

## SETTLEMENT AGREEMENT

Entered into by and between:

**SOLARWORLD AG** a German company of Kurt-Schumacher-Strasse 12-14, 53113 Bonn, Germany (hereinafter referred to as "Solarworld");

and

**SOLAR ENERGY CC** a close corporation organised and existing under the laws of South Africa having its registered address at 40 Cannon Island Way, Marina Da Gama, 7945, Cape Town, South Africa (hereinafter referred to as "Solar Energy");

and

**LED ENERGY SOLUTIONS CC** a close corporation organised and existing under the laws of South Africa having its registered address at Unit B3, G & F Park, Gateway Close, Capricorn Business Park, Muizenberg (hereinafter referred to as "LED Energy").

### WHEREAS:

- A. Solarworld is the proprietor of the Solarworld Trade Mark Registrations.
- B. Solar Energy and LED Energy are using one or more of the Solarworld Trade Marks in connection with their business and, in particular in connection with the distribution of solar- and wind-powered products which are marketed and sold in direct competition with those of Solarworld.

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- C. Solar Energy is the registered user of the Solarworld Domain Name which it uses to market and sell the aforementioned products.
- D. Solarworld has lodged a domain name complaint in relation to the registration of the Solarworld Domain Name by Solar Energy and has threatened to institute trade mark infringement proceedings against Solar Energy and LED Energy in respect of their use of the Solarworld Trade Marks.
- E. The Parties have now resolved their dispute and wish to set out the terms and conditions of their agreement, as they hereby do.

NOW THEREFORE the Parties agree as follows:

**1. DEFINITIONS**

- 1.1. "Affiliate" means any person that, directly or indirectly, Controls (defined below) a Party or is Controlled by a Party or is under common Control of a Party and any other person;
- 1.2. "Agreement" means this settlement agreement including the schedule hereto;
- 1.3. "Control" means the power to influence, directly or indirectly, the management, the operations and the decision-making of the person concerned by exercising the majority (that is, for the sake of clarity, greater than 50% (fifty percent)) of the voting rights attaching to the interests in that person;
- 1.4. "LED Energy" means LED Energy Solutions CC, a close corporation organised and existing under the laws of South Africa having its registered address at Unit B3, G & F Park, Gateway Close, Capricorn Business Park, Muizenberg;
- 1.5. "Solarworld Trade Marks" means the trade marks that form the subject of the Solarworld Trade Mark Registrations;

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- 1.6. "Solarworld Trade Mark Registrations" means the applications and registrations listed in Schedule 1 hereto;
- 1.7. "Parties" means two or more of: Solarworld, Solar Energy and LED Energy, as indicated by the context; and "Party" means one of the aforesaid, as indicated by the context;
- 1.8. "Signature Date" means the date on which the last of the signatories signs this Agreement;
- 1.9. "Solarworld" means Solarworld AG, a German company of Kurt-Schumacher-Strasse 12-14, 53113 Bonn, Germany.
- 1.10. "Solar Energy" means a Solar Energy CC, a close corporation organised and existing under the laws of South Africa having its registered address at 40 Cannon Island Way, Marina Da Gama, 7945, Cape Town, South Africa; and
- 1.11. "Territory" means all the countries of the world.

**2. TERM**

This Agreement shall come into effect on the Signature Date and will endure and remain binding on the Parties until it is terminated by mutual written agreement between the Parties.

**3. TERMS OF SETTLEMENT**

- 3.1. Solar Energy and LED Energy acknowledge the existence of Solarworld's rights in the Solarworld Trade Marks, both through the Solarworld Trade Mark Registrations as well as the common law rights which Solarworld has acquired through the use of the Solarworld Trade Marks in the Territory.
- 3.2. Solar Energy and LED Energy will immediately cease all use of the Solarworld Trade Marks and will not in future use the Solarworld Trade Marks or any other trade mark which is confusingly or deceptively similar thereto, in any manner whatsoever and will not dispose of or offer to dispose of, products or services that bear a Solarworld Trade



Mark or any other trade mark which is confusingly or deceptively similar thereto, in the Territory.

3.3. Neither Solar Energy nor LED Energy will apply to register any trade mark or domain name incorporating or consisting of the word SOLARWORLD or any word or combination of words that is confusingly similar thereto.

3.4. Within 30 (thirty) days of the Signature Date Solar Energy will cause for transfer of the Solarworld Domain Name to Solarworld or its nominee, and will notify Solarworld, in writing, when such transfer has been affected.

3.5. Within 30 (thirty) days of the Signature Date, Solar Energy and LED Energy will pay to Solarworld or its nominee, an amount of R100,000 (one hundred thousand Rand), for which Solar Energy and LED Energy will be jointly and severally liable. Payment of the aforesaid amount will be free of offset or demand, by electronic transfer to a bank account nominated by Solarworld in the Republic of South Africa, and in South African Rands.

