

EXECUTION

GUARANTEE

by

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

in favour of

NOTEHOLDERS

for the obligations of

ESKOM HOLDINGS LIMITED

in respect of

the Notes issued under the Eskom Holdings Limited R65 000 000 000 Domestic Multi-Term Note Programme

GUARANTEE

THIS GUARANTEE is made

BY

- (1) **THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA**, herein represented by the Minister of Public Enterprises in terms of section 66(2) of the Public Finance Management Act, 1999 (the "**PFMA**") acting with the concurrence of the Minister of Finance in terms of section 70 of the PFMA (the "**Guarantor**");

IN FAVOUR OF

- (2) **THE HOLDERS** for the time being and from time to time of the Notes referred to below (each a "**Noteholder**" or the "**holder**" of a Note).

WHEREAS

- (A) **ESKOM HOLDINGS LIMITED** (the "**Issuer**") has established a Domestic Multi-Term Note Programme (the "**Programme**") for the issuance of notes (the "**Notes**") which is listed on the Bond Market of the JSE Limited.
- (B) The Minister of Public Enterprises and the Minister of Finance, both representing the Guarantor, consider the furnishing of this Guarantee in respect of the Notes to be in the public interest.
- (C) The Guarantor has agreed to guarantee the payment of all sums expressed to be payable from time to time by the Issuer to Noteholders in respect of the Notes Outstanding under the Programme from time to time (including, without limitation, all Notes issued by the Issuer prior to the date of this Guarantee and Outstanding as at the date of this Guarantee) on the terms and conditions set out in this Guarantee.

NOW THEREFORE THE GUARANTOR AGREES AS FOLLOWS:

1. INTERPRETATION

1.1 Definitions

All terms and expressions which have defined meanings in the Terms and Conditions of the Notes (the "**Terms and Conditions**") contained in the Programme Memorandum relating to the Notes dated 6 March 2006, as amended or supplemented from time to time, (the "**Programme Memorandum**") shall have the same meanings in this Guarantee except where the context requires otherwise or unless otherwise stated.

1.2 Clauses

Any reference in this Guarantee to a clause is, unless otherwise stated, to a clause hereof.

1.3 Other Agreements and Documents

All references in this Guarantee to an agreement, instrument or other document (including the Programme Memorandum and the Terms and Conditions) shall be construed as a reference to that agreement, instrument or other document as the same may be amended, supplemented, replaced or novated from time to time.

1.4 Legislation

Any reference in this Agreement to any legislation (whether primary legislation or regulations or other subsidiary legislation made pursuant to primary legislation) shall be construed as a reference to such legislation as the same may have been, or may from time to time be, amended or re-enacted.

1.5 Headings

Headings and sub-headings are for ease of reference only and shall not affect the construction of this Guarantee.

1.6 **Benefit of Guarantee**

Any Notes issued under the Programme prior to, on or after the date of this Guarantee that are Outstanding from time to time shall have the benefit of this Guarantee but shall not have the benefit of any subsequent guarantee relating to the Programme (unless expressly so provided in any such subsequent guarantee).

2. **GUARANTEE**

Subject to clause 5 (*Recourse against the Issuer*), the Guarantor hereby irrevocably and unconditionally guarantees (as a principal obligation and not merely as suretyship) to each Noteholder the due and punctual payment by the Issuer of all sums from time to time payable by the Issuer in respect of the Notes issued under the Programme as and when the same become due and payable and accordingly undertakes to pay to such Noteholder within 5 (five) Business Days of written demand delivered to the Guarantor, in accordance with the provisions of clause 3 (*Demands*), any and every sum or sums which the Issuer is at any time liable to pay in respect of such Note and which the Issuer has failed to pay in the manner and currency prescribed by such Note for payments by the Issuer in respect of such Note.

