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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2011

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission file number 0-24230

ENERGY FOCUS, INC.

(Exact name of registrant as specified in its charter)

DELAWARE	**94-3021850**
(State of incorporation)	**(I.R.S. Employer Identification No.)**

32000 Aurora Road
Solon, Ohio 44139
(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: 440.715.1300

Securities registered pursuant to Section 12(b) of the Act: None

Securities registered pursuant to Section 12(g) of the Exchange Act:

Title of Each Class
Common Stock, Par Value $0.0001
Series A Participating Preferred Stock Purchase Rights

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined by Rule 405 of the Securities Act of 1933. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Exchange Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Date File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company.

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☐ (Do not check if a smaller reporting company)	Smaller reporting company	☒

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

Approximate aggregate market value (on basis of closing bid price) of voting stock held by non-affiliates as of June 30, 2011: $11,059,445

Number of the registrant's shares of common stock outstanding as of March 2, 2012: 44,513,135

Documents Incorporated by Reference

Portions of the Proxy Statement for the 2012 Annual Meeting of Shareholders to be filed with the Securities and Exchange Commission are incorporated by reference into Part III of this report.

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PART I

Forward-Looking Statements

All references to "Energy Focus," "we," "us," "our," or "the Company" means Energy Focus, Inc. and its subsidiaries, except where it is made clear that the term means only the parent company.

Statements and information included in this Annual Report on Form 10-K that are not purely historical are forward-looking statements intended to be covered by the "safe harbor" provisions of the Private Securities Litigation Reform Act of 1995.

Forward-looking statements in this Report on Form 10-K include statements regarding Energy Focus' expectations, intentions, beliefs, and strategies regarding the future, including but not limited to; growth in the markets into which Energy Focus sells; conditions of the lighting industry and the economy in general; statements as to our competitive position; future operating results; net sales growth; expected operating expenses; gross product margin improvement; sources of net sales; anticipated revenue from government contracts; product development and enhancements; liquidity, ability to generate cash and cash reserves; our reliance upon a limited number of customers; our accounting policies; the effect of recent accounting announcements; the development and marketing of new products; relationships with customers and distributors; relationships with, dependence upon, and the ability to obtain components from suppliers; as well as our remarks concerning our ability to compete in certain markets; the evolution and future size of those markets; seasonal fluctuations; plans for and expected benefits of outsourcing and offshore manufacturing; trends in the price and performance of fiber optic lighting products; the benefits and performance of our lighting products; the adequacy of our current facilities; our strategy with regard to protecting our proprietary technology; and our ability to retain qualified employees.

When used in this report, the words "believes," "expects," "anticipates," "intends," "assumes," "estimates," "evaluates," "opinions," "forecasts," "may," "could," "future," "forward,", "plans", "potential," "probable," and similar expressions are intended to identify forward-looking statements.

These forward-looking statements involve risks and uncertainties. We may make other forward-looking statements from time to time, including in press releases and public conference calls and webcasts. All forward-looking statements made by Energy Focus are based on information available to us at the time the statements are made, and we assume no obligation to update any forward-looking statements. It is important to note that the forward-looking statements are subject to a number of risks and uncertainties that could cause actual results to differ materially from those included in such forward-looking statements. Some of these risks and uncertainties are discussed below in "Item 1A. Risk Factors" of this Form 10-K.

Energy Focus ®, EFO®, Fiberstars®, BritePak®, and EFO-Ice® are our registered trademarks. We may also refer to trademarks of other corporations and organizations in this document.

Item 1. Business

Energy Focus, Inc. and its subsidiaries ("Energy Focus") design, develop, manufacture, and market energy-efficient lighting products, and is a leading provider of turnkey, energy-efficient, lighting solutions in the governmental and public sector market, general commercial market, and the pool market. Energy Focus' lighting technology offers significant energy savings, heat dissipation and maintenance cost benefits over conventional lighting for multiple applications.

Overview

We engage in the design, development, manufacturing, marketing, and installation of energy-efficient lighting systems and solutions where we serve two segments:

- solutions-based sales providing turnkey, high-quality, energy-efficient lighting application alternatives primarily to the existing public-sector building market; and
- product-based sales providing military, general commercial and industrial lighting and pool lighting offerings, each of which markets and sells energy-efficient lighting systems.

We continue to evolve our business strategy to include providing our customers with turnkey, comprehensive energy-efficient lighting solutions, which use, but are not limited to, our patented and proprietary technology. Our product-based solutions include light-emitting diode ("LED"), fiber optic, high-intensity discharge ("HID"), fluorescent tube and other highly energy-efficient lighting technologies. Typical savings related to our current technology of the Company approximates 80% in electricity costs, while providing full-spectrum light closely simulating daylight colors. Our strategy also incorporates continued investment into the research of new and emerging energy sources including, but not limited to, LED and solar energy applications.

Our long-term strategy is to penetrate the $100 billion existing building and $300 million U.S. military lighting markets by providing turnkey, comprehensive energy-efficient lighting solutions, which utilize our proprietary energy-efficient lighting products. In March of 2012, we announced a cooperation agreement with Communal International Ltd. to develop the Asian Market for the Company's LED products. We will continue to focus on markets where the benefits of our lighting solutions offerings, combined with our technology, are most compelling. These markets include: schools, universities, hospitals, office buildings, parking garages, supermarkets, museums, cold storage facilities and manufacturing environments. The passage of the Energy Savings Performance Contracts legislation in nearly all the states and the Energy Independence and Security Act of 2007 by Congress created a natural market for our energy-efficient products. Under this Act, all incandescent light bulbs are mandated by federal law to utilize 25% to 30% less energy than today's products by the years 2012 through 2014. Since many of our products are approximately 80% more efficient than incandescent bulbs, our focus is to increase the public's awareness and knowledge of our technology and to establish comprehensive distribution channels so that demand can be fulfilled quickly.

During 2011, we made major progress in our plan to reposition the Company for growth and profitability. This plan involved three major areas of focus, which included:

- Dramatic reduction of operating expenses.
- Receipt of a $23.1 million order for the U.S. Navy to retrofit approximately 7% of the Naval fighting fleet with LED lighting products, including Intellitube™ lamps. We invoiced the U.S. Navy $1.9 million through December for products and services related to this contract.
- Added sales resources and broadened our customer base at Stones River Companies, LLC ("SRC") during the year, which has positioned us for growth in 2012 for our lighting retrofit business.

We market our products and services through multiple sales channels and subsidiaries. The following is a brief summary of each business unit:

Business Unit: Stones River Companies, LLC

Offerings: Application design, engineering, project management, and turnkey lighting and solar retrofits.

Target Market: Energy Services Companies ("ESCO's") selling into Fortune 100 corporate clients and public sector existing buildings such as: schools, universities, hospitals, and public office buildings at the federal, state and local level.

Business Unit: Energy Focus Government Contracts and Sales

Offerings: Solid state lighting technologies and products to the United States Military.

Target Market: United States Navy, United States Army and any other Federal Military units.

Business Unit: Products which include:

Fiberstars Pool and Spa

Offerings: Decorative LED lighting and related products to the United States pool market.

Target Market: United States new pool construction market and existing market upgrades.

Fiberstars Commercial

Offerings: Premier energy-efficient LED lighting products; decorative architectural lighting products including LED and fiber optic technologies.

Target Market: Corporate accounts including, distribution centers, warehouses, manufacturing, food and clothing retail, and cold storage; decorative lighting for new commercial buildings.

Crescent Lighting Limited

Offerings: Decorative and specialty lighting products including LED and fiber optic technologies.

Target Market: New commercial building decorative lighting market in Europe, Asia, and the Middle East.

Products

In 2011, we produced, sourced, and/or marketed a wide variety of lighting technologies to serve two general markets: commercial buildings and pool lighting. Our offerings include the following products:

- LED docklights,
- LED parking garage lamps and fixtures,
- LED cold storage globe lamps and LED fiber optic lighting systems,
- LED landscape fixtures,
- LED retrofit kits for HID applications,
- LED replacements for linear fluorescent lamps,
- LED lamps and fixtures (e.g. pool “PAL” lights), and
- 25 Families of LED lamps and fixtures to serve the U.S. Navy.

In addition, we also sold customized components such as underwater lenses, color-changing LED lighting fixtures, and lighted water features, including waterfalls and laminar-flow water fountains. Furthermore, we continue to aggressively penetrate the government and military lighting markets. In this regard, we have many products being actively marketed to the United States federal government agencies through the General Services Administration website, https://www.GSAAdvantage.gov.

The key features of our products are as follows:

- Many of our products meet the lighting efficiency standards mandated for the year 2020.
- Our products qualify for federal and state tax incentives for commercial and residential consumers in certain states.
- Many of our products make use of proprietary optical and electronics delivery systems which enable high efficiencies with superior lighting qualities.

Long-Term Strategy

Our long-term strategy is to substantially penetrate the $100 billion existing building and $300 million U.S. military lighting markets by providing turnkey, comprehensive energy-efficient lighting solutions which utilize our proprietary energy-efficient lighting products. We will continue to focus on markets where the benefits of our lighting solutions offerings, combined with our technology, are most compelling.

Our strengths, which provide a strategic competitive advantage, include the following:

- fundamental intellectual property and trade secrets in non-imaging optics and coatings,
- a broad and intimate understanding of lighting technologies,
- proven ability to develop systems which efficiently create, transport, and display light,
- a superior understanding of the existing building market drivers and the evolution towards “green” lighting products and energy-efficient lighting systems that maximize customer ROI,
- core competencies in execution of all facets of solutions sales, and
- strong relationships with the federal government for research and development.

Our tactical approach to implement our long term strategy includes:

- intensifying our focus on the existing building market. During 2011, we added sales associates and expanded our customer base,
- developing mainstream lighting technologies that directly compete against linear fluorescent general illumination lamps, and
- continuing to increase our value added to our customers and increase gross margins.

We expect that these actions will result in the following outcomes:

- sales growth and improved financial performance,
- sales of military grade LED lighting products for the U.S. Armed Forces,
- the formation of a streamlined organization that is focused on creating economic value through energy-efficient products and solutions for existing building owners, and
- development of mainstream lighting products for the existing building market that are not currently available and are differentiated by their performance, energy consumption, longevity, and controllability.

Sales, Marketing, and Distribution of our Offerings Portfolio

Products

Our products are sold through a combination of direct sales employees, independent sales representatives, and various distributors in different geographic markets throughout the world. Our distributors' obligation to us is not contingent upon the resale of our products and, as such, does not prohibit revenue recognition. We also distribute our products through our SRC subsidiary.

Within the commercial and pool lighting business units, we continue to focus on general contractors and specifiers especially in the retail, hospitality, museum, and health care markets. Our lighting retrofit subsidiary, SRC, is heavily targeting the existing public building market and will generate enormous benefits by utilizing our products for quick, energy-efficient upgrades.

Solutions

Our solutions-based sales are designed to enhance total value by providing turnkey, high-quality, energy-efficient lighting application alternatives that positively impact customers' profitability, the environment, and the communities we serve. These solutions are sold through our SRC subsidiary and include not only our proprietary energy-efficient lighting solutions, but also sourced lighting systems, energy audits, and service agreements.

Through SRC, we target the existing public building market, particularly health care and hospitals, schools and universities, governments and municipalities, museums, hospitality and casinos, as well as industry and manufacturing. SRC's direct customers are large national ESCO's that provide energy-efficient upgrades around the country. Also within the solutions business unit, we serve multi-location food retailers, cold storage facilities, retailers, and industrial/commercial real estate companies.

As of December 31, 2011, we had approximately 101 sales and independent sales representatives throughout the United States and United Kingdom.

Our ten largest customers accounted for approximately 55.5% of our net sales from continuing operations for the twelve months ended December 31, 2011. One customer, Ameresco, Inc. ("Ameresco"), accounted for approximately 14.8% of our consolidated net sales from continuing operations and 39.7% of our solutions-based segment net sales in 2011. Ameresco is not related to the Company.

In 2010, our ten largest customers accounted for approximately 64.2% of our net sales from continuing operations. In 2010, two customers, Ameresco and Woodstone Energy, LLC ("Woodstone"), had 19.5% and 16.8%, respectively, of consolidated net sales from continuing operations. Ameresco contributed 34.7% and Woodstone contributed 29.9% of our solutions-based segment net sales in 2010. During 2011 and 2010, the former Vice President of SRC, who resigned on December 31, 2011, is a minority owner of Woodstone. See Note 16, Related Party Transactions, for further information.

Manufacturing and Suppliers

In 2011, we produced our lighting systems through a combination of internal and outsourced manufacturing and assembly operations. Our internal lighting system manufacturing consisted primarily of fiber processing, final assembly, testing, and quality control. We used independent contractors to manufacture some components and sub-assemblies and have worked with a number of our vendors to design custom components to meet our specific needs. We manage inventories of domestically produced component parts on a just-in-time basis, when practicable. Our quality assurance program provides for testing of all sub-assemblies at key stages in the assembly process as well as testing of finished products.

Many of our products are manufactured by third-party suppliers resulting in significant cost savings. Under a Production Share Agreement initiated in 2003 and renewed in August 2007, we conduct contract manufacturing and assembly in Mexico through North American Production Sharing, Inc. and Industrias Unidas de BC, SA de CV ("NAPS"). Under this agreement, NAPS provides administrative and manufacturing services, including labor services and the use of manufacturing facilities in Mexico, for the manufacturing and assembly of certain fiber optic and LED lighting systems, equipment, and related components. We also perform final assembly of products acquired from Australia, India, Japan, and Taiwan. These suppliers generally supply products on a purchase order basis.

Research and Development

Research and development has remained a key focus of our Company; accordingly, we have committed substantial resources to this endeavor. Our research and development team is dedicated to continuous improvement and innovation of our current lighting technologies, including LED, fiber optics, and HID systems.

Research and development income, net of expenses, for the years ended December 31, 2011 and 2010 was $0.5 million and $0.2 million, respectively. Research and development expense, net of credits from the government, for the year ended December 31, 2009 was $0.3 million.

Our recent achievements include:

2011: We were awarded $26.1 million in government supply contracts and in research contracts and grants in 2011. In March 2011, we received a $1.0 million grant from the State of Ohio Third Frontier to develop a photovoltaic "wall-pack" unit for outdoor LED lighting. In April 2011, we received a Phase 2 Small Business Technology Transfer ("STTR") grant for $0.6 million from the National Aeronautics and Space Administration ("NASA") for "Innovative Solid State Lighting Replacements for Industrial and Test Facility Locations." In May 2011, we received a $0.4 million increase in funding for the "Very High Efficiency Solar Cell ("VHESC") program. In July 2011, we received a $1.0 million grant from the State of Ohio Third Frontier to develop an ultra-low cost light sensor to compliment IntelliTube™, the Company's LED based fluorescent replacement technology. Finally, in August, 2011 we received a $23.1 million supply contract to provide LED fixtures and our proprietary IntelliTube™ LED lamps for use on the U.S. Navy Fleet. The government has the right to change quantities throughout the life of this supply contract.

2010: We were awarded $3.0 million in research contracts and grants in 2010. These included three awards totaling $1.6 million announced in January 2010. Two of these awards, "Explosion-Proof Solid State Lighting for Extreme Environments" and "A Spectrally Dynamic Berth Light for Active Circadian Cycle Management," are Phase 2 Small Business Innovation Research ("SBIR") grants from Defense Advanced Research Projects Agency ("DARPA"). The third award, "Innovative Solid State Lighting Replacements for Industrial and Test Facility Locations," is a Phase 1 STTR program grant received from the NASA. A Department of Energy ("DoE") award for $1.0 million, to develop high performance Sol-Gel coatings for lighting and solar applications, was announced in August 2010. Finally, an additional $0.4 million in Department of Defense ("DoD") funding to advance Energy Focus' LED Intellitube™ technology and applications was announced in August 2010. In addition, we completed qualification of seven families of solid state lighting fixtures developed under Naval Sea Systems Command ("NAVSEA") and DARPA contracts. The Company is currently shipping these products to the United States Navy.

2009:

We were awarded $5.2 million in research contracts and grants in 2009. In March 2009, the DoD selected Energy Focus to receive a Phase I SBIR grant to begin the development of a "Solid State Infrared Replacement for the M-278 Flare" for the United States Army's Hydra Rocket System. In July 2009, the Naval Research Warfare Center awarded us a $1.4 million contract to develop and produce solid state lighting fixtures for use on Virginia Class attack submarines. In August 2009, DARPA awarded us a $0.5 million SBIR extension grant to develop and produce solid state lighting fixtures for general use on United States Navy ships. In September 2009, we entered into a $3.1 million contract with the VHESC Consortium to deliver advanced optics research to enable development of high-efficiency, low-cost photovoltaic-based solar cells. Also, in September, we entered into a $0.1 million Agreement with the Department of Energy for a Phase I SBIR project to investigate methods of using coatings to improve color consistency for Metal Halide lamps. In October 2009, we entered into an additional $0.1 million, twelve-month contract with the VHESC Consortium to continue advanced solar research on low-cost energy-efficient spectrum splitting technologies.

Intellectual Property

We have a policy of seeking to protect our intellectual property through patents, license agreements, trademark registrations, confidential disclosure agreements and trade secrets, as management deems appropriate. As of December 31, 2011, our intellectual property portfolio consisted of 75 issued United States and foreign patents, various pending United States patent applications, and various pending Patent Cooperation Treaty patent applications filed with the World Intellectual Property Organization that serves as the basis of national patent filings in countries of interest. Our issued patents expire at various times between September 2014 and May 2031. Generally, the term of patent protection is twenty years from the earliest effective filing date of the patent application. There can be no assurance, however, that our issued patents are valid or that any patents applied for will be issued. There can be no assurance that our competitors or customers will not copy aspects of our lighting systems or obtain information that we regard as proprietary. There can also be no assurance that others will not independently develop products similar to ours. The laws of some foreign countries in which we sell or may sell our products do not protect proprietary rights to products to the same extent as do the laws of the United States.

We are aware that a large number of patents and pending patent applications exist in the field of fiber optic technology and LED lighting. We are also aware that certain competitors hold and have applied for patents related to fiber optic lighting and LED lighting. Although, to date, we have not been involved in litigation challenging our intellectual property rights, we have, in the past, received communications from third parties asserting rights over our patents or that our technology infringes upon intellectual property held by such third parties. On January 29, 2010, a competitor and former supplier filed a complaint against the Company in the Court of Chancery of the State of Delaware, alleging that we had misused proprietary trade secrets, breached a contract, and engaged in deceptive trade practices relating to one of our lighting products. The complaint sought injunctive relief and damages. We answered the complaint and filed a counterclaim for breach of contract. The parties settled and dismissed the case in the second quarter of 2011. Neither the defense of the lawsuit nor the implementation of the settlement has had an adverse effect on our financial condition, cash flows, or results of operations.

We are not currently engaged in any other litigation, and do not anticipate becoming involved in any litigation in the foreseeable future. However, we may be required to engage in litigation to protect our patent rights or to defend against the claims of others. There can be no assurance that third parties will not assert additional claims that our products infringe upon third-party patents or other intellectual property rights or that, in case of a dispute, licenses to such technology will be available, if at all, on reasonable terms. In addition, we may need to take further legal action to enforce our intellectual property rights in the future. In the event of litigation to determine the validity of any third-party claims or claims by us against third parties, such litigation, whether or not determined in our favor could result in significant expense to us and divert the efforts of our technical and management personnel from productive tasks. Also, in the event of an adverse ruling in such litigation, we might be required to expend significant resources to develop non-infringing technology or to obtain licenses to the infringing technology, and the licenses may not be available on acceptable terms. In the event of a successful claim against us and our failure to develop or license a substitute technology, our operating results could be adversely affected.

Backlog

We typically ship standard products within a few days after receipt of order. Custom products are shipped within 30-60 days of receipt of order. Generally, there is not a significant backlog of orders except at year-end. Our products-based backlog at the end of 2011 was $1.9 million, compared to $1.5 million at the end of 2010. Our solutions-based backlog on awarded contracts totaled approximately $2.0 million compared to $3.5 million at the end of 2010. Revenues from our 2011 backlog are recognized over the course of 2012 and are recognized as the services are performed or the materials are delivered. Historically, materials have accounted for approximately 50% of the total recognized project revenues and auditing and engineering costs have accounted for approximately 10% of the total recognized project revenues. The remaining project revenues are recognized on a percentage of completion basis as installation services are performed.

