

Above and Below Marine – Terms & Conditions of Trade

1. Definitions			
1.1 "ABM" means Above & Below Marine Ltd T/A Above and Below Marine, its successors and assigns.		8.7	The Client accepts and acknowledges that:
1.2 "Client" means the person/s, entities or any person acting on behalf of and with the authority of the Client requesting ABM to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:	6.2		(a) the surface in or upon which the Goods are to be applied is free from any contaminants, does not have a high moisture content and will sustain the application and Services incidental thereto. ABM shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising in connection with the existing condition of the Vessel that may cause any failure or defects in the Services; and
(a) if there is more than one Client, is a reference to each Client jointly and severally; and			(b) the finished surface should be maintained in accordance with the manufacturer's recommendations, (where applicable) copies of said information can be provided upon request from ABM. The Client acknowledges and agrees that ABM shall not be held liable for any loss, damages or costs arising due to the Client's failure to comply with this clause.
(b) if the Client is a partnership, it shall bind each partner jointly and severally; and	6.3		(c) ABM is only responsible for parts that are replaced by ABM and that in the event that other parts/Goods, subsequently fail, the Client agrees to indemnify ABM against any loss or damage to the Goods;
(c) if the Client is a part of a Trust, shall be bound in their capacity as a trustee; and			(d) where ABM has performed temporary repairs that:
(d) includes the Client's executors, administrators, successors and permitted assigns.			(i) ABM offers no guarantee against the recurrence of the initial fault, or any further damage caused; and
1.3 "Cookies" means small files which are stored on a user's computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website, and can be accessed either by the web server or the client's computer. If the Client does not wish to allow Cookies to operate in the background when using ABM'S website, then the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to making enquiries via the website.	6.4		(ii) ABM will immediately advise the Client of the fault and shall provide the Client with an estimate for the full repair.
1.4 "Contract" means the terms and conditions contained herein, together with any quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.			(e) ABM shall not be liable for inferior existing paintwork where ABM'S paint and/or anti-foul application has bonded to the existing paintwork and weakened the previous paint causing any kind of flake, crack or blemish;
1.5 "Goods" means all Goods or Services (including but not limited to, all repairs, antifouling and maintenance Services etc) supplied by ABM to the Client at the Client's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).	6.5 6.6		(f) ABM shall not be held liable for the quality of the Services if the Client does not follow ABM'S recommendations as to the number of coats of paint and/or anti-foul application required to obtain the final finish if the Client chooses to accept a reduced Price based on fewer coats of paint;
1.6 "Price" means the Price payable (plus any Goods and Services Tax ("GST") where applicable) for the Goods as agreed between ABM and the Client in accordance with clause 6 below.			(g) where ABM is requested to perform remedial work on damaged surfaces, evidence of repairs may be apparent after the completion of the Services;
1.7 "Site" means the land (including but not limited to the hardstand, dry dock, berth, wharves, slipways, piers, pontoons, gangways, ramps, moorings, etc) that ABM reasonably needs to occupy in order to carry out and practically complete the Services required under this Contract.			(h) ABM can only provide its Services on the Vessel in its current state as supplied to ABM therefore ABM shall not accept any responsibility for the workmanship of any third party that has worked on a Client's Vessel prior to Services being undertaken by ABM (including, but not limited to, poor paintwork or repairs);
1.8 "Vessel" means the boat, watercraft and/or any other accessories to which ABM will perform its Services as described in any documentation supplied by ABM to the Client.			(i) Goods supplied may exhibit variations in shade, colour, texture, surface and finish, which may:
2. Acceptance	6.7		(i) fade or change colour over time;
2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts Delivery of the Goods.	6.8		(ii) mark or stain if exposed to certain substances; and
2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.			(iii) be damaged or disfigured by ABM or scratching.
2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.			ABM shall endeavour to match old for new however the Client accepts and acknowledges that colours may not match due to differences in colour matching/mixing technologies, fading and/or weathering of the sample provided to colour match from. Therefore, ABM shall not be held responsible or liable for any differences that may result.
