

Licence Number: PPL.sf.F3/179/2014

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

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

This licence is issued to

**Oilco Wholesale (Pty) Ltd**

*(Company Registration No: 2007/008884/07)*

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

**32 De Waal Street, Pongola, 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 the Energy Regulator.

Issued at Pretoria on this 22<sup>nd</sup> day of January 2015.

*Basen*

**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 the Energy Regulator in terms of section 33(3) of the Act.

## CHAPTER ONE: LICENSED ACTIVITY

### 1. Licensed Activity

- 1.1 The Energy Regulator grants the Licensee a licence to operate petroleum storage facility located at **32 De Waal Street, Pongola, KwaZulu-Natal** (Site GPS coordinates: 27°22'01.71"S 31°36'50.44"E).
- 1.2 The licence is issued to the Licensee for the storage facility to store petroleum products. The storage facility capacity and mode of operation are described in **Annexure A**.
- 1.3 The layout of the storage facility is shown in **Annexure B**.
- 1.4 The Licensee must carry out the activities for which this licence is granted.

### 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 an amendment or a renewal of the licence.

## **CHAPTER TWO: GENERAL CONDITIONS**

### **3. General Conditions of Licence**

Sections 20(1)(a), (b), (c), (d), (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, 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. The Energy Regulator 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 the Energy Regulator 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 the Energy Regulator 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 the Energy Regulator 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, 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 the Energy Regulator 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 the Energy Regulator 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, Codes and Standards**.

## **11. Correspondence with the Energy Regulator**

- 11.1. All official communication with the Energy Regulator 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 the Energy Regulator, 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 the Energy Regulator 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 the Energy Regulator's Regulatory Reporting Manuals published under GN 1118 in *Government Gazette* No.31392 of 10 September 2008, which may be amended by the Energy Regulator 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 the Energy Regulator 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 the Energy Regulator, submit any information that the Energy Regulator requires to determine uncommitted capacity in the storage facility;
- (f) allow the Energy Regulator or any authorised person to have access to:
  - i) the storage facility; and
  - ii) 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 the Energy Regulator.

14.2. When the Licensee makes any changes to its allocation mechanism, it must lodge the amended allocation mechanism for uncommitted capacity with the Energy Regulator 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 the Energy Regulator for approval of its proposed tariffs.

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

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

15.3. Once tariffs have been approved by the Energy Regulator, the Licensee must only charge those tariffs until the Energy Regulator 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 the Energy Regulator**

The Licensee must:

- 18.1. comply with the Regulations in respect of information required to be submitted to the Energy Regulator; and
- 18.2. on request from the Energy Regulator, provide all other information the Energy Regulator 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 the Energy Regulator.

## **20. Emergency Plan**

The Licensee must annually submit to the Energy Regulator:

- 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 3 (three) months of the date of issue of this licence, the Licensee must:
  - (a) submit to the Energy Regulator 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 the Energy Regulator.

21.4. The Licensee must obtain from the Energy Regulator 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 the Energy Regulator.

## ANNEXURE A: Facility Details and Mode of Operation

Table 1: Pongola Facility Details

Tank ID	Product	Tank Type	Length (mm)	Diameter (mm)	Design Capacity (m <sup>3</sup> )	Operational capacity (m <sup>3</sup> )
02	Diesel 500/50ppm	Horizontal (cylindrical) aboveground	7200	2870	46	46
03	Diesel 500/50ppm	Horizontal (cylindrical) aboveground	5500	2318	23	23
<b>Combined Capacity (m<sup>3</sup>)</b>					<b>69</b>	<b>69</b>

Note: The design and operational capacities are as provided by the applicant.  
The safe operational capacity will typically be less.

