



Licence Number: PPL.sf.F3/13/11/2006

**LICENCE FOR THE OPERATION OF A PETROLEUM STORAGE FACILITY**

This licence is issued by the National Energy Regulator, hereinafter referred to as "the NERSA", in terms of the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003).

This licence is issued to the

**Engen Petroleum Limited**

*(Company Registration No: 1989 /003754/06)*

hereinafter referred to as "the Licensee", only for the purpose of operation of a petroleum storage facility at:

**Dom Petro Jetty, PE .Harbour, Port Elizabeth, Eastern Cape**

The operation of the petroleum storage facility permitted under this licence is subject to the terms and conditions as contained in this licence and/or amendments to these conditions as imposed by the NERSA. These licence conditions must be adhered to.

ISSUED at Pretoria on this *25*..... day of *July*.....2007.

  
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**CHIEF EXECUTIVE OFFICER  
NATIONAL ENERGY REGULATOR**



## LICENCE FOR THE OPERATION OF A PETROLEUM STORAGE FACILITY

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## DEFINITIONS

In these licence conditions any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned, unless the context indicates otherwise.

**“authorised person”** means any person holding a valid authorisation permit as defined by Rule.

**“Rules”** means Rules made by the NERSA in terms of section 33(3) of the Act and Rule has a corresponding meaning.

**“the Act”** means the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003), and includes Regulations made under the Act.

**“operation and maintenance plan”** means a written plan developed by the Licensee in accordance with the codes listed in Annexure B.

## **CHAPTER ONE: LICENSED ACTIVITY**

### **1 Licensed Activity**

- 1.1 The NERSA grants the Licensee a licence to operate a petroleum storage facility at the site located at

**Port Elizabeth Harbour  
Dom Petro Jetty  
Port Elizabeth  
Eastern Cape**

and as indicated on the site location map in **Annexure A**.

- 1.2 The Licence is granted to the Licensee for the storage of petroleum products. This licensed storage capacity is described in **Annexure B**.
- 1.3 The Licensee must carry out the operation activities for which the licence is granted.

### **2 Duration of Licence**

- 2.1 The licence shall be valid for a period of 25 years, commencing on the date of issue of the licence, unless revoked.
- 2.2 The Licensee may, apply for the renewal of the licence in accordance with the provisions of the Act and the Rules.

## **CHAPTER TWO: GENERAL CONDITIONS**

### **3 Amendment of Licence**

This licence may be amended in accordance with the Act and the Rules.

### **4 Revocation of Licence**

This licence may be revoked in accordance with the Act and the Rules.

### **5 Contravention of Licence**

The licensee must at all times comply with the conditions of this licence, the Act and the Rules.

### **6 Changes in the Details of the Licensee**

- 6.1 The Licensee must notify the NERSA if the control of the Licensee, as contemplated in section 12(2) of Competition Act (89 of 1998), changes, within thirty days of such change.
- 6.2 The Licensee must at all times provide the NERSA with the details of any changes in its registered name, operating or trading name, registered address and other contact details.
- 6.3 The notifications contemplated in this section must be provided within 14 days of the event giving rise to them.

## **7 Correspondence with the NERSA**

- 7.1 All official communication with the NERSA must be in writing, unless directed otherwise by the NERSA.
- 7.2 The Licensee must, in all correspondence with the NERSA, quote the licence reference number, as it appears on the licence certificate.

## **8 Accounts**

- 8.1 The Licensee must comply with the requirements on regulatory accounts as determined by the NERSA from time to time.
- 8.2 The Licensee must maintain accounts and compile data for storage operation activities separate from any other accounts or data collection.
- 8.3 The Licensee must keep records providing the details of all petroleum storage transactions and agreements entered into.
- 8.4 The Licensee must specify in writing rules for the actual allocation of assets and liabilities, expenditure and income as well as for depreciation, unless specified by the requirements on regulatory accounts.

