



General Terms and Conditions for Supply of MARINE FUELS

Supplier	Z Energy Limited ("Z Energy" or "we", "us" or "our")
Notice details	3 Queens Wharf Wellington Attention: Legal Counsel Fax: 0800 743 553
Customer	The party requesting Z Energy to sell and deliver Marine Fuels to it ("Customer")

These are the General Terms and Conditions on which Z Energy Limited of 3 Queens Wharf, Wellington, New Zealand agrees to sell and deliver, or to arrange for the sale and delivery of, Marine Fuels ("General Terms and Conditions" or "Agreement").

These General Terms and Conditions take effect from 1 March 2018 and supersede any previous general terms and conditions.

These General Terms and Conditions override any terms and conditions stipulated, incorporated or referred to by the Customer whether in its order, stamping of documentation or elsewhere.

PART A

The provisions in this Part A are applicable to all sales of Marine Fuels:

1 DEFINITIONS

1.1 Unless the context otherwise requires:

"**B5**" means Z's biodiesel blend of up to 5% biodiesel, as referenced in the technical datasheets located at <http://z.co.nz/help-and-support/products/fuel-technical-data-sheets/> which may be updated by Z from time to time.

"**Bunkering Commitment**" means the contract of sale on these General Terms and Conditions between the Customer and Z Energy for the delivery in question.

"**Commitment**" means a Bunkering Commitment or any other commitment governed by these General Terms and Conditions. For the avoidance of doubt, each contracted delivery under a Floating Price Term Deal is a Commitment.

"**Delivery Port**" means the port or place at which Marine Fuels are delivered under a Commitment.

"**Equipment**" means the Customer's equipment at the Delivery Port.

"**Energy Institute**" means the leading professional body for the energy industries which was created in 2003 by the merger of the two key energy organisations - the Institute of Petroleum and the Institute of Energy - and which is based in London, United Kingdom.

"**Floating Price Term Deal**" means any deal with a fixed term, fixed volumes and a floating formulated price.

"**HSSE**" means health, safety, security and the environment.

"**Industry Good Practice**" means, for each party, the same or better standard of skill, care, diligence and effectiveness expected of an entity operating in New Zealand in the same industry in which that party operates as it relates to this Agreement.

"**Law**" means any Act of Parliament, regulation, by-law, order, code, licence, permit, approval, regulatory instrument or any other subordinate instrument, or any other legally binding direction or requirement.

"**Z Energy Operating Procedure Manual**" means the manual published and updated by Z Energy from time to time regarding delivery procedures and which is made available to the Customer on request.

"**Z Energy Ship Vetting Procedure**" means standards that Z Energy uses to assess whether a vessel is fit to receive Marine Fuels in the cargo hulls.

"**marine diesel fuel**" means Mineral Diesel and B5.

"**Marine Fuels**" means any marine fuel oil, thin fuel oil, marine diesel fuel and gas oil.

"**Mineral Diesel**" means Z's mineral diesel fuel as referenced in the technical data sheets located at <http://z.co.nz/about-z/help-and-support/products/fuel-technical-data-sheets/> which may be updated by Z from time to time.

"**Minimum Order Quantity**" means the minimum quantity of Marine Fuels to be supplied under a Commitment, as specified by Z Energy to the Customer in writing from time to time.

"**Notifiable Event**" includes any event or incident for which the Customer is required to notify a regulator under HSSE-related Law and any near-miss of such an incident or any other event that the parties agree will be a notifiable event for the purposes of this Agreement.

"**PCBU**" has the meaning set out in the Health and Safety at Work Act 2015.

"**Pre-delivery Safety Check List**" means the check list prepared by Z Energy and signed by or on behalf of Z Energy and the Customer to confirm the conditions and procedures for physical delivery of the Marine Fuels.

"**Port Guide**" means the Port Guide as amended, varied or supplemented from time to time.

"**Staff**" means, in respect of each party, employees, agents, representatives, or contractors, or invitees (including a contractor's employees, agents, representatives, or contractors or invitees), employed or appointed by that party to carry out any or all of that party's obligations under this Agreement but, in the case of Z Energy, does not include the Customer or its staff.

"**Spot Sale**" means a one-off transaction for a defined volume of Marine Fuels to be delivered at an agreed location on an agreed date for an agreed price.

"**Use**" includes use, handle, store, assemble, construct, inspect, clean, maintain, repair, decommission, dismantle, demolish, disposal, or any other reasonably foreseeable activity, as appropriate, whether actioned or to be actioned.

"**Working day**" means a day which is not a Saturday, Sunday or public holiday at the applicable Delivery Port(s).

"**Workplace**" means:

- (a) any premises owned or controlled by or on behalf of a party, on which the other party may or is to access to carry out work under or in relation to this Agreement; and
- (b) in respect of the Customer only, any other premises where the Customer Uses the Marine Fuels or carries out the work under or in relation to this Agreement.

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CHARGES

- 2.1 In addition to the price payable for Marine Fuels under a Commitment, the Customer shall also pay the following charges:
- (a) any expenses incurred as a result of the master of the vessel rejecting the whole or any part of a delivery under a Commitment;
 - (b) any mooring or unmooring charges or port dues which may be incurred by Z Energy in connection with any vessel to which Marine Fuels are delivered under these General Terms and Conditions;
 - (c) any applicable duties, taxes (other than taxes on profits), GST (as defined in section 4), impositions, charges, freights, premiums, or other costs imposed, assessed, levied or payable on or by Z Energy on or in connection with the transportation, importation, exportation, storage and supply of Marine Fuels under a Commitment and any other services provided by Z Energy under these General Terms and Conditions, including, for the avoidance of doubt, any existing or future liability of any kind whatsoever relating to emissions of greenhouse gases (including those defined in Annex A of the Kyoto Protocol to the United Nations Framework Convention on Climate Change) or under or relating to any emissions trading scheme (including any payment obligation or liability imposed or required (including to purchase or satisfy credits, debits or units) in respect of any emissions cap or reduction target or emissions trading regime, including under the Climate Change Response Act 2002);
 - (d) any additional costs incurred by Z Energy in respect of deliveries made under a Commitment, including payments for overtime and any applicable throughput fees incurred by Z Energy;
 - (e) any additional charges detailed in the Port Guide; and
 - (f) any expenses and delivery costs or charges incurred as a result of the customer site, Delivery Port or the vessel being or being deemed to be unsuitable or unacceptable according to the Z Energy Operations Procedures Manual (as amended from time to time) as determined by Z Energy.
- 2.2 If the Customer cancels a Commitment, or reduces the Quantity of Marine Fuels to be delivered under a Commitment by more than 10% and gives Z Energy less than 5 Working days' notice of such cancellation or reduction, Z Energy may require the Customer to pay a cancellation fee of USD\$50 per tonne or NZD\$0.06/litre in respect of the cancelled or reduced amount.
- 3 INVOICES**
- 3.1 Z Energy shall invoice the Customer in US dollars in respect of deliveries of Marine Fuels measured in metric tonnes, or in New Zealand dollars in respect of deliveries of Marine Fuels measured in litres.
- 3.2 At Z Energy's option, the invoice may be submitted to the Customer by telegraphic or electronic means.
- 3.3 If an invoice issued under this section 3 is incorrect in any particular, Z Energy shall issue a replacement invoice which shall be payable in accordance with section 4. Z Energy will credit the Customer for any amounts paid under the original invoice and, in the case of an overpayment by the Customer, will provide the Customer with a credit note for the amount of the overpayment.
- 4 PAYMENT**
- 4.1 All money owed by the Customer under a Commitment shall be paid to Z Energy in the manner set out below.
- 4.2 Payment by the Customer:
- (a) is due in the currency specified in Z Energy's invoices;
 - (b) is to be made without any discount, withholding, offset or allowance; and
 - (c) will be made by means of electronic wire transfer to the bank account stated on the invoice, such that funds are received into such account by the due date stated on the relevant invoice or otherwise as stated in any applicable contract between the parties.
- 4.3 Z Energy reserves the right to charge interest, delivery costs, and any internal or external expenses, costs or disbursements (including legal fees and collection commissions) we incur in recovering any amounts not paid by such date until such time as the overdue amount is paid in full.
- 4.4 All payments expressed in these General Terms and Conditions are expressed or calculated exclusive of GST. Accordingly, unless the delivered Marine Fuels are used on a voyage to a destination **outside** of New Zealand waters (or **outside** New Zealand fisheries waters for fishing vessels) and the same is confirmed by declaration on the bunker delivery note, in addition to any payments specified or determined pursuant to these General Terms and Conditions (including but not limited to payments under this section), the Customer will pay to Z Energy an amount equal to any GST that Z Energy is liable for in respect of the delivery of Marine Fuels giving rise to those payments ("the GST Amount") provided that Z Energy has given the Customer a valid tax invoice complying with section 4.6 below.
- 4.5 The GST Amount is due and payable at the same time as the payment for the Marine Fuels on which it is charged pursuant to these General Terms and Conditions.
- 4.6 Each of Z Energy's invoices to the Customer is to:
- (a) specify the GST amount; and
 - (b) comply with the GST Act.
- 4.7 For the purposes of sections 4.4 to 4.6:

