



REGULATOR FOR
ENERGY & WATER
SERVICES



REGULATOR FOR ENERGY AND WATER SERVICES ACT XXV, 2015

**LIQUEFIED PETROLEUM GAS MARKET REGULATIONS,
SL 545.20**

**AUTHORISATION FOR THE DISTRIBUTION AND RETAIL
OF PORTABLE CYLINDERS FILLED WITH LPG BY MEANS
OF A DISTRIBUTION VEHICLE**

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**AUTHORISATION TO CARRY OUT THE ACTIVITY OF DISTRIBUTING AND RETAILING
TRANSPORTABLE CYLINDERS FILLED WITH LPG BY MEANS OF A DISTRIBUTION VEHICLE**

Authorisation Number: DRC/ xx

PARAGRAPH TO BE USED IN THE CASE OF AN INDIVIDUAL

Authorisation granted by the Regulator for Energy and Water Services under the ‘Liquefied Petroleum Gas Market Regulations, 2008 (SL 545.20), 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 to distribute and retail portable cylinders filled with LPG.

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

Authorisation granted by the Regulator for Energy and Water Services under the, ‘Liquefied Petroleum Gas Market Regulations, 2008 (SL 545.20), 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 to distribute and retail portable cylinders filled with LPG.

For the purpose of this authorisation and up to and until the Regulator is notified otherwise by the authorised provider, the authorised representative of **Company** is the **Position in Company**, having a contact address at **Address**. **(This paragraph is not required for an individual)**

Authorisation is being granted under the attached conditions for the time span declared hereunder. However, the authorisation fee shall be payable annually and as prescribed by the Regulations.

The Regulator reserves the right to amend, modify, replace, add or delete the conditions of the authorisation as prescribed by the aforesaid Regulations.

The fee for applying for this authorisation is of €500 (Five hundred Euros). The applicable authorisation fee for carrying out the activity of retail of portable cylinders filled with LPG

is of €50 per annum. This annual authorisation fee may be changed as per applicable legislation / regulations in force at the time.

Any changes in the information submitted to the Regulator in relation to the granting of the authorisation must be promptly submitted by the authorised provider to the Regulator.

Validity of the authorisation: DD/MM/YYYY to 6 years after.

Ms Nancy Caruana
Chairperson

Ing. Phyllis Micallef
Acting Chief Executive Officer

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1.0 DEFINITIONS

In the authorisation (except in so far as the context otherwise requires) the definitions of the terms used in the authorisation are the same as those in the Regulator for Energy and Water Services Act (Cap 545), and the ‘Liquefied Petroleum Gas Market Regulations, 2008 (SL 545.20). For the purposes of the authorisation, the following definitions shall also apply:

- 1.1 “ADR” means the “UNECE Agreement Concerning the International Carriage of Dangerous Goods by Road”. Subsidiary legislation Motor Vehicle (Carriage of Dangerous Goods by Road) Regulations (SL 65.22) requires compliance with the ADR both for national and international carriage of dangerous goods.
- 1.2 “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 general authorisation condition.
- 1.3 “LPG” shall have the same definition as in the Liquefied Petroleum Gas Market Regulations, 2008 (SL 545.20).
- 1.4 “Portable Cylinders” or “cylinders” mean transportable containers suitable for use with and which conform to the Transportable Pressure Equipment Regulations.
- 1.5 “Regulations” means the “Liquefied Petroleum Gas Market Regulations, 2008 (SL 545.20).
- 1.6 “TM” means “Transport Malta” the Authority established under the Malta Transport Authority Act. (Cap. 332).
- 1.7 “Transportable Pressure Equipment” shall have the same meaning as in the Transportable Pressure Equipment Regulations (SL 427.30).
- 1.8 “Vehicle” shall have the same meaning as in the Motor Vehicle (Carriage of Dangerous Goods by Road) Regulations (SL 65.22).

2.0 LIMITATIONS, VARIATIONS AND AMENDMENTS

2.1 Limitations

- 2.1.1 Nothing in the 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 the authorisation upon its granting and subsequent to that time thereof. The continuing validity of the 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 carry out the activity of distributing and retailing portable cylinders filled with LPG .
- 3.1.2 Any request for changes to the data provided in the application form submitted to the Regulator for the issue of the authorisation shall be properly notified to the Regulator in the form and manner as required by the Regulator and not later than 30 days from its occurrence, by means of registered mail.
- 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 the authorisation shall require the prior approval of the Regulator.
- 3.1.4 The 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. This is without prejudice of any law to the contrary which may apply.
- 3.1.5 The 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 distribute and retail portable cylinders filled with LPG which he is able to transport in a portable cylinder which is intended for carriage of LPG and for which the distribution vehicle is accordingly authorised.
- 3.1.7 The authorised provider is authorised to distribute and retail portable cylinders filled with LPG only from the distribution vehicles 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 distribution vehicles listed in Annex I of this Authorisation.