Table 2: Mode of operation

Intake		Discharge	
Mode	Rate (litres/min)	Mode	Rate (litres/min)
Road tanker	600	Road tanker	600

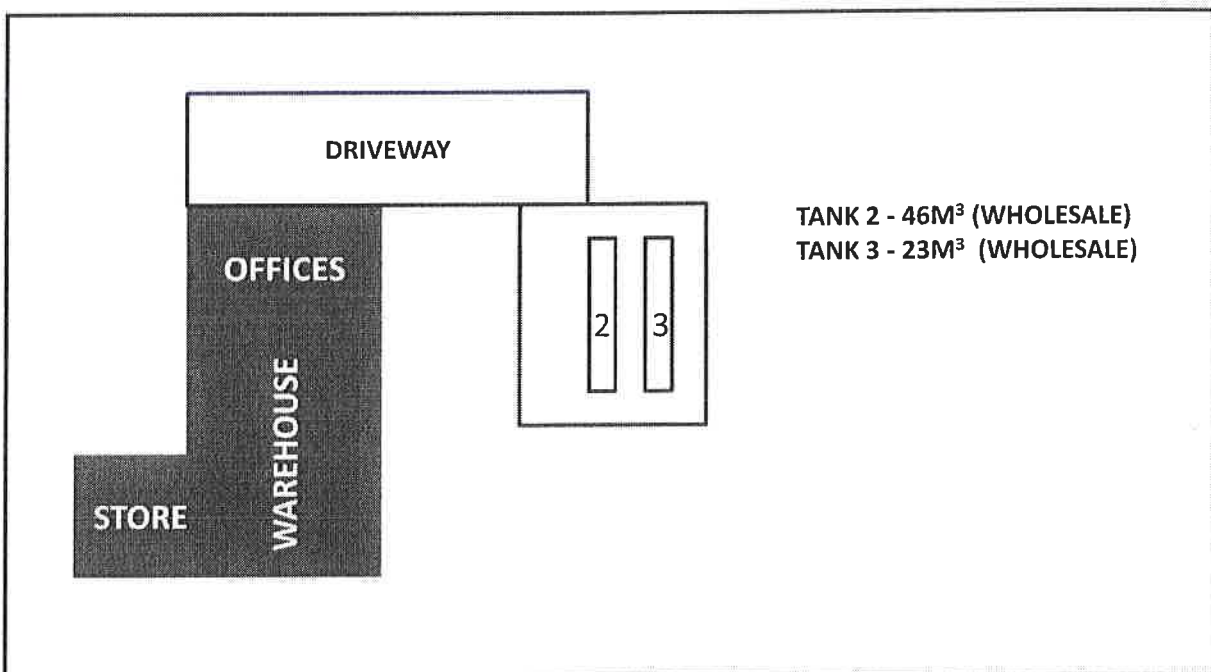
## ANNEXURE B: Overall Site Layout



Source Google Earth, 2014

### PONGOLA FACILITY SITE LAYOUT (Schematic)

De Waal Street



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

The Licensee must comply with all relevant codes and standards including those submitted by the Licensee and including the following:

1. American Petroleum Institute (API) 650:2013
2. South African National Standards (SANS) 299
3. SANS 1598
4. SANS 10131:2004
5. SANS 10089-2:2007
6. SANS 10108:2002
7. SANS 10086-3:2011
8. SANS 60079-174:2009

The Licensee must also comply with all other relevant legislation including but not limited to the following:

1. Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).
2. The National Environmental Management Act, 1998 (No. 107 of 1998).
3. The Environment Conservation Act, 1989 (Act No.73 of 1989).
4. The National Water Act, 1998(Act No. 36 of 1998).
5. The Water Services Act, 1977(Act No. 108 of 1977).
6. National Environmental Management Air Quality Management Act, 2004 (Act No. 39 of 2004).
7. The Hazardous Substances Act, 1973 (Act No. 15 of 1973)
8. The Atmospheric Pollution Prevention Act (No. 45 of 1995)
9. The Health Act, 1977(Act No. 63 of 1977).
10. The National Health Act, 2003 (No. 61 of 2003).
11. The National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977).
12. Major Hazardous Installation Regulation in terms of Occupational Health and Safety Act, 1993 (GNR 692 in Government Gazette No. 22506 of 30 July 2001).
13. National Building Regulations, 1977 (Act No. 103 of 1977)