



**REGULATOR FOR ENERGY AND WATER SERVICES
ACT XXV, 2015**

**BUNKERING (AUTHORISATION) REGULATIONS,
SL 545.25**

**AUTHORISATION FOR THE LOADING, DISCHARGING
AND TRANSFERRING OF FUELS BETWEEN A ROAD
TANKER AND A RECEIVING SHIP**



**AUTHORISATION TO CARRY OUT THE ACTIVITY INVOLVING THE LOADING, DISCHARGING
AND TRANSFERRING OF FUELS BETWEEN A ROAD TANKER AND A RECEIVING SHIP**

Authorisation Number: REWS/ BUN/RTK/xxx/yy

PARAGRAPH TO BE USED IN THE CASE OF AN INDIVIDUAL

Authorisation granted by the for Energy and Water Services under the ‘Bunkering (Authorisation) Regulations, (SL 545.25), hereinafter to be referred to as ‘the Regulations’ to **Name and Surname**, holder of Identity Card / Passport Number **123456(M)** with the contact address at **House name, Street name. Town, Postcode**, (hereinafter to be referred to as the ‘authorised provider’) who is being granted an authorisation for the loading, discharging and transferring of fuels between a road tanker and a receiving ship.

PARAGRAPH TO BE USED IN THE CASE OF A COMPANY / LEGAL ORGANISATION

Authorisation granted by the Regulator for Energy and Water Services under the ‘Bunkering (Authorisation) Regulations’, (SL 545.25), hereinafter to be referred to as ‘the Regulations’ to **Company** or **Legal Organisation**, having Registration Number **(Reg No.)** with the contact address at **House name, Street name. Town, Postcode**, (hereinafter to be referred to as the ‘authorised provider’) who is being granted an authorisation for the loading, discharging and transferring of fuels between a road tanker and a receiving ship.

Authorisation is being granted under the attached conditions for the time span declared hereunder. The fee for applying for this authorisation is of €500 (Five Hundred Euro). The present annual authorisation fee associated with the loading, discharging and transferring of fuels between a road tanker and a receiving ship is of €500 (Five Hundred Euros) and of €50.00 per tanker per annum and of €0.20 (Twenty Euro cents) per tonne of fuel released for marine bunker purposes. This annual authorisation fee may be changed as per applicable legislation / regulations in force at the time.

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Validity of the Authorisation: DD/MM/YYYY to 10 Years after

Name
Chairman

Name
Chief Executive Officer

SPECIMEN

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1.0 DEFINITIONS

In this authorisation (except in so far as the context otherwise requires) the definitions of the terms used in this authorisation are the same as those in the Regulator for Energy and Water Services Act (Cap 545), the Bunkering (Authorisation) Regulations (SL 545.25), and the Dangerous Cargo Ships, Marine Terminals, and Facilities and Bunkering Regulations (SL 352.13). For the purposes of this authorisation, the following definitions shall also apply:

- 1.1. “ADR” means the “UNECE Agreement Concerning the International Carriage of Dangerous Goods by Road”;
- 1.2. “biofuels” means liquid or gaseous fuel produced from biomass;
- 1.3. “fuel” shall have the same meaning as under the Regulator for Energy and Water Services Act but shall also include biofuels;
- 1.4. “inspector” means any employee or officer of the Regulator or any other person duly appointed and authorised in writing by the Regulator, in accordance with the provisions of the Regulator for Energy and Water Services Act, to inspect and check compliance with the Regulations and any authorisation condition.
- 1.5. “road tanker” means any vehicle which may be used for transporting fuels;
- 1.6. “TM” means “Authority for Transport in Malta” established under the Authority for Transport in Malta Act (Act 15 of 2009)

2.0 LIMITATIONS, VARIATIONS AND AMENDMENTS

2.1. Limitations

2.1.1. Nothing in this authorisation or the conditions attached thereto should be construed as, and/or should in any way be understood and, or be deemed to exonerate the holder and/or any other person or persons from being obliged to observe, comply with or carry out any requirement or comply with a provision of any law or subsidiary legislation or any other legal requirement for the time being in force.

