



The Director
Atlas Tower (Pty) Ltd
Att: Mr C H Wessels
Postnet Suite 174
Private Bag X3036
PAARL
7620

Date: 25 January 2019
Enquiries: Mrs C M Cornelissen
Tel number: +27 21 840 2462
Quote Ref No: **GBN274702366**

Dear Mr Wessels

QUOTE FOR A NEW SUPPLY OF ELECTRICITY FOR PORTION 19 OF FARM 319, PERIGRINE FARM STALL, GRABOUW

We have pleasure in providing you with this Quote for a new supply of electricity of 50 kVA to the Electrical Installation as contained in your application with reference to the date as set out in Annexure "C" (*Technical Specifications*). This Quote contains the terms and conditions for, *inter alia*, the scope of works, price and timelines for the Eskom Connection Works to be constructed to connect the CUSTOMER's Electrical Installation to ESKOM's Distribution System. The Electricity Supply Agreement, the form of which is attached hereto as Annexure "D" (*Form of Electricity Supply Agreement*) contains the terms and conditions of the Connection, access to and use of the Distribution System, and supply of electricity to the Electrical Installation.

This Quote together with the Electricity Supply Agreement, contains the terms and conditions of, *inter alia*, the construction, Connection, costs and supply of electricity to the Electrical Installation from the Distribution System.

TERMS AND CONDITIONS OF THIS QUOTE

1 DEFINITIONS AND INTERPRETATION

- 1.1 Where applicable and unless inconsistent with the context, the capitalised words and expressions used in this Quote shall have the meanings ascribed to them in Clause 1 of Annexure "A" (*Definitions and Interpretation*) and cognate expressions shall have corresponding meanings.
- 1.2 The interpretation clauses are set out in Clause 2 of Annexure "A" (*Definitions and Interpretation*).
- 1.3 Any capitalised words and expressions used but not defined in this Quote shall have the meanings assigned to them in the Schedule of Standard Prices, in Annexure "D" (*Form of Electricity Supply Agreement*) and, following its execution by the Parties, the Electricity Supply Agreement.

2 QUOTE

- 2.1 This Quote supersedes any previous quotations, negotiations, arrangements or agreements pertaining to the Connection Works and related costs, whether made orally or in writing.
- 2.2 The commencement and continuation of the construction of the Eskom Connection Works is subject to the terms and conditions set out in this Quote read together with the Electricity

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Customer Service Operations (Western Cape & Northern Cape Province)
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Eskom Holdings SOC Ltd Reg No 2002/015527/30

Supply Agreement.

- 2.3 This Quote is valid for acceptance by the CUSTOMER within the Quote Acceptance Period. This Quote only becomes effective on the Quote Effective Date.
- 2.4 If the Quote Conditions for whatever reason have not been fulfilled within the Quote Acceptance Period, then this Quote shall lapse and be of no further force or effect from the day following the expiry of the Quote Acceptance Period.
- 2.5 This Quote is provided free of charge (provided it is a first request for a quote). Should this Quote not be accepted and should the CUSTOMER request a revised or a new quote, Eskom reserves the right to raise a Quotation Fee.

3. TECHNICAL

3.1 General

- 3.1.1 The Supply Size to be made available by ESKOM at the CUSTOMER's Point of Delivery shall be as set out in Annexure "C" (*Technical Specifications*).
- 3.1.2 The Electrical Installation, the Property or Premises and the nature of the CUSTOMER's plant is described in Annexure "E" (*Customer Details, Description of Electrical Installation and Property*).
- 3.1.3 The location of the CUSTOMER's Point(s) of Delivery is described in Annexure "C" (*Technical Specifications*).

3.2 Connection Works

- 3.2.1 The Parties shall undertake the Connection Works, in accordance with the terms and conditions of this Quote, the Electricity Supply Agreement, all Approvals and Connection Rights-of-Way, the Codes, and the standards of a Reasonable and Prudent Operator.

3.2.2 CUSTOMER's Electrical Installation and Customer Connection Works

- 3.2.2.1 The CUSTOMER shall be responsible for the portion of the Connection Works comprising the Customer Connection Works and the CUSTOMER's Electrical Installation, including the wiring thereof.
- 3.2.2.2 The wiring of the Electrical Installation must be done by a registered electrical contractor, appointed by the CUSTOMER. A Certificate of Compliance, duly signed and completed, must be submitted to ESKOM and accepted by ESKOM, before the CUSTOMER's Electrical Installation may be Connected to ESKOM's Distribution System.
- 3.2.2.3 The CUSTOMER shall provide the relevant protection and control equipment at the CUSTOMER's Electrical Installation for the protection of the equipment of ESKOM against overload, faults and lightning on the CUSTOMER's Electrical Installation. The protection settings for any fault and overload of the CUSTOMER's equipment shall be agreed with ESKOM to ensure appropriate protection grading before the commissioning of the supply;
- 3.2.3 A suitable road must be made available to afford access at all times for the purpose of reading the meters. The said road must be kept in a good state of repair.

3.3 Eskom Connection Works

- 3.3.1 ESKOM shall be responsible for the portion of the Connection Works comprising the Eskom Connection Works.
- 3.3.2 ESKOM shall, with effect from the Quote Effective Date, be responsible for the due and proper application for and reasonable endeavours to obtain and maintain all Approvals required for the construction of the Eskom Connection Works, and all Connection Rights-of-Way, falling under the responsibility of ESKOM in terms of this Quote and the Electricity Supply Agreement;

3.3.3 ESKOM shall only commence with the construction of the Eskom Connection Works after the Quote Effective Date and as soon as reasonably possible after the following conditions have been satisfied in accordance with the terms of this Quote and the Electricity Supply Agreement:

3.3.3.1.1 all Approvals and Connection Rights-of-Way required for the construction of the Customer Connection Works have been acquired by the CUSTOMER; and

3.3.3.1.2 all Approvals and Connection Rights-of-Way required for the construction of the Eskom Connection Works have been acquired by ESKOM.

3.4 Estimated Connection Time Line

3.4.1 Subject to any time extension as contemplated in this Quote, the estimated period for the completion of the Eskom Connection Works, calculated from the commencement date of the Eskom Connection Works shall be as set out in Annexure C.

3.4.2 The CUSTOMER will be required to have its Electrical Installation ready for Connection by ESKOM at least 30 (thirty) calendar days before the connection date.

3.4.3 The CUSTOMER will not be Connected before the date indicated by the CUSTOMER in its application.

4 FINANCIAL

4.1 TARIFF CHARGES

4.1.1 Tariff applicable

Subject to the provisions of the Electricity Regulation Act, the current prices of the tariff as specified in Annexure F (*Financial Specifications*) to be charged monthly are set out in the Schedule of Standard Prices attached to the Electricity Supply Agreement.

4.2 TOTAL ESTIMATED CAPITAL COSTS

4.2.1 The total Estimated Capital Costs are set out in Annexure "F" (*Financial Specifications*).

4.3 CONNECTION CHARGE ESTIMATE

4.3.1 The Connection Charge Estimate payable by the CUSTOMER shall be as set out in Annexure "F" (*Financial Specification*).

4.4 ESKOM CONNECTION WORKS

4.4.1 The CUSTOMER shall pay all of the costs associated with the Eskom Connection Works in compliance with this Quote.

4.5 ADJUSTMENT TO CONNECTION CHARGE ESTIMATE

4.5.1 The Estimated Capital Costs used in the calculation of the Connection Charge Estimate and the Connection Charge, shall be subject to adjustment based on the following conditions, events or circumstances:

4.5.1.1 Scope Changes

4.5.1.1.1 In the event of any change in the scope of the Eskom Connection Works made by ESKOM:

4.5.1.1.1.1 to comply with any conditions imposed by any Governmental Authority under the Approvals, including for the sake of clarity, any environmental approval(s);

- 4.5.1.1.1.2 if ESKOM is unable to obtain any Connection Rights-of-Way on which this Quote is based and has to select an alternative Connection Rights-of-Way to provide the Connection;
- 4.5.1.1.1.3 as a result of any changes requested by the CUSTOMER;
- 4.5.1.1.1.4 as a result of any error, inaccuracy, omission or incompleteness in the application for this Quote by the CUSTOMER;
- 4.5.1.1.1.5 as a result of any delay in the whole or any part of the Customer Connection Works, including any delay in the whole or any part of the Customer Connection Works, resulting from any Force Majeure affecting the CUSTOMER; or
- 4.5.1.1.1.6 as a result of any material breach by the CUSTOMER of any material provision of this Quote or the Electricity Supply Agreement, ESKOM shall notify the CUSTOMER in writing of any such change in the scope of the Eskom Connection Works, including any resultant change in the Estimated Capital Costs and the Connection Charge Estimate, which shall be for the CUSTOMER's account, and any resultant change in the estimated connection timeline.
- 4.5.1.1.2 In the case of any change in the scope of the Eskom Connection Works required as a result of any changes requested by the CUSTOMER as set out in Clause 4.5.1.1.1.3 above:
 - 4.5.1.1.2.1 the CUSTOMER shall submit any and all changes to ESKOM in writing, citing as a reference the reference number above for this Quote;
 - 4.5.1.1.2.2 ESKOM shall be entitled to suspend and/or postpone any part of the Eskom Connection Works which may be directly affected by the CUSTOMER's change request pending ESKOM's determination of the changes in the scope of the Eskom Connection Works that may be necessitated by the CUSTOMER's change request;
 - 4.5.1.1.2.3 ESKOM shall be entitled to issue a revised quote to the CUSTOMER;
 - 4.5.1.1.2.4 the CUSTOMER shall be entitled to withdraw its request on written notice to ESKOM given no later than 15 (fifteen) Business Days following the date of ESKOM's notice of the change in costs attributable to such change in scope of the Eskom Works and/or revised quote;
 - 4.5.1.1.2.5 in the event of such withdrawal by the CUSTOMER and/or a rejection by the CUSTOMER of the revised quote, ESKOM shall be entitled to proceed with the Eskom Works as detailed in this Quote without effecting such change in scope of the Eskom Connection Works; and/or
 - 4.5.1.1.2.6 in the event of the CUSTOMER accepting the revised quote, as evidenced by the CUSTOMER's delivery of an Acceptance Letter, this Quote shall lapse and be of no further force or effect.

4.5.1.2 **Force Majeure**

- 4.5.1.2.1 In the event of a delay in the whole or any part of the Eskom Connection Works resulting from any Force Majeure affecting ESKOM, provided that ESKOM has complied with the provisions of Force Majeure Clause of the Electricity Supply Agreement in relation to such Force Majeure, ESKOM shall notify the CUSTOMER in writing, promptly following the cessation of the Force Majeure, of any change in the applicable Connection Charge Estimate resulting from such Force Majeure.

4.6 **CONNECTION CHARGE**

- 4.6.1 Within 6 (six) months after the Completion Date (as defined in the ESA) and if there is an adjustment as set out in Clause 4.5 and this Clause 4.6, ESKOM shall prepare a detailed statement of the Capital Costs incurred by ESKOM in carrying out the Eskom Connection Works, and all amounts received by ESKOM from or on behalf of the CUSTOMER in terms of this Quote and shall provide to the CUSTOMER such detailed statement. If there is no adjustment, the Connection Charges Estimate shall become the Connection Charge.

- 4.6.2 The following shall be taken into account in the calculation of the Connection Charge payable by the CUSTOMER and shall be set out in a final cost reconciliation notice:
- 4.6.2.1 the Capital Costs
- 4.6.2.1.1 if the Capital Costs are equal to or less than the Estimated Capital Costs multiplied by 1,15 (one comma one five), then the Capital Costs shall be used, or
- 4.6.2.1.1 if the Capital Costs are in excess of the Estimated Capital Costs multiplied by 1,15 (one comma one five); then the Capital Costs shall be deemed to be equal to the Estimated Capital Costs multiplied by 1,15 (one comma one five),
- 4.6.2.2 plus the additional actual costs incurred in respect of any adjustments pursuant to Clause 4.5 (*Adjustment to the Connection Charge Estimate*).
- 4.6.3 In the event that the CUSTOMER has paid a Connection Charge Estimate in excess of the Connection Charge calculated in terms of Clause 4.6.2, ESKOM shall refund the CUSTOMER such overpayment within 30 (thirty) calendar days of finalising the detailed statement of the Capital Costs in accordance with Clause 4.6.1 failing which ESKOM shall pay interest on the refund amount at a rate per annum equal to the prevailing prime overdraft rate charged by First National Bank of Southern Africa Limited minus 4% (four percent).
- 4.6.4 In the event that the Connection Charge Estimate paid by the CUSTOMER is less than the Connection Charge calculated in terms of Clause 4.6.2, the CUSTOMER shall pay the difference to ESKOM within 30 (thirty) calendar days of the written notice by ESKOM to the CUSTOMER in terms of Clause 4.6.1; failing which the CUSTOMER shall pay interest on the outstanding Connection Charge at a rate per annum equal to the prevailing prime overdraft rate charged by First National Bank of Southern Africa Limited plus 5% (five percent) as specified in the ESA. In the event that the written notice is provided by ESKOM after the 6-month period specified in Clause 4.6.1, no interest will be charged by ESKOM for the delay in providing the written notice.

