

1. The reader's attention is drawn to **section 7(2) of the Consumer Protection Act 68 of 2008** which reads as follows: ***A franchisee may cancel a franchise agreement without cost of penalty within 10 business days after signing such agreement, by giving written notice to the franchisor.***
2. **B6 ENERGY SOLUTIONS** details, and details of the executive officers appear in **ANNEXURE A** hereto.
3. **B6 ENERGY SOLUTIONS** will provide the **FRANCHISEE** as far as it is able to do so without contravening the Legal Practice Act 28 of 2014 with an explanation of any terms or sections in this agreement not fully understood by the **FRANCHISEE** upon the **FRANCHISEE'S** written request. The **FRANCHISEE** is however nevertheless advised to consult an attorney.
4. **B6 ENERGY SOLUTIONS** has in the drafting of this Agreement used its best endeavours to ensure compliance with the applicable laws, including without limitation, the Consumer Protection Act 68 of 2008 ("CPA"). However, to the extent that this Agreement may require further amendment in order to comply with the CPA and/or any other applicable law, the **FRANCHISEE** by its signature hereto agrees to such amendment which **B6 ENERGY SOLUTIONS** will set out in a schedule to this Agreement. The aforesaid amendments will be effective from the date of notice of amendment from **B6 ENERGY SOLUTIONS** to the **FRANCHISEE**.

## **B6 ENERGY SOLUTIONS FRANCHISE AGREEMENT**

The parties to this agreement are as follows:

### **B6 ENERGY SOLUTIONS (PTY) LTD,**

a company incorporated and existing under the laws of the Republic of South Africa,  
with its registered address at 140 West Street, 4th Floor – TBE, Sandown, Sandton,  
Gauteng, registration number 2023/825014/07

("the Franchisor")

Herein represented by, duly authorised.

and

\_\_\_\_\_ (Registration number)

[ADDRESS]

Herein represented by [NAME]) duly authorised thereto.

("the Franchisee")

and

[NAME][ID]

(in his/her personal capacity and in his/her capacity as director of "the Franchisee")

(All hereinafter referred to as the PARTIES)

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## 1. PREAMBLE

- 1.1 **WHEREAS** the Franchisor has developed a specialised and distinctive solar marketing and distribution service of Rayleigh Instruments Products in South Africa under the name and style of “**B6 ENERGY SOLUTIONS**”.
- 1.2 **AND WHEREAS** the Franchisor has developed such systems as a uniform method and philosophy of operation, customer service, marketing, advertising, promotion, publicity, technical knowledge and operations relative to the supply and distribution of solar products, systems and related services.
- 1.3 **AND WHEREAS** the Franchisor is prepared to grant franchises to establish and operate the Business in an Approved Area to persons who fulfil the Franchisor’s criteria and who are willing to undertake the investment, business risk and effort required therefor.
- 1.4 **AND WHEREAS** the Franchisee recognises the benefits to be derived from being identified with and licensed by the Franchisor and being able to use the systems and information (including without limitation the referrals) that the Franchisor makes available or will make available to the Franchisee.
- 1.5 **AND WHEREAS** the Franchisee is desirous of obtaining a franchise to establish and operate a **B6 ENERGY SOLUTIONS** Business for the Approved Area and the Franchisor is willing to grant such a franchise upon the terms and conditions hereinafter set forth.

## NOW WHEREFORE THE PARTIES AGREE AS FOLLOWS:

## 2. DEFINITIONS

Unless otherwise determined by the context, the following words will have the meanings reflected in the following definitions:

- 2.1 “Agreement”: means this agreement, together with all attachments hereto.
- 2.2 “Area”: means the geographical area (town, city and/or suburbs) listed in Annexure A hereto.

- 2.3 “the Business”: means the franchised **B6 ENERGY SOLUTIONS** business which the Franchisee is licensed to operate in terms of this Agreement using the Business System and the Trade Marks at the Premises.
- 2.4 “Business System”: means the trade secrets and know-how relating to the marketing, advertising, the supply and resale of solar products, and related services, and includes any improvements or variations made thereto by the Franchisor from time to time as well as Trade Marks.
- 2.5 “Commencement Date”: means the date which the Business commences trading.
- 2.6 “Day/s”: means business days and therefore excludes Saturdays, Sundays and public holidays.
- 2.7 “Franchised Business”: the Franchised Business which the Franchisee is hereby authorised and obliged to carry on, within the Allocated Demographic, using the B6 Energy Solutions Methods and the B6 Energy Solutions Identity.
- 2.8 “Franchise System”: means the entire franchise operation controlled by the Franchisor, including all franchised businesses operating in accordance with the Business System and using the Intellectual Property.
- 2.9 “Goodwill”: means the goodwill arising out of the use of the Business System and the Intellectual Property by the Franchisor and/or its franchisees, including the Franchisee.
- 2.10 “Know-How”: includes, without limitation, all confidential, technical and commercial information relating to the operation of the Franchise System and Business System existing from time to time, together with information known to the Franchisor and to individuals who are office bearers, employees, partners, directors, members or shareholders of the Franchisor, as well as information known to franchisees of the Franchise System.
- 2.11 “Importer”: means B6 Rayleigh Energy (Pty) Ltd.
- 2.12 “Intellectual Property”: includes, without limitation:

- 2.12.1 The Know-how;
  - 2.12.2 The Copyright;
  - 2.12.3 The Goodwill;
  - 2.12.4 The Trade Branding;
  - 2.12.5 The Trade Marks;
  - 2.12.6 The Trade Secrets; and
  - 2.12.7 The Designs.
- 2.13 “Manufacturer: means Rayleigh Instruments Limited, United Kingdom.
- 2.14 “Premises”: means the approved premises from where the Business is operated.
- 2.15 “Products”: means all products manufactured by the Manufacturer, but not limited to, Solar products and electricity related services
- 2.16 “Restraint Area”: means the Premises, as well as the area described for the Franchise.
- 2.17 “Termination”: means the termination of this Agreement before the expiry or effluxion of time.
- 2.18 “Termination Date”: means the 5th anniversary of the Commencement Date.
- 2.19 “the Database” is all information about current and future customers of the **B6 ENERGY SOLUTIONS**, and trading data and information of the Franchisee and other Franchisees.
- 2.20 “Trade Branding”: includes, without limitation, the branding of vehicles, labels, packaging and materials, as well as the particular form of design and shop fitting of premises from which the Franchised Business is conducted and any dress, uniforms or attire worn by any of the employees of the Franchisor or the Franchisee, from time to time.

- 2.21 "Trade Secrets": includes, without limitation, all confidential information of whatever nature relating to the Franchised Business and/or the Franchise System and/or the Intellectual Property and/or the Business System.
- 2.22 "Turnover": means the total monthly sales, derived from all sources, whether in cash or on credit, but excluding Value Added Tax (VAT), all of the aforementioned relating to, associated with or flowing from the operation of the Franchised Business.