2.2. Variations and Amendments of authorisation conditions

2.2.1. Special authorisation conditions may be attached to this authorisation upon its granting and subsequent to that time thereof. The continuing validity of this authorisation shall be subject to adherence to such special authorisation conditions.

2.2.2. Any special condition, exemption or variation shall be read together with, and construed as being part of these conditions, unless otherwise specified.

2.2.3. Any general condition in 3.0 GENERAL CONDITIONS or special condition in 4.0 SPECIAL CONDITIONS OF THE AUTHORISATION of this authorisation may be amended or varied, or new general and special conditions added, at the discretion of the Regulator for Energy and Water Services, according to applicable laws and Regulations, giving where practicable due notice to the authorised provider.

3.0 GENERAL CONDITIONS

3.1. Validity

- 3.1.1. This authorisation permits the authorised provider to load, discharge and transfer fuel from a road tanker to a receiving ship.
- 3.1.2. Any change in the data provided in the application form submitted to the Regulator for the issue of this authorisation shall be properly notified to the Regulator in the form and manner as required by the Regulator.
- 3.1.3. The authorised provider shall inform the Regulator of any changes relating to his activity which may result in the conditions for his authorisation no longer being met. The creation of subsidiaries of the authorised provider whose activities fall within the scope of this authorisation shall require the prior approval of the Regulator.
- 3.1.4. This authorisation shall remain valid as long as the authorised provider continues to operate in a “bona fide” manner in accordance with laws, regulations and good practice.
- 3.1.5. This authorisation shall be automatically suspended and may be subsequently revoked if the authorised provider is insolvent, or makes a general assignment or other arrangements for the benefit of creditors, or appoints a liquidator.
- 3.1.6. The authorised provider is authorised to load, discharge and transfer to a receiving ship only those petroleum and, or fuel products which he is able to transport in a tank vehicle which is intended for carriage of those particular petroleum and, or fuel products and for which the road tanker is accordingly authorised.
- 3.1.7. The authorised provider is authorised to load, discharge and transfer bunkers to a receiving ship only from road tankers listed in Annex I of this

Authorisation. The authorised provider is required to obtain from and in the form and manner as required by the Regulator, the necessary approval for any changes, additions or reductions to his fleet of road tankers listed in Annex I of this Authorisation.

By 'reductions' it is understood both the removal from service of the road tanker as well as the leasing of the road tanker to third parties.

3.1.8. The authorised provider is authorised to load, discharge and transfer to a receiving ship only those petroleum and, or fuel products listed in Annex II of this Authorisation. The authorised provider is required to obtain from and in the form and manner as required by the Regulator, the necessary approval for any changes, additions or reductions to the schedule of petroleum and, or fuel products listed in Annex II of this Authorisation.

3.1.9. The authorised provider is prohibited from receiving petroleum and, or fuel products into a road tanker directly from a ship unless otherwise authorised in writing by the Regulator and by any other relevant Authority.

3.1.10. The authorised provider is prohibited from using any road tanker for any other activity other than for bunkering purposes unless otherwise authorised in writing by the Regulator.

3.2. Compliance

3.2.1. The authorised provider and all persons acting and, or employed on his behalf shall comply with the Regulations, Codes of Practice and other applicable legislation / regulations and license or permit however so described in force at the time.

3.2.2. This authorisation shall not exempt the authorised provider from a requirement under any other law requiring the holding or obtaining of any other authorisation, license or permit however so described.

3.2.3. The authorised provider and all persons employed by him shall execute the regulated operations, activities and practices in accordance with the conditions associated with the authorisation and must comply with the guidelines, decisions and directives which may be issued by the Regulator from time to time. The authorised provider undertakes to accept directions in the form of letters, emails, standards, guidelines, codes of practice or rules given by the Regulator, intended to explain or amplify the conditions associated with this authorisation or otherwise to improve the general conduct of activities regulated by this authorisation.

3.2.4. The authorised provider must ensure that his bunkering activity is carried out in full conformity to the ADR requirements.