3. **DEMANDS**

If:

- 3.1 the Issuer fails to pay any Nominal Amount due under the Notes held by a Noteholder on its due date for payment thereof or the Issuer fails to pay any interest due under the Notes on its due date for payment thereof; or
- 3.2 subject to clause 5 (*Recourse Against the Issuer*) a Noteholder has, pursuant to the occurrence of an Event of Default which is continuing, declared the Notes held by that Noteholder to be forthwith due and payable in accordance with Condition 14.1 (*Events of Default*) of the Terms and Conditions,

that Noteholder shall be entitled to demand payment from the Guarantor of the relevant sum (the "**Guaranteed Sum**") which the Issuer has failed to pay by delivering a written demand in the form attached hereto as Annex 1 (*Form of Demand*) (each, a "**Demand Notice**") to the Guarantor in accordance with clause 10 (*Notices and Domicilia*).

4. **PAYMENTS**

4.1 If a Noteholder delivers a Demand Notice in accordance with clause 3 (*Demands*), the Guarantor shall pay the Guaranteed Sum to that Noteholder *mutatis mutandis* in accordance with Condition 8 (*Payments*) of the Terms and Conditions.

4.2 The Guaranteed Sum payable by the Guarantor pursuant to a written Demand Notice in accordance with clause 3 (*Demands*) shall not exceed the sum due and payable by the Issuer on the relevant due date.

4.3 Payment to a Noteholder under this Guarantee of a Guaranteed Sum shall:

4.3.1 discharge the Guarantor's obligations to that Noteholder under this Guarantee in respect of that Guaranteed Sum; and

4.3.2 *pro tanto* discharge the Issuer of its corresponding obligations to that Noteholder under the relevant Notes.

5. **RECOURSE AGAINST THE ISSUER**

A Noteholder wishing to benefit from, and make any demand under, this Guarantee acknowledges and agrees that:

5.1 while this Guarantee is in force, the rights of the Noteholder against the Issuer will be limited to the extent that, the Noteholder:

5.1.1 shall not take any action or proceedings against the Issuer to recover any amounts due and payable under the Notes (including, without limitation, not levying or enforcing any attachment or execution upon the assets of the Issuer), and all rights of enforcement of the

Noteholder in respect of any such amounts shall be exercised by the Noteholder making a claim against the Guarantor in accordance with the provisions of this Guarantee;

- 5.1.2 shall not institute, or join with any person in instituting or vote in favour of, any steps or legal proceedings for, the winding-up, liquidation, de-registration, judicial management of, or any compromise or scheme of arrangement with creditors of, or any related relief in respect of, the Issuer or for the appointment of a liquidator, judicial manager or similar office of the Issuer; and
- 5.1.3 shall not set off or claim to set off any amounts owing by it under any agreement to which it is a party against any liability owed to it by the Issuer, unless such right of set-off is expressly provided for in terms of such agreement;
- 5.2 the Guarantor shall be entitled at any time (and whether or not in anticipation of an Event of Default occurring or while an Event of Default is continuing) to effect payments of any amounts due and payable under any Note on behalf of the Issuer as and when they fall due under such Note and the Noteholder will accept each such payment as if it were a payment made by the Issuer under such Note without the exercise of any such entitlement by the Guarantor causing any default, Event of Default or termination event (howsoever described) or entitling the Noteholder to declare such Note to be forthwith due and payable in accordance with Condition 15.1 (*Events of Default*) of the Terms and Conditions as a consequence of the failure by the Issuer to make such payment;
- 5.3 while this Guarantee is in force, if the Issuer fails to pay any sum (each, an “**Unpaid Sum**”) under any Note, the Noteholder shall not declare such Note to be forthwith due and payable in accordance with Condition 15.1 (*Events of Default*) of the Terms and Conditions as a consequence of the failure by the Issuer to pay the Unpaid Sum unless the Noteholder of such Note shall have first demanded payment of the Unpaid Sum from the Guarantor in accordance with the provisions of this Guarantee and the Guarantor shall

have failed to pay the Unpaid Sum to the Noteholder within 5 (five) Business Days of receiving a Demand Notice for the Unpaid Sum in accordance with the provisions of this Guarantee and accordingly no Event of Default shall occur as a consequence of the failure by the Issuer to pay the Unpaid Sum unless payment of the Unpaid Sum has been demanded from the Guarantor under this Guarantee and the Guarantor has failed to pay to the Unpaid Sum to the Noteholder within 5 (five) Business Days of demand by the Noteholder in accordance with the provisions of this Guarantee; and