- (a) "GST" means goods and services tax chargeable in accordance with the GST Act;
- (b) "GST Act" means the Goods and Services Act 1985 (New Zealand) as amended from time to time.
- 4.8 Unless otherwise agreed between Z Energy and the Customer, all payments under these General Terms and Conditions are due 21 days from the date of delivery.
- 4.9 Delivery documents may be provided to the Customer if requested, but payment shall not be conditional upon the Customer's receipt of such documents.
- 4.10 The Customer will execute any documentation required by Z Energy in order to allow for an electronic wire payment to be made to the bank account specified on Z Energy's invoice.
- 5 CREDIT**
- 5.1 If Marine Fuels are supplied, or to be supplied, on credit under a Commitment and if, in Z Energy's opinion, the financial condition of the Customer becomes impaired or unsatisfactory, Z Energy may demand that payment be made at any time before the date due for payment, whether before or after delivery of the Marine Fuels, or may demand that the Customer provides security that Z Energy considers, in its opinion, to be satisfactory.
- 5.2 Marine Fuels are supplied under a Commitment on the credit of the vessel to which they are supplied as well as on the credit of the Customer. Z Energy shall not be bound by any attempt by any person to restrict, limit or prohibit its lien or liens attaching to a vessel.
- 5.3 If, at any time, the Customer has exceeded any credit limit as set by Z Energy, Z Energy shall, in addition to any other remedy, be entitled to suspend deliveries under (in so far as they have not already taken place) or terminate the Commitment concerned.
- 5.4 If, at any time, the Customer has failed to make any payment or give any security required (whether in terms of this section or not), Z Energy shall, in addition to any other remedy, be entitled to suspend deliveries under (in so far as they have not already taken place) or terminate the Commitment concerned and to assert all their rights against the vessel. Z Energy may also procure that any other Commitment between the Customer and Z Energy is suspended or terminated. In the event of such suspension or termination, the Customer shall have no recourse against Z Energy.
- 6 DELIVERY AND HEALTH AND SAFETY AND ENVIRONMENTAL REQUIREMENTS**
- 6.1 Where such option is available at the Delivery Port and if agreed before commencement of delivery by Z Energy, deliveries under these General Terms and Conditions shall be made ex-wharf in accordance with instructions given by the Customer, its accredited representative, or the master of the vessel.
- 6.2 Delivery shall be made during Z Energy's normal working hours, unless required at other times and permitted by port regulations, in which event the Customer shall reimburse Z Energy for all additional expenses incurred by Z Energy.
- 6.3 The vessel will be bunkered as promptly as circumstances permit, but Z Energy shall not be liable for any loss, expense, damage, delay or demurrage whatsoever which may be suffered by the Customer as a result of any delay arising from
- (a) congestion affecting Z Energy's facilities, howsoever caused; or
- (b) the resolution of any health, safety or environmental issue necessary to enable safe delivery.
- 6.4 In any case where delivery of Marine Fuels is ex-truck via a wharf:
- (a) The Customer shall provide a clear, stable and safe parking position for the truck(s) alongside the vessel's receiving lines and the assistance of qualified staff to secure any necessary locations for delivery free of cost to Z Energy. The receiving vessel is responsible for safe access to and from the truck. Vessels, including tankers, will be bunkered in turn as promptly as circumstances permit but Z Energy shall not be liable for demurrage or for any loss, expense, damage or delay due to congestion at the terminal or to prior commitments of available trucks, or when, in the opinion of Z Energy, clear and safe access or the assistance of qualified staff is unavailable.
- (b) Z Energy is not required to deliver Marine Fuels into any of the vessel's tanks if the export of such Marine Fuels would require a government permit and an appropriate permit has not been obtained by the Customer or the Customer's accredited representative.
- (c) Unless otherwise agreed, the Customer shall only be entitled to receive Marine Fuels into tanks usually used as the fuel bunkers of the vessel to which the delivery is to be made.
- 6.5 The driver of the delivery truck, or authorised person in relation to operation of the delivery truck, shall have sole discretion, for any reason, to:
- (a) delay the time for delivery of any Commitment; and/or
- (b) cancel delivery of any Commitment if the Customer is not providing a clear, stable and safe position for the delivery truck.
- 6.6 Any additional port or harbour charges incurred by the Customer as the result of a change in position for the delivery, shall be the Customer's sole responsibility.
- 6.7 If the driver of the delivery truck, or authorised person in relation to operation of the delivery truck

