

HEIDELBERG GRAPHIC EQUIPMENT LIMITED

TRADING TERMS & CONDITIONS RELATING TO DEALERS (effective October 2018)

1. GENERAL

1.1 In these conditions the following words have the following meanings:

Acknowledgement: the written acknowledgement given by Heidelberg to the Dealer accepting the Dealer's order for the Goods set out in the order form.

Conditions: means a reference to these terms & conditions

Contract: any contract between Heidelberg and the Dealer for the sale and purchase of the Goods, incorporating these conditions; Dealer: the person(s), firm or company who purchases the Goods from Heidelberg;

Goods: any goods agreed in the Contract to be supplied to the Dealer by Heidelberg (including any part or parts of them);

Heidelberg: Heidelberg Graphic Equipment Limited;

Order Form: the written quotation and/or purchase order signed by the Dealer and submitted to Heidelberg as an offer to buy the Goods from Heidelberg.

1.2 In these conditions reference to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

1.3 Condition headings are for ease of reference only and shall not affect the construction or interpretation of these conditions and words denoting the singular include the plural and vice versa.

1.4 In these Conditions a reference to a Condition is to a condition of these Conditions.

1.5 These Conditions expressly incorporate the terms and conditions of the Heidelberg End User Licence Agreement ("EULA"), a copy of which is available to download at www.uk.heidelberg.com or on request from Heidelberg.

2. ACCEPTANCE

2.1 Subject to any variation under condition 2.3 the Contract will be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Dealer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2 No terms or conditions endorsed upon, delivered with or contained in the Dealer's purchase order, confirmation of order, specification or other document will form part of the Contract simply as a result of such document being referred to in the Contract.

2.3 These conditions shall apply to all Heidelberg's sales to Dealers and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a board director of Heidelberg. Nothing in this condition will exclude or limit Heidelberg's liability for fraudulent misrepresentation.

2.4 Each order for Goods by the Dealer from Heidelberg shall be deemed to be an offer by the Dealer to purchase the Goods subject to these conditions.

2.5 No order placed by the Dealer shall be deemed to be accepted by Heidelberg until the Acknowledgement is issued by Heidelberg.

2.6 The Dealer must ensure that the terms of the order and any applicable specification are complete and accurate.

2.7 Any quotation is given on the basis that no Contract will come into existence until Heidelberg despatches the Acknowledgement to the Dealer. Any quotation is valid for a period of 30 days only from its date, provided that Heidelberg has not previously withdrawn it.

3. PRICES

All estimates and quotations are net of VAT and import duties and the price of the Goods and parts referred to in the Acknowledgement is fixed and unalterable, and in particular the price is not subject to any variation for any reason whatsoever including (but not limited to) any currency fluctuation.

4. DELIVERY

4.1 Delivery of the Goods shall be made to the location that the Goods are stored by the Dealer unless otherwise agreed in writing by the Dealer. The risk in the Goods shall pass to the Dealer upon such delivery taking place. The Dealer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.

4.2 The Dealer shall arrange carriage of the Goods to his chosen location and the cost of carriage and any insurance shall be paid by the Dealer.

4.3 Delivery of the Goods may in Heidelberg's opinion be suspended, restricted or delayed for reason of insufficient data or information supplied by the Dealer, strikes, lockouts, civil commotion, government control or requisition, fire, breakdown, storm, flood, drought, frost or any other cause beyond Heidelberg's control, or if deliveries are otherwise prevented or hindered from being made within any agreed or estimated time for delivery or installation. No such suspension, restriction or delays shall render Heidelberg liable in damages or justify cancellation or refusal of the Goods by the Dealer. All Goods are offered subject to prior sale. If Heidelberg deliver the Goods in more than one consignment although the Contract does not envisage split or instalment deliveries the Dealer shall not for that reason be entitled to refuse any or all of the consignment. Heidelberg will use reasonable endeavours to deliver the Goods by the agreed or estimated date but time of delivery or installation shall not be of the essence of the Contract.

4.4 Subject to the other provisions of this Contract Heidelberg shall not be liable for any indirect or consequential loss (such terms include, without limitation, loss of profit, loss of business, depletion of goodwill and like loss) costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by Heidelberg's negligence), nor will any delay entitle the Dealer to terminate or rescind the Contract unless such delay exceeds 180 days. Notwithstanding the foregoing Heidelberg shall endeavour to give the Dealer reasonable notice if Heidelberg becomes aware that there is going to be a delay in delivery of more than 30 days.

4.5 If for any reason the Dealer will not accept delivery of any of the Goods when they are ready for delivery, (i) risk in the Goods will immediately pass to the Dealer (including for loss or damage cause by Heidelberg's negligence); (ii) the Goods will be deemed to have been delivered to the Dealer; and (iii) Heidelberg may store the Goods until delivery whereupon the Dealer will be liable for all related costs and expenses (including, without limitation, storage and insurance).

