

Definitions

Broker: the private company with limited liability **Bunkerlink B.V.** as registered under Belgium law and domiciled in the city of Antwerp at the Paul Smekensplein 4, B-2000, as well as any ancillary entities and subsidiaries.

Buyer: the party detailed as Buyer in the Bunker Confirmation irrespective of whether the purchase is for itself or for a third party.

Bunker Confirmation: the confirmation of the Supply Agreement.

Bunker Fuel: Marine Bunker Fuel and related product and services.

Parties: the parties to these terms and therefore Seller, Buyer and Broker together.

Seller: the party as detailed in the Bunker Confirmation as the Seller.

Supplier: the party as detailed in the Bunker Confirmation as the Supplier and with that deemed to be the physical supplier, irrespective of whether that party is in fact the actual physical supplier.

Supply Agreement: The purchase and delivery agreement for the supply of Bunker Fuel between Buyer and Seller.

Standard Terms: these terms and conditions and any subsequent amendment thereto.

Vessel: the vessel or any installation the Bunker Fuel is to be delivered to.

Management: the formal Board of Broker and any person acting in that capacity.

1. General

1. These Standard Terms apply to all services to be provided by Broker, to all (invitations for) offers, agreements and negotiations with Broker. Any other conditions of which the applicability have not explicitly been accepted by Broker are excluded.
2. In so far as acceptable under mandatory applicable law communication via email or Whatsapp complies with a writing requirement and a notice of Broker with legal effect can be done by any of these means. The proof of sending of an email or Whatsapp message by Broker is conclusive evidence of receipt of the message by Buyer or Seller.
3. If any of the following terms are considered invalid or nullified by any thereto authorized entity this will not invalidate the remaining terms of these Standard Terms. The nullified or invalid term will be replaced by a term with similar purposes.

2. Price and Payment

1. Broker will receive a pre-fixed agreed commission from Seller for the services of bringing Seller and Buyer together. In case of de-bunkering arranged by Broker, for whichever reason and on whichever grounds, a commission per unit shall be payable to Broker, the amount to be agreed with the party instructed for the de-bunkering, which in such case will be for the purposes of these Standard Terms, the Seller. These terms will apply also in case of de-bunkering.
2. The price is always either in Euro's or American Dollars (USD) and excludes any other costs such as applicable taxes and excise duties.
3. Unless otherwise agreed, payment has to be made within the payment period which shall always be 30 days after delivery of the Bunker Fuel or receipt of the invoice, whichever comes first. Overdue payments shall be increased with the statutory interest of article 6:119 a DCC ("handelsrente") and the actual costs made for the recovery of the receivables as opposed to liquidated costs.
4. Any (local) costs, such as for overtime, demurrage or excise duties are always for the risk and account of Buyer. If those are the result of Buyer being incomplete in its information or documentation or any other circumstance attributable to Buyer, Buyer shall also be liable for additional damage of Broker.
5. Neither Seller or Buyer shall be entitled to any set off, reduction, discount, or retention for any amounts owed to Broker and neither are such receivables subject to an attachment, seizure or incumbrance. Upon Broker's request the party it concerns shall provide Broker an on demand bank guarantee from a first-class bank for any claim Broker has on that party.

3. Obligations of Broker and liability

1. Broker acts as an intermediate only and its sole obligation is to bring Buyer and Seller together for the purpose of entering into a Supply Agreement. Broker is not a part of the Supply Agreement. The Supply Agreement exists solely between Buyer and Seller and Broker holds no obligation or liability for the performance of that agreement.
2. The Supply Agreement is arranged in accordance with the instructions from and information of Buyer. Broker holds no liability for any damage resulting from any incompleteness in that regard.
3. If any liability of Broker, on whichever legal ground or basis, the liability is always limited to the amount of the commission agreed or that would have been agreed in the relevant case.

4. Broker shall never be liable for indirect damage or consequential loss. Loss of profit, loss of opportunity delay, detention, demurrage, charter hire, loss of freight, crew wages, pilotage, towage, port charges, punitive damages or any costs involved with the replacement of fuels will be considered consequential loss, for the purpose of this clause, whether or not a direct result of the damaging event and whether or not foreseeable.
5. The aforementioned will not apply in case the liability of Broker is the result of Broker's intent or willful misconduct bordering intent ("bewuste roekeloosheid) of the Management or a person who can be equated with the Management.
6. The Supply agreement shall be on Seller's terms and Buyer is to acquaint himself with the content of those terms. Seller's terms or in any case the BIMCO Bunker Terms 2018, whichever more favorable, shall be also to the benefit of Broker in the eventuality that Broker would be held the Seller and/or Supplier or liable as such, with the exclusion of the choice of law- and jurisdiction- or arbitration clause in those terms. Instead the jurisdiction- and choice of law clause in these Standard Terms, shall apply at all times.
7. Any claim against Broker shall expire if not brought before the competent authorities within one year of delivery or the date delivery should have taken place.

4. Obligations of Buyer and Seller

1. Its for Buyer and Seller to comply with applicable regulation for the purchase, sale and delivery of Bunker Fuel, including regulations on sanctions and anti-bribery.
2. Notwithstanding the above Broker is entitled at its first request to be informed on the ultimate beneficial owner of Parties as well as on the entity and ultimate beneficial owner of the end user of the Bunker Fuel.
3. Each party shall ensure that none of its acts shall be considered an offence under any anti-bribery or anti-corruption act or regulation. Parties shall refrain from accepting or offering any gift or consideration of any kind which has the intention of inducement or reward of any Agreement or favorable treatment to that intent.
4. Under no circumstances is Broker obligated to perform an agreement if that would mean a breach of sanction- or sanction related regulations or any other law or regulation applicable.
5. Imposed sanctions are a ground for immediate termination of any agreement of Broker without Buyer or Seller being entitled to compensation. Other grounds for termination without compensation are a severe breach of the agreement with Broker, insolvency or moratorium or an equivalent state of either of the parties or a filed request thereto at the competent authorities and seizures or arrests under Broker for third party claims on one of the parties.

6. Buyers are responsible for satisfying themselves that a request for Bunker Fuel includes all the requirements for the Bunker Fuel with regards to, amongst others but not limited thereto, specific grade and quantity. Seller is obligated to comply with the requirements accepted. Broker gives no warranty whatsoever of compliance in this regard.
7. Broker does not accept any liability for advice on any (statutory) requirements or obligations with regards to the Fuel, the Supply Agreement or requirements at the place of delivery and possible excise duties. Any information given by Broker in that regard is to be considered an indication only, without admission of liability and should be checked on accuracy at all times.

5. Confidentiality

Parties shall treat as confidential all information received from the other party in the conclusion or performance of the agreement with Broker. Parties hold ownership and intellectual property, if any, of the information shared and the documents and devices on which they were shared. Upon termination of the agreement with Broker, information and the documents and devices they were received on shall be returned to the party that shared the information. Disclosure of the confidential information is only permitted after written permission of the other party and or if there is such requirement by law.

6. Jurisdiction and Applicable law

1. Dutch law will apply at all times to the legal relationship(s) between parties.
 - a. Unless opted for sub b, disputes on whichever legal ground shall be dealt exclusively by the Rotterdam court of the Netherlands and in Dutch.
 - b. Broker can instead opt for arbitration under the regulations of the UNUM institute in which case arbitrators shall have exclusive competence over the dispute(s) at hand. The arbitration shall be in English unless all parties involved understand the Dutch language. Arbitration to take place in Rotterdam, the Netherlands. Claims of (the equivalent of) EUR 100,000 or less shall be dealt by one arbitrator.