- 5.4 at any time while an Event of Default is continuing and whether or not a Noteholder shall have declared the Notes held by that Noteholder to be forthwith due and payable in accordance with Condition 15.1 (*Events of Default*) of the Terms and Conditions, the Guarantor shall be entitled, having given not less than 14 (fourteen) days' irrevocable notice to that Noteholder and the Issuer in accordance with Condition 17 (*Notices*) of the Terms and Conditions, to redeem such Notes on behalf of the Issuer at the Early Redemption Amount (as described in Condition 9.4 (*Early Redemption Amounts*) of the Terms and Conditions), together with accrued interest (if any) to the date of repayment, or as specified in the Applicable Pricing Supplement, and that Noteholder shall accept such payment as if it were a payment made by the Issuer under the Note; and
- 5.5 payment to a Noteholder by the Guarantor of any sum (each, a "**Relevant Sum**") pursuant to Condition 8 (*Payments*), Condition 15.3.2 or Condition 15.3.4 of the Terms and Conditions will:
- 5.5.1 discharge the Guarantor's obligations to the Noteholder under the Guarantee in respect of the Relevant Sum; and
- 5.5.2 *pro tanto* discharge the Issuer of its corresponding obligations to that Noteholder under the relevant Notes.

6. PRESERVATION OF RIGHTS

6.1 Principal Obligor

The obligations of the Guarantor hereunder shall be deemed to be undertaken as principal obligor and not merely as surety.

6.2 Continuing Obligations

The obligations of the Guarantor contained in this Guarantee shall:

6.2.1 commence on the date of this Guarantee;

6.2.2 constitute and be continuing obligations notwithstanding any settlement of account or other matter or thing whatsoever and shall not be considered satisfied by any intermediate payment or satisfaction of all or any of the Issuer's obligations under or in respect of any Note;

6.2.3 continue in full force and effect for so long as the Programme remains in effect and thereafter until all sums due from the Issuer in respect of the Notes have been paid, and all other actual or contingent payment obligations of the Issuer thereunder or in respect thereof have been satisfied, in full; and

6.2.4 not be in addition to and not in substitution for any other rights which the Noteholders may have in relation to the Issuer or the Guarantor under or by virtue of the Notes.

6.3 Guarantor's Obligations Not Discharged

Neither the obligations of the Guarantor herein contained nor the rights, powers and remedies conferred upon the Noteholders by this Guarantee or by law shall be discharged, impaired or otherwise affected by:

- 6.3.1 **Winding-up:** the winding-up, dissolution, administration, re-organisation or moratorium of the Issuer or any change in its status, function, control or ownership;
- 6.3.2 **Illegality:** subject to Condition 14 (*Prescription*) of the Terms and Conditions, any of the obligations of the Issuer under or in respect of any Note being or becoming illegal, invalid, unenforceable or ineffective in any respect;
- 6.3.3 **Indulgence:** time or other indulgence (including for the avoidance of doubt, any composition) being granted or agreed to be granted to the Issuer in respect of any of its obligations under or in respect of any Note or the Terms and Conditions;
- 6.3.4 **Amendment:** any amendment to, or any variation, waiver or release of, any obligation of the Issuer under or in respect of any Note or the Terms and Conditions or any security or other guarantee or indemnity in respect thereof, however fundamental; or
- 6.3.5 **Analogous Events:** any other act, event or omission which, but for this sub-clause, might operate to discharge, impair or otherwise affect the obligations expressed to be assumed by the Guarantor herein or any of the rights, powers or remedies conferred upon the Noteholders or any of them by this Guarantee or by law.

