with the terms of the Contract, the Beneficiary may charge the Defaulting Party interest on the overdue amount from the date falling 14 days after the original due date up to the date of actual payment, after as well as before judgment, at the rate of 3% per annum above the base rate for the time being of Barclays Bank PLC.

7 Delivery, Title and Risk

- 7.1 The Product shall be delivered to the Delivery Address as soon as possible after receipt of the Purchase Order on the date(s) or within the period(s) agreed from time to time by the parties or as specified in the Purchase Order, in either case during Bertrams' ordinary business hours at the Delivery Address ("**the Original Due Date**").
- 7.2 Where the date(s) of delivery of the Product is to be agreed by the parties after the placing of the Purchase Order, the Supplier shall give Bertrams reasonable notice of the proposed specified date(s) and time(s) and act reasonably in agreeing the actual date of delivery.
- 7.3 Time of delivery shall not initially be of the essence. However, if the Original Due Date passes without full and complete delivery of the Product having been made, Bertrams may (at its absolute discretion) serve a written notice on the Supplier stating that it requires delivery of the Product by a specified date being not less than 10 days after the Original Due Date ("**the Revised Due Date**"). Time of delivery shall now be of the essence in respect of the Revised Due Date.
- 7.4 If the Product is to be delivered by instalments (provided that Bertrams has given its prior written consent thereto), the Contract shall be treated as a single contract and will not be severable.
- 7.5 Bertrams shall be entitled to reject any Product delivered which is not in accordance with the Contract, and shall not be deemed to have accepted any Product until Bertrams (without restraint of time) has been able to inspect it following delivery.
- 7.6 The Supplier shall supply Bertrams in good time with any instructions or other information required in order to enable Bertrams to accept delivery of the Product.
- 7.7 If the Product is not delivered on the Revised Due Date (if any) then, without prejudice to any other remedy, Bertrams shall be entitled to cancel all or part of the Purchase Order and return to the Supplier at the Supplier's risk and expense any Product already delivered and to recover from the Supplier any money paid by Bertrams in respect of such Product.
- 7.8 Risk of damage to or loss of the Product shall pass to Bertrams upon delivery (including off loading, stacking and construction (if any)) to Bertrams in accordance with the Contract. Accordingly, until delivery of the Product in accordance with the Contract the Supplier shall insure the Product for all reasonable risks. The expenses incurred by the Supplier in respect of this insurance shall be paid by the Supplier.
- 7.9 The property in the Product shall pass to Bertrams upon delivery, unless payment for the Product is made prior to delivery, where it shall pass to Bertrams once payment has been made and the Product has been appropriated to the Contract.

8 Rejection and Returns

- 8.1 Bertrams' right to reject exists in the case of and to the extent of:
- 8.1.1 quantities delivered in excess of those ordered, duplicated, substituted or simply unordered;
- 8.1.2 Product which is physically defective on delivery or subsequently discovered as being faulty; and
- 8.1.3 Product which infringes a third party's intellectual property rights or which is otherwise considered to be unlawful.
- 8.2 If Bertrams seeks to make Rejections under Condition 8.1 it must give notice of the fact (without restraint of time) to the Supplier in writing or electronically. The notice must include the original order and invoice numbers, specify the Product to which the notice relates by title and number of copies affected and contain a detailed description of the reasons for Bertrams considering itself entitled to reject the Product.
- 8.3 The Supplier will reply to Bertrams' notice of Rejections in writing or electronically no later than fourteen (14) days after it receives Bertrams' notice. The reply must state either that it requires the Rejections to be returned by a specified means or to be made available for collection by or on behalf of the Supplier on a specified date.
- 8.4 Without prejudice to any other remedy it may have, in the event of any Rejections Bertrams shall be entitled:
- 8.4.1 to require the Supplier to replace any rejected Product with Product of equivalent quantity which conform to the Contract; or
- 8.4.2 to reject that Product which fails to comply with the contractual requirements as well as any other supplies expected to be made by the Supplier which are of an identical design or title as the Rejections, and the Supplier shall nonetheless reimburse to Bertrams the price paid for such Product in full pursuant to

Condition 8.9.

