

## **General Conditions for the Provision of Marine Services and Land-Based Port Services (“General Conditions”)**

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## **A. Preliminary matters**

In these General Conditions:

- a) "Alongside" means to the side of or in close proximity;
- b) "Customer" means the owner, operator, charterer or master of the vessel, or in the case of Third Party tug hire, the hirer;
- c) "Land Based Port Services" includes (as appropriate) berthage, loading and discharging vessels, and handling and transporting cargo and containers; and
- d) "Marine Services" includes (as appropriate) pilotage, berthage, mooring services and towage.

CentrePort Limited (CPL) provides Marine Services pursuant to these conditions, the Maritime Transport Act 1994 and all rules, regulations and codes promulgated under it, Greater Wellington Regional Council Harbour ByLaws and not otherwise.

Unless otherwise agreed in writing, any request received by CPL to provide Marine Services shall constitute acceptance of these General Conditions. Where such a request is made by a Port Agent, such Agent warrants that it has the irrevocable authority of the vessel's owner/operator to commit the owner/operator to these General Conditions.

### **1. Services to be provided by CPL**

- 1.1. CPL shall provide Marine Services to the Customer.
- 1.2. CPL shall provide those Land Based Port Services at CentrePort Wellington which are agreed with the Customer.
- 1.3. Any use by a Customer of a service or facility provided by CPL shall constitute acceptance of these General Conditions.
- 1.4. Except in the case of an emergency, CPL shall not provide Pilotage, Mooring Services or Towage on Christmas Day between 0001hrs and 2359hrs.

### **2. Price Schedule**

- 2.1. CPL provides Marine Services at the rates specified in the CPL Pricing Schedule or Tariff applying at the time of the provision of the service, or according to any alternative contractual provisions which may have been agreed. Additional rates may be charged for provision of any service on a Public Holiday (as defined in the Holidays Act 2003) or for any other additional service provided.

- 2.2. CPL provides Land Based Port Services based on CPL's applicable Pricing Schedule (available from CPL on request). The Customer shall pay CPL in full prior to vessel departure or, where no vessel is involved, within 7 days after the date of CPL's relevant invoice. The Customer shall, if demanded by CPL, pay CPL interest on overdue amounts at the rate of 15% per annum, calculated on a daily basis.
- 2.3. CPL shall have a general lien over the cargo and containers and all property of the Customer for all sums due by the Customer to CPL whether in respect of the property over which the lien is asserted or any other property. This lien shall give CPL the right to sell any property subject to the lien after the expiration of one month notice to the Customer without prejudice to any other rights and remedies CPL may have. This clause does not limit or waive any liens that CPL may have by operation of law.

### **3. Berthage**

- 3.1. On receipt of reasonable notice, CPL shall use its best endeavours to provide, on a date convenient to the Customer's schedules, a berth suitable for the Customer's vessel. CPL shall incur no liability for any loss whatsoever in the event that CPL is unable to provide, for any reason, a berth or berthage requested by the Customer.
- 3.2. The master of every vessel shall moor or place such vessel where directed by CPL. Subject to any special requirements of the Harbourmaster, the position of the vessel shall not be changed, nor shall it be berthed at any wharf, or moved from any berth or wharf without the permission of CPL.
- 3.3. CPL may at its sole discretion refuse a berth to a vessel for any reason, including but not limited to a failure by the vessel owner or operator to pay CPL any amounts due to CPL.
- 3.4. CPL may at its sole discretion:
- a) direct any party to remove any vessel from any berth or the CPL port limits;
  - b) cause a vessel to be shifted at the owner or operator's cost to an alternative berth or mooring whether within port limits or elsewhere; or
  - c) remove, or arrange for the disposal of any abandoned or derelict vessel, or any vessel in respect of which port fees have not been paid for a period in excess of three months. CentrePort may recover all costs associated with removal or disposal from the vessel owners.
- 3.5. Subject to any berth booking system or to specific preferential arrangements made with any Customer, Marine Services and berths are allocated on a first come first served basis. In the event of a potential movement conflict CPL shall decide priorities. The default priority for the provision of Marine Services shall be:
- 3.5.1. Vessels subject to emergencies, safety and tide restrictions;
  - 3.5.2. Cruise vessels;

- 3.5.3. Container vessels in contractual windows;
  - 3.5.4. Container vessels;
  - 3.5.5. All other conventional cargo and bulk cargo vessels;
  - 3.5.6. Fishing and non-cargo vessels; then
  - 3.5.7. All other vessels.
- 3.6. CPL shall incur no liability for any loss whatsoever whilst discharging functions in this clause, and the owner, charterer and operator severally indemnify CPL against all and any loss that may result from these actions. For the avoidance of doubt, the owner/charterer/operator of the vessel appoints and authorises CPL to take all steps, and sign all documents to give effect to the actions referred to in this clause.
- 3.7. If a vessel occupies a berth that is booked for any other vessel, it must work cargo.

