



## IPECO HOLDINGS LIMITED TERMS AND CONDITIONS OF SUPPLY

### 1 Introduction

- 1.1 IHL is Ipeco Holdings Limited, a company registered in England and Wales under company number 00672443, or such other entity within the IHL group of companies as accepts an order issued by a Customer (as more fully described in clause 6.3 below) and/or issues an invoice to the Customer under or otherwise in accordance with these terms and conditions ("IHL").
- 1.2 These are the terms and conditions upon which IHL provides products and services to its customers.

### 2 Definitions

- 2.1 In these terms and conditions,
  - (a) the following expressions shall have the following meanings:
    - "**Business Day**" means a day (other than a Saturday, Sunday, bank or public holiday) when banks in London are open for business;
    - "**Catalogue**" means the IHL Spare Parts Price Catalogue published and effective annually from 1<sup>st</sup> January;
    - "**Contract**" has the meaning given to that term in clause 6.3, and a reference to Contract shall include these terms and conditions;
    - "**Customer**" means any person who enters into a Contract with IHL in accordance with the terms of clause 6.3;
    - "**Data Protection Legislation**" means the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including the privacy of electronic communications);
    - "**Delivery Date**" means the date that IHL notifies the Customer that the Products are available for collection in accordance with clause 10.2;
    - "**Delivery Location**" means the location of IHL's premises where the Products are to be made available for collection by the Customer as confirmed in writing to the Customer by IHL;
    - "**Part**" means any spare part which is required for maintenance, repair and/or overhaul of a Product;
    - "**Products**" means the type and specification of products to be supplied by IHL to the Customer under a Contract, and for clarity includes any Products supplied by IHL as part of the supply of any Services and also any Part(s) to be supplied by IHL to the Customer from time to time under a Contract;
    - "**Services**" means the type and specification of Services to be supplied by IHL under a Contract as set out in the Customer's order;
    - "**Specification**" means, in respect of each Contract, any applicable specification in relation to the Products which the Customer requires the Products to conform to, including any requirements under any applicable airworthiness directives from time to time;
    - "**UK Data Protection Legislation**" means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC); and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; and
    - "**Warranty Period**" means the period(s) applicable respectively to new Products, Parts and repaired Products as set out in clause 12.7 and in each case commencing from and inclusive of the respective Delivery Dates;
  - (b) words importing the singular shall include the plural and vice versa, words importing a gender shall include all genders, and words importing persons shall include bodies corporate, unincorporated associations and partnerships;
  - (c) any reference to a statute, statutory provision or subordinate legislation is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation;
  - (d) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
  - (e) references to **clauses** are references to clauses of these terms and conditions; and
  - (f) headings are included for ease of reference only and shall not affect the interpretation or construction of these terms and conditions.

### 3 Application

- 3.1 These are the terms and conditions upon which IHL is willing to provide the Products and/or Services to the Customer and they will apply to all dealings between IHL and the Customer (as revised and/or updated from time to time in accordance with clauses 3.2 or 3.3) to the exclusion of all other terms and conditions which the Customer may purport to apply under any purchase order, confirmation of order or similar document.
- 3.2 IHL may revise or update these terms and conditions at any time without notice.
- 3.3 Subject to clause 3.2, no variation to these terms and conditions will be binding unless confirmed in writing by an authorised representative of IHL.

### 4 Information about the Products and Services

- 4.1 All samples, drawings, descriptive matter, specifications and advertising which IHL issues and any descriptions or illustrations contained in IHL's brochures (including the Catalogue) or on IHL's website are issued or published for the sole purpose of giving the Customer a general idea of IHL's products and services and, subject to clauses 7.2 and 7.3, do not form part of any Contract or have any contractual force.



Although IHL makes every effort to ensure that information about its products and services is correct, the Customer acknowledges that sometimes such information may be incomplete, out of date or inaccurate and, subject to clauses 7.2 and 7.3, the Customer has placed no reliance on this information save as may be expressly agreed with IHL in writing.