- exercises his discretion under section 6.5 and the Customer elects not to take delivery of the Commitment in accordance with the directions of the driver of the delivery truck, or authorised person in relation to operation of the delivery truck, Z Energy may require the Customer to pay a cancellation fee of USD\$50 per tonne or NZD\$0.06/litre in respect of the Commitment.
- 6.8 Where Marine Fuels are required to be delivered to a fixed nominated site:
- (a) Z Energy may make deliveries, or arrange for deliveries to be made, by such means of transport and in such tanks or other containers as Z Energy may select;
 - (b) Z Energy shall not be obliged to make any delivery in any quantity smaller than the load of such tanker as Z Energy may select; and
 - (c) Z Energy shall use reasonable endeavours to make deliveries pursuant to the Customer's requests, provided that the Customer gives Z Energy adequate notice of its specific requirements, takes delivery in accordance with Z Energy's delivery schedule from time to time, and complies with all the Customer's obligations under these General Terms and Conditions.
- 6.9 The Customer warrants and undertakes that:
- (a) at each bulk delivery point and suitable bulk storage installation, safe facilities will be provided which comply with all applicable legal and regulatory requirements for Marine Fuels delivery without risk to property and persons;
 - (b) for each delivery there will be sufficient ullage for Marine Fuels on the Customer's premises or vessel. The Customer accepts responsibility for any loss, leakage or contamination of any Marine Fuels deliverable under these General Terms and Conditions which may occur as a result of a breach by the Customer of its obligations under these General Terms and Conditions;
 - (c) in the case of highly flammable products and where otherwise applicable, it will observe strictly any regulations laid down by the government or other competent authority, together with all conditions and precautions specified in the Pre-Delivery Safety Checklist, in respect of the avoidance of smoking, naked lights, fires, stoves or heating appliances of any description in the vicinity of any Marine Fuels storage facility and the fill, dip and vent pipes connected thereto; and
 - (d) all storage installations will be clearly and correctly labelled with the description of the grade of Marine Fuels stored and the tank capacity.
- 6.10 Each party will:
- (a) ensure that it is aware of, and that each of its Staff is aware of, its HSSE obligations under the Law and this Agreement;
 - (b) perform any work required under or in relation to this Agreement in accordance with the Law and Industry Good Practice;
 - (c) have, and apply adequate resources and diligence to, an adequate operational risk management system and processes in place to ensure it can comply with its HSSE obligations under Law and this Agreement (**HSSE System**); and
 - (d) without limiting a party's other obligations under this Agreement, co-operate, consult and co-ordinate with the other party and, where any other PCBU is involved in relation to this Agreement, the parties will agree how to ensure that those other PCBUs co-operate, consult and co-ordinate with the parties and each other.
- 6.11 Unless otherwise agreed, works carried out at a party's Workplace will be governed by that party's HSSE policy. However, if the work being carried out is in the other party's area of expertise and is in an area that is under the other party's immediate control, then that other party's HSSE policy will apply for those specific works.
- 6.12 Each party agrees that, for the purpose of HSSE Law, the only purposes for which the Marine Fuels were designed or manufactured are the only authorised purposes for the Use of the Marine Fuels (as applicable) (**Authorised Purposes**).
- 6.13 The Customer will (and will ensure its Staff will):
- (a) before each delivery of the Marine Fuels by Z Energy, advise Z Energy of any hazards at the Customer Workplace that may affect Z Energy's ability to perform the work required under this Agreement in a safe manner;
 - (b) Use the Marine Fuels only for the Authorised Purposes;
 - (c) give Z Energy immediate notice on the becoming aware of any loss of, defect in, maintenance required to, or damage to the Marine Fuels (as applicable); and
 - (d) comply with any HSSE-related instructions given by Z Energy from time to time regarding the Marine Fuels.
- 6.14 For each Notifiable Event that occurs under or in relation to this Agreement in which any of Z Energy's Staff, any Marine Fuels, and/or Z equipment is involved, while at the Customer's Workplace, the Customer will immediately notify Z Energy of the Notifiable Event and, to the extent requested by Z Energy and with the level of Z Energy's involvement that Z Energy reasonably requests:
- (a) take all reasonable steps to mitigate the effects of the Notifiable Event and prevent or minimise further health and safety issues;

- (b) investigate each Notifiable Event for the purpose of understanding the cause of the Notifiable Event and (so far as is reasonably practicable) preventing the same or a related Notifiable Event occurring in future;
- (c) create a document that may include the following: identification of actions that the Customer will take to prevent (so far as is reasonably practicable) a similar or related Notifiable Event occurring in the future, timeframes for completing those action items, and identification of who is accountable for ensuring the completion of those the action items (a **Notifiable Event Document**);
- (d) submit each Notifiable Event Document to Z Energy;
- (e) perform and close the action items described in a Notifiable Event Document or any other action item reasonably requested by Z Energy (each an **Action Item**);
- (f) at the times reasonably requested by Z Energy, report to Z Energy on the Customer's performance compared to the Action Items.
- 6.15 If, in the course of any delivery under a Commitment, there is any escape or spillage of Marine Fuels:
- (a) The Customer agrees that, if a Pollution Event occurs before, during or after delivery of the Marine Fuels, Z Energy may, at its sole discretion, take reasonable steps to control and terminate the Pollution Event, contain and remove the escaped Marine Fuels and clean the affected area. The Customer must afford Z Energy its reasonable co-operation in implementing steps under this section. If the Pollution Event is caused by an act or omission of the Customer, its servants or agents (other than Z Energy), the Customer must indemnify Z Energy for the cost of any steps taken under this section 6.15(a). In this Agreement, "**Pollution Event**" means any occurrence as a result of which the Marine Fuels escaped onto or into land or water.
- (b) The Customer shall supply Z Energy with any documents and information concerning the Pollution Event or any programme for the prevention thereof as are requested by Z Energy or are required by law or regulations applicable at the Delivery Port.
- 6.16 The Customer shall be fully responsible for the proper use, maintenance and repair of the Equipment. The Customer will immediately inform Z Energy of any defects, ruptures, spills or other problems with, or related to, the Equipment which occur during the delivery process.
- 6.17 The Customer will provide ready and safe means of access to the Equipment for delivery of the Marine Fuels at the Delivery Port and shall not obstruct access to the Equipment for delivery. Delivery will not commence until such time as the Pre-delivery Safety Check List has been jointly and satisfactorily completed and signed by or on behalf of both Z Energy and the Customer.
- 6.18 Z Energy and the Customer represent to each other that they are in compliance with all applicable laws and government regulations with respect to the environment and that they have policies of environmental responsibility in place concerning their respective Marine Fuels' processes.
- 6.19 The Customer acknowledges that it is the sole responsibility of the Customer to provide appropriate, safe and fit for purpose bunker hose connections on its vessel and that Z Energy has the right to not deliver Marine Fuels to the Customer pursuant to a Commitment if, in the opinion of Z Energy, such connections have not been made available. In the event that Z Energy elects, pursuant to this section 6.19, to not deliver to the Customer, the Customer shall indemnify Z Energy for and against all costs incurred by Z Energy as a result of the non-delivery, including but not limited to barge charter costs, fuel pump back costs and any additional labour and/or overtime charges. Further, Z Energy will not be liable for any costs or losses incurred or suffered by the Customer as a result of the election by Z Energy, pursuant to this section 6.19, to not deliver Marine Fuels to the Customer.
- 6.20 Notwithstanding any other provision in these General Terms and Conditions to the contrary, Z Energy may refuse to deliver, or may at any time halt the delivery of, any Marine Fuels to the Customer pursuant to a Commitment if, in the opinion of Z Energy, the Delivery Port or vessel is or is deemed to be unsuitable or unsafe according to the Z Energy Operating Procedure Manual (as amended from time to time), or if adequate health, safety or environmental precautions are deemed not to be in place.
- 6.21 The Customer acknowledges that approval must be obtained from Z Energy prior to deliveries into a vessel's cargo hull. Approval can only be granted after Z Energy or its agent has conducted an inspection of the vessel. Z Energy, or its agent, will conduct such inspection using the Z Energy Ship Vetting Procedure (as amended from time to time). Z Energy has the right not to deliver Marine Fuels to the Customer pursuant to a Commitment if such approval has not been obtained.
- 6.22 The Customer acknowledges that it is the sole responsibility of the Customer to ensure that the Delivery Port is suitable for road tanker deliveries and to notify Z Energy of any special conditions applying at the Delivery Port in relation to road tanker deliveries. If Z Energy is not able to deliver Marine Fuels by road tanker or if the facilities available at the Delivery Port are or are deemed to be unsuitable according to the Z Energy Operating Procedure Manual (as amended from time to time) for delivery by road tanker, Z Energy has the right to not deliver Marine Fuels to the Customer pursuant to a Commitment. In the event that Z Energy elects, pursuant to this section 6.22, to not deliver to the Customer, the Customer shall indemnify Z Energy for and against all costs incurred by Z Energy as a result of the non-delivery, including but

not limited to fuel pump back costs and any additional labour and/or overtime charges. Further, Z Energy will not be liable for any costs or losses incurred or suffered by the Customer as a result of the election by Z Energy, pursuant to this section 6.22, to not deliver Marine Fuels to the Customer.