2.4 The Client acknowledges that the supply of Goods on credit shall not take effect until the Client has completed a credit application with ABM and it has been approved with a credit limit established for the account.	6.9		ABM shall not be responsible for:
2.5 In the event that the supply of Goods requested exceeds the Client's credit limit and/or the account exceeds the payment terms, ABM reserves the right to refuse Delivery.	6.10		(a) rust on the Vessel not specifically inspected and arranged to be repaired, particularly, but not limited to, rust in areas of the Vessel not visible to the naked eye, or which have not been stripped to bare metal for inspection; and
2.6 Any advice, recommendation, information, assistance or service provided by ABM in relation to Goods or Services supplied is given in good faith to the Client, or the Client's agent and is based on ABM'S own knowledge and experience and shall be accepted without liability on the part of ABM. Where such advice or recommendations are not acted upon then ABM shall require the Client or their agent to authorise commencement of the Services in writing. ABM shall not be liable in any way whatsoever for any damages or losses that occur after any subsequent commencement of the Services.	7.1		(b) any damage to the Vessel, not detected by ABM, where the full strip down bodywork and/or ABM'S inspection has not been conducted by ABM.
2.7 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 226 of the Contract and Commercial Law Act 2017 or any other applicable provisions of that Act or any Regulations referred to in that Act.	7.2		ABM undertakes to maintain a reasonable duty of care towards the Vessel, but risk (including, but not limited to, insurance risk) in the Vessel remains with the Client, notwithstanding that ABM is in possession of the Vessel. It is the Client's responsibility to ensure that its Vessel is insured against all possible damage (including, but not limited to, the perils of accident, fire, theft and burglary and all other usual risks) whilst stored at ABM'S premises. The Vessel is at all times stored at the Client's sole risk.
3. Authorised Representatives			The Client shall secure or remove any personal and/or valuable items from the Vessel prior to the Services. ABM will accept no responsibility for valuables or other items left in or on the Vessel.
3.1 Unless otherwise limited as per clause 3.2, the Client agrees that should the Client introduce any third party to ABM as the Client's duly authorised representative, that once introduced that person shall have the full authority of the Client to order any Goods, Services and/or to request any variation thereto, on the Client's behalf (such authority to continue until all requested Goods/Services have been delivered, or the Client otherwise notifies ABM in writing that said person is no longer the Client's duly authorised representative).	7.3 7.4 7.5		The Client accepts and acknowledges that the finished surface should be maintained in accordance with the manufacturer's
3.2 In the event that the Client's duly authorised representative, as per clause 3.1, is to have only limited authority to act on the Client's behalf then the Client must specifically and clearly advise ABM in writing of the parameters of the limited authority granted to their representative.			Insurance Claims
3.3 The Client specifically acknowledges and accepts that they will be solely liable to ABM for all additional costs incurred by ABM (including ABM'S profit margin) in providing any Goods, Services or variations thereto, requested by the Client's duly authorised representative (subject always to the limitations imposed under clause 3.2 (if any)).	7.6		If the Client has insurance or other contractual arrangements for the payment of charges due under this Contract, this will not affect the Client's personal liability to pay all charges due under this Contract, except that the Client's liability will be reduced pro-rata to the extent that payments are made to ABM from other such sources. The Client also agrees that they shall be liable and make payment when due for any insurance excess where necessary.
4. Errors and Omissions	8.		Any work undertaken which is part of an insurance claim is undertaken with the understanding that should the claim be declined, or payment of the claim delayed, the Client is liable for payment of the full Price.
4.1 The Client acknowledges and accepts that ABM shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):	8.1 8.2		Title
(a) resulting from an inadvertent mistake made by ABM in the formation and/or administration of this Contract; and/or			The ABM and the Client agree that ownership of the Goods shall not pass until:
(b) contained in/omitted from any literature (hard copy and/or electronic) supplied by ABM in respect of the Services.			(a) the Client has paid the ABM all amounts owing to the ABM; and
4.2 In the event such an error and/or omission occurs in accordance with clause 4.1, and is not attributable to the negligence and/or wilful misconduct of ABM; the Client shall not be entitled to treat this Contract as repudiated nor render it invalid.	8.3 8.4		(b) the Client has met all of its other obligations to the ABM.
