

1. Definitions

- 1.1 “Ablefix” means ABLEFIX PTY LTD - ABN: 14 613 457 837, its successors and assigns or any person acting on behalf of and with the authority of ABLEFIX PTY LTD - ABN: 14 613 457 837.
- 1.2 “Customer” means the person/s buying the Goods as specified in any invoice, document or order, and if there is more than one Customer is a reference to each Customer jointly and severally.
- 1.3 “Goods” means all Goods or Services supplied by Ablefix to the Customer at the Customer’s request from time to time (where the context so permits the terms ‘Goods’ or ‘Services’ shall be interchangeable for the other).
- 1.4 “Equipment” means all Equipment including any accessories supplied on hire by Ablefix to the Customer (and where the context so permits shall include any supply of Services). The Equipment shall be as described on the invoices, quotation, authority to hire, or any other work authorisation form provided by Ablefix to the Customer.
- 1.5 “Price” means the Price payable for the Goods as agreed between Ablefix and the Customer in accordance with clause 4 below.

2. Acceptance

- 2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of the Goods/Equipment.
- 2.2 These terms and conditions may only be amended with Ablefix’s consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Customer and Ablefix.

3. Change in Control

- 3.1 The Customer shall give Ablefix not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer’s details (including but not limited to, changes in the Customer’s name, address, contact phone or fax number/s, or business practice). The Customer shall be liable for any loss incurred by Ablefix as a result of the Customer’s failure to comply with this clause.

4. Price and Payment

- 4.1 At Ablefix’s sole discretion the Price shall be either:
 - (a) as indicated on any invoice provided by Ablefix to the Customer; or
 - (b) the Price as at the date of delivery of the Goods/Equipment according to Ablefix’s current price list; or
 - (c) Ablefix’s quoted price (subject to clause 4.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.
- 4.2 Ablefix reserves the right to change the Price if a variation to Ablefix’s quotation is requested. Any variation from the plan of scheduled Services or specifications of the Goods/Equipment (including, but not limited to, any variation as a result of fluctuations in currency exchange rates and/or international freight and insurance charges for foreign sourced components or increases to Ablefix in the cost of taxes, levies, materials and labour) will be charged for on the basis of Ablefix’s quotation and will be shown as variations on the invoice.
- 4.3 At Ablefix’s sole discretion a non-refundable deposit may be required. The deposit amount or percentage of the Price will be stipulated at the time of the order of the Goods/Equipment and shall become immediately due and payable.
- 4.4 Time for payment for the Goods/Equipment being of the essence, the Price will be payable by the Customer on the date/s determined by Ablefix, which may be:
 - (a) on delivery of the Goods/Equipment;
 - (b) before delivery of the Goods/Equipment;
 - (c) seven (7) days or thirty (30) days following the date as specified on the of the invoice which is posted to the Customer’s address or address for notices;
 - (d) any other date specified on any invoice or other form as being the date for payment; or
 - (e) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by Ablefix.
- 4.5 Payment may be made by cash, cheque (with prior approval), bank cheque, electronic/on-line banking, credit card (plus a surcharge of up to three percent (3%) of the Price), or by any other method as agreed to between the Customer and Ablefix.
- 4.6 Unless otherwise stated the Price does not include GST. In addition to the Price the Customer must pay to Ablefix an amount equal to any GST Ablefix must pay for any supply by Ablefix under this or any other agreement for the sale of the Goods/hire of the Equipment. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

5. Delivery of Goods/Equipment

- 5.1 Delivery (“**Delivery**”) of the Goods/Equipment is taken to occur at the time that:
 - (a) the Customer or the Customer’s nominated carrier takes possession of the Goods/Equipment at Ablefix’s address; or
 - (b) Ablefix (or Ablefix’s nominated carrier) delivers the Goods/Equipment to the Customer’s nominated address even if the Customer is not present at the address.
- 5.2 At Ablefix’s sole discretion the cost of delivery is either included in the Price or is in addition to the Price.

- 5.3 The Customer must take delivery by receipt or collection of the Goods/Equipment whenever either is tendered for delivery. In the event that the Customer is unable to take delivery of the Goods/Equipment as arranged then Ablefix shall be entitled to charge a reasonable fee for redelivery of the Goods/Equipment and/or the storage of the Goods.
- 5.4 Ablefix may deliver the Goods/Equipment in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
- 5.5 Any time or date given by Ablefix to the Customer is an estimate only. The Customer must still accept delivery of the Goods/Equipment even if late and Ablefix will not be liable for any loss or damage incurred by the Customer as a result of the delivery being late.

