

BUNKER GENERAL TERMS & CONDITIONS

OMV SLOVENIJA d.o.o.

**General Terms and Conditions for the sale and supply of Marine Fuels
(2018 Edition)**

1. Applicability

1.1 The following General Terms and Conditions shall apply to any and all sales of Marine Fuels by OMV Slovenija d.o.o. - Koper, Slovenia either to Shipowners and traders and other companies.

1.2 Unless specifically agreed in writing, OMV Slovenija General Terms and Conditions shall apply to any and all sales of Marine Fuels in the Slovenian territory and abroad.

2. Definitions

In these General Terms and Conditions the following words or expressions, unless the context otherwise requires, shall mean:

Affiliate: Any company which is economically and/or commercially controlled by or incorporated to OMV Slovenija, or which is under common ownership.

Agreement: The confirmation of bunker, these General Terms and Conditions and The documents attached.

Bad weather: High winds, adverse currents, tides and/or atmosphere conditions such as heat, fog, precipitation, waves and/or any other event that prevents bunkering operations and/or renders the presence of the vessel at berth unsafe.

Barrel: 42 US Gallons at 60° F and 15°C.

Berth: A berth, dock, anchorage, submarine line, single point or single berth mooring facility, off shore location or any other loading or discharge place as may be indicated by Buyer.

Buyer: The company ordering the bunker together with the registered owner of the vessel whose benefit the bunker is ordered.

Buyer' s: All and any vessels nominated by Buyer even if owned,

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Vessels operated, time chartered, managed or controlled by third parties and/or by any affiliate of Buyer or by any sister company.

Confirmation The contract telex or other form of agreement in which, by of Bunker reference, these General Terms and Conditions are incorporated to.

F.O.B. The trade term incorporated in the Incoterms ICC publication issued in year 2000 and subsequent amendments.

Independent An individual or company that is third to the Parties and which costs

Inspector are equally shared (50/50) between the Parties.

Independent A laboratory that is third to the parties and which costs are equally

Laboratory shared (50/50) between the Parties.

Marine Fuels Fuel oil, marine diesel and gasoil, also referred to as the Product and/or Bunker.

Parties Collectively the Seller and the Buyer.
Party Either Seller or Buyer as the case maybe.

Seller OMV Slovenija and/or affiliates also abroad and/or authorised agent who works in the name of OMV Slovenija.

Working The hours of work according to the port regulations or, in the lack of Hours such regulations, the hours from 8 a.m. to 5 p.m.

3 Scope

Seller shall sell and Buyer shall buy the Marine Fuels as defined in article 1 to be delivered at one or more ports at the conditions indicated here below and in the Confirmation of Bunker.

4 Entire agreement

4.1 These General Terms and Conditions and the documents attached contain or will contain all the terms which the Parties have agreed upon in relation to the sale of Marine

Fuels and none of the Parties to this Agreement has been induced to enter into this Agreement or any of those documents by a statement or promise which they do not contain.

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4.2 These General Terms and Conditions will apply to any and all sales of Marine Fuels even if not referred to in telexes and can be modified or integrated by the Parties only in writing.

5 Delivery, title and risk

5.1 For deliveries by barge the risk and title will pass onto Buyer at the vessel's permanent hose connection. Connection and disconnection of delivery hoses are at the risk of Buyer.

5.2 Parties can expressly agree that for deliveries by barge the risk and title will pass onto Buyer FOB, to be intended at the barge's permanent hose connection at the loading of the barge.

5.3 For deliveries by truck, the risk and title will pass onto Buyer at the vessel's permanent hose connection, unless it has been expressly agreed that they will pass at the loading of the truck. Connection and disconnection of delivery hoses are always at the risk of Buyer.

5.4 Any deliveries are subject to weather permitting, vessels' priority, if any, and working hours. If vessel arrives out of working hours, all extra costs shall be for Buyer's account.

5.5 Seller shall not be liable for any loss or demurrage due to congestion of the terminal or to lack of availability of barges for the product to be delivered.

5.6 Deliveries offshore are in any case also subject to the barge's captain confirmation that weather conditions permit delivery in conformity to port regulations on off shore bunker. In case Marine Fuel cannot be delivered because of the Captain determinations, Seller will not be responsible for non delivery or delay in the delivery.

5.7 Buyer for whatever reason is unable to receive the full quantity ordered and rendered, the Seller shall have the right to invoice the Buyer for the loss incurred by having to transport the Bunkers back to the storage or by having to sell the bunkers in a degraded form at a lower price than that applicable to the grade originally nominated by the Buyer.