### **3. GRANT OF FRANCHISE**

- 3.1 The Franchisor hereby grants to the Franchisee a license to, from the Premises and for the Area, operate the Franchised Business and to use the Intellectual Property together with the Business System strictly in accordance with the terms and conditions of this Agreement for a period of 5 (five) years.
- 3.2 This Agreement and the license granted in terms of clause 3.1 above will commence with effect from the Commencement Date and terminate on the Termination Date unless otherwise terminated in accordance with the provisions of this Agreement.
- 3.3 The Parties shall thereafter be entitled to renew this Agreement for further 5 (five) year periods by entering into the Franchisor's standard franchise agreement in use in the Franchise System at that time, provided that:
- 3.3.1 The Franchisee has complied with all the terms and conditions of this Agreement;
  - 3.3.2 The Franchisee has given the Franchisor not less than 3 (three) and not more than 8 (eight) months written notice of its intention to extend this Agreement, prior to the termination of this Agreement; and
  - 3.3.3 The Franchisee has paid the Franchisor the standard renewal fee relevant at the time of giving the notice referred to in clause 3.3.2 above.
- 3.4 This Agreement shall continue to be in full force and effect irrespective of the lapsing, invalidity or unenforceability of any registered or unregistered intellectual property.

### **4. THE FRANCHISE FEE**

- 4.1 Franchisee shall pay **B6 ENERGY SOLUTIONS** the initial franchise fee of **R0.00** excluding VAT in consideration for the advice for the setup of the business and for the costs of training.
- 4.2 Subject to clause 4.3, the franchise fee, or portions thereof already paid, will be non-refundable, should the agreement be terminated at any stage for whatever reason.
- 4.3 If the commencement of business in the Franchised Business is reliant upon the securing of suitable premises, and these cannot, through no fault or neglect on the part of the Franchisee, be secured within 90 (ninety) days from the date of signature of the agreement, then the Franchisor will be entitled to cancel the agreement as contemplated in clause 13. If the agreement is cancelled on this basis and this basis alone, then the Franchisee will be entitled to a partial refund of the Franchise Fee, after the Franchisor has deducted a sum equal to the reasonable fees, costs and/or expenses incurred by the Franchisor in selecting, recruiting, training, assisting and dealing with the Franchisee, as well as all other reasonable fees, costs and/or expenses incurred with a view to setting up the Franchised Business.

## **5. THE ROYALTY FEE**

- 5.1 It is recorded that the Franchisor has secured the right to distribute solar and related Products in South Africa, on behalf of B6 Rayleigh Energy (Pty) Ltd, (the "Importer"), whom in turn has an exclusive distribution agreement with Rayleigh Instruments Limited, United Kingdom (the "Manufacturer") for Southern Africa.
- 5.2 The Franchisor is entitled to and agrees to grant the Franchisee the sole right to distribute the Products in 5.1 in the Area, as indicated in Annexure D.
- 5.3 The Franchisor will have exclusive right to supply the Franchisee, from time to time, with an updated list of all Products manufactured by the Manufacturer and that are available for distribution in their Area.
- 5.4 The Franchisee can only sell and install the Products outside the area with the prior written consent of the Franchisor.
- 5.5 For the franchise rights and use of the Intellectual Property, the Franchisee must pay Franchisor for the duration of this agreement an ongoing fee being:

- 5.5.1 a Royalty Fee shall be calculated as an amount equal to 5% [five percent] (excluding VAT) of the Franchisee's monthly turnover.
- 5.5.2 average turnovers of the Franchisee if the Franchisee is not trading for any reason. The average turnover is the average turnover of the latest 6 months' trading. If the Franchisee has traded for fewer than 6 months, the average turnover must be for the period that it has traded.
- 5.5.3 payment of the Royalty Fees shall be made in arrears on or before the 7<sup>th</sup> (Seven) day of every consecutive month without any setoff or deductions of any nature.
- 5.6 The Franchisee must keep up to date records about the business of the Franchise.
- 5.7 The Franchisee must allow the Franchisor or its representatives to look at these records at any time, whenever the Franchisor wishes to.
- 5.8 The Franchisee must give Franchisor a royalty statement with details of all receipts during that month within 2 days after the end of each month. The statement must be in the form that the Franchisor chooses.
- 5.9 If the Franchisor finds, during an inspection, that the Franchisee's receipts for any month might be more than what is in the relevant royalty statement, the Franchisor can have this investigated by an accountant that it chooses. The Franchisee must give the accountant reasonable access to the relevant records. The finding of this accountant is binding on the parties. If the finding of the accountant is that the Franchisee's receipts for the month in question are more than those in the royalty statement, the Franchisee must:
- 5.9.1 Pay the difference on the royalties owing.
- 5.9.2 Pay for the investigation.
- 5.9.3 Pay interest on the difference from the time that the Franchisee should have paid.
- 5.10 The Franchisee agrees that any difference established by the accountant, being more than 1% (one) per centum, whether the Franchisee did this on purpose, carelessly or innocently, will show that the Franchisee no longer intends to be bound by this agreement. The Franchisor can then take legal steps, including immediate cancellation of the Agreement.

## **6. RESALE OF FRANCHISED BUSINESS**



6.1 In terms of clause 11.2 of this Agreement the Franchisor has a right of first refusal as far as the sale and/or disposal of the Franchised Business is concerned. The Parties hereby agree and record that the Franchisee shall only be entitled to sell and/or dispose of the Franchised Business subject to the provisions of clause 11, and in no other way and under no other circumstances.

## **7. PAYMENTS**

7.1 Any amounts due in terms of this Agreement shall be paid in full by the Franchisee as stipulated and without any deduction or set-off whatsoever.

7.2 The Franchisee will be liable for the payment of value added tax (VAT) on all the amounts mentioned in this agreement, should VAT be payable.

7.3 Interest shall be payable at the prime rate plus 2% on any overdue amounts owing in terms of this agreement.

7.4 For the purposes of clause 7.3 above, prime rate means the prime rate of interest levied from time to time by ABSA Bank of South Africa Limited on unsecured overdrawn current accounts of its most favoured corporate customers in the private sector, as certified by any manager of that bank (whose authority and/or appointment and/or qualification it shall not be necessary to prove) calculated on the daily balance and capitalised monthly in arrears.

## **8. DUTIES OF THE FRANCHISOR**

8.1 The Franchisor will, provided that payment of the franchise fee referred to in clause 4 above has been duly made:

8.1.1 Disclose the Business System to the Franchisee in terms of this Agreement.

8.2 The Franchisor will assist and advise the Franchisee on the following matters relating to the establishment of the Franchised Business:

8.2.1 The Trade Branding;

8.2.2 Suitable signage, shop fitting, layout, design, vehicle branding, dress code and other similar;

8.2.3 Equipment, sources of supply of equipment, furnishing, materials and other items required by the Franchisee in and for the Franchised

Business including those, if any, reflected in the attachment hereto marked "A"; and