#### **4. Towage**

- 4.1. Where CPL provides towage within port limits, such towage is provided on the terms and conditions set out in the current UK Standard Conditions for Towage and Other Services (as revised in 1986 and amended in 2008) ("UKSC"). The expression "whilst towing" as defined in the UKSC shall also include any time where the tug is Alongside the Hirer's vessel, whether or not the tug is in a position to receive orders direct from the Hirer's vessel to commence pushing, holding, moving, escorting, or guiding the vessel or to pick up ropes or lines.
- 4.2. CPL shall provide tugs suitable for towage in normal harbour conditions only, but where CPL provides out of port towage or special towage services, as defined by CPL, within port limits, such towage will be subject to a separate contract on the terms set out in either the Towcon 2008 or Towhire 2008 agreements at the option of CPL. Such contracts are to be signed by the parties before the tow begins.
- 4.3. The specifications of CPL's tugs are available on request (or on CPL's website).
- 4.4. CPL shall make best endeavours to supply towage services in the hierarchy of response described in these General Conditions in sub-clause 3.5 above.
- 4.5. CPL's Tugmasters shall determine if they are able to assist the vessel requiring towage services at any time. Their prime responsibility is the safety of the tug and its crew.
- 4.6. The hourly rate of hire of a tug for third party hire is on the basis of tug departing berth to arrival back at berth with a minimum of one hour.
- 4.7. If the tug is required by the Hirer to remain at the berth on immediate standby, the above rate applies until the tug is stood down by the Hirer.
- 4.8. Hire charges may be reviewed annually on the review of CPL's tariff.

- 4.9. Use, callouts or standbys on statutory holidays attract extra charges.
- 4.10. CPL may allocate a tug or number of tugs as it deems appropriate based on vessel type, berth, cargo and on considering environmental and any other factors which CPL deems relevant. CPL may direct each vessel to use the allocated tug or tugs and operate them in the manner considered most appropriate by CPL.

## **5. Pilotage**

- 5.1. Pilotage is compulsory within Wellington Port Limits for vessels exceeding a Gross Registered Tonnage (GRT) of 500. Unless the Master holds a valid Pilot Exemption Certificate (PEC) issued pursuant to Maritime Rule Part 90, for Wellington Harbour. A vessel subject to compulsory pilotage shall not berth at or sail from a CPL owned or controlled facility without a licensed pilot on board.
- 5.2. Pilotage services shall include any service or advice provided by the pilot;
- a) while on board the vessel to be piloted;
  - b) from on board the pilot launch;
  - c) from on board any other vessel involved in the pilotage; or
  - d) from the shore.
- 5.3. A pilot may at his or her discretion decline to undertake any pilotage or terminate any pilotage once commenced on one or more of the following grounds:
- a) adverse weather conditions;
  - b) mechanical defects, including low or inadequate engine power; unreasonable trim or insufficient stability; non availability, incapacity or intoxication of crew;
  - c) the provision of a pilot ladder that in the pilot's opinion does not comply with the applicable Maritime Rules; or
  - d) any other reason which in the opinion of the pilot, compromises, or may compromise, the safety of the persons or vessels involved directly or indirectly in the pilotage.
- 5.4. Where the services of a pilot are requested, CPL shall direct the taking of such other services as CPL deems fit when in CPL's view the taking of such other services is necessary in the interests of the safe operation of the port or for any other reason. Such services shall include, but shall not be limited to, tugs and mooring services.
- 5.5. Where a pilot is detained on board by not being able to disembark safely for any reason and is overcarried to another port, the Port Agent or ship is responsible for making all accommodation and return travel arrangements or for reimbursing all costs reasonably incurred by CPL in returning the Pilot to his or her home port, this is to include any costs in having that Pilot relieved while so detained.

