



# STEVEDORING LICENCE

**Licence Number:** .....

**Issued in terms of Section 57 of the National Ports Act No. 12 of 2005 ("the Act")**

**MAY NOT BE TRANSFERRED WITHOUT THE PRIOR WRITTEN CONSENT OF THE AUTHORITY [Section 59(1) of the Act]**

**Name of licensed operator:** .....

**Registered physical address from where principal business is carried on:** .....

**Registration Number:** .....

**V.A.T. Registration Number:** .....

("hereinafter referred to as the "Licensee")

is hereby licensed by the Authority to undertake the following activity, and none other, in the Port of

**Nature of stevedoring service/s authorised [Section 58(1)(b) of the Act]:**

Stevedoring (delete non-applicable service):

- |                |  |                             |
|----------------|--|-----------------------------|
| (a) Automotive | (d) Dry Bulk                             | (g) Project / Special Cargo |
| (b) Break Bulk | (e) Liquid Bulk                          | (h) Other (specify):        |
| (c) Containers | (f) Lashing / Unlashing / Hatch Cleaning |                             |

This licence is issued subject to:

- 1) compliance with conditions printed on this licence, which list some of the obligations of the Licensee;
- 2) compliance with the provisions of the Act, in particular sections 58 to 64, and all other relevant legislation;
- 3) compliance with any Regulations adopted in terms of section 80(1) of the Act;
- 4) compliance with the Port Rules for the commercial Ports of South Africa, adopted in terms of section 80(2) of the Act and with the Harbour Master's Written Instructions and the Authority's Written Instructions;
- 5) compliance with the Authority's Tariff Book, published in terms of section 72(1) of the Act;
- 6) compliance with the International Ship and Port Security Code ("the ISPS Code") as it applies to all Ports of South Africa; and
- 7) compliance with all other applicable legislation and generally conduct its stevedoring activities in accordance with the Law.

**Duration of licence:** \_\_\_\_\_ to \_\_\_\_\_ [Section 58(1)(a) of the Act]

**Licence fee:** R [TBD] inclusive of VAT. [Section 58(1) (c) of the Act]

.....  
**THE AUTHORITY'S DELEGATEE**

**Date:** .....

The Licensee accepts that this licence is issued subject to compliance with the attached conditions and the statutory and other instruments listed above, as amended or changed from time to time.

.....  
**LICENSEE OR ITS AUTHORISED REPRESENTATIVE**

**Date:** .....

# CONDITIONS OF STEVEDORING LICENCE

## GENERAL

1. All references to "the Act" are to the National Ports Act No. 12 of 2005.
2. The Licensee shall be a member of the National Association of Stevedores. If membership of the Association is refused or cancelled for any reason, the Authority may, on good cause shown, grant an exemption from this condition.
3. The Licensee may not act or purport to act on behalf of the Authority or to represent it in any way. The Licensee is not the mandatory, agent or employee of the Authority arising out of the issue of this licence. The Authority shall not be liable, vicariously or otherwise, for the acts or omissions of the Licensee.
4. The Licensee acknowledges and agrees that the Authority may disclose any or all of the information provided by the Licensee to law enforcement, government and regulatory agencies and the Licensee releases and indemnifies the Authority from and against all losses, claims, damages, costs, liabilities, actions and causes of action arising out of or in any way connected with the disclosure or release of any information provided by the Licensee to such bodies.
5. The Licensee shall comply with all relevant management systems, policies and procedures and directives of the Authority.

## SAFETY, HEALTH, ENVIRONMENT AND EFFICIENCY

6. Stevedoring must be performed diligently, safely and without deliberate or undue delay.
7. The Act requires the Licensee to provide reliable, efficient and economical port services and facilities to port users in accordance with the conditions of the licence granted to it.
8. The performance of stevedoring on board any vessel shall always be supervised by and be subject to the direction and approval of the vessel's master, or his duly authorized agent.
9. The Licensee shall have written safety, health, environment and quality programs in place at all times and shall make these available to the Authority for inspection upon request at all reasonable times.
10. The Licensee shall undertake annual risk assessments of the stevedoring services that it offers within the Port and shall make these available to the Authority for inspection upon request.
11. The Authority may conduct random Safety Health and Environmental (SHE) audits without prior notification, in terms of s 63 of the Act, to assess the Licensee's compliance with the stipulations in this licence, including compliance with all relevant laws and other instruments, whether specifically listed in the licence or not.
12. During the on-loading or off-loading of cargo and containers, the Licensee shall ensure that all necessary measures are taken to prevent the spillage of cargo or containers into the waters of the Port, or onto the quayside.
13. The dumping of material by or on behalf of the Licensee of any nature or specification anywhere within the Port is strictly prohibited.