- 8.2.4 Initial training of staff;
  - 8.2.5 The structure and method of operation of the Franchised Business;
  - 8.2.6 Advertising;
  - 8.2.7 Supply the Franchisee with leads.
- 8.3 The Franchisor will be responsible for recommendation of suppliers and/or contractors for the supply of the items and services reflected in clause 8.2.1, clause 8.2.2 and clause 8.2.3 above, as far as these are needed to initially establish the Franchised Business, the costs involved will be for the account of the Franchisee. The Franchisee shall be responsible for purchasing stock to run the Franchised Business on an ongoing basis.
- 8.4 The Franchisee will be responsible for entering into the necessary lease agreements to secure the availability of the Premises in the Territory; the Franchisor will however give all reasonable assistance to the Franchisee in order to identify a suitable premises. The Franchisee will, in fulfilling its aforesaid duties, make all and every reasonable effort to ensure that he can commence operating the Franchised Business on the Commencement Date.
- 8.5 The Franchisor, in consultation with the Franchisee, will, from time to time, as necessary, determine which of the Franchisee's office bearers, employees, partners, directors, members or shareholders (including the Franchisee personally, if applicable) will undergo training in the Business System. This training will take place at the commencement of this Agreement, and whenever deemed necessary by the Franchisor, at a place chosen by the Franchisor or virtually. The extent and duration of any training will be determined by the Franchisor. Unless indicated to the contrary in this Agreement, the Franchisee will be responsible for the payment of all the expenses, including travel expenses, and subsistence of a trainee as well as the trainee's salary payable during the training period. Training given by the Franchisor will include the training reflected, together with the relevant fees payable to the Franchisor therefore, if any.
- 8.6 In addition to the training in the Business System provided for above, the Franchisor may also hold training seminars (the length, frequency and nature of which shall be determined by the Franchisor in its sole discretion) catering specifically for franchisees. The Franchisee is obliged to attend such seminars, at the request of the Franchisor. The Franchisee will be responsible for the

payment of all the expenses, including travel expenses, and subsistence of the Franchisee as well as the Franchisee's salary payable during the period of the seminar.

- 8.7 The Franchisor will disclose improvements and developments in the Business System to the Franchisee and will provide such further training to the Franchisee and other persons engaged in the conduct of the Franchised Business as the Franchisor considers necessary. The Franchisee will be responsible for all the expenses of the persons undergoing such training including travelling expenses and subsistence as well as their salaries payable during the period of training.
- 8.8 The Franchisor will, if reasonably necessary, assist the Franchisee, in an advisory capacity, in procuring supplies, services and equipment necessary for the establishment and operation of the Franchised Business.
- 8.9 The Franchisor shall endeavour to ensure that Products are timeously order from the Manufacturer and that the Manufacturer is able to supply the Products and volumes ordered. In the event that the Franchisor, in its sole discretion, is of the opinion that the Manufacturer is unable to meet its supply obligations, the Franchisor may notify the Franchisee in writing and shall the Franchisee be authorised to order Products from alternative suppliers. The Franchisor shall not be liable for any losses, defective products or consequential damages which the Franchisee may suffer due to the Manufacturer's inability to meet its supply obligation, faults occurring during manufacturing or any delay in supply by the Manufacturer of shipping of the Product.
- 8.10 In the event that the Manufacturer is unable to supply products, and at the sole discretion of the Franchisor, the Franchisor shall attempt to negotiate competitive prices on behalf of the Franchisee from alternative suppliers of the Products.

## **9. OBLIGATIONS OF THE FRANCHISEE**

- 9.1 The Franchisee will operate the Franchised Business strictly in accordance with the Business System, supplemented by any specifications and directions, written or otherwise, as may be laid down or given by the Franchisor from time to time. The Franchisee will have the right to use, and undertakes to use, the Intellectual Property in relation to the Franchised Business, provided that the Franchisee conducts the Franchised Business strictly in accordance with the terms of this Agreement and the Business System.

- 9.2 The Franchisee will ensure that the Franchised Business conforms to other franchised businesses operated in accordance with the Business System. The Franchisee acknowledges that such conformity is essential for the successful operation of the Franchised Business and the Franchise System, including other businesses operated in accordance with the Business System, as well as for the proper protection of the Intellectual Property, in particular the Trade Marks and the goodwill. The Franchisee will protect and promote the goodwill associated with the Franchised Business and all goodwill generated by the conduct of the Franchised Business will inure to the benefit of the Franchisor.
- 9.3 The Franchisee acknowledges that conformity as far as pricing is concerned is essential for the successful operation of the Franchised Business and especially the Franchise System, and the Franchisee therefore undertakes to comply as far as possible with the recommended pricing structure that may be stipulated by the Franchisor from time to time. Should the Franchisee elect to charge prices which are lower than those specified in the recommended pricing structure from time to time, the Franchisee undertakes to obtain the prior written consent of the Franchisor, which consent will not be unreasonably withheld.
- 9.4 The Franchisee shall upon the commencement of the Franchised Business and from time to time thereafter engage all staff and other persons required for the effective operation of the Franchised Business in compliance with this Agreement. The Franchisee will ensure that all staff members are adequately trained in the Business System to the satisfaction of the Franchisor where it is necessary for the performance of their duties.
- 9.5 The Franchisee acknowledges that neither it nor its office bearers, employees, partners, directors, members or shareholders have any prior knowledge of the Business System or any aspect of the know-how or the Trade Secrets. The Franchisee will not divulge or permit to be divulged to any person any aspect of the Business System, the know-how or the Trade Secrets otherwise than for the purposes of this Agreement. The Franchisor may by written notice to the Franchisee specify which of the Franchisee's office bearers, employees, partners, directors, members or shareholders are required to sign a confidentiality agreement and no such person will be employed in the conduct of the Franchised Business until he or she has signed such a confidentiality undertaking which will be in a form stipulated by the Franchisor from time to time. The current accepted form is attached hereto marked Annexure "B". The Franchisee undertakes not to engage the services, for the purposes of this Agreement, of any person other than its employees.

- 9.6 The Franchisee will not do, cause or permit anything to be done which may adversely affect the Intellectual Property or the Franchisor's rights in the intellectual property. The Franchisee will forthwith bring to the attention of the Franchisor any infringement of the Intellectual Property that may come to its attention. The Franchisee will give all reasonable assistance to the Franchisor to enable the latter to further or defend its rights in the intellectual property.
- 9.7 The Franchisee acknowledges and confirms that the Franchisor is or will be the owner of all rights of whatever nature in the Intellectual Property including all additions, modifications, changes or updates to the Business System and the intellectual property, and that it has no claims of any nature to either the Business System or to any element of the intellectual property.
- 9.8 The Franchisee shall not at any time attack or challenge the rights of the Franchisor to the Intellectual Property or induce or procure any other person to attack or challenge such rights, whether directly or indirectly.
- 9.9 The Franchisee will not advertise or conduct promotional or marketing activities or allow such activities without the prior written approval of the Franchisor. The Franchisee will, at its own cost, use and display such point of sale or advertising or promotional matter as the Franchisor may stipulate and/or provide from time to time. Ownership of copyright in all material generated by advertising campaigns shall vest solely in the Franchisor.
- 9.10 The Franchised Business will only be carried on from the Premises unless the Franchisor gives prior written consent to the conduct of the Franchised Business from any other premises.
- 9.11 The Franchisee will commence the operation of the Franchised Business on the Commencement Date and the Franchised Business will be open for business and will operate on a continuous basis.
- 9.12 While this Agreement remains in force, the Franchisee (including its office bearers, employees, partners, directors, members or shareholders, where applicable) will not engage directly or indirectly in any capacity in any other business venture which is in the nature of or related or similar to or tends to compete with the Franchised Business without the prior written consent of the Franchisor.