4.7. PAYMENT

- 4.7.1 ESKOM shall issue a tax invoice meeting the requirements of the VAT Act in respect of the full Connection Charge Estimate to the CUSTOMER within 5 (five) to 10 (ten) Business Days of its receipt of the CUSTOMER's Acceptance Letter.
- 4.7.2 The CUSTOMER shall pay the Connection Charge Estimate:
- 4.7.2.1 in full to ESKOM by direct bank deposit or transfer or inter-bank transfer of freely available funds (EFT) to ESKOM's bank account specified in the tax invoice issued by ESKOM; and
- 4.7.2.2 only after receipt of the tax invoice issued by ESKOM.
- 4.7.3 The CUSTOMER shall use the account number on the tax invoice as the reference number for the deposit or transfer.
- 4.7.4 The Connection Charge Estimate must be reflected as having been received into ESKOM's bank account by no later than the last day of the Quote Acceptance Period and the CUSTOMER shall promptly provide ESKOM with the CUSTOMER's bank confirmation of the electronic funds transfer or deposit of the invoiced amount.

4.8. SECURITY/GUARANTEES

4.8.1 Security – Electricity Accounts Guarantee

4.8.1.1 The CUSTOMER shall pay the Electricity Accounts Guarantee Amount, as set out in Annexure F (*Financial Specifications*) as a Cash Deposit or provide a Guarantee, the form of which is attached as Annexure “G” for the same amount, required as security for the due payment of monthly electricity accounts, no later than the last day of the Quote Acceptance Period.

4.8.1.2 Should the CUSTOMER wish to pay by debit order (as elected in Annexure B), the Electricity Accounts Guarantee Amount can be reduced to be sufficient to cover the electricity accounts for 2 (two) consecutive months.

The required debit order form, is attached as Annexure “H” should the CUSTOMER wish to make use of this facility (elect the option under subclause 4.8.1.2).

5. LEGAL

5.1 TERMINATION

5.1.1 Event of Default

Each of the following events shall constitute an '**Event of Default**' which shall give either Party the right to terminate this Quote:

5.1.1.1 Non-payment

Either Party fails to make any payment due and payable under this Quote to the other Party by the due date for such payment, and such failure remains un-remedied for a period of 30 (thirty) days following the date of the written notice given by the non-defaulting Party to the defaulting Party requesting the remedy of such failure. For the avoidance of doubt, this clause does not apply to those payments due within the Quote Acceptance Period.

5.1.1.2 Guarantee Failure

The CUSTOMER fails to deliver, replace or maintain any Guarantee in accordance with this Quote and the Electricity Supply Agreement or any such Guarantee otherwise becomes invalid or unenforceable.

5.1.1.3 Act of Insolvency

Either Party commits an act of insolvency.

5.1.1.4 Material Breach

Either Party commits a material breach of any provision of this Quote (other than for non-payment), unless caused by a Force Majeure affecting such Party, or an act or omission of the other Party to this Quote, and such breach remains un-remedied for a period of 30 (thirty) days following the date of a written notice from the non-defaulting Party to the defaulting Party requesting the remedy of such breach.

5.1.1.5 Termination of the Electricity Supply Agreement

The Electricity Supply Agreement is terminated by either Party in accordance with the terms and conditions of such Electricity Supply Agreement.

5.2 TERMINATION FOR CONVENIENCE

The CUSTOMER shall be entitled to terminate this Quote for convenience at any time prior to the Completion Date (as defined in the Electricity Supply Agreement), on written notice to ESKOM.

5.3 CONSEQUENCES OF TERMINATION

- 5.3.1 If this Quote is terminated by either Party before the Connection has been made available, then ESKOM shall have the option either to complete the Eskom Connection Works or not to complete but remove the Eskom Connection Works. If ESKOM opts to:
- 5.3.1.1 complete the Eskom Connection Works, then the CUSTOMER shall be liable to pay the full outstanding balance of the Connection Charge; or
 - 5.3.1.2 not complete but remove the Eskom Connection Works, the CUSTOMER shall be liable to pay to ESKOM, on written demand by ESKOM, the following:
 - 5.3.1.2.1 the full outstanding balance of the Connection Charge; plus
 - 5.3.1.2.2 if this Quote is terminated in terms of Clause 5.1.1 (*Events of Default*) for an Event of Default on the part of the CUSTOMER or in terms of Clause 5.2 (*Termination for Convenience*), all costs incurred by ESKOM in connection with the removal of the Eskom Connection Works.
- 5.3.2 ESKOM may call up the Bank Guarantees provided by the CUSTOMER pursuant to this Quote and the Electricity Supply Agreement and shall apply the proceeds thereof or the Cash Deposit, in reduction of any liability of the CUSTOMER incurred as a result of the operation of this clause 5.3 (*Consequences of Termination*);
- 5.3.3 If this Quote is terminated in terms of Clause 5.1.1 (*Events of Default*) for an Event of Default on the part of ESKOM, then ESKOM's liability to the CUSTOMER shall be limited to direct damages which, for the purposes of clarity, excludes consequential damages (including but not limited to special loss, loss of production and loss of profit), provided that the maximum liability of ESKOM to the CUSTOMER shall be an amount equivalent to the Connection Charge.

5.4 SURVIVAL OF RIGHTS

- 5.4.1 Termination of this Quote shall not affect any rights or obligations of a Party, which may have accrued prior to the date of termination, which arise as a consequence of termination or which are expressed to survive termination in this Quote and/or the Electricity Supply Agreement.

6. GOVERNING LAW

This Quote shall be governed by and construed in accordance with the laws of South Africa.

7. DISPUTE RESOLUTION

- 7.1 Any claim, dispute or difference of whatsoever nature arising under, out of or in connection with this Quote, including any claim, dispute or difference regarding the existence, validity, legality or expiry of this Quote, shall be referred for resolution in accordance with the provisions of the Disputes and Dispute Resolution Clause of Annexure "D" (*Form of ESA*) and following its execution by the Parties the Electricity Supply Agreement.

For any information, enquiries or confirmation, please contact Chrissie Cornelissen at telephone number +27 21 840 2462 at any time within the Quote Acceptance Period.

I thank you for the opportunity of allowing ESKOM to provide this service and trust that your favourable reply will reach this office shortly.

Yours sincerely



.....
Z Walkers
OFFICER ACQUIRE CUSTOMER

.....
25 January 2019
.....
Date

DEFINITIONS AND INTERPRETATION

A. DEFINITIONS

1. **'Acceptance Letter'** means the acceptance letter as completed by the CUSTOMER and delivered to ESKOM in the form attached hereto as Annexure "B" (*Acceptance Letter*);
2. **'Approvals'** means any permission, permit, approval, consent, licence, authorisation, registration, grant, acknowledgement, exemption or agreement required to be obtained from any Government Authority;
3. **'Approved Credit Rating'** means a South African long-term unsecured foreign currency debt rating no worse than BBB- (as determined by Standard and Poor's Rating Group or Fitch Ratings) or Baa3 (as determined by Moody's Investor Services, Inc); South African Long-term National Scale Rating no worse than 'zaA-' (as determined by Standard & Poor's) or 'A-(zaf)' (as determined by Fitch Ratings) or 'A3.za' (as determined by Moody's Investor Services, Inc) or equivalent rating as determined by Eskom or a rating agency approved by Eskom;
4. **'Approved Inspection Authority'** means a person that has been accredited in terms of the electricity installation regulations of the Occupational Health and Safety Act, (Act 85 of 1993) by the accreditation authority as an approved inspection authority for electrical installations;
5. **'Capital Allowance'** means the customer's contribution to cost of connection for both dedicated connection assets and/or upstream assets, to be recovered from customers through future network charges;
6. **'Capital Costs'** means the total actual capital costs of the Eskom Connection Works;
7. **'Certificate of Compliance'** means a certificate of compliance issued by an Approved Inspection Authority or a registered person in terms of the electricity installation regulations of the Occupational Health and Safety Act, (Act 85 of 1993);
8. **'Cash Deposit'** means a sum of money, equal to the Electricity Accounts Guarantee Amount provided to ESKOM as security for the due payment of the electricity accounts to be rendered in terms of the electricity supply agreement;
9. **'Code(s)'** means the Distribution Code, the South African Grid Code, the Grid Connection code for Renewable Power Plants or any other code, published by NERSA, as applicable to ESKOM and/or the CUSTOMER;
10. **'Connection'** means the physical connection of the Electrical Installation to the Distribution System;
11. **'Connection Charge'** means, subject to adjustment, the total Standard Connection Charge and the Premium Connection Charge recouped or to be recouped by ESKOM from the CUSTOMER for the cost of the Eskom Connection Works comprising the Capital Costs, a contribution to shared costs, less the Capital Allowance calculated in compliance with the Code(s);
12. **'Connection Charge Estimate'** means the total estimated Connection Charge as set out in Annexure "F" (*Financial Specifications*) before adjustments for scope changes and force majeure;
13. **'Connection Rights-of-Way'** means all rights-of-way and rights of access over, across, into or from any land that will be required to lay any distribution facilities, plant, equipment, lines, cables or wires included in the Connection Works, including any alternative rights-of-way and rights of access if ESKOM's preferred rights-of-way and rights of access are not available on terms and conditions that ESKOM considers commercially reasonable and technically feasible;
14. **'Connection Works'** means the planning, financing, insuring, land rights acquisition, design, engineering, procurement, supply, fabrication, construction, erecting, installation, inspection of the electricity network infrastructure comprised in the Connection and all activities and requirements ancillary to these, and includes the Customer Connection Works and the Eskom Connection Works;
15. **'CUSTOMER'** means the legal person or entity as set out in Annexure E (*Customer Details, Description of Electrical Installation and Property*);
16. **'Customer Connection Works'** means the works to be carried out on the CUSTOMER side of the CUSTOMER's Point(s) of Supply, save as may otherwise be provided herein, and all related activities by which the Customer Connection Equipment shall establish a Connection between the CUSTOMER's Electrical Installation and the Distribution System;
17. **'Distribution'** means the regulated business unit through which ESKOM constructs, owns, operates and maintains the Distribution System in accordance with its Licence and the Code(s);

18. **'Distribution Connection Charge'** means that portion of the Connection Charge associated with the Distribution System, which may comprise of a Distribution Standard Connection Charge and a Distribution Premium Connection Charge;
19. **'Distribution System'** means ESKOM's network infrastructure consisting of assets operated at a nominal voltage of 132 kV or less, not classified as transmission transformation equipment;
20. **'Electrical Installation'** means the electrical equipment and installation of the CUSTOMER where electrical supply is taken, as more fully described in Annexure E (*Customer Details, Description of Electrical Installation and Property*);
21. **'Electricity Accounts Guarantee'** means a Bank Guarantee issued for an amount equal to the Electricity Accounts Guarantee Amount;
22. **'Electricity Accounts Guarantee Amount'** means a) initially an amount as set out in Annexure G (*Financial Specifications*) and b) thereafter an amount as varied by ESKOM on written notice to the CUSTOMER in accordance with the provisions of the Electricity Supply Agreement;
23. **'Electricity Regulation Act'** means the Electricity Regulation Act, No. 4 of 2006;
24. **'Electricity Supply Agreement'** or **'ESA'** means the agreement, including all appendices, entered into between ESKOM and the CUSTOMER, in respect of the supply of electricity by ESKOM to the CUSTOMER and the Connection to the Distribution System;
25. **'ESKOM'** means Eskom Holdings SOC Ltd (Registration Number 2002/015527/30);
26. **'Eskom Connection Equipment'** means the equipment and assets to Connect the CUSTOMER's Electrical Installation to the Distribution System as described in Annexure "C" (*Technical Specifications*), which shall be owned, operated and maintained by ESKOM;
27. **'Eskom Connection Works'** means the works required to be constructed, changed or enabled on the Distribution System side of the CUSTOMER's Point(s) of Delivery, save as may be otherwise provided herein, and all related activities by which the Eskom Connection Equipment shall establish a Connection between the CUSTOMER's Electrical Installation and the Distribution System;
28. **"Government Authority"** means the government of South Africa or any ministry, department or political subdivision thereof, and any person under the direct or indirect control of any such government exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government or any other governmental entity, instrumentality, agency, authority, corporation, committee or commission, or any independent regulatory authority, in each case within South Africa, and any successor to or any assignee of any of the foregoing but excluding ESKOM acting in its commercial capacity under this Quote;
29. **'Guarantee'** means a guarantee initially for the amount stated therein, which (i) is issued by a financial institution which (a) holds an Approved Credit Rating and (b) is registered under applicable Law to carry on business in South Africa and (ii) constitutes an on demand, unconditional and irrevocable commitment by the issuer to pay;
30. **'Law'** means any law, order, rule, regulation or code of any Governmental Authority of the Republic of South Africa or the promulgation or introduction of any law, order, rule, regulation or code by any Governmental Authority of the Republic of South Africa;
31. **'Licences'** means the licence(s) issued by the NERSA to ESKOM in terms of the Electricity Regulation Act;
32. **'Maximum Demand'** has the meaning as ascribed to it in the Schedule of Standard Prices;
33. **'NERSA'** means the National Energy Regulator of South Africa or its successor-in-title established in terms of the National Energy Regulator Act, No 40 of 2004;
34. **'Notified Maximum Demand (NMD)'** means, where applicable, the Maximum Demand notified in writing by the CUSTOMER and accepted by ESKOM, as more fully described in Annexure "C" (*Technical Specifications*);
35. **'Parties'** means ESKOM and the CUSTOMER, and the word **'Party'** shall be construed accordingly;
36. **'Point(s) of Delivery'** or **'POD'** has the meaning as ascribed to it in the Electricity Supply Agreement ;
37. **'Point(s) of Supply (POS)'** has the meaning as ascribed to it in the Electricity Supply Agreement;