5. Change in Control			Receipt by the ABM 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.
5.1 The Client shall give ABM not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address and contact phone or fax number/s, change of trustees or business practices). The Client shall be liable for any loss incurred by ABM as a result of the Client's failure to comply with this clause.	8.5		It is further agreed that until ownership of the Goods passes to the Client in accordance with clause 10.1:
6. Price and Payment			(a) the Client is only a bailee of the Goods and must return the Goods to the ABM on request;
6.1 At ABM'S sole discretion the Price shall be either:	8.6		(b) the Client holds the benefit of the Client's insurance of the Goods on trust for the ABM and must pay to the ABM the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed;
(a) as indicated on any invoice provided by ABM to the Client; or			(c) the Client 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 Client sells, disposes or parts with possession of the Goods then the Client must hold the proceeds of any such act on trust for the ABM and must pay or deliver the proceeds to the ABM on demand;
(b) ABM'S estimated Price (subject to clause 6.3) which will be valid for the period stated in the estimation or otherwise for a period of twenty (20) days. The final price can only be			(d) the Client should not convert or process the Goods or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of the ABM and must sell, dispose of or return the resulting product to the ABM as it so directs;
			(e) the Client irrevocably authorises the ABM to enter any premises where the ABM believes the Goods are kept and recover possession of the Goods;
			(f) the ABM may recover possession of any Goods in transit whether or not Delivery has occurred;
			(g) the Client 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 the ABM; and
			(h) the ABM may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Client.

Above and Below Marine – Terms & Conditions of Trade

		20.1	Where the Client has left any item and/or Vessel with ABM for ABM to provide any Services and ABM has not received or been tendered the whole of the Price, or the payment has been dishonoured, ABM shall have:
11.	Personal Property Securities Act 1999 ("PPSA")		
11.1	Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that:	17.1	
	(a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and		(a) a lien on the item and/or Vessel;
	(b) a security interest is taken in all Goods that have previously been supplied and that will be supplied in the future by ABM to the Client, and the proceeds from such Goods as listed by ABM to the Client in invoices rendered from time to time.	17.2	(b) the right to retain the item and/or Vessel whilst ABM is in possession of the item and/or Vessel until such time as payment has been made in full;
11.2	The Client undertakes to:		(c) the lien of ABM shall continue despite the commencement of proceedings, or judgment for the Price having been obtained; and
	(a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which ABM may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;	17.3	(d) ABM shall be under no obligation to release the item and/or Vessel to the Client if the Client is in default of payment except as may be required by any law or statute.
	(b) indemnify, and upon demand reimburse, ABM for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Goods charged thereby;	17.4	
	(c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods or the proceeds of such Goods in favour of a third party without the prior written consent of ABM; and		
	(d) immediately advise ABM 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.		
11.3	ABM and the Client agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.		
11.4	The Client waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, and 131 of the PPSA.		
11.5	Unless otherwise agreed to in writing by ABM, the Client waives its right to receive a verification statement in accordance with section 148 of the PPSA.		
11.6	The Client shall unconditionally ratify any actions taken by ABM under clauses 11.1 to 11.5.		
11.7	Subject to any express provisions to the contrary (including those contained in this clause 11), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.	18.1	
12.	Security and Charge		
12.1	In consideration of ABM agreeing to supply the Goods, the Client 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 Client either now or in the future, and the Client grants a security interest in all of its present and after-acquired property, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money). The terms of the charge and security interest are the terms of Memorandum 2018/4344 registered pursuant to s.209 of the Land Transfer Act 2017.	18.2	
12.2	The Client indemnifies ABM from and against all ABM'S costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising ABM'S rights under this clause.	18.4	
12.3	The Client irrevocably appoints ABM and each director of ABM as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 12 including, but not limited to, signing any document on the Client's behalf.	19.	