6. Online Ordering

- 6.1 The Customer acknowledges and agrees that:
- (a) Ablefix does not guarantee the websites performance or availability of any of its Goods; and
 - (b) on-line ordering may be unavailable from time to time for regularly scheduled maintenance and/or upgrades; and
 - (c) there are inherent hazards in electronic distribution and as such Ablefix cannot warrant against delays or errors in transmitting data between the Customer and Ablefix including orders, and you agree that to the maximum extent permitted by law, Ablefix will not be liable for any losses which the Customer suffers as a result of online-ordering not being available or for delays or errors in transmitting orders.
- 6.2 Ablefix reserve the right to terminate your order if it learns that you have provided false or misleading information, interfered with other users or the administration of Ablefix Services, or violated these terms and conditions.

7. Risk

- 7.1 Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer must insure the Goods on or before Delivery.
- 7.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, Ablefix is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by Ablefix is sufficient evidence of Ablefix's rights to receive the insurance proceeds without the need for any person dealing with Ablefix to make further enquiries.
- 7.3 If the Customer requests Ablefix to leave Goods outside Ablefix's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Customer's sole risk.

8. Specifications of the Goods

- 8.1 Where Ablefix gives advice or recommendations to the Customer, or the Customer's agent, with specific instructions regarding the use of the Goods and such advice or recommendations are not acted upon then Ablefix shall not be liable in any way whatsoever for any damages or losses that occur after any subsequent purchase of the Goods.
- 8.2 The Customer warrants that any structure or equipment in or upon which the Goods are to be installed is sound and will sustain the installation and work incidental thereto and Ablefix shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising in connection with the installation and work incidental thereto.
- 8.3 The Customer acknowledges that:
- (a) all descriptive specifications, illustrations, drawings, data, dimensions and weights stated in Ablefix's fact sheets, price lists or advertising material, are approximate only and are given by way of identification only. The Customer shall not be entitled to rely on such information, and any use of such does not constitute a sale by description, and does not form part of the contract, unless expressly stated as such in writing by Ablefix;
 - (b) while Ablefix may have provided information or figures to the Customer regarding the performance of the Goods, the Customer acknowledges that Ablefix has given these in good faith, and are estimates which are variable due to factors out of Ablefix's control (including, but not limited to, power supply, operational time, and location – geographical or otherwise);
 - (c) some structures may not have the optimum orientation for the installation of the Goods or components, and the Customer therefore understands and accepts that the Goods performance may be compromised in such situations.
- 8.4 The Customer shall be responsible for ensuring that the Goods ordered are suitable for their intended use.
- 8.5 Ablefix reserves the right to substitute comparable Goods (or components of the Goods), and in all such cases Ablefix will notify the Customer in advance of any such substitution.

9. Title

- 9.1 Ablefix and the Customer agree that ownership of the Goods shall not pass until:
- (a) the Customer has paid Ablefix all amounts owing to Ablefix; and
 - (b) the Customer has met all of its other obligations to Ablefix.
- 9.2 Receipt by Ablefix of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.
- 9.3 It is further agreed that:
- (a) until ownership of the Goods passes to the Customer in accordance with clause 9.1 that the Customer is only a bailee of the Goods and must return the Goods to Ablefix on request.

- (b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for Ablefix and must pay to Ablefix the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.
- (c) the Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for Ablefix and must pay or deliver the proceeds to Ablefix on demand.
- (d) the Customer should not convert or process the Goods or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of Ablefix and must sell, dispose of or return the resulting product to Ablefix as it so directs.
- (e) the Customer irrevocably authorises Ablefix to enter any premises where Ablefix believes the Goods are kept and recover possession of the Goods.
- (f) Ablefix may recover possession of any Goods in transit whether or not delivery has occurred.
- (g) the Customer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of Ablefix.
- (h) Ablefix may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.

10. Personal Property Securities Act 2009 ("PPSA")

- 10.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 10.2 Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods/Equipment that have previously been supplied and that will be supplied in the future by Ablefix to the Customer.
- 10.3 The Customer undertakes to:
 - (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Ablefix may reasonably require to;
 - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 10.3(a)(i) or 10.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, Ablefix for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods/Equipment charged thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of Ablefix;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods/Equipment in favour of a third party without the prior written consent of Ablefix;
 - (e) immediately advise Ablefix of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- 10.4 Ablefix and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 10.5 The Customer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 10.6 The Customer waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 10.7 Unless otherwise agreed to in writing by Ablefix, the Customer waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 10.8 The Customer must unconditionally ratify any actions taken by Ablefix under clauses 10.3 to 10.5.
- 10.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

11. Security and Charge

- 11.1 In consideration of Ablefix agreeing to supply the Goods/Equipment, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 11.2 The Customer indemnifies Ablefix from and against all Ablefix's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Ablefix's rights under this clause.
- 11.3 The Customer irrevocably appoints Ablefix and each director of Ablefix as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 11 including, but not limited to, signing any document on the Customer's behalf.

12. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

- 12.1 The Customer must inspect the Goods/Equipment on delivery and must within seven (7) days of delivery notify Ablefix in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Customer must notify any other alleged defect in the Goods/Equipment as soon as reasonably possible

- after any such defect becomes evident. Upon such notification the Customer must allow Ablefix to inspect the Goods/Equipment.
- 12.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).
- 12.3 Ablefix acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 12.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, Ablefix makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. Ablefix's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 12.5 If the Customer is a consumer within the meaning of the CCA, Ablefix's liability is limited to the extent permitted by section 64A of Schedule 2.
- 12.6 If Ablefix is required to replace the Goods under this clause or the CCA, but is unable to do so, Ablefix may refund any money the Customer has paid for the Goods.
- 12.7 If the Customer is not a consumer within the meaning of the CCA, Ablefix's liability for any defect or damage in the Goods is:
- (a) limited to the value of any express warranty or warranty card provided to the Customer by Ablefix at Ablefix's sole discretion;
 - (b) limited to any warranty to which Ablefix is entitled, if Ablefix did not manufacture the Goods;
 - (c) otherwise negated absolutely.
- 12.8 Subject to this clause 12, returns will only be accepted provided that:
- (a) the Customer has complied with the provisions of clause 12.1; and
 - (b) Ablefix has agreed that in writing that the Goods are defective; and
 - (c) the Goods are returned within a reasonable time at the Customer's cost (if that cost is not significant); and
 - (d) the Goods are returned in as close a condition to that in which they were delivered as is possible.
- 12.9 Notwithstanding clauses 12.1 to 12.8 but subject to the CCA, Ablefix shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
- (a) the Customer failing to properly maintain or store any Goods;
 - (b) the Customer using the Goods for any purpose other than that for which they were designed;
 - (c) the Customer continuing the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - (d) the Customer failing to follow any instructions or guidelines provided by Ablefix;
 - (e) fair wear and tear, any accident, or act of God.
- 12.10 In the case of second hand Goods, unless the Customer is a consumer under the CCA, the Customer acknowledges that it has had full opportunity to inspect the second hand Goods prior to delivery and accepts them with all faults and that to the extent permitted by law no warranty is given by Ablefix as to the quality or suitability for any purpose and any implied warranty, statutory or otherwise, is expressly excluded. The Customer acknowledges and agrees that Ablefix has agreed to provide the Customer with the second hand Goods and calculated the Price of the second hand Goods in reliance of this clause 12.10.
- 12.11 Ablefix may in its absolute discretion accept non-defective Goods for return in which case Ablefix may require the Customer to pay handling fees of up to fifteen percent (15%) of the value of the returned Goods plus any freight costs.
- 12.12 Notwithstanding anything contained in this clause if Ablefix is required by a law to accept a return then Ablefix will only accept a return on the conditions imposed by that law.
- 13. Default and Consequences of Default**
- 13.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Ablefix's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 13.2 If the Customer owes Ablefix any money the Customer shall indemnify Ablefix from and against all costs and disbursements incurred by Ablefix in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Ablefix's contract default fee, and bank dishonour fees).
- 13.3 Without prejudice to any other remedies Ablefix may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions Ablefix may suspend or terminate the supply of Goods/Equipment to the Customer. Ablefix will not be liable to the Customer for any loss or damage the Customer suffers because Ablefix has exercised its rights under this clause.
- 13.4 Without prejudice to Ablefix's other remedies at law Ablefix shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to Ablefix shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to Ablefix becomes overdue, or in Ablefix's opinion the Customer will be unable to make a payment when it falls due;
 - (b) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

14. Cancellation

- 14.1 Ablefix may cancel any contract to which these terms and conditions apply or cancel delivery of Goods/Equipment at any time before the Goods/Equipment are delivered by giving written notice to the Customer. On giving such notice Ablefix shall repay to the Customer any money paid by the Customer for the Goods. Ablefix shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 14.2 In the event that the Customer cancels delivery of Goods/Equipment the Customer shall be liable for any and all loss incurred (whether direct or indirect) by Ablefix as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 14.3 Cancellation of orders for Goods/Equipment made to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