The Seller may use this right without prejudice to the Seller's other rights for damages or otherwise pursuant to these terms.

6 Obligations of the parties

6.1 The Buyer shall:

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6.1.1 Procure a safe berth. All costs due to terminal or berth congestion shall be for Buyer's account.

6.1.2 Pay all costs and port expenses.

6.1.3 Ascertain and guarantee that vessel tanks are clean and cargo worthy under all respects.

6.1.4 Verify that bunker which might be already onboard is consistent with the one ordered to Seller. Seller not to be liable or anyhow responsible for any problems due to the incompatibility between the two products.

6.1.5 Communicate to Seller exact time of delivery of the bunker. The failure by Buyer to give such communication shall free Seller of its obligation to deliver the Marine Fuel and the order of bunker shall be deemed cancelled.

6.1.6 Take prompt delivery of the bunker. Buyer to indemnify Seller of costs and expenses of barge demurrage or truck overtime due to its delay in taking delivery.

6.1.7 Pay the price of bunker and the costs indicated in article 10.

6.1.8 Should the vessel for any reason arrive later than 3 days after the ETA reported in the Confirmation of Bunker, reimburse to Seller all costs and expenses due to the late arrival of the vessel, being in any case understood that Seller will be freed of its obligation to deliver bunker.

6.1.9 Pay for all costs and reimburse to Seller all expenses and charges due to its unfulfillment of any of the obligations set forth in this paragraph 6.1.

6.2 The Seller shall:

6.2.1 Verify that the product to be delivered meets the requested specifications.

6.2.2 Deliver the bunker to Buyer timely.

6.2.3 Deliver to Buyer the quantity requested according to paragraph 7.1.1, being in any case binding the determination referred to in paragraph 7.1.3 or 7.1.4

6.2.4 Issue a formal invoice after bunker has been delivered.

7 Quantity

7.1 Quantity determination

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7.1.1 The quantity to be sold is that indicated in Buyer's request communicated to Seller directly or through an agent/broker and confirmed by Seller to Buyer or to the agent/broker.

7.1.2 Should Buyer require a different quantity to be delivered after confirmation has been sent by Seller, Seller will make reasonable efforts to satisfy Buyer's request but with no obligation whatsoever to deliver the quantity exceeding that indicated in the Confirmation of Bunker.

7.1.3 Quantity shall be the one determined by barge tank. Such determination shall be binding upon the parties unless a specific remark is written by Buyer's representative on the bunker receipt.

Truck delivery quantity is determined by truck loading documents.

Discharge of delivered quantity shall not start if there is any dispute on delivered quantity. Buyer has a right to express quantity doubt before discharge is started. Quantity claims after discharging are irrelevant.

7.1.4 Should bunker quantity be subject to determination by custom authorities, it is understood that the quantity binding upon the parties shall be exclusively the one resulting from such determination, and afterwards indicated in the pertinent document delivered by the authority mentioned above.

7.1.5 Buyer has the right to be represented at the time of measurements.

7.1.6 Should a dispute arise on the quantity delivered, the parties shall immediately appoint (before start discharging delivered quantity) an Independent Inspector which shall ascertain the quantity actually delivered and whose determination shall be final and binding upon the parties, unless Independent Inspector's wilful misconduct or fundamental error is proven. Costs for inspections shall be equally shared between the parties.

7.2 Adjustments

7.2.1 Seller shall make allowance, and the invoiced volume will be adjusted, for all water and non petroleum sediments in excess of 1 % in bunker fuel oil and intermediate bunker fuel oil.

7.2.2 The invoiced volume shall be at 60° F or 15° C. The volume at the delivered temperature shall be adjusted using the following, current ASTM-IP Petroleum

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Measurements Tables:

- A) Adjustment to 60° F: ASTM-D 1250 (IP 200) (American Edition) Table 6;
- B) Adjustment to 15° C: ASTM-D 1250 (IP 200) (Metric Edition) Table 54 with density at 15° C and Specific Gravity at 60° F adjusted per Table 3.

7.3. Data Protection Clause

Notwithstanding any other provisions hereunder, national data protection laws and the General Data Protection Regulation (GDPR) EU 2016/679 (as of the date of its legally binding applicability, which is May 25th, 2018), shall apply.

Each party shall use, and ensure that its respective subcontractors use, all personal data of the disclosing party or of third disclosing parties exclusively for the purposes of performing under [this Agreement].