Competition

Our commercial lighting products compete against a variety of lighting products, including conventional light sources such as: incandescent light bulbs, metal halide lamps, LEDs, compact fluorescent lamps, competitive fiber optic lighting systems, and decorative lighting technologies. Our ability to compete depends substantially upon the superior performance and lower lifecycle cost of our products and services. Principal competitors in our markets include: large lamp manufacturers, lighting fixture companies, distributors, lighting retrofit companies, and ESCO's whose financial resources may substantially exceed ours. These competitors may introduce new or improved products that may reduce or eliminate some of the competitive advantage of our products. We anticipate that the primary competition to our products will come from new technologies that offer increased energy efficiency, lower maintenance costs, and/or lower heat radiation. In certain applications, we compete with LED systems produced by large lighting companies such as Philips and General Electric. In traditional commercial lighting applications, we compete primarily with local and regional lighting manufacturers that, in many cases, are more established in their local markets than our Company. In traditional commercial lighting, fiber optic lighting products are offered by a number of smaller companies, some of which compete aggressively on price. Some of these competitors offer products with performance characteristics similar to those of our products. Additionally, some conventional lighting companies now manufacture or license fiber optic lighting systems that compete with our products.

Our pool lighting products compete with other sources of in-pool lighting, including colored and color-changing underwater lighting, and pool accent lighting. Principal competitive factors include: price, performance, ease of installation, and maintenance requirements. In the pool lighting market, we face competition from suppliers and distributors who bundle lighting and non-lighting products and sell these packages to pool builders and installers. In addition, we face competition directly from manufacturers who produce their own lighting systems and components. In this market, competitive products are offered by Pentair's American Products Division, a major manufacturer of pool equipment and supplies, as well as Next Steps LLC. In the spa lighting business, spa manufacturers install LED lighting systems during the manufacturing process. We intend to develop new lighting products that are complementary to traditional pool lights currently sold by pool equipment suppliers. To maximize the sales of these new products, we continue to leverage our well-established presence in the domestic pool lighting market.

The market for lighting energy solutions is fragmented and differs in the public and private sector markets. Serving the private sector markets, our National Accounts solutions business competes against in-house resources, electrical contractors, traditional lighting fixture manufacturers, and non-traditional ESCO's that are focused on commercial and industrial customers. In the public sector, our SRC solutions business competes against other lighting retrofit companies, as well as some traditional ESCO's that self-perform the lighting component of their projects. In both markets, we compete primarily on the basis of financial impact, technology, light quality and design, client relationships, lighting application knowledge, energy efficiency, customer service, and marketing support.

Insurance and Bonding

All of our properties and equipment are covered by insurance and we believe that such insurance is adequate. In addition, we maintain general liability and workers compensation insurance in amounts that we believe are consistent with our risk of loss and industry practice. In regards to our lighting solutions-based business, we are often required to provide various types of surety bonds as an additional level of security of our performance. We have a surety arrangement with one surety for which we provide cash collateral relating to our surety bonding program. We believe that this cash collateral is sufficient to support our current bonding requirements.

Employees

As of December 31, 2011, we had 67 associates, 17 of whom are located in the United Kingdom and 50 in the United States. None of our associates are subject to any collective bargaining agreement.

Business Segments

We have two reportable segments: product-based sales featuring pool lighting and general commercial lighting, each of which markets and sells lighting systems, and solutions-based sales providing turnkey, high-quality, energy-efficient lighting application alternatives. Our products are sold primarily in North America, Europe, and the Far East through a combination of direct sales employees, independent sales representatives, and various distributors. Our solutions-based sales are designed to enhance total value by positively impacting customers' profitability, the environment, and the communities it serves. These solutions are sold in North America through our direct sales employees as well as our SRC subsidiary, and include not only our proprietary energy-efficient lighting solutions, but also sourced lighting systems, energy audits, and service agreements.

Available Information

Our Web site is located at http://www.efoi.com. We make available free of charge, on or through our Web site, our annual, quarterly, and current reports, as well as any amendments to those reports, as soon as reasonably practicable after electronically filing such reports with the Securities and Exchange Commission ("SEC"). Information contained on our Web site is not part of this report.

Item 1A. Risk Factors

We have a history of operating losses and may incur losses in the future.

We have experienced net losses of $6.1 million and $8.5 million for the years ended December 31, 2011 and 2010, respectively. As of December 31, 2011, we had an accumulated deficit of $74.9 million. Although management continues to address many of the legacy issues that have historically burdened our financial performance, we still face challenges in order to reach profitability. In order for us to attain profitability and growth, we will need to successfully address these challenges, including the continuation of cost reductions throughout our organization, improvement in gross margins, execution of our marketing and sales plans for our turnkey energy-efficient lighting solutions business, the development of new technologies into sustainable product lines, and continued improvements in our supply chain performance.

Although we are optimistic about reaching profitability, there is a risk that our business may not be as successful as we envision. Our independent public accounting firm has issued an opinion in connection with our 2011 Annual Report on Form 10-K raising substantial doubt as to our ability to continue as a going concern. This opinion stems from our historically poor operating performance, and our historical inability to generate sufficient cash flow to meet obligations and sustain operations without obtaining additional external financing. Although we are optimistic about obtaining the funding necessary for us to continue as a going concern, there can be no assurances that this objective will be successful. As such, we will continue to review and pursue selected external funding sources, if necessary, to execute these objectives including, but not limited to, the following:

- obtain financing from traditional or non-traditional investment capital organizations or individuals,
- potential sale or divestiture of one or more operating units, and
- obtain funding from the sale of our common stock or other equity or debt instruments.

Obtaining financing through the above-mentioned mechanisms contains risks, including:

- loans or other debt instruments may have terms and/or conditions, such as interest rate, restrictive covenants, and control or revocation provisions, which are not acceptable to management or our Board of Directors,
- the current environment in capital markets combined with our capital constraints may prevent us from being able to obtain any debt financing,
- financing may not be available for parties interested in pursuing the acquisition of one or more of our operating units, and
- additional equity financing may not be available to us in the current capital environment and could lead to further dilution of shareholder value for current shareholders of record.

Downturns in general economic conditions and construction trends could continue to materially and adversely affect our business.

Downturns in general economic and market conditions, both nationally and internationally, could have a material adverse effect on our business. In our legacy businesses, sales of our lighting products depend significantly upon the level of new building construction, which are affected by housing market trends, interest rates and the weather. Sales of our pool and spa lighting products depend substantially upon the level of new pool construction, which is also affected by housing market and construction trends. In addition, due to the seasonality of construction, sales of swimming pool and lighting products, and thus our revenue and income, have tended to be significantly lower in the first quarter of each year. Our future results of operations may experience substantial fluctuations from period to period as a consequence of these factors, and such conditions and other factors affecting capital spending may affect the timing of orders. An economic downturn coupled with a decline in our net sales could adversely affect our ability to meet our working capital requirements, support our capital requirements and growth objectives, or could otherwise adversely affect our business, financial condition, and results of operations. As a result, any general or market-specific economic downturns, particularly those affecting new building construction and renovation, or that cause end-users to reduce or delay their purchases of lighting products, services, or retrofit activities, would have a material adverse effect on our business, cash flows, financial condition, and results of operations.

An inability to obtain bonding could limit the number of solutions-based projects we are able to pursue.

As is customary in the construction business, we are often required to provide surety bonds to secure our performance under construction contracts. Our ability to obtain surety bonds primarily depends upon our capitalization, working capital, past performance, management expertise, and other external factors, including the overall capacity of the surety market. Surety companies consider such factors in relation to the amount of our backlog and their underwriting standards, which may change from time to time. The surety industry has undergone significant changes with several companies withdrawing completely from the industry or significantly reducing their bonding commitment. In addition, certain reinsurers of security risk have limited their participation in this market. Therefore, we could be unable to obtain surety bonds, when required, which could adversely affect our future results of operations and revenues.

We may not fully recognize the anticipated revenue reported in our solutions-based backlog.

The contracts we enter into, related to our solutions-based business, can be relatively large and typically range in the amount of $0.1 million to as much as $4.0 million. As of December 31, 2011, our solutions-based backlog of uncompleted work was $2.0 million. We include a project in our backlog when a contract is awarded or a letter of intent is obtained. The revenue projected in our backlog may not be realized or, if realized, may not result in the revenue or profits expected. If a project included in our backlog is canceled, suspended or the scope of work is reduced, it would result in a reduction to our backlog which could materially affect the revenues and profits realized. If a customer should cancel a project, we may be reimbursed for costs expended to date but would have no contractual right to the total projected revenues included in our backlog. Cancellations or delays of significant projects could have a material adverse effect on future revenues, profits and cash flows.

If we are unable to accurately estimate the risks, revenues or costs associated with a project, we may achieve a lower than expected profit or incur a loss on that project.

For the solutions-based segment of our business, we generally enter into fixed price contracts. Fixed price contracts require us to perform a contract for a specified price regardless of our actual costs. As a result, the profit that we realize on a contract is dependent on the extent to which we successfully manage our costs and overruns. Cost overruns, whether due to inefficiency, inaccurate estimates or other factors, result in lower profit or a loss on a project. A majority of our contracts are based on cost estimates that are subject to a number of assumptions. If our estimates of the risks, revenues or costs prove inaccurate or circumstances change, we may incur a lower profit or a loss on that project.

The percentage-of-completion method of accounting for contract revenues may result in material adjustments, which could result in a charge against earnings.

We recognize certain contract revenues using the percentage-of-completion method. Under this method, percentage-of-completion is determined by relating the actual cost of the work performed to date to the current estimated total cost of the respective contracts. When the estimate on a contract indicates a loss, we record the entire loss during the accounting period in which it is estimable. In the ordinary course of business, at a minimum on a quarterly basis, we prepare updated estimates of the total forecasted revenue, cost and profit or loss for each contract. The cumulative effect of revisions in estimates of the total forecasted revenue and costs during the course of the work is reflected in the accounting period in which the facts that caused the revision become known. To the extent that these revisions result in an increase, a reduction or elimination of previously reported contract profit, we recognize a credit or a charge against current earnings, which could be material.

We have international sales and are subject to risks associated with operating in international markets.

For the years ending December 31, 2011 and 2010 net sales of our products outside of the United States represented approximately 15.6% and 10.9% respectively, of our total net sales from continuing operations. We generally provide technical expertise and limited marketing support, while our independent international distributors generally provide sales staff, local marketing, and product services. We believe our international distributors are better able to service international markets due to their understanding of local market conditions and best business practices. International business operations are subject to inherent risks, including, among others:

- unexpected changes in regulatory requirements, tariffs, and other trade barriers or restrictions,
- longer accounts receivable payment cycles and the difficulty of enforcing contracts and collecting receivables through certain foreign legal systems,
- difficulties in managing and staffing international operations,
- potentially adverse tax consequences,
- the burdens of compliance with a wide variety of foreign laws,
- import and export license requirements and restrictions of the United States and each other country in which we operate,
- exposure to different legal standards and reduced protection for intellectual property rights in some countries,
- currency fluctuations and restrictions,
- political, social, and economic instability, including war and the threat of war, acts of terrorism, pandemics, boycotts, curtailment of trade or other business restrictions,
- periodic foreign economic downturns, and
- sales variability as a result of fluctuations in foreign currency exchange rates.

If we are unable to respond effectively as new lighting technologies and market trends emerge, our competitive position and our ability to generate revenue and profits may be harmed.

To be successful, we will need to keep pace with rapid changes in light-emitting diode ("LED") technology, changing customer requirements, new product introductions by competitors and evolving industry standards, any of which could render our existing products obsolete if we fail to respond in a timely manner. Development of new products incorporating advanced technology is a complex process subject to numerous uncertainties. We have previously experienced, and could in the future, experience delays in the introduction of new products. If effective new sources of light other than LED are discovered, our current products and technologies could become less competitive or obsolete. If others develop innovative proprietary lighting technology that is superior to ours, or if we fail to accurately anticipate technology and market trends, respond on a timely basis with our own development of new products and enhancements to existing products, and achieve broad market acceptance of these products and enhancements, our competitive position may be harmed and we may not achieve sufficient growth in our net sales to attain or sustain profitability.

If we are not able to compete effectively against companies with greater resources, our prospects for future success will be jeopardized.

The lighting industry is highly competitive. In the high performance lighting markets in which we sell our advanced lighting systems, our products compete with lighting products utilizing traditional lighting technology provided by many vendors. Additionally, in the advanced lighting markets in which we have primarily competed to date, competition has largely been fragmented among a number of small manufacturers. However, some of our competitors, particularly those that offer traditional lighting products, are larger companies with greater resources to devote to research and development, manufacturing, and marketing.

Moreover, in the general lighting market, we expect to encounter competition from an even greater number of companies. Our competitors are expected to include the large, established companies in the general lighting industry, such as General Electric, Osram Sylvania and Royal Philips Electronics. Each of these competitors has undertaken initiatives to develop LED technology. These companies have global marketing capabilities and substantially greater resources to devote to research and development and other aspects of the development, manufacture and marketing of LED lighting products than we possess. We may also face competition from traditional lighting fixture companies, such as Acuity Brands Lighting, Cooper Lighting, Hubbell Lighting, Lithonia Lighting, and Royal Philips Electronics. The relatively low barriers to entry into the lighting industry and the limited proprietary nature of many lighting products also permit new competitors to enter the industry easily.

In each of our markets, we also anticipate the possibility that LED manufacturers, including those that currently supply us with LEDs, may seek to compete with us. Our competitors' lighting technologies and products may be more readily accepted by customers than our products. Additionally, to the extent that competition in our markets intensifies, we may be required to reduce our prices in order to remain competitive. If we do not compete effectively, or if we reduce our prices without making commensurate reductions in our costs, our net sales and profitability, and our future prospects for success, may be harmed.

If we are unable to obtain and adequately protect our intellectual property rights, our ability to commercialize our products could be substantially limited.

We consider our technology and processes proprietary. If we are not able to adequately protect or enforce the proprietary aspects of our technology, competitors may utilize our proprietary technology and our business, financial condition, and results of operations could be adversely affected. We protect our technology through a combination of patent, copyright, trademark and trade secret laws, employee and third-party nondisclosure agreements, and similar means. Despite our efforts, other parties may attempt to disclose, obtain or use our technologies. Our competitors may also be able to independently develop products that are substantially equivalent or superior to our products or slightly modify our patents. In addition, the laws of some foreign countries do not protect our proprietary rights as fully as do the laws of the United States. As a result, we may not be able to protect our proprietary rights adequately in the United States or abroad.

As of December 31, 2011, our intellectual property portfolio consisted of 75 issued United States and foreign patents, various pending United States patent applications, and various pending Patent Cooperation Treaty patent applications filed with the World Intellectual Property Organization that serves as the basis of national patent filings in countries of interest. Because our patent position involves complex legal, scientific, and factual questions, the issuance, scope, validity, and enforceability of our patents cannot be predicted with certainty. Our issued patents may be invalidated or their enforceability challenged, and they may not provide us with competitive advantages against others with similar products and technology. Furthermore, others may independently develop similar products or technology or duplicate or design around any technologies that we have developed. We may receive notices that claim we have infringed upon the intellectual property of others. Even if these claims are not valid, they could subject us to significant costs. We have engaged in litigation in the past and litigation may be necessary in the future to enforce our intellectual property rights or to determine the validity and scope of the proprietary rights of others. Litigation may also be necessary to defend against claims of infringement or invalidity by others. An adverse outcome in litigation or any similar proceedings could subject us to significant liabilities to third parties, require us to license disputed rights from others or require us to cease marketing or using certain products or technologies. We may not be able to obtain any licenses on acceptable terms, if at all. We also may have to indemnify certain customers if it is determined that we have infringed upon or misappropriated another party's intellectual property.

Any of these results could adversely affect our business, financial condition, and results of operations. In addition, the cost of addressing any intellectual property litigation claim, both in legal fees and expenses, and the diversion of management resources, regardless of whether the claim is valid, could be significant and could materially harm our business, financial condition and results of operations.

If critical components that we currently purchase from a small number of third-party suppliers become unavailable for any reason or third-party manufacturers otherwise experience delays, we may incur delays in shipment, which would damage our business.

We depend on others to manufacture a significant portion of the component parts incorporated into our products. We purchase our component parts from third-party manufacturers that serve the advanced lighting systems market and believe that alternative sources of supply are readily available for most component parts. However, consolidation in the lighting industry could result in one or more current suppliers being acquired by a competitor, rendering us unable to continue purchasing necessary amounts of key components at competitive prices.

In an effort to reduce manufacturing costs, we have outsourced the production of certain parts and components, as well as finished goods in our product lines, to a number of overseas suppliers. We expect to outsource all of the production for selected products. While we believe alternative sources for the production of these products are available, we have selected these particular manufacturers based on their ability to consistently produce these products per our specifications, ensuring the best quality product at the most cost effective price. We depend on our suppliers to satisfy performance and quality specifications and to dedicate sufficient production capacity within scheduled delivery times. Although we maintain contracts with selected suppliers, we may be vulnerable to unanticipated price increases, payment term changes, and product shortages. Accordingly, the loss of all or one of these suppliers or delays in obtaining shipments could have a material adverse effect on our operations until such time as an alternative supplier could be found. We may be subject to various import duties applicable to materials manufactured in foreign countries and, in addition, may be affected by various other import and export restrictions, as well as other considerations or developments impacting upon international trade, including economic or political instability, shipping delays, and product quotas. These international trade factors will, under certain circumstances, have an impact on the cost of components, which will, in turn, have an impact on the cost to us of the manufactured product, and the wholesale and retail prices of our products.

If the companies to which we outsource the manufacture of our products fail to meet our requirements for quality, quantity, and timeliness, our revenue and reputation in the marketplace could be harmed.

We outsource a significant portion of the manufacture and assembly of our products and we expect to outsource all of the production of many of our products. We currently depend on a small number of contract manufacturers to manufacture our products at plants in various locations throughout the world, primarily in the United States, Mexico, China, Australia, and Taiwan. These manufacturers supply most of the necessary raw materials and provide all necessary facilities and labor to manufacture our products. We currently do not have long-term contracts with some of these manufacturers. If these companies were to terminate their arrangements with us without adequate notice, or fail to provide the required capacity and quality on a timely basis, we would be unable to manufacture and ship our lighting products until replacement manufacturing services could be obtained. To qualify a new contract manufacturer, familiarize it with our products, quality standards and other requirements, and commence volume production is a costly and time-consuming process. If it became necessary to do so, we may not be able to establish alternative manufacturing relationships on acceptable terms.

Our reliance on contract manufacturers involves certain additional risks, including the following:

- lack of direct control over production capacity and delivery schedules,
- lack of direct control over quality assurance, manufacturing yields, and production costs,
- risk of loss of inventory while in transit from China, Mexico, Japan, Australia, and Taiwan, and
- risks associated with international commerce, particularly with China, Mexico, Japan, and Taiwan, including unexpected changes in legal and regulatory requirements, changes in tariffs and trade policies, risks associated with the protection of intellectual property and political and economic instability.

Any interruption in our ability to manufacture and distribute products could result in delays in shipment, lost sales, reductions in revenue and damage to our reputation in the market, all of which would adversely affect our business.

We depend on independent distributors and sales representatives for a substantial portion of our net sales, and the failure to manage, successfully, our relationships with these third parties, or the termination of these relationships, could cause our net sales to decline and harm our business.

We rely significantly on indirect sales channels to market and sell our products. Most of our products are sold through third-party independent distributors and sales representatives. In addition, these parties provide technical sales support to end-users. Our current agreements within these sales channels are non-exclusive with regard to lighting products in general, but exclusive with respect to LED lighting and fiber optic products. We anticipate that any such agreements we enter into in the future will be on similar terms. Furthermore, our agreements are generally short-term, and can be cancelled by these sales channels without significant financial consequence. We cannot control how these sales channels perform and cannot be certain that we or end-users will be satisfied by their performance. If these distributors and sales representatives significantly change their terms with us, or change their historical pattern of ordering products from us, there could be a significant impact on our net sales and profits.

Our products could contain defects or they may be installed or operated incorrectly, which could reduce sales of those products or result in claims against us.

Despite product testing, defects may be found in our existing or future products. This could result in, among other things, a delay in the recognition or loss of net sales, loss of market share or failure to achieve market acceptance. These defects could cause us to incur significant warranty, support and repair costs, divert the attention of our engineering personnel from our product development efforts, and harm our relationship with our customers. The occurrence of these problems could result in the delay or loss of market acceptance of our lighting products and would likely harm our business. Some of our products use line voltages (such as 120 or 240 AC), or are designed for installation in environments such as swimming pools and spas, which involve enhanced risk of electrical shock, injury or death in the event of a short circuit or other malfunction. Defects, integration issues or other performance problems in our lighting products could result in personal injury or financial or other damages to end-users or could damage market acceptance of our products. Our customers and end-users could also seek damages from us for their losses. A product liability claim brought against us, even if unsuccessful, would likely be time consuming and costly to defend.

If we are unable to attract or retain qualified personnel, our business and product development efforts could be harmed.

To a large extent, our future success will depend on the continued contributions of certain employees, such as our current Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, and President. These and other key employees may be difficult to replace. Our future success will also depend on our ability to attract and retain qualified technical, sales, marketing, and management personnel, for whom competition is very intense. The loss of, or failure to attract, hire, and retain, any such persons could delay product development cycles, disrupt our operations, or otherwise harm our business or results of operations. We have been successful in hiring experienced energy solutions salespeople from leading firms in the industry but if these individuals are not successful in achieving our expectations, then planned sales may not occur and the anticipated net sales may not be realized.

