

TRADEMARK ASSIGNMENT

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	SECURITY INTEREST		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
SolFocus, Inc.		02/01/2013	CORPORATION: DELAWARE
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	CPV Solar LLC		
<b>Street Address:</b>	2241 Kettner Blvd., Suite 300		
<b>Internal Address:</b>	c/o Harper Construction Company, Inc.		
<b>City:</b>	San Diego		
<b>State/Country:</b>	CALIFORNIA		
<b>Postal Code:</b>	92101		
<b>Entity Type:</b>	LIMITED LIABILITY COMPANY: CALIFORNIA		
<b>PROPERTY NUMBERS Total: 4</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	3529356	SOLFOCUS	
<b>Registration Number:</b>	3628971	SOLFOCUS	
<b>Registration Number:</b>	3868288	SOLFOCUS	
<b>Registration Number:</b>	3280639	SOL FOCUS	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	8585234312		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			
<b>Phone:</b>	858.720.6361		
<b>Email:</b>	cenz@mckennalong.com, vmcauliffe@mckennalong.com		
<b>Correspondent Name:</b>	Chard R. Ensz		
<b>Address Line 1:</b>	600 West Broadway, Suite 2600		
<b>Address Line 4:</b>	San Diego, CALIFORNIA 92101		
<b>ATTORNEY DOCKET NUMBER:</b>	027538.00004		

CH \$115.00 3529356

NAME OF SUBMITTER:	Vanessa McAuliffe
Signature:	/Vanessa McAuliffe/
Date:	02/01/2013

**Total Attachments: 40**

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## LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT (the “**Agreement**”) dated February 1, 2013 (the “**Effective Date**”), by and between CPV Solar LLC, a California limited liability company (“**Lender**”) and SolFocus, Inc., a Delaware corporation (“**Borrower**”), provides the terms on which Lender shall lend to Borrower and Borrower shall repay Lender. The parties agree as follows:

### 1. ACCOUNTING AND OTHER TERMS

Accounting terms not defined in this Agreement shall be construed following GAAP. Calculations and determinations must be made following GAAP. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Section 13. All other terms contained in this Agreement, unless otherwise indicated, shall have the meaning provided by the Code to the extent such terms are defined therein.

### 2. LOAN AND TERMS OF PAYMENT

2.1 **Promise to Pay.** Borrower hereby unconditionally promises to pay Lender the outstanding principal amount of all Loans and accrued and unpaid interest thereon as and when due in accordance with this Agreement.

#### 2.1.1 **Loan Facility.**

(a) Availability and Closings. Subject to the terms and conditions of this Agreement, Lender agrees to make the loans in the respective amounts set forth on Schedule A hereto to Borrower (each a “**Loan**” and collectively the “**Loans**”). The initial closing of Loans (the “**Initial Closing**”) shall be made on the Effective Date in the amount of Five Hundred Thousand Dollars (\$500,000) as set forth on Schedule A. Provided there has not occurred and is continuing an Event of Default, and provided that all conditions precedent have been satisfied, Lender agrees to make an additional loan to Borrower in the second closing of Loans on or before February 25, 2013 (the “**Second Closing**,” and together with the Initial Closing, each a “**Closing**” and together the “**Closings**”) in an amount of Two Hundred Fifty Thousand Dollars (\$250,000) as set forth on Schedule A. At each Closing, Lender shall deliver the funds, less the Funding Fee, which shall be deemed to have been part of the applicable Loan and then paid to Lender. Schedule A shall be amended following the Second Closing, if applicable, to reflect the Second Closing Loan.

(b) Repayment. All unpaid principal and accrued and unpaid interest on the Loans shall be due and payable in full on the Maturity Date. A Loan may only be prepaid in accordance with Sections 2.1.1(c) and (d).

(c) Mandatory Prepayment Upon an Acceleration. If the Loans are accelerated by the Lender following the occurrence of an Event of Default or otherwise, Borrower shall immediately pay to Lender an amount equal to the sum of (i) all outstanding principal, plus accrued and unpaid interest, plus (ii) all other

sums, if any, that shall have become due and payable hereunder with respect to the Loans, including interest at the Default Rate, if applicable, with respect to any unpaid past due amounts.

(d) Voluntary Prepayment. Borrower shall have the option to prepay all or any portion of the Loans, provided Borrower (i) provides written notice to Lender of its election to exercise its option to prepay the Loans at least ten (10) Business Days prior to such prepayment, and (ii) pays, on the date of the prepayment (A) all accrued and unpaid interest with respect to the Loans through the date the prepayment is made; (B) all unpaid principal with respect to the Loans; and (C) all other sums, if any, that shall have become due and payable hereunder with respect to this Agreement.

(e) Application of Payments. All payments will be applied first to the repayment of accrued fees and expenses under the Loans, then to accrued interest until all then outstanding accrued interest has been paid in full, and then to the repayment of principal until all principal has been paid in full.

## 2.2 **Payment of Interest.**

(a) Interest Rate. Subject to Section 2.2(b), the principal amount outstanding under the Loans shall accrue interest at a fixed per annum rate equal to nine percent (9.0%), which interest shall be compounded daily and payable monthly.

(b) Default Rate. Upon the occurrence and during the continuance of an Event of Default, Obligations shall bear interest at a rate per annum which is five percent (5.0%) above the rate that is otherwise applicable thereto (the “**Default Rate**”) unless the Lender otherwise elects from time to time in its sole discretion to impose a smaller increase. Fees and expenses which are required to be paid by Borrower pursuant to the Loan Documents (including, without limitation, Lender Expenses) but are not paid when due shall bear interest until paid at a rate equal to the highest rate applicable to the Obligations. Payment or acceptance of the increased interest rate provided in this Section 2.2(b) is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Lender.

(c) Computation; 360-Day Year. In computing interest, the date of the making of any Loan shall be included and the date of payment shall be excluded; *provided, however*, that if any Loan is repaid on the same day on which it is made, such day shall be included in computing interest on such Loan. Interest shall be computed on the basis of a 360- day year for the actual number of days elapsed.

2.3 **Reimbursement of Lender Expenses at the Effective Time**. Borrower and the Lender will each bear their own legal and other expenses with respect to this Agreement and the transactions and agreements contemplated hereby, provided that at the Effective Date, Borrower will pay to Lender, the legal fees and expenses incurred by Lender in the preparation and negotiation of this Agreement and the transactions and agreements contemplated hereby, in an

amount not to exceed Ten Thousand Dollars (\$10,000.00), with such amount being deducted from the Loans.

#### 2.4 **Payments; Application of Payments.**

(a) All payments (including prepayments) to be made by Borrower under any Loan Document shall be made in immediately available funds in U.S. Dollars, without setoff or counterclaim, before 12:00 p.m. Pacific time on the date when due. Payments of principal and/or interest received after 12:00 p.m. Pacific time are considered received at the opening of business on the next Business Day. When a payment is due on a day that is not a Business Day, the payment shall be due the next Business Day, and additional fees or interest, as applicable, shall continue to accrue until paid.

(b) Borrower shall have no right to specify the order or the accounts to which Lender shall allocate or apply any payments required to be made by Borrower to Lender or otherwise received by Lender under this Agreement when any such allocation or application is not specified elsewhere in this Agreement.

### 3. **CONDITIONS OF LOANS**

3.1 **Conditions Precedent to Initial Closing and Second Closing.** Lender's obligation to make the Loans is subject to the condition precedent that Lender shall have received, in form and substance satisfactory to Lender, such documents, and that such other matters and due diligence as Lender may deem necessary or appropriate have been completed, satisfied or determined in Lender's sole and absolute discretion, including, without limitation:

(a) Lender's receipt of duly executed original signatures to the Loan Documents, and in addition with regards to the Second Closing, the Intercreditor Agreement;

(b) Lender's receipt of certified copies, dated as of a recent date, of financing statement searches, as Lender shall request, accompanied by written evidence (including any UCC termination statements) that the Liens indicated in any such financing statements either constitute Permitted Liens or have been or, in connection with the Loans, will be terminated or released;

(c) Lender's receipt of payment of the fees and Lender Expenses then due as specified in Section 2.3 hereof and the Agreement;

(d) Lender's satisfaction that there has been no material adverse change in the general affairs, management, results of operation, condition (financial or otherwise) or the prospect of repayment of the Obligations, or any material adverse deviation by Borrower from the most recent business plan of Borrower presented to and received by Lender prior to the Effective Date;

(e) no Event of Default having occurred or continuing;

(f) Lender's reasonable satisfaction that the amount provided shall be sufficient to finance the operations of Borrower, as represented by Borrower, through the dates indicated and the funds will be used solely to fund personnel and administration costs;

(g) Lender's reasonable determination that the progress of its proposed Siyathemba Municipality, South Africa project contractual and governmental arrangements provide it with reasonable certainty that the project for which Borrower would be a supplier of Concentrator Photovoltaic systems would be proceeding;

(h) Lender's reasonable determination that there is pending a guaranty to purchase power from the Republic of South Africa Treasury in form and substance reasonably satisfactory to Lender; and

(i) the representations and warranties made by Borrower herein being true and correct when made, and on the date of the applicable Closing.

3.2 **Intercreditor Agreement.** Promptly after the Effective Date, and in any case no later than fifteen (15) days after the date of this Agreement, the Lender shall enter into an intercreditor agreement (the "**Intercreditor Agreement**") with SVB and Gold Hill with respect to Borrower's obligations to SVB and/or Gold Hill under the Growth Capital Loan Documents and A/R Loan Documents in form and substance reasonably satisfactory to the Lender and Borrower, and with NEA, NGEN and Apex with respect to the Borrower's obligations to NEA, NGEN and Apex under the Investor Loan and Security Agreement. Lender and the Borrower agree to amend this Agreement to include such legend as may be required by the Intercreditor Agreement. Lender hereunder agrees that the terms of this Agreement are subject in all respects to the terms of the Intercreditor Agreement or like agreement reasonably requested by any of SVB, Gold Hill, NEA, NGEN or Apex, and reasonably acceptable to the Lender and Borrower. Lender agrees to execute any further instruments and take further action as SVB, Gold Hill, NEA, NGEN or Apex reasonably request to effect the purposes of the Intercreditor Agreement and this Agreement.