5. PASSING OF PROPERTY

5.1 The ownership of the Goods shall not pass to the Dealer until Heidelberg has received in full (in cash or cleared funds) all sums due to it in respect of (i) the Goods, and (ii) all other sums which are or which become due to Heidelberg from the Dealer on any account (including where applicable interest on any sums not paid on the due date) and until such payments are made the Goods are held by the Dealer as bailee for Heidelberg.

5.2 If the Dealer shall sell or purport to sell the Goods so as to purport to pass a valid title to a third party the proceeds of such sale shall be held by the Dealer on trust for Heidelberg and if such proceeds are not paid to Heidelberg they shall be placed in a separate designated bank account.

5.3 The Goods shall be stored by the Dealer in a safe and proper manner and in such a way so as to distinguish them from goods not owned by Heidelberg and shall be separately identified in such manner as approved or directed by Heidelberg.

5.4 Until payment of the whole of the price of the Goods has been made by the Dealer to Heidelberg (including interest where applicable) Heidelberg shall have the right to demand the immediate return of the Goods and the Dealer grants Heidelberg, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Dealer's right to possession has terminated, to recover them.

5.5 Where the Dealer's purchase of the Goods is financed (in whole or part) by a Finance House (as such term is defined in the Order Form) Heidelberg expressly reserves the right to transfer title to the Goods to the Finance House immediately on receipt from the Finance House of its agreed share of the financing of the price of the Goods.

5.6 Heidelberg expressly reserves the right to trace any Goods the price of which remains unpaid or any proceeds of the purported sale of such Goods into whomsoever's hands the same may pass.

5.7 Subject to Condition 5.1 the Dealer's right to possession of the Goods shall terminate immediately if:

5.7.1 the Dealer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purposes only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed over its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for the winding up of the Dealer or for the granting of an administrative order in respect of the Dealer, or any proceedings commenced relating to the insolvency or possible insolvency of the Dealer; or

5.7.2 the Dealer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe/perform any of his/its obligations under the Contract and the EULA or any other contract between Heidelberg and the Dealer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Dealer ceases to trade; or

5.7.3 the Dealer encumbers or in any way charges the Goods.

5.8 Each and every sub-condition of this Condition 5 shall be deemed to be separate from the remainder of these Conditions and severable accordingly.

6. RISK

6.1 Until such time as payment for the Goods has been made in full any monies received by the Dealer as a result of any insurance claim of whatever nature with regards to the Goods shall be held on trust for Heidelberg as if the same had been a payment received from a third party under Condition 5.2 above and shall upon receipt thereof by the Dealer be forthwith remitted to Heidelberg.

6.2 The Dealer is advised to obtain sufficient insurance against business interruption and/or any consequential loss arising under the Contract and the Dealer's attention is drawn specifically to Condition 9 in this regard.

7. LIMITATION OF LIABILITY THE DEALER'S ATTENTION IS DRAWN PARTICULARLY TO THIS CONDITION

7.1 No express or implied warranty is given by Heidelberg relating to the Dealer's fitness for purpose, satisfactory quality or merchantability. The Dealer agrees that it is accustomed to buying goods of the type referred to in the Acknowledgement and that it has relied on its own expert judgement in assessing whether the Goods meet its specific requirements and/or specifications. This Contract is not a contract for the sale of goods by sample; if and insofar as the Dealer might have inspected a sample of the Goods such inspection was for the purpose of the Dealer's information as to the general nature of the Goods and did not and was not intended to have any contractual effect. This Contract is not a sale of goods by description; if and insofar as any description might have been given to the Dealer the same was for the purpose of the Dealer's general information only and did not and was not intended to have any contractual effect. For the avoidance of doubt the Dealer acknowledges and accepts that any description given in respect of the impression count on the Goods is likely to change up to and including the date of delivery of the Goods.

7.2 Heidelberg will be under no liability whatsoever for any loss or damage injury or expense caused by the Dealer's misuse of the Goods which arises by way of the Dealer's incompetence or negligence or any other cause which is the fault of the Dealer.

7.3 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

7.4 Subject to conditions 7.1, 7.2 and 7.3 Heidelberg's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the Contract price of the Goods as stated in the acknowledgement.

8. CONSEQUENTIAL LOSS THE DEALER'S ATTENTION IS DRAWN PARTICULARLY TO THIS CONDITION

8.1 In any event notwithstanding anything contained in the Contract in no circumstances will Heidelberg be liable for any indirect or consequential loss or damage in contract, tort (including negligence or breach of statutory duty) or otherwise whatsoever or howsoever caused:

8.1.2 for any loss of profit, revenues or anticipated savings, loss of business, depletion of goodwill or otherwise; or

8.1.3 for any consequential damage of any nature whatsoever said to have occurred consequent upon the supply, the non-supply, or the circumstances of the supply of the Goods or services here contracted to be supplied by Heidelberg to the Dealer.