- 9.13 The Franchisee will comply in the conduct of the Franchised Business with all applicable laws, by-laws and regulations of any competent authority. The Franchisee will also, at its own cost, redecorate or refurbish the Premises when reasonably required to do so by the Franchisor in order to ensure that the Premises are in the same condition as those of other franchisees utilising the Business System and in accordance with the Trade Branding, as updated from time to time.
- 9.14 The Franchisee will pay its suppliers promptly in accordance with their usual terms and conditions.
- 9.15 The Franchisee will not induce other franchisees' employees to leave their employment and take up employment with the Franchisee.
- 9.16 The Franchisee will permit the Franchisor or its duly authorised representative at all reasonable times to carry out such inspections or investigations which the Franchisor may consider necessary for the purposes of ascertaining whether the provisions of this agreement are being complied with. The Franchisee will ensure that it and its employees co-operate fully in such inspections or investigations.
- 9.17 The Franchisee hereby indemnifies the Franchisor and will keep it indemnified, for the duration of this Agreement and thereafter, against all claims of whatever nature, whether criminal or civil, together with any legal fees and costs incurred by the Franchisor, arising out of the establishment and operation of the Franchised Business by the Franchisee.
- 9.18 The Franchisor may in its sole discretion designate in writing from time-to-time items that are to be purchased by the Franchisee, either from the Franchisor or from a supplier specified by the Franchisor. The Franchisee acknowledges that this requirement is essential in order to have consistency and effective quality control within the Franchise System, and that consistency and effective quality control is essential for the success of the Franchised Business and the Franchise System. The Franchisor will take reasonable steps to ensure that the prices of such items are in line with comparable items from other suppliers, after taking into account the quality of the goods and any additional costs which may be occasioned by the labelling or packaging of the items specifically for the purposes of the Business System. The Parties hereby specifically agree and record that the Franchisor will have the right to insist and direct that the Franchisee sources all items from the Franchisor's approved supplier.

- 9.19 Notwithstanding the provisions of clause 9.18, the Parties specifically agree that if the making and/or manufacturing of a particular product used in the Business System involves the use of the Trade Secrets, then the Franchisee shall only purchase and use those products supplied by the Franchisor. The Franchisee acknowledges that this requirement is reasonable in order to protect the Intellectual Property of the Franchisor as well as to have consistency and effective quality control within the Franchise System, and that the protection of the Intellectual Property as well as the presence of consistency and effective quality control is essential for the success of the Franchised Business and the Franchise System.
- 9.20 The Franchisee will, at its own cost, maintain such policies of insurance as may be reasonably stipulated by the Franchisor from time to time and will ensure that all insurance premiums are paid promptly. The Franchisee will ensure that the interest of the Franchisor in such policies is noted thereon. The Franchisee will ensure that a note is made on all policies maintained by it in accordance with the provisions of this Agreement that the insurer will notify the Franchisor in the event of the late payment of any premium by the Franchisee. The Franchisee will furnish the Franchisor with all receipts for the payment of premiums on request. The Franchisee will not cause or permit any breach of any insurance policy maintained under the provisions of this Agreement. The Franchisee will give the Franchisor notice of any claim arising or made under a policy of insurance required to be maintained in terms of this Agreement.
- 9.21 The Franchisee will at all reasonable times allow the Franchisor full and immediate access to all documentation and financial information relating to the Franchised Business, including, without limitation, contracts, bank statements, invoices, and receipts. The Franchisee will, at its own cost, maintain, in a form approved by the Franchisor (and preserve same for at least 3 (three) years after termination of this Agreement), full and accurate books of account and all underlying or supporting records and vouchers relating to the Franchised Business and permit the Franchisor and/or the Franchisor's auditors, at any time, to inspect and/or audit the said accounts and records and take copies thereof. The Franchisee shall also, at its own cost, provide to the Franchisor, once a year, full financial reports, including projected cash flows and full details of total turnover and profits and/or losses, prepared by a registered accountant in accordance with generally accepted accounting practice and in accordance with the Franchisor's requirements from time to time.
- 9.22 The Franchisee shall act strictly in accordance with the Franchisor's instructions and directions regarding the design, layout, construction, shop fitting, preparation and completion of the Premises and the running of the Franchised Business.

- 9.23 The Franchisee shall refer any and all queries it may receive regarding the Franchised Business, the Business System, the Franchise System or regarding becoming a franchisee to the Franchisor, immediately upon receiving such queries, and without expressing any opinion thereon to the person from whom they emanate.
- 9.24 The Franchisee shall at all times maintain the highest possible standards of orderliness, professionalism, fairness and ethical conduct throughout the term of this Agreement. This also includes ensuring that the name, reputation and good standing of the Franchised Business and the Franchise System is promoted and never impaired in any way. In addition, the Franchisee shall not do anything or refrain from taking any action that might reasonably be expected to result in harming the goodwill, validity of or value associated with the Intellectual Property, the Business System and/or the Franchise System.
- 9.25 Without being entitled to any remuneration therefore, the Franchisee agrees and undertakes that any and all conceptions, inventions, confidential information, procedures, technical information, techniques and other intellectual property, which it may receive by way of assignment, invent, discover, or work out during the term of this Agreement (whether during regular working hours or not) which relate to or could be used in connection with the activities of the Franchisor, shall be for the benefit of and become the sole property of the Franchisor. The Franchisee undertakes to, without charge, assign, transfer and make over to the Franchisor all the Intellectual Property rights in this regard in the future as and when the Franchisor so requires. The Franchisee hereby undertakes, when called upon to do so by the Franchisor, to, without charge, sign all documentation and do any and all things necessary to obtain and/or record such Intellectual Property and/or the assignment thereof to the Franchisor.
- 9.26 For the duration of this Agreement the Franchisee undertakes to always use its full legal name, followed by the trading name, in all correspondence and/or dealings with third parties relating to or associated with the Franchised Business. The aforementioned will specifically include, without limitation, the name identifying the Franchisee's bank accounts and cheques used in relation to or associated with the Franchised Business.
- 9.27 The Franchisee will be obliged, prior to opening the Franchised Business on the Commencement Date, to have complied with all of the requirements of the Franchisor's pre-opening requirements checklist to the satisfaction of the Franchisor. The Franchisee acknowledges having been furnished with a copy



of such pre-opening requirements checklist and that he has perused and comprehends such checklist and the importance thereof.

9.28 The Franchisee hereby acknowledge and agree that, for the duration of this Agreement the Franchisee will be prohibited from directly or indirectly, either themselves or, a partnership or joint venture in any form, to be involved in any other solar sales and/or installation business.

9.29 The Franchisee will be obliged, at his own expense, to attend all meetings called by the Franchisor, at such reasonable venues and times as the Franchisor may from time to time stipulate.

## **10. TRADE MARKS**

10.1 The Franchisee will not in any way represent that it has any rights of any nature in the Intellectual Property including the Trade Marks and all use of the Trade Marks and Intellectual Property will inure to the benefit of the Franchisor.