3.3 **Covenant to Deliver.** Borrower agrees to deliver to Lender each item required to be delivered to Lender under this Agreement as a condition precedent to the Loan. Borrower expressly agrees that a Loan made prior to the receipt by Lender of any such item shall not constitute a waiver by Lender of Borrower's obligation to deliver such item, and the making of the Loan in the absence of a required item shall be in Lender's sole discretion.

#### 4. **CREATION OF SECURITY INTEREST**

4.1 **Grant of Security Interest.** Borrower hereby grants to Lender to secure the payment and performance in full of all of the Obligations, a continuing security interest in, and pledges to Lender, the Collateral, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof.

4.2 **Priority of Security Interest.** Borrower represents, warrants, and covenants that the security interest granted herein is and shall at all times continue to be a first priority perfected security interest in the Collateral (subject only to Permitted Liens that may have superior priority to Lender's Lien under this Agreement) and, subject to the terms and

restrictions of the Intercreditor Agreement, shall be *pari passu* with certain of Borrower's obligations to SVB, EXIM and/or Gold Hill under the Growth Capital Loan Documents and A/R Loan Documents and with certain of the Borrower's obligations to NEA, NGEN and Apex under the Investor Loan and Security Agreement. If Borrower shall acquire a commercial tort claim, Borrower shall promptly notify Lender in a writing signed by Borrower of the general details thereof and grant to Lender, on behalf of itself and Lender, in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance reasonably satisfactory to Lender.

If this Agreement is terminated, Lender's Lien in the Collateral shall continue until the Obligations (other than inchoate indemnity obligations) are repaid in full in cash. Upon payment in full in cash of the Obligations (other than inchoate indemnity obligations) and at such time as Lender's obligations to make Loans has terminated, Lender shall, at Borrower's sole cost and expense, release the Liens in the Collateral and all rights therein shall revert to Borrower.

4.3 **Authorization to File Financing Statements.** Borrower hereby authorizes the Lender to file financing statements, without notice to Borrower, with all appropriate jurisdictions and the United States Patent and Trademark Office to perfect or protect Lender's interest or rights hereunder, including a notice that any disposition of the Collateral, by either Borrower or any other Person, shall be deemed to violate the rights of Lender under the Code.

## 5. **REPRESENTATIONS AND WARRANTIES**

Borrower represents and warrants to the Lender that as of the Effective Date and as of the date of each Closing:

5.1 **Due Organization, Authorization; Power and Authority.** Borrower is duly existing and in good standing as a Registered Organization in its jurisdiction of formation and is qualified and licensed to do business and is in good standing in any jurisdiction in which the conduct of its business or its ownership of property requires that it be qualified except where the failure to do so could not reasonably be expected to cause a Material Adverse Change.

The execution, delivery and performance by Borrower of the Loan Documents to which it is a party have been duly authorized, and do not (i) conflict with any of Borrower's organizational documents, (ii) contravene, conflict with, constitute a default under or violate any material Requirement of Law, (iii) contravene, conflict or violate any applicable order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which Borrower or any of its Subsidiaries or any of their property or assets may be bound or affected, (iv) require any action by, filing, registration, or qualification with, or Governmental Approval from, any Governmental Authority (except such Governmental Approvals which have already been obtained and are in full force and effect) or (v) constitute an event of default under any material agreement by which Borrower is bound. Borrower is not in default under any agreement to which it is a party or by which it is bound in which the default could reasonably be expected to cause a Material Adverse Change.

5.2 **Collateral.** Borrower has good title to, has rights in, and the power to transfer each item of the Collateral upon which it purports to grant a Lien hereunder, free and clear of



any and all Liens except Permitted Liens and non-exclusive licenses granted to others in the ordinary course of business. Borrower has no deposit accounts other than the deposit accounts with SVB, the deposit accounts, if any, of which Borrower has given Lender written notice.

The Collateral is not in the possession of any third party bailee (such as a warehouse), except as disclosed to Lender in writing. None of the components of the Collateral shall be maintained at locations other than as disclosed to the Lender in writing on or prior to the Effective Date.

All Inventory is in all material respects of good and marketable quality, free from material defects.

Borrower is the sole owner or, to its knowledge (without any duty to perform patent searches), licensee of the intellectual property which is necessary to enable it to carry on its business as now conducted, which intellectual property owned by Borrower is subject to non-exclusive licenses granted in the ordinary course of business. Each Patent which it owns or purports to own and which is material to Borrower's business is presumed valid and enforceable, and no part of the Intellectual Property which Borrower owns or purports to own and which is material to Borrower's business has been judged invalid or unenforceable, in whole or in part. To the best of Borrower's knowledge, no written claim has been made that any part of the Intellectual Property violates the rights of any third party except to the extent such claim could not reasonably be expected to cause a Material Adverse Change. To the best of Borrower's knowledge, Borrower has taken, and in the future Borrower will use its reasonable efforts to take, steps reasonably necessary to preserve its legal rights in, and the secrecy of, all its Intellectual Property that is confidential to the Borrower, except those for which disclosure is required for legitimate business or legal reasons. A list of all of the (1) Registered Intellectual Property and (2) all other intellectual property or technology owned by third parties and used, held for use, or in-licensed by Borrower that is material to the conduct of Borrower's business as presently conducted by Borrower is provided as Exhibit A-1 to this Agreement.

Borrower is not a party to, nor is it bound by, any Restricted License other than as disclosed to the Lender in writing on or prior to the Effective Date.

**5.3 Litigation.** There are no actions or proceedings pending or, to the knowledge of Borrower's Responsible Officers, threatened in writing by or against Borrower or any Subsidiary in which an adverse decision could reasonably be expected to cause a Material Adverse Change.

**5.4 Financial Statements; Financial Condition.** All consolidated financial statements for Borrower and any of its Subsidiaries delivered to Lender fairly present in all material respects Borrower's consolidated financial condition and Borrower's consolidated results of operations.

**5.5 Reserved.**

**5.6 Regulatory Compliance.** Borrower is not an "investment company" or a company "controlled" by an "investment company" under the Investment Company Act of 1940, as amended. Borrower is not engaged as one of its important activities in extending credit for margin stock (under Regulations X, T and U of the Federal Reserve Board of Governors).

Borrower has complied in all material respects with the Federal Fair Labor Standards Act. Neither Borrower nor any of its Subsidiaries is a “holding company” or an “affiliate” of a “holding company” or a “subsidiary company” of a “holding company” as each term is defined and used in the Public Utility Holding Company Act of 2005. Borrower has not violated any laws, ordinances or rules, the violation of which could reasonably be expected to cause a Material Adverse Change. None of Borrower’s or any of its Subsidiaries’ properties or assets has been used by Borrower or any Subsidiary or, to the best of Borrower’s knowledge, by previous Persons, in disposing, producing, storing, treating, or transporting any hazardous substance other than legally. Borrower and each of its Subsidiaries have obtained all consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all Government Authorities that are necessary to continue their respective businesses as currently conducted.

**5.7 Subsidiaries; Investments.** Borrower does not own any stock, partnership interest or other equity securities except for Permitted Investments.

**5.8 Tax Returns and Payments; Pension Contributions.** Borrower has timely filed all required tax returns and reports, and Borrower has timely paid all federal, and all material foreign, state and local taxes, assessments, deposits and contributions owed by Borrower. Borrower may defer payment of any contested taxes, provided that Borrower (a) in good faith contests its obligation to pay the taxes by appropriate proceedings promptly and diligently instituted and conducted, (b) notifies Lender in writing of the commencement of, and any material development in, the proceedings, (c) posts bonds or takes any other steps required to prevent the governmental authority levying such contested taxes from obtaining a Lien upon any of the Collateral that is other than a Permitted Lien. Borrower is unaware of any claims or adjustments proposed for any of Borrower’s prior tax years which could result in additional taxes becoming due and payable by Borrower. Borrower has paid all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms, and Borrower has not withdrawn from participation in, and has not permitted partial or complete termination of, or permitted the occurrence of any other event with respect to, any such plan which could reasonably be expected to result in any liability of Borrower, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other governmental agency.

**5.9 Use of Proceeds.** Borrower shall use the proceeds of the Loans solely as working capital and to fund its general business requirements and not for personal, family, household or agricultural purposes.

**5.10 Compliance with Law and Documents.** Borrower is not in violation or default of any provisions of the Company’s Amended and Restated Certificate of Incorporation or its Bylaws, both as amended to date, and Borrower is in compliance with all Requirements of Law where violation could reasonably be expected to cause a Material Adverse Change. Borrower has not received any written notice of any violation of any such Requirement of Law which has not been remedied prior to the date hereof.

**5.11 Usury Exemption.** In connection therewith: (i) Borrower, through its officers, has a preexisting personal or business relationship with Lender as such terms are used in Section

25118(f)(1) of the California Corporations Code; (ii) Borrower, by reason of its business and financial experience or that of its professional advisers, has the capacity to protect its own interests in connection with this Agreement and the Loans; (iii) the amount of money deemed to have been loaned to Borrower will be the aggregate of the amounts loaned in each Closing together, which will exceed \$300,000; and (iv) the repayment of the Loans is not secured by a mortgage against the principal residence of any borrower.

5.12 **Full Disclosure.** Borrower has provided Lender with all the information that Lender has requested for deciding whether to enter into this Agreement. No written representation, warranty or other statement of Borrower in any written certificate or written statement given to Lender, as of the date such representation, warranty, or other statement was made, taken together with all such written certificates and written statements given to Lender, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained in the certificates or statements not misleading (it being recognized by Lender that the projections and forecasts provided by Borrower in good faith and based upon reasonable assumptions are not viewed as facts and that actual results during the period or periods covered by such projections and forecasts may differ from the projected or forecasted results).

## 6. **AFFIRMATIVE COVENANTS**

Borrower shall do all of the following:

### 6.1 **Government Compliance.**

(a) **Maintain its and all its Subsidiaries' legal existence and good standing in their respective jurisdictions of formation and maintain qualification in each jurisdiction in which the failure to so qualify could reasonably be expected to cause a Material Adverse Change.** Borrower shall comply, and have each Subsidiary comply, with all laws, ordinances and regulations to which it is subject, noncompliance with which could reasonably be expected to cause a Material Adverse Change.