13.	Defects	19.1	
13.1	The Client shall inspect the Goods on Delivery and shall within seventy two (72) hours of Delivery (time being of the essence) notify ABM of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford ABM an opportunity to inspect the Goods within a reasonable time following Delivery if the Client believes the Goods are defective in any way. If the Client shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which ABM has agreed in writing that the Client is entitled to reject, ABM'S liability is limited to either (at ABM'S discretion) replacing the Goods or repairing the Goods.	19.2	
14.	Warranty		
14.1	Subject to the conditions of warranty set out in clause 14.2 ABM warrants that if any defect in any Goods manufactured or Services provided by ABM becomes apparent and is reported to ABM within six (6) months of the date of Delivery (time being of the essence) then ABM will either (at ABM'S sole discretion) replace or remedy the defect.	23.4	
14.2	The conditions applicable to the warranty given by clause 14.1 are:		
	(a) the warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:		
	(i) failure on the part of the Client to properly maintain any Goods or serviced item; or		
	(ii) failure on the part of the Client to follow any instructions or guidelines provided by ABM; or		
	(iii) any use of any Goods or serviced item otherwise than for any application specified on a quote or order form; or	19.3	
	(iv) the continued use of any Goods or serviced item after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or		
	(v) fair wear and tear, any accident or act of God.		
	(b) the warranty shall cease and ABM shall thereafter in no circumstances be liable under the terms of the warranty if the defect is repaired, altered or overhauled without ABM'S consent.		
	(c) in respect of all claims ABM shall not be liable to compensate the Client for any delay in either replacing or remedying the defective Goods or Services or in properly assessing the Client's claim.		
14.3	For Goods not manufactured by the ABM, the warranty shall be the current warranty provided by the manufacturer of the Goods. The ABM shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.	19.4	
15.	Consumer Guarantees Act 1993	19.5	
15.1	If the Client is acquiring Goods for the purposes of a trade or business, the Client acknowledges that the provisions of the Consumer Guarantees Act 1993 ("CGA") do not apply to the supply of Goods by ABM to the Client.	19.6	
16.	Intellectual Property		
16.1	The Client warrants that all designs, specifications or instructions given to ABM will not cause ABM to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify ABM against any action taken by a third party against ABM in respect of any such infringement.	19.7	
16.2	The Client agrees that ABM may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which ABM has created for the Client.		
20.	General Lien		
	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 ABM'S sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.		
	If the Client owes ABM any money the Client shall indemnify ABM from and against all costs and disbursements incurred by ABM in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, ABM'S collection agency costs, and bank dishonour fees).		
	Further to any other rights or remedies ABM may have under this Contract, if a Client has made payment to ABM, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by ABM under this clause 17 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this Contract.	21.	
	Without prejudice to ABM'S other remedies at law ABM shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to ABM shall, whether or not due for payment, become immediately payable if:	21.1	
	(a) any money payable to ABM becomes overdue, or in ABM'S opinion the Client will be unable to make a payment when it falls due;		
	(b) the Client has exceeded any applicable credit limit provided by ABM;	21.2	
	(c) the Client 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	22.1	
	(d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.		
	Cancellation		
	Without prejudice to any other remedies ABM may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions ABM may suspend or terminate the supply of Goods to the Client. ABM will not be liable to the Client for any loss or damage the Client suffers because ABM has exercised its rights under this clause.		
	ABM may cancel any contract to which these terms and conditions apply or cancel Delivery of Goods at any time before the Goods are delivered by giving written notice to the Client. On giving such notice ABM shall repay to the Client any money paid by the Client for the Goods. ABM shall not be liable for any loss or damage whatsoever arising from such cancellation.		
	In the event that the Client cancels Delivery of Goods the Client shall be liable for any and all loss incurred (whether direct or indirect) by ABM as a direct result of the cancellation (including, but not limited to, any loss of profits).	23.	