10.2 Subject to clause 9.25, the Franchisee will not, without the prior written consent of the Franchisor, register or use any of the Intellectual Property including the trade marks, or any part thereof, or any trade mark which is deceptively or confusingly similar to the trade marks as part of its company, close corporation or trading name or the name of any subsidiary entity or other entity with which it is associated either directly or indirectly and if it does so, it will procure that such name is changed upon demand by the Franchisor, failing which the Franchisor is hereby authorised to do so.

10.3 When using the Trade Marks, the Franchisee will cause them to be reproduced exactly and accurately and in accordance with specifications and directions laid down by the Franchisor from time to time.

10.4 Upon termination of this Agreement for whatever reason:

10.4.1 The Franchisee will immediately cease any further use of the Intellectual Property, specifically including the Trade Marks and branding.

10.4.2 The Franchisee will on demand hand over to the Franchisor all advertising matter, printed matter, products, material or equipment whatsoever, featuring or embodying the Trade Marks or Intellectual Property which were obtained from or which the Franchisee was authorised to use by the Franchisor.

10.4.3 The Franchisee shall not disparage nor do anything calculated to disparage or damage, nor refrain from doing anything which has the effect of disparaging or damaging the Franchisor's goodwill, reputation or Intellectual Property.

## **11. NO CESSION, ASSIGNMENT, SALE OR LEASE**

11.1 The rights and obligations of the Franchisee are personal and may not be sold, ceded, assigned, let or otherwise encumbered or disposed of in any manner whatsoever without the prior written consent of the Franchisor, nor may the Franchisee at any stage appoint any sub-franchisee without prior written consent. If the Franchisee is a close corporation, company, partnership or other legal entity no change of membership, shareholding, directors, partners or office bearers may take place without the prior written consent of the Franchisor. The Parties specifically agree and record that, as a condition precedent to granting the consent, the Franchisor may require any new member, shareholder, director, partner or office bearer to sign a suretyship agreement, it being understood that the Franchisor is under no obligation to grant such consent.

In particular the Franchisee may not sell the Franchised Business or any parts thereof or rights therein without the prior written consent of the Franchisor, which consent shall not be unreasonably withheld, provided that the prospective purchaser meets the Franchisor's standard selection criteria in force at the time and the following conditions:

11.1.1 That the purchase price relating to the Franchised Business is reasonable, taking into account the prevailing market conditions as at the date of the offer;

11.1.2 That the Franchisee has satisfied all its financial and other obligations in terms of the Agreement to the Franchisor;

11.1.3 That the Franchisee furnishes the Franchisor with a copy of the proposed agreement of sale or disposal;

11.1.4 That the potential purchaser concludes and signs the Franchisor's standard franchise agreement at the time, save that a) the full franchise fee currently stipulated in clause 4 (or its equivalent in the standard agreement at that time) will not be payable (unless agreed otherwise); b) the duration of the new franchise agreement with the purchaser will be such that it also terminates on the Termination Date; c) the royalty fee set out in annexure A of this Agreement will also apply to the new franchise agreement with the purchaser for the duration of that agreement and d) the Franchisor will have no obligation to supply the potential purchaser with any initial stock or other items mentioned in the current annexure "A" (or its equivalent in the standard agreement at that time); and

- 11.1.5 That the landlord of the Premises is willing to allow the potential new franchisee (or the Franchisor, should the latter so choose in its sole discretion) to take over the existing lease relating to the Premises.
- 11.2 Any proposed sale or transfer of the Franchised Business shall be subject to the Franchisor's right of first refusal. The Franchisor's right of first refusal shall be exercised in the following manner:
- 11.2.1 The Franchisee shall forthwith give written notice to the Franchisor of any bona fide offer received by the Franchisee from any third party.
- 11.2.2 The Franchisee shall be obliged to first offer to sell or dispose of the Franchised Business to the Franchisor upon the same terms and conditions and for the same consideration (expressed in South African Rand) as stipulated in the bona fide offer.
- 11.2.3 The Franchisor shall have 15 (fifteen) Days after receipt of such notice within which to accept the offer in question. The Parties also specifically agree that the Franchisor may cede his right of first refusal to his nominee, who will be entitled to exercise the option and accept the offer in its own name.
- 11.2.4 Should the Franchisor and/or the nominee elect not to accept the offer, then the Franchisee shall, subject to clause 11.2 above, be permitted to sell or dispose of the Franchised Business upon exactly the same terms and conditions and for exactly the same consideration as stipulated in the offer, and on no terms and condition and for no consideration more favourable to the third party than the offer from the Franchisor to the Franchisee.
- 11.3 The Franchisee will not advertise and/or publish the fact that it is looking for a potential buyer in any manner whatsoever, without the prior written consent of the Franchisor. The Franchisor and the Franchisee specifically agree that the Franchisor may require compliance with reasonable restrictions relating to the method and/or style of advertising and/or publication before granting consent, and that this restriction is reasonable and necessary in order to protect the Business System, the Franchised Business and/or the Franchise System. The Franchisee will not disclose any Intellectual Property of a confidential nature to a prospective purchaser without the prior written consent of the Franchisor, which consent will not be unreasonably withheld. The Parties specifically agree and record that the Franchisor may require the prospective purchaser to sign a confidentiality agreement, in a form acceptable to the Franchisor, before the disclosure of any information.

- 11.4 The Franchisor may, in its discretion, cede, delegate and assign any of its obligations and rights under this Agreement.

## **12. DEATH OF THE FRANCHISEE**

- 12.1 If the Franchisee is a natural person, then on the death of the Franchisee the Franchisor may approve the transfer of the Franchised Business to any of the beneficiaries of the deceased Franchisee, which approval will not be unreasonably withheld. Such person(s) will be required to assume the management of the Franchised Business as soon as is practicable once they have bound themselves to observe the terms and conditions of this Agreement. Pending such transfer, the Franchisor will be entitled to assume the control and management of the Franchised Business and to operate it on behalf of the representative of the deceased estate of the Franchisee, and for the benefit and account of the deceased estate of the Franchisee provided that:

12.1.1 The Franchisor will be entitled to charge its usual fee for the conduct and management of the Franchised Business, and the Franchisor is hereby authorised to do all things and to sign all documents reasonably necessary for the purposes of conducting and managing the Franchised Business; and

12.1.2 If the Franchisor does not approve the transfer of the Franchised Business to a beneficiary in terms of clause 12.1 above, the representative of the deceased estate of the Franchisee may dispose of the Franchised Business to such person as may be approved by the Franchisor, for such sale price as may be agreed upon between the person concerned and the representative of the deceased estate of the Franchisee; and

12.1.3 The purchaser of the Franchised Business may not take transfer thereof until he has bound himself to the terms and conditions of this Agreement, and pending such sale and transfer, the Franchisor will be entitled to operate and manage the Franchised Business on behalf of and for the account of the estate of the deceased Franchisee. The Franchisor will be entitled to charge its usual fee for managing and conducting the Franchised Business and will be authorised to do all things and to sign all documents reasonably necessary to enable it to conduct and manage the Franchised Business; and

12.1.4 If a suitable beneficiary and/or purchaser cannot be found within a reasonable time after the death of the Franchisee, the Franchisor shall have the right to terminate this Agreement on 20 (twenty) DAYS written notice. The suitability of the beneficiary and/or purchaser shall be within the sole discretion of the Franchisor, it being understood that the Franchisor will exercise his discretion in a reasonable manner and with view to maintaining and if possible, enhancing the standards of the Franchise System.