15. Privacy Act 1988

- 15.1 The Customer agrees for Ablefix to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Customer in relation to credit provided by Ablefix.
- 15.2 The Customer agrees that Ablefix may exchange information about the Customer with those credit providers and with related body corporates for the following purposes:
 - (a) to assess an application by the Customer; and/or
 - (b) to notify other credit providers of a default by the Customer; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
 - (d) to assess the creditworthiness of the Customer including the Customer's repayment history in the preceding two years.
- 15.3 The Customer consents to Ablefix being given a consumer credit report to collect overdue payment on commercial credit.
- 15.4 The Customer agrees that personal credit information provided may be used and retained by Ablefix for the following purposes (and for other agreed purposes or required by):
 - (a) the provision of Goods/Equipment; and/or
 - (b) analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Goods/Equipment; and/or
 - (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or
 - (d) enabling the collection of amounts outstanding in relation to the Goods/Equipment.
- 15.5 Ablefix may give information about the Customer to a CRB for the following purposes:
 - (a) to obtain a consumer credit report;
 - (b) allow the CRB to create or maintain a credit information file about the Customer including credit history.
- 15.6 The information given to the CRB may include:
 - (a) personal information as outlined in 15.1 above;
 - (b) name of the credit provider and that Ablefix is a current credit provider to the Customer;
 - (c) whether the credit provider is a licensee;
 - (d) type of consumer credit;
 - (e) details concerning the Customer's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
 - (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Customer no longer has any overdue accounts and Ablefix has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - (g) information that, in the opinion of Ablefix, the Customer has committed a serious credit infringement;
 - (h) advice that the amount of the Customer's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 15.7 The Customer shall have the right to request (by e-mail) from Ablefix:
 - (a) a copy of the information about the Customer retained by Ablefix and the right to request that Ablefix correct any incorrect information; and
 - (b) that Ablefix does not disclose any personal information about the Customer for the purpose of direct marketing.
- 15.8 Ablefix will destroy personal information upon the Customer's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this agreement or is required to be maintained and/or stored in accordance with the law.
- 15.9 The Customer can make a privacy complaint by contacting Ablefix via e-mail. Ablefix will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Information Commissioner at www.oaic.gov.au.

16. Unpaid Seller's Rights

- 16.1 Where the Customer has left any item with Ablefix for repair, modification, exchange or for Ablefix to perform any other service in relation to the item and Ablefix has not received or been tendered the whole of any moneys owing to it by the Customer, Ablefix shall have, until all moneys owing to Ablefix are paid:
- (a) a lien on the item; and
 - (b) the right to retain or sell the item, such sale to be undertaken in accordance with any legislation applicable to the sale or disposal of uncollected goods.
- 16.2 The lien of Ablefix shall continue despite the commencement of proceedings, or judgment for any moneys owing to Ablefix having been obtained against the Customer.

17. Equipment Hire

- 17.1 Equipment shall at all times remain the property of Ablefix and is returnable on demand by Ablefix. In the event that Equipment is not returned to Ablefix in the condition in which it was delivered Ablefix retains the right to charge the Customer the full cost of repairing the Equipment. In the event that Equipment is not returned at all Ablefix shall have right to charge the Customer the full cost of replacing the Equipment.
- 17.2 The Customer shall:
- (a) keep the Equipment in their own possession and control and shall not assign the benefit of the Equipment nor be entitled to a lien over the Equipment.
 - (b) not alter or make any additions to the Equipment including but without limitation altering, make any additions to, defacing or erasing any identifying mark, plate or number on or in the Equipment or in any other manner interfere with the Equipment.
 - (c) keep the Equipment, complete with all parts and accessories, clean and in good order as delivered, and shall comply with any maintenance schedule as advised by Ablefix to the Customer.
- 17.3 The Customer accepts full responsibility for the safekeeping of the Equipment and the Customer agrees to insure, or self insure, Ablefix's interest in the Equipment and agrees to indemnify Ablefix against physical loss or damage including, but not limited to, the perils of accident, fire, theft and burglary and all other usual risks and will effect adequate Public Liability Insurance covering any loss, damage or injury to property or persons arising out of the use of the Equipment. Further the Customer will not use the Equipment nor permit it to be used in such a manner as would permit an insurer to decline any claim.

18. Building and Construction Industry Security of Payments Act 1999

- 18.1 At Ablefix's sole discretion, if there are any disputes or claims for unpaid Goods/Equipment and/or Services then the provisions of the Building and Construction Industry Security of Payments Act 1999 may apply.
- 18.2 Nothing in this agreement is intended to have the affect of contracting out of any applicable provisions of the Building and Construction Industry Security of Payments Act 1999 of New South Wales, except to the extent permitted by the Act where applicable.

19. General

- 19.1 The failure by Ablefix to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Ablefix's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 19.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales in which Ablefix has its principal place of business, and are subject to the jurisdiction of the Camden Courts in New South Wales.
- 19.3 Subject to clause 12 Ablefix shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by Ablefix of these terms and conditions (alternatively Ablefix's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).
- 19.4 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by Ablefix nor to withhold payment of any invoice because part of that invoice is in dispute.
- 19.5 The Customer agrees that Ablefix may amend these terms and conditions at any time. If Ablefix makes a change to these terms and conditions, then that change will take effect from the date on which Ablefix notifies the Customer of such change. The Customer will be taken to have accepted such changes if the Customer makes a further request for Ablefix to provide Goods to the Customer.
- 19.6 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 19.7 The Customer warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.