3.2.5. The authorised provider must ensure that any vehicle listed in Annex I of this Authorisation has a valid parking permit issued by a competent authority.

3.3. Requirements and Obligations

3.3.1. The authorised provider shall:

3.3.1.1. pay any authorisation fee due to the Regulator;:

3.3.1.2. be compliant with all other relevant permits and authorisations, however so described, issued by any other public authority or Government Department;

3.3.1.3. be capable to ensure safety conditions, in the context of this authorisation;

3.3.1.4. be of private and professional integrity;

3.3.1.5. protect the environment;

3.3.1.6. have a record of compliance with the Regulations and any other relevant laws;

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3.3.1.7. ensure an operational set-up compliant with regard to security, health, safety, hazardous substances, environment, land use and planning requirements;

3.3.1.8. ensure an operational set-up where the interests of consumers are safeguarded;

3.3.1.9. limit the possibility of a monopolistic or an oligopolistic condition in the bunkering market, detrimental to the public interest being created or aggravated, and the extent to which fair and reasonable competition in the retail of petroleum could be affected;

3.3.1.10. act in a manner which does not impede the orderly provision, and, or distribution and, or retail of petroleum and, or biofuel in Malta;

3.3.1.11. act in a manner which does not impede the public interest; and

3.3.1.12. be compliant with the requirements contained in the Authorisations (Suspension, Refusal and Revocation) Regulations, SL 423.30.

3.3.2. The authorised provider shall endeavour to promote the efficient operation of the petroleum market, customer service obligations and protection of consumers in terms of lowest possible prices combined with the highest quality of petroleum products.

3.4. Records and Supply of Data

3.4.1. The authorised provider shall maintain a customer complaint register and proceedings, in a form approved by the Regulator, which shall be made available for examination to the Regulator upon demand.

3.4.2. The authorised provider must maintain proper books of accounts supported by adequate and comprehensive records, which should be in accordance with

guidelines that may be issued from time to time by the Regulator or as the Regulator may direct. The authorised provider shall keep records of all transactions in respect of this authorisation and of activities related to this authorisation and to keep originals of all audited accounts at their principal place of business. The authorised provider shall keep and maintain such records for a minimum period of five years, or for such longer periods of time as may be directed by the Regulator. The authorised provider shall make any copies necessary or hand over extracts of such records as may be required by the Regulator. The Regulator shall have the right to publish information regarding activities and statistics related to this authorisation and of activities related to this authorisation.

3.4.3. The authorised provider shall submit, in the form established by the Regulator, and within a period of time, being not later than the first week of the second month from date of release for consumption from a customs warehouse, a list of fuel quantities released for bunker purposes. Together with this data, the authorised provider shall pay to the Regulator the fee per tonne of fuel, based on the amount of fuel released for marine bunker purposes as established by law. The authorised provider shall submit such data in the form and manner that may be required by the Regulator. The authorised provider shall submit such data for each month. The data shall reach the Regulator by not later than the first week of the second month from date of release for consumption from a customs warehouse, save as otherwise provided by the Regulator.

3.4.4. This data shall be audited at least on an annual basis by an auditor regulated by the Accountancy Profession Act (CAP 281). A written declaration by the auditor in the form and manner as required by the Regulator as a proof of this auditing of data needs to be sent to the Regulator.

3.4.5. Failure to submit the data stated in clauses 3.4.3 and 3.4.4 of this authorisation and, or to pay regulation charges within 5 working days as from the lapse of the first week of the second month from date of release for consumption of fuel from a customs warehouse, shall attract a penalty interest

of 2% per day above the marginal lending facility set by the European Central Bank, on the amount unpaid as from the day of written notification by the Regulator, whether by means of electronic communication or in printed form.

3.4.6. The Regulator reserves the right to evaluate the data provided by the authorised provider and to further invoice the authorised provider for amounts not correctly reported.

3.5. Bank Guarantee

3.5.1. At any time in the course of the period for which this authorisation is valid, the authorised provider may be required to draw up and maintain in place a bank guarantee in favour of the Regulator for Energy and Water Services. The amount guaranteed shall be at the discretion of the Regulator and may be calculated by taking into consideration the actual or projected sales of fuels for one year. The amount guaranteed may be subject to revisions as the Regulator deems necessary.