- 12.1.5 If the Franchisee is a close corporation, a company or a partnership, then, upon the death of a member or shareholder or partner, the deceased person's interest or share may, subject to the approval of the Franchisor (which approval will not be unreasonably withheld) and upon such terms and conditions for approval as the Franchisor may determine, be transferred to the remaining members or shareholders or partners or the beneficiaries of the deceased person. Failing such transfer, the interest or shares of the deceased person may be sold or transferred to such person or persons as may be approved of by the Franchisor upon such terms and conditions as may be agreed upon between the transferee and the representative of the estate of the deceased person. The Franchisor may, if it deems it expedient, and pending the transfer of the interest or share of the deceased, participate in the control and management of the Franchised Business and will be entitled to charge its usual fee for such participation, payable by the Franchisee. The Franchisor will be authorised to do all such things and to sign all such documents reasonably necessary for the purposes of participating in such control and management of the Franchised Business. If a suitable beneficiary and/or purchaser cannot be found within a reasonable time after the death of the member or shareholder or partner, the Franchisor shall have the right to terminate this Agreement on 20 (twenty) days written notice. The suitability of the beneficiary and/or purchaser shall be within the sole discretion of the Franchisor, it being understood that the Franchisor will exercise his discretion in a reasonable manner and with view to maintaining and if possible, enhancing the standards of the Franchise System.
- 12.2 At the Commencement Date and thereafter from time to time, the parties will determine key staff members (including the Franchisee if he is a natural person, and office bearers, employees, partners, directors, members or shareholders of the Franchisee as the case may be). In the event of the death, incapacity, failure to act, resignation or dismissal of a key staff member, the Franchisor may itself provide a person, which in its discretion it considers suitable, to fulfil the key position vacated by such key staff member until the Franchisee is able to fill the key position to the satisfaction of the Franchisor. The person provided by the Franchisor will be deemed to be an employee of the Franchisee, and the Franchisee will be responsible for the payment of the reasonable remuneration of the person concerned as determined by the Franchisor in consultation with the Franchisee.
- 12.3 The Franchisee hereby indemnifies and holds the Franchisor harmless against all losses or expenses incurred or claims of whatever nature, arising out of the conduct of the Franchised Business by the Franchisee, or the management and control, or the participation in the management and control of the Franchised

Business by the Franchisor pursuant to this Agreement, or for the acts or omissions of the persons supplied by the Franchisor in terms of clause 12.2 above provided that the Franchisor has acted in good faith. The Franchisor will be deemed to have acted in good faith unless proved otherwise.

### **13. TERMINATION OF THIS AGREEMENT**

13.1 The Franchisor will be entitled to terminate this Agreement on written notice to the Franchisee in the event of any of the following:

13.1.1 The Franchisee failing to pay Royalties, by the due date, any sums due and owing to the Franchisor hereunder and failing so to pay within 5 (five) Days of written notice by or on behalf of the Franchisor, calling upon the Franchisee to make payment;

13.1.2 The Franchisee in any other way breaching the terms and conditions of this Agreement, all of which are declared to be material, and failing so to remedy the breach within 10 (ten) Days of written notice by or on behalf of the Franchisor, calling upon the Franchisee to remedy the breach complained of;

13.1.3 If the Franchisee commits an act of insolvency or is sequestrated, provisionally or finally, or is placed under a provisional or final winding-up order, or placed under business rescue or if the Franchisee makes an assignment for the benefit of any of its creditors, or if the Franchisee attempts to enter into any compromise with any of its creditors, or becomes incapacitated in any way including, but not limited to, being placed under curatorship by reason of ill health (mental or otherwise), or fails to satisfy or take steps to have set aside any judgment taken against the Franchisee, within 20 (twenty) Days after such judgment has come to the notice of the Franchisee;

13.1.4 If any change occurs in the management, ownership or control of the Franchised Business or of the Franchisee otherwise than in accordance with the provisions of this Agreement;

13.1.5 If the Franchisee attacks or challenges the rights of the Franchisor to the Intellectual Property or induces or procures any other person to make such challenge or attack;

13.1.6 If the Franchisee's performance, competence or standard of services are poor to the extent that contracts and/or clients and/or potential franchisees and/or potential franchised businesses are lost or at risk to be lost;

13.1.7 If any and/or all of the Franchisee's equipment and vehicles are not in a good state of order and repair and available for use at all times as required;

- 13.1.8 Failure to act in accordance with directives and instructions made in the best interests of the Franchise System and/or Business System from time to time;
- 13.1.9 If the Franchisee is unable, for whatever reason, to secure suitable premises for the conducting of the Franchised Business within 90 (ninety) consecutive days from the date of signature of the agreement. The suitability of the premises will be within the sole discretion of the Franchisor, it being understood that the Franchisor will exercise his discretion in a reasonable manner and with view to maintaining and if possible, enhancing the standards of the Franchise System.
- 13.1.10 If, while this Agreement is in place, the Franchisee, for whatever reason, loses the right to occupy the Premises, and fails to secure suitable alternative premises within 90 (ninety) consecutive days from losing the right to occupy the Premises. The suitability of the alternative premises will be within the sole discretion of the Franchisor, it being understood that the Franchisor will exercise his discretion in a reasonable manner and with view to maintaining and if possible, enhancing the standards of the Franchise System. All reasonable costs involved in preparing the alternative premises to conform to the Business System will be for the account of the Franchisee.
- 13.1.11 If the Franchisee commits the same breach more than twice in any 12 (twelve) month period.
- 13.2 The terminating of this Agreement, for whatever reason, will not affect the rights of a party which may have accrued as at the date of termination, and will further not affect any rights and obligations which specifically or by their nature survive the termination of this Agreement.
- 13.3 In the event of the termination of this Agreement for whatever reason, the Franchisee will not dispose of any item bearing the Trade Marks without prior written consent of the Franchisor and such consent may be given on such conditions as the Franchisor may deem fit, including the condition that the Trade Marks be removed or obliterated from the item concerned.
- 13.4 At the termination of this Agreement for any reason whatsoever, the Franchisee shall, if it remains in occupation of the Premises, forthwith change the appearance of the Premises both inside and outside, at its own cost, to the extent reasonably directed by Franchisor, to prevent the Premises being mistaken in appearance by members of the public for a Franchised Business or having any link with a Franchised Business.