## **5 Quotations**

- 5.1 Upon request, IHL may provide a quotation to the Customer (in written or electronic form) with respect to a specific opportunity to provide Products and/or Services to the Customer. The Customer shall provide IHL with any information reasonably requested by IHL including any Specifications in order to provide the quotation.
- 5.2 All quotations and offers made by IHL to the Customer about the sale of Products and/or the provision of Services are subject to these terms and conditions.
- 5.3 All quotations and offers IHL makes to the Customer are made on an "invitation to treat" basis only. This means that IHL is not obliged to supply any products and/or provide any services to Customer on the terms stated in any quotation until, and only to the extent that, those terms are agreed as part of a binding written Contract. For the avoidance of doubt IHL shall not be obliged to agree any Contract or any specific terms with the Customer, whether pursuant to a quotation provided by IHL or an order placed by the Customer or otherwise. Each quotation IHL makes shall lapse automatically at the end of the calendar year in which the quotation is issued unless otherwise communicated in writing by IHL on or before that date.

## **6 Orders**

- 6.1 To place an order with IHL for the purchase of Products and/or Services, Customer must provide to IHL an official company purchase order containing at least the reference for the quotation provided by IHL, a description of the Products and/or Services required with the time frames for delivery, the correct price (as indicated in the IHL catalogue or quotation) and, in the case of Products ordered or sent in for repair, the relevant Product part number and (where a Product is being sent to IHL for repair) the serial number and the quantity of each of the Products required. In addition, the Customer is required to provide the details of the ship to and bill to party and, in the case of Products sent in for repairs, a separate repair order is required for each Product sent in for repair.
- 6.2 The Customer acknowledges and agrees that any order for Products (other than for Parts and/or repairs to Products) must be issued to IHL no less than 120 days before the required Delivery Date unless otherwise confirmed and accepted in writing by IHL. An order for a Part contained in the Catalogue or for a repair to a Product requires a lead time of 90 days unless otherwise specified in the Catalogue or agreed in writing with IHL.
- 6.3 IHL accepts an order placed by the Customer either at the time IHL sends the Customer written confirmation (including by e-mail) that IHL accepts the Customer's order or, if earlier, at the time IHL commences the provision of the Services (as applicable). It is at the moment IHL accepts the Customer's order in accordance with this clause 6.3 that a binding contract of sale is made between the Customer and IHL for the sale of the Products and/or the provision of Services specified in the Customer order ("**Contract**"). Unless otherwise agreed in writing between the Customer and IHL, each Contract is subject to these terms and conditions to the exclusion of all other terms and conditions (including any terms and conditions which the Customer may purport to apply under any purchase order, confirmation of order or similar document).
- 6.4 Without prejudice to clauses 5.3, 6.1 and 6.3, all orders that the Customer places and all confirmations of orders that IHL gives are subject to the provisions of these terms and conditions. If there is any inconsistency between these terms and conditions and any order placed by the Customer or confirmation IHL gives then these terms and conditions shall prevail unless expressly provided otherwise in writing by IHL.
- 6.5 The Customer may cancel or modify an order at any time before IHL accepts it in accordance with clause 6.3.
- 6.6 The Customer may not cancel or modify an order that has been accepted by IHL unless:
  - (a) the Customer notifies IHL in writing that the Customer wishes to modify or cancel that order; and
  - (b) an authorised representative of IHL agrees in writing to that modification or cancellation; and
  - (c) the Customer agrees to pay all IHL's reasonable and proper costs up to the requested date of the modification or cancellation and, in the case of modification, all reasonable and proper costs directly associated with the modification itself.

## **7 Price**

- 7.1 If IHL has provided a quotation in respect of the Products and/or Services to be provided under a Contract, then no alteration to that price may be made without the prior written consent of IHL. The price in the quotation or, if relevant, the altered price to which IHL has consented, shall be the price payable by Customer but subject always to any variation to such price effected, or additional amounts payable, in accordance with these terms and conditions.
- 7.2 If IHL has not provided the Customer with a quotation in respect of the Products, the price payable by the Customer for each of the Products ordered will be IHL's current list price for the Product at the Delivery Date less any discount (if any) confirmed to the Customer in writing from time to time by an authorised representative of IHL.
- 7.3 Any Parts necessary for the maintenance, repair or overhaul of the Products shall be purchased from IHL at IHL's current Catalogue list price for the relevant Part at the Delivery Date less any discount (if any) confirmed to the Customer in writing from time to time by an authorised representative of IHL.
- 7.4 Details of any discount or other non-standard pricing structure that is agreed between the Customer and IHL from time to time shall be treated by the Customer as information of a confidential nature. The Customer must keep this information confidential and not disclose it to any third party. The Customer acknowledges and agrees that any and all discounts afforded to the Customer are and shall remain conditional on the Customer discharging its payment obligations in full in accordance with these terms and conditions.



