

AGREEMENT OF LEASE

Entered into and concluded between

THE WESTERN CAPE NATURE CONSERVATION BOARD

Herein represented by JACOB THARONduly authorised thereto by the WESTERN CAPE NATURE CONSERVATION BOARD, hereinafter referred to as the Lessor, of the one part

and

PETER ROBIN PROZESKY (Identity number: 550514 5086 081)

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duly authorised to act on behalf of

ESKOM HOLDINGS LTD (Ref. no. 1/04-020-90216)

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hereinafter referred to as the Lessee, of the other part.

IT IS HEREBY AGREED THAT the Lessor hereby lets to the Lessee who hereby hires, two portions of land below the high-water mark of the sea approximately 26,5 ha and 2,0 ha adjacent to the seaward boundary of the Farm Duynefontyn no. 34, in terms of section 3(1) of the Sea-Shore Act, 1935 (Act 21 of 1935) as indicated by A and B on the attached diagram,

SUBJECT to the following conditions:

- 1. The lease shall be for a period of (1) one year as from 1 December 2002 and shall continue thereafter until terminated by ninety (90) days written notice by anyone of the parties hereto.
2. (a) The rent shall be R1 653-00 (14% VAT inclusive) per annum and shall be payable in advance on or before the first day of December in each year to the Chief Executive Officer: Western Cape Nature Conservation Board, Private Bag X100, Vlaeberg, 8018, or such other person as he may assign.
(b) The Lessor shall have the right to revise the rental from time to time after expiry of one (1) year.
3. The Lessee shall not sublet the site or cede or hypothecate the lease or any interest therein without the prior written consent of the Lessor first had and

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obtained, in which event the Lessor shall have the right to revise the rent and the conditions of lease. Should the controlling interest in this lease be transferred to any other party, either by way of shares in a company or interests in a partnership, such transfer shall be regarded as a cession.


4.
 - (a) The site shall be used exclusively for the use and maintenance of an intake and outlet water system (as defined by points A and B on the attached diagram) for the pumping of seawater to and from the proposed Nuclear Power Station on the adjacent land and shall without the prior written consent of the Lessor not be used for any other purpose.
 - (b) Without the prior written consent of the Lessor or his authorised agent first had and obtained no person shall reside on the site.
 - (c) The lessee shall commence utilising the site for the purpose set out in condition 4(a) within 12 months from the date of commencement of the lease, and he shall thereafter continue to utilise the site exclusively for that purpose unless he is authorised in writing by the Lessor to cease activities on the site for such a period or periods as may be determined by the Lessor.

5.
 - (a) Any buildings or structures to be erected shall comply with the building regulations of the local authority. Should the Lessor so desire, the Lessee shall fence the site and maintain the fence. All costs of such fencing and maintenance shall be borne by the Lessee.
 - (b) No structure, building, service, fence, installation or work of such nature shall be erected and no alteration thereto shall be effected unless and until plans therefor have been submitted by the Lessee to the Lessor and the Lessor has approved such plans.
 - (c) The Lessor shall be entitled to recover the cost incurred in the examination of building plans from the Lessee who shall, on request, submit full details of design. The Lessor however accepts no liability for structural faults merely because the plans have been approved.
 - (d) All structures, buildings, installations, services, fences or works shall be properly maintained to the satisfaction of the Lessor and the local authority.
 - (e) The Lessee shall take the necessary precautionary measures to the satisfaction of the Lessor or his representative for the prevention and fighting of fires on the site.

6. The Lessee indemnifies the Lessor against all costs, losses, actions and claims, including claims for damages, injury to person or damage to property and all costs, including costs between attorney and client, which the Lessor may be called upon or compelled to pay and which may arise directly or indirectly from any action by any person or persons as a result of this Agreement of Lease or as a result of any act carried out on site by the Lessee or his servants, employees, contractors or clients in terms of this Agreement of Lease.

7.
 - (a)
 - (i) The Lessor shall at all times have the right to terminate the Agreement of Lease on giving 90 days written notice to the Lessee


B.



should the site or any portion thereof be required for public or Government purposes.