(b) **Obtain all of the Governmental Approvals necessary for the performance by Borrower of its obligations under the Loan Documents to which it is a party and the grant of a security interest to Lender, in all of its property.** Borrower shall promptly provide copies of any such obtained Governmental Approvals to Lender.

### 6.2 **Reports.** Deliver to Lender:

(a) **Other Statements.** Within five (5) days of delivery, copies of all statements, reports and notices (other than any such materials that are provided to such Persons in their capacities as members of Borrower's board of directors) made available to Borrower's security holders, SVB, Gold Hill, NEA, NGEN, Apex or to any holders of Subordinated Debt, including, without limitation, the financial information provided to the investors pursuant to Sections 1.1 and 1.3 of Borrower's Amended and Restated Investor Rights Agreement dated as of December 20, 2012;

(b) Legal Action Notice. A prompt report of any legal actions pending or threatened in writing against Borrower or any of its Subsidiaries that could result in damages or costs to Borrower or any of its Subsidiaries of, individually or in the aggregate, Twenty Five Thousand Dollars (\$25,000) or more; and

(c) Other Financial Information. Budgets, sales projections, operating plans and other financial information reasonably requested by Lender.

6.3 **Taxes; Pensions.** Make, and cause each Subsidiary to make, timely payment of all federal, and all material foreign, state, and local taxes or assessments (in each case, other than taxes and assessments which Borrower is contesting in good faith, with adequate reserves maintained in accordance with GAAP, as applicable) and shall deliver to Lender, on demand, appropriate certificates attesting to such payments, and pay all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms.

6.4 **Insurance.** Keep its business and the Collateral insured for risks and in amounts standard for companies in Borrower's industry and location and as Lender may reasonably request. Insurance policies shall be in a form, with companies, and in amounts that are satisfactory to Lender in Lender's reasonable discretion. Promptly following the Effective Date, all property policies shall have a lender's loss payable endorsement showing Lender as the sole lender loss payee and waive subrogation against Lender. All liability policies shall show, or have endorsements showing, Lender as an additional insured. All policies (or the loss payable and additional insured endorsements) shall provide that the insurer shall give Lender at least thirty (30) days' notice before canceling, amending, or declining to renew its policy. At Lender's request, Borrower shall deliver certified copies of policies and evidence of all premium payments. If Borrower fails to obtain insurance as required under this Section 6.4 or to pay any amount or furnish any required proof of payment to third persons and Lender, Lender may make all or part of such payment or obtain such insurance policies required in this Section 6.4, and take any action under the policies Lender deem prudent.

#### 6.5 **Protection of Intellectual Property Rights.**

(a) (i) Protect, defend and maintain the validity and enforceability of its material Intellectual Property; (ii) promptly advise Lender in writing of infringements of which it is aware of its Intellectual Property material to its business; and (iii) not allow any Intellectual Property material to Borrower's business to be abandoned, forfeited or dedicated to the public without Lender's written consent.

(b) Provide written notice to Lender within ten (10) days of entering or becoming bound by any Restricted License (other than over-the-counter software that is commercially available to the public). Borrower shall take such commercially reasonable steps as Lender requests to obtain the consent of, or waiver by, any person whose consent or waiver is necessary for (i) any Restricted License to be deemed "Collateral" and for Lender, to have a security interest in it that might otherwise be restricted or prohibited by law or by the terms of any such Restricted License, whether now existing or entered into in the future, and (ii) Lender to have the ability in the event of a liquidation of any

Collateral to dispose of such Collateral in accordance with Lender's rights and remedies under this Agreement and the other Loan Documents.

**6.6 Litigation Cooperation.** From the date hereof and continuing through the termination of this Agreement, make reasonably available to Lender, without expense to Lender, Borrower and its officers, employees and agents and Borrower's books and records, to the extent that Lender may deem them reasonably necessary to prosecute or defend any third-party suit or proceeding instituted by or against Lender with respect to any Collateral or relating to Borrower.

**6.7 Access to Collateral; Books and Records.** Allow Lender, or its agents, to inspect the Collateral and audit and copy Borrower's Books. Such inspections or audits shall be conducted no more often than once every six (6) months unless an Event of Default has occurred and is continuing.

**6.8 Further Assurances.** Execute any further instruments and take further action as Lender reasonably requests to perfect or continue Lender's Lien in the Collateral or to effect the purposes of this Agreement, In addition, Borrower hereby agrees to the additional terms and conditions that SVB has provided in writing as a condition to its approval of these Loans and its willingness to enter into the Intercreditor Agreement and covenants to take such actions as reasonably requested by the Lender, SVB and Gold Hill and NEA, NGEN and Apex, including amending the Growth Capital Loan Documents and A/R Loan Documents, and/or amending the Investor Loan and Security Agreement to document such additional terms and conditions.

**6.9 Compliance with Laws.** Comply in all material respects with applicable laws, rules, regulations, orders and Requirements of Law, such compliance to include, without limitations, paying before the same become delinquent all taxes, assessments, and charges imposed upon it or upon its property by any Governmental Authority except for good faith contests for which adequate reserves are being maintained.

## **7. NEGATIVE COVENANTS**

Borrower shall not do any of the following without Lender's prior written consent:

**7.1 Encumbrance.** Create, incur, allow, or suffer any Lien on any of the its property, or assign or convey any right to receive income, including the sale of any Accounts, or permit any of its Subsidiaries to do so, except for Permitted Liens, permit any Collateral not to be subject to the first priority security interest granted herein, or enter into any agreement, document, instrument or other arrangement (except with or in favor of Lender) with any Person which directly or indirectly prohibits or has the effect of prohibiting Borrower from assigning, mortgaging, pledging, granting a security interest in or upon, or encumbering any of Borrower's Intellectual Property, except as is otherwise permitted in the definition of "Permitted Liens" herein.

### **7.2 Distributions; Investments.**

(a) Pay any dividends or make any distribution or payment or redeem, retire or purchase any capital stock provided that (i) Borrower may convert any of its convertible securities into other securities pursuant to the terms of such convertible

securities or otherwise in exchange thereof, and (ii) Borrower may pay dividends solely in common stock; or (b) directly or indirectly make any Investment other than Permitted Investments or permit its Subsidiaries to do so.

7.3 **Subordinated Debt.** Make or permit any payment on any Subordinated Debt, except under the terms of the subordination, intercreditor, or other similar agreement to which such Subordinated Debt is subject, including, for the avoidance of doubt, the Intercreditor Agreement, or (b) amend any provision in any document relating to the Subordinated Debt which would increase the amount owed by Borrower thereof, shorten the maturity thereof, increase the rate of interest applicable thereto or adversely affect the subordination thereof to Obligations owed to Lender.

7.4 **Change of Control.** Consummate any transaction or series of related transactions deemed to be a Liquidation Event as defined in Borrower's Amended and Restated Certificate of Incorporation as amended from time to time, or the acquisition of a majority of the voting power or capital stock of Borrower by a strategic investor or partner (whether by stock transfer or new issuance), without first satisfying and repaying all of the outstanding Obligations.

7.5 **Changes in Business.** Enter into or engage in any business other than that carried on (or contemplated to be carried on) as of the date of the Initial Closing.

7.6 **Accounting Changes.** Change its fiscal year or make or permit any change in accounting policies or reporting practices, except as required by GAAP.

7.7 **Compliance.** Become an "investment company" or a company controlled by an "investment company", under the Investment Company Act of 1940, as amended, or undertake as one of its important activities extending credit to purchase or carry margin stock (as defined in Regulation U of the Board of Governors of the Federal Reserve System), or use the proceeds of any Loan for that purpose; fail to meet the minimum funding requirements of ERISA, permit a Reportable Event or Prohibited Transaction, as defined in ERISA, to occur; fail to comply with the Federal Fair Labor Standards Act or violate any other law or regulation, if the violation could reasonably be expected to have a material adverse effect on Borrower's business, or permit any of its Subsidiaries to do so; withdraw or permit any Subsidiary to withdraw from participation in, permit partial or complete termination of, or permit the occurrence of any other event with respect to, any present pension, profit sharing and deferred compensation plan which could reasonably be expected to result in any liability of Borrower, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other governmental agency.

## 8. **EVENTS OF DEFAULT**

Any one of the following shall constitute an event of default (an "Event of Default") under this Agreement:

8.1 **Payment Default.** Borrower fails to (a) make any payment of principal or interest on any Loan on its due date, or (b) pay any other Obligations within three (3) Business Days after such Obligations are due and payable (which three (3) Business Day cure period shall not apply to payments due on the Maturity Date). During the cure period, the failure to

make or pay any payment specified under clause (a) or (b) hereunder is not an Event of Default (but no Loan will be made during the cure period);

## 8.2 **Covenant Default.**

(a) Borrower fails or neglects to perform any obligation in Section 6 or violates any covenant in Section 7;

(b) Borrower fails or neglects to perform, keep, or observe any other term, provision, condition, covenant or agreement contained in this Agreement or any Loan Documents, and as to any default (other than those specified in this Section 8) under such other term, provision, condition, covenant or agreement that can be cured, has failed to cure the default within ten (10) days after the occurrence thereof; provided, however, that if the default cannot by its nature be cured within the ten (10) day period or cannot after diligent attempts by Borrower be cured within such ten (10) day period, and such default is likely to be cured within a reasonable time, then Borrower shall have an additional period (which shall not in any case exceed thirty (30) days) to attempt to cure such default, and within such reasonable time period the failure to cure the default shall not be deemed an Event of Default (but no Loan shall be made during such cure period). Cure periods provided under this section shall not apply, among other things, to any covenants set forth in clause (a) above; or

(c) The condition set forth in Section 3.2 fails to occur.

8.3 **Priority of Security Interest.** If there is a material impairment in the perfection or Lender's security interest in the Collateral.