- 7.5 All prices, howsoever agreed, are (unless otherwise expressly agreed in writing by IHL):
- (a) exclusive of any applicable value added or other applicable sales tax. Where applicable, IHL will add value added or other applicable sales tax to any charges at the current rate at the date IHL invoices for the Products and/or Services;
  - (b) inclusive of all charges for packaging and packing in accordance with ATA Spec 300; and
  - (c) exclusive of insurance and delivery of the Products and/or Services (as applicable) and any duties, taxes or levies including value added tax unless otherwise agreed in writing by IHL.

## 8 Payment

- 8.1 If IHL informs the Customer that it requires the Customer to pay:
- (a) a non-returnable deposit; or
  - (b) the full purchase price for the Products and/or Services, in advance of the Delivery Date or the Services being commenced then IHL may invoice Customer for, and Customer must pay, the required amount in cleared funds prior to that date.
- 8.2 Subject to clause 8.1, IHL may invoice the Customer for the Products on or before the date that the Products are made available for collection. IHL shall be entitled to deliver the Products by way of separate instalments or batches. If IHL makes the Products available for collection in instalments or batches on different dates then, unless stated otherwise by IHL, IHL will only invoice the Customer for those Products which it has made available for collection.
- 8.3 Subject to clause 8.1, IHL will invoice Customer for the Services provided under a Contract on a monthly basis or, where the Services are to be provided for less than a month, once the Services have been completed.
- 8.4 Subject to clause 8.1, in respect of each invoice IHL submits to Customer, Customer must pay the total amount set out in the invoice so that IHL receives in cleared funds a sum equal to the total invoiced amount within 30 days of the date of the invoice (unless a different period has been agreed between the parties in writing). Customer must pay the total amount invoiced even if it disputes any amount on the understanding that if it is resolved that the total is too great IHL will rectify its mistake by either promptly making an appropriate payment to the Customer or providing the Customer with a credit note (at the Customer's discretion). The Customer must notify IHL of any query it has about an invoice within five Business Days of the date of the invoice otherwise the invoice will be deemed accepted by the Customer.
- 8.5 All payments Customer makes must be in the currency indicated by IHL on IHL's invoice.
- 8.6 Customer must make all payments due to IHL without any deduction by way of set-off, counterclaim, discount, abatement or otherwise.
- 8.7 If Customer fails to pay IHL on time IHL may, without prejudice to any other rights or remedies it may have:
- (a) charge the Customer interest on the outstanding amount at the rate of 5% above the central bank of the territory in which the IHL counterparty to the Contract is located's base rate from time to time, accruing on a daily basis until payment is made in full;
  - (b) refuse to supply Customer with any further Products or provide any further Services until payment is made in full;
  - (c) disallow any discount that may apply to any part of the outstanding payment; and/or
  - (d) deduct any monies IHL owes the Customer from any monies the Customer owes IHL.

## 9. Certification of Products

- 9.1 All new Products supplied by Ipeco are supplied with a UK CAA Form 1. For goods where a UK CAA Form 1 cannot be provided a Certificate of Conformity (CoFC) will be issued.
- 9.2 For repaired Products an EASA Part 145 and/or UK CAA part 145 certificate will be issued.
- 9.3 Other country-specific certifications may be available from IHL's regional branches upon request.

## 10. Delivery of Products

In respect of each Contract:

- 10.1 The Products shall be delivered by IHL ex-works at the Delivery Location (in accordance with EXW under the Incoterms 2020 Rules).
- 10.2 Unless otherwise agreed IHL will notify the Customer when the Products are ready for collection and the Customer must collect the Products within five Business Days of IHL's notification. If the Customer fails to collect or procure the collection of the Products within five Business Days then IHL may charge the Customer and the Customer will be liable to pay IHL for additional daily storage costs to be notified until the Products are collected. The Customer acknowledges that this is a genuine estimate of the likely costs to be incurred by IHL in respect of any delay in collection by the Customer. Unless otherwise agreed in writing with IHL, should the Customer fail to collect or procure collection after 20 Business Days IHL may cancel delivery and re-allocate the Products if there be an alternative Customer demand. In such circumstances the Customer will subsequently be advised of the next available date for collection of such Products.
- 10.3 Risk of damage or loss of the Products shall pass from IHL to Customer in accordance with EXW and shall be deemed to pass when the Product is made available at the Delivery Location for collection by the Customer.
- 10.4 IHL recognises that the Customer may request delivery dates in its orders for Products. IHL will use reasonable endeavours to meet Customer's requested delivery dates but IHL cannot, and does not, guarantee to deliver the ordered Products by any specific date unless expressly agreed with an authorised representative of IHL. Time shall not be of the essence of the Contract with respect to the delivery obligations of IHL and IHL accepts no liability for any loss or damage the Customer may suffer as a result of any failure by IHL to deliver the ordered Products on or by a specific date.
- 10.5 The Customer must make all arrangements necessary for the Customer to take delivery of the Products when IHL makes them available for collection, including providing labour and suitable loading equipment for the loading of the delivered Products.