A significant portion of our business is dependent upon the existence of government funding, which may not be available into the future and could result in a significant reduction in sales and could cause significant harm to our business.

A significant portion of our research and development efforts have been supported directly by government funding and were contracted for short periods, usually one to two years. Further, a significant portion of net sales generated by SRC are derived from state government funding and supported by federal government funding. If government funding is reduced or eliminated, there is no guarantee that we would be able to continue to fund our activities in these areas at their current levels, if at all. If we are unable to maintain our access to government funding in these areas, there could be a significant impact on our net sales and profits.

We believe that certification and compliance issues are critical to adoption of our lighting systems, and failure to obtain such certification or compliance would harm our business.

We are required to comply with certain legal requirements governing the materials in our products. Although we are not aware of any efforts to amend any existing legal requirements or implement new legal requirements in a manner with which we cannot comply, our net sales might be adversely affected if such an amendment or implementation were to occur.

Moreover, although not legally required to do so, we strive to obtain certification for substantially all our products. In the United States, we seek, and to date have obtained, certification on substantially all of our products from Underwriters Laboratories (UL® mark) or Intertek Testing Services (ETL® mark). Where appropriate in jurisdictions outside the United States and Europe, we seek to obtain other similar national or regional certifications for our products. Although we believe that our broad knowledge and experience with electrical codes and safety standards have facilitated certification approvals, we cannot ensure that we will be able to obtain any such certifications for our new products or that, if certification standards are amended, that we will be able to maintain such certifications for our existing products. Moreover, although we are not aware of any effort to amend any existing certification standard or implement a new certification standard in a manner that would render us unable to maintain certification for our existing products or obtain ratification for new products, our net sales might be adversely affected if such an amendment or implementation were to occur.

We must comply with regulatory requirements regarding internal control over financial reporting, corporate governance, and public disclosure, which will cause us to incur significant costs and our failure to comply with these requirements could cause our stock price to decline.

Section 404 of the Sarbanes-Oxley Act of 2002 requires that we annually evaluate and report on our systems of internal controls. These rules and regulations have increased our legal and compliance costs and made certain activities more time-consuming and costly. In the future, there may be material weaknesses in our internal controls that would be required to be reported in future Annual Reports on Form 10-K and/or Quarterly Reports on Form 10-Q. A negative reaction by the equity markets to the reporting of a material weakness could cause our stock price to decline.

We could issue additional common stock, which might dilute the book value of our common stock.

Our Board of Directors has the authority, without action or vote of our shareholders, to issue a sizeable part of our authorized but unissued shares. Such stock issuances could be made at a price that reflects a discount or a premium from the then-current trading price of our common stock. In addition, in order to raise capital or acquire businesses in the future, including future lighting retrofit businesses, we may need to issue securities or promissory notes that are convertible or exchangeable for shares of our common stock. These issuances would dilute shareholders' percentage ownership interest, which would have the effect of reducing influence on matters on which our shareholders vote, and might dilute the book value of our common stock. Shareholders may incur additional dilution if holders of stock options, whether currently outstanding or subsequently granted, exercise those options, or if warrant holders exercise warrants purchasing shares of our common stock. If an insufficient amount of authorized, but unissued, shares of common stock exists to issue in the long term in connection with a subsequent equity financing or acquisition transactions, we may be required to ask our shareholders to authorize additional shares before undertaking, or as a condition to completing, a financing or acquisition transaction.

We may need to request our shareholders to authorize additional shares of common stock in connection with subsequent equity finance or acquisition transactions.

We are authorized to issue 60,000,000 shares of common stock, of which approximately 44,513,000 shares were issued and outstanding, as of March 2, 2012. An additional 15,364,000 shares have been reserved for issuance upon exercise of stock options and warrants outstanding. At our June 16, 2010 Annual Meeting, our shareholders increased the total number of authorized shares of common stock from 30,000,000 to 60,000,000. If an insufficient amount of authorized, but unissued, shares of common stock exists to issue in the long term in connection with a subsequent equity financing or acquisition transaction, we may be required to ask our shareholders to authorize additional shares before undertaking, or as a condition to completing, an offering or transaction. We cannot be assured that our shareholders would authorize an increase in the number of shares of our common stock.

Shares eligible for future sale may adversely affect the market for our common stock.

As of March 2, 2012, we had a significant number of convertible or derivative securities outstanding, including: (i) 2,307,000 shares of common stock issuable upon exercise of outstanding stock options at a weighted average exercise price of $2.27 per share, and (ii) 13,056,000 shares of common stock issuable upon exercise of our outstanding warrants at a weighted average exercise price of $0.94 per share. If or when these securities are exercised into shares of our common stock, the number of our shares of common stock outstanding will increase. Increases in our outstanding shares, and any sales of shares, could have an adverse affect on the trading activity and market price of our common stock.

In addition, from time to time, certain of our shareholders may be eligible to sell all, or a portion of, their shares of common stock by means of ordinary brokerage transactions in the open market pursuant to Rule 144, promulgated under the Securities Act of 1933, or under effective resale prospectuses. Any substantial sale of our common stock pursuant to Rule 144 or any resale prospectus may have an adverse affect on the market price of our securities.

As a "thinly-traded" stock, large sales can and have placed negative pressure on our common stock price.

Our common stock, despite certain increases of trading volume from time to time, experiences periods when it could be considered "thinly-traded." Financing or acquisition transactions resulting in a large number of newly issued shares that become immediately tradable, or other events that cause current shareholders to sell shares, could place negative pressure on the trading price of our stock. In addition, the lack of a robust secondary market may require a shareholder who desires to sell a large number of shares to sell those shares in increments over time in order to mitigate any adverse impact of the sales on the market price of our common stock.

We may be subject to legal claims against us or claims by us which could have a significant impact on our resulting financial performance.

At any given time, we may be subject to litigation, the disposition of which may have an adverse affect upon our business, financial condition, or results of operation. Information regarding our current legal proceedings is presented below in Part I, Item 3.

Item 1B. Unresolved Staff Comments

None.

Item 2. Properties

Our principal executive offices are located in approximately a 25,000 square foot facility in Solon, Ohio, under a lease agreement expiring on April 30, 2014. See Note 11, Commitments and Contingencies, to the Consolidated Financial Statements for additional information.

We also have leased facilities in Nashville, Tennessee, Pleasanton, California, and Berkshire, United Kingdom. In addition, we have a contract manufacturing facility near Tijuana, Mexico. We believe that our current facilities are adequate to support our current and anticipated operations.

Item 3. Legal Proceedings

On January 29, 2010, a competitor and former supplier filed a complaint against our Company in the Court of Chancery of the State of Delaware, alleging that the Company has misused proprietary trade secrets, breached a contract, and engaged in deceptive trade practices relating to one of our lighting products. The complaint sought injunctive relief and damages. The complaint was settled in June 2011. See Note 18, Legal Matters, to the Consolidated Financial Statements for additional information.

Item 4. Submission of Matters to a Vote of Security Holders

During the fourth quarter of the year ended December 31, 2011, there were no matters submitted to a vote of security holders.

Executive Officers of the Registrant

The following is the name, age, and present position of each of our executive officers, as well as all prior positions held by each of them during the last five years and when each of them was first elected or appointed as an executive officer.

Name	Age	Current Position and Business Experience
Joseph G. Kaveski	51	**Chief Executive Officer and Director** – May 2008 to present. Prior to joining Energy Focus, Mr. Kaveski led his own strategic consulting business, TGL Company. As a consultant he worked with equity investors and publicly traded companies on strategic initiatives and planning.
John M. Davenport	66	**President and Director** – May 2008 to present. Chief Executive Officer – July 2005 to May 2008. Chief Operating Officer – July 2003 to July 2005. Vice President and Chief Technology Officer – November 1999 to July 2003.
Eric W. Hilliard	44	**Chief Operating Officer and Vice President** – November 2006 to present. Prior to joining Energy Focus, Mr. Hilliard served as a Business Manager at Saint Gobain's Aerospace Flight Structures Division from 2002 to 2006.
Mark J. Plush	62	**Chief Financial Officer and Vice President of Finance** – July 2011 to present. Prior to joining Energy Focus, Mr. Plush served as Vice President and Chief Financial Officer with Keithley Instruments from 1998 to 2010.
Roger F. Buelow	39	**Chief Technology Officer and Vice President** – July 2005 to present. Vice President of Engineering from February 2003 to July 2005.

PART II

Item 5. Market for the Registrant's Common Equity, Related Stockholder Matters, and Issuer Purchases of Equity Securities

Our common stock is quoted on the Over The Counter Bulletin Board ("OTCBB") under the symbol "EFOI.OB." The following table sets forth the high, low, and close market prices per share for our common stock as reported by NASDAQ:

	High	Low	Close
First quarter 2011	$1.35	$0.91	$1.22
Second quarter 2011	1.16	0.38	0.48
Third quarter 2011	0.69	0.35	0.36
Fourth quarter 2011	0.47	0.17	0.20
First quarter 2010	$1.50	$0.65	$1.14
Second quarter 2010	1.50	0.97	1.21
Third quarter 2010	2.68	1.20	1.51
Fourth quarter 2010	1.55	0.90	0.95

There were approximately 122 holders of record of our common stock as of March 20, 2012, and we estimate that at that date there were approximately 3,257 additional beneficial owners.

We have not declared or paid any cash dividends, and do not anticipate paying cash dividends in the foreseeable future.

Stockholder Matters

On May 18, 2011, the NASDAQ Listing Qualifications Department had notified the Company that the bid price of its common shares had closed at less than $1.00 per share over the previous 30 consecutive business days and provided the Company with 180 days, or until November 14, 2011, to regain compliance with the NASDAQ Capital Market listing rule. On November 14, 2011, the Company's stock had not traded above $1.00 per share and, additionally, the Company was not in compliance with a second rule; shareholders' equity was less than $5 million as set forth by NASDAQ Capital Market rules. Our stock began being listed on the OTCBB at the opening of markets on Tuesday, November 29, 2011. On December 15, 2011, The NASDAQ Stock Market announced that the Company's stock was delisted from The NASDAQ Capital Market.

At the 2011 Annual Meeting of Shareholders held on June 15, 2011, the shareholders approved an increase in the total number of shares of common stock that may be authorized for issuance under the 1994 Employee Stock Purchase Plan from 150,000 to 400,000.

On August 11, 2011 we issued five-year, detached warrants to Mark Plush, CFO of the Company, to purchase 125,000 shares of the Company's common stock at an exercise price of $.01 per share.

At the 2010 Annual Meeting of Shareholders held on June 16, 2010, the shareholders approved an increase in the total number of shares of common stock that may be awarded under the 2008 Incentive Stock Plan from 1,000,000 shares to 3,000,000 shares. In addition, our shareholders also approved an increase in the total number of authorized shares of common stock from 30,000,000 to 60,000,000.

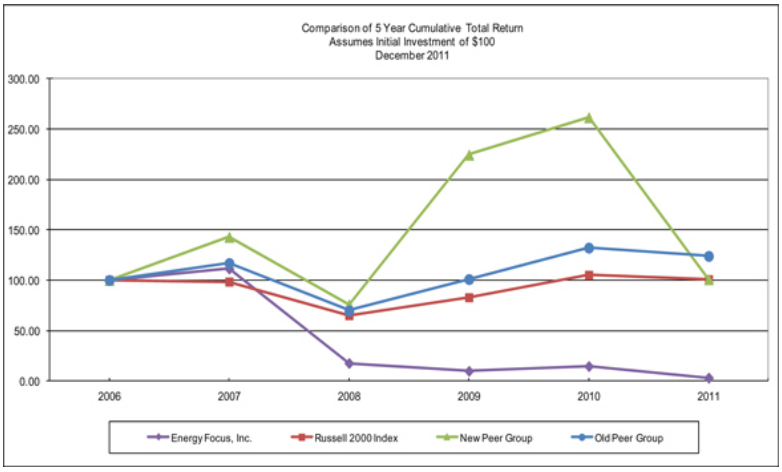
In our subscription rights offering in the fall of 2009, an investor inadvertently purchased 1,000,000 shares of our common stock at $0.75 per share. We agreed to facilitate the sale of these shares to another shareholder or investor or to purchase them directly. A purchase of those shares by us would have severely depleted our cash-on-hand and working capital. After contacting selected shareholders and investors, we introduced the investor to The Quercus Trust ("Quercus"), our largest shareholder. We were informed on December 30, 2009, by the investor and Quercus, that Quercus had agreed to purchase those shares at $0.80 per share. At that time, the closing market price of a share of our common stock was approximately $0.65 per share. To facilitate the purchase of the 1,000,000 shares by Quercus, on December 30, 2009, our Board of Directors agreed with Quercus to reduce the exercise price of 1,560,062 warrants issued to Quercus, in the March 2008 private placement, to $0.01 per share upon the completion of the purchase of all 1,000,000 shares in 2010. The purchase of the 1,000,000 shares by Quercus was completed on February 20, 2010. We incurred a non-cash charge of $1.4 million for the quarter ended March 31, 2010 related to the valuation of the warrants to purchase shares of our common stock acquired by Quercus in our March 2008 equity financing. On April 28, 2010, Quercus exercised the 2008 warrants. Our shareholders approved the reduction in exercise price of the above mentioned warrants at the Annual Meeting of Shareholders on June 16, 2010.

On December 29, 2009, we issued five-year, detached warrants to John Davenport, President of the Company, and Quercus to purchase 125,000 and 150,000, respectively, of the Company's common stock at an exercise price of $.01 per share. Our shareholders approved the warrants at the Annual Meeting on June 16, 2010.

On November 2, 2009, we closed our common stock rights offering to our shareholders that raised $3.3 million, net of expenses. Stockholder approval was not required. There were 7,500 stock options exercised during the calendar year 2011 and 15,000 stock option exercised during 2010.

Cumulative Total Return Comparison

The following graph compares the cumulative total shareholder return of the our common stock against the cumulative total return of the Russell 2000 Value Index, and a self-determined Old and New Peer Group for the period of the five fiscal years commencing December 31, 2006 and ending December 31, 2011. The graph and table assume that $100 was invested on December 31, 2006 in each of the Energy Focus, Inc. Common Stock, the Russell 2000 Value Index, and the self-determined Old and New Peer Group, and that all dividends were reinvested. The seven companies in the self-determined New Peer Group are: Lime Energy Co., Nexxus Lighting, Inc., LSI Industries, Inc., Orion Energy Systems, Inc., Lighting Science Group Corp., Cree, Inc., and Ameresco, Inc. The six companies in the self-determined Old Peer Group are: Cooper Industries, LTD., Pentair, Inc., Lime Energy Co., Nexxus Lighting, Inc., LSI Industries, Inc., and Orion Energy Systems, Inc. Cumulative total shareholder return for Energy Focus, Inc. Common Stock, the Russell 2000 Value Index, and the self-determined Old and New Peer Group are based upon the Energy Focus, Inc. fiscal year.



Item 6. Selected Financial Data

The Selected Consolidated Financial Data set forth below have been derived from our Consolidated Financial Statements. It should be read in conjunction with the information appearing under the heading "Management's Discussion and Analysis of Financial Condition and Results of Operations" included in Item 7 of this report and the Consolidated Financial Statements and related notes found in Item 8 of this report.

SELECTED CONSOLIDATED FINANCIAL DATA
(IN THOUSANDS, EXCEPT PER SHARE DATA)

YEARS ENDED DECEMBER 31,	2011	2010	2009	2008	2007
OPERATING SUMMARY					
Net sales from continuing operations	$ 25,752	$ 35,129	$ 12,489	$ 20,032	$ 19,761
Gross profit from continuing operations	5,171	6,403	2,040	4,106	5,057
Net loss from continuing operations	(6,055)	(8,517)	(9,814)	(12,673)	(10,987)
Net loss from discontinued operations	—	—	(1,201)	(1,775)	(330)
Net loss	(6,055)	(8,517)	(11,015)	(14,448)	(11,317)
Net loss per share:					
Basic	$ (0.25)	$ (0.37)	$ (0.70)	$ (1.02)	$ (0.98)
Diluted	$ (0.25)	$ (0.37)	$ (0.70)	$ (1.02)	$ (0.98)
Shares used in per share calculation:					
Basic	24,669	22,791	15,763	14,182	11,500
Diluted	24,669	22,791	15,763	14,182	11,500
FINANCIAL POSITION SUMMARY					
Total assets	$ 13,778	$ 20,374	$ 17,378	$ 23,636	$ 29,104
Cash and cash equivalents	2,136	4,107	1,062	10,568	8,412
Credit line borrowings	701	—	—	1,904	1,159
Current portion of long-term borrowings	855	481	—	54	1,726
Long-term borrowings	955	1,344	715	245	314
Shareholders' equity	1,468	6,658	11,505	16,789	21,618
Common shares outstanding	24,913	23,962	21,250	14,835	11,623

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

Overview

Energy Focus, Inc. and its subsidiaries (the "Company") engage in the design, development, manufacturing, marketing, and installation of energy-efficient lighting systems and solutions where we serve two segments:

- solutions-based sales providing turnkey, high-quality, energy-efficient lighting application alternatives primarily to the existing public-sector building market; and
- product-based sales providing military, general commercial and industrial lighting, and pool lighting offerings, each of which markets and sells energy-efficient lighting systems.

We continue to evolve our business strategy to include providing our customers with turnkey, comprehensive energy-efficient lighting solutions, which use, but are not limited to, our patented and proprietary technology. Our product-based solutions include light-emitting diode ("LED"), fiber optic, high-intensity discharge ("HID"), fluorescent tube and other highly energy-efficient lighting technologies. Typical savings related to our current technology approximates 80% in electricity costs, while providing full-spectrum light closely simulating daylight colors. Our strategy also incorporates continued investment into the research of new and emerging energy sources including, but not limited to, LED and solar energy applications.

During 2011, we made major progress in our plan to reposition the Company for growth and profitability. This plan involved three major areas of focus which included:

- Dramatic reduction of operating expenses.
- Receipt of a $23.1 million order for the U.S. Navy to retrofit approximately 7% of the Naval fleet with LED lighting products, including Intellitube™ lamps. We invoiced the U.S. Navy $1.9 million through December for products and services related to this contract.
- Added sales resources and broadened our customer base at Stones River Companies, LLC ("SRC") during the year, which has positioned us for growth in 2012 for our lighting retrofit business.

We were awarded $26.1 million in government supply contracts and in research contracts and grants in 2011. In March 2011, we received a $1.0 million grant from the State of Ohio Third Frontier to develop a photovoltaic "wall-pack" unit for outdoor LED lighting. In April 2011, we received a Phase 2 Small Business Technology Transfer ("STTR") grant for $0.6 million from the National Aeronautics and Space Administration ("NASA") for "Innovative Solid State Lighting Replacements for Industrial and Test Facility Locations." In May 2011, we received a $0.4 million increase in funding for the "Very High Efficiency Solar Cell ("VHESC") program. In July 2011, we received a $1.0 million grant from the State of Ohio Third Frontier to develop an ultra-low cost light sensor to compliment IntelliTube™, our LED based fluorescent replacement technology. Finally, in August 2011, we received a $23.1 million supply contract to provide LED fixtures and our proprietary IntelliTube™ LED lamps for use on the U.S. Navy Fleet. The government has the right to change quantities throughout the life of this supply contract.

Results of Operations

The following table sets forth the percentage of net sales represented by certain items reflected on our Consolidated Statements of Operations for the years ended December 31:

	2011	2010	2009
Net sales	100.0%	100.0%	100.0%
Cost of sales	79.9	81.8	83.7
Gross profit	20.1	18.2	16.3
Operating expenses:			
Research and development	(2.0)	(0.6)	2.5
Sales and marketing	24.1	18.3	48.4
General and administrative	19.7	17.4	42.7
Loss on impairment	—	0.4	—
Valuation of equity instruments	0.2	5.1	—
Change in estimate of contingent liabilities	(1.6)	—	—
Restructuring	—	0.1	1.0
Total operating expenses	40.4	40.7	94.6
Loss from operations	(20.3)	(22.5)	(78.3)
Other income (expense):			
Interest income	0.0	0.0	0.1
Interest expense	(3.3)	(1.6)	(0.7)
Other income (expense)	0.1	(0.1)	0.4
Loss from continuing operations before income taxes	(23.5)	(24.2)	(78.5)
Benefit from (provision for) income taxes	0.0	(0.0)	(0.1)
Net loss from continuing operations	(23.5)	(24.2)	(78.6)
Discontinued operations:			
Loss before income taxes of discontinued operations	—	—	(9.6)
Provision for income taxes	—	—	—
Loss from discontinued operations	—	—	(9.6)
Net loss	(23.5)%	(24.2)%	(88.2)%

Net Sales

Our sales breakdowns, by business segment, are as follows (in thousands):

	Year ending December 31,		
	2011	2010	2009
Solutions:			
Net sales - solutions	$ 9,563	$19,763	$ —
Products:			
Net sales - pool and commercial	11,911	12,265	11,561
Net sales - government products/R&D services	4,278	3,101	928
Total net sales - product segment	16,189	15,366	12,489
Total net sales from continuing operations	$25,752	$35,129	$12,489

Net sales from continuing operations were $25.8 million in 2011 compared with $35.1 million in 2010 and $12.5 million in 2009. The decrease in sales in 2011 is primarily related to $10.2 million of lower solution sales for SRC, due mainly to fewer contracts from two key Energy Services Companies (“ESCO’s”). Net sales from this segment represented 37.1% of total net sales. Sales for pool and commercial products decreased slightly, $0.4 million, compared to 2010. Net sales from this segment represented 46.3% of total net sales. Slightly offsetting these decreases was an increase in government products/R&D services of $1.2 million. Net sales from this segment represented 16.6% of total net sales. The increase was due primarily to the U.S. Navy contract, $1.9 million of which was shipped through December 2011.