The disclosing party confirms that it is authorized to provide the receiving party with personal data.

If one party shall act as data processor as per applicable data protection laws, the parties shall enter into a data processing agreement (in accordance with the legal requirements of Art. 28 GDPR) or an equivalent thereto in order to ensure legal compliance with respect to such data processing.

If during the performance of [this Agreement] the receiving party needs to transfer personal data to third parties, the receiving party shall enter into similar data processing agreements in accordance with and to the extent required by this clause. Upon termination of [this Agreement], the receiving party shall, upon written request by the disclosing party (acting reasonably), return to the disclosing party all received personal data as well as the results of the processing of such data and shall delete all copies thereof, except for any data retention due to statutory retention obligations. During the performance of [this Agreement] and any applicable additional retention time, the receiving party shall:

- (i) keep personal data of the disclosing party protected by state-of-the-art security measures and
- (ii) restrict access to trained staff that is committed to appropriate confidentiality obligations.

The receiving party shall not transfer or process any personal data from or outside the European Economic Area (EEA) without procuring beforehand that any subcontractor enters into and complies with the Standard Contractual Clauses (or **such other clause** or agreement which may be approved from time to time by the European Commission).

All obligations set out in this Clause 7.3. shall survive any termination of [this Agreement].

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8 Quality

8.1 Quality shall be determined by the parties in the Confirmation of Bunker and shall be the one generally offered and available to Seller at the place of delivery for similar use. The grades which are available to Seller at delivery port will be indicated on Seller's Marine Bunkering Services or other publication by Seller made known to Buyer and that the latter shall verify before entering the contract.

8.2 Should the above quality not be available, Seller will inform Buyer and offer the grades and quantities available at that time without any liability whatsoever to Seller.

8.3 Five samples of the delivered bunker shall be taken, all to be kept for two months: three for Seller (two for physical supplier; one of them to be held by barge loading deposit at disposition for between parties agreed analyse in the Independent Laboratory (as defined in 8.4), two for Buyer (one for MARPOL; one for Buyer). All samples shall be taken from the barge tank or at the barge's hose connection. No other sample shall be representative for Seller. All samples shall be sealed and signed by both parties.

8.4 Should a dispute arise on the quality delivered, the Parties will proceed to their own ascertainments on the samples. Should the results of the tests of quality differ, and the parties not reach an agreement, chapter 10 of EN ISO 4259 shall apply.

9 Prices

Prices shall be Seller's current prices at time and place of delivery as set forth in Seller's Confirmation of Bunker.

10 Charges

In addition to the prices of Marine Fuel, Buyer shall pay the following charges:

- a) current barge charges, for any delivery by barge;
- b) current truck charges, for any delivery by truck;
- c) any mooring or unmooring charges, booms charges, agency fees, port dues, ecological or safety measures costs which Seller may incur in connection with any vessel Marine Fuel is delivered to;
- d) any duties and/or taxes incurred by Seller or for which Seller is accountable in respect of deliveries of Marine Fuel;
- e) any additional cost incurred by Seller in respect of payments for overtime.

11 Invoicing

11.1 The invoice will be sent by authorised courier or through the Postal Service and will be anticipated by fax or e-mail.

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11.2 Seller shall invoice on the basis of weight indicated in the customs/fiscal documentation.

11.3 The invoice shall indicate prices of the products and include all data, and particularly:

- the Product and the quantity delivered;
- the customs position;
- the facility of delivery and the terms of delivery.

12 Payment

12.1 Payment to Seller for Marine Fuel delivered shall be made in US Dollars or, at Seller' s option, in Euro in advance or in 30 days after bunker has been delivered, unless a different period of time is indicated in the confirmation of bunker. Seller can demand other financial guarantee instruments that has to be indicated in the confirmation of bunker or in the contract.

12.2 Payment to Seller shall be made to Seller's bank through telegraphic transfer of payment.

12.3 Should payment by Buyer not be made within the period of time referred to in paragraph 12.1, Seller will charge Buyer default interests as provided by EC Directive n.2000/35.

12.4 Should the last date for the payment fall on a Saturday, payment shall be made on the nearest preceding banking day; should the last date for the payment fall on Sunday or other day that is not a banking day, payment shall be made on the next following banking day.

