



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 BUNKER
BARGE OR A MARINE TERMINAL OR A MARINE
FACILITY OR ANY TWO OR MORE OF THE PRECEDING,
AND A RECEIVING SHIP WHERE THOSE FUELS ARE
FOR FUELLING THE SAME SHIP OR ITS MACHINERY**

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BUNKER BARGE OR A MARINE TERMINAL OR A MARINE FACILITY OR ANY TWO OR MORE OF
THE PRECEDING, TO A RECEIVING SHIP WHERE THOSE FUELS ARE FOR FUELLING THE SAME
SHIP OR ITS MACHINERY**

Authorisation Number: REWS/ BUN/BMT/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 bunker barge or a marine terminal or marine facility, to a receiving ship where those fuels are for fuelling the same ship or its machinery.

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 bunker barge or a marine terminal or marine facility, to a receiving ship where those fuels are for fuelling the same ship or its machinery.

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 for the loading, discharging and transferring of fuels between a bunker barge or a marine terminal or a marine facility or any two or more of the preceding, to a receiving ship where those fuels are for fuelling the same ship or its machinery is of €2,329 (Two Thousand Three Hundred and Twenty Nine Euros) 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.

Licencee: Name

Date of Commencement: DD/MM/YYYY

Version Date: 10/2016

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

Name

Chairman

Name

Chief Executive Officer

Licencee: **Name**

Date of Commencement: DD/MM/YYYY

Version Date: 10/2016

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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) as amended, and the 'Bunkering (Authorisation) Regulations', (SL 545.) as amended.

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 license or permit condition 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 also 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 fuels between a bunker barge or a marine terminal / marine facility or any two or more of the preceding, to a receiving ship where those fuels are for fuelling the same ship or its machinery.
- 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 fuels between a bunker barge or a marine terminal or a marine facility or any two or more of the preceding, to a receiving ship where those fuels are for fuelling the same receiving ship or its machinery only from barges and marine terminals / marine facilities as 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 barges and, or marine terminals / marine facilities listed in Annex I of this Authorisation.

By 'reductions' it is understood both the removal from service of barge(s) and, or the marine terminal(s) / marine facility(ies) as well as the leasing of the barge(s) and, or the marine terminal(s) / marine facility(ies) to third parties.

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 barges and, or marine terminals / marine facilities listed in Annex I shall be duly in compliance at all times with the applicable legislation / regulations and licenses or permits however so described in force at the time.

3.2.4. The authorised provider and all persons on his behalf or employed by him shall execute the regulated operations, activities and practices in accordance with the conditions associated with this 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 and implement directions in the form of letters, emails, standards, guidelines, Code of Practice or rules issued 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.

3.2.5. The authorised provider must provide assistance and facilitate the work of the various Authorities instituted by law, in so far as, and in the carrying out of their duties in accordance with their legislative remit and relevance to the authorisation concerned.

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 of ensuring safety conditions, in the context of this authorisation;

3.3.1.4. be of private and professional integrity;

3.3.1.5. protect the health and safety of the employees;

3.3.1.6. protect the environment;

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

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

3.3.1.9. ensure an operational set-up such that the facilities and services provided for the consumers serve the interests of the consumers;

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- 3.3.1.10. ensure an operational set-up which hinders 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 fuel could be affected;
- 3.3.1.11. act in a manner which does not impede the orderly provision, and, or distribution and, or retail of petroleum and, or biofuel in Malta;
- 3.3.1.12. act in a manner which does not impede the public interest; and
- 3.3.1.13. be compliant with the requirements contained in the Authorisations (Suspension, Refusal and Revocation) Regulations, SL 423.30.

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. Insurance

3.6.1. The authorised provider shall insure and keep insured throughout the duration of this authorisation, the barges and, or the marine terminal / marine facility against loss or damage to third parties and third party property, including malicious damage resulting from fire and/or explosion. The authorised provider shall, when required by the Regulator alter or increase the insurance cover associated with the activity being carried out under this authorisation

3.6.2. The authorised provider shall submit to the Regulator a copy of the insurance policy of the barges and, or the marine terminal / marine facility when so required. The authorised provider is obliged to inform the Regulator in the event of the renewal of such insurance policy and also in respect of any changes which may be effected to an existing insurance policy. The authorised provider shall not affect any change to his insurance policy when such change breaches any requirement of the Regulator.