6.4 **Reinstatement**

Where any discharge in respect of any amounts hereby guaranteed under this Guarantee is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition, which discharge or arrangement is avoided, reduced or must be repaid on winding-up or repaid otherwise without limitation, the liability of the Guarantor under this Guarantee shall continue as if there had been no such discharge.

6.5 Renunciation of Benefits

The Guarantor hereby renounces all benefits arising from the legal exceptions of "*non numeratae pecuniae*" (no money was paid over), "*non causa debiti*" (lack of actionable debt), "*errore calculi*" (mistake in calculation of amount due) and "*beneficia excussionis et divisionis*" (the benefits of excussion and division), with the meaning and effect of which renunciation the Guarantor hereby declares itself to be fully acquainted.

6.6 Exercise of Rights

No Noteholder shall be obliged before exercising any of the rights, powers or remedies conferred upon it by this Guarantee or by law:

6.6.1 **Demand:** to make any demand of the Issuer, save for (to the extent required under Condition 8 (*Payments*) of the Terms and Conditions) the presentation of the relevant Note or the surrender of the relevant Individual Certificate;

6.6.2 **Take Action:** to take any action or obtain judgment in any court against the Issuer;

6.6.3 **Claim or Proof:** to make or file any claim or proof in a winding up or dissolution of the Issuer; or

6.6.4 **Enforcement of Security:** to enforce or seek to enforce any other collateral or security given by the Issuer, or any other person, in respect of any of the obligations of the Issuer under the Notes or the Terms and Conditions,

and (save as aforesaid) the Guarantor hereby expressly waives presentment, demand, protest and notice of dishonour in respect of any Note.

6.7 Deferral of Guarantor's Rights

The Guarantor agrees that, so long as any sums are or may be owed by the Issuer in respect of any Note or the Terms and Conditions or the Issuer is under any other actual or contingent obligation thereunder or in respect thereof, the Guarantor hereby waives, and will not exercise, any rights which the Guarantor may at any time have by reason of the performance by the Guarantor of its obligations hereunder:

- 6.7.1 **Indemnity:** to be indemnified by the Issuer;
- 6.7.2 **Contribution:** to claim any contribution from any other guarantor of the Issuer's obligations under or in respect of any Note or the Terms and Conditions;
- 6.7.3 **Subrogation:** to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Noteholder against the Issuer in respect of amounts paid by the Guarantor under this Guarantee or any security enjoyed in connection with any Note or the Terms and Conditions by any Noteholder;
- 6.7.4 **No Proceedings:** to bring legal or other proceedings for an order requiring the Issuer to make any payment, or perform any obligation, in respect of which the Guarantor has given a guarantee or indemnity under clause 2 (*Guarantee*);
- 6.7.5 **Set-off or Counterclaim:** to exercise any right of set-off against the Issuer or any obligor under the Notes;
- 6.7.6 **Proof in Insolvency:** to claim or prove as a creditor of the Issuer in competition with the Noteholders in the event of the bankruptcy, insolvency or liquidation of the Issuer.

6.8 Security

The Guarantor hereby undertakes to the Noteholders that, so long as any sums are or may be owed by the Issuer in respect of any Note or the Terms

and Conditions or the Issuer is under any other actual or contingent obligation thereunder or in respect thereof, the Guarantor will not take or receive, any security or lien from the Issuer in respect of the granting of this Guarantee.

6.9 Pari Passu

The Guarantor undertakes that its obligations hereunder will at all times rank at least *pari passu* with all other present and future unsecured obligations of the Guarantor, save for such obligations as may be preferred by provisions of law that are both mandatory and of general application.

6.10 Additional Security

This Guarantee is in addition to, and the existence or enforceability of this Guarantee shall not affect or be affected or prejudiced by, any other guarantee or security held by any Noteholder in respect of the Issuer's obligations under the Notes.