38. **'PPI'** means the index published from time to time by Statistics South Africa, which is referred to as the "Production Price Index for final manufactured goods" in statistical release P0142.1 or such other index as may be determined by Statistics South Africa to replace or supersede that index;
39. **'Premium Connection'** means a connection made or to be made between the Electrical Installation and the Distribution System or the Transmission System based on the CUSTOMER's requirements, that are in excess of the specification of a Standard Connection, comprising Premium Equipment;
40. **'Premium Connection Charge'** means that portion of the Connection Charge payable for costs associated with the Premium Connection;
41. **'Premium Equipment'** means the equipment to be constructed or to be installed if a customer elects a Premium Connection, and is in addition to and/or in place of Standard Equipment;
42. **'Premises' or 'Property'** means the property described in the Electricity Supply agreement and in Annexure 'E' (*Customer Details, Description of Electrical Installation and Property*) of this Quote and to which a supply of electricity is required by the CUSTOMER;
43. **'Quote'** means this Quote, with its annexures, issued by ESKOM to the CUSTOMER as described on page 1;
44. **'Quote Acceptance Period'** means a date ending 30 (thirty) calendar days from the date of this Quote, which period shall expire on the date specified in Annexure 'E' (*Customer Details, Description of Electrical Installation and Property*) or such extended period as ESKOM may determine on written notice to the CUSTOMER;
45. **'Quote Conditions'** means the following conditions, all of which the Parties have to fulfil within the Quote Acceptance Period:
 - a. receipt by ESKOM of an unaltered Acceptance Letter duly executed by or on behalf of the CUSTOMER in the form attached hereto as Annexure "B" (*Acceptance Letter*);
 - b. receipt by ESKOM of upfront payment of the Connection Charge Estimate in full;
 - c. receipt by ESKOM of the Electricity Supply Agreement duly executed by or on behalf of the CUSTOMER in the form as set out in Annexure "D" (*Form of Electricity Supply Agreement*) attached hereto;
 - d. delivery to the CUSTOMER of the Electricity Supply Agreement, duly executed by or on behalf of ESKOM;
 - e. receipt by ESKOM of a certified copy of the ID document(s) of the person(s) signing on behalf of the CUSTOMER;
 - f. receipt by ESKOM, if the CUSTOMER is a juristic person or a trust, and as applicable, of the following:
 - i. CIPC registration certificate;
 - ii. names of trustees;
 - iii. letter of resolution, authoring the signatory to sign on behalf of the CUSTOMER;
 - iv. VAT registration certificate;
 - g. receipt by ESKOM of the Electricity Accounts Guarantee or Cash Deposit;
 - h. where the CUSTOMER has exercised an option to pay its electricity account by debit order, receipt by ESKOM of the completed debit order application in the form as set out in Annexure "H" (*Form of Debit Order Application*);
46. **'Quote Effective Date'** means the date falling within the Quote Acceptance Period upon which the last of the Quote Conditions have been fulfilled;
47. **'Quotation Fee'** means the portion of the Connection Charge to be paid by the CUSTOMER to ESKOM for the issue of the second/revised quote;
48. **'Reasonable and Prudent Operator'** means a person seeking in good faith to perform its contractual obligations and, in so doing and in the general conduct of its undertaking, exercising that degree of skill, diligence, prudence, responsibility and foresight which would reasonably and ordinarily be expected from a skilled and appropriately experienced person, developer, contractor, owner or operator internationally, who is complying with all applicable Laws, engaged in the same or a similar type of undertaking, in the same or similar circumstances and conditions, and any references herein to the 'Standards of a Reasonable and Prudent Operator' shall be construed accordingly;

49. **'Schedule of Standard Prices'** means ESKOM's published tariffs, charges and the NMD Rules, applicable to customers as approved by NERSA and as amended from time to time;
50. **'Standard Connection'** has the meaning as ascribed to it in the Electricity Supply Agreement;
51. **'Standard Connection Charge'** has the meaning as ascribed to it in the Electricity Supply Agreement;
52. **'Standard Equipment'** means the Eskom Connection Equipment to be constructed or to be installed if the CUSTOMER elects a Standard Connection. The Standard Equipment shall comprise the equipment listed in Annexure "C" (*Technical Specifications*);
53. **'Supply Size'** means the NMD that ESKOM will supply as specified in Annexure C;
54. **'VAT'** means the value added tax levied in terms of the VAT Act; and
55. **'VAT Act'** means the Value Added Tax Act, No. 89 of 1991.

B. INTERPRETATION

In this Quote, unless a contrary intention clearly appears:

1. the headings to the clauses and sub-clauses in this Quote are for the purpose of convenience and reference only, and shall not be used in the interpretation, modification, amplification of any clause thereof;
2. words and expressions defined in this Quote shall bear the same meanings in the Annexures to this Quote unless specifically defined in those Annexures;
3. words and expressions importing;
4. any one gender includes the other gender;
5. the singular includes the plural and vice versa;
6. natural persons include juristic persons and vice versa;
7. any reference to any Law, schedule, standard or license shall include any amendments, modifications, extensions and shall mean any replacements or re-enactments thereof in force at the applicable time;
8. any reference to **'this Quote'** shall mean Quote together with its Annexures as amended, modified or supplemented;
9. any reference to **'writing'** or **'written'** shall include all methods of reproducing words in a legible and non-transitory form;
10. any reference to **'persons'** shall include individuals, firms and corporations, joint ventures, trusts, unincorporated associations and organisations, partnerships and any other entities, in each case whether or not having a separate legal personality;
11. any reference to either **'Party'** or **'any person'** shall include its legal successors and permitted assignees;
12. in the computation of periods of time from a specified day to a later specified day, **'from'** means from and including and 'until' or 'to' means to and including;
13. any reference in this Quote to a **'Clause'** or **'sub-clause'** is a reference to a clause or sub-clause contained in this Quote;
14. any reference to **'Annexure'**, **'Clause'** and **'Part'** are references to the relevant annexure, clause, and part, respectively, of this Letter, references to **'Paragraph'** are to the relevant paragraph in an Annexure to this Letter;
15. where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
16. any reference to number of days shall be a reference to calendar days unless Business Days are specified; and
17. the rule that a contract shall be interpreted against the party responsible for the drafting or preparation thereof or who would benefit from the insertion of a clause, shall not apply.

ACCEPTANCE LETTER

Customer Title, Name and Surname

Position

Atlas Tower (Pty) Ltd
Postnet Suite 174
Private Bag X3036
PAARL
7620

Date:

Eskom Holdings SOC Ltd (Reg No: 2002/015527/30)

Att: Mrs C M Cornelissen

Tel +27 21 840 2462

P O Box 88

SOMERSET WEST

7129

**ACCEPTANCE OF THE QUOTE FOR A NEW SUPPLY OF ELECTRICITY FOR
PORTION 19 OF FARM 319, PERIGRINE FARM STALL, GRABOUW**

We herewith unconditionally and irrevocably accept the terms and conditions as set out in the Quote,
Ref No GBN274702366, dated 25 January 2019.

CONNECTION CHARGE ESTIMATE

CHARGE	VALUE
Connection Charge Estimate	R23 600,00 + VAT = R27 140,00

DEBIT ORDER PAYMENT OPTION*CUSTOMER to delete if not applicable*

We have elected to pay the electricity accounts by debit order and attach the duly completed Debit Order Application Form.

SECURITY OR ELECTRICITY ACCOUNTS GUARANTEE AMOUNT

We confirm that we shall provide the Cash Deposit or Electricity Accounts Guarantee in accordance with this Quote within the Quote Acceptance Period.

Description	Security or Electricity Accounts Guarantee Amount
3 months (without debit order)	R 19 730,00
or	
2 months (if elected to pay electricity account by debit order)	R 13 150,00

Total amount (VAT Inclusive) due after acceptance = R27 140,00.

ELECTRICITY SUPPLY AGREEMENT

We unconditionally and irrevocably accept the Electricity Supply Agreement in the form attached to this Quote and shall deliver the duly executed Electricity Supply Agreement within the Quote Acceptance Period.

ADDITIONAL DOCUMENTS

Attached are the following:

- Copy of ID Document of Signatory

PLUS

- If supply is to be in name of a Company, copies of the following are attached:
 - Company Registration Certificate
 - Letter of Resolution authorising signatory to sign
 - VAT Registration Certificate

DOMICILIUM CITANDI ET EXECUTANDI

We hereby nominate the following addresses (including any email address) and facsimile number(s) in and following the execution of the Electricity Supply Agreement by the Parties, the addresses (including any email address) and facsimile numbers corresponding to the CUSTOMER therein, as the addresses and facsimile number(s) for all notices and any other communications to be delivered or served on us in terms of the Quote.

Mr/Ms _____ (FULL NAMES AND SURNAME)
 in his/her/their capacity/capacities as _____ who warrants that
 s/he is **duly authorised to sign this letter of acceptance** on behalf of the Customer.

Our monthly accounts and all correspondence must be addressed to my **Postal address** as follows:

Postal code _____

OR

Our monthly accounts must be emailed to the following **email address**:
_____. We understand that, should we
select this option, our monthly account will not be posted to us as well.

Signed _____

Tel no _____

Cell no _____

E-mail _____

TECHNICAL SPECIFICATIONS

1.1	Date of application	14 January 2019
1.2	Notified Maximum Demand / Supply Size	50 kVA
1.3	Declared Voltage	400/230 volts (three phase)
1.4	Description of the location of the CUSTOMER's Point of Delivery	Elgin F4 Feeder PEREGRIN transformer
1.5	Estimated Period for the completion of the Eskom Connection Works	60 Days

1 Scope of Work

New 50kVA supply

Applicant / Customer :

- Electrical contractor as appointed by the customer must:
 - Responsible for service cable from Eskom meterbox as installed on palisade fencing to installation.
 - Electrician to issue Eskom with a copy of the COC after completion of the electrical installation.

3 Eskom Connection Works / Equipment

Overhead line / underground cable	Overhead line
Metering	Metering point at PEREGRIN transformer

4 Certificate of Compliance

The CUSTOMER's Electrical Installation shall not be connected to ESKOM's Distribution System before the CUSTOMER has submitted to ESKOM the Certificate of Compliance and obtained ESKOM's acceptance of the Certificate of Compliance.



ANNEXURE "E"

**CUSTOMER DETAILS, DESCRIPTION OF ELECTRICAL INSTALLATION AND
PROPERTY/PREMISES**

Table 1		
1.1	CUSTOMER	Atlas Tower (Proprietary) Limited Registration number 2014/077051/07
1.2	Description of Property/Premises	Portion 19 of Farm 319 Perigrine Farm Stall Grabouw
1.3	Description of Electrical Installation	Metering point at PEREGRIN transformer
1.4	Nature of CUSTOMER's plant	Cellular Communications
1.5	Expiry date of Quote	25 February 2019

FINANCIAL SPECIFICATIONS

A. TARIFF

Table 1		
1.1	Tariff applicable	Landrate 2

B. TOTAL ESTIMATED CAPITAL COSTS

Table 2

2.1	Estimated Capital Costs	VALUE
	Estimated Capital Costs	R 0,00

C. TOTAL CONNECTION CHARGE ESTIMATE

Table 3

3.1	CHARGE	VALUE
	Connection Charge Estimate	R23 600,00 + VAT = R27 140,00

D. SECURITY OR ELECTRICITY ACCOUNTS GUARANTEE AMOUNT

Table 4

4.1	3 months (without debit order)	R19 730,00
or		
4.2	2 months (with debit order)	R13 150,00

[LETTERHEAD OF BANK]**ELECTRICITY ACCOUNT GUARANTEE**

To: **ESKOM HOLDINGS SOC LTD**
Att: Mrs C M Cornelissen
 P O Box 88
SOMERSET WEST
 7129

LETTER OF GUARANTEE NUMBER _____ FOR THE SUM OF R____,00 (_____ RANDS)
(THE 'GUARANTEED AMOUNT') ISSUED ON BEHALF OF ATLAS TOWER (PROPRIETARY)
LIMITED REGISTRATION NUMBER 2014/077051/07 (HEREIN REFERRED TO AS THE
'CUSTOMER')

Eskom Reference: GBN274702366 / Account Number:
--

1. We, the undersigned _____ **[INSERT FULL NAME AND IDENTITY NUMBER]** and _____ **[INSERT FULL NAME AND IDENTITY NUMBER]** in our respective capacities as _____ **[INSERT CAPACITY]** and _____ **[INSERT CAPACITY]** of _____, registration number _____ **[INSERT FULL NAME AND REGISTRATION NUMBER OF BANK]** ("the Bank"), duly authorised thereto, herewith provide the Bank's undertaking to pay Eskom Holdings SOC Ltd, registration number 2002/015527/30 ("Eskom") an amount not exceeding the Guaranteed Amount on receipt of a written demand/s for payment from Eskom stating that the amount of the demand is due and payable by the Customer to Eskom in terms of the Electricity Supply Agreement concluded or to be concluded between Eskom and the Customer (the 'Agreement').
2. The Bank's liability under this guarantee is principal in nature and is not accessory or subject to any other agreement or the Agreement.
3. The Bank's liability will not be reduced, limited or affected by any alteration of the terms of the Agreement, or any other agreement made between the Customer and Eskom, or the Customer going into business rescue, or adopting or implementing any business rescue plan as contemplated in chapter 6 of the Companies Act 71 of 2008.
4. The Bank will pay on written demand from time to time, made by Eskom, which demand must be signed by an Eskom official who is authorised and delegated to sign it. The demand must state the amount due and payable and the Bank will not determine the validity of the demand, the correctness of the amount demanded, or become party to any claim or dispute of any nature which any party may allege. The Bank will not be entitled or obliged to verify the authority and/or delegation of the Eskom official.
5. The guarantee is neither negotiable nor transferable, is restricted to the payment of a sum of money only and is limited to payment in aggregate of the Guaranteed Amount.
6. The Bank reserves the right to withdraw from this guarantee on giving 3 (three) calendar months' written notice ("the Notice Period") to Eskom of its intention to do so.