## 6. Customer's obligations

- 6.1. The Customer must ensure that all Cargo and Containers presented to CPL are properly packed and labelled, that a VGM is provided for Containers, that Cargo and Containers are in every way safe for carriage by sea or road or rail, do not exceed their rated gross capacity or VGM, are in a fit and proper condition to be handled or otherwise dealt with in the normal course of business by the equipment and operating procedures usually employed by CPL and comply with all applicable laws, orders, regulations, other requirements of the New Zealand Government and all other local or governmental authorities whatsoever.
- 6.2. The Customer shall comply with any rules and directions made from time to time by CPL in respect of the handling of dangerous, hazardous and noxious goods and shall also comply with any statute, statutory regulations, maritime rules, or other legal requirements that may be in force whether prescribed by the New Zealand Government or any international agency or institution and also with rules, requirements, industry codes or procedures set by owners of cargo as appropriate and in addition shall comply with all such procedures and rules as are good operating practice.
- 6.3. The Customer shall notify CPL in writing:
  - a) the details of any export cargo which is dangerous, hazardous or requires any special care prior to or on arrival at the relevant wharf gate; and
  - b) the details of any import (including transshipment) cargo which is dangerous, hazardous or requires special care at least 48 hours prior to its vessel's arrival.
- 6.4. If the Customer does not remove any cargo or container from any wharf or other relevant place within the time allotted for free storage by CPL, then CPL may, in its sole and unfettered discretion, handle, transport, store or otherwise deal with any such cargo or container at the risk and expense of the Customer, who shall not have any recourse to CPL.
- 6.5. CPL shall be entitled to release the Customer's goods to any person holding a delivery order (whether in paper or electronic or other customary form) entitling it to uplift the Customer's goods. CPL shall not be responsible for verifying such delivery order and CPL is not liable for any loss to the Customer in the event that the delivery order is subsequently shown to be incorrect or fraudulent.
- 6.6. The Customer shall indemnify CPL against any liability for duty, sales tax, penalties, demurrage or other charges in respect of the cargo and/or containers and against all costs and expenses incurred in connection with such liability or claim.

- 6.7. The Customer shall:
- 6.7.1. ensure that labour contracts provide for 24 hours per day, seven days per week operation for the loading and unloading of ships, and for other port related activities which may require “out of normal work hours” functions for overall port efficiency;
  - 6.7.2. efficiently utilise the open and undercover cargo storage space as allocated by CPL;
  - 6.7.3. ensure that all equipment and plant is clearly marked with the owner’s name;
  - 6.7.4. ensure that all equipment and plant used for cargo handling is removed from common user areas immediately after use, to allow other port users unobstructed access to, and use of, operational areas;
  - 6.7.5. ensure equipment and plant is maintained in a safe operating condition and removed from the wharf operating area when conducting maintenance work; and
  - 6.7.6. ensure portable amenities used on the wharf are situated in such a position to allow clear and unobstructed movement of mobile plant along the wharf face.

## 7. Liability regime

7.1. CPL's liability in relation to Marine Services and Land Based Port Services is:

Loss/Damage	Maximum Liability	Maximum Aggregate Liability	Excess
Customer's vessels and equipment	Lesser of reasonable cost of repair or market value	\$200,000	\$1,000
Containers	Lesser of reasonable cost of repair or market value or:	\$100,000	\$300
	(i) refrigerated \$7,500	\$100,000	\$300
	(ii) insulated \$4,000	\$100,000	\$300
	(iii) other \$1,000	\$100,000	\$300
Cargo	(i) in a closed or sealed container \$5,000	\$75,000	\$300
	(ii) on board a vessel \$750 per manifest tonne or part thereof	\$50,000	\$300
	(iii) elsewhere \$1,000 per tonne or part thereof	\$50,000	\$300
Ancillary equipment (e.g. clip-on refrigeration units, refrigeration towers, trailers and chassis)	Lesser of reasonable cost of repair or market value or \$7,000	\$40,000	\$300

7.2. All the stated amounts in these General Conditions are in NZD and include GST (if any). With respect to cargo, CPL's liability shall be the lesser of the above specified limits of liability or the maximum liability of the Customer in terms of the relevant contract of carriage.

### 7.3. Liability of CPL

Subject to the clauses below relating to maximum liabilities of CPL, exclusions of liability and notification of claims, CPL, its employees, agents or subcontractors shall only be liable for physical damage or loss directly caused by the negligence of CPL or its representatives exceeding the above stated relevant excess amounts up to the above stated maximums of liability.