## **14. RESTRAINT OF TRADE**

14.1 While this Agreement is in force and for a period of 1 (one) year after termination for any reason, the Franchisee will not, anywhere in the Area (being the Restraint Area), directly or indirectly, in any manner whatsoever (whether alone or jointly or together with or as an agent for any other person, partnership, company, body corporate, association, business or undertaking of any nature whatsoever):

14.1.1 Be engaged in, interested in or concerned with (whether financially, on a management level or otherwise):

14.1.1.1 Any business, undertaking or trade similar to that of the Franchised Business or a business, undertaking or trade utilising a similar Business System;

14.1.1.2 Any business, undertaking or trade similar to that referred to in clause 14.1.1.1 above or competing with or endeavouring to compete with the Franchised Business;

14.1.2 Be a shareholder, member, director, trustee or beneficiary in any company, body corporate or trust, or be a partner in any partnership, carrying on or concerned, directly or indirectly, with any business or activity described in clause 14.1.1.1 and/or clause 14.1.1.2 above;

14.1.3 Financially assist in any manner whatsoever any person, partnership, company, body corporate, association, business or undertaking of any nature whatsoever which carries on or conducts any business or activity described in clause 14.1.1.1 and/or clause 14.1.1.2 above.

14.2 The Franchisee acknowledges that this restraint is a reasonable one in order to protect the Franchisor's rights, Business System, Intellectual Property and Franchise System.

14.3 The Franchisee hereby undertakes to maintain the confidentiality of the Intellectual Property indefinitely.

14.4 Each of the undertakings in this clause 14 shall be entirely separate and separately enforceable from each other and from any other undertakings contained in this Agreement.

## **15. DISCLOSURE**

15.1 The Franchisee confirms that full and accurate written disclosure of all information material to the franchise relationship was given to the Franchisee



within a reasonable time prior to the execution of this Agreement. The Franchisee specifically confirms the matters reflected in the disclosure document (Annexure "A") have been disclosed prior to the conclusion of the agreement.

## **16. SURETYSHIP**

- 16.1 Should the Franchisee be a company or a close corporation or other body corporate, the office bearers, partners, directors, members or shareholders of the Franchisee, as the case may be, will duly enter into the deed of suretyship, simultaneously with (or as soon thereafter as is reasonably possible) the Franchisee entering into this Agreement.

## **17. ACKNOWLEDGEMENT BY THE FRANCHISEE**

- 17.1 The Franchisee acknowledges and warrants to the Franchisor as an inducement to the Franchisor to enter into this Agreement, as follows:

17.1.1 This agreement was presented to the Franchisee in consequence of the Franchisee having expressed the desire to own and operate a Franchised Business;

17.1.2 He/she has read this Agreement in its entirety and understands and accepts the terms and conditions contained herein as being reasonable and necessary to maintain uniformity of the Franchisor's standards of quality and service and uniformity of those standards at all **B6 ENERGY SOLUTIONS** businesses in order to protect and preserve the goodwill of the name, reputation of the Business and the goodwill of the Trademarks;

17.1.3 The Franchisor has recommended to him that he submit this Agreement to his legal adviser for perusal, explanation and comment and that he has done so;

17.1.4 The Franchisor has recommended to him that in addition to the abovementioned legal assistance, he also seek such other expert advice as he may deem necessary regarding the commercial viability and prospects of the Franchised business;

17.1.5 His attention has been drawn to the so-called "cooling off period", which essentially means that at least 10 (ten) Days have elapsed, calculated from the date he signed a dated receipt, acknowledging receipt of a copy of the Franchisor's disclosure document as well as a copy of this Agreement, until the date of signature of this Agreement;

17.1.6 The Franchisor has not made nor has the Franchisee received or relied upon any representations or guarantees, whether express or implied regarding revenues, sales, turnover or prospects of success of the

licensed business nor as to the extent to which the Franchisor will continue to develop or expand the Franchise System;

17.1.7 He recognises the importance of operating the Franchised Business in strict conformity with the Business System;

17.1.8 Investment in the Franchised Business involves business risks and that the success of the Franchised Business is primarily dependant on his business abilities and efforts;

17.1.9 The Franchisee has conducted an independent investigation of the Business contemplated by this Agreement;

17.1.10 He/she is familiar with and endorses and will actively support the Franchisor's, mission and core business values.

## **18. DOMICILIUM CITANDI ET EXECUTANDI**

18.1 The Parties choose as their domicilium address for all purposes including the service of court process the following:

**FRANCHISOR:** 140 West Street, 4th Floor – TBE, Sandown, Santon, Gauteng

E-mail address: \_\_\_\_\_

**FRANCHISEE:** \_\_\_\_\_.

E-mail address: \_\_\_\_\_

18.2 A party may change its domicilium address by giving 10 (ten) Days written notice to such effect to the other party.

## **19. NOTICES**

19.1 Every notice, consent or other communication required or permitted in terms of this Agreement from either party shall be in writing. It shall be sufficiently given or transmitted if and when:

19.1.1 Hand-delivered to the other party at its domicilium address, or at such other address as the party may have designated in writing;

19.1.2 Sent by e-mail to the specified e-mail address, provided that no indication that it has not been delivered is received by the sender within a reasonable time after dispatch; or

19.1.3 Deposited in the mail, duly registered with postage prepaid for prompt delivery and addressed to the other party at its domicilium address, or at such other address as the addressee may have designated in writing. A notice deposited in the mail in terms of this sub-clause shall be deemed to have been delivered on the 7th Day after the date of posting.

## **20. GENERAL**

- 20.1 No waiver by a party of any breach, failure or default in performance by the other party, and no failure, refusal or neglect by a party to exercise any right hereunder or to insist upon strict compliance with or performance of the other party's obligations under this Agreement, shall constitute a waiver of the provisions of this Agreement and a party may at any time require strict compliance with the provisions of this Agreement.
- 20.2 This Agreement constitutes the entire agreement between the Parties who acknowledge that there are no other oral or written understandings or agreements between them relating to the subject matter of this Agreement. No amendment, cancellation or other modification of this Agreement shall be valid or binding on a party hereto unless reduced to writing and executed by both Parties hereto.
- 20.3 This Agreement shall be governed by and in accordance with the laws of South Africa.
- 20.4 All the provisions of this Agreement shall be severable and no provision shall be affected by the invalidity of any other provision of this Agreement. If any part or portion of this agreement has been deemed to have been struck out and/or be declared a prohibited practice or the like in terms of the Competition Act or equivalent legislation, the effect of which is to adversely affect the rights of the Franchisor to receive payment of any nature or, in the Franchisor's sole opinion, adversely affect the Intellectual Property, Business System, Franchised Business or Franchise System, either of the Parties may call on the other to within 10 (ten) Days enter into bona fide negotiations in an attempt to agree to an amendment of this agreement or a new agreement which will put the Parties substantially in the same position as they were before. In the event that the Parties cannot reach such agreement within 20 (twenty) Days from entering into negotiations as contemplated, the Franchisor shall have the right to terminate this Agreement on 20 (twenty) Days written notice to the Franchisee.

- 20.5 Whenever a personal pronoun is used in this Agreement, it is understood that such usage shall include both singular and plural, masculine, feminine and neuter and refer in appropriate cases to juristic persons as well as natural persons.
- 20.6 The Franchisee acknowledges that he has entered into this Agreement after making an independent investigation and that the Franchisor has not made any representations or warranties other than as may be set out in this Agreement. The Franchisee has relied solely upon his independent investigations in entering into this Agreement.
- 20.7 The headings of the clauses are intended for convenience only and shall not affect the interpretation of the Agreement.