- (ii) The Lessor furthermore reserves the right to terminate or suspend the Agreement of Lease without prior notice in the event of a national emergency.
 - (iii) The decision of the Minister in the Provincial Administration of the Western Cape to whom the administration of the Act has under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) been assigned with regard to the interpretation of the conception public or State purposes, or national emergency is decisive and final.
- (b) In the event of the Lessor exercising the right reserved in the preceding paragraph, compensation shall be paid to the Lessee for and in respect of the value of all buildings and fixed accessories and other immovable improvements, but, excluding removable machinery or installations. For the purpose of calculating the compensation it shall be considered that the full depreciation on all improvements is spread equally over the period running from the date on which the improvement was effected to the normal expiry date of the Agreement of Lease as set out in paragraph 1 hereof. The Lessee shall be paid the pro rata value of the improvements calculated for the unexpired portion of the lease and the Lessee shall not be entitled to any other compensation for improvements effected after the expiry of the period of lease as set out in paragraph 1 hereof.
8. (a) It shall at no time be considered that the Lessee has by virtue of this Agreement of Lease acquired any right or lawful claim to a grant of the site.
- (b) On the termination of the lease by the effluxion of time or in terms of clause 7(a) hereof, the Lessee shall not be entitled to any compensation for any structures or improvements effected by him on the site.
- (c) On termination of the lease for any reason whatsoever the Lessee shall vacate the site and remove all obsolete equipment and machinery, refuse, litter and any other such material as the Lessor may determine, and leave the site in a neat and clean condition. Should the Lessee fail to comply with the written instructions of the Lessor within the period specified by the Lessor, the Lessor shall have the right to do the said clearing at the expense of the Lessee.
9. The Lessee shall carry out his activities on the site without causing any nuisance, either by an obnoxious smell or by the release of any effluent or any other harmful or unpleasant substance or by anything that is potentially harmful to the public health, and nothing that is done or caused during the normal course of activities, may be in conflict with the regulations promulgated from time to time by the Department of Health or by the local authority or the regulations or the lawful instructions of the Lessor. To this end the Lessee shall be obliged to comply strictly in all respects with the regulations of the Department of Health or the local authority and with all reasonable requirements of the Health Officer or any competent authority to ensure compliance with such regulations. The

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Lessee is otherwise obliged to keep the site and any structure or building thereon in a clean and sanitary condition to the satisfaction of the Lessor and the local authority and to provide proper and efficient sanitary facilities as well as a sufficient supply of purified water for domestic use.

10. The Lessor's representatives shall at all times have free access for inspection purposes to any building or structure erected on the site by the Lessee. The Lessor's representatives, employees and contractors shall at all reasonable times have access to and right of way over the site for the purpose of maintenance, and for public and Government purposes.
11. (a) Without prior approval of the Lessor first had and obtained the Lessee shall not dump debris, rubble, sand, ash or any other material within the harbour area or on State land.
(b) The Lessee shall make provision to the satisfaction of the Lessor, and the local authority, for the regular collection and removal of all refuse, obsolete equipment, effluent and run-off water.
12. The Lessee shall be liable for the payment of any costs incurred by the Lessor in respect of any survey, which may be regarded as necessary for the purposes of this Lease or for the pointing out of the beacons and boundaries of the site.
13. The Lessee shall be liable for the prompt payment of all such stamp duty, levies and taxes which may become payable as a result of this Agreement of Lease.
14. (a) Should the Lessee fail to comply with any of the conditions of this Agreement of Lease and remain in default after the Lessor has given him 14 days written notice to comply with such conditions, the Lessor shall have the right to cancel this Agreement of Lease forthwith.
(b) No act of relaxation or indulgence or grace on the part of the Lessor shall in any way be deemed to be a waiver by the Lessor of any of his rights under this Agreement. All conditions shall remain in force and shall not be amended unless amended in writing and signed by both parties.
15. (a) The Lessor reserves the right to construct or cause to be constructed services across the site for power, water, sewerage, telephone, pipelines, and other services and the Lessee shall be obliged to adjust at his own cost to such public services as are provided or altered.
(b) The Lessee may apply in writing for the construction of essential services such as pipelines for water and sewerage and power cables to his site across adjoining State land. The Lessor however accepts no liability for such services. The Lessee shall comply with all conditions imposed in connection with such services and shall maintain all such services properly at his own expense as well as alter, adjust or entirely remove all such services should the Lessor deem it necessary.
16. The Lessor does not guarantee to the Lessee any right of way to or from the site across any other property. In addition this Agreement of Lease does not impose an obligation on the local authority to provide an access road to the site.



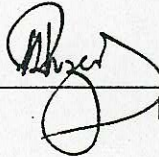


g. Q B A

The Lessee nominates MEGAWATT PARK, MAXWELL DRIVE,
SANDTON



as his *domicilium citandi et executandi* in respect of all matters or actions which may arise out of or in connection with this Agreement of Lease.