3.6. Neither Solar Energy nor LED Energy will attack, challenge, oppose or apply to cancel the registration of, nor assist any third party in attacking, challenging, opposing or applying for the cancellation of the registration of the:

3.6.1. Solarworld Trade Mark Registrations;

3.6.2. any future trade mark application or registration, of Solarworld or any Affiliate, which incorporates the word SOLARWORLD;

3.6.3. the Solarworld Domain Name Registration; or

3.6.4. any domain name registration of Solarworld or any Affiliate, which incorporates the word SOLARWORLD,

nor interfere with use by Solarworld or its Affiliates, of the Solarworld Trade Marks and the Solarworld Domain Name.

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4. MISCELLANEOUS


4.1. Save for the payment referred to in 3.5, which is a contribution by Solar Energy and LED Energy to Solarworld's legal costs, each Party shall bear their own legal costs and outlays of and incidental to the dispute between them, the negotiation, preparation and execution of this Agreement, and the compliance with the terms and conditions of this Agreement.


4.2. This Agreement will be made binding on and inure to the benefit of the successors in title, licensees, assigns and Affiliates of the respective Parties

4.3. This Agreement will be governed by the laws of the Republic of South Africa.

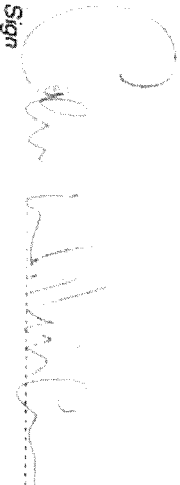
Signed by the Parties hereto, in acknowledgement that they have read the terms and conditions of this Agreement; that they understand all such terms and conditions and that they agree to be bound thereby, the signatories warranting, by their signature hereto, that they are duly authorised to sign this Agreement:

SOLARWORLD AG

  
Sign

signatory name COLETTE RÜCKERT-HENNING  
capacity CHRBO  
place SOLAR WORLD AG BONN  
date 22/09/2011  
witness LEA SCHREIBER 

SOLAR ENERGY CC

  
Sign

signatory name GAVIN JOSEPH GOUMANOFF

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capacity MAXIMUM BEEHIVE  
place CAROLINA BUSINESS PARK  
date 10/20/11  
witness STACIA WATKINS

LED ENERGY SOLUTIONS CC







Sign Paul White

signature name LEAD ENERGY SOLUTIONS  
capacity MANAGERIAL DIRECTOR  
place CAROLINA BUSINESS PARK  
date 10/20/11  
witness STACIA WATKINS

CDT

## SCHEDULE 1

## The Solarworld Trade Mark Registrations

| Official No. | Title   | Class (es) | Goods and Services  |
|--------------|---|------------|---|
| 2006/26486   | SOLARWORLD THE SUNPOWERED COMPANY & Device<br> | 01         | Silicon blocks, silicon disks, as far as included in class 1; Silicon blocks, silicon disks, as far as included in class 1  |
| 2006/26487   | SOLARWORLD THE SUNPOWERED COMPANY & Device<br> | 09         | Instruments and machines for the generation and conversion of electricity, namely photovoltaic-/solar assets, photovoltaic-/solar modules, photovoltaic-/solar cells, inverters, DC-power cables, tracking technology products relating to the insulation |
| 2006/26488   | SOLARWORLD THE SUNPOWERED COMPANY & Device<br> | 36         | Financial concerns and real estate  |
| 2006/26489   | SOLARWORLD AFRICA & Device<br>                  | 01         | Silicon blocks, silicon disks, as far as included in class 1  |
| 2006/26490   | SOLARWORLD AFRICA & Device<br>                   | 09         | Instruments and machines for the generation and conversion of electricity, namely photovoltaic-/solar assets, photovoltaic-/solar modules, photovoltaic-/solar cells, inverters, DC-power cables, tracking technology products relating to the insulation |
| 2006/26491   | SOLARWORLD AFRICA & Device<br>                   | 36         | Financial concerns and real estate  |
| 2006/29602   | SolarWorld Africa   | 01         | Silicon blocks, silicon disks, as far as included in class 1  |

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| Official No. | Title             | Class (es) | Goods and Services   |
|--------------|-------------------|------------|--|
| 2006/29603   | SolarWorld Africa | 09         | Instruments and machines for the generation and conversion of electricity, namely photovoltaic-/ solar assets, photovoltaic-/ solar modules, photovoltaic-/ solar cells, inverters, DC-power cables, tracking technology products relating to the insulation |
| 2006/29604   | SolarWorld Africa | 36         | Financial concerns and real estate   |

The Solarworld Trade Mark Applications:

| Official No. | Title             | Class (es) | Goods and Services   |
|--------------|-------------------|------------|--|
| 2006/29602   | SolarWorld Africa | 01         | Silicon blocks, silicon disks, as far as included in class 1   |
| 2006/29603   | SolarWorld Africa | 09         | Instruments and machines for the generation and conversion of electricity, namely photovoltaic-/ solar assets, photovoltaic-/ solar modules, photovoltaic-/ solar cells, inverters, DC-power cables, tracking technology products relating to the insulation |
| 2006/29604   | SolarWorld Africa | 36         | Financial concerns and real estate   |

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