## **9 Non discrimination**

- 9.1 The Licensee must not discriminate between customers or classes of customers, including its related undertakings.
- 9.2 Without limiting the generality of provision 9.1, the Licensee specifically shall not discriminate in respect of:

- (a) the manner, content and timing of the provision of any information to customers or prospective customers;
- (b) the manner and timing of processing of applications and granting of capacity;
- (c) the terms and conditions of any grant of capacity and any other service to be provided to any customer or prospective customer;
- (d) tariffs, including without limitation the offering and granting of any discount and the imposing of any surcharge;
- (e) nominations and balancing; and
- (f) scheduling of maintenance activities.

9.3 The Licensee must provide any licensed petroleum activity connected to the storage facility with sufficient information to ensure that the transport of petroleum may take place in a manner compatible with the secure and efficient operation of the interconnected system.

9.4 The Licensee must not, in the sales or purchases of petroleum by it or by related undertakings, abuse commercially sensitive information obtained from third parties.

## **10 Changes to the Facility**

10.1 The Licensee must notify the NERSA of any changes to the facility, in advance if possible, and if not, as soon as possible.

10.2 Changes to the facility that, in terms of the Act, may require an amendment of this licence, or a new licence, must not be effected until an amended or new licence has been issued.

10.3 Any such changes must be done in accordance with the standards listed in Annexure C.



## **11 Maintenance and Interruption of Operations**

- 11.1 The Licensee must notify the NERSA and its affected customers, and distributors of:
- (a) any interruptions or changes in normal operations; and
  - (b) maintenance or repair work that may affect the delivery of petroleum, in advance if possible and if not, as soon as possible.
- 11.2 Any such maintenance or repair work must be done in accordance with the standards listed in **Annexure C**.
- 11.3 The Licensee must maintain their licensed storage facility in a fully operational condition.

## **12 Participation by Historically Disadvantaged South Africans**

- 12.1 The Licensee must comply with regulations made in terms of the Act regarding the mechanisms to promote historically disadvantaged South Africans.
- 12.2 The Licensee must provide annually the following information to the NERSA regarding the participation of historically disadvantaged South Africans:-
- (a) ownership;
  - (b) employment equity indicators at all management levels;
  - (c) procurement as a proportion of total procurement; and
  - (d) control of the licensee as contemplated in section 12(2) of the Competition Act, 1998 (Act No. 89 of 1998).

## **13 Entry, Inspection and Gathering of Information**

The Licensee must permit any authorised person to enter and inspect any property on which the licensed activity is taking place as prescribed by Rule.

#### **14 Provision of Information**

14.1 Records relating to the compliance or non-compliance with the conditions of this licence shall be kept in good order. Such records shall be made available to the Energy Regulator within 7 days of receipt of a written request by the NERSA for such records.

14.2 In addition the Licensee must furnish the NERSA with the following information, in such form and manner as the NERSA may require -

- (a) audited copies of financial statements;
- (b) current tariff structures;
- (c) quarterly reports of third party access requests granted and denied, and the grounds for refusal;
- (d) annual updates of health, safety and emergency plans within three months of the anniversary of the date of issue of the licence.
- (e) any other information that the NERSA may require to perform its functions under the Act.

## **CHAPTER THREE: SPECIFIC CONDITIONS**

### **15 Commencement of activities**

The Licensee must commence the petroleum storage activities contemplated in Chapter One, no later than 90 days after the date of issue of the licence.

### **16 Operation and Maintenance of the Storage Facility**

- 16.1 The Licensee must upon commencement of this licence develop, maintain and submit the following facility management plans to the NERSA;
- a) an operating and maintenance plan;
  - b) an emergency plan; and
  - c) a decommissioning plan where applicable.
- 16.2 The Licensee must operate, maintain, decommission, recommission or abandon the storage facility in accordance with the standards as listed in Annexure C.
- 16.3 The Licensee must develop its management plans in accordance with the applicable and relevant standards, codes and legislation as listed in **Annexure C**.
- 16.4 If any amendments or changes are made to the management plans contemplated in clause 16.1, the Licensee must resubmit the plans to the NERSA within 90 days of such occurrence.
- 16.5 The Licensee must submit to NERSA the procedures for decommissioning, recommissioning or abandonment prior to the commencement of such procedures.