	Cancellation of orders for Goods made to the Client's specifications, or for non-stockist items, will definitely not be accepted once production has commenced, or an order has been placed.	23.1	
	Privacy Policy		
	All emails, documents, images or other recorded information held or used by ABM is "Personal Information" as defined and referred to in clause 19.3 and therefore considered confidential. ABM acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 2020 ("the Act") including Part II of the OECD Guidelines as set out in the Act. ABM acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Client's Personal Information, held by ABM that may result in serious harm to the Client, ABM will notify the Client in accordance with the Act. Any release of such Personal Information must be in accordance with the Act and must be approved by the Client by written consent, unless subject to an operation of law.	23.2	
	Notwithstanding clause 19.1, privacy limitations will extend to ABM in respect of Cookies where the Client utilises ABM'S website to make enquiries. ABM agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Client's:	23.3	
	(a) IP address, browser, email client type and other similar details;	23.4	
	(b) tracking website usage and traffic; and	23.5	
	(c) reports are available to ABM when ABM sends an email to the Client, so ABM may collect and review that information ("collectively Personal Information")	23.6	
	If the Client consents to ABM'S use of Cookies on ABM'S website and later wishes to withdraw that consent, the Client may manage and control ABM'S privacy controls via the Client's web browser, including removing Cookies by deleting them from the browser history when exiting the site.	23.7	
	The Client authorises ABM or ABM'S agent to:	23.8	
	(a) access, collect, retain and use any information about the Client;		
	(i) including, name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history or any overdue fines balance information held by the Ministry of Justice for the purpose of assessing the Client's creditworthiness; or	23.9	
	(ii) for the purpose of marketing products and services to the Client.		
	(b) disclose information about the Client, whether collected by ABM from the Client directly or obtained by ABM from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Client.	23.10	
	Where the Client is an individual the authorities under clause 19.3 are authorities or consents for the purposes of the Privacy Act 2020.		
	The Client shall have the right to request (by e-mail) from ABM, a copy of the Personal Information about the Client retained by ABM and the right to request that ABM correct any incorrect Personal Information.	23.11	
	ABM will destroy Personal Information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.		
	The Client can make a privacy complaint by contacting ABM via e-mail. ABM 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 twenty (20) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Privacy Commissioner at http://www.privacy.org.nz .		
	Service of Notices		
	Any written notice given under this Contract shall be deemed to have been given and received:		
	(a) by handing the notice to the other party, in person;		
	(b) by leaving it at the address of the other party as stated in this Contract;		
	(c) by sending it by registered post to the address of the other party as stated in this Contract;		
	(d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission;		
	(e) if sent by email to the other party's last known email address.		
	Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.		
	Trusts		
	If the Client at any time upon or subsequent to entering into the Contract is acting in the capacity of trustee of any trust ("Trust") then whether or not ABM may have notice of the Trust, the Client covenants with ABM as follows:		
	(a) the Contract extends to all rights of indemnity which the Client now or subsequently may have against the Trust and the trust fund;		
	(b) the Client has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Client against the Trust or the trust fund. The Client will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity;		
	(c) the Client will not without consent in writing of ABM (ABM will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:		
	(i) the removal, replacement or retirement of the Client as trustee of the Trust;		
	(ii) any alteration to or variation of the terms of the Trust;		
	(iii) any advancement or distribution of capital of the Trust; or		
	(iv) any resettlement of the trust property.		
	General		
	Any dispute or difference arising as to the interpretation of these terms and conditions or as to any matter arising herein, shall be submitted to, and settled by, mediation before resorting to any external dispute resolution mechanisms (including arbitration or court proceedings) by notifying the other party in writing setting out the reason for the dispute. The parties shall share equally the mediator's fees. Should mediation fail to resolve the dispute, the parties shall be free to pursue other dispute resolution avenues.		
	The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party'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.		
	These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the Auckland Courts of New Zealand.		
	Subject to the CGA, ABM shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by ABM of these terms and conditions (alternatively ABM'S liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).		
	ABM may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent.		
	The Client cannot licence or assign without the written approval of ABM.		
	ABM may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of ABM'S subcontractors without the authority of ABM.		
	The Client agrees that ABM may amend their general terms and conditions for subsequent future contracts with the Client by disclosing such to the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for ABM to provide Goods to the Client.		
	Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, national or global pandemics and/or the implementation of regulation, directions, rules or measures being enforced by Governments or embargo, including but not limited to, any Government imposed border lockdowns (including, worldwide destination ports), etc. ("Force Majeure") or other event beyond the reasonable control of either party. This clause does not apply to a failure by the Client to make a payment to ABM.		
	Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.		