

Licence Number: PPL.sf.F3/146/2013

LICENCE FOR THE OPERATION OF A PETROLEUM STORAGE FACILITY

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

This licence is issued to

KZN Oils (Pty) Ltd
(Company Registration No: 2001/021458/07)

hereinafter referred to as "the Licensee". This licence is only for the purpose of operation of a petroleum storage facility at:

5 Second Street, Empangeni Rail, Empangeni, KwaZulu-Natal

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 NERSA.

Issued at Pretoria on this **14th** day of October **2013**.



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:

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

“authorised person” means authorised person as defined in the Rules;

“licensed activity” means the activity contemplated in condition 1 of these conditions;

“Regulations” means Regulations made in terms of sections 33(1) and 33(2) of the Act;

“Rules” means Rules made by NERSA in terms of section 33(3) of the Act.

CHAPTER ONE: LICENSED ACTIVITY

1. Licensed Activity

1.1 NERSA grants the Licensee a licence to operate a petroleum storage facility located at:

**5 Second Street,
Empangeni Rail, Empangeni,
KwaZulu-Natal**

GPS Coordinates: 28°46' 23.00"S 31°53' 40.65"E

"the storage facility"

1.2 This licence is issued to the Licensee for the storage of petroleum products only.

1.3 The layout of the storage facility is shown in **Annexure A – Overall Site Layout**.

1.4 The tank details and the mode of operation are provided in **Annexure B – Storage Facility Details and Mode of Operation**.

1.5 The Licensee must carry out the activities for which this licence is granted from the date of issue of this licence.

2. Duration of Licence

2.1 This licence is valid for a period of 25 (twenty-five) years, commencing on the date of issue.

2.2 The Licensee may, in accordance with the Act and the Rules, apply for a renewal of the licence.

CHAPTER TWO: GENERAL CONDITIONS

3. General Conditions of Licence

Sections 20(1)(b), (c), (d), (e), (n), (o), (p), (r), (s), (u), (v), (w), (x), (aa) and (bb) of the Act are conditions of this licence.

4. Compliance with Conditions of Licence

The Licensee must comply with all conditions of this licence.

5. Compliance with Legislation, Operation Codes and Standards

The Licensee must comply with all applicable legislation, operation codes and standards, including those listed in **Annexure C – Legislation, Operation Codes and Standards**.

6. Amendment of Licence

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

6.2. NERSA may temporarily change these licence conditions in an emergency.

7. Revocation of Licence

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

8. Changes in Details of the Licensee

8.1. The Licensee must, within 30 (thirty) days of changes in its control as contemplated in section 12(2) of the Competition Act, 1998 (Act No. 89 of 1998), notify NERSA of such changes.

- 8.2. The Licensee must, within 14 (fourteen) days of any change in its registered name, operating or trading name, registered address or other contact details, notify NERSA of such a change.

9. Changes to the Storage Facility

- 9.1. When approached by interested parties, the Licensee must negotiate for changes in the capacity of the storage facility. The cost of such changes must be shared equitably between the Licensee and the party requesting the change.
- 9.2. Changes to the storage facility that, in terms of the Act, may require an amendment or revocation of this licence, or a new licence, must not be effected until NERSA has amended or revoked this licence or issued a new licence.
- 9.3. Changes to the storage facility must be made in accordance with applicable legislation, codes and standards, including those listed in **Annexure C – Legislation, Operation Codes and Standards**.

10. Maintenance and Interruption of Operations

- 10.1. The Licensee must maintain the storage facility in a fully operational condition.
- 10.2. The Licensee must notify NERSA and the Licensee's affected customers and distributors at least 48 (forty-eight) hours prior to any:
- (a) interruptions of or changes in normal operations; or
 - (b) maintenance or repair work
- that may adversely affect the delivery of petroleum.
- 10.3. Where delivery of petroleum is adversely affected as a result of an emergency, the licensee must notify NERSA as soon as possible or within 7 (seven) days of the emergency.

10.4. Any maintenance or repair work done to the storage facility must be done in accordance with applicable legislation, codes and standards, including those listed in **Annexure C – Legislation, Operation Codes and Standards.**

11. Correspondence with NERSA

11.1. All official communication with NERSA must be in writing and must be addressed to the Chief Executive Officer and copied to the Regulator Member Primarily Responsible for Petroleum Pipeline Regulation.

11.2. The Licensee must, in all correspondence with NERSA, quote the licence number as it appears on the licence certificate.

CHAPTER THREE: SPECIFIC CONDITIONS

12. Participation of Historically Disadvantaged South Africans

The Licensee must:

- 12.1. comply with the Regulations regarding mechanisms to promote historically disadvantaged South Africans; and
- 12.2. on an annual basis and at the time of the anniversary of the date of issue of this licence, lodge with NERSA information regarding the participation of historically disadvantaged South Africans in its activities, as prescribed in the Regulations.

13. Regulatory Reporting

The Licensee must comply with volume 4 of NERSA's Regulatory Reporting Manuals published under GN 1118 in *Government Gazette* No. 31392 of 10 September 2008, which may be amended by NERSA from time to time.

14. Uncommitted Capacity

14.1. The Licensee must:

- (a) comply with section 20(1)(n) of the Act and the regulations regarding third party access;
- (b) lodge with NERSA its allocation mechanism for uncommitted capacity within 6 (six) months of receipt of this licence;
- (c) publish its allocation mechanism for uncommitted capacity on its website and keep a copy at the storage facility to enable potential customers to understand the procedure for obtaining access;
- (d) comply with its allocation mechanism for uncommitted capacity and, in accordance with that allocation mechanism,

- allow third parties to have access to uncommitted capacity in the storage facility on commercially reasonable terms;
- (e) on request by NERSA, submit any information that NERSA requires to determine uncommitted capacity in the storage facility;
- (f) allow NERSA or any authorised person to have access to:
 - a) The storage facility; and
 - b) records pertaining to the licensed activity; and
- (g) submit information regarding third party access as prescribed in the Regulations and in a format determined by NERSA.