16.6 The Licensee shall operate, maintain and develop its storage facility in a reliable and efficient manner, with due regard to the environment and public safety.

## **17 Uncommitted Capacity**

17.1 The Licensee must comply with section 20(1)(n) of the Act.

17.2 The Licensee must not discriminate between customers, as contemplated in section 21 of the Act.

17.3 The Licensee must comply with the NERSA approved methodology for determining uncommitted capacity for the purpose of third party access.

## **18 Submission and Approval of Tariffs**

18.1 The tariff charged by the Licensee must be in compliance with **Annexure D**.

18.2 The Licensee must submit to the NERSA a schedule of proposed tariffs and details of their calculation for approval.

18.3 The Licensee must comply with section 28(2)(a) of the Act.

## **19 Ancillary Obligations**

The Licensee is responsible for compliance with these licence conditions regarding any work on the Storage facility or services that are the subject of this licence and that are sub-contracted to other parties.

## **20 Whole Licence**

This licence shall constitute the entire licence and supersedes all prior understandings and agreements between the Licensee and the NERSA.

## **21 Indemnity**

- 21.1 The NERSA and its employees are not liable for any and all claims, liabilities, losses, costs, expenses (including legal fees) and damages, which the Licensee may suffer resulting from the licensed activity.
- 21.2 This licence is granted only in terms of section 15 of the Act and does not exempt the Licensee from compliance with any other legislation.
- 21.3 This licence refers only to the activity as specified and described above. Any other activity listed in section 15 of the Act that is not specified above, is not authorised by this licence.

## **Annexure A: Site Layout Map & Drawings**

## Annexure B: Tank Allocation and Capacities

### Annexure B: Summary of Storage Tanks & Capacities

Tank allocation and capacity						Combined Capacity	
Petrol		Diesel		IK			
Tanks [No.]	Capacity [m <sup>3</sup> ]	Tanks [No.]	Capacity [m <sup>3</sup> ]	Tanks [No.]	Capacity [m <sup>3</sup> ]	Tanks [No.]	Capacity [m <sup>3</sup> ]
6	14 390	2	6 692	1	670	9	21 753

## **ANNEXURE C : Operation Codes and Standards**

NB: The list of acts below includes all regulations, rules, standards and codes prescribed under each particular act.

1. The Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965)
2. The Environment Conservation Act, 1989 (Act No. 73 of 1989)
3. The Environment Conservation Amendment Act, 2003 (Act No. 50 of 2003)
4. The Hazardous Substances Act, 2003 (Act No. 15 of 1973)
5. The Health Act, 1977 (Act No. 63 of 1977)
6. The National Building Regulations and Building Standards Amendment Act, 1995 (Act No. 49 of 1995)
7. The National Environmental Management Act, 1998 (Act No. 107 of 1998)
8. The National Environmental Management Amendment Act, 2004 (Act No. 8 of 2004)
9. The National Health Act, 2003 (Act No. 61 of 2003)
10. The National Water Act, 1998 (Act No. 36 of 1998)
11. The South African Occupational Health and Safety Act, 1993 (Act No. 85 of 1993)
12. The Water Services Act, 1977 (Act No. 108 of 1977)
13. All other operating standards and procedures as supplied to the NERSA by the applicant in support of the licence application.



## **Annexure D: Tariffs**

- (a) The applicant must submit to the Energy Regulator for consideration and approval, a document proposing the tariffs applicable to prospective users of the licensed petroleum facility.
  
- (b) The first such document must be submitted within six months of the granting of the licence to operate the facility.