For the twelve months ended December 31, 2010, net sales from continuing operations were $35.1 million compared to $12.5 million in 2009, a $22.6 million increase. The increase is primarily related to $19.8 million of solution sales for SRC, which was acquired on December 31, 2009. Additionally, sales for government products/R&D services increased $2.2 million, which is related to revenue from E.I. DuPont de Nemours and Company as part of the VHESC Consortium being funded by DARPA. Net sales from the product segment increased $2.9 million over 2009 to $15.4 million, or 43.7% of total net sales. Of this amount, net sales for pool and commercial products increased $0.7 million, representing 34.9% of total net sales, and net sales from government products/R&D services increased $2.2 million over 2009, representing 8.8% of total net sales. The increase in the net sales of the product segment is primarily related to a slight improvement in customer confidence as it relates to the economy and a general softening within the markets in which we serve. Our solutions segment accounted for 56.3% of our total sales for 2010 and was derived primarily from the public sector markets such as state and municipal governments.

International Sales

We have a foreign manufacturing operation in the United Kingdom, and net sales and expenses from these operations are denominated in local currency, thereby creating exposures to changes in exchange rates. Fluctuations in this operation’s respective currency may have an impact on our business, results of operations, and financial position. We currently do not use financial instruments to hedge our exposure to exchange rate fluctuations with respect to our international operations. As a result, we may experience foreign currency translation gains or losses due to the volatility of other currencies compared to the United States dollar, which may positively or negatively affect our results of operations attributed to these operations. For continuing operations, international net sales accounted for approximately 15.6% of net sales in 2011, as compared to 10.9% for 2010, and 36.5% for 2009. On a local currency basis, net sales increased 3.9% for our United Kingdom operation from 2010 levels. The breakdown of our global sales is as follows (in thousands):

	Year ending December 31,		
	2011	2010	2009
United States Domestic	$21,730	$31,314	$ 7,930
International	4,022	3,815	4,559
Total net sales from continuing operations	$25,752	$35,129	$12,489

Gross Profit

We had gross profit of $5.2 million in 2011 compared to $6.4 million in 2010. Total gross profit as a percentage of total net sales was 20.1% in 2011, compared to 18.2% in 2010. The $1.2 million decrease in gross profit was the result of lower sales, partially offset by approximately a $1.0 million reduction in manufacturing overhead costs as a result of our cost reduction efforts. Gross profit for the product segment was 22.5% while the gross profit for the solutions segment was 15.9% in 2011.

Gross profit in 2009 was $2.0 million, or 16.3% of net sales, compared to $6.4 million, or 18.2% of net sales in 2010. The increase in gross profit in 2010 compared to 2009 was the result of higher sales.

Operating Expenses

Research and Development

Gross research and development expenses were $4.5 million in 2011, a 50.5% increase from $3.0 million in 2010. This increase was due to higher salary expense, project and consultant costs as a result of developing Intellitube™ for the U.S. Navy contract. Patent expense also increased as a result of activities related to Intellitube™. In 2010, gross research and development expenses were $3.0 million, an 86.0% increase from $1.6 million incurred in 2009. This increase was due to higher salary expense and project costs as a result of an increase in the number of U.S. government contracts and grants.

Research and development expenses include salaries, contractor and consulting fees, supplies and materials, as well as costs related to other overhead items such as depreciation and facilities costs. Research and development costs are expensed as they are incurred.

Total government reimbursements are the combination of revenues and credits from government contracts.

The gross and net research and development spending along with credits from government contracts is shown in the following table (in thousands):

	Year ending December 31,		
	2011	2010	2009
Net Research & Development Spending			
Total gross research and development expenses	4,456	2,961	1,592
Cost recovery through cost of sales	(3,519)	(2,382)	(604)
Cost recovery and other Credits	(1,452)	(781)	(669)
Net research & development (income) / expense	$ (515)	$ (202)	$ 319

Sales and Marketing

Sales and marketing expenses were $6.2 million or 24.1% of net sales in 2011, compared to $6.4 million or 18.3% of net sales in 2010, a decrease of 3.4% year over year. This decrease is due primarily to lower commissions as a result of lower sales. In 2011, sales and marketing expenses for pool lighting amounted to $1.3 million, or 20.9% of total sales and marketing cost, whereas sales and marketing expense for commercial lighting was $1.4 million, or 22.7% of total marketing costs.

In 2010, sales and marketing expenses were $6.4 million, an increase of 6.1% compared to $6.0 million in 2009. In 2010, sales and marketing expenses for pool lighting amounted to $1.1 million, or 17.6% of total sales and marketing cost, whereas sales and marketing expense for commercial lighting was $1.4 million, or 22.3% of total marketing costs. In 2009, sales and marketing expenses for pool lighting amounted to $1.0 million, or 17.1% of total sales and marketing cost, whereas sales and marketing expense for commercial lighting was $5.0 million, or 82.9% of total marketing costs.

General and Administrative

General and administrative expenses were 19.7% of net sales in 2011, compared to 17.4% of net sales in 2010, and 42.7% of net sales in 2009. General and administrative expenses were $5.1 million in 2011, a 17.2% decrease, as compared to $6.1 million in 2010. This decrease was due to lower amortization of intangible assets from the acquisition of SRC, lower stock option expense and lower legal and accounting fees.

General and administrative expenses were $6.1 million in 2010, a 14.7% increase, as compared to $5.3 million in 2009. This increase was due primarily to the amortization of intangible assets related to the acquisition of SRC.

Loss on impairment

As of December 31, 2011, we have $0.7 million of goodwill on our books related to the acquisition of SRC in Nashville, Tennessee, which occurred on December 31, 2009. Management tests goodwill annually for impairment at the reporting unit level and determines fair value through the use of a discounted cash flow valuation model. Management determined there was no impairment as of 2011 or 2010.

Long-lived assets are reviewed for impairment whenever events or circumstances indicate the carrying amount may not be recoverable. In 2011, impairment tests were performed using undiscounted future cash flows to calculate the recoverable value of long-lived assets. All assets had undiscounted cash flows that were substantially in excess of their carrying value. As a result, management determined that there was not impairment. As a result of this review, the Company recorded an impairment charge of $156,000 in 2010, which represented the difference between the fair value of the assets and their carrying value and is included in the Consolidated Statements of Operations under the caption “Loss on impairment”.

Valuation of Equity Instruments

During the first quarter of 2010, we recognized a non-cash charge of $1.4 million related to the valuation of warrants to purchase shares of our common stock acquired by The Quercus Trust (“Quercus”) in our March 2008 equity financing. Furthermore, during the second quarter of 2010, we recognized non-cash charges of $0.3 million related to the valuation of 350,000 warrants issued to Lincoln Park Capital Partners, LLC. In addition during 2011, we recorded non-cash charges of an additional $0.1 million relating to the valuation of our common stock issued to Lincoln Park Capital Partners, LLC. Please refer to Note 12, Shareholders’ Equity, to the Consolidated Financial Statements for a discussion of these transactions.

Restructuring

We incurred no restructuring expense during 2011. For the twelve months ended December 31, 2010, we recognized restructuring expenses of $26 thousand. These expenses are associated with the relocation of our remaining manufacturing equipment and operations in Solon, Ohio to a third-party warehouse facility located in California. During the twelve months ended December 31, 2009, we incurred restructuring expenses of $0.1 million associated with relocating our manufacturing operations in the United States from Solon, Ohio to Mexico.

Other Income and Expenses

We had interest expense of $0.9 million, $0.6 million, and $88 thousand in 2011, 2010 and 2009, respectively. Interest expense is primarily related to our debt, which includes the amortization of debt discounts. Interest income was $4 thousand in 2011 compared to $6 thousand in 2010 and $15 thousand in 2009. Interest income consists of interest earned on deposits.

We have certain long-term leases. Payments due under these leases are disclosed below and in Note 11, Commitments and Contingencies, to the Consolidated Financial Statements and related notes included elsewhere in this report.

Discontinued Operations

As part of our strategy of evaluating the viability of our non-core businesses and our aggressive pursuit of capital funding, we determined that our German subsidiary, Lichtleit-Fasertechnik (“LBM”), was not directly aligned with our objective to become a leading provider of turnkey, comprehensive energy-efficient lighting solutions. Therefore, in the third quarter of 2009, we committed to a plan to sell our German subsidiary, LBM.

In December 2009, we completed the sale of our ownership in LBM for $0.2 million comprised of cash and a promissory note. Furthermore, we will receive an earn-out equal to ten percent (10%) of post-acquisition, pre-amortization, pre-tax profit for a period of 24 months commencing January, 2010. In March 2011, the Company received an earn-out payment in the amount of $27 thousand. Excluding this earn-out, we recorded a loss on disposal of subsidiary of $0.7 million. As part of this transaction, the purchaser assumed all rights to both tangible and intangible assets as well as all of the liabilities of LBM.

There were no net sales or losses from discontinued operations in 2011 or 2010. Net sales from discontinued operations for 2009 were $1.5 million. Losses from discontinued operations, net of taxes were $1.2 million in 2009. Included in the 2009 loss from discontinued operations, net of taxes was the loss on the sale of LBM of $0.7 million, and an impairment charge of $0.2 million that arose when the office building owned by LBM was sold during the restructuring of LBM into a sales office. We have reported the business described above as discontinued operations for all periods presented. For further information about discontinued operations, see Note 4, Discontinued Operations, to the Consolidated Financial Statements.

Income Taxes

We provided a full valuation allowance against our United States deferred tax assets in 2011, 2010 and 2009. The net deferred tax assets for 2011, 2010 and 2009 were $2 thousand, $14 thousand, and $11 thousand for our United Kingdom subsidiary, which has been profitable in prior years. We had no net deferred liabilities at December 31, 2011, 2010 or 2009. There were no Federal tax expenses for the United States operations in 2011, 2010 and 2009, as any expected benefits were offset by an increase in the valuation allowance.

Net Loss

The net loss was $6.1 million for 2011, a decrease of $2.5 million from our net loss of $8.5 million for 2010. Included in the net loss for 2010 are non-cash charges of $2.0 million related to a charge for the impairment of long-lived assets and the valuation of equity instruments. This compares to the net loss of $11.0 million in 2009.

Liquidity and Capital Resources

Cash and Cash Equivalents

At December 31, 2011, our cash and cash equivalents were $2.1 million, compared to $4.1 million at December 31, 2010. This 2011 balance includes restricted cash of $19 thousand, compared to $0.1 million in 2010, which relates to funds received from a grant from/for a branch of the United States government. We had $2.5 million in borrowings as of December 31, 2011 and $1.8 million as of December 31, 2010. The net decrease in cash and cash equivalents was $2.0 million for the twelve months ended December 31, 2011.

At December 31, 2010, our cash and cash equivalents were $4.1 million, compared to $1.1 million at December 31, 2009. We had $1.8 million in borrowings as of December 31, 2010 and $0.7 million in borrowings as of December 31, 2009. The net increase in cash and cash equivalents was $3.0 million for the twelve months ended December 31, 2010. Cash proceeds of $3.8 million were received in November 2009 from the issuance of rights to purchase common stock. On December 31, 2009, $3.7 million of cash was disbursed related to the acquisition of SRC and related bond securitization. Excluding bonding securitization, net cash disbursements related to the acquisition of SRC were $1.2 million.

In November, 2009, we received an additional $3.3 million in equity financing, net of expenses by selling 4,813,000 shares of common stock in a registered offering. The investment was made by numerous current Energy Focus shareholders. The investment was made under our Company's registration statement for a $3.5 million common stock subscription rights offering. Under the terms of the rights offering, we distributed, at no charge to our shareholders, transferable rights to purchase up to 3,500,000 of our common stock at the established subscription price per share of $0.75, which was set by our Board of Directors. At the time the offering began, we distributed to each shareholder one transferable right for each share of common stock owned by the shareholder. Each right entitled the holder to purchase one share of our common stock, par value $0.0001 per share, subject to a maximum of 4,600,000 shares to be issued in the offering. Shareholders were entitled to subscribe for shares not subscribed for by other shareholders.

Cash (Used in) Provided by Operating Activities

Net cash (used in) provided by operating activities primarily consists of net losses adjusted by non-cash items, including depreciation, amortization, stock-based compensation, loss on impairment, and the effect of changes in working capital. In 2011, net cash used in continuing operating activities was $2.6 million compared to net cash provided of $1.5 million in 2010 and net cash used of $10.1 million in 2009. Cash decreased during 2011 by a net loss of $6.1 million, which was partially offset by $2.4 million of non-cash charges to net income and a $1.0 million decrease in net assets and liabilities. Cash increased in 2010 primarily due to $6.3 million of non-cash charges to income, a decrease in net assets and liabilities of $3.7 million, partially offset by an $8.5 million net loss. Cash used in 2009 was $10.6 million and was the result of $11.0 million of net losses.

There was no cash used in discontinued operating activities in 2011 or 2010. Net cash used in discontinued operating activities was $0.4 million for 2009.

Cash Used in Investing Activities

Net cash used in continuing investing activities was $0.2 million in 2011 and $0.3 million in 2010, primarily for the purchase of property and equipment. Net cash used in 2009 was $1.7 million, primarily for the acquisition of SRC.

There was no cash provided by discontinued investing activities in 2011 or 2010. Net cash provided by discontinued investing activities was $0.8 million for 2009.

Cash Provided by Financing Activities

Net cash provided by continuing financing activities was $0.9 million in 2011, compared to $1.8 million in 2010 and $2.4 million in 2009. In 2011, cash proceeds from borrowings were $0.6 million and $0.7 million from a credit facility, which were reduced by $0.9 million for debt repayments. Cash proceeds from stock issuances, net of expenses, provided an additional $0.5 million. In 2010, proceeds from borrowings were $1.2 million and cash proceeds from stock issuances, net of expenses, provided an additional $0.7 million. In 2009, proceeds from stock issuances, net of expenses, provided $3.5 million of additional working capital. Also in 2009, additional long-term borrowings of $0.6 million were reduced by debt repayments of $1.8 million. In 2011, the cash provided by financing activities was the result of Lincoln Park Capital Fund LLC purchases from a shelf registration. In 2010, the cash provided by financing activities was primarily the result of us issuing a secured subordinated note payable to EF Energy Partners. The additional working capital provided by financing activities in 2009 was related to a subscription rights offering.

There was no cash used in discontinued financing activities in 2011 or 2010. Net cash used in discontinued financing activities was $0.4 million for 2009.

The net decrease in cash of $2.0 million over the prior year was primarily the result of cash used by operating activities, which resulted in an ending cash balance of $2.1 million as of December 31, 2011. This compares to a net increase in cash of $3.0 million in 2010 and a net decrease of $9.5 million in cash in 2009.

Debt

Credit Facilities

On December 22, 2011, we entered into a $4.5 million revolving line of credit with Rosenthal & Rosenthal. The total loan amount available to us under the line of credit is equal to 85% of our net amount of eligible receivables, plus available inventory (the lesser of 50% of the lower of cost or market value of eligible inventory, or $0.3 million). The credit facility is secured by a lien on our domestic assets. The interest rate for borrowing on accounts receivable is 8.5%, on inventories 10.0% and on overdrafts 13.0%. Additionally, there is an annual 1% facility fee on the entire amount of the credit facility, $4.5 million, payable at the beginning of the year. The Credit Facility is a three year agreement, expiring on December 31, 2014, unless terminated sooner. There are liquidated damages if the Credit Facility is terminated prior to December 31, 2014, which are based on the maximum credit facility amount then in effect. The damages are: 3% if terminated prior to the first anniversary of the closing date, 2% if terminated prior to the second anniversary of the closing date, and 1% if terminated prior to the third anniversary of the closing date. We are required to comply with certain financial covenants, measured quarterly, including, as defined in the agreement: a tangible net worth amount and a working capital amount. We were in compliance with the financial covenants at December 31, 2011.

On October 15, 2008, we entered into a one year credit agreement with Silicon Valley Bank (“SVB”) incorporating a $4.0 million revolving line of credit facility. Borrowings under this agreement were collateralized by our assets, including intellectual property, and bore interest at the SVB Prime Rate plus 1%. We were required to maintain 85% of our cash and cash equivalents in operating and investment accounts with SVB and were required to comply with certain covenant requirements, including a tangible net worth covenant. At December 31, 2008, we were not in compliance with the tangible net worth covenant requirement and such condition continued throughout 2009. As such, we entered into a series of loan modification and forbearance agreements with effective dates ranging from January 31, 2009 through November 17, 2009. In conjunction with these forbearance agreements, the terms of the credit facility were revised culminating in a reduction to our revolving line of credit to $1.3 million with a maturity date of October 15, 2009 and a change in the rates of interest charged throughout 2009 in the range of SVB Prime Rate plus 1.5% to 3.0%. During the third quarter of 2009, SVB informed us that it did not intend to renew our revolving line of credit when it was set to expire on October 15, 2009. Ultimately, we were able to extend the maturity date of this credit facility to December 31, 2009 at which time we liquidated the outstanding balance of $0.3 million on the line of credit.

Borrowings

On August 11, 2011, we entered into a Letter of Credit Agreement (“LOC’”) with Mark Plush, Chief Financial Officer of the Company, in the amount of $0.3 million. The LOC has a term of 24 months and bears interest at a rate of 12.5% on the face amount. The LOC is collateralized by a cash deposit with an insurance company issuing the Company’s contract performance bonds and by 32% of the unpledged stock of Crescent Lighting, Ltd., our subsidiary. As an incentive to enter into the LOC’s, we issued five-year, detached warrants to purchase 125,000 shares of common stock at an exercise price of $0.01 per share. The LOC plan was approved by our shareholders at the Annual Meeting on June 16, 2010.

On August 1, 2011, we entered into a cognovit promissory note with Keystone Ruby, LLC, the Landlord of our Solon facility, in the amount of $0.3 million for past due rent. The balance is to be paid over 72 equal installments ending on April, 2017. However, the terms of the note call for an immediate payment of the remaining principal balance if we do not renew our lease by December 31, 2013. The interest rate on the loan is 10.0% per annum.

On March 30, 2010, we entered into an agreement with EF Energy Partners LLC ("EF Energy"), an Ohio limited liability company, under which we sold to EF Energy a Secured Subordinated Promissory Note ("Subordinated Note") for the principal amount of $1.2 million. We secured the full amount of this financing with a pledge of our United States gross accounts receivable and selected capital equipment. This Subordinated Note bears interest at a rate of 12.5%, which is payable quarterly, in arrears, commencing September 30, 2010. The entire outstanding principal balance of this Subordinated Note, together with all accrued interest thereon, is due and payable on March 30, 2013. Additionally, we issued to the eight investors in EF Energy five-year, detached penny warrants ($.01 per share) to purchase shares of its common stock at a rate of 0.2 warrants per dollar of financing, or 230,000 warrants, with an expiration date of March 30, 2015. On December 22, 2011 this agreement was amended by an Inter-creditor Agreement among EF Energy Partners, Rosenthal & Rosenthal and the Company. Per the terms of the Inter-creditor Agreement, we paid $0.9 million of the principal to EF Energy Partners, leaving a principal balance of approximately $0.3 million. Additionally, EF Energy Partners relinquished their security in our United States gross accounts receivable and selected capital equipment. The remaining balance of the loan is now secured by a secondary position in certain assets of our Stones River Companies, LLC subsidiary. We are not related to EF Energy Partners.

In conjunction with the acquisition of SRC on December 31, 2009, we entered into an agreement with TLC Investments, LLC ("TLC"), whereby a convertible promissory note ("Convertible Note") was issued for the principal amount of $0.5 million. This Convertible Note bears interest at the Wall Street Journal Prime Rate plus two percent (2%), which along with the principal, is due and payable on June 30, 2013 ("maturity date"). Additionally, TLC has the right to convert the principal of the Convertible Note, in whole, into 500,000 shares of our common stock at any time during the period commencing on June 30, 2010 and through the maturity date. Additionally, as a provision to the Convertible Note, if the reported closing price of a share of our common stock shall not be equal to or greater than $2.00 for at least twenty (20) trading days between June 30, 2010 and June 30, 2013, we shall pay TLC an additional fee of $0.5 million on the maturity date.