## 11 Title to Goods

- 11.1 Title to the Products shall not pass to the Customer until (the earlier of): (a) IHL receives payment in full (in cash or cleared funds) for the Products and all other sums that are or that become due to IHL from the Customer for sales of Products or on any account, in which



case title to such Products shall pass at the time of payment of all such sums; or (b) the Customer resells those Products, in which case title to those Products (and only those Products sold by the Customer) shall pass to the Customer at the time specified in clause 11.4. For repaired Products ownership of the goods remains that of the Customer whilst the repair is carried out, unless an exchange has been agreed with IHL in writing.

- 11.2 The Customer must clearly identify Products that it has collected from IHL but to which IHL retains title (“**ROT Products**”) as belonging to IHL and keep them safe, secure, comprehensively insured against loss and damage and separate from other property.
- 11.3 Except as otherwise expressly set out in this clause 11 the Customer must not:
- (a) part with possession of the ROT Products;
  - (b) allow any right or encumbrance to be created over the ROT Products; or
  - (c) make, nor allow anyone other than IHL to make, any additions, alterations or modifications to, or remove any part of, any of the ROT Products.
- 11.4 The Customer may use or resell ROT Products in the ordinary course of the Customer's business, however if the Customer resells ROT Products before IHL has received payment in full for them, it does so as principal and not as IHL's agent, and title to those ROT Products shall pass from IHL to the Customer immediately before the time at which resale by the Customer occurs, and the Customer hereby acknowledges and agrees that the proceeds of sale shall belong to IHL.
- 11.5 If any ROT Products are damaged or lost, the Customer:
- (a) must notify IHL of the damage or loss; and
  - (b) make an insurance claim for those ROT Products that are lost or damaged and pay IHL the proceeds of the insurance claim.

## 12 **Warranty**

- 12.1 IHL recommends that the Customer checks that the Products delivered by IHL conform to the relevant Contract at the time the Customer collects the Products.
- 12.2 IHL warrants that each Product it supplies to the Customer shall:
- (a) comply with the requirements of any applicable Specification;
  - (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979);
  - (c) be free from material defects in design, material and workmanship; and
  - (d) is (unless agreed otherwise by IHL in writing) new.
- 12.3 If the Customer finds that any of the Products do not conform to these terms and conditions or the Contract then Customer must notify IHL of this fact in writing within the relevant Warranty Period. If IHL does not receive notification from Customer within the Warranty Period then the Customer will be deemed to have accepted that: (i) the Products are free from damage; and (ii) the Products conform to these terms and conditions and the relevant Contract.
- 12.4 If the Customer notifies IHL that IHL has not delivered all the Products ordered by it then the Customer must promptly provide IHL with reasonable evidence supporting its claim. If IHL accepts Customer's claim then IHL will by way of full and final settlement of all its obligations and liabilities to Customer in relation to the claim at IHL's discretion either: (i) credit the Customer's trading account with an amount equal to any monies the Customer has paid IHL for the undelivered Products; (ii) refund any monies Customer has paid IHL for the undelivered Products; or (iii) deliver to the Customer the undelivered Products.
- 12.5 Subject to clause 12.6, if during the relevant Warranty Period the Customer notifies IHL that any of the Products were damaged whilst they were at IHL's risk or do not conform to these terms and conditions or the relevant Contract then Customer must promptly return the Products to IHL and provide IHL with reasonable evidence supporting its claim. If IHL accepts the Customer's claim then IHL will by way of full and final settlement of all its obligations and liabilities to Customer in relation to the claim at IHL's sole discretion either: (i) credit the Customer's trading account with an amount equal to any monies Customer has paid IHL for the damaged/non-conforming Products; (ii) refund any monies Customer has paid IHL for the damaged/non-conforming Products; (iii) repair the damaged/non-conforming Products; or (iv) replace the damaged/non-conforming Products with Products that conform with these terms and conditions and the relevant Contract.
- 12.6 IHL will have no obligation, responsibility or liability to the Customer under these terms and conditions or the relevant Contract to the extent that any defect in the Products is attributable to the acts and omissions of the Customer or any third party.
- 12.7 Unless otherwise agreed in specific contractual arrangements between IHL and the Customer, the Warranty Period for new Products shall be 36 months from the Delivery Date excluding consumable items such as restraints, covers and cushions in respect of which the Warranty Period shall be 24 months from the Delivery Date excluding normal wear and tear. For Parts and repaired Products, the Warranty Period is 18 months from the Delivery Date, excluding normal wear and tear of consumable items. In the case of repaired Products, the Warranty will apply to the actual repair only but the applicable Warranty for this and/or the complete Product may be extended to the balance of the original Warranty, should this be greater.