7 DOCUMENTS

7.1 On completion of the delivery of Marine Fuels to a vessel under a Commitment, the master of the vessel or the Customer's accredited representative shall give Z Energy a signed receipt in a form required by Z Energy, of which two copies shall be retained by the master or such representative.

8 RISK AND TITLE

8.1 Except as may be otherwise agreed in relation to deliveries at any particular Delivery Port, delivery of Marine Fuels shall be deemed to be complete and title and risk shall pass from Z Energy to the Customer as the Marine Fuels pass the flange connecting the delivery facilities provided by Z Energy with the receiving facilities provided by the Customer.

8.2 The Customer shall be responsible for connecting the delivery facilities provided by Z Energy to the receiving facilities provided by the Customer (the "Connection"), except in relation to nominated fixed sites where Z Energy shall be responsible for the Connection.

9 QUALITY

9.1 Marine Fuels to be supplied under these General Terms and Conditions meet New Zealand Engine Fuels Specifications Regulations and generally ISO 8217 Specifications. Please note, Z's Biodiesel does not currently conform to ISO 8217 standards. This section constitutes the whole of Z Energy's obligations with respect to the quality of the Marine Fuels to be supplied and (save to the extent that exclusion thereof is not permitted or is ineffective by operation of law) all statutory or other conditions and/or warranties, express or implied, with respect to the description or quality of the Marine Fuels or its fitness for any purpose are hereby excluded.

9.2 In the event that the Customer mixes Marine Fuels supplied by Z Energy with additives or other liquids not supplied by Z Energy, then Z Energy shall have no liability in respect of any claim relating to or associated with defect in quality.

9.3 The Customer acknowledges that not all Marine Fuels may be available for all bulk deliveries, and that, where possible, suitable alternatives will be provided. Z Energy will give the Customer notice where reasonably practicable if any of the Marine Fuels are not available for delivery to the Customer at any time and may offer suitable alternatives.

9.4 The terms of this Agreement will apply to those alternative products supplied by Z Energy to the Customer, and to avoid doubt, the volumes of those alternative products will count towards the Customer's obligation to purchase the Minimum Order Quantity. The Parties agree that any order for marine diesel fuel will be satisfied when Z Energy delivers either Mineral Diesel or B5, regardless of

whether one of those products was particularly specified.

10 MEASUREMENT AND SAMPLES/QUANTITY AND QUALITY CLAIMS

10.1 The quantities of Marine Fuels delivered shall be measured and calculated in accordance with the ASTM - IP Petroleum Measurement Tables or the methods of any other recognised standards authority at the discretion of Z Energy.

10.2 Absent manifest error, Z Energy's weights and measurements shall be presumed to correctly reflect the quantities delivered. However, without prejudice to such presumption, the Customer or the Customer's accredited representative shall be at liberty to witness and check such weights and measurements.

10.3 Except in relation to deliveries of gas oil to vessels, to which section 10.4 applies, Z Energy shall take one primary sample of each grade of Marine Fuels delivered to a vessel from which four representative samples shall be taken by Z Energy. The Customer or the Customer's accredited representative shall be at liberty to witness the sampling. Three of these samples are taken for quality purposes ("quality samples"). The fourth sample is known as the MARPOL Control Sample. One sealed quality sample and the MARPOL Control Sample shall be handed to the master of the vessel receiving the relevant Marine Fuels and the other two quality samples retained by Z Energy for a 30 day period or the minimum period allowable under applicable law, whichever is the longer, from the date of delivery to the relevant vessel in a safe place where they will not deteriorate. At the end of this period, the remaining quality samples may be discarded unless the Customer has made a complaint or claim under section 10.6 within the period, in which case one of the samples shall be retained by Z Energy for its own use and the other sample shall be retained by Z Energy for analysis by the expert referred to in section 10.7.

10.4 In relation to deliveries of gas oil to a vessel, where requested by the Customer and agreed by Z Energy, Z Energy shall take one primary sample of each grade of gas oil delivered to the relevant vessel. The Customer or the Customer's accredited representative shall be at liberty to witness the sampling. The sample is known as the MARPOL Control Sample. Z Energy shall retain the MARPOL Control Sample for a 30 day period or the minimum period allowable under applicable law, whichever is the longer, from the date of delivery to the relevant vessel in a safe place where it will not deteriorate. At the end of this period, the MARPOL Control Sample may be discarded unless the Customer has made a complaint or claim under section 10.6 within the period, in which case the MARPOL Control Sample shall be retained by Z Energy for analysis by the expert referred to in section 10.7.

10.5 For delivery of Marine Fuels into a nominated fixed site or into the Customer's vehicle, Z Energy shall measure the quantity of Marine Fuels delivered to the Customer and Z Energy's measurement will be conclusive in the absence of manifest error.

- 10.6 Any complaint or claim on the part of the Customer with regard to the quality or quantity of the Marine Fuels delivered under a Commitment must be made to Z Energy as soon as possible and in any event within 30 days after the date of delivery, in default of which the Customer shall be deemed to have waived all complaints or claims in relation to the quality and quantity of the Marine Fuels so delivered.
- 10.7 Any dispute as to quantity or quality of Marine Fuels delivered under a Commitment shall, save for instances of manifest error or fraud, be determined finally and conclusively by an expert appointed jointly by the Customer and Z Energy or, if they cannot agree to such an appointment, then an expert appointed by the President for the time being of the Energy Institute. In the case of quality disputes, the expert shall be requested to analyse one or more of the quality samples taken in accordance with sections 10.3 or 10.4 above and, where possible, base his or her decision upon the results thereof.
- 11 RESTRICTIONS**
- 11.1 To the extent that Marine Fuels are sold, or are to be sold, to the Customer on a duty or tax exempt basis, the Customer shall comply with all local requirements and shall execute all such documents necessary to permit the sale on such basis, including any declarations on use of the Marine Fuels. To the extent that a claim is made by any authorities against Z Energy, on the basis that such Marine Fuels were liable for duty or taxes and such claim arose partly or wholly due to the action, omission or fault of the Customer (including any use of Marine Fuels in domestic waters), then the Customer shall indemnify Z Energy against any claims, losses, costs (including costs as between Attorney or Solicitor and Client), damages, liabilities, fines, penalties and expenses attributable to such action, omission or fault of the Customer.
- 12 ANTI-CORRUPTION AND COMPLIANCE WITH LAWS**
- 12.1 Each party represents and warrants that:
- (a) it will not, and does not know or have reason to know or believe any of its officers, employees, representatives or agents will, directly or indirectly, either in private business dealings or in dealings with the public sector, offer, give or agree to offer or give (either itself or in agreement with others), receive, accept or agree to receive or accept any payment, gift or other advantage which:
- i. would violate applicable anti-bribery/anti-corruption laws or regulations applicable to a party;
- ii. is intended to, or does, influence any person to act or reward any person for acting in breach of an expectation of good faith, impartiality or trust, or which it would otherwise be improper for the recipient to accept;
- iii. is made to or for a public official with the intention of influencing them and obtaining or retaining an advantage in the conduct of business; or
- iv. which a reasonable person would otherwise consider to be unethical, illegal or improper; and
- (b) it has and will continue to comply with all applicable law(s), rules, regulations, decrees, requirements and/or official government orders of the United Kingdom, the European Union, the United States of America, New Zealand and any other relevant jurisdiction, relating to anti-bribery, anti-money laundering and counter-terrorism financing ("**Anti-Corruption Laws**");
- (c) it has instituted and maintains policies and procedures designed to facilitate compliance with these Anti-Corruption Laws;
- (d) it will take no action which would subject the other party to fines or penalties under such Anti-Corruption Laws; and
- (e) it will make and keep such books and records which in reasonable detail accurately and fairly reflect the transactions and dispositions of their assets.
- 12.2 A party may terminate the Agreement immediately on giving written notice to the other party at any time, if in the party's reasonable judgement the other party is in breach of any of the representations and warranties set out in section 12.1 above and the other party does not remedy such a breach within 5 Working Days of receiving a notice requiring remedy of such breach.
- 12.3 Each party shall, promptly on request of the other party, supply or procure the supply of, such documentation and other evidence as is reasonably requested by the other party in order for that party to carry out and be satisfied that it has complied with all necessary "know your counterparty" or other similar checks under all Anti-Corruption Laws and any other applicable laws and regulations.
- 12.4 Notwithstanding anything to the contrary stated or implied in this Agreement, nothing in this Agreement is intended, and nothing in this Agreement should be interpreted or construed, to induce or require any party, or any relevant affiliate, to act in any manner (including failing to take any actions) which is inconsistent with, penalised or prohibited under any laws which that party is subject to including, without limitation, the laws, rules or regulations of Australia, New Zealand, the United States of America, the United Kingdom, or any other relevant jurisdiction, or other official United Nations Security Council, Australian, New Zealand, United States, United Kingdom or other relevant jurisdiction's government rules or requirements applicable to such party which relate to trade sanctions, foreign trade controls, export controls, embargoes, non-proliferation, anti-terrorism, international boycotts of any type and similar laws ("**Sanction**").
- 12.5 Each party agrees and warrants that they will comply with the Sanctions administered or enforced by the U.S. Department of Treasury's