## 8.4 **Attachment; Levy; Restraint on Business.**

(a) (i) The service of process seeking to attach, by trustee or similar process, any funds of Borrower or of any entity under the control of Borrower (including a Subsidiary) on deposit or otherwise maintained with Lender or any Affiliate of Lender, or (ii) a notice of lien or levy is filed against any of Borrower's assets by any government agency, and the same under subclauses (i) and (ii) hereof are not, within ten (10) days after the occurrence thereof, discharged or stayed (whether through the posting of a bond or otherwise); provided, however, no Loans shall be made during any ten (10) day cure period; or

(b) (i) any material portion of Borrower's assets is attached, seized, levied on, or comes into possession of a trustee or receiver, or (ii) any court order enjoins, restrains, or prevents Borrower from conducting any material part of its business;

## 8.5 **Insolvency.**

(a) Borrower begins an Insolvency Proceeding; or (b) an Insolvency Proceeding is begun against Borrower and not dismissed or stayed within forty five (45) days (but no Loan shall be made while of any of the conditions described in clause (a) or (b) exist and/or until any Insolvency Proceeding is dismissed);

**8.6 Other Agreements.** After the Effective Date, there is, under any agreement (other than under the Growth Capital Loan Documents, the A/R Loan Documents or the Investor Loan and Security Agreement, the defaults under which are addressed in Section 8.11) to which Borrower is a party with a third party or parties, (a) any default resulting in a right by such third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in an amount individually or in the aggregate in excess of Two Hundred Fifty Thousand Dollars (\$250,000); or (b) any default by Borrower, the result of which could reasonably be likely to result in a Material Adverse Change;

**8.7 Judgments.** One or more final judgments, orders, or decrees for the payment of money in an amount, individually or in the aggregate, of at least Two Hundred Fifty Thousand Dollars (\$250,000) (not covered by independent third-party insurance as to which liability has been accepted by such insurance carrier) shall be rendered against Borrower and the same are not, within ten (10) days after the entry thereof, discharged or execution thereof stayed or bonded pending appeal, or such judgments are not discharged prior to the expiration of any such stay (provided that no Loans will be made prior to the discharge, stay, or bonding of such judgment, order, or decree);

**8.8 Misrepresentations.** Borrower or any Person acting for Borrower makes any representation, warranty, or other statement now or later in this Agreement, any Loan Document or in any writing delivered to Lender or to induce Lender to enter this Agreement or any Loan Document, and such representation, warranty, or other statement is incorrect in any material respect when made;

**8.9 Subordinated Debt.** Any document, instrument, or agreement evidencing any Subordinated Debt, including the Intercreditor Agreement, shall for any reason be revoked or invalidated or otherwise cease to be in full force and effect, any Person (other than the Lender) shall be in breach thereof or contest in any manner the validity or enforceability thereof or deny that it has any further liability or obligation thereunder, or the Obligations shall for any reason be subordinated (other than under the Intercreditor Agreement) or shall not have the priority contemplated by this Agreement;

**8.10 Governmental Approvals.** Any Governmental Approval shall have been (a) revoked, rescinded, suspended, modified in an adverse manner or not renewed in the ordinary course for a full term or (b) subject to any decision by a Governmental Authority that designates a hearing with respect to any applications for renewal of any of such Governmental Approval or that could result in the Governmental Authority taking any of the actions described in clause (a) above, and such decision or such revocation, rescission, suspension, modification or non-renewal (i) has, or could reasonably be expected to have, a Material Adverse Change, or (ii) adversely affects the legal qualifications of Borrower or any of its Subsidiaries to hold such Governmental Approval in any applicable jurisdiction and such revocation, rescission, suspension, modification or non-renewal could reasonably be expected to affect the status of or legal qualifications of Borrower or any of its Subsidiaries to hold any Governmental Approval in any other jurisdiction.

**8.11 Cross-Default with SVB and Gold Hill Loan Documents and Investor Loan and Security Agreement.** The occurrence of an Event of Default and acceleration by SVB and/or Gold Hill of the Obligations under the Growth Capital Loan Documents or the A/R Loan



Documents (with such Event of Default and such Obligations, for purposes of this Section 8.11, being defined in the Growth Capital Loan Documents and A/R Loan Documents, as applicable) and/or the occurrence of any Event of Default and acceleration by NEA, NGEN and/or Apex of the Obligations under the Investor Loan and Security Agreement (with such Event of Default and such Obligations, for purposes of this Section 8.11, being defined in the Investor Loan and Security Agreement).

## 9. **RIGHTS AND REMEDIES**

9.1 **Rights and Remedies.** While an Event of Default occurs and continues Lender may, without notice or demand, do any or all of the following, subject to the Intercreditor Agreement:

(a) declare all Obligations immediately due and payable (but if an Event of Default described in Section 8.5 occurs all Obligations are immediately due and payable without any action by Lender);

(b) stop advancing money or extending credit for Borrower's benefit under this Agreement or under any other agreement between Borrower and Lender or between Borrower and Lender;

(c) settle or adjust disputes and claims directly with Account Debtors for amounts on terms and in any order that Lender considers advisable, notify any Person owing Borrower money of Lender's security interest in such funds, and verify the amount of such account;

(d) make any payments and do any acts it considers necessary or reasonable to protect the Collateral and/or its security interest in the Collateral. Borrower shall assemble the Collateral if Lender requests and make it available as Lender designates. Lender may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any Lien which appears to be prior or superior to its security interest and pay all expenses incurred. Borrower grants Lender a license to enter and occupy any of its premises, without charge, to exercise any of Lender's rights or remedies;

(e) apply to the Obligations any (i) balances and deposits of Borrower it holds, or (ii) any amount held by Lender owing to or for the credit or the account of Borrower;

(f) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell the Collateral. Lender is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Borrower's labels, Patents, Copyrights, mask works, rights of use of any name, trade secrets, trade names, Trademarks, and advertising matter, or any similar property as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Lender's exercise of its rights under this Section, Borrower's rights under all licenses and all franchise agreements inure to Lender's benefit;

(g) deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any control agreement or similar agreements providing control of any Collateral;

(h) demand and receive possession of Borrower's Books; and

(i) exercise all rights and remedies available to Lender, under the Loan Documents or at law or equity, including all remedies provided under the Code (including disposal of the Collateral pursuant to the terms thereof).

**9.2 Power of Attorney.** Borrower hereby irrevocably appoints Lender as its lawful attorney-in-fact, exercisable upon the occurrence and during the continuance of an Event of Default, to: (a) endorse Borrower's name on any checks or other forms of payment or security; (b) sign Borrower's name on any invoice or bill of lading for any Account or drafts against Account Debtors; (c) settle and adjust disputes and claims about the Accounts directly with Account Debtors, for amounts and on terms Lender determines reasonable; (d) make, settle, and adjust all claims under Borrower's insurance policies; (e) pay, contest or settle any Lien, charge, encumbrance, security interest, and adverse claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; and (f) transfer the Collateral into the name of Lender, or a third party as the Code permits. Borrower hereby appoints Lender as its lawful attorney-in-fact to sign Borrower's name on any documents necessary to perfect or continue the perfection of Lender's security interest in the Collateral regardless of whether an Event of Default has occurred until all Obligations have been satisfied in full and Lender are under no further obligation to make Loans hereunder. Lender's foregoing appointment as Borrower's attorney in fact, and all of Lender's rights and powers, coupled with an interest, are irrevocable until all Obligations have been fully repaid and performed and Lender's obligation to provide Loans terminates. The power of attorney and rights set forth in this Section 9.2 are subject to the provisions of the Intercreditor Agreement.

**9.3 Protective Payments.** If Borrower fails to obtain the insurance called for by Section 6.4 or fails to pay any premium thereon or fails to pay any other amount which Borrower is obligated to pay under this Agreement or any other Loan Document, Lender may obtain such insurance or make such payment, and all amounts so paid by Lender are Lender Expenses, as applicable, and immediately due and payable, bearing interest at the then highest rate applicable to the Obligations, and secured by the Collateral. Lender will make reasonable efforts to provide Borrower with notice of Lender obtaining such insurance at the time it is obtained or within a reasonable time thereafter. No payments by Lender are deemed an agreement to make similar payments in the future or Lender's waiver of any Event of Default.

**9.4 Application of Payments and Proceeds Upon Default.** Subject to the Intercreditor Agreement, if an Event of Default has occurred and is continuing, Lender may apply any funds in its possession, whether from Borrower account balances, payments, proceeds realized as the result of any collection of Accounts or other disposition of the Collateral, or otherwise, to the Obligations in such order as Lender shall determine in its sole discretion. Any surplus shall be paid to Borrower or other Persons legally entitled thereto; Borrower shall remain liable to Lender for any deficiency. If Lender, in its good faith business judgment, directly or indirectly enters into a deferred payment or other credit transaction with any purchaser at any

sale of Collateral, Lender shall have the option, exercisable at any time, of either reducing the Obligations by the principal amount of the purchase price or deferring the reduction of the Obligations until the actual receipt by Lender of cash therefor.

**9.5 Lender's Liability for Collateral.** So long as Lender complies with reasonable practices regarding the safekeeping of the Collateral in the possession or under the control of Lender, as the case may be, the Lender shall not be liable or responsible for: the safekeeping of the Collateral; any loss or damage to the Collateral; any diminution in the value of the Collateral; or any act or default of any carrier, warehouseman, bailee, or other Person. Borrower bears all risk of loss, damage or destruction of the Collateral.

**9.6 No Waiver; Remedies Cumulative.** Either Lender's failure, at any time or times, to require strict performance by Borrower of any provision of this Agreement or any other Loan Document shall not waive, affect, or diminish any right of Lender thereafter to demand strict performance and compliance herewith or therewith. No waiver hereunder shall be effective unless signed by the party granting the waiver and then is only effective for the specific instance and purpose for which it is given. Lender's rights and remedies under this Agreement and the other Loan Documents are cumulative. Lender has all rights and remedies provided under the Code, by law, or in equity. Lender's exercise of one right or remedy is not an election and shall not preclude Lender from exercising any other remedy under this Agreement or other remedy available at law or in equity, and Lender's waiver of any Event of Default is not a continuing waiver. Lender's delay in exercising any remedy is not a waiver, election, or acquiescence.

**9.7 Demand Waiver.** Borrower waives demand, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees held by Lender on which Borrower is liable.