3.7. Inspections by the Regulator

3.7.1. The authorised provider shall accept, aid and support in the manner required by the Regulator 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.

3.7.2. Every inspector of the Regulator shall at all reasonable times be allowed unrestricted access to the barges and, or the marine terminal / marine facility for the purpose of ascertaining whether the Regulations or the conditions attached to this authorisation or any other requirement are being duly observed or to take samples for the testing of any petroleum and, or fuel and, or biofuel found or contained therein. No compensation shall be due to the authorised provider in regard to any samples lifted. The authorised provider and all persons employed by him shall give all reasonable assistance which such inspector may require for that purpose.

3.8. Unauthorised Access

- 3.8.1. The authorised provider shall take all reasonably practicable steps necessary to prevent any unauthorised persons from having access to the barges and, or the marine terminal / marine facility.

3.9. Safety and Environmental Procedures

- 3.9.1. The authorised provider shall take all reasonably practical steps to protect the environment in the course of operations associated with this authorisation.
- 3.9.2. The authorised provider shall immediately notify the relevant authority(ies) and thereafter confirm in writing to the Regulator the details of any fire, explosion, any actual or suspected leak or loss of Petroleum, biofuel or any other fuel or any other significant incident arising from the activity being carried out under this authorisation.
- 3.9.3. The authorised person is to make sure that all practicable steps necessary to prevent fires, explosions, leaks and spills at the authorised facility are taken and shall take all practicable steps necessary to prevent:
- 3.9.3.1.any fire or explosion;
 - 3.9.3.2.the escape of petroleum and, or biofuels;
 - 3.9.3.3.any petroleum and, or fuel leaking into the sea or entering any drain, sewer or waterway or public road;
 - 3.9.3.4.any naked light, fire, flame or any other source conducive to the ignition of flammable vapour occurring or present within a hazardous area; and
 - 3.9.3.5.smoking taking place in any hazardous area where petroleum and, or biofuels is stored, handled or exposed..

3.9.4. No electric light, electrical apparatus or appliance likely to ignite surrounding flammable vapour shall be used in any hazardous area where petroleum and, or biofuels is stored, handled or exposed unless the apparatus is specifically designed for explosive atmospheres.

3.9.5. Adequate and efficient fire-fighting equipment together with means for summoning the Civil Protection Department, shall be provided at all times by the authorised person. The equipment shall be maintained in good condition and be capable of efficient operation at all times and in all weather conditions.

3.9.6. All effluents from tank cleaning or any other waste has to be disposed in accordance with any scheme that may be in place at any time or in its absence, in any manner that is required by the Regulator.

3.10. Emergency Procedures

3.10.1. The authorised person shall make available to persons working in operation covered by this authorisation written procedures for normal operating and emergency procedures as approved by the relevant authorities. All operational and emergency procedures shall be reviewed regularly and shall be amended to take into account any changes in local circumstances.

3.11. Transfer of Authorisation

3.11.1. This authorisation shall remain the property of the Regulator.

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

3.11.3. The Regulator shall treat an application for the transfer of this authorisation as a new application for the purposes 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 the loading, discharging and transferring of fuels between a bunker barge or a marine terminal or a marine facility or any two or more of the preceding, to a receiving ship where those fuels are for fuelling the same ship or its machinery 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 and, or debts 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 this authorisation is valid, the authorised provider may have his authorisation suspended, revoked or terminated 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 or to abide by the Regulations; and, or

3.13.1.2. the authorised provider is not compliant or does not possess all other relevant permits, licenses and authorisations that are issued by any other public authority and, or government department; 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; 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 any 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 as established in the Regulator for Energy and Water Services Act or by means of any subsidiary legislation issued there under.

4.0 SPECIAL CONDITIONS OF THE AUTHORISATION

- 4.1. The unloading of fuel from barges, tankers and offshore storage facilities directly into road tankers is not permitted unless a special authorisation for doing so is given by the Regulator.
- 4.2. This Authorisation is subject to the issue of a Bunkering Operating Permit as issued by Transport Malta on a yearly basis. Failure to obtain a yearly bunkering operator permit will automatically revoke this authorisation.

5.0 ANNEX 1

5.1. List of Barges (One Table)

BARGE	IMO No.
xxx	123456

5.2. List of marine terminals / marine Facilities (One Table)

MARINE TERMINAL / MARINE FACILITY	Address
Name	