14.2. When the Licensee makes any changes to its allocation mechanism, it must lodge the amended allocation mechanism for uncommitted capacity with NERSA within 7 (seven) days of making the changes.

14.3. The amended allocation mechanism for uncommitted capacity must also be published on the Licensee's website and a copy thereof must be kept at the storage facility to enable potential customers to understand the procedure for obtaining access.

14.4. The Licensee may elect to give users access to the facility on the basis that the capacity is shared among all users in proportion to their needs.

15. Tariffs

15.1. Within 3 (three) months of the date of issue of this licence, the Licensee must submit a tariff application to NERSA for approval of its proposed tariffs.

15.2. The tariff applications submitted by the Licensee must comply with:

- (a) the NERSA prescribed Minimum Information Requirements for Petroleum Pipelines Tariff Applications; and
- (b) the relevant tariff methodology.

15.3. Once tariffs have been approved by NERSA, the Licensee must only charge those tariffs until NERSA approves different tariffs.

16. Non-discrimination

16.1. The Licensee may not discriminate between customers or classes of customers.

16.2. Without limiting the generality of provision 16.1, 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.

16.3. In the sales or purchases of petroleum by the Licensee or by related undertakings, the Licensee must not abuse commercially sensitive information obtained from third parties.

17. Entry, Inspection and Gathering of Information

The Licensee must, in a manner prescribed by the Rules, permit any authorised person to enter and inspect any property on which the licensed activity is taking place.

18. Provision of Information to NERSA

The Licensee must:

- 18.1. comply with the Regulations in respect of information required to be submitted to NERSA; and
- 18.2. on request from NERSA, provide all other information NERSA may require to perform its functions under the Act.

19. Operation and Maintenance Plans

When the Licensee amends or makes changes to the operation and maintenance plans submitted as part of its application for this licence, the Licensee must, within 30 (thirty) days of such amendment or changes, submit the revised operation and maintenance plans to NERSA.

20. Emergency Plan

The Licensee must annually submit to NERSA:

- 20.1. an emergency plan for implementation in the event of system failures, accidents and other emergencies; and
- 20.2. proof that it has:
 - (a) trained its operating and maintenance employees with regard to the applicable portions of the plan; and
 - (b) established liaison with the appropriate emergency response officials with respect to the plan.

21. Rehabilitation of Land

- 21.1. The Licensee must comply with the Regulations regarding the rehabilitation of land on which the licensed activity is taking place.
- 21.2. Within three months of the date of issue of this licence, the Licensee must:

- (a) submit to NERSA an estimate of the costs of rehabilitating land used in connection with the licensed activity in Rands of the day;
- (b) submit an explanation of the basis for that estimate;
- (c) submit to NERSA, for approval, its proposed mechanism to provide financial security for the purposes of rehabilitating land used in connection with the licensed activity;
- (d) submit a short explanation of how that mechanism will work and what measures will exist to prevent such financial security from being used for other purposes;
- (e) submit a funding plan for that financial security for purposes of rehabilitating land used in connection with its licensed activity; and
- (f) submit the date on which it expects to draw down such financial security.

21.3. Thereafter, the Licensee must submit any information related to financial security for the rehabilitation of land used in connection with its licensed activity, whenever requested to do so by NERSA.

21.4. The Licensee must obtain from NERSA written approval to terminate that financial security mechanism before terminating that financial security mechanism.

22. 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/or that are subcontracted to other parties.

23. Whole Licence

This licence constitutes the entire licence and supersedes any prior understandings and agreements between the Licensee and NERSA.

ANNEXURE A: Overall Site Layout

ANNEXURE B: Storage Facility Details

Table 1: Tank details

Tank ID	Tank Type	Product	Operational Capacity (m ³)	Design Capacity (m ³)
509	Horizontal	Diesel/Petrol	82	83
510	Horizontal	Diesel/Petrol	81	83
511	Horizontal	Diesel/Petrol	81	83
512	Horizontal	Diesel/Petrol	81	83
513	Horizontal	Diesel/Petrol	81	83
708	Cone	Diesel/Petrol	400	419
814	Floating Roof	Diesel/Petrol	323	352
TOTAL			1 129	1 186

Table 2: Mode of operation

Loading		Discharge	
Mode	Rate (litres/minute)	Mode	Rate (litres/minute)
Road	1100 (Petrol and Diesel)	Road	1320 (Petrol and Diesel)

ANNEXURE C: Legislation, Codes and Standards

The Licensee must comply with all relevant legislations, codes and standards, including but not limited to the following:

1. Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).
2. Major Hazardous Installations ("MHI") regulations in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).
3. The National Environmental Management Act, 1998 (No. 107 of 1998).
4. The Environmental Management Amendment Act, 2004 (Act No. 8 of 2004)
5. The Environment Conservation Act, 1989 (Act No. 73 of 1989).
6. The Environment Conservation Amendment Act, 2003 (Act No. 50 of 2003)
7. The National Water Act, 1998 (Act No. 36 of 1998).
8. The Water Services Act, 1977 (Act No. 108 of 1977).
9. The Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965)
10. The Hazardous Substances Act, 1973 (Act No. 15 of 1973)
11. The Health Act, 1977 (Act No. 63 of 1977)
12. The National Health Act, 2003 (No. 61 of 2003).
13. The National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977).
14. National Environmental Management Air Quality Management Act, 2004 (Act No. 39 of 2004).
15. American Petroleum Institute (API) 650 and 653
16. SANS 10089
17. SANS 10131
18. SANS 10108