## **10. NOTICES**

All notices, consents, requests, approvals, demands, or other communication by any party to this Agreement or any other Loan Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the U.S. mail, first class, registered or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by electronic mail or facsimile transmission; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address, facsimile number, or email address indicated below. Lender or Borrower may change its mailing or electronic mail address or facsimile number by giving the other party written notice thereof in accordance with the terms of this Section 10.

If to Borrower:	SolFocus, Inc. 1841 Zanker Road San Jose, California 95112 Attn: Bob Raybuck Chief Financial Officer
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Fax: 408-850-0730  
Email: bob\_raybuck@solfocus.com

With a copy to: DLA Piper LLP (US)  
2000 University Ave  
East Palo Alto, California 94303  
Attn: Michael J. Torosian  
Fax: (605) 687-1120  
Email: Michael.Torosian@dlapiper.com

If to Lender: CPV Solar LLC  
c/o Harper Construction Company, Inc.  
2241 Kettner Blvd., Suite 300  
San Diego, California 92101-1769  
Attn: Jeff Harper  
Email: jah@harperconstruction.com

With a copy to: McKenna Long & Aldridge LLP  
600 West Broadway, Suite 2600  
San Diego, CA 92101  
Attn: Kurt L. Kicklighter, Esq.  
Email: kkicklighter@mckennalong.com

11. **CHOICE OF LAW, VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE**

California law governs the Loan Documents without regard to principles of conflicts of law. Borrower, Lender each submit to the exclusive jurisdiction of the State and Federal courts in San Diego County, California; provided, however, that nothing in this Agreement shall be deemed to operate to preclude Lender from bringing suit or taking other legal action in any other jurisdiction to realize on the Collateral or any other security for the Obligations, or to enforce a judgment or other court order in favor of Lender. Borrower expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court, and Borrower hereby waives any objection that it may have based upon lack of personal jurisdiction, improper venue, or forum non conveniens and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court. Borrower hereby waives personal service of the summons, complaints, and other process issued in such action or suit and agrees that service of such summons, complaints, and other process may be made by registered or certified mail addressed to Borrower at the address set forth in, or subsequently provided by Borrower in accordance with, Section 10 of this Agreement and that service so made shall be deemed completed upon the earlier to occur of Borrower's actual receipt thereof or three (3) Business Days after deposit in the U.S. mails, proper postage prepaid.

**TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BORROWER AND LENDER EACH WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE LOAN DOCUMENTS OR ANY CONTEMPLATED**

**TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR BOTH PARTIES TO ENTER INTO THIS AGREEMENT. EACH PARTY HAS REVIEWED THIS WAIVER WITH ITS COUNSEL.**

WITHOUT INTENDING IN ANY WAY TO LIMIT THE PARTIES' AGREEMENT TO WAIVE THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY, if the above waiver of the right to a trial by jury is not enforceable, the parties hereto agree that any and all disputes or controversies of any nature between them arising at any time shall be decided by a reference to a private judge, mutually selected by the parties (or, if they cannot agree, by the Presiding Judge of the San Diego County, California Superior Court) appointed in accordance with California Code of Civil Procedure Section 638 (or pursuant to comparable provisions of federal law if the dispute falls within the exclusive jurisdiction of the federal courts), sitting without a jury, in San Diego County, California; and the parties hereby submit to the jurisdiction of such court. The reference proceedings shall be conducted pursuant to and in accordance with the provisions of California Code of Civil Procedure §§ 638 through 645.1, inclusive. The private judge shall have the power, among others, to grant provisional relief, including without limitation, entering temporary restraining orders, issuing preliminary and permanent injunctions and appointing receivers. All such proceedings shall be closed to the public and confidential and all records relating thereto shall be permanently sealed. If during the course of any dispute, a party desires to seek provisional relief, but a judge has not been appointed at that point pursuant to the judicial reference procedures, then such party may apply to the San Diego County, California Superior Court for such relief. The proceeding before the private judge shall be conducted in the same manner as it would be before a court under the rules of evidence applicable to judicial proceedings. The parties shall be entitled to discovery which shall be conducted in the same manner as it would be before a court under the rules of discovery applicable to judicial proceedings. The private judge shall oversee discovery and may enforce all discovery rules and orders applicable to judicial proceedings in the same manner as a trial court judge. The parties agree that the selected or appointed private judge shall have the power to decide all issues in the action or proceeding, whether of fact or of law, and shall report a statement of decision thereon pursuant to California Code of Civil Procedure § 644(a). Nothing in this paragraph shall limit the right of any party at any time to exercise self-help remedies, foreclose against collateral, or obtain provisional remedies. The private judge shall also determine all issues relating to the applicability, interpretation, and enforceability of this paragraph.

## 12. GENERAL PROVISIONS

12.1 **Successors and Assigns.** This Agreement binds and is for the benefit of the successors and permitted assigns of each party. Borrower may not assign this Agreement or any rights or obligations under it without Lender's prior written consent (which may be granted or withheld in Lender's sole and absolute discretion). Lender has the right, without the consent of or notice to Borrower, to sell, transfer, assign, negotiate, or grant participation in all or any part of, or any interest in, Lender's obligations, rights, and benefits under this Agreement and the other Loan Documents. Notwithstanding the foregoing, prior to the occurrence of an Event of Default which has not been waived in writing by the Lender, neither Lender shall not assign any interest in the Loan Documents to any known and direct competitor of Borrower.

12.2 **Indemnification.** Borrower agrees to indemnify, defend and hold Lender and its respective directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing Lender (each, an “**Indemnified Person**”) harmless against: (a) all obligations, demands, claims, and liabilities (collectively, “**Claims**”) claimed or asserted by any other party in connection with the transactions contemplated by the Loan Documents; and (b) all losses or expenses (including Lender Expenses) in any way suffered, incurred, or paid by such Indemnified Person as a result of, following from, consequential to, or arising from transactions between Lender and Borrower contemplated by the Loan Documents (including reasonable attorneys’ fees and expenses), except for Claims and/or losses directly caused by such Indemnified Person’s gross negligence or willful misconduct.

12.3 **Right of Set-Off.** Borrower hereby grants to Lender a lien, security interest and right of set-off as security for all Obligations to Lender, hereunder, whether now existing or hereafter arising upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of Lender or any entity under the control of the Lender (including any subsidiary of Lender) or in transit to any of them. At any time after the occurrence and during the continuance of an Event of Default, without demand or notice, Lender may set-off the same or any part thereof and apply the same to any liability or obligation of Borrower and any guarantor even though unmaturing and regardless of the adequacy of any other collateral securing the Obligations. ANY AND ALL RIGHTS TO REQUIRE LENDER TO EXERCISE THEIR RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE OBLIGATIONS, PRIOR TO EXERCISING THEIR RIGHT OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF THE BORROWER, ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

12.4 **Time of Essence.** Time is of the essence for the performance of all Obligations in this Agreement.

12.5 **Severability of Provisions.** Each provision of this Agreement is severable from every other provision in determining the enforceability of any provision.

12.6 **Correction of Loan Documents.** Lender may correct patent errors and fill in any blanks in the Loan Documents consistent with the agreement of the parties.

12.7 **Actions by Lender; Amendments in Writing; Waiver; Integration.** No purported amendment or modification of any Loan Document, or waiver, discharge or termination of any obligation under any Loan Document, shall be enforceable or admissible unless, and only to the extent, expressly set forth in a writing signed by the Borrower and the Lender. Any amendment, approval, modification waiver, discharge or termination of any obligation effected in accordance with this Section 12.7 shall be binding upon the Lender and the Borrower. Without limiting the generality of the foregoing, no oral promise or statement, nor any action, inaction, delay, failure to require performance or course of conduct shall operate as, or evidence, an amendment, supplement or waiver or have any other effect on any Loan Document. Any waiver granted shall be limited to the specific circumstance expressly described in it, and shall not apply to any subsequent or other circumstance, whether similar or dissimilar, or give rise to, or evidence, any obligation or commitment to grant any further

waiver. The Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of the Loan Documents merge into the Loan Documents.

**12.8 Counterparts.** This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Agreement.

**12.9 Survival.** All covenants, representations and warranties made in this Agreement continue in full force until this Agreement has terminated pursuant to its terms and all Obligations (other than inchoate indemnity obligations and any other obligations which, by their terms, are to survive the termination of this Agreement) have been paid in full and satisfied. The obligation of Borrower in Section 12.2 to indemnify Lender shall survive until the statute of limitations with respect to such claim or cause of action shall have run.

**12.10 Attorneys' Fees, Costs and Expenses.** In any action or proceeding between Borrower or Lender arising out of or relating to the Loan Documents, the prevailing party shall be entitled to recover its reasonable attorneys' fees and other costs and expenses incurred, in addition to any other relief to which it may be entitled.

**12.11 Electronic Execution of Documents.** The words "execution," "signed," "signature" and words of like import in any Loan Document shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity and enforceability as a manually executed signature or the use of a paper-based recordkeeping systems, as the case may be, to the extent and as provided for in any applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act.

**12.12 Captions.** The headings used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

**12.13 Construction of Agreement.** The parties mutually acknowledge that they and their attorneys have participated in the preparation and negotiation of this Agreement. In cases of uncertainty this Agreement shall be construed without regard to which of the parties caused the uncertainty to exist.

**12.14 Relationship.** The relationship of the parties to this Agreement is determined solely by the provisions of this Agreement. The parties do not intend to create any agency, partnership, joint venture, trust, fiduciary or other relationship with duties or incidents different from those of parties to an arm's-length contract.

**12.15 Third Parties.** With the exception of Indemnified Persons under Section 12.2, nothing in this Agreement, whether express or implied, is intended to: (a) confer any benefits, rights or remedies under or by reason of this Agreement on any persons other than the express parties to it and their respective permitted successors and assigns; (b) relieve or discharge the obligation or liability of any person not an express party to this Agreement; or (c) give any

person not an express party to this Agreement any right of subrogation or action against any party to this Agreement.

12.16 **Termination.** Upon (a) the indefeasible payment in full in cash of the Obligations, (b) the satisfaction of all of Borrower's other Obligations (other than inchoate indemnity obligations), and (c) Lender having no further obligations to make any Loans, this Agreement shall terminate except for any of Borrower's obligations that specifically survive termination pursuant to the terms hereof, including, without limitation, Borrower's indemnity obligations hereunder.