	Office of Foreign Assets Control, the United Nations Security Council, the European Union, the New Zealand Government, the UK Treasury, and any other relevant jurisdiction, including (but not limited to) any Sanction levied against Crimea, Cuba, Iran, North Korea and Syria.		breach of any representation relating to these Anti-Corruption Laws or Sanctions.
12.6	Notwithstanding any other section of this Agreement, a party may suspend or terminate this Agreement with immediate effect without incurring any liability to the other party if at any time it becomes aware that its performance of this Agreement or performance by the other party of this Agreement may involve an act or omission penalised or prohibited under any Sanction.		
12.7	<p>Either party (the "Delaying Party") may delay or refuse to make any payment or perform any action under this Agreement, without incurring any liability, if the Delaying Party knows or reasonably suspects that the payment or action under this Agreement will:</p> <p>(a) breach, or cause the Delaying Party to breach, any applicable laws or regulations of any jurisdiction (including any Sanctions); or</p> <p>(b) allow the imposition of any penalty on the Delaying Party or its affiliates under any such law or regulation,</p> <p>including where the payment or action under this Agreement involves any activity the subject of any applicable Sanctions of any jurisdiction binding on the Delaying Party or its affiliates.</p>		
12.8	Each party acknowledges and represents that neither it nor any of its respective officers, directors or employees is a sanctioned person or entity included in the list of specially designated nationals and blocked persons, as designated by the Office of Foreign Assets Control of the United States, or subject to any other similar Sanctions imposed by the United Nations, the United States, the European Union, the United Kingdom, Australia, New Zealand, or any other government or relevant international organizations.		
12.9	<p>At any time during the term of the Agreement, Z Energy may advise the Customer of any Sanctions imposed by the New Zealand government, and the Customer must certify that it is in compliance with those New Zealand Sanctions. If the Customer is not in compliance with those New Zealand Sanctions (and cannot become compliant within any time period required by Z Energy or by law), Z Energy may in its sole discretion:</p> <p>(a) modify the Agreement to the extent required for compliance with the New Zealand Sanctions; or</p> <p>(b) terminate the Agreement immediately by giving notice to the Customer.</p>		
12.10	To the extent permitted by law, the Customer will hold Z Energy harmless from any and all expense, claims, loss, damage and liability (including reasonable legal fees) arising out of or in connection with the Customer's or any of its subsidiaries' failure to comply with any applicable Anti-Corruption Laws or Sanctions, any United Nations Sanctions or New Zealand Sanctions or any		
		13	INDEMNITY/LIABILITY
		13.1	The Customer will indemnify Z Energy against any claims, losses, costs (including reasonable legal fees), damages, liabilities, fines, penalties and expenses incurred or sustained arising out of or in connection with any Commitment, except to the extent that such claims, losses, costs, damages, liabilities and expenses arise through the negligent act or omission of Z Energy.
		13.2	<p>Z Energy shall have no liability to the Customer under or in connection with any Commitment for:</p> <p>(a) loss of actual or anticipated profit;</p> <p>(b) losses caused by business interruption;</p> <p>(c) loss of goodwill or reputation; or</p> <p>(d) any indirect, special or consequential cost, expense, loss or damage, even if such cost, expense, loss or damage was reasonably foreseeable or might reasonably have been contemplated by Z Energy and whether arising from breach of contract, tort, negligence, breach of statutory duty or otherwise.</p>
		13.3	Without prejudice to the above provisions, Z Energy's maximum aggregate liability to the Customer under or in connection with any delivery howsoever arising shall not exceed in aggregate the margin payable (as defined in this section) by the Customer for such delivery. For the purpose of this section 13.3, margin is defined as the invoice unit rate minus the prevailing Means of Platts Singapore (MOPS) marker on the day of delivery.
		14	AGENTS
		14.1	If the Commitment is made by an agent acting for, or on behalf of, the Customer, whether such agency is disclosed or undisclosed, then such agent shall be liable (as well as the Customer) not only as agent but also as principal for the performance of all the obligations of the Customer.
		15	TERMINATION
		15.1	<p>Without prejudice to any other rights and remedies, Z Energy may, by notice to the Customer, terminate any Commitment with immediate effect if:</p> <p>(a) the Customer is in breach of any of its obligations under any Commitment and fails to remedy such breach within 30 days after written notice of the existence of such breach;</p> <p>(b) there is a Change of Control of the Customer;</p> <p>(c) the Customer goes into liquidation or does or suffers any similar act or thing under any applicable law, such as (a) making a general assignment for the benefit of its creditors; or (b) entering into any arrangement or composition with creditors (other than for the purposes of a</p>