On December 29, 2009, and in conjunction with the acquisition of SRC, we entered into Letter of Credit Agreements ("LOC's") with John Davenport, President of our Company, and with Quercus, for $0.3 million and $0.3 million, respectively. These LOC's have terms of 24 months and bear interest at a rate of 12.5% on the face amount. The LOC's are collateralized by a percentage of the capital stock of Crescent Lighting Ltd. ("CLL") which in turn is based on CLL's net worth as of November 30, 2009, and is subordinated to the senior indebtedness of the Company and CLL. As an incentive to enter into the LOC's, the Company issued five-year, detached warrants to purchase 125,000 and 150,000, respectively, of common stock at an exercise price of $0.01 per share. The Company's shareholders approved the warrants at the Annual Meeting on June 16, 2010. On December 21, 2011, the LOC with John Davenport was amended to extend the due date of the LOC from December 31, 2011 to a month by month basis as long as interest continued to be earned at 12.5%. The LOC was subsequently paid on March 5, 2012. As of December 31, 2011, we were in default with the LOC with Quercus. On March 2, 2012, the LOC due to Quercus was paid in full.

On May 27, 2009, we entered into an unsecured Promissory Note ("Note") with Quercus in the amount of $70 thousand. Under the terms of this Note, we are obligated to pay Quercus the principal sum of the Note and interest accruing at a yearly rate of 1.00% in one lump sum payment on or before June 1, 2109. We received these funds on June 9, 2009.

Through our United Kingdom subsidiary, we maintain a British pounds sterling-denominated bank overdraft facility with Lloyds Bank Plc, in the amount of £100,000, which was approximately $0.2 million based on the exchange rate at December 31, 2011. There were no borrowings against this facility as of December 31, 2011 or December 31, 2010. This facility is renewed annually in May. The interest rate for this facility in 2011 was 3.60%, based on a variable interest rate equal to the Bank of England's Bank Rate, which was 0.50% at December 31, 2011, plus 3.10%. The interest rate on the facility at December 31, 2010 was 2.75%.

Equity

On March 17, 2010, we entered into a Purchase Agreement (the "Purchase Agreement") with Lincoln Park Capital Fund, LLC ("LPC") of Chicago, Illinois and issued to LPC 120,000 shares of our common stock. Under the Purchase Agreement, on May 31, 2010, we sold and issued to LPC, and LPC purchased from us, 360,500 shares of our common stock, together with warrants ("Warrants") to purchase 350,000 shares at an exercise price of $1.20 per share, for a total consideration of $0.4 million. The Warrants have a term of five years, are not exercisable until December 1, 2010, and expire on December 1, 2015. Under the Purchase Agreement, LPC has also agreed to purchase up to an additional 3,650,000 shares of our common stock at our option over approximately 25 months. As often as every five (5) business days, we have the right to direct LPC to purchase a calculated number of shares as defined by the terms of the Purchase Agreement. We can suspend purchases or accelerate the number of shares to be purchased at any time. No sales of shares may occur below $1.00 per share. The purchase prices of the shares will be based on the market prices of our shares at the time of sale, as computed under the Agreement, without any fixed discount. We may at any time in our sole discretion terminate the Agreement without fee, penalty, or cost upon five (5) business dates notice. In connection with the transactions contemplated by the Purchase Agreement, we filed a Registration Statement (the "Registration Statement") with the U.S. Securities & Exchange Commission (the "SEC") to register under the Securities Act of 1933, as amended, the shares of common stock associated with this transaction. On July 14, 2010, we received a Notice of Effectiveness from the SEC relating to the Registration Statement. As of December 31, 2010, we sold and issued to LPC, and LPC purchased from us, a total of 705,550 shares of our common stock for a total consideration of $0.8 million which was offset by expenses of $0.1 million. In the first quarter of 2011, we sold and issued to LPC, and LPC purchased from us, a total of 412,000 shares of our common stock for a total consideration of $0.4 million.

Contractual Obligations

The following summarizes our contractual obligations as of December 31, 2011, consisting of current and future payments for borrowings in the United States, and minimum lease payments under operating leases, as well as the effect that these obligations are expected to have on our liquidity and cash flow in future periods (in thousands):

	United States Long-Term Borrowings	Non-Cancelable Operating Leases	Total
Year ending December 31,			
2012	$ 886	$ 583	$1,469
2013	804	506	1,310
2014	59	190	249
2015	65	81	146
2016 and thereafter	168	67	235
Total contractual obligations, gross	1,982	1,427	3,409
Less: discounts on long-term borrowings and sublease payments	(172)	—	(172)
Total contractual obligations, net	$ 1,810	$ 1,427	$3,237

For further information regarding our contractual obligations, refer to Notes 10 and 11 to the Consolidated Financial Statements.

Off-Balance Sheet Arrangements

We had no off-balance sheet arrangements as of December 31, 2011 or 2010.

Going Concern

We have experienced net losses of $6.1 million, $8.5 million and $11.0 million for the years ended December 31, 2011, 2010 and 2009, respectively. As of December 31, 2011, we had an accumulated deficit of $74.9 million. Although management continues to address many of the legacy issues that have historically burdened our financial performance, we still face challenges in order to reach profitability. In order for us to attain profitability and growth, we will need to successfully address these challenges, including the continuation of cost reductions throughout our organization, improvement in gross margins, execution of our marketing and sales plans for our turnkey energy-efficient lighting solutions business, execution of the $23.1 million U.S. Navy supply contract, the development of new technologies into sustainable product lines and continued improvements in our supply chain performance.

Our independent public accounting firm has issued an opinion in connection with our 2011 Annual Report on Form 10-K raising substantial doubt as to the Company's ability to continue as a going concern. This opinion stems from our historically poor operating performance and our historical inability to generate sufficient cash flow to meet obligations and sustain operations without obtaining additional external financing. We remain optimistic about obtaining the funding necessary to continue as a going concern, however, there can be no assurances that this objective will be successful. As such, the Company continues to review and pursue selected external funding sources, if necessary, to execute these objectives including, but not limited to, the following:

- obtain financing from traditional and non-traditional investment capital organizations or individuals,
- potential sale or divestiture of one or more operating units, and
- obtain funding from the sale of common stock or other equity or debt instruments.

Obtaining financing through the above-mentioned mechanisms contains risks, including:

- loans or other debt instruments may have terms and/or conditions, such as interest rate, restrictive covenants, and control or revocation provisions, which are not acceptable to management or the Board of Directors,
- the current environment in capital markets combined with our capital constraints may prevent us from being able to obtain any debt financing,
- financing may not be available for parties interested in pursuing the acquisition of one or more of our operating units, and
- additional equity financing may not be available to us in the current capital environment and could lead to further dilution of shareholder value for current shareholders of record.

Critical Accounting Policies and Estimates

The preparation of financial statements requires that we make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingencies, and the reported amounts of net sales and expenses in the financial statements. Material differences may result in the amount and timing of net sales and expenses if different judgments or different estimates were utilized. Critical accounting policies, judgments, and estimates that we believe have the most significant impact on our financial statements are set forth below:

- revenue recognition,
- allowances for doubtful accounts, returns and discounts,
- impairment of long-lived assets,
- valuation of inventories,
- accounting for income taxes, and
- share-based compensation.

Revenue Recognition

Revenue is recognized when it is realized or realizable, has been earned, and when all of the following has occurred:

- persuasive evidence or an arrangement exists (e.g., a sales order, a purchase order, or a sales agreement),
- shipment has occurred, with the standard shipping term being F.O.B. ship point, or services provided on a proportional performance basis or installation has been completed,
- price to the buyer is fixed or determinable, and
- collectability is reasonably assured.

Revenues from our products-based business are generally recognized upon shipping based upon the following:

- all sales made by the Company to its customer base are non-contingent, meaning that they are not tied to that customer's resale of products,
- standard terms of sale contain shipping terms of F.O.B. ship point, meaning that title is transferred when shipping occurs, and
- there are no automatic return provisions that allow the customer to return the product in the event that the product does not sell within a defined timeframe.

Revenues from our products-based business that incorporate specifically-defined installation services have historically been recognized as follows:

- product sale at completion of installation, and
- service at completion of installation.

Revenues and profits from our lighting solutions-based business are generally recognized by applying percentage-of-completion for the period to the estimated profits for the respective contracts. Percentage-of-completion is determined by relating the actual cost of the work performed to date to the current estimated total cost of the respective contracts. When the estimate on a contract indicates a loss, the Company's policy is to record the entire loss during the accounting period in which it is estimable. In the ordinary course of business, at a minimum on a quarterly basis, the Company prepares updated estimates of the total forecasted revenue, cost and profit or loss for each contract. The cumulative effect of revisions in estimates of the total forecasted revenue and costs during the course of the work is reflected in the accounting period in which the facts that caused the revision become known. The financial impact of these revisions to any one contract is a function of both the amount of the revision and the percentage-of-completion of the contract. Revenues from our lighting solutions-based business will generally be larger contracts and may range from three to eighteen months in duration.

In accordance with normal practices in the industry, we include in current assets and current liabilities amounts related to contracts realizable and payable. Billings in excess of costs represents the excess of contract billings to date over the amount of contract costs and profits (or contract revenue) recognized to date on a percentage-of-completion basis. Costs in excess of billings represents the excess of contract costs and profits (or contract revenue) recognized to date on the percentage-of-completion basis over the amount of contract billings to date on the remaining contracts. See Note 9, Contracts in Progress, for additional information.

Revenues from research & development contracts are recognized primarily on the Percentage-of-Completion Method of accounting.

We warrant our products against defects or workmanship issues. We set up allowances for estimated returns, discounts, and warranties upon recognition of revenue and these allowances are adjusted periodically to reflect actual and anticipated returns, discounts, and warranty expenses. These allowances are based on past history and historical trends, current economic conditions, and contractual terms. Our distributor's obligation to us is not contingent upon the resale of our products and as such does not prohibit revenue recognition.

Allowances for Doubtful Accounts, Returns, and Discounts

We establish allowances for doubtful accounts and returns for probable losses based on the customers' loss history with us, the financial condition of the customer, the condition of the general economy and the industry as a whole, and the contractual terms established with the customer. The specific components are as follows:

- Allowance for doubtful accounts for accounts receivable, and
- Allowance for sales returns.

In 2011, the total allowance was $0.4 million, with $0.2 million related to accounts receivable and $0.2 million related to sales returns. In 2010, the total allowance was $0.4 million, with $0.3 million related to accounts receivable and $0.1 million related to sales returns. We review these allowance accounts periodically and adjust them accordingly for current conditions.

Long-lived Assets

Property and equipment is stated at cost and include expenditures for additions and major improvements. Expenditures for repairs and maintenance are charged to operations as incurred. We use the straight-line method of depreciation over their estimated useful lives of the related assets (generally two to fifteen years) for financial reporting purposes. Accelerated methods of depreciation are used for federal income tax purposes. When assets are sold or otherwise disposed of, the cost and accumulated depreciation are removed from the accounts and any gain or loss is reflected in the Consolidated Statement of Operations. Refer to Note 6, Property and Equipment, to the Consolidated Financial Statements for additional information.

We classify intangible assets into two categories: (1) intangible assets with definite lives subject to amortization, and (2) goodwill. We determine the useful lives of our identifiable intangible assets after considering the specific facts and circumstances related to each intangible asset. Factors we consider when determining useful lives include the contractual term of any agreement related to the asset, the historical performance of the asset, our long-term strategy for using the asset, any laws or other local regulations which could impact the useful life of the asset, and other economic factors, including competition and specific market conditions. Intangible assets that are deemed to have definite lives are amortized, on a straight-line basis or other method which best approximates cash flows, over their useful lives, ranging from 5 to 10 years. Goodwill represents the excess of the purchase price over the fair value of identifiable net assets acquired in a business acquisition. Refer to Note 7, Goodwill and Intangible Assets, to the Consolidated Financial Statements for additional information.

Long-lived assets, other than goodwill, are reviewed for impairment whenever events or circumstances indicate the carrying amount may not be recoverable. Events or circumstances that would result in an impairment review primarily include operations reporting losses, a significant change in the use of an asset, or the planned disposal or sale of the asset. The asset would be considered impaired when the future net undiscounted cash flows generated by the asset are less than its carrying value. An impairment loss would be recognized based on the amount by which the carrying value of the asset exceeds its fair value, as determined by quoted market prices (if available) or the present value of expected future cash flows.

We evaluate goodwill for impairment at least annually. Evaluating goodwill for impairment involves a two-step process. The first step is to estimate the fair value of the reporting unit. There are several valuation methods for estimating a reporting unit's fair value, including market quotations and discounted projected future net earnings or net cash flows and multiples of earnings. If the carrying amount of a reporting unit, including goodwill, exceeds the estimated fair value, a second step is performed. Under the second step, the identifiable assets, including identifiable intangible assets and liabilities of the reporting unit are estimated at fair value as of the current testing date. The excess of the estimated fair value of the reporting unit over the estimated fair value of net assets establishes the implied value of goodwill. The excess of the recorded goodwill over the implied value is charged to earnings as an impairment loss. A significant amount of judgment is required in estimating fair value of the reporting unit and performing these tests.

Valuation of Inventories

We state inventories at the lower of standard cost (which approximates actual cost determined using the first-in-first-out method) or market. We establish provisions for excess and obsolete inventories after evaluation of historical sales, current economic trends, forecasted sales, product lifecycles, and current inventory levels. During 2011, 2010 and 2009, we charged $0.2 million, $0.3 million, and $0.5 million, respectively, to cost of sales for excess and obsolete inventories. Adjustments to our estimates, such as forecasted sales and expected product lifecycles, could harm our operating results and financial position.

Accounting for Income Taxes

As part of the process of preparing our Consolidated Financial Statements, we are required to estimate our income tax liability in each of the jurisdictions in which we do business. This process involves estimating our actual current tax expense together with assessing temporary differences resulting from differing treatment of items, such as deferred revenues, for tax and accounting purposes. These differences result in deferred tax assets and liabilities, which are included in our Consolidated Balance Sheet. We then assess the likelihood that these deferred tax assets will be recovered from future taxable income and, to the extent that we believe that recovery is more likely than not, or is unknown, we establish a valuation allowance.

Significant management judgment is required in determining our provision for income taxes, our deferred tax assets and liabilities, and any valuation allowance recorded against our deferred tax assets. At December 31, 2011, we have recorded a full valuation allowance against our deferred tax assets in the United States due to uncertainties related to our ability to utilize our deferred tax assets, primarily consisting of certain net operating losses carried forward. The valuation allowance is based upon our estimates of taxable income by jurisdiction and the period over which our deferred tax assets will be recoverable.

Share-Based Payments

In December 2004, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Codification ("ASC") Topic Number 718, *Compensation – Stock Compensation* ("ASC 718"). ASC 718 requires all entities to recognize compensation expense in an amount equal to the fair value of share-based payments, such as stock options granted to employees. We have applied ASC 718 using the modified prospective method. Under this method, we are required to record compensation expense (as previous awards continue to vest) for the unvested portion of previously granted awards that remain outstanding at the date of adoption. In March, 2005, the SEC released Staff Accounting Bulletin No. 107, "Share-Based Payment" ("SAB 107"), which provides interpretive guidance related to the interaction between ASC 718 and certain SEC rules and regulations. It also provides the SEC staff's views regarding valuation of share based payment arrangements. The application of ASC 718 with SAB 107 had the effect of increasing stock-based compensation expense and reducing earnings by $.02 million in 2011, and by $0.6 million in each of 2010 and 2009.

We measure all employee stock-based awards as an expense based on the grant-date fair value of these awards. The fair value of options is estimated on the date of grant using the Black-Scholes option pricing model. Weighted average assumptions used in the model include the expected life of the options, risk-free interest rate, and volatility. The estimated expected life of the option is calculated based on the contractual life of the option, the vesting life of the option, and historical exercise patterns of vested options. The volatility estimates are calculated using historical pricing experience.

Recently Issued Accounting Pronouncements

In May 2011, the FASB amended fair value measurement and disclosure guidance to achieve convergence with International Financial Reporting Standards ("IFRS"). The amended guidance modifies the measurement of fair value, clarifies verbiage and changes disclosure or other requirements in U.S. GAAP and IFRS. The guidance is effective during the interim and annual periods beginning on or after December 15, 2011. The Company does not expect the guidance to have a material impact on our consolidated financial statements.

In June 2011, the FASB issued guidance related to the presentation of comprehensive income. The guidance aims to improve the comparability, consistency and transparency of financial reporting and to increase the prominence of items reported in other comprehensive income. The guidance is effective for fiscal years, and interim periods within those years, beginning after December 15, 2011. As this guidance impacts financial statement presentation requirements only, its adoption will not have a material impact on our consolidated financial statements.

In September 2011, the FASB amended guidance relating to the goodwill impairment test. The changes are intended to reduce the cost and complexity of the annual test by providing entities and option to perform a qualitative assessment to determine whether further impairment testing is necessary. The revised guidance includes examples of events and circumstances that might indicate that a reporting unit's fair value is less than its carrying amount. The changes are effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011, with early adoption permitted. We intend to adopt this guidance as stipulated.

Item 7A. Qualitative and Quantitative Disclosures About Market Risk

As of December 31, 2011, we had $0.3 million in cash held in foreign currencies based on the exchange rates at December 31, 2011. The balances for cash held overseas in foreign currencies are subject to exchange rate risk. We have a policy of maintaining cash balances in local currencies. Periodically, cash will be transferred in order to repay inter-company debts.

Item 8. Financial Statements and Supplementary Data

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Shareholders
Energy Focus, Inc.

We have audited the accompanying consolidated balance sheets of Energy Focus, Inc. (a Delaware corporation) and Subsidiaries (collectively the "Company") as of December 31, 2011 and 2010, and the related consolidated statements of operations, comprehensive income (loss), shareholders' equity, and cash flows for the years ended December 31, 2011, 2010, and 2009. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Energy Focus, Inc. and Subsidiaries as of December 31, 2011 and 2010, and the results of their operations and their cash flows for the years ended December 31, 2011, 2010, and 2009, in conformity with accounting principles generally accepted in the United States of America.

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 2, the Company incurred net losses of $6,055,000, $8,517,000, and $11,015,000 during the years ended December 31, 2011, 2010, and 2009. The continued losses, among other factors, as discussed in Note 2 to the financial statements, raise substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 2. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ Plante & Moran, PLLC

Cleveland, Ohio
March 30, 2012

ENERGY FOCUS, INC.
CONSOLIDATED BALANCE SHEETS
As of December 31,
(amounts in thousands except share and per share amounts)

	2011	2010
ASSETS		
Current assets:		
Cash and cash equivalents	$ 2,136	$ 4,107
Trade accounts receivable less allowances of $447 and $446, respectively	2,738	5,483
Retainage receivable	474	731
Inventories, net	2,429	2,543
Costs in excess of billings	171	22
Prepaid and other current assets	881	632
Total current assets	8,829	13,518
Property and equipment, net	2,105	2,446
Goodwill	672	672
Intangible assets, net	1,027	1,677
Collateralized assets	1,000	2,000
Other assets	145	61
Total assets	$ 13,778	$ 20,374
LIABILITIES		
Current liabilities:		
Accounts payable	$ 5,653	$ 7,167
Accrued liabilities	1,995	2,358
Deferred revenue	1,373	1,214
Billings in excess of costs	154	297
Credit line borrowings	701	—
Current maturities of long-term debt	855	481
Total current liabilities	10,731	11,517
Other liabilities	71	28
Acquisition-related contingent liabilities	553	827
Long-term debt	955	1,344
Total liabilities	12,310	13,716
SHAREHOLDERS' EQUITY		
Preferred stock, par value $0.0001 per share:		
Authorized: 2,000,000 shares in 2011 and 2010		
Issued and outstanding: no shares in 2011 and 2010	—	—
Common stock, par value $0.0001 per share:		
Authorized: 60,000,000 shares in 2011 and 2010		
Issued and outstanding: 24,913,000 in 2011 and 23,962,000 in 2010	1	1
Additional paid-in capital	75,962	75,094
Accumulated other comprehensive income	420	423
Accumulated deficit	(74,915)	(68,860)
Total shareholders' equity	1,468	6,658
Total liabilities and shareholders' equity	$ 13,778	$ 20,374

The accompanying notes are an integral part of these financial statements.