Provided that by 'reductions' it is understood both the removal from service of the distribution vehicles as well as the leasing of the distribution vehicles to third parties.

3.2 Compliance

- 3.2.1 The authorised provider and all persons acting on his behalf or employed by him shall comply with the Regulations, Codes of Practice and other applicable legislation / regulations and licenses or permits however so described in force at the time.
- 3.2.2 The 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 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 directions 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 the authorisation or otherwise to improve the general conduct of activities regulated by the authorisation.
- 3.2.4 The authorised provider must ensure that his activity as an LPG distributor is carried out in full conformity of the ADR requirements.
- 3.2.5 The authorised provider shall obtain any necessary permit for parking any vehicle listed in Annex I of this Authorisation when not in operation when so required 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 the 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;
- 3.3.1.8 ensure an operational set-up compliant with regard to security, health, safety, hazardous substances and the environment;
- 3.3.1.9 ensure an operational set-up where the interests of consumers are safeguarded;
- 3.3.1.10 limit the possibility of a monopolistic or an oligopolistic condition in the LPG market, detrimental to the public interest being created or aggravated, and the extent to which fair and reasonable competition in the distribution of LPG 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 transportable cylinders filled with LPG 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 545.19.

3.3.2 The authorised provider shall endeavour to promote the efficient operation of the LPG market, customer service obligations and protection of consumers.

3.4 Records and Supply of Data

- 3.4.1 The authorised provider shall maintain a record of all receipts associated with the purchase (from wholesalers) of portable cylinders filled with LPG to be retailed for the last twelve months running, and which shall be made available for examination by the Regulator upon demand. Records of sales (retail) shall also be kept in such a manner as the Regulator may from time to time prescribe. Such records shall be audited at least on an annual basis by a certified public accountant with a practicing certificate in auditing.
- 3.4.2 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 by the Regulator upon demand.
- 3.4.3 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. The authorised provider shall keep records of all transactions in respect of the authorisation and of activities related to the 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 more 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 the authorisation and of activities related to the authorisation.
- 3.4.4 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 every three (3) months when so required. The data shall reach the Regulator by not later than a week after the lapse of the third (3rd) month, save as otherwise provided by the Regulator.

- 3.4.5 The Regulator reserves the right to evaluate the data provided by the authorised provider.

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. 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 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

- 3.6.1 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.
- 3.6.2 Every inspector of the Regulator shall at all reasonable times be allowed unrestricted access to distribution vehicle(s) for the purpose of ascertaining whether the Regulations or the conditions attached to the authorisation are being duly observed and to take samples for the testing of any LPG 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 distribution vehicle/s 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 the authorisation.
- 3.7.2 The authorised provider shall submit yearly to the Regulator copy/copies of the insurance policy/ policies of the distribution vehicle/s. The authorised provider is obliged to inform the Regulator in the event of the renewal of such insurance policy/ policies and also in respect of any changes which may be affected to an existing insurance policy/ policies.

3.8 Safety, Environmental and Operational Procedures

- 3.8.1 The authorised provider shall take all reasonably practicable steps to protect the environment in the course of operations associated with the authorisation.
- 3.8.2 The authorised provider shall immediately notify the Regulator and confirm in writing the details of any fire, explosion, significant spillage of LPG, or any other significant incident arising from the activity being carried out under the authorisation.
- 3.8.3 The authorised provider shall ensure that all practicable steps necessary to prevent fires, explosions, leaks and spills are taken and shall take all practicable steps necessary to prevent:
- 3.8.3.1 any fire or explosion;
 - 3.8.3.2 the escape of LPG;
 - 3.8.3.3 any LPG leaking into the sea or entering any drain, sewer or waterway or public road;