## LABOUR

14. The Licensee shall at all times employ or engage sufficient and suitably qualified and competent personnel to enable it to efficiently provide the services envisaged by this Licence.
15. The Licensee is required to ensure that its total workforce, both permanent and casual employees, comply with the obligations contained in this licence.
16. All forklift drivers, riggers, truck drivers, crane drivers, winch operators and gangway-men shall have a valid certificate of competence issued by the Transport Education Training Authority and any other SETA/body, and the certificate shall be available for inspection by the Authority.

17. All employees of the Licensee shall be neatly and uniformly attired, with the name and identification mark of the Licensee conspicuously displayed on their attire when such employees are within the precincts of the Port.
18. All employees of the Licensee must be in possession of a valid access permit issued in terms of the Port Rules.
19. All personnel shall wear the protective clothing prescribed in the Port Rules.

## **EQUIPMENT**

20. All equipment shall be listed before use and the Licensee shall obtain test certificates from a competent person registered with the Department of Labour and the Engineering Council of South Africa. All lifting gear shall have a valid current inspection certificate which complies with the applicable legislation.
21. All stevedoring gear and equipment required for the proper carrying out by the Licensee of stevedoring shall be maintained in good order and condition.
22. All equipment must be in proper working order and machines and motor vehicles must be inspected regularly for oil leaks and spills. Any spills detected must be cleaned up immediately and disposed of at an appropriate landfill site by the Licensee to the satisfaction of the Authority and the competent authorities.
23. All equipment used by the Licensee shall be removed from wharfs, quays, jetties and other work places in a Port without delay after stevedoring is completed on a particular vessel, or within such extended time as the Authority may, on good cause shown, allow.

## **MOTOR VEHICLES**

24. Each motor vehicle used by the Licensee in the Port in excess of one and a half tonne carrying capacity, shall bear the name of the Licensee in a conspicuous place, or in such manner as the Authority may from time to time stipulate.
25. All motor vehicles used for the transport of employees within the precincts of the Ports shall be closed top motor vehicles.

## **INSURANCE**

26. Public liability insurance shall be effected and maintained at all times. The extent of public liability insurance may be adjusted by the Authority on an annual basis, or after consultation with the Licensee.
27. Upon request, the Licensee shall furnish proof to the Authority of the continued existence and validity of such insurance and the regular payment of all premiums due under the policy.
28. The Authority shall not be liable should it at any stage be established that the insurance obtained is inadequate or insufficient for any reason whatsoever, or should the relevant insurer for any reason refuse or be unable to meet its liabilities in terms of the said policy.

## **STATUTORY CONDITIONS**

29. In terms of s 62(2) of the Act, the Licensee must:
  - 29.1 Within three months after the end of each financial year, or such longer period permitted by the Authority, submit to the Authority a report of its licensed operations during that financial year, including:
    - 29.1.1 the quality and level of its service in the financial year under review. The quality and level of service standards are established as the internationally accepted performance norms published by various institutions involved in the maritime industry, namely the IMO, the World Bank and others;
    - 29.1.2 its compliance with the terms and conditions of its licence, the Act and the regulations;
    - 29.1.3 steps taken to eliminate anti-competitive and discriminatory practices;