ENERGY FOCUS, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS
For the years ended December 31,
(amounts in thousands except per share amounts)

	2011	2010	2009
Net sales	$ 25,752	$ 35,129	$ 12,489
Cost of sales	20,581	28,726	10,449
Gross profit	5,171	6,403	2,040
Operating expenses:			
Research and development	(515)	(202)	319
Sales and marketing	6,200	6,415	6,044
General and administrative	5,062	6,115	5,333
Loss on impairment	—	156	—
Valuation of equity instruments	56	1,812	—
Change in estimate of contingent liabilities	(411)	—	—
Restructuring	—	26	125
Total operating expenses	10,392	14,322	11,821
Loss from operations	(5,221)	(7,919)	(9,781)
Other income (expense):			
Interest income	4	6	15
Interest expense	(861)	(573)	(88)
Other income (expense)	21	(25)	47
Loss from continuing operations before income taxes	(6,057)	(8,511)	(9,807)
Benefit from (provision for) income taxes	2	(6)	(7)
Net loss from continuing operations	$ (6,055)	$ (8,517)	$ (9,814)
Discontinued operations:			
Loss before income taxes of discontinued operations, including loss on disposal of discontinued operations of $664 in 2009	—	—	(1,201)
Provision for income taxes	—	—	—
Loss from discontinued operations	—	—	(1,201)
Net loss	$ (6,055)	$ (8,517)	$ (11,015)
Net loss per share - basic and diluted	$ (0.25)	$ (0.37)	$ (0.70)
Shares used in computing net loss per share - basic and diluted	24,669	22,791	15,763

The accompanying notes are an integral part of these financial statements.

ENERGY FOCUS, INC.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
For the years ended December 31,
(amounts in thousands)

	2011	2010	2009
Net loss	$(6,055)	$(8,517)	$(11,015)
Other comprehensive income (loss):			
Foreign currency translation adjustments	(3)	(51)	223
Comprehensive loss	$(6,058)	$(8,568)	$(10,792)

The accompanying notes are an integral part of these financial statements.

ENERGY FOCUS, INC.
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY
For the years ended December 31, 2011, 2010, and 2009
(amounts in thousands)

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income	Retained Earnings (Accumulated Deficit)	Total
	Shares	Amount				
Balances at December 31, 2008	14,835	$ 1	$ 65,865	$ 251	$ (49,328)	$ 16,789
Issuance of common stock under rights offering	5,168	—	3,344	—	—	3,344
Issuance of common stock	228	—	153	—	—	153
Issuance of common stock under employee stock option purchase plan	19	—	11	—	—	11
Issuance of common stock for acquisition of subsidiary	1,000	—	1,239	—	—	1,239
Stock-based compensation	—	—	624	—	—	624
Warrants issued for financing	—	—	137	—	—	137
Foreign currency translation adjustment	—	—	—	223	—	223
Net loss	—	—	—	—	(11,015)	(11,015)
Balances at December 31, 2009	21,250	$ 1	$ 71,373	$ 474	$ (60,343)	$ 11,505
Issuance of common stock under rights offering	—	—	1,421	—	—	1,421
Issuance of common stock	948	—	1,195	—	—	1,195
Issuance of common stock under employee stock option purchase plan	20	—	15	—	—	15
Stock-based compensation	—	—	552	—	—	552
Stock options exercised	14	—	8	—	—	8
Warrants issued for financing	—	—	528	—	—	528
Warrants exercised	1,730	—	2	—	—	2
Foreign currency translation adjustment	—	—	—	(51)	—	(51)
Net loss	—	—	—	—	(8,517)	(8,517)
Balances, December 31, 2010	23,962	$ 1	$ 75,094	$ 423	$ (68,860)	$ 6,658
Issuance of common stock under rights offering	—	—	—	—	—	—
Issuance of common stock	412	—	463	—	—	463
Issuance of common stock under employee stock option purchase plan	157	—	47	—	—	47
Stock-based compensation	215	—	319	—	—	319
Stock options exercised	7	—	—	—	—	—
Warrants issued for financing	—	—	33	—	—	33
Warrants exercised	160	—	6	—	—	6
Foreign currency translation adjustment	—	—	—	(3)	—	(3)
Net loss	—	—	—	—	(6,055)	(6,055)
Balances, December 31, 2011	24,913	$ 1	$ 75,962	$ 420	$ (74,915)	$ 1,468

The accompanying notes are an integral part of these financial statements.

ENERGY FOCUS, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
For the years ended December 31,
(amounts in thousands)

	2011	2010	2009
Cash flows from operating activities:			
Net loss	$(6,055)	$ (8,517)	$ (11,015)
Less: loss from discontinued operations	—	—	(1,201)
Net loss from continuing operations	(6,055)	(8,517)	(9,814)
Adjustments to reconcile net loss from continuing operations to net cash provided by (used in) operating activities:			
Loss on impairment	—	156	—
Depreciation	589	790	987
Stock-based compensation	426	878	624
Valuation of equity instruments	56	1,812	—
Provision for doubtful accounts receivable	115	44	45
Amortization of intangible assets	649	1,073	—
Amortization of discounts on long-term borrowings	574	349	—
Deferred revenue	16	1,215	104
Change in estimate of contingent liabilities	(411)	—	—
(Gain) loss on disposal of property and equipment	(11)	(22)	44
Changes in assets and liabilities:			
Accounts receivable, inventories, and other assets	3,411	(1,694)	(906)
Accounts payable and accrued liabilities	(1,976)	5,409	(1,225)
Total adjustments	3,438	10,010	(327)
Net cash (used in) provided by continuing operations	(2,617)	1,493	(10,141)
Net cash used in discontinued operations	—	—	(421)
Net cash (used in) provided by operating activities	(2,617)	1,493	(10,562)
Cash flows from investing activities:			
Cash paid for acquisition of subsidiary	—	—	(1,500)
Proceeds from the sale of property and equipment	19	50	—
Acquisition of property and equipment	(256)	(332)	(182)
Net cash used in continuing investing activities	(237)	(282)	(1,682)
Net cash provided by discontinued investing activities	—	—	765
Net cash used in investing activities	(237)	(282)	(917)
Cash flows from financing activities:			
Proceeds from issuances of common stock, net	456	669	3,508
Proceeds from exercise of stock options	5	8	—
Proceeds from other borrowings	605	1,150	620
Payments on other borrowings	(892)	—	—
Net proceeds (repayments) on credit line borrowings	701	—	(1,776)
Net cash provided by continuing financing activities	875	1,827	2,352
Net cash used in discontinued financing activities	—	—	(428)
Net cash provided by financing activities	875	1,827	1,924
Effect of exchange rate changes on cash	8	7	49
Net (decrease) increase in cash and cash equivalents	(1,971)	3,045	(9,506)
Cash and cash equivalents at beginning of year	4,107	1,062	10,568
Cash and cash equivalents at end of year	$ 2,136	$ 4,107	$ 1,062
Classification of cash and cash equivalents:			
Cash and cash equivalents	$ 2,117	$ 3,979	$ 1,062
Restricted cash held	19	128	—
Cash and cash equivalents at end of period	$ 2,136	$ 4,107	$ 1,062

(Continued on following page)

ENERGY FOCUS, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
For the years ended December 31,
(amounts in thousands)

	2011	2010	2009
Supplemental Information			
Interest paid	$ 328	$ 171	$ 98
Non-cash investing and financing activities:			
Fully depreciated assets disposed of	$1,050	$1,548	$ 1,149
The Company purchased all of the members' interest of Stones River Companies, LLC for $1,500. In conjunction with the acquisition, liabilities were incurred and common stock was issued as follows:			
Fair value of assets acquired	$ —	$ —	$ 4,700
Cash paid for the members' interest	—	—	(1,500)
Liabilities incurred and common stock issued	$ —	$ —	$ 3,200

The accompanying notes are an integral part of these financial statements.

ENERGY FOCUS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2011, 2010, and 2009

1. Nature of Operations

Energy Focus, Inc. and its subsidiaries (the "Company") engage in the design, development, manufacturing, marketing, and installation of energy-efficient lighting systems and solutions where the Company serves two segments:

- solutions-based sales providing turnkey, high-quality, energy-efficient lighting application alternatives primarily to the existing public-sector building market; and
- product-based sales providing military, general commercial and industrial lighting and pool lighting offerings, each of which markets and sells energy-efficient lighting systems.

The Company continues to evolve its business strategy to include providing its customers with turnkey, comprehensive energy-efficient lighting solutions, which use, but are not limited to, its patented and proprietary technology. Company product-based solutions include light-emitting diode ("LED"), fiber optic, high-intensity discharge ("HID"), fluorescent tube and other highly energy-efficient lighting technologies. Typical savings related to current technology of the Company approximates 80% in electricity costs, while providing full-spectrum light closely simulating daylight colors. The Company's strategy also incorporates continued investment into the research of new and emerging energy sources including, but not limited to, LED and solar energy applications.

2. Summary of Significant Accounting Policies

The significant accounting policies of the Company, which are summarized below, are consistent with generally accepted accounting principles and reflect practices appropriate to the business in which the Company operates.

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Estimates include, but are not limited to, the establishment of reserves for accounts receivable, sales returns, inventory obsolescence and warranty claims; the useful lives for property, equipment, and intangible assets; revenues recognized on a percentage-of-completion basis; and stock-based compensation. In addition, estimates and assumptions associated with the determination of the fair value of financial instruments and evaluation of goodwill and long-lived assets for impairment requires considerable judgment. Actual results could differ from those estimates and such differences could be material.

Reclassifications

Certain prior year amounts have been reclassified within the Consolidated Financial Statements ("financial statements"), and related notes thereto, to be consistent with the current year presentation.

Basis of Presentation

The financial statements include the accounts of the Company and its subsidiaries, Stones River Companies, LLC ("SRC") in Nashville, Tennessee, and Crescent Lighting Limited ("CLL") located in the United Kingdom. LBM Lichtleit-Fasertechnik ("LBM") located in Berching, Germany, was sold in December of 2009 and is included in discontinued operations. All significant inter-company balances and transactions have been eliminated.

ENERGY FOCUS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2011, 2010, and 2009

Going Concern

The Company has experienced net losses of $6.1 million, $8.5 million and $11.0 million for the years ended December 31, 2011, 2010 and 2009, respectively. As of December 31, 2011, the Company had an accumulated deficit of $74.9 million. Although management continues to address many of the legacy issues that have historically burdened the Company's financial performance, the Company still faces challenges in order to reach profitability. In order for the Company to attain profitability and growth, it will need to successfully address these challenges, including the continuation of cost reductions throughout its organization, improvement in gross margins, execution of its marketing and sales plans for its turnkey energy-efficient lighting solutions business, execution of the $23.1 million U.S. Navy supply contract, the development of new technologies into sustainable product lines and continued improvements in its supply chain performance.

The Company's independent public accounting firm has issued an opinion in connection with the Company's 2011 Annual Report on Form 10-K raising substantial doubt as to the Company's ability to continue as a going concern. This opinion stems from the Company's historically poor operating performance and the Company's historical inability to generate sufficient cash flow to meet obligations and sustain operations without obtaining additional external financing. The Company remains optimistic about obtaining the funding necessary to continue as a going concern, however, there can be no assurances that this objective will be successful. As such, the Company continues to review and pursue selected external funding sources, if necessary, to execute these objectives including, but not limited to, the following:

- obtain financing from traditional and non-traditional investment capital organizations or individuals,
- potential sale or divestiture of one or more operating units, and
- obtain funding from the sale of common stock or other equity or debt instruments.

Obtaining financing through the above-mentioned mechanisms contains risks, including:

- loans or other debt instruments may have terms and/or conditions, such as interest rate, restrictive covenants, and control or revocation provisions, which are not acceptable to management or the Board of Directors,
- the current environment in capital markets combined with the Company's capital constraints may prevent the Company from being able to obtain any debt financing,
- financing may not be available for parties interested in pursuing the acquisition of one or more operating units of the Company, and
- additional equity financing may not be available to the Company in the current capital environment and could lead to further dilution of shareholder value for current shareholders of record.

Revenue Recognition

Revenue is recognized when it is realized or realizable, has been earned, and when all of the following has occurred:

- persuasive evidence or an arrangement exists (e.g., a sales order, a purchase order, or a sales agreement),
- shipment has occurred, with the standard shipping term being F.O.B. ship point, or services provided on a percentage-of-completion basis or installation have been completed,
- price to the buyer is fixed or determinable, and
- collectability is reasonably assured.

Revenues from the Company's **products-based** business are generally recognized upon shipping based upon the following:

- all sales made by the Company to its customer base are non-contingent, meaning that they are not tied to that customer's resale of products,
- standard terms of sale contain shipping terms of F.O.B. ship point, meaning that title is transferred when shipping occurs, and
- there are no automatic return provisions that allow the customer to return the product in the event that the product does not sell within a defined timeframe.

Revenues from the Company's **products-based** business that incorporate **specifically-defined installation services** have historically been recognized as follows:

- product sale at completion of installation, and
- service at completion of installation.

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Revenues and profits from the Company's lighting solutions-based business are generally recognized by applying percentage-of-completion for the period to the estimated profits for the respective contracts. Percentage-of-completion is determined by relating the actual cost of the work performed to date to the current estimated total cost of the respective contracts. When the estimate on a contract indicates a loss, the Company's policy is to record the entire loss during the accounting period in which it is estimable. In the ordinary course of business, at a minimum on a quarterly basis, the Company prepares updated estimates of the total forecasted revenue, cost and profit or loss for each contract. The cumulative effect of revisions in estimates of the total forecasted revenue and costs during the course of the work is reflected in the accounting period in which the facts that caused the revision become known. The financial impact of these revisions to any one contract is a function of both the amount of the revision and the percentage-of-completion of the contract. Revenues from the Company's lighting solutions-based business will generally be larger contracts and may range from three to eighteen months in duration.

In accordance with normal practices in the industry, the Company includes in current assets and current liabilities amounts related to contracts realizable and payable. Billings in excess of costs represents the excess of contract billings to date over the amount of contract costs and profits (or contract revenue) recognized to date on a percentage-of-completion basis. Costs in excess of billings represents the excess of contract costs and profits (or contract revenue) recognized to date on the percentage-of-completion basis over the amount of contract billings to date on the remaining contracts. See Note 9, Contracts in Progress, for additional information.

Revenues from research & development contracts are recognized primarily on the percentage-of-completion method of accounting. Deferred revenue is recorded for the excess of contract billings over the amount of contract costs and profits. Costs in excess of billings, included in prepaid and other assets, are recorded for contract costs in excess of contract billings.

The Company warrants its products against defects or workmanship issues. It sets up allowances for estimated returns, discounts, and warranties upon recognition of revenue, and these allowances are adjusted periodically to reflect actual and anticipated returns, discounts, and warranty expenses. These allowances are based on past history and historical trends, current economic conditions, and contractual terms. Distributor's obligation to the Company is not contingent upon the resale of its products and as such does not prohibit revenue recognition.

Cash Equivalents

The Company considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents. The Company has $1.9 million in cash on deposit with financial institutions in the United States as of December 31, 2011, of which $19 thousand is designated as restricted cash and relates to funds received from a grant from/for a branch of the United States government. The remaining cash of $0.2 million is on deposit with a European bank in the United Kingdom.

Inventories

The Company states inventories at the lower of standard cost (which approximates actual cost determined using the first-in-first-out method) or market. The Company establishes provisions for excess and obsolete inventories after evaluation of historical sales, current economic trends, forecasted sales, product lifecycles, and current inventory levels. Charges to cost of sales for excess and obsolete inventories amounted to $0.2 million, $0.3 million and $0.5 million in 2011, 2010, and 2009, respectively.

Accounts Receivable

The Company's customers currently are concentrated in the United States and Europe. In the normal course of business, the Company extends unsecured credit to its customers related to the sale of its lighting solutions services and sale of its products. Typical credit terms require payment within thirty days from the date of delivery or service. The Company evaluates and monitors the creditworthiness of each customer on a case-by-case basis. The Company also provides allowances for sales returns and doubtful accounts based on its continuing evaluation of its customers' ongoing requirements and credit risk. The Company writes-off accounts receivable when management deems that they have become uncollectible and payments subsequently received on such receivables are credited to the allowance for doubtful accounts. The Company does not generally require collateral from its customers.

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Retainage Receivable

The Company's solutions-based sales are normally subject to a holdback of a percentage of the sale as retainage. This holdback is recorded on the Company's Consolidated Balance Sheet as "Retainage receivable". Retainage is a portion of the total bid price of a project that is held back by the customer until the project is complete and functioning satisfactorily according to the contract terms. Retainage percentages typically range from 5% to 10% and are collected anywhere from three to eighteen months from the inception of the project. For the year ended December 31, 2011 and 2010, the Company had retainage receivable from its customers totaling $0.5 million and $0.7 million, respectively.

Income Taxes

As part of the process of preparing its financial statements, the Company estimates its income tax liability in each of the jurisdictions in which it does business. This process involves estimating the Company's actual current tax expense together with assessing temporary differences resulting from differing treatment of items, such as deferred revenues, for tax and accounting purposes. These differences result in deferred tax assets and liabilities, which are included in the Consolidated Balance Sheets. The Company then assesses the likelihood that these deferred tax assets will be recovered from future taxable income and, to the extent to which the Company believes that recovery is more likely than not, or is unknown, the Company establishes a valuation allowance.

Significant management judgment is required in determining the provision for income taxes, deferred tax assets and liabilities, and any valuation allowance recorded against such deferred tax assets. At December 31, 2011, the Company has a full valuation allowance against deferred tax assets in the United States due to uncertainties related to its ability to utilize those deferred tax assets. The valuation allowance is based on estimates of taxable income by jurisdiction and the periods over which its deferred tax assets could be recoverable.

Collateralized Assets

The Company maintains $1.0 million of cash collateral related to the Company's surety bonding program associated with SRC. This cash is pledged to the surety carrier until which time the Company is able to provide sufficient alternative means of collateralization satisfactory to the surety carrier.

Fair Value of Financial Instruments

The carrying amounts of certain financial instruments including cash and cash equivalents, accounts receivable, and accounts payable approximate fair value due to their short maturities. Based on borrowing rates currently available to the Company for loans with similar terms, the carrying value of long-term debt obligations also approximates fair value.

Long-Lived Assets

Property and equipment is stated at cost and include expenditures for additions and major improvements. Expenditures for repairs and maintenance are charged to operations as incurred. The Company uses the straight-line method of depreciation over their estimated useful lives of the related assets (generally two to fifteen years) for financial reporting purposes. Accelerated methods of depreciation are used for federal income tax purposes. When assets are sold or otherwise disposed of, the cost and accumulated depreciation are removed from the accounts and any gain or loss is reflected in the Consolidated Statement of Operations. Refer to Note 6, Property and Equipment, for additional information.

The Company classifies intangible assets into two categories: (1) intangible assets with definite lives subject to amortization, and (2) goodwill. The Company determines the useful lives of its identifiable intangible assets after considering the specific facts and circumstances related to each intangible asset. Factors the Company considers when determining useful lives include the contractual term of any agreement related to the asset, the historical performance of the asset, the Company's long-term strategy for using the asset, any laws or other local regulations which could impact the useful life of the asset, and other economic factors, including competition and specific market conditions. Intangible assets that are deemed to have definite lives are amortized, on a straight-line basis or other method which best approximates cash flows, over their useful lives, ranging from 5 to 10 years. Goodwill represents the excess of the purchase price over the fair value of identifiable net assets acquired in a business acquisition. Refer to Note 7, Goodwill and Intangible Assets, for additional information.

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Long-lived assets, other than goodwill, are reviewed for impairment whenever events or circumstances indicate the carrying amount may not be recoverable. Events or circumstances that would result in an impairment review primarily include operations reporting losses, a significant change in the use of an asset, or the planned disposal or sale of the asset. The asset would be considered impaired when the future net undiscounted cash flows generated by the asset are less than its carrying value. An impairment loss would be recognized based on the amount by which the carrying value of the asset exceeds its fair value, as determined by quoted market prices (if available) or the present value of expected future cash flows.

The Company evaluates goodwill for impairment at least annually. Evaluating goodwill for impairment involves a two-step process. The first step is to estimate the fair value of the reporting unit. There are several valuation methods for estimating a reporting unit's fair value, including market quotations and discounted projected future net earnings or net cash flows and multiples of earnings. If the carrying amount of a reporting unit, including goodwill, exceeds the estimated fair value, a second step is performed. Under the second step, the identifiable assets, including identifiable intangible assets and liabilities of the reporting unit are estimated at fair value as of the current testing date. The excess of the estimated fair value of the reporting unit over the estimated fair value of net assets establishes the implied value of goodwill. The excess of the recorded goodwill over the implied value is charged to earnings as an impairment loss. A significant amount of judgment is required in estimating fair value of the reporting unit and performing these tests.

Certain Risks and Concentrations

The Company sells its products and solutions services through a combination of direct sales employees, independent sales representatives, and various distributors in different geographic markets throughout the world. The Company performs ongoing credit evaluations of its customers and generally does not require collateral. Although the Company maintains allowances for potential credit losses that it believes to be adequate, a payment default on a significant sale could materially and adversely affect its operating results and financial condition.