#### 7.4. **Maximum Liability of \$2,000,000**

CPL, its employees, agents or subcontractors shall in no circumstances whatsoever be liable to pay any costs, charges, expenses, damages, compensation or any other monies whatsoever for any injury or loss caused in any manner whatsoever to any person or property in respect of the sum claimed or the aggregate of sums claimed under whatsoever cause of action or entitlement including the negligence of CPL, its employees, agents or subcontractors in respect of any one of the inter-connected events, beyond the maximum aggregate sum of \$2,000,000.

#### 7.5. **Customer's liability**

7.5.1. The Customer shall be liable for loss or damage caused to CPL where such loss or damage is caused by the breach of these General Conditions including loss of profit and business interruption or the negligence of the Customer, its employees, agents or subcontractors.

7.5.2. The Customer shall promptly make good any damage or loss to CPL or anyone else to the extent caused or contributed to by the Customer or any of its representatives, subcontractors or visitors.

#### 7.6. **Exclusions of liability**

Notwithstanding sub-clauses 7.1–7.4, CPL, its employees, agents and subcontractors shall not be liable to the Customer in any circumstances whatsoever for:

7.6.1. anything where liability might otherwise be attributable to CPL but New Zealand law excludes CPL's liability, or imposes liability on another party or parties;

7.6.2. anything that happens to any person, any economic loss (including loss of profits or income), any indirect/consequential or special damage or loss, or any related cost (including legal and lawyer/client costs). This includes, without limitation, the negligence of CPL, its employees, agents or subcontractors or where any services are not available, are not promptly or properly performed, or are changed, for any reason;

7.6.3. the extent of damage, loss, or cost caused or contributed to by the Customer or any of its representatives or visitors;

7.6.4. any unavailability of, or any failure or delay in the performance of, any service if it is due to a cause beyond CPL's control (including actual or threatened strikes, lock-outs, go-slows or other industrial action, unavailability or unserviceability of facilities or equipment or incorrect labelling or packaging of cargo or containers);

7.6.5. anything where the UKSC so provides;

- 7.6.6. any loss, damage or expense of whatsoever nature and howsoever arising and whether direct or indirect, consequential or otherwise arising from lack of draught, adverse actual or forecast weather, adverse sea or tidal conditions, condition of berths and approaches to them, unavailability of pilot or tugs or the inadequacy of any mooring lines or bollards;
  - 7.6.7. any neglect or want of skill of the pilot, and the Customer hereby indemnifies and holds harmless CPL and its related entities (if any) against any and all claims, suits, actions, loss and/or damage whatsoever (direct or consequential) and however caused that may arise as a direct or indirect result of the provision of a pilot and/or pilotage services by CPL to the Customer, irrespective of the qualifications, profession, training, or certificate or licence status of the particular pilot;
  - 7.6.8. any demurrage, delay or other costs of transportation of any kind howsoever caused including the negligence of CPL, its employees, agents or subcontractors;
  - 7.6.9. any costs, charges, expenses, damages, compensation or any other monies whatsoever for any injury or loss arising from any failure to ensure that any cargo or container is properly or adequately secure on any method of transportation or any failure to inspect for, or report to anyone, any damage to any cargo or container, but CPL shall use its reasonable endeavours (without any liability) to take appropriate steps to protect the contents of a noted damaged container and refer such to the Customer; and
  - 7.6.10. any loss, damage, expense, accident or injury to any property or person where it has arisen or resulted from unseaworthiness caused by want of due diligence on the part of the Customer to make the ship seaworthy, and to ensure that the ship is properly manned, equipped and supplied, and to make the holds, refrigerating and all other parts of the ship in which cargo is carried fit and safe for their reception, carriage and preservation in accordance with the provisions of the Hague Rules or other applicable carriage liability regime.
- 7.7. **Customer to indemnify CPL in certain circumstances**
- 7.7.1. The Customer shall indemnify CPL and its representatives from and against any direct or indirect claim, damage, loss and cost to the Customer to the extent that such is excluded, or exceeds the limits on liability, in these General Conditions.

7.7.2. The Customer shall indemnify CPL, its servants, agents and subcontractors from and against any all losses, costs, expenses, claims, demands, liabilities, damages, actions and proceedings (including legal costs on an indemnity basis) suffered by or commenced against CPL by any party which result out of or in connection with the failure of the Customer, its agents, subcontractors or employees to comply with any obligation in these General Conditions.

**7.8. Notification of claims**

CPL must receive written notice of each claim from the Customer, in respect of cargo, within 10 days after the actual or intended delivery date, and in respect of anything else, within 30 days after the date the damage or loss occurred. If no such notice is given within the above periods any claim shall be deemed waived and absolutely barred.

