

Licence Number: NER/MUNIC/G/MP32/01

LICENCE FOR THE OPERATION OF A GENERATION FACILITY

This licence is issued by the National Energy Regulator in terms of the Electricity Regulation Act, 2006 (Act No. 4 of 2006).

This licence is issued to

THABA CHWEU LOCAL MUNICIPALITY

hereinafter referred to as "the Licensee", only for the purpose of the operation of the Generation Facility referred to in Schedule 2.

The operation of the generation facility permitted under this licence is subject to the conditions listed in Schedule 1.

ISSUED at Pretoria on this 17th day of **March 2014**.



**CHIEF EXECUTIVE OFFICER
NATIONAL ENERGY REGULATOR**



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Schedule 1 Licence conditions

1 Definitions and interpretation

1.1 The following terms as defined hereunder are used in these licence conditions:

Approvals	means any permission, permit, approval, consent licence, authorisation, registration, grant, acknowledgement, exemption or agreement to be obtained from any Competent Authority by the Licensee under any law to enable the Licensee to undertake its obligations in respect of the Project;
Buyer	means Eskom Holdings SOC Limited or any successor in law;
Codes	means as applicable, any code in respect of electricity distribution or transmission as published by the Energy Regulator from time to time;
Contracted Capacity	means the anticipated Capacity of the Generation Facility, measured at the Delivery Point and expressed as AC power capacity, net of own consumption and electrical losses between the generator terminals and the Delivery Point;
Delivery Point	means the physical point where the Generation Facility connects to the System and where the Energy Output is to be delivered by the Licensee to the Buyer;
Energy Regulator/ the National Energy Regulator	means the National Energy Regulator established in terms of the National Energy Regulator Act;
Environmental Policy	means the environmental authorisation granted by the Department of Environmental Affairs in respect of the Licensed Activities, as amended from time to time;
Generation Facility	means the generation facility referred to in Schedule 2;
Financial year	means a period starting from the date immediately following the last day of the preceding accounting period up to and including the last day of the accounting period;
Generation	means the production of electricity by any means, and generate and generating have corresponding meanings;
Generation Licence	means a licence issued in terms of the Act;
Health and Safety Policy	means the measures taken by the Licensee in accordance with applicable laws, to protect the health and safety of the general public and persons employed by the Licensee from the effect(s) of the Licensed Activities;
Licensed Activities	means the activities licensed hereunder, as set out in clause 4.1 of this licence;
Licensee	means Thaba Chweu Local Municipality ;
Rules	mean Rules made by the Energy Regulator in terms of the Act;
Term	means duration of licence or period within which a licence is in force;

The Act means the *Electricity Regulation Act, 2006 (Act No 4 of 2006)*, and includes Regulations made under the Act;

2 Interpretation

In these licence conditions, unless otherwise specified:

- 2.1 Words and phrases shall have the meaning ascribed to them in the Act;
- 2.2 Words of phrases importing the singular shall include the plural and vice versa;
- 2.3 Headings are for convenience only and shall not affect the interpretation of the licence;
- 2.4 Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document;
- 2.5 Any reference to a numbered section is a reference to the section bearing that number in which the reference occurs;
- 2.6 In the computation of time, where there is a reference to a number of days between events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens and where the time for doing an event expires on a holiday, the event may be done on the next day that is not a holiday.

3 Term of Licence

- 3.1 The licence shall commence on the 01 April 2014 and continue to be in force for a period of (fifteen) 15 years.
- 3.2 Subject to the provisions of the Act, the term of this licence may be renewed or revoked by the National Energy Regulator.
- 3.3 The Energy Regulator may set different licence conditions upon granting an approval for renewal.

4 Licensed activities

- 4.1 This Generation Licence is issued to operate the Generation Facility and to sell its electricity to the Buyer.
- 4.2 The entitlement of the Licensee to conduct the Licensed Activities is subject to all Approvals having been obtained.

5 Prohibited activities

- 5.1 The Licensee shall not increase the installed capacity (as set out in Schedule 2) or change the generating process of the Generation Facility without the approval of the Energy Regulator.
- 5.2 The Licensee shall not sell electricity from the Generation Facility to third parties without the approval of the Energy Regulator.

6 Standard performance

The Licensee shall:

- 6.1 keep this Generation Licence or a copy at the Generation Facility;

- 6.2 comply with the Act and Regulations, Rules, guidelines, directives and standards issued by the National Energy Regulator from time to time;
- 6.3 save for exemptions approved by the Energy Regulator, comply with the provisions of the Codes as varied, supplemented or replaced from time to time;
- 6.4 Comply with restrictions and conditions imposed by any relevant government department, agency and/or authority which its decision can have an impact on the existence of this licence.

7 Payment of licence levies

The Licensee shall pay to the National Energy Regulator the levies in respect of this Generation Licence determined by the Minister under the prevailing legislation.