### 13. **DEFINITIONS**

As used in the Loan Documents, the word "shall" is mandatory, the word "may" is permissive, the word "or" is not exclusive, the words "includes" and "including" are not limiting, the singular includes the plural, and numbers denoting amounts that are set off in brackets are negative. As used in this Agreement, the following capitalized terms have the following meanings:

**"Account"** is any "account" as defined in the Code with such additions to such term as may hereafter be made, and includes, without limitation, all accounts receivable and other sums owing to Borrower.

**"Account Debtor"** is any "account debtor" as defined in the Code with such additions to such term as may hereafter be made.

**"Affiliate"** is, with respect to any Person, each other Person that owns or controls directly or indirectly the Person, any Person that controls or is controlled by or is under common control with the Person, and each of that Person's senior executive officers, directors, partners and, for any Person that is a limited liability company, that Person's managers and members.

**"Agreement"** is defined in the preamble hereof.

**"Apex"** is Apex Investment Fund VI, L.P.

**"A/R Loan Agreement"** means that certain Loan and Security Agreement dated as of July 13, 2011 by and between SVB and Borrower, as amended, restated, or otherwise modified.

**"A/R Loan Documents"** are, collectively, the A/R Loan Agreement, that certain Loan and Security Agreement – EXIM Loan Facility dated as of July 13, 2011 by and between SVB and Borrower, any note, or notes or guaranties executed by Borrower or any other Person and any other present or future agreement between Borrower and SVB in connection with the foregoing, all as amended, extended or restated.

**"Borrower"** is defined in the preamble hereof.

**"Borrower's Books"** are all Borrower's books and records including ledgers, federal and state tax returns, records regarding Borrower's assets or liabilities, the Collateral, business



operations or financial condition, and all computer programs or storage or any equipment containing such information.

“**Business Day**” is any day that is not a Saturday, Sunday or a day on which Lender is closed.

“**Cash Equivalents**” means (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof having maturities of not more than one (1) year from the date of acquisition; (b) commercial paper maturing no more than one (1) year after its creation and having the highest rating from either Standard & Poor’s Ratings Group or Moody’s Investors Service, Inc.; (c) SVB’s certificates of deposit issued maturing no more than one (1) year after issue; and (d) money market funds at least ninety five percent (95%) of the assets of which constitute Cash Equivalents described in (a) through (c) of this definition.

“**Code**” is the Uniform Commercial Code, as the same may, from time to time, be enacted and in effect in the State of California; provided, that, to the extent that the Code is used to define any term herein or in any Loan Document and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in Article or Division 9 shall govern; provided further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, or priority of, or remedies with respect to, Lender’s Lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of California, the term “**Code**” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

“**Collateral**” is any and all properties, rights and assets of Borrower described on Exhibit A.

“**Collateral Account**” is any Deposit Account, Securities Account, or Commodity Account.

“**Commodity Account**” is any “commodity account” as defined in the Code with such additions to such term as may hereafter be made.

“**Contingent Obligation**” is, for any Person, any direct or indirect liability, contingent or not, of that Person for (a) any indebtedness, lease, dividend, letter of credit or other obligation of another such as an obligation, in each case, directly or indirectly guaranteed, endorsed, co-made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly liable; (b) any obligations for undrawn letters of credit for the account of that Person; and (c) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; but “Contingent Obligation” does not include endorsements in the ordinary course of business. The amount of a Contingent Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable, the maximum reasonably anticipated

liability for it determined by the Person in good faith; but the amount may not exceed the maximum of the obligations under any guarantee or other support arrangement.

“**Copyrights**” are any and all copyright rights, copyright applications, copyright registrations, and other rights in works of authorship of any type, whether published or unpublished and whether or not the same also constitutes a trade secret.

“**Default Rate**” is defined in Section 2.2(b).

“**Deferred Revenue**” is all amounts received or invoiced in advance of performance under contracts and not yet recognized as revenue.

“**Deposit Account**” is any “deposit account” as defined in the Code with such additions to such term as may hereafter be made.

“**Dollars,**” “**dollars**” or use of the sign “**\$**” means only lawful money of the United States and not any other currency, regardless of whether that currency uses the “**\$**” sign to denote its currency or may be readily converted into lawful money of the United States.

“**Effective Date**” is defined in the preamble hereof.

“**Equipment**” is all “equipment” as defined in the Code with such additions to such term as may hereafter be made, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers), and any interest in any of the foregoing.

“**ERISA**” is the Employee Retirement Income Security Act of 1974, and its regulations.

“**Event of Default**” is defined in Section 8.

“**Funding Fee**” shall mean a fee equal to one and one-half percent (1.5%) of the principal amount of the Loan funded by Lender at each Closing, payable by Borrower to Lender upon each Closing.

“**GAAP**” is generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other Person as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination.

“**General Intangibles**” is all “general intangibles” as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation, all Intellectual Property, claims, income and other tax refunds, security and other deposits, payment intangibles, contract rights, options to purchase or sell real or personal property, rights in all litigation presently or hereafter pending (whether in contract, tort or otherwise), insurance policies (including without limitation key man, property damage, and business interruption insurance), payments of insurance and rights to payment of any kind.

“**Gold Hill**” means Gold Hill Capital 2008, LP.

“**Governmental Approval**” is any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

“**Governmental Authority**” is any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

“**Growth Capital Loan Agreement**” means that certain Loan and Security Agreement dated as of July 13, 2011 by and among SVB, Gold Hill and Borrower, as amended, restated, or otherwise modified.

“**Growth Capital Loan Documents**” are, collectively, the Growth Capital Loan Agreement, any note, or notes or guaranties executed by Borrower or any other Person and any other present or future agreement between Borrower, Gold Hill and SVB in connection with the Growth Capital Loan Agreement, all as amended, extended or restated.

“**Indebtedness**” is (a) indebtedness for borrowed money or the deferred price of property or services, such as reimbursement and other obligations for surety bonds and letters of credit, (b) obligations evidenced by notes, bonds, debentures or similar instruments, (c) capital lease obligations, and (d) Contingent Obligations.

“**Indemnified Person**” is defined in Section 12.2.

“**Initial Closing**” has the meaning given in Section 2.1.1(a).

“**Insolvency Proceeding**” is any proceeding by or against any Person under the United States Bankruptcy Code, or any other bankruptcy or insolvency law, including assignments for the benefit of creditors, compositions, extensions generally with its creditors, or proceedings seeking reorganization, arrangement, or other relief.

“**Intellectual Property**” means all of Borrower’s right, title, and interest in and to the following:

(a) its Copyrights, Trademarks and Patents, including, but not limited to, those Patents and Trademarks listed on Exhibit A-1;

(b) any and all trade secrets and trade secret rights and other confidential or proprietary technical, business, and other information, including, without limitation, any rights to inventions, discoveries, know-how, operating manuals, compositions of matter, formulas, designs, customer lists, financial information, business information, data, drawings and blue prints, whether or not patentable and whether or not reduced to practice;

- (c) any and all source code and software;
- (d) any and all design rights which may be available to a Borrower;
- (e) any rights in internet web sites and internet domain names;
- (f) any and all claims for damages by way of past, present and future infringement of any of the foregoing, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the Intellectual Property rights identified above; and
- (g) all applications for registration, registrations, renewals and extensions of any of the Copyrights, Trademarks or Patents

**“Inventory”** is all “inventory” as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation all merchandise, raw materials, parts, supplies, packing and shipping materials, work in process and finished products, including without limitation such inventory as is temporarily out of Borrower’s custody or possession or in transit and including any returned goods and any documents of title representing any of the above.

**“Investment”** is any beneficial ownership interest in any Person (including stock, partnership interest or other securities), and any loan, advance or capital contribution to any Person.

**“Investor Loan and Security Agreement”** is that certain Investor Loan and Security Agreement by and among the Borrower and NEA, NGEN and Apex dated November 28, 2012 as amended, restated or modified from time to time.

**“Lender Expenses”** are all audit fees and expenses, costs, and expenses (including reasonable attorneys’ fees and expenses) of Lender for preparing, amending, negotiating, administering, defending and enforcing the Loan Documents (including, without limitation, those incurred in connection with appeals or Insolvency Proceedings).

**“Lien”** is a claim, mortgage, deed of trust, levy, charge, pledge, security interest or other encumbrance of any kind, whether voluntarily incurred or arising by operation of law or otherwise against any property.

**“Loan Documents”** are, collectively, this Agreement, any note, or notes or guaranties executed by Borrower, and any other present or future agreement between Borrower and/or for the benefit of Lender in connection with this Agreement, all as amended, restated, or otherwise modified. For the avoidance of doubt, “Loan Documents” shall not include any agreement or documents between Lender as equity holder in Borrower.

**“Material Adverse Change”** is (a) a material impairment in the perfection or priority of Lender’s Lien in the Collateral or in the value of such Collateral; (b) a material adverse change in the business, operations, or condition (financial or otherwise) of Borrower; or (c) a material impairment of the prospect of repayment of any material portion of the Obligations.

“**Maturity Date**” is, for each Loan, one year from the Effective Date.

“**NEA**” is New Enterprise Associates 12, Limited Partnership.

“**NGEN**” is each of, and collectively, NGEN II, L.P. (“**NGEN II**”), NGEN III, L.P. (“**NGEN III**”).

“**Obligations**” are Borrower’s obligations to pay when due any debts, principal, interest, Lender Expenses and other amounts Borrower owes Lender now or later under this Agreement or Loan Documents and including interest accruing after Insolvency Proceedings begin and debts, liabilities, or obligations of Borrower assigned to Lender, and to perform Borrower’s duties under the Loan Documents. For the avoidance of doubt, “Obligations” do not include any obligations, of whatever nature or kind, which Borrower may owe the Lender in its capacity as equity holders in Borrower.

“**Patents**” means all patents and patent applications, including, without limitation, divisions, continuations, renewals, reissues, re-examination, extensions and continuations-in-part.