- solvent reconstruction or amalgamation); or (c) institutes proceedings seeking to adjudicate the Customer as bankrupt or insolvent, or seeking protection or relief from creditors, or seeking liquidation, winding up, or rearrangement, reorganisation or adjustment of the Customer or its debts (other than for purposes of a solvent reconstruction or amalgamation), or seeking the entry of an order for the appointment of an administrator, a receiver, trustee or other similar official for the Customer or for all or a substantial part of the Customer's assets; or (d) any proceeding of the type described in (c) above is instituted against the Customer; or
- (d) anything analogous to any of the events described in paragraph (c) happens to or in relation to the Customer in any jurisdiction.
- 15.2 Subject to section 15.3, a Change of Control shall occur for the purposes of these General Terms and Conditions where:
- (a) a person acquires Control of the Customer where no person previously had Control of the Customer; or
- (b) the ultimate parent company of the Customer ceases to have Control of the Customer; or
- (c) a person acquires Control of the ultimate parent company of the Customer; or
- (d) a person who is not under the Control of the ultimate parent company of the Customer acquires Control of the Customer.
- 15.3 For the purposes of these General Terms and Conditions, "Control" means, in relation to any company, having legal and beneficial ownership of not less than 50 per cent of the voting rights attached to the issued share capital of that company.
- 15.4 On termination of any Commitment, all sums owed to Z Energy shall become immediately due and payable.
- 15.5 Without prejudice to any other rights or remedies, Z Energy may suspend deliveries or vary the stipulated method of payment with immediate effect if the Customer is in breach of any of its obligations under any Commitment.
- 16 EXCEPTIONS**
- 16.1 Neither Z Energy nor the Customer shall be responsible for any failure to fulfil their respective obligations under any Commitment (other than the payment of money) if fulfilment has been delayed, hindered, interfered with, curtailed or prevented by:
- (a) any circumstance whatsoever which is not within the control of Z Energy or of the Customer (as the case may be), which includes any unplanned road blockages
- or roading delays between the relevant fuel terminal and the port; or
- (b) any curtailment, failure or cessation of supplies of Marine Fuels from any of Z Energy's sources of supply (whether in fact sources of supply for the purposes of any Commitment or not), provided that such curtailment, failure or cessation is related to a circumstance which is outside the control of Z Energy; or
- (c) any compliance with any law, regulation or ordinance, or with any order, demand or request of any international, national, port, transportation, local or other authority or agency or of any body or person purporting to be or to act for such authority or agency or any corporation directly or indirectly controlled by any of them; or
- (d) any strike, lockout or other industrial action, or any shortage of or difficulty in obtaining labour, fuel, raw materials or components,
- any such event or circumstance being an "Event of Force Majeure" for the purposes of these General Terms and Conditions.
- 16.2 For the purposes of section 15.1 (a) and (b), circumstances not within Z's reasonable control may include (without limitation):
- (a) a supply chain interruption (including a default on the part of a supplier of crude or refined hydrocarbons to Z Energy or a default by any person responsible for processing hydrocarbons on Z Energy's behalf, or a disruption to Z Energy's ability to produce Marine Fuels, such disruption being outside the reasonable control of Z Energy); and
- (b) a default on the part of a third party with whom Z Energy has a contract or relationship on which Z Energy depends or relies to fulfill its obligations under this Agreement.
- 16.3 If, by reason of any of the causes referred to in section 16.1 above, either the availability from any of Z Energy's sources of supply of Marine Fuels, whether deliverable under any Commitment or not, or the normal means of transport of such Marine Fuels is delayed, hindered, interfered with, curtailed or prevented, then Z Energy shall be at liberty to withhold, reduce or suspend deliveries under any Commitment to such extent as Z Energy may in its absolute discretion think fit and Z Energy shall not be bound to acquire by purchase or otherwise additional quantities from other suppliers. Any additional quantities which Z Energy does acquire from other suppliers or from alternative sources may be used by Z Energy at its complete discretion and need not be taken into account by Z Energy for the purpose of determining the extent to which it is to withhold, reduce or suspend deliveries under any Commitment. The Customer shall be free to purchase from other suppliers any deficiencies of deliveries of Marine Fuels caused by the operation of this section but Z Energy shall not

be responsible for any additional cost thereby incurred by the Customer.

16.4 Z Energy reserves the right to increase the price charged for any Marine Fuels (whether the price was originally determined by reference to Z Energy's prices or separately agreed in writing) if there is any increase in the costs incurred or to be incurred by Z Energy in making the relevant supply due to factors which are beyond the control of Z Energy. These factors include, without limitation, any increased taxes, duties, the making of any law, order, by-law or other regulation, or the occurrence of any currency fluctuation affecting the cost of any imported items.

16.5 No curtailment or suspension of deliveries, or acceptance of deliveries, shall operate to extend the term of any Commitment or to terminate any Commitment, unless such curtailment or suspension lasts for a continuous period of 30 days, in which case either party shall be entitled to terminate any Commitment forthwith on written notice to the other party. Neither the Customer nor Z Energy shall be liable for any damage, loss, expense, claim or costs incurred by the other party as a result of such termination. Such termination shall be without prejudice to any right, obligation or liability which has accrued prior to the effective date of such termination. Shipments of Marine Fuels or any portion thereof, the delivery or acceptance of which has been prevented by any of the causes referred to in section 16.1, shall be deducted from the amount required to be delivered and received hereunder unless otherwise agreed. Performance under any Commitment shall resume to the extent made possible by the end or amelioration of the cause(s) referred to in section 16.1.

17 NEW AND CHANGED REGULATIONS

17.1 It is understood by the parties that the parties are entering into a Commitment in reliance on the laws, rules, regulations, decrees, agreements, concessions and arrangements (hereinafter called "Regulations") in effect on the date hereof with governments, government instrumentalities or public authorities affecting the Marine Fuels sold under these General Terms and Conditions, including, but without limitation to the generality of the foregoing, those relating to the production, acquisition, gathering, manufacturing, transportation, storage, trading or delivery thereof, insofar as such Regulations affect Z Energy.

17.2 In the event that at any time and from time to time during the term of a Commitment any Regulations are changed or new Regulations become effective whether by law, decree or regulation or by response to the insistence or request of any governmental or public authority or any person purporting to act therefore, and the effect of such changed or new Regulations:

- (a) is not covered by any other provision of these General Terms and Conditions; and
- (b) has a material adverse economic effect upon either Z Energy or the Customer,

then Z Energy or the Customer (as the case may be) shall have the option to request renegotiations of the prices or other pertinent terms provided for in these General Terms and Conditions. This option

may be exercised by the relevant party at any time after such changed or new Regulation is promulgated, by written notice of desire to renegotiate, such notice to contain the new prices or terms desired by that party. If the parties do not agree upon new prices or terms within thirty (30) days after the relevant party has given such notice, the relevant party shall have the right to terminate any Commitment at the end of the said thirty (30) day period. Any Marine Fuels lifted during such thirty (30) day period shall be sold and purchased at the price and on the terms applying under these General Terms and Conditions without any adjustment in respect of the new or changed Regulations concerned.

18 NOTICES

18.1 Except where expressly stated otherwise, a notice, demand, request, statement or other communication under or in connection with a Commitment shall only be effective if it is in writing. E-mail notices are permitted, provided that no non-delivery notification is received by the sender.

18.2 Notices, demands, requests, statements or other communications under or in connection with a Commitment shall be sent to a party at the addresses or numbers specified from time to time by the party to whom the notice is addressed.

18.3 Any notice given under or in connection with a Commitment shall be effective only upon actual receipt at the address specified as per section 18.2.

18.4 Any notice given under or in connection with a Commitment outside working hours in the place to which it is addressed shall be deemed not to have been given until the start of the next period of working hours in such place.

18.5 No notice given under or in connection with a Commitment may be withdrawn or revoked, except by notice given in accordance with this section.

18.6 Where a Commitment is made by an agent acting for the Customer, then notice may be given either to the agent or to the Customer at the option of Z Energy.

19 WAIVER

19.1 The failure of either of the parties to enforce any of the provisions of any Commitment at any time shall not be construed as a waiver of that provision unless specifically so notified by that party in writing which expressly states it is a waiver. No waiver of any breach of a Commitment shall be held to be a waiver of any other breach or a continuing waiver of any further breach of a Commitment.

20 SEVERABILITY

20.1 The validity of the provisions of a Commitment shall not be affected if any particular provision or provisions of a Commitment is or are declared illegal, unenforceable, or contrary to law or public policy. If as a result of a specified declaration any of the rights or obligations of a party are materially affected, then the parties shall meet and negotiate in good faith in order to arrive at an amendment of the provision(s) of a Commitment so affected, in

such manner as will most closely and accurately reflect the intents and purposes of a Commitment.