8 Provision of information

The Licensee shall:

- 8.1 maintain records of the operation of the Generation Facility and provide, in the manner and form prescribed by the National Energy Regulator, such information and documents as the National Energy Regulator may require from time to time;
- 8.2 maintain a separate information and statement of accounts for electricity generation business covered by this licence in the form prescribed by the National Energy Regulator;
- 8.3 provide the National Energy Regulator with audited financial statements for each financial year in accordance with relevant financial legislations; and
- 8.4 submit to the Energy Regulator copies of the accounting statements and auditor's report within 180 days of the end of the Licensee's financial year.

9 Health and safety

The Licensee shall comply with health and safety legislation, subordinate legislation and such other requirements as may be applicable.

10 Environmental

The Licensee shall comply with applicable environmental legislation, subordinate legislation and such other requirements as may be applicable.

11 Inspection(s)

The Licensee shall:

- 11.1 consent to inspection at all reasonable times to be conducted by the National Energy Regulator or authorised persons on its behalf for the purpose of ascertaining the condition of the Generation Facility and operational standards.
- 11.2 allow any person authorised by the Energy Regulator to inspect and verify the financial accounts of the Generation Facility and shall render all necessary assistance to such person.

12 Investigation(s)

- 12.1 The Licensee shall consent to investigations at all reasonable times to be conducted by the National Energy Regulator or authorised person on its behalf for the purpose of ascertaining a complaint or failure to abide by its licence conditions.
- 12.2 On completion of the investigation the Energy Regulator may:
- (1) Refer the investigation report to the Director of Public Prosecutions of the area concerned; and
 - (2) If a Licensee is involved, act on the matter in accordance with the provision of the Act.

13 Assignment of licence

- 13.1 The Licensee shall not assign, cede or transfer this licence or any power or duty granted or imposed under this licence, to any other person without the prior consent of the Energy Regulator. Six (6) months before the lapse of the respective PPA for the generation station, the licensee shall secure another PPA to cover the rest of the 15 year licence period.
- 13.2 In deciding whether to give its consent to assignment, ceding or transfer of this licence, the Energy Regulator shall:
- (1) apply the same criteria as it would apply if it were deciding whether to grant a corresponding licence to the Assignee; and
 - (2) the Energy Regulator may require the Assignee to provide the same information as it would require if the Assignee were applying for the corresponding licence.

14 Change in control of Licensee

- 14.1 A Licensee must at all times notify the National Energy Regulator with the details of any changes in the registered name, operation status of the Generation Facility, registered address and other contact details.
- 14.2 A Licensee must notify the National Energy Regulator of any changes in control of the Licensee.
- 14.3 The notification must be provided within 14 days after the event.

15 Amendment of licence

This licence may be amended by the National Energy Regulator in accordance with the Act and the Rules.

16 Revocation of licence

This licence may be revoked by the National Energy Regulator in accordance with the provisions of the Act and the Rules.

17 Contravention of licence

- 17.1 The Licensee shall not act in any manner that is inconsistent with the Act, Rules and this licence.
- 17.2 In the event of contravention, such contravention shall be dealt with in terms of the Act.

18 Correspondence with the National Energy Regulator

- 18.1 All official communication with the National Energy Regulator must be in writing, unless directed otherwise by the National Energy Regulator.
- 18.2 The communication can be sent by any means possible including post, fax, email and hand delivery.
- 18.3 The Licensee must, in all correspondence with the National Energy Regulator, quote the licence reference number, as it appears on the licence certificate.

19 Whole licence

This licence constitutes the entire licence and supersedes all prior understandings and agreements between the Licensee and the National Energy Regulator.

20 Dispute resolution

Save for the provisions of the Power Purchase Agreement (PPA):

- 20.1 The National Energy Regulator shall act as mediator if so requested by both the Licensee and the buyer to settle the dispute; or
- 20.2 The National Energy Regulator may appoint a suitable person to act on its behalf towards the settlement of the dispute and any action or decision of a person so appointed is deemed to be an action by or decision of the Energy Regulator.

Schedule 2
Details of the Generation Facility

Generating Station	Location	Type	Installed Capacity (MW)
Lydenburg Hydro	Farm Lydenburg 28 JT GPS coordinates: S24°59'52,44 E30°26'20,34	Hydro	3.35

**Schedule 3
Trading Agreements**

Power Purchaser (Buyer)	Contracted generation station	Duration of PPA	Contracted Capacity (MW)
Eskom Holding SOC Limited	Lydenburg Hydro Power Station	12 months	3.35

Schedule 4 Record of licence issue

Issue Number (first, second...)	Licensee Name	Year of issue	Licence Number
First issue	Lydenburg Town Council	1995	082 0138
Second issue	Thaba Chweu Local Municipality	2014	NER/MUNIC/G/MP32/01