7. This guarantee will thus expire upon expiry of the Notice Period and will then be of no further effect, whether returned to the Bank or not. Any claim which arises after the expiry of the Notice Period will be invalid, unenforceable and will not be entertained by the Bank. However, any claims which arose or amounts which became due under this guarantee while valid, including during the Notice Period, may still be submitted for a period of 3 (three) calendar months after expiry of the Notice Period.
8. The cancellation, or any change to the terms and/or conditions, of this guarantee, must first be agreed to in writing by Eskom, the Customer and the Bank.
9. If the Bank should exercise its option to withdraw from the guarantee per paragraph 6 above, this will not be viewed as a cancellation or change of the guarantee for the purposes of paragraph 8.
10. The Guaranteed Amount will be paid free of exchange, set-off, deduction or counterclaim or any withholding, in immediately available funds, into a bank account nominated by Eskom in writing. This guarantee will be of no further effect once the aggregate payments made under this guarantee are equal to the Guaranteed Amount.
11. The original guarantee, if still available, must be returned to the Bank once it is of no further effect.
12. Eskom will be able to submit claims on a copy of this guarantee if the original cannot be found, if it provides to the Bank, to the Bank's satisfaction:
 - 12.1. an indemnity, validly issued in terms of Eskom's corporate governance procedures prevailing at the time, the Public Finance Management Act 1 of 1999 (if applicable), or any other applicable legislation prevailing at the time, signed by an Eskom official who is authorised and delegated to sign it, limited specifically and only as to any payment made on the lost original guarantee, and not exceeding an amount equal to the Guaranteed Amount; and
 - 12.2. an affidavit, signed by an Eskom official who is authorised and delegated to depose to such an affidavit, that the original guarantee cannot be found. The Bank will not be entitled or obliged to verify the authority and/or delegation of the Eskom official.
13. Eskom chooses the following addresses for communication in connection with this guarantee:
 - 13.1. Physical Address: Eskom Head Office
60 Voortrekker Road
7530
Bellville
 - 13.2. Postal Address: P O Box 2100
7530
Bellville
 - 13.3. e-Mail address: georgic@eskom.co.za
 - 13.4. To be marked for the attention of: The Manager Debt.

14. The Bank chooses the following addresses for all purposes in connection with this guarantee:

14.1. Physical Address: _____

14.2. Postal Address: _____

14.3. e-Mail address: _____

14.4. To be marked for the attention of: _____ **[Insert only POST DESCRIPTION of Recipient].**

15. This guarantee will be governed by South African Law and is subject to the jurisdiction of South African Courts.

16. Where written and/or signed notification is required in terms of this guarantee, the terms “writing” and “signed” or their analogous forms, will be construed as excluding sections 12 and 13 of the Electronic Communication and Transaction Act 25 of 2002 or any replacement of amendment thereof, save that such notification, whatever its title, may be scanned after manual signature and then sent electronically.

Signed at _____ on _____

FOR AND ON BEHALF OF _____ [INSERT FULL NAME AND REGISTRATION NUMBER OF BANK]

1. _____ 2. _____

As witnesses:

1. _____ 2. _____



DEBIT ORDER – APPLICATION FORM – ANNEXURE H

AUTHORISATION FOR AUTOMATIC PAYMENT OF ELECTRICITY ACCOUNT (PLEASE COMPLETE IN BLOCK CAPITALS)

ACCOUNT PAYER DETAILS

Surname:		Mr/Mrs/Ms/Dr										
First Names:		I.D. Number: (Provide certified copy of ID)¹										
Telephone:	Home:						Cell phone:					
Work:							E-Mail:					
Postal Address:							Postal Code:					
Residential Address:												

Electricity Account Number:

BANK ACCOUNT DETAILSⁱⁱ

Bank Name:			Branch Name:			Branch Number:					
Type of account:	Current	Savings	Transmission	Account Number:							
Debit Limit: R				Use maximum payment in previous calendar year plus 20% to cater for production and tariff increases. Maximum allowed is R500 000 per month or as per legislation.							
Signed at:		this		day of		20					
Signature of Account Holder:						Bank Stamp, Managers name & Signature & Date					
Name:			Capacity:								

I/We the undersigned hereby authorise Eskom to debit my account as above with the total amount due on my monthly electricity account from Eskom.

I/We further understand and accept the following conditions to the authorisation:

1. That my/our bank account may be debited with the total amount payable on my/our monthly electricity account on the above due date as specified on the account.
2. That the authorisation will remain in force until it is revoked by me/us due to termination of service, change of bank or for any other reason by means of 30 (thirty) days prior written notice to this effect to Eskom.
3. That Eskom may at any time cancel the authorisation by means of 30 (thirty) days written notice to me/us.
4. That Eskom will receive all payments in terms of this authorisation without prejudice to its rights.
5. That the normal conditions of supply agreement apply if the bank dishonours any payments.
6. The debit limit amount will be escalated by Eskom's annual electricity price increase.

Remember to keep your account details up to date. Have your account e-mailed to you. Call our Contact Centre to update your e-mail, telephone and cell phone numbers etc. To save energy and reduce you bill contact our Contact Centre (086 003 7566) and ask for an Energy Advisor or go to our website www.eskom.co.za to find out about energy saving options.

ⁱ Certified copy of ID must be certified by commissioner of oaths of the person/entity or a certified copy of a business entity if the holder is not an individual.

ⁱⁱ The banking detail provided needs to correspond to this detail and Eskom will require a bank stamped banking reference document which needs to be an original or a certified copy of an original by a commissioner of oath or this form must be Bank Stamped with date and Bank Manager Name and Signature.

Group Customer Service

Customer Service Operations (Western Cape & Northern Cape Province)
4 Drama Street Somerset West 7130
P O Box 88 Somerset West 7129 SA
Tel +27 86 003 7566 Fax +27 21 840 2470 www.customerservices@eskom.co.za

Eskom Holdings SOC Ltd Reg No 2002/015527/30

LANDRATE AND LANDLIGHT SCHEDULE OF STANDARD PRICES FOR NON LOCAL AUTHORITY SUPPLIES - 1 APRIL 2018 TO 31 MARCH 2019***1. STANDARD PRICES**

The standard prices contained in this schedule to be charged by Eskom for electricity supplied or made available by Eskom to customers, shall, subject to the provisions of the Electricity Regulation Act (Act No 4 of 2006), or its successor-in-title, be as set out hereunder.

*These terms, conditions and prices contained in this schedule are approved by NERSA and are valid until Eskom's next price increase or tariff changes as approved by NERSA from time to time.

2. DEFINITIONS

For the purpose of this Schedule the following words and phrases shall have the same meanings as assigned to them herein, as applicable:

Account means the invoice received by a customer for a single **point of delivery** (POD) or if consolidated, multiple **points of delivery** for electricity supplied and/or use of the **System**.

Active energy charge or energy charge means the charge for each unit of energy consumed, typically charged for as c/kWh

Ancillary Service charge means the charge that recovers the cost of providing ancillary services by the System Operator.

Maximum demand means the highest average demand measured in kVA or kW at the **POD/point of supply** during a 30 minute integrating period in a billing month.

Network capacity charge (previously known as the **network access charge**) means the R/kVA or R/POD fixed network charge raised to recover network costs and depending on the tariff is charged on the **annual utilised capacity** or **maximum export capacity** where **maximum demand** is measured or the **NMD** where **maximum demand** is not measured.

Network demand charge means the R/kVA or c/kWh variable network charge raised to recover network costs and depending on the tariff may be charged on the **chargeable demand** or the active energy.

Non-local authority tariffs means the tariffs applicable to Eskom's direct customers (i.e. customers within Eskom's licensed area of supply) and exclude the **non-local authority tariffs**.

Notified maximum demand (NMD) means the contracted **maximum demand**, notified in writing by the customer and accepted by Eskom **per POD/point of supply**. *Note: The notification of demand shall be governed by the **NMD and MEC rules**.*

Point of delivery (POD)/point of supply, means either a single point of supply or a specific group of points of supply on Eskom's **System** from where electricity is supplied to the customer by Eskom or from where the customer supplies electricity to Eskom's **System** located within a single substation, at which electricity is supplied to the customer at the same declared voltage and tariff. *Note: This can be a metering or summation point.*

Rural, means areas classified as rural by Eskom for the purposes of tariff design and classification.

Service and Administration charge means the monthly charge payable per **account** for service and administration related costs. (Also see **service charge** and **administration charge**).

Urban, areas means areas classified by Eskom as urban for the purposes of tariff design and classification.

Initial: _____
Customer

Witness 1

Witness 2

Initial: _____
Eskom

Witness 1

Witness 2

3. CHARACTERISTICS OF THE LANDRATE AND LANDLIGHT TARIFFS

The Landrate tariff is made up of a range of tariffs, as follows:

Landrate 1	single-phase 16 kVA (80 A per phase) dual-phase 32 kVA (80 A per phase) three-phase 25 kVA (40 A per phase)
Landrate 2	dual-phase 64 kVA (150 A per phase) three-phase 50 kVA (80 A per phase)
Landrate 3	dual-phase 100 kVA (225 A per phase) three-phase 100 kVA (150 A per phase)
Landrate 4+	single-phase 16 kVA (80 A per phase)
Landrate Dx*	single-phase 5 kVA (limited to 10 A per phase)
Landlight 20A	single-phase 20A
Landlight 60A	Single-phase 60A

3.1. LANDRATE 1; 2; 3 and 4

Suite of electricity tariffs for Rural_p customers with single, dual or three-phase conventionally metered supplies with an NMD up to 100 kVA with a supply voltage < 500 V with the following charges:

- a single c/kWh **active energy charge** measured at the **POD**;
- a R/day **network capacity charge based** on the **NMD** of the supply;
- a c/kWh **network demand charge** based on the active energy measured at the **POD**;
- a c/kWh **ancillary service charge** based on the active energy measured at the **POD**; and
- a R/day **service and administration charge** for each **POD**, which charge shall be payable every month whether any electricity is used or not, based on the applicable daily rate and the number of days in the month.

3.2. LANDRATE Dx

An electricity tariff for Rural_p single phase non-metered supplies limited to 5kVA typically suited to small telecommunication installations where the electricity usage is low enough not to warrant metering for billing purposes and has the following charges:

- A R/day R/POD fixed charge based on Landrate 4 at 200 kWh per month.

3.3. LANDLIGHT

An electricity tariff that provides a subsidy to low-usage single phase supplies in rural_p areas and is only offered as a prepaid supply and has the following charges:

- a single c/kWh active energy charge.

4. Landrate, Landrate Dx and Landlight 2018/19 rates

Landrate tariffs										Non-local authority		
	Energy charge [c/kWh]		Ancillary service charge [c/kWh]		Network demand charge [c/kWh]		Network capacity charge [R/POD/day]		Service charge [R/POD/day]			
	VAT incl		VAT incl		VAT incl		VAT incl		VAT incl			
Landrate 1	99.79	114.76	0.39	0.45	24.93	28.67	R 26.65	R 30.65	R 22.13	R 25.45		
Landrate 2	99.79	114.76	0.39	0.45	24.93	28.67	R 40.97	R 47.12	R 22.13	R 25.45		
Landrate 3	99.79	114.76	0.39	0.45	24.93	28.67	R 65.50	R 75.33	R 22.13	R 25.45		
Landrate 4	215.53	247.86	0.39	0.45	24.93	28.67	R 21.22	R 24.40	R 0.00	R 0.00		
Landlight 20A	286.93	329.97										
Landlight 60A	369.89	425.37										
Landrate Dx*									R 47.46	R 54.58		

*R/day fixed charge inclusive of the following charges; energy, ancillary service, network demand, network capacity and service charge.