9. PAYMENT

9.1 Where the Dealer pays a deposit to Heidelberg in respect of the Goods and the Dealer fails to pay the balance of the contract price or seeks to terminate the order, Heidelberg will retain all of the deposit. The Dealer acknowledges that the amount of the deposit is reasonable and that it is reasonable for Heidelberg to retain all of the deposit in the event of the Dealer's default, bearing in mind Heidelberg's anticipated costs and expenses.

9.2 If any payment is in arrears for or on account of or in respect of any Goods, spare parts, consumables or services or any instalment of Goods or part of an order delivered under this or any other contract between Heidelberg and the Dealer, Heidelberg shall have the absolute right without giving any notice to the Dealer to suspend further deliveries and services under this or any other contract.

9.3 If any payment or any part thereof pursuant to Condition 9.2 above shall remain in arrears for seven days after written demand sent by Heidelberg to the Dealer, Heidelberg shall have the right to cancel this and any other such contract without prejudice to all Heidelberg's rights and remedies to recover any monies then due and owing to Heidelberg from the Dealer which shall be due and payable forthwith without further time lapse or demand.

9.4 Heidelberg shall be entitled to interest upon all payments for the time being outstanding at an annual rate equal to 5% above the Bank of England base rate from time to time from the date that payment should have been made until the date of payment in full and whether before or after any judgement plus warehousing and all other costs. Heidelberg reserves the right to claim interest under the Late Payment of Commercial Debts Regulations 2013. The Dealer shall also reimburse Heidelberg all costs and expenses (including legal costs) incurred in the collection of overdue amounts.

9.5 Payments shall be considered in arrears if not made within the terms stated in the Acknowledgement.

9.6 Time for payment shall be of the essence.

9.7 No payment shall be deemed to have been received until Heidelberg has received cleared funds.

9.8 The Dealer is deemed to have accepted the Goods on commencement of removing and/or dismantling the Goods at delivery.

9.9 The Dealer shall make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Dealer has a valid court order requiring an amount equal to such deduction to be paid by Heidelberg to the Dealer.

10. STATEMENTS AND REPRESENTATIONS

Statements or representations of whatever kind and however made including but not confined to those as to weights, measurements, impression counts, power consumption, performance, descriptions, details of designs, prices and charges and whether contained in drawings, floor plans, catalogues, advertisements, brochures, photographs, descriptive materials, verbal representation or otherwise are approximate only and shall not be binding upon Heidelberg or in any way form part of this Contract unless expressly stated to do so by Heidelberg in writing.

11. CONFIDENTIALITY

The Dealer (including its employees and agents) agrees that all commercial, financial or technical information relating to the Contract and which is disclosed in any manner or at any time by Heidelberg will be deemed to be secret or confidential and all or any such information may not be disclosed to any third party without the prior written consent of Heidelberg.

12. SUB-CONTRACT

Heidelberg reserves the right to sub-contract or assign any part of its obligation to the Dealer under the terms of the Contract to a competent third party. The Dealer shall not be entitled to assign the Contract or any part of it without the prior written consent of Heidelberg.

13. SEVERABILITY

If any of the provisions of this Contract is found by an Arbitrator or Court or other competent authority to be void or unenforceable, such provision shall be deemed to be deleted from this Contract and the remaining provisions of this Contract shall continue in full force and effect.

14. THIRD PARTY RIGHTS

A person who is not a party to this Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Contract.

15. INTELLECTUAL PROPERTY

15.1 Save for the licence agreement between Heidelberg and the Dealer necessary for the operation of the Goods no right, title, interest or licence is granted under the Contract to the Dealer in any invention, patent, registered design, design right (whether registered or otherwise), copyright, moral right, database right, typographical right, know-how and trade marks (whether registered or not) and the goodwill therein and applications for any of the same and all rights of a similar nature throughout the world except the right to use or resell the Goods.

15.2 Nothing in the Contract entitles the Dealer to use the name of Heidelberg for any reason whatsoever when manufacturing or selling their own goods or finished products to any third parties without Heidelberg's prior written consent.

16. LEGAL CONSTRUCTION

The Contract shall be construed according to the laws of England and the Dealer hereby agrees to submit to the sole and exclusive jurisdiction of the Courts of England. Should these Conditions be translated into any language other than English, this English version of the Conditions shall prevail over any translation.

17. NOTICES

All notices and other communications required or permitted to be given under this Contract shall be in writing and be delivered or transmitted to the intended recipient's address as specified in the Acknowledgement Form or such other address as any party may notify to the other for this purpose from time to time.