At December 31, 2011, four customers accounted for 44.1% of net accounts receivable, including retainage receivable and for December 31, 2010 three customers accounted for 56.5% of net accounts receivable, including retainage. For 2011, four customers accounted for 36.0% of net sales while two customers had accounted for 36.3% of net sales in 2010. For 2009, no single customer accounted for more than 10% of net sales.

The Company requires substantial amounts of purchased materials from selected vendors. With specific materials, the Company purchases 100% of its requirement from a single vendor. Included in purchased materials are small diameter stranded fiber, plastic fixtures, lamps, reflectors, drivers and power supplies. Substantially all of the materials the Company requires are in adequate supply. However, the availability and costs of materials may be subject to change due to, among other things, new laws or regulations, suppliers' allocation to other purchasers, interruptions in production by suppliers, and changes in exchange rates and worldwide price and demand levels. The Company's inability to obtain adequate supplies of materials for its products at favorable prices could have a material adverse effect on its business, financial position, or results of operations by decreasing the Company's profit margins and by hindering its ability to deliver products to its customers on a timely basis.

Research and Development

Research and development expenses include salaries, contractor and consulting fees, supplies and materials, as well as costs related to other overhead items such as depreciation and facilities costs. Research and development costs are expensed as they are incurred.

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Earnings (Loss) Per Share

Basic loss per share is computed by dividing net loss available to common shareholders by the weighted average number of common shares outstanding for the period. Diluted loss per share is computed giving effect to all dilutive potential common shares that were outstanding during the period. Dilutive potential common shares consist of incremental shares upon exercise of stock options and warrants, unless the effect would be anti-dilutive.

A reconciliation of basic and diluted loss per share is provided as follows (in thousands, except per share amounts):

	Years ended December 31,		
	2011	2010	2009
Basic and diluted loss per share:			
Net loss	$ (6,055)	$ (8,517)	$(11,015)
Basic and diluted loss per share:			
Weighted average shares outstanding	24,669	22,791	15,763
Basic and diluted net loss per share	$ (0.25)	$ (0.37)	$ (0.70)

Options and warrants to purchase approximately 5,575,000 shares, 5,119,000 shares and 6,159,000 shares of common stock were outstanding at December 31, 2011, 2010, and 2009, respectively, but were not included in the calculation of diluted loss per share because their inclusion would have been anti-dilutive.

Stock-Based Compensation

The Company accounts for stock-based compensation following Accounting Standards Codification (“ASC”) Topic Number 718, *Compensation – Stock Compensation* (“ASC 718”). ASC 718 focuses primarily on accounting for transactions in which an entity obtains employee services in share-based payment transactions. The statement requires entities to recognize compensation expense for awards of equity instruments to employees based on grant-date fair value of those awards (with limited exceptions). ASC 718 also requires the benefits of tax deductions in excess of recognized compensation expense to be reported as a financing cash flow rather than as an operating cash flow as prescribed under the prior accounting rules. The following table summarizes the Company’s stock-based compensation (in thousands):

	Years ended December 31,		
	2011	2010	2009
Stock option expense	$ 213	$ 552	$ 624
Executive & Director stock-based compensation	107	326	—
Employee incentive stock-based compensation	106	—	—
Total stock-based compensation	$ 426	$ 878	$ 624

At December 31, 2011, the Company had unamortized stock compensation expense of $0.4 million. The remaining weighted average life is approximately 1.3 years as of December 31, 2011. These costs will be charged to expense, amortized on a straight-line method, in future periods in accordance with ASC 718 accounting. At December 31, 2011, the intrinsic value of total options outstanding was $0.

The expenses for 2011, 2010, and 2009 include both the costs of awards granted in those years and those unvested at the beginning of 2009. Both the expense and future unearned compensation have been estimated using the Black-Scholes option pricing model. Estimates utilized in the calculation include the expected life of the option, risk-free interest rate, and volatility and are further comparatively detailed below. The estimated expected life of the option is calculated based on contractual life of the option, the vesting life of the option, and historical exercise patterns of vested options. The volatility estimates are calculated using historical pricing experience.

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As of December 31, 2011, the Company has one stock-based employee compensation plan, which is described more fully in Note 12, Shareholders' Equity. The Company accounts for equity instruments issued to non-employees in accordance with the provisions of ASC 718 and related interpretations. Under these principles, the equity instruments are valued at the fair value, which is computed based on stock price on the date of grant or other measurement date, exercise price, estimated life, stock volatility, and the risk-free rate of interest.

The fair value of each option grant and stock purchase plan grant combined is estimated on the date of grant using the Black-Scholes option pricing model with the following weighted-average assumptions used for grants in 2011, 2010, and 2009:

	2011	2010	2009
Fair value of options issued	$ 0.47	$ 0.80	$ 0.46
Exercise price	$ 0.86	$ 1.16	$ 0.73
Expected life of option	6.1 years	4.0 years	4.0 years
Risk-free interest rate	2.36%	1.61%	1.88%
Expected volatility	56.35%	98.31%	88.26%
Dividend yield	0%	0%	0%

At the 2010 Annual Meeting of Shareholders ("Annual Meeting") held on June 16, 2010, the shareholders approved an increase in the total number of shares of common stock that may be awarded under the 2008 Incentive Stock Plan from 1,000,000 shares to 3,000,000 shares. Under this plan, the Company granted 1,000,000 performance-based stock options during the year ended December 31, 2010. These performance-based stock options are exercisable by the grantees if, and only if, the Company achieves required revenue and cash-flow generation targets as reported in the Company's 2010 Form 10-K. Of the 1,000,000 performance-based stock options awarded in 2010, 850,000 stock options were canceled in the first quarter of 2011 as a result of these defined targets not being achieved during the year ended December 31, 2010.

In the third quarter of 2010, the Board of Directors approved a program offering the independent Directors of the Company the option of accepting restricted shares of the Company's common stock in lieu of quarterly cash compensation. Directors who chose to participate and accept restricted shares in lieu of cash compensation would receive the equivalent of two dollars ($2.00) of Company common stock for every one dollar ($1.00) of their normal cash compensation. Directors that chose to accept this program agreed to receive restricted shares compensation for four consecutive quarters, covering the period of July 2010 until June 2011 with the aforementioned common stock vesting over an equivalent 12 month period. The price of the common stock shares was based on the closing price of the Company's common stock on September 20, 2010. On September 1, 2010, four of the five Directors agreed to participate in this program and, subsequently, 123,000 of restricted shares of common stock were issued to the participants. Director compensation expense under this program amounted to $0.1 million for year ending December 31, 2010 and $0.1 million for year ending December 31, 2011 related to these restricted shares.

In addition to the above, the Company granted 1,040,000 stock options, 115,000 shares of restricted shares, and had cancellations of 591,000 stock options for the period ending December 31, 2011.

On May 29, 2009, the Company's five senior executive officers agreed to accept voluntary salary reductions for the remainder of the 2009 calendar year in exchange for the issuance of restricted shares of common stock as authorized under the Company's 2008 Incentive Stock Plan. Two other key executives of the Company also accepted salary reductions for the balance of the year in exchange for restricted shares. Each officer and key executive voluntarily accepted a ten percent (10%) salary reduction for the remainder of 2009, except for one officer who voluntarily accepted a forty percent (40%) decrease for the remainder of 2009. The number of restricted shares of common stock issued to each officer and executive was equal to the dollar value of the individual's salary reduction divided by the closing price per share of the Company's common stock on May 29, 2009. The total number of restricted shares of common stock issued to these officers and executives was 209,000. The Company reserved the right to extend these salary reductions into the 2010 calendar year and beyond. Additionally, on May 29, 2009, two members of the Company's Board of Directors voluntarily relinquished their directors' fee for the balance of 2009 in exchange for restricted shares of common stock on the same terms as the shares granted to the officers. The number of restricted shares of common stock issued to each director was equal to the dollar value of the individual's relinquished director's fee divided by the closing price per share of the Company's common stock on May 29, 2009. The total number of restricted shares of common stock issued to these directors was 19,000. The Company recorded $0.1 million of compensation expense related to these restricted shares for the period ending December 31, 2010.

On December 31, 2009, the Company extended these salary reductions through June 30, 2010 issuing an additional 170,000 of restricted shares. The number of restricted shares of common stock issued to each officer and executive was equal to the dollar value of the individual's salary reduction divided by the closing price per share of the Company's common stock on December 30, 2009.

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On July 9, 2010, the Company's Chief Executive Officer, with the approval of the Board of Directors, decided to continue the cash salary reductions through December 31, 2011. Each officer and key executive voluntarily accepted a ten percent (10%) salary reduction for this six month period, except for one officer who voluntarily accepted a forty percent (40%) decrease for this six month period. The number of restricted shares of common stock issued to each officer and executive was equal to the dollar value of the individual's salary reduction divided by the closing price per share of the Company's common stock on July 9, 2010.

The total number of restricted shares of common stock to be issued to these officers and executives is 88,000, but these shares have not yet been issued to the affected executives. The Company recorded $0.2 million of compensation expense related to these restricted shares for the period ending December 31, 2010.

Foreign Currency Translation

The Company's international subsidiary uses its local currency as its functional currency. Assets and liabilities are translated at exchange rates in effect at the balance sheet date and income and expense accounts are translated at average exchange rates during the year. Resulting translation adjustments are recorded directly to "Accumulated other comprehensive income" within shareholders' equity. Foreign currency transaction gains and losses are included as a component of "Other (expense)/income". Gains and losses from foreign currency translation are included as a separate component of "Other comprehensive loss" within the Consolidated Statement of Comprehensive Income (Loss).

Advertising Expenses

The Company expenses the costs of advertising, which consists of costs for the placement of advertisements in various media. Advertising expenses were $0.3 million, $0.2 million, and $0.4 million for the years ended December 31, 2011, 2010, and 2009, respectively.

Product Warranties

The Company warrants finished goods against defects in material and workmanship under normal use and service for periods of one to three years for illuminators and fiber. Settlement costs consist of actual amounts expensed for warranty services which are largely a result of third-party service calls, and the costs of replacement products. A liability for the estimated future costs under product warranties is maintained for products outstanding under warranty and is included in "Accrued liabilities" in the Consolidated Balance Sheet. The warranty activity for the respective years is as follows (in thousands):

	Year ended December 31,	
	2011	2010
Balance at the beginning of the year	$ 126	$ 211
Accruals for (reductions in) warranties issued	44	(11)
Settlements made during the year (in cash or in kind)	(70)	(74)
Balance at the end of the year	$ 100	$ 126

Recent Accounting Standards and Pronouncements

In May 2011, the FASB amended fair value measurement and disclosure guidance to achieve convergence with International Financial Reporting Standards ("IFRS"). The amended guidance modifies the measurement of fair value, clarifies verbiage and changes disclosure or other requirements in U.S. GAAP and IFRS. The guidance is effective during the interim and annual periods beginning on or after December 15, 2011. The Company does not expect the guidance to have a material impact on the consolidated financial statements of the Company.

In June 2011, the FASB issued guidance related to the presentation of comprehensive income. The guidance aims to improve the comparability, consistency and transparency of financial reporting and to increase the prominence of items reported in other comprehensive income. The guidance is effective for fiscal years, and interim periods within those years, beginning after December 15, 2011. As this guidance impacts financial statement presentation requirements only, its adoption will not have a material impact on the Company's consolidated financial statements.

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In September 2011, the FASB amended guidance relating to the goodwill impairment test. The changes are intended to reduce the cost and complexity of the annual test by providing entities and option to perform a qualitative assessment to determine whether further impairment testing is necessary. The revised guidance includes examples of events and circumstances that might indicate that a reporting unit's fair value is less than its carrying amount. The changes are effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011, with early adoption permitted. The Company intends to adopt this guidance as stipulated.

3. Acquisition

On December 31, 2009, the Company acquired 100% of the members' interest of SRC, a Tennessee limited liability company, from TLC Investments, LLC ("TLC"), a Tennessee limited liability company for a combination of cash, convertible debt, a contingent based earn-out, and shares of the Company's common stock. SRC is a lighting retro fit company and an energy systems and solutions provider located in Nashville Tennessee. SRC provides the Company with the reputation and strong brand recognition within in the existing public sector buildings market based upon its 20 years of experience serving these markets.

The Company acquired approximately $4.7 million in assets, including accounts receivable, fixed assets, and other intangible assets. Of the purchase price, $0.7 million was recorded on the Company's Consolidated Balance Sheet as goodwill. Purchase price consideration was paid in the form of $1.5 million of cash, 1,000,000 shares of Energy Focus common stock, and a $0.5 million promissory note convertible into 500,000 shares of the Company's common stock. The transaction also included performance-related contingent consideration including a 2.5% payout on the annual revenues of SRC over 42 months, and a $0.5 million fee if the market price of the Company's common stock is not equal to or greater than $2.00 per share for at least twenty trading days between June 30, 2010 and June 30, 2013.

The acquisition was accounted for as a stock purchase and, accordingly, was included in the financial statements of the Company as of December 31, 2009. Due to the absence of activity between the purchase date, December 31, 2009, and the date of the Company's financial statements, there were no results of operations to be reported in 2009. In addition, comparative pro forma information was not presented as SRC was not a comparable stand-alone entity prior to the acquisition.

The purchase price was allocated based on the fair value of the assets acquired leading to the purchase price allocation as follows (in thousands):

Assets acquired:	Amortization Life (in years)	Amount
Accounts receivable		$1,258
Property and equipment		20
Goodwill	n/a	672
Intangible assets:		
Tradename	10	500
Client relationships	5	2,250
Total purchase price		$4,700

The purchase price in excess of the fair value of the tangible assets acquired has been allocated to intangible assets and goodwill. The Company engaged an independent third-party expert to assist in the allocation of the purchase price to the various specific separately identifiable intangible assets. The methods utilized by this third-party are based upon generally accepted accounting valuation conventions used in acquisition-related valuations and include peer volatility analysis, discounted cash flow analysis, annuity stream valuation and earnings based valuation techniques. These conventions were reviewed and approved by management. Of the intangible assets acquired, $0.7 million was assigned to goodwill.

4. Discontinued Operations

As part of the Company's strategy of evaluating the viability of its non-core businesses and its aggressive pursuit of capital funding, the Company determined that its German subsidiary, LBM, was not directly aligned with its objective to become a leading provider of turnkey, comprehensive energy-efficient lighting systems. Therefore, in the third quarter of 2009, the Company committed to a plan to divest itself of LBM.

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In December 2009, the Company completed the sale of its ownership rights in LBM for $0.2 million comprised of cash and a promissory note. Furthermore, the Company will receive an earn-out equal to ten percent (10 %) of post-acquisition, pre-amortization, pre-tax profit for a period of 24 months commencing January, 2010. In March 2011, the Company received an earn-out payment in the amount of $27 thousand. Excluding this earn-out, the Company recorded a loss on disposal of subsidiary of $0.7 million. As part of this transaction, the purchaser assumed all rights to both tangible and intangible assets as well as all of the liabilities of LBM.

The following table summarizes the components included in loss from discontinued operations within the Company's Consolidated Statement of Operations (amounts in thousands):

	December 31,		
	2011	2010	2009
Net sales	$—	$—	$ 1,462
Total expenses	—	—	2,663
Loss before income taxes of discontinued operations	—	—	(1,201)
Provision for income tax	—	—	—
Loss from discontinued operations	$—	$—	$(1,201)

5. Inventories

Inventories are stated at the lower of standard cost (which approximates actual cost determined using the first-in, first-out cost method) or market and consists of the following (in thousands):

	December 31,	
	2011	2010
Raw materials	$1,517	$1,579
Finished goods	912	964
Inventories, net	$2,429	$2,543

6. Property and Equipment

Property and equipment is stated at cost and is depreciated using the straight-line method over the estimated useful lives of the related assets and consists of the following (in thousands):

	December 31,	
	2011	2010
Equipment (useful life 3 -15 years)	$ 5,831	$ 6,328
Tooling (useful life 2 - 5 years)	2,440	2,507
Furniture and fixtures (useful life 5 years)	129	161
Computer software (useful life 3 years)	431	373
Leasehold improvements (the shorter of useful life or lease life)	630	909
Construction in progress	27	14
Property and equipment at cost	9,488	10,292
Less: accumulated depreciation	(7,383)	(7,846)
Property and equipment, net	$ 2,105	$ 2,446

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As a result of the Company's efforts to reduce overhead costs and in conjunction with the renegotiation efforts related to the lease at its Solon, Ohio office, which expired April 30, 2011, the decision was made to relocate the remaining Solon, Ohio operations to its facilities in Mexico and California. This decision would enable the Company to reduce the square footage of the premises leased and strategically align the products-based segment of the Company which is located in California. As a result of strategic changes, the Company performed an evaluation of its remaining property, plant and equipment at the Solon office as of December 31, 2010, as this strategic change created a "triggering event" necessitating such a review. In performing this review, the Company obtained quoted market prices for similar assets while also considering market demand for these assets. As a result of this review, the Company recorded an impairment charge of $0.2 million, which represented the difference between the fair value of the asset group and its carrying value and is included in the Consolidated Statements of Operations under the caption "Loss on Impairment."

7. Goodwill and Intangible Assets

The following table summarizes information related to net carrying value of intangible assets (in thousands):

	Amortization Life (in years)	December 31, 2011	December 31, 2010
Goodwill	n/a	$ 672	$ 672
Definite-lived intangible assets:			
Tradenames	10	400	450
Customer relationships	5	627	1,227
Total definite-lived intangible assets		1,027	1,677
Total intangible assets, net		$1,699	$2,349

Amortization expense for intangible assets subject to amortization was $0.6 million for the year ended December 31, 2011, as compared to $1.1 million for the year ended December 31, 2010. There was no amortization expense in the year ended December 31, 2009. The company amortizes Tradenames on a straight-line basis over the estimated useful lives of the intangible assets. Customer relationships are amortized over their expected useful lives on an accelerated method that approximates the cash flows associated with those relationships. Based on the carrying value of amortized intangible assets the Company estimates amortization expense for future years to be as follows (in thousands):

Year ending December 31,	Amount
2012	$ 420
2013	252
2014	105
2015	50
2016	50
2017 and thereafter	150
Total amortization expense	$1,027

As of December 31, 2011, the Company had $0.7 million of goodwill recorded on its financial statements related to the December 31, 2009 acquisition of SRC. The Company engaged an independent third-party expert to assist in the allocation of the excess purchase price to the various specific separately identifiable intangible assets, including goodwill, which is described more fully in Note 3, Acquisition.

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8. Accrued Liabilities (Current):

Accrued liabilities consisted of the following (in thousands):

	December 31, 2011	December 31, 2010
Accrued sales commissions and incentives	$ 395	$ 566
Accrued warranty expense	100	126
Accrued professional fees	161	92
Accrued employee benefits	296	331
Accrued interest	13	53
Accrued rent	—	230
Accrued taxes	202	185
Accrued performance-related contingent consideration	351	525
Accrued subcontractor services	286	102
Accrued other expenses	191	148
Total accrued expenses	$1,995	$2,358

9. Contracts in Progress

Costs and estimated earnings on contracts in progress for the year ending December 31, 2011 and 2010 are summarized in the table below (in thousands):

	December 31, 2011	December 31, 2010
Costs incurred on uncompleted contracts	$3,193	$ 9,912
Estimated earnings	855	3,138
Total revenues	4,048	13,050
Less: billings to date	4,031	13,325
Total	$ 17	$ (275)
Balance sheet classification:		
Costs in excess of billings on uncompleted contracts	$ 171	$ 22
Billings in excess of costs on uncompleted contracts	(154)	(297)
Total	$ 17	$ (275)

10. Debt

Credit Facilities

On December 22, 2011, the Company entered into a $4.5 million revolving line of credit with Rosenthal & Rosenthal. The total loan amount available to the Company under the line of credit is equal to 85% of its net amount of eligible receivables, plus available inventory (the lesser of 50% of the lower of cost or market value of eligible inventory, or $0.3 million). The credit facility is secured by a lien on the domestic assets of the Company. The interest rate for borrowing on accounts receivable is 8.5%, on inventories 10.0% and on overdrafts 13.0%. Additionally, there is an annual 1% facility fee on the entire amount of the credit facility, $4.5 million, payable at the beginning of the year. The Credit Facility is a three year agreement, expiring on December 31, 2014, unless terminated sooner. There are liquidated damages if the Credit Facility is terminated prior to December 31, 2014, which are based on the maximum credit facility amount then in effect. The damages are: 3% if terminated prior to the first anniversary of the closing date, 2% if terminated prior to the second anniversary of the closing date, and 1% if terminated prior to the third anniversary of the closing date. The Company is required to comply with certain financial covenants, measured quarterly, including, as defined in the agreement: a tangible net worth amount and a working capital amount. The Company was in compliance with the financial covenants at December 31, 2011.