## 13 **Goods bought for resale**

- 13.1 If the Customer resells any Products then it must:
- (a) resell the Product in its original state and where applicable its original, sealed and unopened packaging;
  - (b) not modify, delete or obscure any copyright, trade mark, patent or other proprietary notice which is on the Product, the Product's packaging or the documentation that accompanies the Product;
  - (c) not use or apply on or in relation to the Product (including as or part of any corporate, trade or business name) any other trademarks, logos or wordings;
  - (d) pass onto its customers all documentation, including instructions of use, that IHL supplies to customer in respect of the Product;
  - (e) not make any representations, warranties, claims or guarantees to its customers about IHL or the Product that are false or misleading or



- inconsistent with those contained in the documentation supplied by IHL with the Product; and
- (f) adhere to any additional terms and conditions that IHL may notify to Customer from time to time.
- 13.2 The Customer shall indemnify IHL in full against all costs, damages, losses and expenses IHL incurs or suffers as a result of the Customer's failure to comply with its obligations under clause 13.1.

#### 14 Provision of Services

- 14.1 In respect of each Contract, IHL will provide to the Customer the Services set out in that Contract. IHL aims to provide the Services in accordance with any dates or timetable set out in the Contract but cannot, and does not, guarantee to provide the Services in accordance with any dates or timetable. Time shall not be of the essence with respect to IHL's delivery or performance obligations and IHL accepts no liability for any loss or damage Customer may suffer as a result of IHL's failure to provide the Services in accordance with any dates or timetable.
- 14.2 If IHL personnel require access to any premises (other than IHL's own premises) to provide any Services then Customer will be responsible for making access to such premises available to IHL to enable IHL to carry out the Services.

#### 15 Export controls

- 15.1 Customer represents, warrants and undertakes that it has obtained all necessary export approvals, licences, permits and authorisations for the supply of Products and/or Services, including those for dual use, to the end user, in respect of (i) the Export Administration Regulations of the US Department of Commerce; and (ii) the International Traffic in Arms Regulations (including the requirement to obtain, where applicable, the written authorisation of the US Office of Defence Trade Control); and (iii) any other applicable regulations, legislation or other export controls, (together, "Export Approvals").
- 15.2 It shall be the responsibility of the Customer to identify the need to obtain (and, where applicable, maintain) any Export Approvals and to comply on an ongoing basis with the requirements and obligations imposed by any regulatory authority administering and/or enforcing the same.
- 15.3 Customer undertakes, represents and warrants to IHL that it shall not re-transfer or otherwise dispose of or use any Products and/or Services in breach of any applicable laws and/or regulations in force at the time and applicable to those Products and/or Services, whether made known to the Customer by IHL or not.