- 8.5 Where the Supplier replaces any Product in accordance with Condition 8.4, the provisions of the Contract shall apply equally to the replacement Product.
- 8.6 Bertrams shall have the discretion to cancel any Purchase Order(s) at any time by notification in writing or electronically to the Supplier. However, should it be too late to cancel a Purchase Order (e.g. because the Product is with the Carrier for delivery to the Delivery Address) then the Supplier shall immediately notify Bertrams of the scheduled Original Due Date and Purchase Order number and Bertrams shall be permitted immediately upon receipt to return the same as Returns to the Supplier pursuant to Condition 2.6.
- 8.7 Returns and/or Rejections are at the risk of Bertrams until received by the Supplier or, if they are to be collected by the Supplier, at the point at which they are collected by the Supplier's nominated carrier.
- 8.8 Returns (including, but not limited to, cancellations) are to be made at the expense of Bertrams, unless they are Rejections made under Condition 8.1.
- 8.9 Subject to receipt by the Supplier of the Returns or the Rejections, the Supplier will issue a credit note to Bertrams immediately and in any case within fourteen (14) days after the date of such receipt. The credit note will reflect the title and quantity of the Product and the invoiced net price of the Product.

9 Termination

- 9.1 Bertrams shall be entitled to terminate the Contract with immediate effect and without incurring liability by giving notice to the Supplier at any time if:
 - 9.1.1 the Supplier (being a company) becomes the subject of a voluntary arrangement under section 1 of the Insolvency Act 1986; suspends, threatens to suspend or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income; has passed a resolution for its winding up; has a petition presented to any Court for its winding-up or for an administration order or (being an individual, partnership or firm) enters into a composition or arrangement with his creditors; has a bankruptcy order made against him, has been made the subject of an application for an interim order under section 253 Insolvency Act 1986 or has an interim receiver appointed under section 286 Insolvency Act 1986; or
 - 9.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Supplier; or
 - 9.1.3 the Supplier ceases, or threatens to cease to carry on business; or
 - 9.1.4 Bertrams reasonably believes that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier immediately; or
 - 9.1.5 the Supplier is in breach of the Contract and, in the case of a breach capable of being remedied, shall have failed to remedy the breach within fourteen (14) days of receipt of a request in writing from Bertrams to remedy such breach; or
 - 9.1.6 the Supplier repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract; or
 - 9.1.7 there has been a change in control (as defined in sections 450 and 451 or section 1124 of the Corporation Tax Act 2010) of the Supplier.
- 9.2 For the avoidance of doubt, where Bertrams terminates the Contract in accordance with the provisions of Condition 9.1, the Supplier shall compensate Bertrams in full for all losses, liabilities, costs, damages, claims, fines and expenses (including legal expenses) which Bertrams suffers as a result of or arising out of the termination howsoever arising.
- 9.3 In the event of termination of this Contract:
 - 9.3.1 the provisions of Conditions 9, 10, 11, 12, 13, 14 and 17 shall nonetheless continue in full force; and
 - 9.3.2 the Supplier will continue to honour its obligations on the warranty of any equipment or goods supplied.

10 General

- 10.1 The Supplier shall be prohibited from transferring, assigning or sub-contracting, directly or indirectly, to any person or persons whatever, the whole or any portion of this Contract without the prior written permission of Bertrams.
- 10.2 Any notice required or permitted to be given by either party to the other party under these Conditions shall be in writing addressed to that other party.
- 10.3 No waiver by Bertrams of any breach of the Contract by the Supplier shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 10.4 If any provision of these Conditions is held to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- 10.5 The Supplier shall not:
 - 10.5.1 discriminate directly or indirectly, or by way of victimisation or harassment, against any person on grounds of colour, race, nationality, or ethnic or national origins contrary to any part of the Race Relations Act 1976 or otherwise contravene any part of that Act; nor
 - 10.5.2 discriminate directly or indirectly, or by way of victimisation or harassment, against any person on grounds of sex, sexual orientation, age, disability, religion or belief.
- 10.6 Acceptance of the Purchase Order will be deemed to bind the Supplier to these Conditions and no Product shall be supplied by the Supplier, its employees, agents or representatives except in accordance therewith.
- 10.7 These Conditions (together with any express conditions agreed between the parties), the Purchase Order and the Delivery Requirements Manifesto constitute the entire understanding between the parties relating