12. 5 Should at the time of the maturity of the Seller's claims against the Buyer any obligation of the OMV group (ie Aktiengesellschaft or a corporation in which OMV Aktiengesellschaft holds – directly or indirectly – a share) towards the Buyer arise or exist, the Seller shall be entitled , but not obliged, to set-off these obligations up to the amount of the claims. The Seller shall have such right also against any assignee or any other person claiming rights in these obligations – even if OMV group has consented to assignment.

13 Taxes

13.1 The amount of taxes, duties and any other governmental exaction, of whatever kind and however denominated (hereinafter called "taxes"), directly or indirectly applicable with respect to Marine Fuel or raw materials from which they are manufactured, shall be for the account of Buyer, except the following:

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- a) taxes on imports, except as provided, if at all, in Seller's Marine Fuel bunkering service;
- b) taxes on net income;
- c) taxes on ownership by others than Buyer.

13.2 Whenever any amount of taxes for the account of Buyer is collectable from any person other than Buyer, it shall be paid by Buyer on demand.

14 Indemnity

Buyer shall indemnify and hold Seller harmless from any and all consequences and/or responsibilities arising out of any and all uses of the product by Buyer after the product has been delivered to Buyer.

15 Bunker usage

Being in any case understood Seller's indemnity as referred to in paragraph 14, Buyer undertakes and guarantees that the Marine Fuel supplied by Seller to Buyer shall not be used by the latter in any way other than for the bunkering requirements of Buyer's vessel.

16 Agency

16.1 Being in any case understood Buyer's responsibility under these General Terms and Conditions, if the agreement is entered into by an agent of Buyer, whether such agency is disclosed or undisclosed, then such agent shall be liable not only as agent but also for Buyer's obligations under this agreement.

16.2 Should delivery be made not directly by Seller, rather by a third party as an agent of Seller, it is understood the applicability of the provisions under this agreement at any effect.

17 Notices

17.1 Commercial notices to be given to Seller under this agreement, except those which for general custom are addressed only to Seller's local agents and/or representatives, shall be addressed to OMV Slovenija, Koper.

17.2 Should a different address be indicated in Seller's bunker confirmation, such notices shall be addressed to both the address indicated above and that referred to in paragraph 17.1.

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17.3 Should the agreement be entered into by an agent and/or a broker of Buyer, then any commercial notice to be given to Buyer shall be addressed to such agent and/or broker, who is assumed to act as a representative of Buyer, at its own address as specified in the agreement, unless Buyer specifically requests to be made known of such notice, in which case the latter shall also be addressed to Buyer's registered office.

17.4 Commercial notice to be given under the provisions of this agreement shall be delivered or sent by registered or ordinary post or by wireless or cable or other telegraphic mean or by e-mail.

17.5 All such notices shall be deemed given upon receipt; notice of termination shall be given by registered post.

18 Health and Safety

18.1 Buyer shall provide its employees, agents, contractors and any other persons who will handle or who may come into contact with Product supplied under these Terms and Conditions with the HSE Information attached ("Product Safety Data Sheet") and Buyer shall ensure that any recommendation relating to handling and use of such Product set out in the HSE Information is followed by all such persons. In relation to Product supplied under these General Terms and Conditions and from the point at which risk and property pass to Buyer, Buyer shall ensure that any obligation, requirement or recommendation in respect of health, safety and the environment relating or applying to Product, is complied with under the laws, statutes, regulations or directives in force in or applying to any locality in which operations involving Product are carried out by or on behalf of Buyer.

18.2 Buyer shall indemnify and hold harmless Seller and keep Seller indemnified and held harmless from and against any liability, claim, loss, damage or proceeding arising directly out of or in connection with any failure whatsoever to comply with the obligations set out in this article. Compliance by Buyer with any recommendation contained in the HSE Information shall not excuse Buyer from compliance with any other obligation or recommendation it is required or advised to comply with in relation to Product by virtue of any law, statute, regulation or directive in any locality, territory, state or jurisdiction, or from any liability arising out of its failure to comply with any such obligation or recommendation. Seller shall not be responsible or liable in any respect whatsoever for any loss, damage or injury resulting from any hazard inherent in the nature of Product.

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18.3 Seller reserves the right, but without thereby accepting or implying acceptance of any liability or obligation, to withhold, cease or suspend the supply of Product if Buyer commits by action or default any breach of this Clause or if, on reasonable grounds, Seller considers that any action, activity, operation or operating system conducted by or on behalf of Buyer with regard to Product is or may be prejudicial to good health, safety and/or environmental protection practice as regulated and enforced in the locality in question.