#### 16 Obligations

- 16.1 In providing any Services to Customer, IHL warrants that it shall:
- (a) perform the Services using reasonable care, skill and diligence and in accordance with good industry practice;
  - (b) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that IHL's obligations are fulfilled in accordance with these terms and conditions;
  - (c) ensure that the Services conform with any descriptions and Specifications set out in IHL's quotation or any other documentation provided to Customer by IHL; and
  - (d) provide all equipment, tools and vehicles and such other items as are required to provide the Services and which for the avoidance of doubt shall remain the property of IHL.
- 16.2 For the purpose of assisting the Customer to assess the reliability or quality of the Products supplied by IHL and/or where the Products are to be installed onto an aircraft, IHL will on reasonable notice and subject to any expenses incurred by IHL being reimbursed by Customer, provide a technical expert at the Customer's location to provide reasonable assistance with such assessment and/or installation (as the case may be).
- 16.3 During the relevant Warranty Period, IHL shall, during United Kingdom Business Days between the UK hours of 0800 and 1700 on Monday to Thursday and between 0800 and 1300 on Fridays (excluding bank and public holidays) provide free remote technical support in respect of the Products delivered.
- 16.4 IHL shall use reasonable endeavours to limit lead time for Parts.
- 16.5 IHL shall provide to Customers operating applicable aircraft all necessary technical publications and revisions required to operate, maintain, repair and overhaul the Products. Such documents shall normally be provided free of charge and be written in the English language.

#### 17 Termination

- 17.1 Either party may terminate any Contract by giving notice to the other party on or at any time after the occurrence of any of the following events:
- (a) the other party makes any arrangement or composition with its creditors; the other party commits an act of bankruptcy; a receiving order is made against the other party; insolvency or winding-up proceedings are instituted by or against the other party (otherwise than for the purposes of a solvent corporate reorganisation); a receiver, liquidator or administrator is appointed for the other party; any of the other party's assets is the object of attachment, sequestration or other type of comparable proceeding; the other party is unable or admits in writing its inability to pay its debts as they fall due; the other party ceases or threatens to cease to carry on business; or the other party suffers or takes any similar or analogous action in any jurisdiction in consequence of debt; or
  - (b) the other party commits a material breach of the Contract and either that breach cannot be remedied or, in respect of a breach that is capable of remedy, the other party fails to remedy that breach within 15 Business Days of being requested to remedy that breach.
- 17.2 IHL may terminate any Contract if it reasonably believes that any of the events mentioned in clause 17.1(a) are about to occur in relation to Customer.
- 17.3 On termination of a Contract:
- (a) the Customer must return to IHL all property belonging to IHL then in the Customer's possession, including all materials supplied or made



available by IHL in connection with the Contract;

- (b) clauses 2, 3, 4, 8, 12, 13, 17, 18, 19, 20, 21, 22 and 24 of these terms and conditions will survive the termination of the Contract, as will any other clause which by its nature is intended to survive termination;
- (c) the Customer shall immediately pay to IHL all of IHL's outstanding unpaid invoices and interest, and, in respect of Services or Products supplied but for which no invoice has been submitted, IHL shall submit an invoice, which shall be payable by Customer immediately on receipt;
- (d) transfer all the proceeds of sale in respect of all ROT Products (which Customer has sold) to IHL except to the extent that the Customer has already paid for such ROT Products pursuant to clause 17.3 (c); and
- (e) deliver back to IHL, at Customer's cost, those ROT Products that are not lost or sold (except to the extent that the Customer has already paid for such ROT Products pursuant to clause 17.3(c)), and the Customer agrees that IHL may enter the Customer's premises or any other premises to which Customer has a right to enter to recover such Products.

17.4 Any termination of a Contract shall not prejudice any rights which may have accrued to either party prior to the point of termination.

#### 18 Confidentiality

Customer shall hold in confidence all information concerning IHL's business and affairs that IHL provides to Customer which is designated as confidential or which by its nature is confidential. Customer shall not disclose such information to any third party and shall, immediately following IHL's request, return all such information to IHL.

#### 19 Data protection

Both parties will comply with all applicable requirements of the Data Protection Legislation insofar as such requirements relate to a Contract and/or the parties' obligations under or in connection with it. For the avoidance of doubt, neither party shall Process Personal Data (as such terms are defined in the Data Protection Legislation) on behalf of the other party, under or in connection with a Contract, unless the parties have entered into a separate processing agreement which satisfies the requirements of the Data Protection Legislation.