“**Permitted Investments**” are:

(a) Investments in Subsidiaries existing on the Effective Date but specifically excluding any future Investments in any Subsidiaries unless otherwise permitted hereunder;

(b) Investments consisting of Cash Equivalents;

(c) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of Borrower;

(d) Investments consisting of deposit accounts;

(e) loans or advances made in connection with the sale of products or services in the ordinary course of business;

(f) Investments (i) by Borrower in Subsidiaries made in the ordinary course of business equal to the greater of (i) Five Hundred Thousand Dollars (\$500,000) in the aggregate in any fiscal year or (ii) to cover up to six months of each Subsidiary’s operating expenses and (ii) by Subsidiaries in other Subsidiaries not to exceed Five Hundred Thousand Dollars (\$500,000) in the aggregate in any fiscal year or in Borrower;

(g) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrower or its Subsidiaries pursuant to employee stock purchase plans or agreements approved by Borrower’s Board of Directors;

(h) Investments (including debt obligations) received in connection with the

bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of business;

(i) Joint ventures or strategic alliances in the ordinary course of Borrower's business consisting of licensing of technology, the development of technology or the providing of technical support, provided that any cash Investments by Borrower do not exceed Two Hundred Fifty Thousand Dollars (\$250,000) in the aggregate in any fiscal year; and

(j) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the ordinary course of business; provided that this paragraph (j) shall not apply to Investments of Borrower in any Subsidiary.

**"Permitted Liens"** are:

(a) Liens existing on the Effective Date which are shown on Exhibit B hereto or arising under this Agreement and the other Loan Documents;

(b) Liens for taxes, fees, assessments or other government charges or levies, either (i) not due and payable or (ii) being contested in good faith and for which Borrower maintains adequate reserves on Borrower's Books, provided that no notice of any such Lien has been filed or recorded under the Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted thereunder;

(c) purchase money Liens entered into in the ordinary course of business (i) on Equipment acquired or held by Borrower incurred for financing the acquisition of the Equipment securing no more than Two Hundred Fifty Thousand Dollars (\$250,000) in the aggregate amount outstanding, or (ii) existing on Equipment when acquired, if the Lien is confined to the property and improvements and the proceeds of the Equipment; provided that the principal amount of such indebtedness does not exceed one hundred percent of the cost of such Equipment;

(d) Liens of carriers, warehousemen, suppliers, or other Persons that are possessory in nature arising in the ordinary course of business so long as such Liens attach only to Inventory, securing liabilities in the aggregate amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000) and which are not delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto;

(e) Liens to secure payment of workers' compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the ordinary course of business (other than Liens imposed by ERISA);

(f) Liens incurred in the extension, renewal or refinancing of the indebtedness secured by Liens described in (a) through (c), but any extension, renewal or replacement

Lien must be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness may not increase;

(g) leases or subleases of real property granted in the ordinary course of Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business), and leases, subleases, non-exclusive licenses or sublicenses of personal property (other than Intellectual Property) granted in the ordinary course of Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business), if the leases, subleases, licenses and sublicenses do not prohibit granting Lender a security interest therein;

(h) non-exclusive licenses for the use of the property of Borrower or its Subsidiaries in the ordinary course of business and licenses that could not result in a legal transfer of title of the licensed property but that may be exclusive in respects other than territory and that may be exclusive as to territory only as to geographical areas outside the United States;

(i) Liens arising from attachments or judgments, orders, or decrees in circumstances not constituting an Event of Default under Sections 8.3 and 8.7 of this Agreement;

(j) Liens in favor of other financial institutions arising in connection with Borrower's deposit and/or securities accounts held at such institutions, provided that Lender has a first priority perfected security interest in the amounts held in such deposit and/or securities accounts; and

(k) Liens securing Subordinated Debt or permitted under the Intercreditor Agreement.

**"Person"** is any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

**"Registered Intellectual Property"** means all United States and foreign (1) Patents; (2) Trademarks; (3) registered Internet domain names; and (4) registered Copyrights and applications for copyright registration, that is in each case registered or filed in the name of the Borrower.

**"Registered Organization"** is any "registered organization" as defined in the Code with such additions to such term as may hereafter be made.

**"Requirement of Law"** is as to any Person, the organizational or governing documents of such Person, and any law (statutory or common), treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

**"Responsible Officer"** is any of the Chief Executive Officer, President, Chief Financial Officer and Controller of Borrower.

“**Restricted License**” is any material license or other agreement with respect to Intellectual Property and which Borrower is the licensor (a) that prohibits or otherwise restricts Borrower from granting a security interest in Borrower’s interest in the Intellectual Property that is the subject of such license or agreement or any other property, or (b) for which a default under or termination of could interfere with the Lender’s right to sell any Collateral.

“**Second Closing**” has the meaning given in Section 2.1.1(a).

“**Securities Account**” is any “securities account” as defined in the Code with such additions to such term as may hereafter be made.

“**Subordinated Debt**” is indebtedness incurred by Borrower subordinated to all of Borrower’s now or hereafter indebtedness to Lender (pursuant to a subordination, intercreditor, or other similar agreement in form and substance satisfactory to Lender entered into between Lender and the other creditor), on terms acceptable to Lender.

“**Subsidiary**” is, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless the context otherwise requires, each reference to a Subsidiary herein shall be a reference to a Subsidiary of Borrower.

“**SVB**” means Silicon Valley Bank, a California chartered bank.

“**Trademarks**” means any trademark, brand mark, brand name, trade name, trade dress, logo, product name, slogan and service mark rights, whether registered or not, applications to register and registrations of the same and like protections, including any common law rights, and the entire goodwill of the business of Borrower connected with and symbolized by such trademarks.

[Signature page follows.]



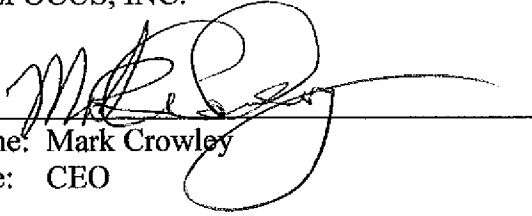
**BORROWER:**

SOLFOCUS, INC.

By: \_\_\_\_\_

Name: Mark Crowley

Title: CEO

A handwritten signature in black ink, appearing to read 'Mark Crowley', is written over a horizontal line. The signature is stylized and includes a large, circular flourish at the end.

**LENDER:**

CPV Solar LLC  
a California limited liability company

By:

By:   
Name: Jeff Hasler  
Title: SOLE MEMBER

SCHEDULE A

**INITIAL CLOSING LOAN AMOUNTS**

<b><u>Lender</u></b>	<b><u>Principal Amount of Note</u></b>
<b>I. Initial Closing – February 1, 2013</b>	
CPV Solar LLC	\$500,000.00
c/o Harper Construction Company, Inc. 2241 Kettner Blvd., Suite 300 San Diego, California 92101-1769 Attention: Jeff Harper Email: jah@harperconstruction.com	
<b>II. Second Closing – February [25], 2013</b>	\$250,000.00
CPV Solar LLC	
c/o Harper Construction Company, Inc. 2241 Kettner Blvd., Suite 300 San Diego, California 92101-1769 Attention: Jeff Harper Email: jah@harperconstruction.com	
<b>TOTAL</b>	<b>\$750,000.00</b>

## EXHIBIT A

The Collateral consists of all of Borrower's right, title and interest in and to the following:

All goods, equipment, inventory, contract rights or rights to payment of money, leases, license agreements, franchise agreements, general intangibles (including payment intangibles) accounts (including health-care receivables), Intellectual Property, including without limitation the Intellectual Property listed on Exhibit A-1 attached hereto, documents, instruments (including any promissory notes), chattel paper (whether tangible or electronic), cash, deposit accounts, fixtures, letters of credit rights (whether or not the letter of credit is evidenced by a writing), commercial tort claims, securities, and all other investment property, supporting obligations, and financial assets, whether now owned or hereafter acquired, wherever located; and

All Borrower's books relating to the foregoing and any and all claims, rights and interests in any of the above and all substitutions for, additions, attachments, accessories, accessions and improvements to and replacements, products, proceeds and insurance proceeds of any or all of the foregoing.

Collateral shall include any property that constitutes greater than sixty five percent (65%) of the total outstanding voting ownership interest in any foreign subsidiary.

EXHIBIT A-1  
INTELLECTUAL PROPERTY<sup>1</sup>

Patents

<u>Description</u>	<u>Registration/ Application Number</u>	<u>Registration/ Application Date</u>
COMBINATION NON-IMAGING CONCENTRATOR	8,119,905	February 21, 2012
FIELD LEVEL TRACKER CONTROLLER	8,076,625	December 13, 2011
CONCENTRATOR SOLAR PHOTOVOLTAIC ARRAY WITH COMPACT TAILORED IMAGING POWER UNITS	8,063,300	November 22, 2011
SYSTEMS TO RETAIN AN OPTICAL ELEMENT ON A SOLAR CELL	7,985,921	July 26, 2011
APPARATUS AND METHOD FOR SOLAR THERMAL ENERGY COLLECTION	7,971,587	July 5, 2011
SOLAR CONCENTRATOR BACKPAN	7,928,316	April 19, 2011
SYSTEM TO INCREASE SNR OF CPV- GENERATED POWER SIGNAL	7,895,017	February 22, 2011
SEMICONDUCTOR MOUNT	7,855,423	December 21, 2010
PASSIVELY COOLED SOLAR CONCENTRATING PHOTOVOLTAIC DEVICE	7,851,693	December 14, 2010
SOLAR THERMAL COLLECTOR MANIFOLD	7,779,829	August 24, 2010
SEMICONDUCTOR MOUNT	7,545,011	June 9, 2009
SHIELD FOR SOLAR RADIATION COLLECTOR	7,473,000	January 6, 2009
PASSIVELY COOLED SOLAR CONCENTRATING PHOTOVOLTAIC DEVICE	12/950,918	November 19, 2010

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<sup>1</sup> Note: Subject to confirmation/update by Borrower.