to the subject matter of the Contract and, save as may be expressly referred to or referenced herein, supersede all prior representations, writings, negotiations or understandings with respect hereto, except in respect of any fraudulent misrepresentation made by either party.

- 10.8 Save for the parties, no person shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the terms of this Purchase Order and/or these Conditions.

11 Health and safety

- 11.1 The Supplier agrees to abide by any reasonable health and safety rules for contractors at the Delivery Address, as provided by Bertrams, at all times when on site, and to ensure that its employees or agents are fully briefed on health and safety requirements.
- 11.2 The Supplier shall indemnify and hold Bertrams harmless from and against any claims, losses, liabilities, damages and costs incurred by it as a result of, or arising out of, any injury or damage to person or property at the Delivery Address caused directly or indirectly by any act or omission or by the negligence or defects of the Supplier.

12 Intellectual Property Rights

- 12.1 The Supplier warrants that the Product does not infringe the intellectual property rights of any person and shall indemnify and hold Bertrams harmless from and against any infringement or alleged infringement of any patent, trade mark, service mark, registered or other design right, application for any of the foregoing, copyright, know-how, trade or business name or other similar right or obligation resulting from the use or disposal of the Product by Bertrams or by any person authorised by Bertrams, provided that this shall not apply in respect of any infringement or alleged infringement arising as a result of any modification of the Product by Bertrams or through Bertrams failing to follow the reasonable instructions of the Supplier (including the withdrawal of the Product from circulation) where following such instructions would have avoided the infringement or reduced the extent of the infringement.

13 Serving of notices

- 13.1 Any notice shall be in writing and, in the case of Bertrams, marked for the urgent attention of the Company Secretary, and shall be deemed to have been served, if sent by first class post, forty-eight (48) hours after being posted (excluding Saturdays, Sundays and public holidays) to the principal place of business or registered office of the recipient, and if sent by fax on a Business Day, in the case of Bertrams to fax number +44 (0) 1793 563601 and in the case of the Supplier to a fax number at its principal place of business, following transmission.

14 Confidentiality

- 14.1 Each of the Publisher, the Agent (if any) and Bertrams will at all times keep confidential all information of a private or confidential nature relating to the other or the business of the other which the other discloses to it or which may otherwise come into its possession in the operation of these Conditions and will not use or copy the information in any way for its own purposes or disclose it to any third party without the prior written consent of the other party.
- 14.2 The parties will use Confidential Information solely for the purpose of the supply and purchase of Product to Bertrams or other actions pursuant to these Conditions and for no other purpose.
- 14.3 Confidential Information for the purposes of Condition 14 does not include information that is or becomes public knowledge, except where it becomes so as a result of a breach of this Condition by the party claiming that the information is not confidential or by anyone receiving such information from that party, or where disclosure of such information is required by law or regulatory authority.

15 Force Majeure

- 15.1 Neither party will be liable to the other for failure to perform any obligation under these Conditions to the extent that and so long as the failure is caused by Force Majeure, the effects of which could not have been reasonably anticipated and prevented by the affected party.
- 15.2 If the affected party becomes aware of any Force Majeure which will not generally be known to the other it will promptly notify the other party in writing of the relevant facts and any likely delay or other effect and it will use all its commercial endeavours to mitigate the effects of the Force Majeure.

16 Amendments and Status of Parties

- 16.1 Nothing in these Conditions is intended to, or shall operate to, create a partnership between Bertrams and the Supplier, or to authorise either of Bertrams or the Supplier to act as agent for the other.
- 16.2 Any amendments to the Contract will be in the form of an addendum duly signed by both parties.