21 SUCCESSION

- 21.1 Any Commitment shall take effect for the benefit of and be binding upon the parties and their respective successors and assigns. The Customer shall not assign all or any part of the benefit of, or any rights or benefits under, any Commitment without the prior written consent of Z Energy, which consent shall not be unnecessarily or unreasonably withheld or denied.
- 21.2 Z Energy may at any time assign all or any part of the benefit of, or its rights or benefits under, any Commitment. Z Energy may, at any time, sub-contract or enter into any arrangement whereby another person is to perform any or all of its obligations under any Commitment.

22 LANGUAGE

- 22.1 Each notice, demand, request, statement, or other communication under or in connection with a Commitment shall be:
- (a) in English; or
 - (b) if not in English, accompanied by an English translation made by a translator, and certified by an officer of the party giving the notice to be accurate.

The receiving party shall be entitled to assume the accuracy of and rely upon any English translation of any document provided pursuant to sub-section 22.1 (b).

23 NO PARTNERSHIP

- 23.1 Nothing in a Commitment and no action taken by the parties under a Commitment shall constitute a partnership, association, joint venture or other co-operative entity between any of the parties.

24 INFORMATION

- 24.1 Data supplied, whether personal or otherwise, by a Customer and/or which relates to a Customer's account will be held and processed by computer or otherwise by Z Energy to operate the Customer's account(s); to confirm, update and enhance Z Energy's customer records; for statistical analysis; to establish any identity or otherwise as required under applicable legislation; to assess each Customer's credit status on an ongoing basis; and otherwise as considered necessary or appropriate by Z Energy. In each case, the processing may continue after the Commitment has ended. Alternatively, the Customer may be requested to complete or fulfil other checks as may be necessary to satisfy credit assessments, money laundering or fraud detection requirements.
- 24.2 Z Energy may disclose data relating to the Customer and/or a Customer's account(s): (a) to a credit reference agency where it may be accessed by other financial institutions to assist assessment of any application for credit made to Z Energy and for debt tracing and fraud prevention; (b) to any agent or sub-contractor of Z Energy performing services in connection with the Customer's account; (c) any other person to whom

Z Energy proposes to transfer any of its rights and/or duties under a Commitment; (d) to any guarantor or person providing security in relation to the Customer's obligations under a Commitment; (e) as required or permitted by law or any regulatory authority; and/or (f) as otherwise considered necessary or appropriate by Z Energy.

- 24.3 Without prejudice to any other provisions for termination contained in these General Terms and Conditions, all monies due and owing by the Customer to Z Energy shall become due and payable forthwith if Z Energy discovers that any information provided by the Customer to Z Energy is materially inaccurate.

25 PRIVACY

- 25.1 It is intended that the undertakings and obligations of the Customer under these General Terms and Conditions are taken by Z Energy for its own benefit and also for the benefit of any other person to whom Z Energy transfers any of its rights and/or duties under a Commitment and, subject to the provisions of section 25.3, are intended to be enforceable by such parties by virtue of the Contract and Commercial Law Act 2017 (New Zealand) as amended from time to time.

- 25.2 Except as provided in section 25.1, no term or condition contained these General Terms and Conditions shall be enforceable, by virtue of the Contract and Commercial Law Act 2017 (New Zealand), by any person who is not a party to the relevant Commitment.

- 25.3 Notwithstanding section 25.1 above, the relevant Commitment may be varied or terminated by the parties to such Commitment without notice to or the consent of any third party.

26 CONFIDENTIALITY

- 26.1 Each party shall treat as confidential all information obtained as a result of entering into or performing any Commitment which relates to:
- (a) the subject matter of these General Terms and Conditions; or
 - (b) the other party.

- 26.2 Each party shall:

- (a) not disclose any such confidential information to any person other than any of its directors or employees who needs to know such information in order to discharge his/her duties;
- (b) not use any such confidential information other than for the purpose of satisfying its obligations under any Commitment; and
- (c) procure that any person to whom any such confidential information is disclosed by it complies with the restrictions contained in this section as if such person were a party to any Commitment.

- 26.3 Notwithstanding the other provisions of this section, either party may disclose any such confidential information:

- (a) if and to the extent required by law or for the purpose of any judicial proceedings;
 - (b) to its affiliates, professional advisers, auditors and bankers;
 - (c) if and to the extent the information has come into the public domain through no fault of that party; or
 - (d) if and to the extent the other party has given prior written consent to the disclosure, such consent not to be unreasonably withheld.
- 29.5 Pending final settlement of any matter referred to mediation, the parties shall continue to perform their obligations under this Agreement as far as possible as if no dispute had arisen. If the dispute is not resolved within a period of 40 Working days from the date of the Dispute Notice, a party may take such action as it deems fit.
- 29.6 Nothing in this section 29 shall preclude either party from taking immediate steps to seek urgent interlocutory or equitable relief before a New Zealand Court.

Any information to be disclosed pursuant to sub-section 26.3(a) shall be disclosed only after notice to the other party.

- 26.4 The restrictions contained in this section shall continue to apply after the termination of any Commitment without limit in time.

27 AMENDMENTS AND VARIATIONS

- 27.1 Z Energy may amend, modify or replace these General Terms and Conditions by notice to the Customer (which shall include publishing the changes on our website **z.co.nz**).

28 GOVERNING LAW AND JURISDICTION

- 28.1 The provisions of these General Terms and Conditions shall be governed by the law of New Zealand. For the avoidance of doubt, the UN Convention on Contracts for the International Sale of Goods (1980) shall not apply.

29 DISPUTE RESOLUTION

- 29.1 Where any dispute arises between the parties concerning any Commitment or the circumstances, representations, or conduct giving rise to any Commitment, no party may commence any court or arbitration proceedings relating to the dispute unless that party has complied with the procedures set out in this section 29.
- 29.2 The party initiating the dispute ("the first party") must provide written notice ("Dispute Notice") of the dispute to the other party ("the other party") and nominate in that notice the first party's representative for the negotiations. The other party must within 5 Working days of the date of the Dispute Notice give written notice to the first party naming its representative for the negotiations. Each representative nominated shall have authority to settle or resolve the dispute.
- 29.3 If the parties are unable to resolve the dispute by discussion and negotiation within 20 Working days of the date of the Dispute Notice, then the parties must immediately refer the dispute to mediation.
- 29.4 The mediation must be conducted in New Zealand in terms of the Resolution Institute Standard Mediation Agreement. The mediation must be conducted by a mediator at a fee agreed by the parties. Failing agreement between the parties, the mediator shall be selected and his/her fee determined by the Chair for the time being of LEADR New Zealand Inc and shared by the parties in equal parts.

PART B

The provisions in this Part B are only applicable to Spot Sales and are in addition to the provisions in Part A:

1 NOMINATIONS

1.1 The Customer may request a price quotation from Z Energy or its designated representative specifying grades, estimated quantities (which must be at least equal to the Minimum Order Quantity) and estimated date of arrival of the relevant vessel at a Delivery Port. Provided the Customer gives Z Energy not less than 5 Working days' notice of the estimated date of arrival of the relevant vessel, Z Energy may provide a quote valid for a delivery which is within 5% more or less of the agreed volume and for a loading range specified by Z Energy. If Z Energy's quote is not accepted within the specified time, the quote is deemed to have been withdrawn and is of no further effect. The provision of the quote by Z Energy under this subsection, and its acceptance by the Customer, shall constitute a Bunkering Commitment and, upon such acceptance, the Customer shall be obligated to lift and, subject to the Customer's compliance with this section 1.1 and with section 1.2 below, Z Energy shall be obligated to sell and deliver, or arrange for the sale and delivery of, the agreed volume, at the quoted price on these General Terms and Conditions within such loading range. The order for Marine Fuels shall be considered firm and binding upon the Customer's acceptance of the price quoted by Z Energy. Confirmation in writing by Z Energy of the price may be provided to the Customer, but the absence of such confirmation shall not avoid the agreement of sale.