**7.9. Safety management and operation obligations:**

7.9.1. The Customer shall safely and properly navigate, manage and operate its vessel while at CentrePort Wellington, including while using any facility owned by or operated by CPL. Such navigation, management or operation shall include, without limitation, the management of draught, trim, stability and all berthing and unberthing operations. The Customer shall indemnify CPL against all claims arising or loss suffered from such navigation, management and operation of the ship.

7.9.2. The Customer shall ensure its vessel, equipment, master, crew, subcontractors and other representatives, while in the harbour, comply with:

- a) CPL's security, operational and documentation rules, procedures and directions (particularly in relation to the handling of dangerous items, hazardous substances, health and safety and environmental protection) ;
- b) the Navigation and Safety Bylaws for the Wellington region, as in force and amended from time to time;
- c) best industry standards and operating practice.

7.9.3. The Customer shall comply with the Maritime Transport Act 1994, the Maritime Security Act 2004, the Hazardous Substances and New Organisms Act 1996, the Health and Safety at Work Act 2015 and all rules, regulations and codes promulgated thereunder whether the vessel be registered in New Zealand or elsewhere.

7.9.4. The Customer shall:

- a) maintain auditable procedures that comply with the requirements of the Health and Safety at Work Act 2015 and/or Regulations made thereunder;
- b) maintain a Drug and Alcohol Policy acceptable to CPL; and

- c) maintain a code of Conduct acceptable to CPL.
- 7.9.5. The Master of every vessel shall comply with any direction given by the Harbourmaster or Enforcement Officer pursuant to the provisions of the Maritime Transport Act 2004.
- 7.9.6. CPL has prepared an emergency plan known as the “CentrePort Emergency Plan”, a copy of which may be obtained from CPL’s head office. The CentrePort Emergency Plan together with any additions or alterations made thereto, shall be incorporated as part of these conditions.
- 7.9.7. CPL has prepared procedures for safe port operation as required by the Port and Harbour Marine Safety Code. In providing services for safe port operations, all operational decisions shall be guided by the procedures described within the respective operating manuals.
- 7.9.8. The provisions of the following CPL documents shall be incorporated into these terms and conditions:
- a) Common User Safety and Environment Protocols;
  - b) Marine Safety Policy and Key Port limiting Parameters; and
  - c) any Port Rules and Guidelines as may be promulgated by CPL from time to time and posted on CPL’s website.
- 7.9.9. CPL has developed a Security Plan to provide compliance with Regulations to provide for security measures to address increasing threat conditions with the port which is available upon request at any time. The Plan identifies and puts in place the measures necessary to ensure safety and security associated with the use of CPL’s facilities. All vessels, as a condition of entry to the port’s facilities, are required to accept the security requirements detailed in this plan.
- 7.9.10. The Customer shall promptly report any incident of damage to CPL’s plant or berths or other property to CPL’s Marine Manager in writing. The Customer shall be strictly liable for any such damage which shall be repaired at the Customer’s expense.

#### **7.10. Benefit of bill of lading and establishment of bills of lading**

- 7.10.1. Without prejudice in any matter to the provisions and limitations contained in these General Conditions, CPL, its employees, agents and subcontractors are to enjoy the benefit of each limitation of liability, indemnity and other provision in each of the Customer's contracts of carriage, bills of lading and other documents. The Customer shall incorporate a provision in its documentation (eg bills of lading) relevant to cargo and containers transported by its vessels to the effect that CPL, its employees, agents and subcontractors are to benefit from, and may enforce, any limitation of liability and indemnity the Customer may enjoy.
- 7.10.2. Where any cargo or container is received by CPL prior to the establishment of a bill of lading or contract of carriage the benefit of the intended bill of lading or contract of carriage shall apply in all respects (and in particular as set out in sub-clause 7.10.1 above) and shall bind all persons interested in the cargo or container as though such a bill of lading or contract of carriage had then been established.