Initial: _____
Customer

Witness 1

Witness 2

Initial: _____
Eskom

Witness 1

Witness 2

5. CHARGES PAYABLE MONTHLY

All electricity accounts payable by a customer in terms of this Schedule shall be rendered monthly by Eskom and shall be payable monthly in accordance with the provisions of the electricity supply agreement. If, in terms of the electricity supply agreement, meter readings are made at three-monthly intervals, Eskom shall render provisional accounts for the months in which no meter reading is made, based upon the monthly consumption in the previous three-monthly period or upon an estimated amount, and a final account, incorporating an adjustment of the provisional accounts, based upon the actual consumption for the period.

If the commencing date or the termination date of any supply is such that the supply was available for a portion of a month then the monthly charges payable in terms of this Schedule shall be calculated pro rata to the portion of a month of 30 (thirty) days during which the supply was available.

In addition to the charges payable in terms of this Schedule, a connection charge and/or standard charges/fees may be raised for costs not recovered through the tariff charges for the provision of new or additional capacity or for additional services rendered to the customer.

6. Value-added tax (VAT)

The standard prices as specified in this Schedule include value-added tax (VAT) at the prescribed tax rate of 15%. In cases of electricity supplies where the said tax is not applicable or partly or wholly exempt, the customer concerned will be informed in writing of the effective prices payable.

The charges and rates excluding VAT are also shown as these are used in the monthly electricity account to calculate the individual tariff charges before VAT is added on. This is done for the convenience of the customer so as to facilitate the claiming of input tax where applicable and to allow for part exemptions and zero rating.

oOo -

Initial: _____
Customer

Witness 1

Witness 2

Initial: _____
Eskom

Witness 1

Witness 2

ELECTRICITY SUPPLY AGREEMENT FOR THE APPLICABLE TARIFF, REFERENCED IN ANNEXURE A

1. The Parties to this Agreement are ESKOM, herein represented by **ZERELDA MARLENE WALKERS** in her capacity as **OFFICER ACQUIRE CUSTOMER** and **ATLAS TOWER (PROPRIETARY) LIMITED**, Registration number **2014/077051/07** (the "CUSTOMER").

2. Supply details:

(a) Declared voltage	400/230 Volts
(b) NMD	50 kVA
(c) Connection Fee	R23 600,00 + VAT @ 15% = R27 140,00
(d) Standard Connection Charge	R0,00
(e) Premium Connection Charge	R0,00
(f) Existing Monthly Connection Charge: (where applicable)	R0,00
Expiry Date	N/A
(g) Minimum Liability Period	60 months
(h) Security (where applicable)	R..... Cash Deposit / Guarantee
(i) Type of supply	Three-phase supply
(j) Tariff	Landrate 2
(k) Early Termination Guarantee Amount	R0,00 Cash Deposit / Guarantee

3. Addresses:

Description of Premises where supply is required:

PORTION 19 OF FARM 319, PERIGRINE FARM STALL, GRABOUW

CUSTOMER's alternative physical address:

3RD FLOOR, 200 ON MAIN, CNR MAIN AND BOWWOOD ROAD, CLAREMONT, 7708

CUSTOMER's postal address: POSTNET SUITE 294, PRIVATE BAG X1005, CLAREMONT, 7735

CUSTOMER's e-mail address:

CUSTOMER's telephone: (Work): (021) 870-1302 (Cell):

ESKOM's postal address: P O BOX 88, SOMERSET WEST, 7129

ESKOM's e-mail address: customerservices@eskom.co.za

CUSTOMER:

Signed at
for and on behalf of the CUSTOMER by the signatory below
who warrants that he/she is duly authorised.

Name: CORNELIS HERMANUS WESSELS

Title: DIRECTOR

Date:

Signature:

As witnesses:

1.

2.

ESKOM:

Signed at VREDENDAL
for and on behalf of ESKOM by the signatory below who
warrants that he/she is duly authorised.

Name: ZERELDA MARLENE WALKERS

Title: OFFICER ACQUIRE CUSTOMER

Date:

Signature:

As witnesses:

1.

2.

FOR OFFICE USE

SECURITY	R	RECEIPT No.	DATE
CONNECTION FEE	R 27 140,00	RECEIPT No.	DATE
UPFRONT CHARGE	R 0,00	RECEIPT No.	DATE
ACCOUNT No.		K2 No. GBN274702366	POS No.
REMARKS:		TRANSFORMER No.	QUOTE No.

CHECKLIST

- 1) COPY OF ID DOCUMENT OF SIGNATORY
- 2) IF SUPPLY IS TO BE IN NAME OF A COMPANY THEN OBTAIN COPIES OF:
 - 2.1) COMPANY REGISTRATION CERTIFICATE
 - 2.2) LETTER OF RESOLUTION FROM COMPANY AUTHORISING SIGNATORY TO SIGN
 - 2.3) VAT REGISTRATION CERTIFICATE



**STANDARD CONDITIONS OF SUPPLY FOR
SMALL POWER USERS WITH CONVENTIONAL METERING**

IMPORTANT NOTICE

DISCLOSURE NOTICE IN TERMS OF SECTION 49 OF THE CONSUMER PROTECTION ACT 68 OF 2008

By signing directly below, the intended customer **ATLAS TOWER (PROPRIETARY) LIMITED** confirms that this notice was provided to it, that it had time to study this notice, the intended electricity supply agreement and its annexures, prior to it signing and agreeing to the terms and annexures of the said electricity supply agreement, and that it understands, generally, the potential effect of all of the provisions of the intended electricity supply agreement, but specifically, the highlighted clauses further explained in the next paragraph.

This notice is to draw the attention of the intended customer to the specific clauses highlighted in **bold** font, in the intended electricity supply agreement and its annexures, that may contain a limitation of risk or liability or an indemnification of Eskom Holdings SOC Ltd, or constitute an assumption of risk or liability by the intended customer. The intended customer will also initial at each of these clauses as proof that the intended customer has been made aware of the specific content of these clauses. Clauses containing obligations of the intended customer are not summarily highlighted but are as important as all the provisions of the intended electricity supply agreement and its annexures.

Signed at _____ on _____ date

Intended customer

PROJECT REFERENCE: GBN274702366

Initial: _____
Customer

Witness 1

Witness 2

Initial: _____
Eskom

Witness 1

Witness 2

ANNEXURE 'A'
(Rev 29 January 2018)

1. INTERPRETATION

- 1.1 In this Agreement, unless stated otherwise, expressions which indicate:
- 1.1.1 a gender includes the other gender and neuter;
 - 1.1.2 the singular includes the plural, and *vice versa*;
 - 1.1.3 any reference to any law, rules, regulations, schedules, standards, licences or codes, shall include any amendments, modifications or extensions and shall mean any replacements or re-enactments thereof in force at the applicable time;
 - 1.1.4 any reference to 'writing' or 'written' shall include all methods of reproducing words in a legible and non-transitory form;
 - 1.1.5 any reference to 'persons' shall include natural or juristic persons, firms, joint ventures, trusts, unincorporated associations and organisations, partnerships and any other entities, irrespective of whether such entity has a separate legal personality;
 - 1.1.6 days shall refer to calendar days unless business days are specified;
 - 1.1.7 reference to a number of days will be calculated with exclusion of the first day and inclusion of the last day;
 - 1.1.8 where figures are referred to in numerals and in words and there is any conflict between them the words shall prevail.
- 1.2 The rule that a contract should be interpreted against the party responsible for the drafting or preparation thereof or who would benefit from the insertion of a clause, does not apply to this Agreement.

2. DEFINITIONS

- 2.1 **'Agreement'** or **'this Agreement'** means the electricity supply contract between ESKOM and the CUSTOMER, comprising the Electricity Supply Agreement for the applicable Tariff, Annexure "A" (Standard Conditions of Supply) and Annexure "B" (applicable Schedule of Standard Prices).
- 2.2 **'Approved Credit Rating'** means a South African long-term unsecured foreign currency debt rating no worse than BBB- (as determined by Standard and Poor's Rating Group or Fitch Ratings) or Baa3 (as determined by Moody's Investor Services, Inc.); South African Long-term National Scale Rating no worse than 'zaA-' (as determined by Standard & Poor's) or 'A-(zaf)' (as determined by FitchRatings) or 'A3.za' (as determined by Moody's Investor Services, Inc.) or equivalent rating (as determined by ESKOM or a rating agency approved by ESKOM).
- 2.3 **'Business Day'** means any day other than Saturday, Sunday or a public holiday in South Africa.
- 2.4 **'Cash Deposit'** has the meaning ascribed to it in subclause 16.1.
- 2.5 **'Code(s)'** means the Distribution Code, the South African Grid Code, the Grid Connection Code for Renewable Power Plants or any other code, published by NERSA, as applicable to ESKOM.
- 2.6 **'Connection Charge'** means a customer-specific, allocated, capital contribution, recovering connection costs associated with the provision of capacity, payable in addition to the Tariff.
- 2.7 **'Contractor'** means any entity appointed as an independent contractor to execute work on the Premises in the exercise of the Rights, as set out herein.
- 2.8 **'CUSTOMER'** means the person identified on the first page of the Electricity Supply Agreement.
- 2.9 **'Customer Interface Unit (CIU)'** means the device forming part of a Metering Installation that is used to display information pertaining to the CUSTOMER's electricity usage, meter readings and/or applicable Tariff time periods at any given time of the day.
- 2.10 **'Disconnection'** means a termination by ESKOM of the electricity supply to a CUSTOMER in accordance with the provisions of this Agreement.
- 2.11 **'Discontinuation'** means a termination by ESKOM of the electricity supply to a CUSTOMER, at the request of the CUSTOMER.
- 2.12 **'Due Date'** has the meaning ascribed to it in subclause 15.1.
- 2.13 **'Early Termination Guarantee'** means a Guarantee issued for an amount equal to the Early Termination Guarantee Amount.
- 2.14 **'Early Termination Guarantee Amount'** means a) initially an amount as set out in this Agreement and b) thereafter an amount as varied by ESKOM on written notice to the CUSTOMER in accordance with subclause 17.2 of this Agreement.
- 2.15 **'Electricity Regulation Act'** means the Electricity Regulation Act 4 of 2006.
- 2.16 **'ESKOM'** means Eskom Holdings SOC Ltd, registration number 2002/015527/30, a state-owned company with limited liability incorporated in terms of the laws of the Republic of South Africa, with its registered office at Megawatt Park, Maxwell Drive, Sandton.
- 2.17 **'Force Majeure Event'** means any act, event or circumstance or any combination of acts, events or circumstances which:
- 2.17.1 is beyond the reasonable control of a Party affected by it (the 'Affected Party');
 - 2.17.2 is without fault or negligence on the part of the Affected Party and is not the direct or indirect result of a breach or failure by the Affected Party to perform any of its obligations under this Agreement;
 - 2.17.3 was not foreseeable or, if foreseeable, could not have been avoided or overcome by the Affected Party (including by reasonable anticipation) taking reasonable action;
 - 2.17.4 prevents, hinders or delays the Affected Party in its performance of all (or part) of its obligations under this Agreement.

Without limiting the generality of the foregoing, a Force Majeure Event may include any of the following acts, events or circumstances, but only to the extent that it satisfies the requirements set out in subclauses 2.17.1 to 2.17.4 above:

- (i) war, hostilities, belligerence, blockade, acts of terrorism, sabotage, civil commotion, riot, revolution or insurrection occurring in South Africa;
- (ii) any laws, decrees or regulations of governmental authorities;
- (iii) strikes that are widespread, nationwide or political in nature (but excluding strikes, lockouts and other industrial disturbances of the Affected Party's employees which are not part of a wider industrial dispute materially affecting other employees within South Africa);
- (iv) drought, fire, earthquake, volcanic eruption, landslide, flood, storm, cyclone, tornado, typhoon or other natural disasters;
- (v) epidemic or plague;
- (vi) fire, explosion, or radioactive or chemical contamination;
- (vii) air crash, shipwreck or train crash; and
- (viii) any act, event or circumstance of a nature analogous to any of the foregoing.

A Force Majeure Event does not include shortage of cash, any inability or failure to pay money, any inability to raise finance or any changes in price and market conditions or strikes, lockouts and other industrial disturbances of the Affected Party's employees which are not part of a wider industrial dispute materially affecting other employees within South Africa.