19 Claims

19.1 Any and all claims arising out or in connection with Marine Fuel supplied shall be null and void if not submitted by Buyer to Seller within 8 days after Marine Fuel has been delivered.

19.2 Being understood the above, the claim shall be null and void if not supported by the documentation indicated here below and if the following procedures are not followed:

Quantity

- a) formal written remarks by the Captain on the bunker receipt, prior to the ship's sailing, indicating the assumed different quantity loaded;
- b) request to Seller of the joint ascertainment, the different quantity claimable being only the one ascertained by the Independent Surveyor referred to in paragraph 7.1.6.
- c) request and quantity claim was done before start discharging delivered quantity;

Quality

- a) formal request by Buyer indicating and describing the claim;
- b) written request to Seller of ascertainment referred to in paragraph 8. 4.

20 Force Majeure

20.1 Seller and Buyer shall not be liable for delay or failure to perform this Agreement when such performance is prevented either totally or partially by force majeure, meaning such expression any cause beyond the reasonable control of the parties themselves including but not limited to act of God, war (whether declared or not), act of terrorism, civil commotion, strikes, earthquakes, breakdown or injury to producing, manufacturing, selling delivery facilities, strike, whether involving the employees of Seller and/or Buyer or otherwise, shortage in sources of supply and/or in means of transport, exceptional weather conditions, closing or limitations of functioning of power plants and/or reception facilities, exceptional weather conditions.

20.2 Should such a contingency prevent or delay one of the party's performance, it shall be made known to the other timely.

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20.3 The party whose performance is delayed shall make the other know the approximate lasting of such a contingency, when known, and shall make any reasonable efforts to remove or to mitigate the effects of such event timely.

20.4 Should the performance be prevented, or delayed for more than 5 days, the agreement will terminate and the Parties shall be relieved of their obligations hereunder.

20.5 Quantities not sold or purchased due to the occurrence of such a contingency need not to be made up later.

20.6 Seller shall not be liable for demurrage due to such a contingency.

21 Extraordinary Onerosity

21.1 The Parties agree that events not foreseeable when this agreement is signed and not attributable to any of the Parties may occur and make the contract too burdensome for one of the Parties.

21.2 In the case provided by paragraph 21.1 the Parties shall exercise their best efforts to agree on the actions to take for such extraordinary onerosity. Should the cause can not be removed the Party affected may terminate the contract in accordance with the Civil Code.

22 Friendly Composition.

22.1 The parties undertake to come to a friendly composition for the settlement of any dispute, other than the ones arisen as to quantity and/or quality to be delivered which are already regulated by paragraph 19, based on or arising out of this agreement within 60 days after such dispute arises.

22.2 In order to come to the composition referred to in paragraph 22.1, the claimant shall communicate to the other party the object of its claim within 15 days after claim arises and shall ask for a meeting with the other party's representative.

22.3 Within 15 days the communication mentioned in paragraph 22.2 has been made, the party to which the claim has been communicated shall accept or object such claim and, in the latter case, shall appoint its representative.

22.4 The representatives of the parties shall meet within 40 days after such dispute arises and make any reasonable effort to settle the dispute, letting in any case each other's party know in writing the outcome of the meeting within the next 20 days.

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23 Termination

23.1 This Agreement will be terminated by law in case one Party goes into bankruptcy or liquidation or becomes subject to any other form of insolvency procedures.

23.2 Termination will be without prejudice to any other remedy including compensation of damages to which a Party is entitled to by contract or by law. Termination will be without prejudice to the rights and obligations already arisen.

24 Assignment

24.1 This Agreement may not be assigned by one Party to third parties without the written consent of the other Party.

24.2 The Assignment of this Agreement by Seller to its Affiliate/associated companies is admitted without the consent of Buyer and will be valid upon written notice by Seller to Buyer of such assignment.

25 Applicable Law and Jurisdiction.

25.1 Except as otherwise expressly agreed to in writing, the contract, its performance and enforcement shall be governed by the Slovenian law.

25.2 The place of exclusive jurisdiction shall be Koper.

25.3 This general terms are published in Slovenian and English language. In case of conflict in understanding the English version shall prevail.

26 Other Terms and Conditions

27.1 In case of a conflict between the Confirmation of Bunker and these General Terms and Conditions, the Confirmation of Bunker shall prevail.

27.2 Incoterms 2000 edition for FOB delivery with latest amendment shall apply. In case of a conflict between this Agreement and Incoterms, this Agreement shall prevail.

28 Attachments

HSE Information ("Product Safety Data Sheet");