6.11 Waiver of Immunity

Subject to the provisions of the State Liability Act, 1957, which shall apply, to the extent that the Guarantor may in any jurisdiction claim for itself or its assets or revenues immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and to the extent that such immunity (whether or not claimed) may be attributed in any such jurisdiction to the Guarantor or its assets or revenues, the Guarantor agrees not to claim and irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction.

7. DEPOSIT OF GUARANTEE

This Guarantee shall be deposited with, and held by, the CSD for so long as the Programme remains in effect and thereafter until the date on which all of the obligations of the Issuer under or in respect of the Notes and the Terms and Conditions have been discharged in full. The Guarantor acknowledges and

agrees that each Noteholder shall be entitled to require the CSD, which shall be obliged, to produce the original of this Guarantee on written request and further shall be entitled to require the CSD to provide a copy of this Guarantee to that Noteholder on written request. The Issuer is obliged under the Terms and Conditions to ensure that the CSD complies with such requests within 3 (three) Business Days of receipt of the same.

8. **BENEFIT OF GUARANTEE**

This Guarantee shall enure to the benefit of each Noteholder and its (and any subsequent) successors and assigns, each of which shall be entitled severally to enforce this Guarantee against the Guarantor.

9. **TAXES AND WITHHOLDINGS**

All payments in respect of the Notes under this Guarantee shall be made without set-off, counterclaim, fees, liabilities or similar deductions and free and clear of, and without deduction or withholding for, taxes, levies, duties or charges of any nature ("**Taxes**") now or hereafter imposed, levied, collected, withheld or assessed by or on behalf of the Republic of South Africa or any political subdivision or taxing authority thereof or therein having power to tax, unless such withholding or deduction is required by law or regulation. If the Guarantor or any agent thereof is required by law or regulation to make any deduction or withholding for or on account of Taxes, the Guarantor shall, to the extent permitted by applicable law or regulation, pay such additional amounts as shall be necessary in order that the net amounts received by any Noteholder after such deduction or withholding shall equal the respective amounts of principal and interest which would have been receivable in respect of the Notes in the absence of such deduction or withholding, except that no such additional amounts shall be payable with respect to any Note:

- 9.1.1 held by or on behalf of a Noteholder who is liable to such Taxes in respect of such Note by reason of his having some connection with the Republic of South Africa other than the mere holding of such Note or the receipt of principal or interest in respect thereof; or

- 9.1.2 held by or on behalf of a Noteholder who would not be liable or subject to the withholding or deduction by making a declaration of non-residency or other similar claim for exemption to the relevant tax authority (the effect of which is not to require the disclosure of the identity of the relevant Noteholder); or
- 9.1.3 where such withholding or deduction is in respect of Taxes levied or imposed on interest or principal payments only by virtue of the inclusion of such payments in the taxable income (as defined in section 1 of the Income Tax Act, 1962) or taxable capital gain (as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act, 1962) of any Noteholder; or
- 9.1.4 more than 30 (thirty) days after the date on which such requirement to withhold or deduct arises, except to the extent that the Noteholder thereof would have been entitled to an additional amount on presenting the same for payment on such thirtieth day; or
- 9.1.5 if such withholding or deduction arises through the exercise by revenue authorities of special powers in respect of tax defaulters; or
- 9.1.6 where the Noteholder is entitled to claim a Tax deduction, credit or similar benefit in respect of such withholding or deduction in terms of the Noteholder's domestic Tax laws or applicable double Tax treaty and such Tax reduction, credit or similar benefit is actually granted to the Noteholder.

10. **NOTICES AND DOMICILIA**

10.1 **Notices**

- 10.1.1 The Guarantor chooses the addresses set out opposite its name below as its addresses to which any written notice in connection with this Guarantee may be addressed.