- 2.18 **'Guarantee'** means a guarantee substantially in the form set out in Annexure C (Form of Guarantee) and initially for the amount stated therein (and as amended per the terms of this Agreement), which is issued by a financial institution which (a) holds an Approved Credit Rating, (b) is registered under applicable law to carry on the business of a bank in South Africa, and (c) constitutes an on demand, unconditional and irrevocable commitment by the issuer to pay.
- 2.19 **'Goods'** mean all structures, conductors, cables, appliances and, without limitation, everything else as may be necessary or convenient in exercising the Rights.
- 2.20 **'Interrupt'** or **'Interruption'** means a temporary interruption of the supply of electricity to the CUSTOMER by ESKOM due to, and for the duration of, emergency or agreed events, and planned or unplanned events.
- 2.21 **'Metering Installation'** means a metering system installed by ESKOM and consists of at least a meter, fittings, equipment, wiring and installations used for measuring the flow of electricity and may include a CIU.
- 2.22 **'Minimum Liability Period'** means the period as stipulated in this Agreement.
- 2.23 **'Monthly Connection Charge'** means a Connection Charge that is payable monthly whether any electricity is consumed in any month or not.
- 2.24 **'NERSA'** means the National Energy Regulator or its successor-in-title, established in terms of the National Energy Regulation Act (No 40 of 2004).
- 2.25 **'NMD'** means the definition of NMD in the applicable Schedule of Standard Prices.

Initial:	_____	_____	_____
	Customer	Witness 1	Witness 2
Initial:	_____	_____	_____
	Eskom	Witness 1	Witness 2

- 2.26 **'Parties'** means ESKOM or the CUSTOMER and includes their successors-in-title or assigns and delegees.
- 2.27 **'Point of Delivery'** has the meaning as ascribed to it in clause 6.
- 2.28 **'Premises'** means the property described in this Agreement and to which a supply of electricity is required by the CUSTOMER.
- 2.29 **'Reasonable and Prudent Person'** means a person acting in good faith in the performance of its contractual obligations and in the general conduct of its business, exercising that degree of skill, diligence, prudence, responsibility and foresight which would reasonably and ordinarily be expected from a skilled and experienced person complying with all legal requirements, engaged in the same or a similar type of business, in the same or similar circumstances and conditions.
- 2.30 **'Schedule of Standard Prices'** means ESKOM's published Tariff charges and the NMD Rules referenced therein, whether approved by ESKOM or NERSA, Annexure B of this Agreement.
- 2.31 **'Standard Connection'** means a connection that meets the specifications of the Distribution Code and applicable standards for a minimum technically acceptable solution.
- 2.32 **'Standard Connection Charge'** means that portion of the Connection Charge that is payable for the costs associated with a Standard Connection.
- 2.33 **'Supply Size'** means the NMD, or maximum capacity that ESKOM will supply.
- 2.34 **'Tariff'** means the tariff as stipulated in this Agreement.

Initial: _____

3. GENERAL AGREEMENT

- 3.1 ESKOM agrees to supply to the CUSTOMER and the CUSTOMER agrees to take from ESKOM all the electricity required by the CUSTOMER for the Premises on the terms and conditions set out in this Agreement, subject to the provisions of the Codes, the Electricity Regulation Act, rules issued by NERSA in terms thereof, and regulations, and ESKOM's licences issued by NERSA, and any other applicable law.
- 3.2 The CUSTOMER agrees that ESKOM may install or provide the CUSTOMER with a CIU, which the CUSTOMER will use as intended in the user instructions.
- 3.3 **Should the CUSTOMER have multiple electricity supply contracts with ESKOM, ESKOM shall have a right to transfer a debt arising from any of the CUSTOMER's terminated electricity supply contracts to any of the same CUSTOMER's existing electricity supply contract(s).**
- 3.4 **Notwithstanding the provisions of subclause 3.3 above, ESKOM shall not provide a supply of electricity to the CUSTOMER at any new Point of Delivery or increase the Supply Size at the CUSTOMER's existing Point of Delivery while the CUSTOMER is indebted to ESKOM in terms of any existing electricity supply contract.**

4. FORM OF ELECTRICITY SUPPLIED

- 4.1 ESKOM will use its reasonable endeavours to furnish the CUSTOMER with a reliable supply of electricity and maintain the quality of supply at the Point(s) of Supply in compliance with the requirements prescribed in NRS 048-2. The requirements of NRS 048-2 define the voltage quality that shall be supplied under normal circumstances (as defined in NRS 048-2). In accordance with NRS 048 it is incumbent on the CUSTOMER to design and operate its equipment so that its equipment will function normally within these requirements.
- 4.2 However, it is not practicable for ESKOM to guarantee that the requirements of NRS 048-2 will under all contingencies be adhered to. It is therefore incumbent on the CUSTOMER to take adequate measures to protect its business and electrical installation against any losses and/or damage arising from frequency deviations, supply interruptions, voltage variations (including voltage dips), voltage harmonics, interharmonics, voltage flicker, voltage unbalance, voltage swells and transients, undervoltages and overvoltages in the supply to its electrical installation.
- 4.3 ESKOM shall use its reasonable endeavours to minimise the number of Interruptions that occur on its system. It is incumbent on the CUSTOMER to take reasonable measures to protect its electrical installation against losses and/or damage.

5. USE OF ELECTRICITY

Initial: _____

- 5.1 The CUSTOMER shall only use electricity on the Premises up to the Supply Size as specified in this Agreement.
- 5.2 The CUSTOMER shall not use the electricity supplied other than at the Premises and shall not supply such electricity to any third party.
- 5.3 **The CUSTOMER shall so use the supply as not to interfere with an efficient and economical supply to other customers of ESKOM, and shall at all times ensure that any effects on the supply voltage caused by the CUSTOMER's load shall not exceed the limits specified in Table 1, unless otherwise agreed to in writing between the Parties.**

Table 1:

Unbalance	0,3% (3-phase supplies)
Flicker (Pst)	0,36
Harmonics (THD)	1%
Rapid voltage changes:	
r = no. of changes per hour	Magnitude (%)
r < 1	4
1 < r ≤ 10	3
10 < r ≤ 100	2
100 < r ≤ 1000	1,25

6. POINT(S) OF DELIVERY

- 6.1 The Point(s) of Delivery for the supply of electricity to the Premises shall be decided by ESKOM and shall be:
 - 6.1.1 where ESKOM makes use of a distribution kiosk on a pavement for installation of the meter, at the point on the boundary of the Premises where ESKOM's service cable is joined to that of the CUSTOMER's equipment; or
 - 6.1.2 where an overhead connection exists, at the terminals of ESKOM's service conductor connected to the insulators or other equipment installed by the CUSTOMER on the Premises, in a position approved by ESKOM; or
 - 6.1.3 in all other cases, at the terminals of ESKOM's equipment where ESKOM's meter and circuit breaker are installed. The meter shall then be located as ESKOM may decide, which may be a point on the Premises.

7. EQUIPMENT PROVIDED BY ESKOM

Initial: _____

- 7.1 ESKOM shall provide the equipment required for the supply of electricity to the CUSTOMER at the Point of Delivery, together with the necessary connection from ESKOM's electricity system, all of which shall remain ESKOM's property irrespective of where in the electrical circuit the Metering Installation is installed.
- 7.2 Should the Point of Delivery be located within the Premises, ESKOM shall provide a service connection to the Point of Delivery on and/or across the Premises along a route to be agreed between ESKOM and the CUSTOMER.
- 7.3 Where ESKOM installed or provided the CUSTOMER with a CIU, such unit shall remain the property of ESKOM. The CUSTOMER shall be responsible for the safe accommodation of the CIU and shall report all faults relating thereto to ESKOM.

Initial: _____
 Customer _____ Witness 1 _____ Witness 2 _____

Initial: _____
 Eskom _____ Witness 1 _____ Witness 2 _____

- 7.4 The CUSTOMER shall be liable for the loss of or any damage to the CIU not attributable to normal wear and tear.
- 7.5 The CUSTOMER may not tamper with the equipment provided by ESKOM, irrespective of whether ESKOM remains the owner thereof or not.
- 7.6 The CUSTOMER notes and agrees that ESKOM cannot install protective equipment on its own system which will ensure in all cases that motors and/or other equipment on the CUSTOMER's side will be protected in the event of frequency deviations, voltage variations, voltage harmonics, voltage flicker, voltage unbalance, voltage dips, voltage surges, voltage transients, undervoltages and overvoltages or an Interruption or a Disconnection of the supply of electricity. The CUSTOMER shall take adequate measures to protect its motors and/or equipment against damage that may arise in such cases.

8. EQUIPMENT PROVIDED BY THE CUSTOMER

- 8.1 The CUSTOMER shall at its expense supply, erect, connect, operate and maintain any equipment required to connect its electrical installation at the Point of Delivery, provided that this equipment shall be approved by ESKOM before it is connected to the Point of Delivery.
- 8.2 The equipment of the CUSTOMER and the wiring of the Premises, shall be sound and fit for purpose design and construction, properly installed and maintained by the CUSTOMER, and shall in all respects comply with any applicable law.
- 8.3 ESKOM has the right to inspect a copy of the CUSTOMER's certificate of compliance.
- 8.4 The CUSTOMER must ascertain from ESKOM the type of protection to be provided on the supply.

9. ACCESS TO PREMISES

- 9.1 If requested by ESKOM, the CUSTOMER shall provide to ESKOM, at the CUSTOMER's expense, suitable and secured accommodation for the equipment installed by ESKOM.
- 9.2 ESKOM's authorised representatives shall have at all reasonable times, save in the case of an emergency, when more immediate access may be required, unfettered access to the Premises for any purpose required in terms of this Agreement.

10. METER-READINGS AND RENDERING OF ACCOUNTS

- 10.1 ESKOM shall operate and maintain the Metering Installation to be used for measuring the electricity supplied by ESKOM to the CUSTOMER. The Metering Installation shall comply with the requirements of the accuracy class as specified in SANS 474.
- 10.2 The meter(s) shall be read at such intervals as ESKOM may decide and accounts shall be rendered on the basis of such meter-reading, provided that in the event of the period between successive meter-readings being longer than 30 (thirty) days, an estimated account shall be rendered to the CUSTOMER. An adjustment account shall be rendered after the meters are next read based on the actual consumption of electricity as measured.
- 10.3 In cases where meters are manually read, the CUSTOMER can inform ESKOM timeously of the actual meter-readings on which to base ESKOM's account.
- 10.4 ESKOM will take reasonable efforts to ensure that the account is then issued on the basis of these meter-readings but retains the discretion whether to do so or not, and in any event any subsequent meter-reading by ESKOM subsequent to such an account, will prevail as proof of consumption.
- 10.5 In cases where meter-reading are automated, the account will generally be based on actual meter-readings. Where actual meter-readings are not available for any reason, an estimated meter-reading will be used to generate an account.
- 10.6 An account is payable irrespective of actual receipt by the CUSTOMER and the CUSTOMER must enquire if it has not received an account, and also irrespective of whether the consumption was based on actual meter-readings or estimations.
- 10.7 The records of the meter-readings shall at all reasonable times be open for inspection by the CUSTOMER or its authorised representative.

11. TESTING OF METERING INSTALLATION

- 11.1 ESKOM may test the Metering Installation at any time. If the CUSTOMER requests ESKOM in writing to test the Metering Installation, and after payment of a meter test fee, ESKOM shall test the Metering Installation.
- 11.2 If the test shows an inaccuracy to be in excess of the percentage accuracy as specified in SANS 474, the same shall, in the absence of evidence to the contrary, be deemed to have existed since the date the error or fault can be reasonably shown to have occurred, and (i) where applicable the test fee shall be refunded to the CUSTOMER, (ii) the Metering Installation or any part thereof shall be repaired or replaced as necessary, (iii) the electricity consumption of the CUSTOMER shall be estimated in accordance with NRS 047 and (iv) the account shall be adjusted in accordance with subclauses 15.3 to 15.6 below, in the first account rendered after the inaccuracy has been ascertained.
- 11.3 ESKOM shall notify the CUSTOMER of the estimated electricity consumption, which notification will be binding on the CUSTOMER save in the case of a manifest error.
- 11.4 If the test shows an inaccuracy to be less than the percentage accuracy specified in SANS 474, the account(s) shall stand as rendered and where applicable the meter test fees paid by the CUSTOMER shall be forfeited and any additional, actual costs that ESKOM incurred in testing the Metering Installation shall be charged to the CUSTOMER's account.

12. RIGHT(S)-OF-WAY

Initial: _____

12.1 THE RIGHTS

- 12.1.1 The CUSTOMER grants, generally, an irrevocable right (the "Rights"), in perpetuity and free of charge, to ESKOM and over the Premises, for the distribution and transmission of electricity and related purposes, substantially along a route to be agreed between the Parties, and comprising an area on either side of the centre line of the Goods, once they are built (the "Wayleave Area"), per Table 2, and the Rights include those set out herein.