#### 20 Notices

- 20.1 All notices and communications between the parties shall be in writing (which shall include, subject to clause 20.4, e-mail).
- 20.2 Subject to clauses 20.4 and 20.5, any notice or other communication sent to Customer shall be sufficient if sent to a postal or email address notified to IHL for the purpose or to the postal or email address of Customer last known to IHL.
- 20.3 Subject to clauses 20.4 and 20.5, notices or other communications sent by Customer to IHL shall be sent to the postal or email address given for IHL on the face of the quotation or otherwise provided to Customer by IHL marked for the attention of the VP Business Development.
- 20.4 The Customer may not use e-mail as a valid means of serving any notice to terminate any Contract and neither party may use e-mail to serve on the other any legal and/or court document (including the service, delivery or notification of any without prejudice communications, claim form, notice, order, judgment or other document relating to or in connection with any proceedings, suit or action arising out of or in connection with any Contract or these terms and conditions).
- 20.5 Any notice shall be deemed to have been served:
  - (a) if delivered personally, at the time of delivery; or
  - (b) if posted, at 10.00AM on the second Business Day after it was put into the post; or
  - (c) if sent by e-mail, upon the generation of a receipt notice by the recipient's server or, if no receipt notice is generated, upon delivery to the recipient's server.
- 20.6 In proving service of a notice it shall be sufficient to prove that delivery was made or that the envelope containing the communication was properly addressed and posted either by prepaid first class post or by prepaid airmail, or that the e-mail was properly addressed and transmitted by the sender's server into the network and there was no apparent error in the operation of the sender's e-mail system, as the case may be.

#### 21 Limitation on liability

- 21.1 Nothing in these terms and conditions or any Contract shall exclude or limit either party's liability for: (i) death or personal injury arising from that party's negligence; (ii) fraud or fraudulent misrepresentation; or (iii) any other liability that cannot be limited or excluded by law.
- 21.2 The warranties and conditions stated in these terms and conditions are in lieu of all other conditions, warranties or other terms that might be implied into or incorporated into these terms and conditions or any Contract whether by statute, common law or otherwise, all of which are hereby excluded to the fullest extent permitted by law.
- 21.3 Subject to clause 21.1, IHL will not be liable to Customer under any statute or in contract, tort or otherwise for any:
  - (a) loss of profits, business revenue, business opportunity, contracts, goodwill and/or anticipated savings;
  - (b) indirect or consequential loss or damage;
  - (c) damage remedied by IHL within a reasonable time;
  - (d) any loss suffered that is avoidable through Customer's reasonable conduct, including (where applicable) Customer backing up all data available and following IHL's reasonable advice in relation to any Services IHL provides to Customer; which arises out of or in relation to these terms and conditions or any Contract.
- 21.4 Subject to clause 21.1, IHL's total aggregate liability to the Customer under or in connection with each Contract (whether such liability arises under any statute or in contract, tort or otherwise) shall not in any event exceed the total price payable by the Customer under the Contract.

#### 22 Assignment



22.1 The Customer must not assign, sub-contract or dispose of any of its rights or obligations under these terms and conditions or any Contract without prior written consent from IHL.

22.2 Both the Customer and IHL shall in all cases act as principal in respect of these terms and conditions and each will be responsible and liable for the acts and omissions of its employees and sub-contractors.

**23 Force Majeure**

IHL shall not be liable to Customer for any delay or failure to perform its obligations under a Contract due to causes beyond its reasonable control.

This includes (i) any riots and other forms of civil disruption, (ii) war and/or terrorist attack, (iii) any law or government order, rule, regulation or direction, or any action taken by a government or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition, or failing to grant a necessary licence or consent, (iv) fire, explosion or accidental damage, (v) adverse weather conditions, (vi) interruption or failure of utility service (including electric power, gas or water), (vii) pandemics, epidemics, and/or (viii) industrial disputes.

**24 General**

24.1 No third party shall have any rights under or in connection with these terms and conditions or any Contract by virtue of the Contracts (Rights of Third Parties) Act 1999.

24.2 No delay or failure by IHL in exercising or enforcing any right or remedy under these terms and conditions or any Contract will be deemed to be a waiver of any such right or remedy, nor will that failure operate to bar the exercise or enforcement of such right or remedy at any future time.

24.3 If at any time any provision of these terms and conditions is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair the legality, validity or enforceability in that jurisdiction of any other provision of these terms and conditions, or the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of these terms and conditions.

24.4 These terms and conditions and each Contract and any non-contractual obligations in connection with the same are governed by and will be construed in accordance with the laws of England & Wales and, except as set out in clause 24.5, IHL and the Customer hereby irrevocably submit to the exclusive jurisdiction of the English courts in respect of the same.

24.5 If Customer breaches any Contract, then the Customer acknowledges and agrees that IHL may bring a claim against the Customer for the breach in any jurisdiction in which the Customer or its assets are located.