THUS DONE and SIGNED at MELKBOOSSTRAND on
this 1st day of DECEMBER 2002.



LESSEE

WITNESSES:

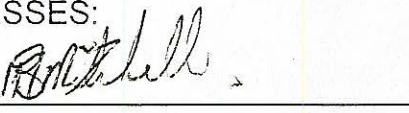

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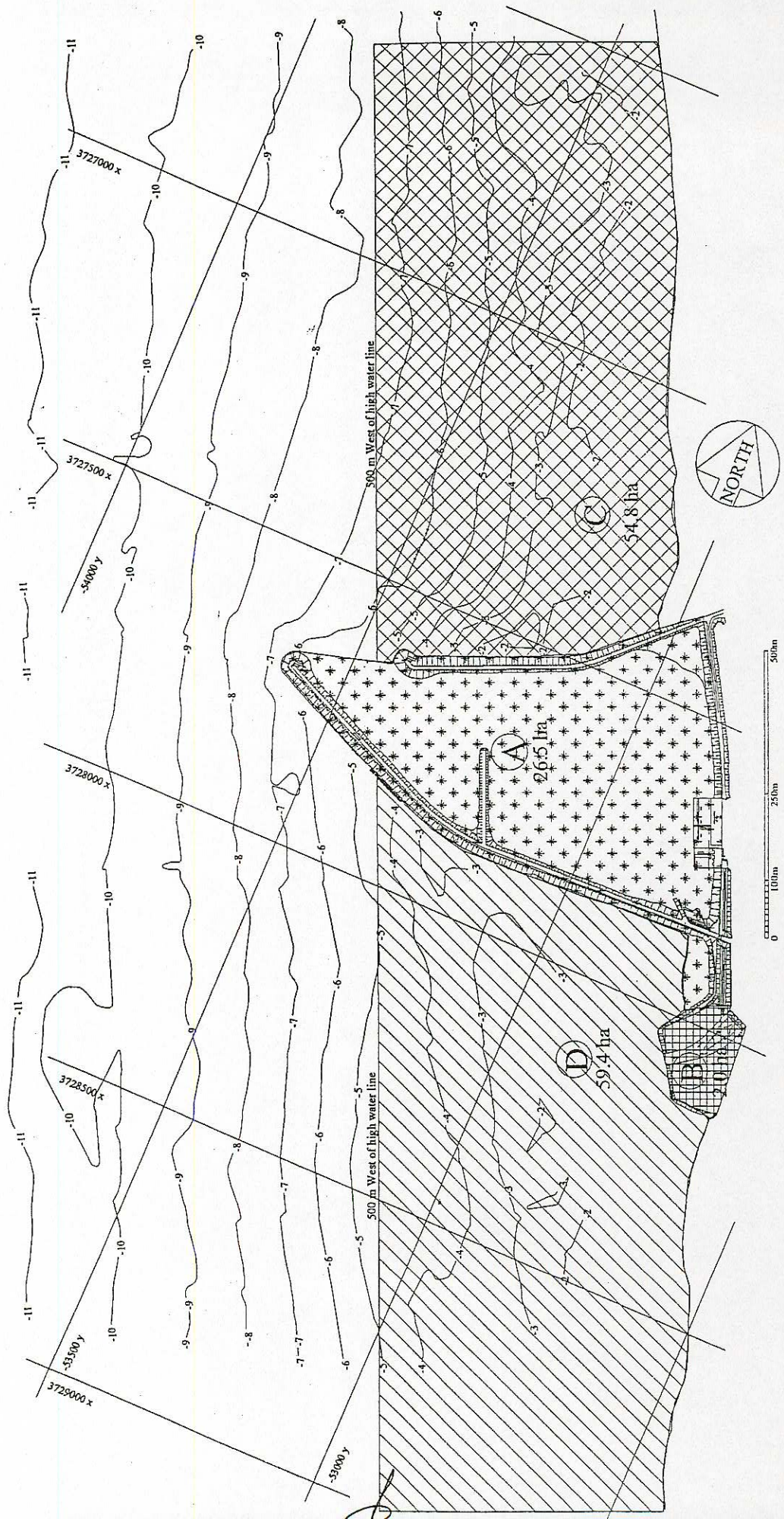
THUS DONE and SIGNED at CAPE TOWN on
this 3rd day of APRIL 2003.



CHIEF EXECUTIVE OFFICER
WESTERN CAPE NATURE
CONSERVATION BOARD
(LESSOR)

WITNESSES:

1. 
2. 



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