Table 2:

Voltage	Area on either side of the centre line of the Goods
1. All voltages below 22kV	9 metres
2. 22kV	9 metres
3. 33kV	11 metres
4. 44kV	11 metres
5. 66kV	11 metres
6. 88kV	11 metres
7. 132kV and Delta construction 275kV	20 metres

Initial: _____
Customer

Witness 1

Witness 2

Initial: _____
Eskom

Witness 1

Witness 2

- 12.1.2 **The Rights, specifically, include the rights to:**
 - 12.1.2.1 convey electricity and telecommunication across the Premises;
 - 12.1.2.2 erect structures, conductors, cables, appliances and, without limitation, everything else as may be necessary or convenient in exercising the Rights (the "Goods") and the CUSTOMER agrees that structure-supporting mechanisms may reasonably extend beyond the Wayleave Area where it is necessary to safely secure the Goods;
 - 12.1.2.3 enter and be upon the Premises, subject to the CUSTOMER's health and safety policies and procedures, at any time in order to construct, erect, operate, use, maintain, repair, re-erect, alter or inspect the Goods or in order to gain access to any adjacent premises in the exercise of rights similar to the Rights;
 - 12.1.2.4 have these Goods remain on the Premises for so long as either ESKOM or the CUSTOMER requires them to;
 - 12.1.2.5 extend the Goods to other customers, suppliers or contracting parties of ESKOM, over the Premises;
 - 12.1.2.6 use existing roads and gates giving access to and running across the Premises and to erect in any fence such gates as may be necessary or convenient to gain access to or exit from the Premises and the Goods or in order to gain access to any adjacent premises in the exercise of rights similar to the Rights;
 - 12.1.2.7 remove any material or structures, and cut or trim any tree, bush or grass within the Wayleave Area or to the extent necessary where the Goods extends beyond the Wayleave Area, in order to comply with the restrictions referred to in subclause 12.2.2 hereof; and
 - 12.1.2.8 every ancillary right necessary or convenient for the proper exercise of the Rights granted to ESKOM.
- 12.1.3 **The Rights shall apply to all electricity infrastructure on the Premises and the area which such infrastructure covers shall be deemed to be included in the Wayleave Area and/or Restricted Area. It is agreed that the CUSTOMER herewith grants permission for all electricity infrastructure on the Premises to remain on the Premises.**
- 12.1.4 **Any expenses to be incurred, which are necessitated by a change to or removal of the Goods in the Wayleave Area, required by the CUSTOMER or the registered owner of the Premises, are for the CUSTOMER's account and must be paid for by the CUSTOMER in advance. ESKOM shall effect such changes or removals after receipt of such payment, if such changes or removal are technically possible.**
- 12.1.5 **The Contractor may exercise any of the Rights.**
- 12.1.6 **ESKOM may:**
 - 12.1.6.1 let any portion of the Goods to any third party on such conditions as ESKOM may deem fit;
 - 12.1.6.2 cede all or any of the Rights to any third party.

12.2 THE OBLIGATIONS

- 12.2.1 **ESKOM must:**
 - 12.2.1.1 ensure that any of ESKOM's gates that it had used is closed after use;
 - 12.2.1.2 pay reasonable compensation for intentional damage or damage caused through a negligent act or omission, caused by ESKOM, its employees or agents in pursuit of the Rights, save where ESKOM is acting in accordance with subclause 12.1.2.7; and subject to the provisions of clause 22.
 - 12.2.1.3 where a Contractor exercises the Rights, ensure that the Contractor complies with the obligations contained in this subclause 12.2.1.
- 12.2.2 **The CUSTOMER must ensure that no:**
 - 12.2.2.1 building or structure is erected or installed above or below the surface of the ground within the Wayleave Area and no tree or bush is planted within the Wayleave Area or within the metres per Table 2 above, from any structure-supporting mechanism (the "Restricted Area");
 - 12.2.2.2 tree, which could grow to a height in excess of the horizontal distance of that tree from the nearest conductor of any power line is planted or allowed to continue growing, regardless that it is outside of the Wayleave or Restricted Area;
 - 12.2.2.3 material which may in the opinion of ESKOM endanger any electricity infrastructure is placed within the Wayleave or Restricted Area.
- 12.2.3 **The CUSTOMER must bring the existence of these Rights to the attention of any purchaser or other transferee of the Premises (or of any portion of the Premises) before the Premises (or any portion thereof) is sold and/or transferred to such purchaser or transferee, or, where the CUSTOMER grants any further rights in or to the Premises to any other third party, to such third party.**
- 12.2.4 **The CUSTOMER must inform ESKOM in writing if it is going to sell the Premises or knows that the Premises will be sold.**
- 12.2.5 **If the CUSTOMER is not the registered owner of the property, per the Deeds' Office records, it must, in favour of ESKOM, obtain the permission of the registered owner of the Premises to grant to ESKOM the Rights.**
- 12.2.6 **The CUSTOMER's attention is drawn to the provisions of section 10.17.1 of the regulations promulgated in terms of the Explosives Act 26 of 1956, which prescribes that when blasting is to be done within 500 (five hundred) metres of any electricity infrastructure, written confirmation must first be obtained from ESKOM concerning the protection of electricity infrastructure.**

13. COMMENCEMENT OF SUPPLY

The supply of electricity shall be made available by ESKOM, subject to the CUSTOMER complying with ESKOM's conditions for providing supply, on a date to be advised to the CUSTOMER by ESKOM, or as soon thereafter as practicable.

14. TARIFF AND OTHER CHARGES

- 14.1 **Prices to be charged:**
 - 14.1.1 The prices payable by the CUSTOMER for consumption and the supply of electricity shall be the prices set out in the Tariff as specified in the applicable Schedule of Standard Prices.
 - 14.1.2 Should the CUSTOMER be on a Tariff with no fixed charge, and no electricity is consumed in any period of 6 (six) consecutive months, ESKOM may terminate this Agreement on notice and remove all of its equipment.
 - 14.1.3 The CUSTOMER may elect to be charged a tariff as specified in the Schedule of Standard Prices, subject however to –
 - 14.1.3.1 a new electricity supply agreement being concluded;
 - 14.1.3.2 a change in tariff being restricted to 1 (one) change for each Point of Delivery in a period of 12 (twelve) calendar months.
 - 14.1.3.3 the CUSTOMER meeting the qualification criteria for such elected tariff.
- 14.2 **Connection Charges:**
 - 14.2.1 In addition to the prices to be paid, the CUSTOMER must pay, if applicable the Standard and Premium Connection Charge and/or the Monthly Connection Charge until its expiry date as set out in this Agreement and if the Agreement is terminated.
- 14.3 **Other charges**
 - 14.3.1 In addition to the Tariff charges and the Connection Charge, ESKOM may require the CUSTOMER to pay additional charges for direct services rendered to the CUSTOMER (i) either at the request of the CUSTOMER or (ii) caused by the CUSTOMER's failure to fulfil its obligations in terms of this Agreement.

Initial:	_____	_____	_____
	Customer	Witness 1	Witness 2
Initial:	_____	_____	_____
	Eskom	Witness 1	Witness 2

15. PAYMENT OF ELECTRICITY ACCOUNTS

- 15.1 Accounts for all charges payable by the CUSTOMER shall be sent to the CUSTOMER as soon as possible after the end of each month. The account is due and payable within 7 (seven) days of the date of the account, irrespective of the date or fact of actual receipt (the "Due Date").
- 15.2 Should payment not be received within a period of 23 (twenty-three) days from the Due Date, ESKOM may Disconnect the supply in accordance with subclause 19.3. ESKOM shall charge interest compounded monthly from the Due Date to the date of payment, at a rate per annum equal to the prevailing prime overdraft rate charged by First National Bank of Southern Africa Limited plus 5% (five percent) subject to limitations imposed by prevailing legislation.
- 15.3 Should the CUSTOMER dispute an account, it shall, before the next account is issued, give ESKOM written notice of the dispute. However, the CUSTOMER shall not be entitled to reduce or set off its debt or defer payment thereof beyond the period of grace allowed for in subclause 15.2, in any event. Only if a manifest error is evident, shall the CUSTOMER be entitled to pay in lieu of the amount due an amount equal to the average of the accounts rendered for the preceding 3 (three) consecutive months.
- 15.4 Should the CUSTOMER be incorrectly charged for any amount(s) payable in terms of this Agreement, ESKOM shall inform the CUSTOMER of the correct amount(s) payable and the reasons therefor, in an adjustment account.
- 15.5 In the case of the CUSTOMER having been overcharged and having paid such overcharged amount, ESKOM shall as soon as practicable credit the CUSTOMER's account with the total amount overcharged with interest compounded monthly in arrears from the date the CUSTOMER has paid the overcharged amount up to the date ESKOM has credited the CUSTOMER's account, at a rate per annum equal to the prevailing prime overdraft rate charged by First National Bank of Southern Africa Limited minus 4% (four percent).
- 15.6 In the case of the CUSTOMER being undercharged, ESKOM shall debit the CUSTOMER's account with the total amount undercharged and such amount shall be payable by the CUSTOMER. If the CUSTOMER cannot pay the full amount then due, it must enter into a separate payment deferral arrangement, and the repayment term may not extend beyond 6 (six) months, or the period for which the CUSTOMER was undercharged, whichever is the least number of months. The amount outstanding shall bear interest, if it is not paid with the next account, compounded monthly, from the date the CUSTOMER's account was debited in terms of this Agreement to date of payment, at a rate per annum equal to the prevailing prime overdraft rate charged by First National Bank of Southern Africa Limited plus 5% (five percent) subject to limitations imposed by prevailing legislation.
- 15.7 In the case of the CUSTOMER being undercharged, as a result of tampering by the CUSTOMER, the total amount undercharged calculated from the date of tampering shall be payable by the CUSTOMER and shall bear interest, compounded monthly, from the date the CUSTOMER's account was debited in terms of this Agreement to date of payment, at a rate per annum equal to the prevailing prime overdraft rate charged by First National Bank of Southern Africa Limited plus 5% (five percent) subject to limitations imposed by prevailing legislation.
- 15.8 A certificate under the signature of a duly authorised employee of ESKOM setting out the amount due and payable by the CUSTOMER at any time in terms of this Agreement, shall be *prima facie* proof, of the amount due by the CUSTOMER.

16. SECURITY – ELECTRICITY ACCOUNTS

- 16.1 As security for the due payment of its accounts, the CUSTOMER shall, on signing this Agreement and prior to supply being made available, deposit with ESKOM a sum of money ("the Cash Deposit") or furnish ESKOM with a Guarantee in an amount calculated by ESKOM to represent at least 3 (three) months' anticipated consumption during the highest annual consumption period.
- 16.2 ESKOM shall have the right to call upon the CUSTOMER at any time to vary the amount of the Cash Deposit or the Guarantee, so that the amount of the security shall always be sufficient to cover the estimated amount payable by the CUSTOMER for electricity during any period of 3 (three) consecutive months during the highest annual consumption period, to be provided by the CUSTOMER within 30 (thirty) days of being called upon to do so.
- 16.3 ESKOM shall have the right at any time to allocate the whole or any portion of the Cash Deposit or the proceeds of the Guarantee towards the payment of any amounts payable by the CUSTOMER for electricity supplied and which are in arrears. If ESKOM so applies the Cash Deposit or the proceeds of the Guarantee, the CUSTOMER must ensure that the Guarantee or the Cash Deposit is immediately reinstated to the required amount.
- 16.4 If and whenever the Guarantee provided by the CUSTOMER in accordance with this clause ceases (for any reason whatsoever) to be in full force and effect or otherwise to comply with this clause, the CUSTOMER shall promptly upon the occurrence of such event provide ESKOM with a new Guarantee which meets the requirements of this clause.
- 16.5 Should the CUSTOMER fail to comply with the provisions of subclauses 16.1, 16.3, and 16.4 above, ESKOM shall be entitled to Disconnect the supply in accordance with subclause 19.3.
- 16.6 The balance of the Cash Deposit shall be returned to the CUSTOMER upon termination of this Agreement and final settlement of any amounts owing to ESKOM.
- 16.7 The Cash Deposit shall bear interest, capitalised annually, at the prevailing rate as determined by ESKOM from time to time.

17. EARLY TERMINATION GUARANTEE

- 17.1 The CUSTOMER acknowledges that ESKOM will, in providing electricity supply to the CUSTOMER, incur certain expenditures and costs which are not directly recovered through the Connection Charge. In the event that this Agreement is terminated before the expiry of the 13th (thirteenth) year following the date on which the supply of electricity was made available to the CUSTOMER such costs shall be recovered from the Early Termination Guarantee. In the event of either an increase or decrease in the Supply Size, the Early Termination Guarantee shall be amended to reflect the change in the Connection Charge.
- 17.2 The CUSTOMER has delivered to ESKOM the Early Termination Guarantee for an amount equal to the Early Termination Guarantee Amount as set out in this Agreement.
- 17.3 The CUSTOMER shall maintain the Early Termination Guarantee in full force and effect until 60 (sixty) days after the expiry of the 13th (thirteenth) year following the date on which the supply of electricity was made available to the CUSTOMER.
- 17.4 The Early Termination Guarantee Amount will decrease with 1/10th (one tenth) per year, starting 4 (four) years after the date on which the supply of electricity was made available to the CUSTOMER and will be completely extinguished after 13 (thirteen) years.
- 17.5 ESKOM shall return the Early Termination Guarantee to the CUSTOMER within 10 (ten) Business Days of the CUSTOMER furnishing ESKOM with any acceptable replacement Early Termination Guarantee or, in the case of the final Early Termination Guarantee, within 90 (ninety) days after the expiry of the 13th (thirteenth) year following the date on which the supply of electricity was made available to the CUSTOMER.
- 17.6 If this Agreement is terminated before the 13 (thirteen)-year period has lapsed ESKOM shall have the right to draw on the Early Termination Guarantee forthwith and without notice to the CUSTOMER. The amount received by ESKOM under the guarantee shall be refunded, without interest, to the CUSTOMER should the supply of electricity be taken over by another customer within 6 (six) months.
- 17.7 If the bank that issued the Early Termination Guarantee ceases to hold an Approved Credit Rating, the CUSTOMER must furnish ESKOM with a new Early Termination Guarantee within 5 (five) Business Days from the date that the CUSTOMER became aware that the bank that issued the Early Termination Guarantee has ceased to hold an Approved Credit Rating.
- 17.8 In the event of a failure by the CUSTOMER to furnish ESKOM with the new Early Termination Guarantee as required in terms of subclause 17.7 above, ESKOM shall be entitled to draw the full remaining amount payable under such Early Termination Guarantee and hold the proceeds as cash security which will be held on the same terms as the Early Termination Guarantee.