- 29.1.4 its audited annual financial statements; and
- 29.1.5 the quality and level of performance with regard to such environmental criteria and social responsibility requirements as may be set by the Authority or required by other national legislation.
- 29.2 From time to time, and where applicable, submit to the Authority such statistical information relating to its licensed operations as may reasonably be required by the Authority.
- 30. In terms of s 62(3) and (4) of the Act, the Authority may require a licensed operator, at the operator's cost, to submit such additional information as may be necessary to explain or amplify any report or information submitted by the licensed operator. Any information required by the Authority must be lodged by the licensed operator within the period and in the manner determined by the Authority.
- 31. In terms of s 62(5) of the Act, a licensed operator must, within 24 hours of its occurrence or discovery, inform the Authority of:
  - 31.1 any change in the control of the licensed operator;
  - 31.2 any industrial dispute between the licensed operator and its employees;
  - 31.3 any industrial accident or disaster involving any employee or agent of the licensed operator;
  - 31.4 any occurrence of fire within its premises within the port;
  - 31.5 any theft or pilferage within its premises or any theft or pilferage involving any cargo in its possession or control;
  - 31.6 any proceedings or claim instituted or made against the licensed operator which could materially affect its ability to perform any obligation or to comply with any term or condition of its licence; and
  - 31.7 any spillage or pollution that may have an impact on the environment.
- 32. Any incidents or accidents that may impact in any way on the environment shall be reported immediately to the Authority by the Licensee.
- 33. Any injury on duty (IOD), or fatality, shall be reported immediately to the Authority and to any applicable statutory body within the required time-frame.

## **TRANSFER**

- 34. In terms of s 59 of the Act, a licence may not be transferred to any third party without the prior written consent of the Authority and any transfer of a licence without such consent is of no force or effect. If the members of a licensed close corporation or shareholders of a licensed company alienate some or all of their interests or shares, prior written consent must be obtained if the transfer of shares or of membership interest results in a change of control of the licensee. In the case of a listed public company, a sale of more than 35% of the shareholding requires approval.

## **DIRECTIVES**

- 35. In terms of s 61(1) of the Act, the Authority may give directives with respect to standards of performance and procedures to be observed by licensed operators:
  - 35.1 to ensure the reliability of the supply of port services and facilities; or
  - 35.2 in the interest of public safety or the environment.
- 36. Before issuing a directive, the Authority must give written notice to the affected licensed operator:
  - 36.1 indicating the intention to issue the directive;
  - 36.2 setting out the reasons why it is considering issuing the directive; and
  - 36.3 affording the operator a reasonable opportunity to make representations as to why the directive should not be issued.

## **CANCELLATION AND SUSPENSION**

37. In terms of s 60(1) of the Act, the Authority may cancel or for a reasonable period suspend this licence, if:
  - 37.1 the licensed operator contravenes or breaches any condition of its licence, any provision of the Act or the regulations, or any directive issued by the Authority in terms of the Act;
  - 37.2 the licensed operator is sequestrated, liquidated or placed under judicial management. One of the conditions of the s 57 licence is that a licensed operator must inform the Authority if any of these events were to occur;
  - 37.3 the licensed operator has made any assignment to, or composition with, its creditors; or
  - 37.4 the safety of vessels and persons within ports or the national security of the Republic so requires.
38. Prior to cancelling or suspending a licence or issuing a directive, the Authority, in terms of s 60(3), will give written notice to the licensed operator:
  - 38.1 indicating the intention to cancel or suspend the licence or the intention to issue a direction;
  - 38.2 setting out the reasons why it is considering cancelling or suspending the licence or issuing the direction; and
  - 38.3 affording the licensed operator a reasonable opportunity to make representations as to why the licence should not be cancelled or suspended or the direction should not be issued.
39. Where a licence is cancelled or suspended, the Authority may, if it considers that such cancellation or suspension would materially affect the movement of cargo or passengers in a port:
  - 39.1 provide the port service or operate the port facility;
  - 39.2 engage any employee of the licensed operator, or any third party, to carry out functions as directed by the Authority; and
  - 39.3 recover any expenses from the licensed operator concerned.

## **MODIFICATION**

40. The Authority may modify the terms and conditions of this licence. Prior to modification, the Authority will give written notice to the licensed operator:
    - 40.1 indicating the intention to modify the terms and conditions of the licence;
    - 40.2 setting out the reasons why it is considering modifying the terms and conditions of the licence; and
    - 40.3 affording the licensed operator a reasonable opportunity to make representations as to why the terms and conditions should not be modified.
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