1.2 The Customer shall ensure that either the master of the vessel which requires delivery of Marine Fuels or the accredited representative of the Customer at the Delivery Port, endeavours to give at least 7 days' notice and in any case, not less than 3 Working days' notice to Z Energy of the date and time that the relevant vessel will be ready to receive delivery of the Marine Fuels (the "Lifting Time"), identifying the Customer and confirming the grades and actual quantities of Marine Fuels and the method of delivery required. If the Customer has not requested and received a price quotation in accordance with section 1.1 above, but has given notice under this section, any quote provided by Z Energy shall be valid as at the Lifting Time.

1.3 If the vessel shall not have arrived at the Delivery Port by, or is otherwise unable to meet, the Lifting Time, the Customer shall be deemed to be in breach of the Commitment and the Customer shall, in addition to any liability under these General Terms and Conditions, be liable to Z Energy for any expense that Z Energy has incurred as a result of receiving the notice. Z Energy shall exercise reasonable efforts to supply the vessel upon request, provided that Z Energy may prioritise deliveries to other customers who are not in breach of their Commitments. If the vessel is not ready to receive delivery of the Marine Fuels within 3 hours of the Lifting Time, Z Energy may

(a) revise the price quoted under section 1.1 or 1.2; or

(b) cancel the Commitment, .

1.4 If the vessel is ready to receive delivery of the Marine Fuels earlier than the Lifting Time, Z Energy shall exercise reasonable efforts to supply the vessel upon request but shall not be bound to do so until the Lifting Time.

1.5 If the Customer requests a delivery of Marine Fuels and gives Z Energy less than 3 Working days' notice of the relevant vessel's readiness to receive Marine Fuels, the Lifting Time shall be determined by mutual agreement between the parties and any quote provided by Z Energy shall be valid as at the Lifting Time and, failing agreement as to the Lifting Time, Z Energy shall be under no obligation to supply Marine Fuels to the Customer's vessel.

1.6 The quantity of any grade of Marine Fuels to be delivered shall not exceed the quantity of that grade nominated pursuant to section 1.1 above (or section 1.2 where notice has not been given under section 1.1) except by prior mutual agreement.

1.7 The Customer shall be liable for all costs, expenses and/or charges incurred by Z Energy on account of the Customer's failure, breach and/or non-compliance with its obligations under any agreed nomination as set out in this Part B.

2 PRICE

2.1 Except as otherwise agreed between Z Energy and the Customer, the price to be paid for Marine Fuels delivered under this Part B shall be the price agreed pursuant to section 1.1, 1.2. or 1.5 above.

2.2 The prices applicable to the commencement of delivery under a Commitment shall remain effective until the completion of delivery under that Commitment.

2.3 The Customer shall be liable for all costs, expenses and/or charges incurred by Z Energy on account of the Customer's failure, breach and/or non-compliance with its obligations under any agreed nomination as set out in section 1 above.

2.4 If price controls are imposed, Z Energy shall not be required to deliver Marine Fuels if the maximum price allowed is below that previously established with the Customer.

3 MINIMUM ORDER QUANTITY

3.1 The quantity of Marine Fuels delivered under a Commitment must be at least equal to the Minimum Order Quantity.

3.2 If the Customer fails to take delivery of the Minimum Order Quantity, Z Energy may require the Customer to pay the price agreed pursuant to section 1 in respect of the Minimum Order Quantity rather than the actual quantity of Marine Fuels delivered.

PART C

The provisions in this Part C are only applicable to Floating Price Term Deals and are in addition to the provisions in Part A:

1 NOMINATIONS

- 1.1 For any delivery of Marine Fuels under a Floating Price Term Deal, the Customer shall give Z Energy not less than 20 Working days' notice of the estimated date of arrival of the relevant vessel specifying grades and estimated quantities of Marine Fuels required and then 5 Working days' notice of the estimated date of arrival of the relevant vessel, identifying which Floating Price Term Deal applies to the delivery and confirming grades and estimated quantities of Marine Fuels required. Provided that Z Energy has not advised the Customer that it is unable to accept the order, receipt of the second notice by Z Energy shall constitute a Commitment and the Customer shall be obligated to lift and, subject to the Customer's compliance with this section 1.1 and with section 1.2 below, Z Energy shall be obligated to sell and deliver, or arrange for the sale and delivery of, the agreed volume on these General Terms and Conditions. The order for Marine Fuels shall be considered firm and binding upon receipt by Z Energy of the second notice.
- 1.2 The Customer shall ensure that either the master of the vessel which requires delivery of Marine Fuels or the accredited representative of the Customer at the Delivery Port gives not less than 3 Working days' notice to Z Energy of the date and time that the relevant vessel will be ready to receive delivery of the Marine Fuels (the "Lifting Time"), identifying the Customer and specifying the grades and actual quantities of Marine Fuels and the method of delivery required.
- 1.3 If the vessel shall not have arrived at the Delivery Port by, or is otherwise unable to meet, the Lifting Time, the Customer shall be deemed to be in breach of the Commitment and the Customer shall, in addition to any liability under these General Terms and Conditions, be liable to Z Energy for any expense that Z Energy has incurred as a result of receiving the notice. Z Energy shall exercise reasonable efforts to supply the vessel upon request, provided that Z Energy may prioritise deliveries to other customers who are not in breach of their Commitments. If the vessel is not ready to receive delivery of the Marine Fuels within 3 hours of the Lifting Time, Z Energy may:
- (a) revise the price quoted under section 1.1 or 1.2; or
 - (b) cancel the Commitment.
- 1.4 If the vessel is ready to receive delivery of the Marine Fuels earlier than the Lifting Time, Z Energy shall exercise reasonable efforts to supply the vessel upon request but shall not be bound to do so until the Lifting Time.

1.5 If the Customer requests a delivery of Marine Fuels and gives Z Energy less than 3 Working days' notice of the relevant vessel's readiness to receive Marine Fuels, the Lifting Time shall be determined by mutual agreement between the parties and, failing agreement as to the Lifting Time, Z Energy shall be under no obligation to supply Marine Fuels to the Customer's vessel.

1.6 The quantity of any grade of Marine Fuels to be delivered shall not exceed the quantity of that grade nominated pursuant to section 1.1 above except by prior mutual agreement.

1.7 The Customer shall be liable for all costs, expenses and/or charges incurred by Z Energy on account of the Customer's failure, breach and/or non-compliance with its obligations under any agreed nomination as set out in this Part C.

2 PRICE

2.1 The price formula shall be as agreed in the Floating Price Term Deal between Z Energy and the Customer.

2.2 If price controls are imposed, Z Energy shall not be required to deliver Marine Fuels if the maximum price allowed is below that previously established with the Customer.

3 MINIMUM ORDER QUANTITY

3.1 The quantity of Marine Fuels delivered under a Commitment must be at least equal to the Minimum Order Quantity.

3.2 If the Customer fails to take delivery of the Minimum Order Quantity, Z Energy may require the Customer to pay the price agreed pursuant to section 1 in respect of the Minimum Order Quantity rather than the actual quantity of Marine Fuels delivered.