#### **7.11. Customer environmental warranties**

- 7.11.1. The Customer warrants to CPL that it will not do or omit to do anything or use materials, substances or processes which breaches or is likely to breach any duty or obligation under the Resource Management Act 1991 and/or the Maritime Transport Act 1994 (including subsequent amendments) or which is likely to result in the issue of any requisition, order, notice, direction or enforcement proceedings under those Acts or any other applicable laws or legal requirements.
- 7.11.2. Any time the Customer becomes aware that it is in breach, or is likely to be in breach, of any of the warranties in this clause, the Customer agrees to notify CPL immediately and follow all directions to avoid, remedy or mitigate any such breach or anticipated breach.
- 7.11.3. The Customer shall ensure that its agents, subcontractors and employees are aware of these conditions and will abide by them.
- 7.11.4. The Customer warrants to CPL that it will comply with the Wellington District Plan and the Wellington Regional Plan and all other relevant plans and statutes with respect to noise.
- 7.11.5. The Customer warrants to CPL that it will comply with all other relevant standards, by-laws, local authority and other regulations and statutes including but not limited to regulations and statutes relating to sound environmental practice and the handling of dangerous, hazardous or noxious goods.

7.11.6. For the avoidance of doubt, and for the purpose of section 12 of the Contracts and Commercial Law Act 2017, these limitations of liability and indemnities are intended to be for the benefit of, and enforceable by, each of CPL's directors and CPL's employees, agents, subcontractors or other representatives.

## **8. General terms**

- 8.1. Subject to the prior agreement of CPL, the Customer may supply lines services but the Customer shall use the number of line handlers deemed necessary by CPL for the safety of any mooring or unmooring operation.
- 8.2. In the event that these General Conditions are agreed on behalf of the Customer by an agent of the Customer including a shipping agent, then the agent warrants to CPL that it has the authority to accept these General Conditions on behalf of the Customer and shall indemnify CPL in respect of any loss or damage suffered by CPL as a consequence of the agent's lack of authority and in those circumstances shall be liable hereunder as if it were the principal contracting party.
- 8.3. Garbage or waste shall be disposed of by the Customer in a timely way and in conformity with all regulations and where applicable through a contractor approved by regulatory authorities. The Customer warrants that garbage for disposal by incineration or steam sterilisation excludes all classes of dangerous goods or gases, hazardous or noxious liquids, oils, bilge water or scrap metals. Waste waters and noxious liquids shall not be discharged into harbour waters.
- 8.4. The Customer undertakes to comply fully with the requirements of CPL as to the cleaning of wharves which may include the removal of cargo or debris from the harbour at the conclusion of any operation, such compliance to include the placing and removal of bins and skips. The Customer shall be liable for any losses or injury resulting from a failure to do so.
- 8.5. Any Customer loading logs is to have a procedure and arrangements in place immediately to notify port authorities and immediately to remove any logs in the water at the stevedores' or ship's expense before they become a navigational hazard.
- 8.6. If the Customer is carrying on business, the Customer represents and warrants that it is purchasing the services provided by CPL under these general conditions solely for business purposes and the Customer agrees that the Consumer Guarantees Act 1993 does not apply to those services or these General Conditions.
- 8.7. The Customer shall not directly or indirectly involve itself in any employment or labour matters involving any of CPL's employees, subcontractors or other representatives. This shall be done exclusively by CPL.

- 8.8. These general conditions shall be governed and interpreted in all respects in accordance with the laws of New Zealand.
- 8.9. Disputes: If a party believes that there is a dispute, that party shall notify the other in writing giving details of the dispute. The dispute shall then be promptly referred to senior representatives of each party for resolution, and if they do not resolve the dispute within 10 working days from the date of notice being given, it shall be submitted to arbitration in Wellington if requested by either party. A single arbitrator shall be chosen by the agreement of the parties or failing such agreement within 14 days of the Notice by the President for the time being of the New Zealand Law Society.
- 8.10. Consistent with the Arbitration Act 1996, either party may appeal a decision of arbitration to the New Zealand High Court on questions of law. New Zealand courts have exclusive jurisdiction.

## **9. Variation of terms**

The terms of these General Conditions may be varied by CPL from time to time. Such variations shall be deemed effective and accepted by the Customer 30 days after the posting of the varied terms on CPL's website.

## **10. Force majeure**

CPL shall not be responsible for any complete or partial failure to perform or delay in performing or incorrect performance or damage arising out of or contributed to by reasons of storm, flood, tsunami (in each case whether actual or threatened) fire or explosion, strikes, riots, pandemic, civil commotions, lock outs, stoppages, restraints of labour of whatsoever nature or kind (whether actual or threatened), any other industrial or environmental action, war, civil war, hostilities, acts of terrorists, breakdown of or accident or failure of any crane or plant or machinery or equipment or other facility, or any other action or act which is beyond the reasonable control of CPL.