3.5.2. The Regulator may call for payment of the bank guarantee in lieu of any outstanding payments unpaid to the Regulator, which may include, but not be limited to, annual authorisation fees, and, or regulation charges, and, or penalties, and, or any debt, and, or any sum due to the Regulator, following the lapse of ten working days from the date of a written notification for the payment by the Regulator.

3.6. Quality Assurance and Fuel Sampling

3.6.1. The authorised provider may not store, retail or offer for sale petroleum and, or fuel products other than those permitted by law.

3.6.2. The authorised provider shall accept at all reasonable times inspections carried out by officers of the Regulator or persons on its behalf for the purposes of ascertaining operational standards or compliance with any of its requirements.

3.6.3. Every inspector of the Regulator shall at all reasonable times be allowed unrestricted access to road tanker(s) for the purpose of ascertaining whether the Regulations or the conditions attached to this authorisation are being duly observed and to take samples for the testing of any petroleum or fuel found or contained therein. No compensation shall be due to the authorised provider in regard to samples lifted. The authorised provider and all persons employed by him shall give all reasonable assistance which such inspector may require for that purpose.

3.7. Insurance

3.7.1. The authorised provider shall insure and keep insured throughout its service, the road tanker(s) and, or associated parking premises against loss or damage, including malicious damage resulting from fire and/or explosion, to third parties and third party property. The authorised provider may be asked by the Regulator to alter or increase the insurance cover associated with the activity being carried out under this authorisation

3.7.2. The authorised provider shall submit to the Regulator a copy(ies) of the insurance policy(ies) of the road tanker(s) and, or associated parking premises. The authorised provider is obliged to inform the Regulator in the event of the renewal of such insurance policy(ies) and also in respect of any changes which may be effected to an existing insurance policy(ies).

3.8. Safety, Environmental and Operational Procedures

3.8.1. The authorised provider shall take all reasonably practical steps to protect the environment in the course of operations associated with this authorisation.

3.8.2. The driver and helper on board the road tanker(s) shall take all practicable steps necessary to prevent:

3.8.2.1. accident by fire or explosion;

3.8.2.2.the escape of fuel and, or biofuel;

3.8.2.3.any petroleum and, or fuel leaking into the sea or entering any drain, sewer or waterway or public road;

3.8.2.4.any naked light, fire, flame or any other source liable to ignite flammable vapour occurring or present within a hazardous area; and

3.8.2.5.smoking taking place in any hazardous area close to the road tanker(s) where petroleum and, or fuel is kept, handled or exposed.

3.8.3. The authorised provider shall immediately notify the Regulator and confirm in writing the details of any fire, explosion, significant spillage of petroleum and, or fuel, or any other significant incident arising from the activity being carried out under this authorisation.

3.8.4. The road tanker(s) shall be maintained in such a condition that safety-related features remain in place and function effectively.

3.8.5. The authorised provider is to ensure that the road tanker's compartment(s) are properly cleaned before reloading unless the new load consists of the same petroleum and, or fuel characteristics and specifications as of the preceding load. The authorised provider is to retain the necessary receipts and certifying certificates associated with the compartment-cleaning operation for a running period of at least twelve months and is to present this documentation to the Regulator when requested.

3.8.6. All effluents from tank cleaning have to be disposed in a manner approved by the relevant authorities. All sand or other material used for clearing or containing leaks or spills shall not be exposed to a source of ignition and shall be disposed of appropriately. Sand or other absorbent material soaked by petroleum products is considered to be a 'hazardous waste' and must be handled as such.

3.8.7. The authorised provider is obliged to participate in any scheme approved by the Regulator meant to collect waste or spent petroleum or fuel products

3.8.8. The authorised provider shall, as may be required by the Regulator, upgrade his road tanker(s), ancillary equipment and activities up to approved standards, guidelines and, or codes of practice.