- 3.8.3.4 any naked light, fire, flame or any other source conducive to the ignition of flammable vapour occurring or present within a hazardous area; and
- 3.8.3.5 smoking taking place in any hazardous area where cylinders are stored.
- 3.8.4 Adequate and efficient fire-fighting equipment together with means for summoning the CPD, shall always be provided on the distribution vehicle by the authorised provider. The equipment shall always be maintained in good condition and be capable of efficient operation and in all weather conditions.
- 3.8.5 The authorised provider may not store, load or distribute petroleum products other than LPG in transportable cylinders unless otherwise authorised in writing by the Regulator.
- 3.8.6 The authorised provider shall segregate empty cylinders from filled ones.
- 3.8.7 The size of the largest transportable cylinder shall not exceed 25kg.
- 3.8.8 The authorised provider can make use of the distribution vehicles listed in Annex I of this Authorisation to perform the distribution and retail of transportable cylinders filled with LPG. The authorised provider shall inform the Regulator immediately with any changes. The delivery vehicles shall be maintained in good working order and in such a condition that safety-related features remain in place and function effectively.
- 3.8.9 The distribution vehicle/s are to display a placard issued by the Regulator showing the authorisation number and the vehicle's registration number.
- 3.8.10 The authorised provider is to ensure that the distribution vehicle(s) and his operations are at all times compliant with the ADR.
- 3.8.11 The authorised provider shall provide adequate signage to display the retail prices of the transportable cylinders filled with LPG and the cost of any other ancillaries.

- 3.8.12 The authorised provider shall keep calibrated scales suitable for weighing transportable cylinders filled with LPG and make appropriate use of this equipment in order to satisfy a customer's request for weighing the retailed transportable cylinder filled with LPG. This weighing verification should be provided at no extra charge. A notice highlighting this service should be displayed on the distribution vehicle.
- 3.8.13 The authorised provider shall only source transportable cylinders filled with LPG from authorised wholesalers.
- 3.8.14 The authorised provider shall not wholesale/retail any transportable cylinders filled with LPG to any retail outlet.
- 3.8.15 LPG cylinder distributor vehicles shall not be parked in front of residential or commercial premises, except for loading or unloading the LPG cylinders to or from such premises and shall depart as soon as the loading and, or unloading is carried out.

3.9 Unauthorised access

- 3.9.1 The authorised provider shall take all reasonably practicable steps necessary to prevent any unauthorised persons from having access to the transportable cylinders filled with LPG loaded on the distributor vehicles.

3.10 Transfer of Authorisation

- 3.10.1 This authorisation shall remain the property of the Regulator.
- 3.10.2 The authorisation shall not be validly transferred *inter vivos* or transmitted *causa mortis* unless the criteria as listed in the Regulations are complied with.

3.10.3 The Regulator shall treat an application for the transfer of the authorisation as a new application for the purposes of Schedule 1 of the Regulations.

3.11 Termination of Authorisation

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

3.11.2 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 and the activity of the retailing of portable cylinders filled with LPG in terms of the authorisation, shall be deemed to be unauthorised.

3.11.3 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.

3.11.4 Subject to regulation 20(2) of the Liquefied Petroleum Gas Market Regulations, 2008 (SL 545.20), in the event of the death of the authorized provider, the authorisation shall remain valid for a period of six (6) months in favour of the heirs of the deceased authorized provider, during which period said heirs are to inform the Regulator whether they, or any one of them, intend to proceed with carrying out the activities covered by the authorisation or otherwise transfer or terminate such activity. For the sake of clarity and certainty, clause 12.3 of the authorisation shall apply *mutatis mutandis* in the event that the heirs, or anyone thereof, intend to proceed with the activities covered by the authorisation or if the same activities are to be carried out by third parties.

3.12 Suspension, Revocation or Cancellation of the Authorisation

3.12.1 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 cancelled where the Regulator is satisfied that:

- 3.12.1.1 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
- 3.12.1.2 the authorised provider does not possess all other relevant permits and authorisations that are issued by any other public authority; and, or
- 3.12.1.3 the authorised provider is contravening any requirement imposed by law; and, or
- 3.12.1.4 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
- 3.12.1.5 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
- 3.12.1.6 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
- 3.12.1.7 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
- 3.12.1.8 the authorised provider fails to pay any authorisation fees and, or debt and, or sum due to the Regulator within the stipulated time frames; and, or
- 3.12.1.9 the authorised provider fails to comply with any of the requirements contained in the Authorisations (Suspensions, Refusal and Revocation) Regulations (SL 545.19).

3.12.2 The breach of any of the conditions of this authorisation shall be subject to the administrative penalties prescribed in terms of Article 12 of the Regulator for Energy and Water Services Act and in regulation 29 of the Liquefied Petroleum Gas Market Regulations.

4.0 SPECIAL CONDITIONS OF THE AUTHORISATION

- 4.1** The requirement to have original engines compliant to EURO 5 or higher is only applicable in case where a truck listed in Annex 1 is substituted by another truck or the addition of a new truck to the fleet.

5.0 ANNEX 1

5.1 Distribution vehicles covered under this authorisation

Vehicle No	Registration Number	Year of Manufacture	Vehicle Identification Number
1			