MOLDED SECURING DEVICE FOR AN OPTICAL ELEMENT	12/488,492	June 19, 2009
SOLAR THERMAL COLLECTOR MANIFOLD	12/838,645	July 19, 2010
DEVICE AND METHOD FOR SHAPING OPTICAL COMPONENTS	12/436,772	May 6, 2009
FOUR TERMINAL MONOLITHIC MULTIJUNCTION SOLAR CELL	12/573,142	October 4, 2009
FIELD LEVEL INVERTER CONTROLLER	12/393,009	February 25, 2009
HEAT SPREADING SHIELD	12/548,410	August 26, 2009
ENCAPSULANT WITH MODIFIED REFRACTIVE INDEX	12/209,675	September 12, 2008
OPTICAL SUPPORT APPARATUS	12/197,178	August 22, 2008
CLIPS FOR ALIGNING OPTICAL COMPONENTS IN A SOLAR CONCENTRATING ARRAY	12/177,874	July 22, 2008
ENERGY RECOVERY OF SECONDARY OBSCURATION	12/176,341	July 19, 2008
SOLAR THERMAL COLLECTOR INSERT	12/131,875	June 2, 2008
SOLAR CELL WITH CURRENT BLOCKING LAYER	12/401,546	March 10, 2009
SIMULATOR SYSTEM AND METHOD FOR MEASURING CURRENT VOLTAGE CHARACTERISTIC CURVES OF A SOLAR CONCENTRATOR	12/202,377	September 1, 2008
SIMULATOR SYSTEM AND METHOD FOR MEASURING ACCEPTANCE ANGLE CHARACTERISTICS OF A SOLAR CONCENTRATOR	12/202,378	September 1, 2008
SOLAR COLLECTOR DESICCANT SYSTEM	12/104,415	April 16, 2008
INTEGRATED OPTICS FOR CONCENTRATOR SOLAR RECEIVERS	11/963,799	December 22, 2007
LEADFRAME RECEIVER PACKAGE	12/250,034	October 13, 2008
MONOLITHIC GLASS ARRAY	12/044,939	March 8, 2008
SOLAR CONCENTRATOR	12/175,456	July 18, 2008

SOLAR CONCENTRATOR WITH SQUARE MIRRORS	12/021,238	January 28, 2008
NON-IMAGING CONCENTRATOR WITH SPACING NUBS	11/927,817	October 30, 2007
HERMETIC RECEIVER PACKAGE	12/032,696	February 18, 2008
MONOLITHIC MIRROR ARRAY	12/263,462	November 1, 2008
ENVIRONMENTAL CONTROL ENCLOSURE	12/245,631	October 3, 2008
EQUIPMENT AND PROCESS FOR MEASURING THE PRECISION OF SUN TRACKING FOR PHOTOVOLTAIC CONCENTRATORS	12/101,941	April 11, 2008
FIELD LEVEL TRACKER CONTROLLER	PCT/US2010/023591	February 9, 2010
FIELD LEVEL INVERTER CONTROLLER	PCT/US2010/023618	February 9, 2010
A HEAT SPREADING SHIELD	PCT/US2009/067041	December 7, 2009
ENCAPSULANT WITH MODIFIED REFRACTIVE INDEX	PCT/US2009/051468	July 23, 2009
GLOBAL SOLAR TRACKING SYSTEM	PCT/US2009/050495	July 14, 2009
FAULT MONITORING BASED ON SOLAR TRACKING ERROR	PCT/US2009/050510	July 14, 2009
SYSTEM TO INCREASE SNR OF CPV-GENERATED POWER SIGNAL	PCT/US2009/050485	July 14, 2009
DETERMINATION OF SOLAR TRACKING ERROR	PCT/US2009/050502	July 14, 2009
SOLAR CONCENTRATOR BACKPAN	PCT/US2009/044787	May 21, 2009
SOLAR CELL WITH CURRENT BLOCKING LAYER	PCT/US2009/042754	May 4, 2009
IMPROVED SOLAR CELL	PCT/US2009/034362	February 18, 2009
LEADFRAME RECEIVER PACKAGE FOR SOLAR CONCENTRATOR	PCT/US2008/087998	December 22, 2008
SOLAR CELL PACKAGE FOR SOLAR CONCENTRATOR	PCT/US2008/087987	December 22, 2008
SOLID CONCENTRATOR WITH TOTAL INTERNAL SECONDARY REFLECTION	PCT/US2008/087993	December 22, 2008
INTEGRATED OPTICS FOR CONCENTRATOR SOLAR RECEIVERS	PCT/US2008/085847	December 8, 2008

SOLAR CELL PACKAGE FOR SOLAR CONCENTRATOR	PCT/US2008/081977	October 31, 2008
SOLAR CELL PASSIVATION AND LEVELING	PCT/US2008/081532	October 29, 2008
SOLAR CONCENTRATOR WITH SQUARE MIRRORS	PCT/US2008/080553	October 20, 2008
COMBINATION NON-IMAGING CONCENTRATOR	PCT/US2008/080662	October 22, 2008
IMPROVED MONOLITHIC MIRROR ARRAY	PCT/US2008/082169	November 1, 2008
DISCRETE SECONDARY REFLECTOR FOR SOLID CONCENTRATOR	PCT/US2008/060983	April 21, 2008
SOLAR POWER UNIT WITH ENCLOSED OUTER STRUCTURE	PCT/US2008/060544	April 16, 2008
SINGLE MIRROR SOLAR CONCENTRATOR WITH EFFICIENT ELECTRICAL AND THERMAL MANAGEMENT	PCT/US2008/053715	February 12, 2008
THERMAL SPRAY FOR SOLAR CONCENTRATOR FABRICATION	PCT/US2008/050791	January 10, 2008
METAL TRACE FABRICATION FOR OPTICAL ELEMENT	PCT/US2008/050790	January 10, 2008
ALIGNMENT OF OPTICAL ELEMENT AND SOLAR CELL	PCT/US2008/052611	January 31, 2008
DIRECT ATTACHMENT OF OPTICALLY-ACTIVE DEVICE TO OPTICAL ELEMENT	PCT/US2008/052617	January 31, 2008
CONDUCTOR FABRICATION FOR OPTICAL ELEMENT	PCT/US2008/052615	January 31, 2008
OPTIC SPACING NUBS	PCT/US2007/087336	December 13, 2007
PASSIVELY COOLED SOLAR CONCENTRATING PHOTOVOLTAIC DEVICE	PCT/US2007/067016	April 19, 2007
SOLAR CONCENTRATING PHOTOVOLTAIC DEVICE WITH RESILIENT CELL PACKAGE ASSEMBLY	PCT/US2007/067021	April 19, 2007
LAMINATED SOLAR CONCENTRATING PHOTOVOLTAIC DEVICE	PCT/US2007/067018	April 19, 2007



CONCENTRATOR SOLAR PHOTOVOLTAIC ARRAY WITH COMPACT TAILORED IMAGING POWER UNITS	PCT/US2006/020588	May 26, 2006
SOLAR CONCENTRATING PHOTOVOLTAIC DEVICE WITH RESILIENT CELL PACKAGE ASSEMBLY	11/382,004	May 5, 2006
THERMAL SPRAY FOR SOLAR CONCENTRATOR FABRICATION	11/782,605	July 24, 2007
METAL TRACE FABRICATION FOR OPTICAL ELEMENT	11/782,609	July 24, 2007
SOLID CONCENTRATOR WITH TOTAL INTERNAL SECONDARY REFLECTION	12/046,903	March 12, 2008
SOLAR CELL	12/050,516	March 18, 2008
SOLAR CELL PACKAGE FOR SOLAR CONCENTRATOR	12/118,026	May 9, 2008
SOLAR CELL PASSIVATION AND LEVELING	12/164,176	June 30, 2008
FAULT MONITORING BASED ON SOLAR TRACKING ERROR	12/179,233	July 24, 2008
DETERMINATION OF SOLAR TRACKING ERROR	12/179,315	July 24, 2008
LAMINATED SOLAR CONCENTRATING PHOTOVOLTAIC DEVICE	7,638,708	December 29, 2009
SOLAR THERMAL ENERGY COLLECTOR	11/949,295	December 3, 2007
LEADFRAME RECEIVER PACKAGE FOR SOLAR CONCENTRATOR	12/046,152	March 11, 2008
GLOBAL SOLAR TRACKING SYSTEM	12/200,086	August 28, 2008
OPTICAL SYSTEM FOR BIFACIAL SOLAR CELL	12/206,034	September 8, 2008
BIFACIAL MULTIJUNCTION SOLAR CELL	12/206,045	September 8, 2008
THREE TERMINAL MONOLITHIC MULTIJUNCTION SOLAR CELL	12/424,658	April 16, 2009
SOLAR REFLECTING MIRROR HAVING A PROTECTIVE COATING AND METHOD OF MAKING SAME	12/709,045	February 19, 2010

SOLAR REFLECTING MIRROR AND METHOD OF MAKING SAME	12/709,091	February 19, 2010
OPTICAL SYSTEM USING TAILORED IMAGING DESIGNS	11/351,314	February 9, 2006
MULTI-JUNCTION SOLAR CELLS WITH AN APLANATIC IMAGING SYSTEM AND COUPLED NON-IMAGING LIGHT CONCENTRATOR	11/084,882	March 21, 2005
SOLAR ASSEMBLY STRUCTURE	61/528,743	August 29, 2011
SOLAR ASSEMBLY STRUCTURE	13/587,929	August 12, 2012
SOLAR CONCENTRATOR REFLECTOR AND ENCLOSURE	61/531,616	September 7, 2011
ASYMMETRIC REFLECTIVE CONCENTRATOR	61/661,776	June 19, 2012

Trademarks

<u>Description</u>	<u>Jurisdiction</u>	<u>Registration/ Application Number</u>	<u>Registration/ Application Date</u>
SOLFOCUS	US	3,529,356	November 4, 2008
SOLFOCUS	US	3,628,971	May 26, 2009
SOLFOCUS	US	3,868,288	October 26, 2010
SOL FOCUS	US	3,280,639	August 14, 2007
SOLFOCUS	WIPO	0913049	December 28, 2006

EXHIBIT B

Permitted Liens

Liens in favor of SVB and Gold Hill with respect to Borrower's obligations to SVB and/or Gold Hill under the Growth Capital Loan Documents and A/R Loan Documents.

Liens in favor of NEA, NGEN and Apex with respect to the Borrower's obligations to NEA, NGEN and Apex under the Investor Loan and Security Agreement.