17 Governing Law

- 17.1 The Contract and these Conditions shall be governed by and construed in accordance with the laws of England and the parties submit to the exclusive jurisdiction of the courts of England.

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Delivery Requirements Manifesto

EDI Enabled Suppliers must send an EDI Invoice before the Product is delivered.

Any delivery refused by Bertrams due to a breach of these requirements will be at the expense of the Supplier.

Bookings

- All deliveries to Bertrams must be pre-booked at least 24 hours in advance.
- All bookings by phone and email must be received by 13.30. Any bookings received after this period may be refused for next day delivery and referred to the following day.
- A booking can be arranged by phoning **+44 (0) 1603 648121**.
Email: goodsin@bertrams.com
Please state the approx time slot required, number of pallets, lines and books. An email with delivery time confirmation and a booking reference number will be sent to the Supplier soon after.
- Loading Bay operating times are 06:00 – 13:30.
- The quantity of pallets, lines and books will be required before a booking reference and time slot will be given.
- If Bertrams are contacted after 13.30 about increasing an existing delivery - the extra pallets may only be accepted as a booking if the excess volume being delivered does not exceed 10 pallets.
- It is the responsibility of the Supplier to obtain a booking reference and pass the information on to its appointed Carrier.
- All deliveries should arrive no earlier than 30 minutes before and no later than 30 minutes after the arranged booking time.
- Priority for unloading will be given to those arriving on time for their allocated time slot.
- An overnight delivery can be arranged if needed (please ask). Bertrams may also be able to cater for an overnight stay for trailers in its car park, ready for 06.00 delivery the following day (again, please ask).

Pallets

- All pallets used should be 1200mm x 1000mm full perimeter base, 4 way entry and of a good, safe standard.
- Euro pallets will not be accepted.
- The maximum height of a pallet should not exceed 1500mm.
- There should be no overhang of stock outside of the pallet base.
- Each pallet should have a pallet contents list and relevant invoice number attached to the pallet.
- All NYP titles, embargoed titles and other titles should be palletized separately from top-up stock and be labelled accordingly.
- Any of the above not adhered to could result in the pallets and/or delivery being refused.

Health and Safety / Maximum Weight of Non-Pallet Deliveries

- All delivery drivers entering Bertrams' Delivery Address should wear a HI-VIZ jacket or vest. If the driver does not have one he will be asked to remain in his cab.
- Any delivery to be made by way of carton, box or tote (or similar) will not exceed 15kg in each instance, but where it is unavoidably necessary or it is in the legitimate commercial interest to do so, then each such carton, box or tote (or similar) shall be appropriately labelled to signify 'EXCESS WEIGHT LIMIT'.
- Any delivery that is deemed to be overweight, unsafe or dangerous for the receiving staff to unload will be refused. This includes double stacking of pallets, over-height pallets and/or overweight items.

Damaged Delivery

- Any delivery that is damaged upon arrival, with the majority of the goods being unfit for sale will simply be refused.

Delivery Times/Guidelines

- If a delivery is going to be late due to traffic issues, inclement weather or breakdown the Supplier must inform Bertrams on **+44 (0) 1603 648121** as soon as possible so that arrangements can be made to unload at a later time. Upon arrival the delivery driver may be asked to wait until a time slot is available. In these circumstances Bertrams will do its best to unload the delivery as soon as possible but at its convenience.
- If a booking reference is not supplied the delivery may be refused.
- If a delivery arrives with more than 5 pallets extra than instructed at the time of booking a delivery slot, it may be refused in whole or in part.
- Unless otherwise agreed, the latest time that deliveries will be accepted, is at 13.30. For the avoidance of doubt, there will not be a forklift driver available on the apron to remove pallets after this time.

Delivery Address

- All pallets should be addressed to and labelled using an A4 sheet on all sides as:

Bertrams, 1 Broadland Business Park, Norwich, NR7 OWF.