Provided that if there exists a severe safety hazard, the authorised provider shall of his own motion remove such hazard, and thereafter notify the Regulator of such removal.

3.8.9. The authorised provider shall ensure that all dipsticks are properly maintained.

3.8.10. All quantity measuring meters on board road tanker(s) transporting and distributing fuel are to be calibrated at least annually.

3.9. Software and Hardware system

3.9.1. The Authorised provider shall, as may be asked by the Regulator, install and maintain at his own expense the necessary software and hardware intended for the electronic monitoring of fuel movements to and from the road tanker(s) as well as the geographical position in real time of the road tanker(s).

3.10. Unauthorised Fuel Access

3.10.1. The authorised provider shall take all reasonably practicable steps necessary to prevent any unauthorised persons having access to petroleum and, or fuel products on the road tanker(s).

3.11. Transfer of Authorisation

3.11.1. This authorisation shall remain the property of the Regulator

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3.11.2. This authorisation shall not be validly transferred *inter vivos* or transmitted *causa mortis* unless the criteria as listed in regulation 18 of the Regulations are complied with.

3.11.3. The Regulator shall treat an application for the transfer of this authorisation as a new application in terms of Schedule 1 of the Regulations.

3.12. **Termination of the Authorisation**

3.12.1. When the authorised provider, decides either to suspend or terminate this authorisation, he shall promptly notify the Regulator in the form and manner prescribed by the Regulator, to notify such a termination or suspension.

3.12.2. Upon acknowledgment by the Regulator to the authorised provider of the notification for the suspension or termination of the authorisation, the authorisation shall be considered to have ceased to be in force and with immediate effect from the date of such acknowledgment any operation associated in terms of this authorisation, shall be deemed to be unauthorised.

3.12.3. Notwithstanding any notification for the termination or suspension of an authorisation, the authorised provider shall remain liable for the payment of any authorisation fees due to the Regulator.

3.13. **Suspension, revocation or cancellation of the Authorisation**

3.13.1. At any time in the course of the period for which the authorisation is valid, the authorised provider may have his authorisation suspended, revoked or cancelled where the Regulator is satisfied that:

3.13.1.1. the authorised provider has failed or is failing to abide by any conditions of this authorisation and, or instruction by the Regulator and, or to abide by the Regulations; and, or

- 3.13.1.2. the authorised provider does not possess all other relevant permits and authorisations that are issued by any other public authority; and, or
- 3.13.1.3. the authorised provider is contravening any requirement imposed by law; and, or
- 3.13.1.4. the authorised provider fails to comply with any directive given by the Regulator as to such matters as are specified in the authorisation or are of a description so specified; and, or
- 3.13.1.5. any information submitted in the application for an authorisation or the application for renewal of an authorisation and for which the authorisation has been issued or renewed, as the case may be, or any other information given to the Regulator is determined to be false; and, or
- 3.13.1.6. the authorised provider, wilfully or through negligence, fails to inform the Regulator of any changes related with the original details as submitted in the application form intended for this authorisation or fails to inform the Regulator with further changes to subsequent changes; and, or
- 3.13.1.7. the authorised provider does not meet the criteria in respect of one or more of the criteria referred to in clause 3.3 Requirements and Obligations; and, or
- 3.13.1.8. the authorised provider fails to pay any authorisation fees and, or any regulation charges and, or debt and, or any sum due to the Regulator within the stipulated time frames; and, or
- 3.13.1.9. the authorised provider fails to comply with any of the requirements contained in the Authorisations (Suspensions, Refusal and Revocation) Regulations (SL 423.30).

3.13.2. The breach of any of the conditions contained in this authorisation shall be subject to the punishments and fines mentioned in Article 26 (2) of the Regulator for Energy and Water Services Act and in the relevant subsidiary legislation.

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4.0 SPECIAL CONDITIONS OF THE AUTHORISATION

None

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5.0 ANNEX 1

5.1. Road Tankers covered under this authorisation

Vehicle No	Registration Number	Year of Manufacture	Vehicle Identification Number

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6.0 ANNEX II

6.1. Fuel Types covered under this authorisation

Fuel Type

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