Initial: _____
 Customer Witness 1 Witness 2

Initial: _____
 Eskom Witness 1 Witness 2

18. EMERGENCY CONDITIONS AND CONSTRAINTS

Initial: _____

- 18.1 **ESKOM may interrupt the supply of electricity to the CUSTOMER or require the CUSTOMER to reduce its demand for the supply of electricity, if ESKOM has a shortage of generation and/or transmission and/or distribution capacity.**
- 18.2 In addition, the CUSTOMER is requested to use energy efficient technologies and equipment in accordance with best international practice on specific applications e.g. lighting, heating/cooling, induction loads, by way of example.

19. DISCONNECTION, AND TERMINATION OF THIS AGREEMENT

Initial: _____

- 19.1 ESKOM may Disconnect the electricity supply to the CUSTOMER immediately if:
 - 19.1.1 the CUSTOMER is causing or can reasonably be expected to cause ESKOM to be in immediate breach of any applicable law, rules, regulations, schedules, licences, codes, or any approvals, where such breach requires Disconnection;
 - 19.1.2 the CUSTOMER is causing or can reasonably be expected to cause personal injury to ESKOM's agents, directors or employees, the CUSTOMER, its agents, directors or employees or any third party;
 - 19.1.3 the CUSTOMER is causing or can reasonably be expected to cause immediate material damage to the assets of ESKOM or other customers connected to the ESKOM network;
 - 19.1.4 the supply of electricity to the CUSTOMER is used anywhere other than at the Premises;
 - 19.1.5 the CUSTOMER supplies electricity to a third party;
 - 19.1.6 the CUSTOMER tampers with or permits tampering with the Metering Installation or any other ESKOM equipment; or
 - 19.1.7 the CUSTOMER allows the electricity supply to bypass the Metering Installation.
- 19.2 Should the electricity supply be Disconnected as provided for in subclause 19.1, ESKOM shall notify the CUSTOMER in writing of the Disconnection, the reasons therefor and reconnection requirements.
- 19.3 ESKOM may Disconnect the supply after having given the CUSTOMER 14 (fourteen) days' notice to rectify a breach, if the CUSTOMER breaches this Agreement other than as set out in subclause 19.1, or if the CUSTOMER breaches the terms of any repayment agreement, as amended or re-negotiated from time to time.
- 19.4 If ESKOM Disconnects the CUSTOMER as intended in subclauses 19.1 and 19.3, ESKOM may, in addition, on written notice, terminate this Agreement with the CUSTOMER, and remove its equipment from the Premises. For the purposes of this clause, sections 12 and 13 of the Electronic Communication and Transaction Act 25 of 2002, do not apply save that the intended notice may be scanned after manual signature and then sent electronically.
- 19.5 Before the supply of electricity which has been Disconnected, and if this Agreement has not been terminated as intended in subclause 19.4, is reconnected, the CUSTOMER shall pay all arrears due to ESKOM, including loss of revenue, costs of repairing or replacing any damaged equipment or Metering Installation and any applicable charges associated with the Disconnection.
- 19.6 The Parties consent to the jurisdiction of the Magistrate's Court in respect of any action or proceedings which may be brought by one Party against the other, under or in connection with this Agreement.
- 19.7 **Should either Party commit any breach of this Agreement and a Party resorts to litigation, the losing Party may be awarded attorney and client costs incurred by the other Party as a result of such litigation.**

Initial: _____

20. PERIOD OF AGREEMENT

- 20.1 This Agreement shall come into effect on the date of signing hereof and shall remain in force subject to clauses 19 and 24 or 1 (one) months written notice of termination by either Party, provided that:
 - 20.1.1 **should this Agreement be terminated prior to the expiry of any period for which any Monthly Connection Charges are due and prior to the expiry of the Minimum Liability Period, then the CUSTOMER shall pay the balance of the outstanding Monthly Connection Charge for the remaining Minimum Liability Period;**
 - 20.1.2 **should this Agreement be terminated prior to the expiry of any period for which any Monthly Connection Charges are due and after the expiry of the Minimum Liability Period, then the CUSTOMER shall pay the Monthly Connection Charge for the period of 1 (one) months notice of termination; and**
 - 20.1.3 **should this Agreement be terminated prior to the expiry of the Minimum Liability Period and if the Early Termination Guarantee Amount is Nil, the CUSTOMER shall pay the network capacity charge of the Tariff for the remaining Minimum Liability Period**
- within 30 (thirty) days of being advised in writing by ESKOM of the amount/s due in respect thereof.**

21. DISPUTES AND DISPUTE RESOLUTION

- 21.1 This clause does not apply to disputes arising out of clause 12.
- 21.2 The Parties shall endeavour to resolve by informal negotiation any dispute between them in connection with or arising from the construction, interpretation, performance or non-performance or termination of this Agreement and any related or subsequent agreement or amendments thereto.
- 21.3 However, if agreement cannot be reached and the value of the claim exceeds the monetary jurisdiction limit of the Magistrates' Courts at the time that the dispute arises, such dispute shall be finally resolved in terms of the rules of the Arbitration Foundation of Southern Africa (AFSA) by an arbitrator formally appointed by the said foundation. Should arbitration be required in terms of this subclause 21.3, either Party may still approach a court for interim relief.
- 21.4 Where subclause 21.3 applies:
 - 21.4.1 Either Party can refer the dispute to AFSA for the appointment of an arbitrator, and if the Parties cannot agree on one within 30 (thirty) days of any Party making suggestions to the other Party for the said appointment;
 - 21.4.2 The language of the arbitration shall be English and such arbitration shall be held in Johannesburg, unless the Parties agree otherwise.
 - 21.4.3 The costs and expenses of the arbitrator shall be paid by such Party or Parties and in such proportions as the arbitrator determines to be appropriate and each Party shall bear its own costs and expenses incurred in any such proceedings.
- 21.5 While the resolution of any dispute is still pending, the Parties shall continue to perform their respective obligations under this Agreement until such dispute has been finally resolved by arbitration.
- 21.6 This clause is severable from the rest of this Agreement and will remain in effect even if this Agreement is terminated, lapses or is declared invalid for any reason.

Initial: _____
Customer

_____ Witness 1

_____ Witness 2

Initial: _____
Eskom

_____ Witness 1

_____ Witness 2

Initial: _____

22. DAMAGES

- 22.1 **ESKOM shall not be liable to the CUSTOMER for any damages incurred by the CUSTOMER as a result of any action or omission related to the design, construction, operation or maintenance of ESKOM's power system unless such loss or damage is due to the negligence of ESKOM.**
- 22.2 **ESKOM shall not be liable for damages caused to the CUSTOMER by an Interruption, Disconnection or Discontinuation, or any variation of voltage or frequency, unless such is due to the negligence of ESKOM but it is agreed between the Parties that an Interruption to ESKOM's customers generally due to any constraint on ESKOM's system, and in terms of clause 18, is not due to Eskom's negligence.**
- 22.3 **Neither Party is liable to the other for consequential damages, which includes, but is not be limited to, loss of production and loss of profit.**
- 22.4 **The maximum liability of ESKOM to the CUSTOMER in respect of any single event shall not exceed 1/12 (one twelfth) of the amount paid by the CUSTOMER during the preceding 12 (twelve) months, and the maximum aggregate liability of ESKOM to the CUSTOMER in respect of any events occurring in any preceding 12 (twelve) months shall not exceed the amount paid by the CUSTOMER during the preceding 12 (twelve) months.**
- 22.5 **The Parties' liability to each other in respect of any claim that arises pursuant to this Agreement, whether under delict or contract shall be as detailed in this Agreement, and no Party shall have any additional liability to the other Party in respect of such claim.**
- 22.6 **Notwithstanding any provision of this Agreement, the CUSTOMER shall fully indemnify ESKOM against any claim or action instituted by a third party due to the failure of the electricity supply to the CUSTOMER, whether emanating from contract, delict or any area of law, unless ESKOM has been proved negligent, subject to the provisions of subclause 22.2.**

23. CESSION AND DELEGATION OF RIGHTS AND OBLIGATIONS

- 23.1 **Neither Party hereto may cede and/or delegate any of its rights and/or obligations under this Agreement to any person without the written consent of the other, subject thereto that ESKOM may on written notice to the CUSTOMER cede and/or delegate its rights and/or obligations under this Agreement to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the electricity supply and distribution industry.**

24. FORCE MAJEURE

- 24.1 **If a Party ('the Affected Party') is unable to perform all or part of its obligations in terms of this Agreement due to a Force Majeure Event, the Affected Party shall, as soon as reasonably practicable but no later than 48 (forty-eight hours) of it becoming aware of the Force Majeure Event, notify the other Party in writing (a 'Force Majeure Notice') setting out:**
 - 24.1.1 full particulars of the Force Majeure Event;
 - 24.1.2 the impact of the Force Majeure Event on the Affected Party's obligations under this Agreement;
 - 24.1.3 the Affected Party's reasonable estimate of the length of time which its performance has been and will be affected by such Force Majeure Event; and
 - 24.1.4 the steps which it is taking or intends to take to remove and mitigate the adverse consequences of the Force Majeure Event on its performance.
- 24.2 **The Affected Party shall prove both the existence of any Force Majeure Event and the effect (both as to nature and extent) which any such Force Majeure Event has on its performance.**
- 24.3 **If the Parties are, on the basis of the Force Majeure Notice and any supporting documentation, unable to agree as to the existence or as to the effect of a Force Majeure Event by the date falling 60 (sixty) days after the receipt by the non-Affected Party of the Force Majeure Notice, either Party shall be entitled to refer the matter to arbitration in accordance with clause 21 of this Agreement.**
- 24.4 **If it is agreed or determined that a Force Majeure Event has occurred, the Affected Party shall, provided that it has complied with the requirements of this clause 24, not be liable for any failure to perform an obligation under this Agreement to the extent that:**
 - 24.4.1 such performance is prevented, hindered or delayed by a Force Majeure Event; and
 - 24.4.2 such failure could not have been mitigated by the Affected Party (acting as a Reasonable and Prudent Person).
- 24.5 **The Affected Party shall use all reasonable efforts to mitigate, rectify and overcome the effects of any Force Majeure Event(s) and to minimise the effect on the other Party and shall give the other Party (i) regular reports on the progress of the mitigation measures and (ii) prompt notice on the cessation of the Force Majeure Event(s).**
- 24.6 **If the Force Majeure Event subsists for more than 90 (ninety) consecutive days, the non-Affected Party shall have the right to terminate this Agreement after having given the other Party 14 (fourteen) days written notice without prejudice to any claim either Party may have in terms of this Agreement.**

25. NOTICES

- 25.1 **Any notice to the CUSTOMER required or necessitated by this Agreement shall at ESKOM's option be served at the Premises, or at the alternative physical address of the CUSTOMER, or at the CUSTOMER's postal address, e-mail address or fax number set out in this Agreement or communicated to ESKOM by the CUSTOMER.**
- 25.2 **Posted notices shall be deemed to have been received by the addressee on the 7th (seventh) day after the date of the notice, hand-delivered notices on the date of delivery, facsimile or e-mailed notices or any other electronic medium acceptable to both Parties, on the first Business Day following the date of transmission.**
- 25.3 **The CUSTOMER may be cited in legal proceedings at the Premises or the alternative physical address furnished by the CUSTOMER.**
- 25.4 **ESKOM may be cited in legal proceedings at Megawatt Park, Maxwell Drive, Sunninghill Ext. 3, Sandton.**

26. GENERAL

- 26.1 **This Agreement constitutes the sole and entire agreement between the Parties and supersedes all previous negotiations, arrangements or agreements in respect of the subject-matter of this Agreement, other than separate agreements or documents relating to rights-of-way and/or servitudes, or repayment of past debt.**
- 26.2 **No variation, modification, waiver, failure, delay, relaxation or indulgence of any provision of this Agreement, or consent to any departure therefrom, shall in any way be of any force or effect unless confirmed in writing and signed by both Parties.**

Initial:	Customer	Witness 1	Witness 2
Initial:	Eskom	Witness 1	Witness 2