**21. COSTS**

The legal costs incurred in the preparation of this Agreement shall be borne and paid by the Franchisee and will be added to the first order invoice from the Franchisor.

SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_.

(Signature) \_\_\_\_\_

Name of Signatory:

Capacity: Director (**FRANCHISOR**)

**B6 ENERGY SOLUTIONS (PTY) LTD**

(Signature) \_\_\_\_\_

SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_.

(Signature) \_\_\_\_\_

For: \_\_\_\_\_

Name of Signatory: \_\_\_\_\_

Duly Authorised

Capacity: Member/Director

**FRANCHISEE**

**ANNEXURE "A"**  
**SUMMARY SHEET AND DISCLOSURE DOCUMENT**

**INFORMATION TO BE SUPPLIED BY THE CLIENT**

**ANNEXURE "B"**

**RESOLUTION OF THE DIRECTORS OF \_\_\_\_\_**  
**REG. NO.: \_\_\_\_\_ ("the Pty"), PASSED AT**  
**\_\_\_\_\_ THIS \_\_\_\_\_ DAY OF \_\_\_\_\_**  
**20\_\_.**

**RESOLVED:**

**THAT the Pty enter into a Franchise Agreement with B6 ENERGY SOLUTIONS (PTY) LTD to which such resolution is annexed and marked as ANNEXURE "A".**

**RESOLVED FURTHER:**

**THAT \_\_\_\_\_ in his/her capacity as Director of the Pty, be and is hereby authorised and empowered to sign all such documents, and do all such acts and deeds, as may be necessary to give effect to this Resolution.**

**CERTIFIED A TRUE EXTRACT**

\_\_\_\_\_  
**DIRECTOR**

\_\_\_\_\_  
**DIRECTOR**

**ANNEXURE “C”**

**DEED OF SURETYSHIP**

I/We, the undersigned

\_\_\_\_\_

ID Number: \_\_\_\_\_

Do hereby interpose and bind myself/ourselves unto on behalf of,

**B6 ENERGY SOLUTIONS (PTY) LTD**

Registration number: 2023/825014/07

its orders or assigns (hereinafter referred to as the Franchisor) of 140 West Street,  
4th Floor – TBE, Sandown, Sandton, Gauteng

and

**B6 RAYLEIGH ENERGY (PTY) LTD,**

Registration number: 2023/714834/07

its orders or assigns (hereinafter referred to as the Importer) of 140 West Street, 4th  
Floor – TBE, Sandown, Santon, Gauteng

as surety/sureties jointly and severally and co-principal debtor/s for the payment of: -

[Company/ CC Name] \_\_\_\_\_

Registration number: \_\_\_\_\_

(hereinafter referred to as the Franchisee) to the Franchisor and/or the Importer of all sums of money which are or may be or become owing by or claimable from the Franchisee to or by the Franchisor and/or the Importer from any cause of debt howsoever arising and for all the obligations of the Franchisee in terms of which the Franchisee is licenced to operate a business at the Premises being:

\_\_\_\_\_

\_\_\_\_\_

(hereinafter referred to as the Franchised Business).



I/We agree I/we am/are bound personally by all the terms and conditions contained in the Agreement which I/we have read and understand. I/We am/are aware of the secrecy and restraint clauses contained in the Agreement which include restraints to the effect that during the term of the Agreement neither I/we nor any member of my/our immediate family shall anywhere within the Area of the Franchised Business licenced in terms of this Agreement in any manner whatsoever, directly or indirectly have any interest in, lend money to, render services for, act as a consultant to or be employed by any Sole Proprietor who, or Company, Close Corporation, Partnership or any other legal entity which, carries on business as the distributors of or suppliers of or installers of solar products and related services for one (1) year after the termination or expiration of the Agreement, as the case may be. I/We am/are also aware that I/we may not sell or in any other manner dispose of my/our interest in the Franchisee without first offering such interest to the Franchisor or its nominee, and, if the Franchisor declines to purchase same that I/we may not dispose thereof without the Franchisor's prior written consent. I/We renounce the benefits of excussion and division the meaning and effect whereof I/we declare myself/ourselves fully acquainted.

I/We agree that it shall always be in the absolute discretion of the Franchisor and/or the Importer without notice to me/us to determine the extent, nature and duration of any credit to be given to the Franchisee, to grant time or any other indulgences to the Franchisee, to delay the date of payment or vary the terms of payment of any amount owing by the Franchisee to the Franchisor and/or Importer, to agree with the Franchisee in regard to interest to be charged on amounts owing to the Franchisor and/or Importer, and to vary the rate of such interest, to re-advance to the Franchisee any monies repaid on any loan, to make further advances, to release the whole or any portion of any security or to release any co-principal debtor or co-surety and to compound or make arrangements with the Franchisee. In the event of insolvency, liquidation, assignment or compromise, no dividends or payments which the Franchisor and/or the Importer may receive from the Franchisee shall prejudice its rights to recover from me/us to the full extent of this guarantee any sum, which, after the receipt of such payments or dividends remain owing by the said Franchisee, provided this clause shall in no way oblige the Franchisor and/or the Importer to excuss the Franchisee before proceeding against me/us and any action by the Franchisor and/or the Importer under this clause may be taken without reference to me/us and such action shall in no way affect, limit or prejudice my/our liability hereunder.

In the event of the sequestration of the estate of the Franchisee (or its liquidation if the Franchisee be a Company or a Close Corporation) or of any compromise or arrangement by the Franchisee with his creditors I/we shall not be entitled to prove any claim against his insolvent estate for any amount which I/we may be called upon to pay in terms of this Deed of Suretyship, until all amounts (including interest and

legal costs) which are due by the Franchisee to the Franchisor and/or Importer, have been fully paid.

I/We agree that I/we may not, without the prior written approval of the Franchisor, sell, cede, assign or in any other way alienate or dispose of my/our shares or members interest in the Franchisee.

I/We consent to the jurisdiction of the Magistrates' Court in regard to any proceedings that may be instituted by the Franchisor and/or the Importer under this Suretyship and choose *domicilium citandi et executandi* as per clause 18 at

alternatively \_\_\_\_\_  
even though I/we may become a peregrinus.

This Suretyship shall remain in full force and effect until cancelled in writing by the Franchisor and the Importer.

If more than one Surety was or is contemplated or is listed above and any contemplated or listed Surety/ies do not sign this Deed of Suretyship, the obligations of the signatory or signatories who do sign, nevertheless is/are and remain/s of full force and effect, this being the intention of the signatory or signatories who do sign.

DATED AT \_\_\_\_\_ this \_\_\_ day of \_\_\_\_\_ 20\_\_

AS WITNESSES

1. \_\_\_\_\_

\_\_\_\_\_  
**Surety**

2. \_\_\_\_\_

**ANNEXURE “D”**

**FRANCHISE AREA**

Province: \_\_\_\_\_

Town: \_\_\_\_\_

Suburb: \_\_\_\_\_

Radius (km): \_\_\_\_\_