Government:

Physical address: The Department of Public Enterprises of
the Republic of South Africa
Suite 401, Infotech Building
1090 Arcadia Street
Hatfield
Pretoria
0028
Republic of South Africa

Attention: The Director-General: Department of
Public Enterprises

and:

Physical address: The National Treasury of the Republic of
South Africa
240 Vermeulen Street
Pretoria
0002
Republic of South Africa

Attention: The Deputy Director-General: Asset and
Liability Management

- 10.1.2 Any notice, service of legal process, demand or communication required or permitted to be given in terms of this Guarantee shall be valid and effective only if in writing; provided that it shall not be competent to give notice by telefax.
- 10.1.3 The Guarantor may by written notice to the Noteholders change its chosen addresses for the purposes of clause 10.1.1 to any other address(es), provided that the change shall become effective on the fourteenth day after the receipt of the notice by the addressee.
- 10.1.4 Any notice given in terms of this Guarantee shall:
- 10.1.4.1 if sent by a courier service be deemed to have been received by the addressee on the 7th (seventh) Business Day following the date of such sending;

10.1.4.2 if delivered by hand be deemed to have been received by the addressee on the date of delivery;

unless the contrary is proved.

10.1.5 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a party shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered at its chosen address.

10.2 ***Domicilia***

10.2.1 The Guarantor chooses its address referred to in clause 10.1.1 as its *domicilium citandi et executandi* at which documents in legal proceedings in connection with this Guarantee may be served.

10.2.2 The Guarantor may by written notice to the Noteholders change its *domicilium* from time to time to another address, not being a post office box or a poste restante, in South Africa; provided that any such change shall only be effective on the fourteenth day after receipt of the notice by the Noteholders in accordance with clause 10.3 (*Notices to the Noteholders*).

10.3 **Notices to the Noteholders**

Notices to holders of Notes under this Guarantee shall be given *mutatis mutandis* in accordance with Condition 16 of the Terms and Conditions.

11. **AMENDMENTS TO THIS GUARANTEE**

11.1 Subject to clause 11.2, the Guarantor may amend or vary the terms of this Guarantee with:

11.1.1 the prior sanction of an Extraordinary Resolution of Noteholders; or

- 11.1.2 the prior written consent of Noteholders holding not less than 75% (seventy-five percent) in Nominal Amount of the Notes Outstanding from time to time,

provided that no such amendment or variation shall be of any force or effect unless notice of the intention to make such amendment or variation shall have been given to all Noteholders in accordance with clause 10.3 (*Notices to the Noteholders*).

- 11.2 Notwithstanding clause 11.1, the Guarantor may make, without the consent of the Noteholders, any amendment to or variation of the terms of this Guarantee which is:

- 11.2.1 of a formal, minor or technical nature;
- 11.2.2 made to correct a manifest error;
- 11.2.3 made to comply with mandatory provisions of the law of the jurisdiction in which the Issuer is incorporated; or
- 11.2.4 not prejudicial to the rights and interests of the Noteholders,

provided that no such amendment or variation shall be of any force or effect until communicated to the Noteholders in accordance with clause 10.3 (*Notices to the Noteholders*).

12. CANCELLATION OF THIS GUARANTEE

The Guarantor may cancel or terminate this Guarantee by written notice to the Noteholders with:

- 12.1 the prior sanction of an Extraordinary Resolution of Noteholders; or
- 12.2 the prior written consent of Noteholders holding not less than 75% (seventy-five percent) in Nominal Amount of the Notes Outstanding from time to time.

13. CESSION AND ASSIGNMENT

The Guarantor shall not cede or assign any of its rights, or delegate any of its obligations, under this Guarantee save with:

- 13.1 the prior sanction of an Extraordinary Resolution of Noteholders; or
- 13.2 the prior written consent of Noteholders holding not less than 75% (seventy-five percent) in Nominal Amount of the Notes Outstanding from time to time.

14. INDULGENCES

No indulgence granted by a Noteholder to the Guarantor shall constitute a waiver of any of that Noteholder's rights under this Guarantee. Accordingly, that Noteholder shall not be precluded, as a consequence of having granted such indulgence, from exercising any rights against the Guarantor which may have arisen in the past or which may arise in the future.

15. VARIATION, CANCELLATION AND WAIVER

No contract varying, adding to, deleting from or cancelling this Guarantee, and no waiver of any right of the Guarantor under this Guarantee, will be effective unless reduced to writing and signed by the Minister of Public Enterprises of the Guarantor in terms of section 66 (2) of the PFMA acting with the concurrence of the Minister of Finance of the Guarantor in terms of section 70 of the PFMA.

16. ENTIRE CONTRACT

This Guarantee contains all the express provisions agreed on by the Guarantor with regard to the subject matter of this Guarantee and the Guarantor shall not be bound by any express or implied term, representation, warranty, promise or the like not recorded herein.

17. APPLICABLE LAW

This Guarantee shall be interpreted and implemented in accordance with the laws of the Republic of South Africa.

18. JURISDICTION

The High Court of South Africa (North Gauteng High Court, Pretoria), shall have non-exclusive jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes which may arise out of or in connection with this Guarantee and, for such purposes, the parties irrevocably submit to the jurisdiction of such court.

19. COUNTERPARTS

This Guarantee may be executed in any number of counterparts by the parties and once each party to this Guarantee has signed a counterpart, each such counterpart shall be considered an original and all such counterparts shall constitute one and the same instrument. Any such counterpart may be a facsimile transmission copy thereof or a scanned copy thereof transmitted by e-mail.

20. SEVERABILITY

If any of the provisions of this Guarantee becomes invalid, illegal or unenforceable for any reason, the validity, legality and enforceability of the remaining provisions of this Guarantee shall not be impaired or affected in any way by such invalidity, illegality, or unenforceability.

21. ACCEPTANCE OF BENEFITS


The Guarantor hereby accepts the benefits conferred upon it in the Terms and Conditions.

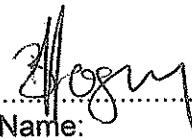
Thus signed and executed by the Minister of Public Enterprises of the Republic of South Africa in terms of section 66(2) of the Public Finance Management Act, 1999 acting with the concurrence of the Minister of Finance of the Republic of South Africa in terms of section 70 of the Public Finance Management Act, 1999.

Signed at **PRETORIA** on **30 SEPTEMBER** 2009

Witnesses:

for THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

1. 


Name: _____
Capacity: Minister of Public Enterprises


2. 

Concurred


Signed at **PRETORIA** on **5 NOVEMBER** 2009

Witnesses:

for THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

1. 


Name: _____
Capacity: Minister of Finance

2. 

Annex 1

Form of Demand

To: The National Treasury
240 Vermeulen Street
Pretoria, 0002
Republic of South Africa

Attention: C/O Minister of Finance
Deputy Director-General: Asset and Liability Management

cc: Department of Public Enterprises
Suite 401
Infotech Building
1090 Arcadia Street
Hatfield
Pretoria, 0028
Republic of South Africa

Attention: The Director-General: Department of Public Enterprises

From: [insert name of Noteholder]

Address: [insert address]

Dated: [●]

Dear Sirs

Letter of Demand in terms of a Guarantee dated [●] by the Government of the Republic of South Africa in favour of Noteholders for the obligations of Eskom Holdings Limited in respect of the Notes issued under the Eskom Holdings Limited R65 000 000 000 Domestic Multi-Term Note Programme (the "Guarantee"): [insert Title [and ISIN] of Notes] (the "Notes")

1. We, [●], are the holder of a Nominal Amount of [insert amount] of the above-mentioned Notes.

2. We refer to the above Guarantee. This is a Demand Notice. Terms defined, or incorporated by reference, in the Guarantee shall have the same meaning when used in this Demand Notice.
3. The Issuer has failed to pay the sum of R[●] due on [●] in respect of the Notes.
4. We demand payment to us, in accordance with the provisions of the Guarantee, of the sum of [●] being due and payable, but unpaid, to us under or in respect of the Notes.
5. Payment must be made in accordance with Condition 8 of the Terms and Conditions.

Yours faithfully,

.....

for

[insert name of Noteholder]