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On October 15, 2008, the Company entered into a one year credit agreement with Silicon Valley Bank ("SVB") incorporating a $4.0 million revolving line of credit facility. Borrowings under this agreement were collateralized by the Company's assets, including intellectual property, and bore interest at the SVB Prime Rate plus 1%. The Company was required to maintain 85% of its cash and cash equivalents in operating and investment accounts with SVB and was required to comply with certain covenant requirements, including a tangible net worth covenant. At December 31, 2008, the Company was not in compliance with the tangible net worth covenant requirement and such condition continued throughout 2009. As such, the Company entered into a series of loan modification and forbearance agreements with effective dates ranging from January 31, 2009 through November 17, 2009. In conjunction with these forbearance agreements, the terms of the credit facility were revised culminating in a reduction to its revolving line of credit to $1.3 million with a maturity date of October 15, 2009 and a change in the rates of interest charged throughout 2009 in the range of SVB Prime Rate plus 1.5% to 3.0%. During the third quarter of 2009, SVB informed the Company that it did not intend to renew the Company's revolving line of credit when it was set to expire on October 15, 2009. Ultimately, the Company was able to extend the maturity date of this credit facility to December 31, 2009 at which time it liquidated the outstanding balance of $0.3 million on the line of credit.

Borrowings

On August 11, 2011, the Company entered into a Letter of Credit Agreement ("LOC") with Mark Plush, Chief Financial Officer of the Company, in the amount of $0.3 million. The LOC has a term of 24 months and bears interest at a rate of 12.5% on the face amount. The LOC is collateralized by a cash deposit with an insurance company issuing the Company's contract performance bonds and by 32% of the unpledged stock of Crescent Lighting, Ltd., a subsidiary of the Company. As an incentive to enter into the LOC's, the Company issued five-year, detached warrants to purchase 125,000 shares of common stock at an exercise price of $0.01 per share. The LOC plan was approved by the Company's shareholders at the Annual Meeting on June 16, 2010.

On August 1, 2011, the Company entered into a cognovit promissory note with Keystone Ruby, LLC, the Landlord of its Solon facility, in the amount of $0.3 million for past due rent. The balance is to be paid over 72 equal installments ending on April, 2017. However, the terms of the note call for an immediate payment of the remaining principal balance if the Company does not renew its lease by December 31, 2013. The interest rate on the loan is 10.0% per annum.

On March 30, 2010, the Company entered into an agreement with EF Energy Partners LLC ("EF Energy"), an Ohio limited liability company, under which it sold to EF Energy a Secured Subordinated Promissory Note ("Subordinated Note") for the principal amount of $1.2 million. The Company secured the full amount of this financing with a pledge of its United States gross accounts receivable and selected capital equipment. This Subordinated Note bears interest at a rate of 12.5%, which is payable quarterly, in arrears, commencing September 30, 2010. The entire outstanding principal balance of this Subordinated Note, together with all accrued interest thereon, is due and payable on March 30, 2013. Additionally, the Company issued to the eight investors in EF Energy five-year, detached penny warrants ($.01 per share) to purchase shares of its common stock at a rate of 0.2 warrants per dollar of financing, or 230,000 warrants, with an expiration date of March 30, 2015. On December 22, 2011, this agreement was amended by an Inter-creditor Agreement among EF Energy Partners, Rosenthal & Rosenthal and the Company. Per the terms of the Inter-creditor Agreement, the Company paid $0.9 million of the principal to EF Energy Partners, leaving a principal balance of approximately $0.3 million. Additionally, EF Energy Partners relinquished their security in the Company's United States gross accounts receivable and selected capital equipment. The remaining balance of the loan is now secured by a secondary position in certain assets of the Company's Stones River Companies, LLC subsidiary. The Company and EF Energy Partners are not related.

In conjunction with the acquisition of SRC on December 31, 2009, the Company entered into an agreement with TLC Investments, LLC ("TLC"), whereby a convertible promissory note ("Convertible Note") was issued for the principal amount of $0.5 million. This Convertible Note bears interest at the Wall Street Journal Prime Rate plus two percent (2%), which along with the principal, is due and payable on June 30, 2013 ("maturity date"). Additionally, TLC has the right to convert the principal of the Convertible Note, in whole, into 500,000 shares of the Company's common stock at any time during the period commencing on June 30, 2010 and through the maturity date. Additionally, as a provision to the Convertible Note, if the reported closing price of a share of common stock of the Company shall not be equal to or greater than $2.00 for at least twenty (20) trading days between June 30, 2010 and June 30, 2013, the Company shall pay TLC an additional fee of $0.5 million on the maturity date. The Convertible Note is secured by a first-lien-position security interest in the assets of SRC.

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On December 29, 2009, and in conjunction with the acquisition of SRC, the Company entered into Letter of Credit Agreements ("LOC's") with John Davenport, President of our Company, and with The Quercus Trust ("Quercus"), for $0.3 million and $0.3 million, respectively. These LOC's have terms of 24 months and bear interest at a rate of 12.5% on the face amount. The LOC's are collateralized by a percentage of the capital stock of Crescent Lighting Ltd. ("CLL") which in turn is based on CLL's net worth as of November 30, 2009, and is subordinated to the senior indebtedness of the Company and CLL. As an incentive to enter into the LOC's, the Company issued five-year, detached warrants to purchase 125,000 and 150,000, respectively, of common stock at an exercise price of $0.01 per share. The Company's shareholders approved the warrants at the Annual Meeting on June 16, 2010. On December 21, 2011, the LOC with John Davenport was amended to extend the due date of the LOC from December 31, 2011 to a month by month basis as long as interest continued to be earned at 12.5%. The LOC was subsequently paid on March 5, 2012. As of December 31, 2011, the Company was in default with the LOC with Quercus. On March 2, 2012, the LOC due to Quercus was paid in full.

On May 27, 2009, the Company entered into an unsecured Promissory Note ("Note") with Quercus in the amount of $70 thousand. Under the terms of this Note, the Company is obligated to pay Quercus the principal sum of the Note and interest accruing at a yearly rate of 1.00% in one lump sum payment on or before June 1, 2109. The Company received these funds on June 9, 2009.

Through The Company's United Kingdom subsidiary, it maintains a British pounds sterling-denominated bank overdraft facility with Lloyds Bank Plc, in the amount of £100,000, which was approximately $0.2 million based on the exchange rate at December 31, 2011. There were no borrowings against this facility as of December 31, 2011 or December 31, 2010. This facility is renewed annually in May. The interest rate for this facility in 2011 was 3.60%, based on a variable interest rate equal to the Bank of England's Bank Rate, which was 0.50% at December 31, 2011, plus 3.10%. The interest rate on the facility at December 31, 2010 was 2.75%.

Future maturities of remaining borrowings are (in thousands):

Year ending December 31,	Long-Term Borrowings
2012	$ 886
2013	804
2014	59
2015	65
2016	72
2017 and thereafter	96
Gross long-term borrowings	1,982
Less: discounts on long-term borrowings	(172)
Total commitment, net	$ 1,810

11. Commitments and Contingencies

The Company leases certain equipment, manufacturing, warehouse and office space under non-cancelable operating leases expiring through 2017 under which it is responsible for related maintenance, taxes, and insurance. Future minimum non-cancelable lease commitments are as follows (in thousands):

Year ending December 31,	Minimum Lease Commitments
2012	$ 583
2013	506
2014	190
2015	81
2016 - 2017	67
Total commitment	$ 1,427

Certain leases included above contain escalation clauses and, as such, rent expense was recorded on a straight-line basis over the term of the lease. Net rent expense from continuing operations were $0.8 million for each of the years ended December 31, 2011, 2010, and 2009, respectively.

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In connection with the acquisition of SRC in December 2010, the Company recorded a performance-related contingent obligation related to a 2.5% payout payable over 42 months commencing January 1, 2010 and based upon the fair value of projected annual billings of the acquired business, and a $0.5 million fee if the market price of the Company's common stock is not equal to or greater than $2.00 per share for at least twenty trading days between June 30, 2010 and June 30, 2013. The Company accrued for each of these contingent liabilities at their respective fair values at the time of the acquisition. For the years ending December 31, 2011 and 2010, the Company paid $0.3 and $0.5 million, respectively, relating to the 2.5% payout.

In the fourth quarter of 2011, the Company reassessed the carrying value of the contingent liability related to the 2.5% payout and, based upon revised projected future billings, subsequently recorded a reduction to the contingent liability of $0.4 million which has been recorded in the Company's Consolidated Statements of Operations under the caption "Change in estimate of contingent liabilities."

12. Shareholders' Equity

Warrants

On August 11, 2011, the Company entered into a Letter of Credit Agreement ("LOC") with Mark Plush for $0.3 million. As an incentive to enter into the LOC, the Company issued five-year, detached warrants to purchase 125,000 shares of the Company's common stock at an exercise price of $0.01 per share. The warrants have an expiration date of August 11, 2016. The LOC plan was approved by the Company's shareholders at the Annual Meeting on June 16, 2010.

On March 30, 2010, the Company entered into an agreement with EF Energy under which it sold to EF Energy a Secured Subordinated Promissory Note ("Note") for the principal amount of $1.2 million. As an incentive to enter into the Note, the company issued five-year, detached warrants to purchase 230,000 shares of the Company's common stock at an exercise price of $0.01 per shares. The warrants have an expiration date of March 30, 2015.

On March 17, 2010, the Company entered into a purchase agreement with Lincoln Park Capital Fund, LLC ("LPC"), an Illinois limited liability company, whereby LPC agreed to purchase 350,000 shares of the Company's common stock together with a warrant to purchase an equivalent amount of shares, subject to a registration statement being filed and declared effective with the SEC, for total consideration of $0.4 million. The warrant has a five-year term, an exercise price of $1.20, and may not be exercised until 6 months after issuance. The warrant has an expiration date of March 17, 2015. There were no penalties or liquidated damages associated with the company's registration obligations. LPC also agreed to purchase up to an additional 3,650,000 shares of common stock, at the Company's option, over a 25 month period. The purchase price of these shares will be based on the market prices of the Company's common stock at the time of the sale without any fixed discount. The company may suspend purchases by LPC at any time, and may also, in its sole discretion, accelerate or reduce purchases under certain conditions. LPC cannot purchase shares of the Company's common stock on any business day that the price of the common stock is below $1.00. The common stock purchase agreement may be terminated by the Company, at any time, at its discretion without any cost to it. The proceeds to be received by the Company under the agreement will be used for working capital and general corporate purposes. LPC has agreed not to engage in any shorting or hedging in any manner whatsoever. On July 14, 2010, the Company received a Notice of Effectiveness from the SEC relating to the Registration Statement.

On December 31, 2009, the Company entered into LOC's with John Davenport and with Quercus for $0.3 million and $0.3 million, respectively. As an incentive to enter into the LOC's, the Company issued five-year, detached warrants to purchase 125,000 and 150,000 shares, respectively, of the Company's common stock at an exercise price of $0.01 per share. The warrants have an expiration date of December 31, 2014. The LOC plan was approved by the Company's shareholders at the Annual Meeting on June 16, 2010.

On December 31, 2009, the Company entered into a strategic alliance with Woodstone Energy LLC ("Woodstone"), a commercial and industrial energy services company serving Fortune 100 companies throughout the United States. This strategic alliance creates a path for contracts totaling not less than $15.0 million to be issued by Woodstone to SRC. In return for this Woodstone commitment, the Company issued 600,000 warrants. 400,000 warrants are exercisable by Woodstone upon the written commitment of $10.0 million in specific secured contracts with the remaining 200,000 warrants being exercisable by Woodstone upon the written commitment of an additional $5.0 million in specific secured contracts. These warrants will expire on December 31, 2014.

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The Company issued 3,566,440 warrants on March 14, 2008 at $3.08 per share as part of a private placement equity financing. As of December 31, 2011 2,006,378 warrants remain outstanding. The warrants are fully exercisable and will expire on March 14, 2013.

There have been no warrants issued to employees, directors, or consultants for compensation purposes. All warrants, except as noted otherwise, are fully vested and exercisable.

The activity relating to previously issued warrants is as follows:

	Warrants Outstanding Commitments	Warrants Outstanding Exercise Price	Warrants Exerciseable	Fair Value of Warrants
Balance, December 31, 2008	3,837,639	$3.08 - 4.50	3,837,639	$ 12,205
Warrants issued	600,000	0.65	—	—
Balance, December 31, 2009	4,437,639	$0.01 - 4.50	3,837,639	$ 12,205
Warrants issued	855,000	0.01 - 1.20	855,000	474,700
Warrants exercised	(1,730,062)	0.01	(1,730,062)	(1,626,258)
Warrants cancelled	(271,199)	4.50	(271,199)	—
Balance, December 31, 2010	3,291,378	$0.01 - 3.08	2,691,378	$ 494,900
Warrants issued	125,000	0.01	125,000	23,750
Warrants exercised	(160,000)	0.01	(160,000)	(30,400)
Balance, December 31, 2011	3,256,378	$0.01 - 3.08	2,656,378	$ 57,000

In the Company's subscription rights offering that expired on October 30, 2009, an investor inadvertently purchased 1,000,000 shares of its common stock at $0.75 per share. The Company agreed to facilitate the sale of these shares to another shareholder or investor or to purchase them directly. After contacting selected shareholders and investors, the Company introduced the investor to Quercus, the Company's largest shareholder. David Gelbaum, a member of the Company's Board of Directors at the time of the transaction, and his spouse are co-trustees of Quercus. The Company was informed on December 30, 2009, by the investor and Quercus that Quercus had agreed to purchase those shares at $0.80 per share. At that time, the closing market price of a share of the Company's common stock was approximately $0.65 per share.

On March 14, 2008, in a private placement to nineteen investors of 3,184,321 shares of common stock and an equal number of five-year warrants to purchase common stock, Quercus had acquired 1,560,062 warrants. To facilitate the purchase of the 1,000,000 shares discussed above, on December 30, 2009 the Company's Board of Directors agreed with Quercus to reduce the exercise price of the warrants issued to Quercus to $0.01 per share upon the execution of the purchase of all 1,000,000 shares, which was completed on February 20, 2010. The Company's shareholders subsequently approved the reduction in the exercise price of the above mentioned warrants at its Annual Meeting on June 16, 2010.

2004 Stock Incentive Plan

On May 19, 2004, the shareholders approved the 2004 Stock Incentive Plan (the "2004 Plan"). The stated purpose of the 2004 Plan is to promote the long-term success of the Company and the creation of stockholder value by (a) encouraging employees, outside directors, and consultants to focus on critical long-range objectives; (b) encouraging the attraction and retention of employees, outside directors, and consultants with exceptional qualifications; and (c) linking employees, outside directors, and consultants directly to stockholder interests through increased stock ownership. The 2004 Plan seeks to achieve this purpose by providing for awards in the form of restricted shares, stock units, options (which may constitute incentive stock options or non-statutory stock options), or stock appreciation rights. An aggregate of 500,000 shares of the Company's common stock was reserved for issuance under the 2004 Plan on May 19, 2004. On June 15, 2006, the shareholders reserved an additional 500,000 shares of the Company's common stock for issuance under the 2004 Plan.

2008 Stock Incentive Plan

On September 30, 2008, the Company's shareholders approved its 2008 Incentive Stock Plan. Under the Plan, the maximum aggregate number of stock options awarded shall not exceed 1,000,000 shares, plus any shares remaining available for grant under existing plans. Under existing plans, only a limited number of shares remain available for grant. At the 2010 Annual Meeting of Shareholders held on June 16, 2010, the shareholders approved an increase in the total number of shares of common stock that may be awarded under the 2008 Incentive Stock Plan from 1,000,000 shares to 3,000,000 shares.

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Options outstanding under all plans have a contractual life between five and ten years, and vesting periods between one and four years. Option activity under all plans comprised (except per share data):

	Options Available for Grant	Number of Options Outstanding	Weighted Average Exercise Price Per Share
Balance, December 31, 2008	828,498	1,491,187	$ 5.29
Granted	(1,195,630)	1,195,630	0.70
Cancelled	519,438	(519,438)	3.35
Exercised	—	(397,630)	0.66
Balance, December 31, 2009	152,306	1,769,749	$ 3.63
Granted	(1,115,000)	1,115,000	1.08
Cancelled	993,583	(993,583)	1.68
Exercised	—	(13,750)	0.60
Restricted Shares Granted	(601,564)	—	—
Additional shares reserved	2,000,000	—	—
Balance, December 31, 2010	1,429,325	1,877,416	$ 3.36
Granted	(1,040,000)	1,040,000	0.84
Cancelled	591,418	(591,418)	2.99
Exercised	—	(7,500)	0.60
Restricted Shares Granted	(114,543)	—	—
Balance, December 31, 2011	866,200	2,318,498	$ 2.28

At December 31, 2011, options to purchase 1,137,920 shares of common stock were exercisable at a weighted-average fair value of $2.10 with an intrinsic value of $0. At December 31, 2011, options to purchase 2,318,498 shares were outstanding, with a weighted-average fair value of $1.34 with an intrinsic value of $0.

At December 31, 2010, options to purchase 1,124,433 shares of common stock were exercisable at a weighted-average fair value of $2.28 with an intrinsic value of $47 thousand. At December 31, 2010, options to purchase 1,827,416 shares were outstanding, with a weighted-average fair value of $1.90 with an intrinsic value of $0.1 million.

At December 31, 2009, options to purchase 921,645 shares of common stock were exercisable at a weighted-average fair value of $2.81 with an intrinsic value of $2 thousand. At December 31, 2009, options to purchase 1,719,749 shares were outstanding, with a weighted-average fair value of $2.00 with an intrinsic value of $4 thousand.

OPTIONS OUTSTANDING				OPTIONS CURRENTLY EXERCISABLE		
Range of Exercise Prices	Number of Shares Outstanding	Weighted Average Remaining Contactual Life (in years)	Weighted Average Exercise Price	Number Exercisable	Weighted Average Remaining Contactual Life (in years)	Weighted Average Exercise Price
$0.50 - $4.80	1,935,498	7.8	$ 1.27	735,441	6.0	$ 1.81
$4.91 - $7.19	262,000	5.1	$ 6.45	261,479	5.1	$ 6.45
$7.23 - $9.60	89,000	3.4	$ 8.81	109,000	3.1	$ 8.52
$10.64 - $12.00	32,000	3.5	$ 10.86	32,000	3.5	$ 10.86
	2,318,498			1,137,920		

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1994 Employee Stock Purchase Plan

A total of 400,000 shares of common stock had been reserved for issuance under the 1994 Employee Stock Purchase Plan. The plan permits eligible employees to purchase common stock through payroll deductions at a price equal to the lower of 85% of the fair market value of the Company's common stock at the beginning or end of the offering period. Employees may end their participation at any time during the offering period, and participation ends automatically on termination of employment with the Company. On June 15, 2006 and June 15, 2011, the shareholders reserved an additional 50,000 shares and 250,000 shares, respectively, of the Company's common stock for issuance under the 1994 Employee Stock Purchase Plan. At December 31, 2011, 2010, and 2009, 291,000 shares, 134,000 shares, and 114,000 shares had been issued under this plan since inception, respectively.

Shareholder Rights Plan

On September 12, 2001, the Board of Directors declared a dividend distribution of one "Right" for each outstanding share of common stock of the Company to shareholders of record at the close of business on September 26, 2002. One Right also will attach to each share of common stock issued by the Company subsequent to such date and prior to the distribution date defined below. With certain exceptions, each Right, when exercisable, entitles the registered holder to purchase from the Company one one-thousandth of a share of a new series of preferred stock, designated as Series A Participating Preferred Stock, at a price of $30.00 per one one-thousandth of a share, subject to adjustment. The Rights were distributed as a non-taxable dividend and expire ten years from the date of the Rights Plan. In general, the Rights will become exercisable and trade independently from the common stock on a distribution date that will occur on the earlier of (i) the public announcement of the acquisition by a person or group of 15% or more of the common stock or (ii) 10 days after commencement of a tender or exchange offer for the common stock that would result in the acquisition of 15% or more of the common stock. Upon the occurrence of certain other events related to changes in ownership of the common stock, each holder of a Right would be entitled to purchase shares of common stock, or an acquiring corporation's common stock, having a market value of twice the exercise price. Under certain conditions, the Rights may be redeemed at $0.001 per Right by the Board of Directors.

The description and terms of the Rights are set forth in a Rights Agreement dated as of September 20, 2002, between the Company and Mellon Investor Services LLC, as rights agent as amended.

13. Income Taxes

The Company adopted the provisions of ASC Topic 740, *Accounting for Uncertainty in Income Taxes* on January 1, 2007. ASC Topic 740 prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. Guidance also is provided on derecognition, classification, interest and penalties, accounting in interim periods, and disclosure and transition. Based on the Company's evaluation, there are no significant uncertain tax positions requiring recognition in the Company's financial statements. There was no effect on financial condition or results of operations as a result of implementing ASC Topic 740 to all tax positions for which the statute of limitation remained open, and the Company did not have any unrecognized tax benefits. At December 31, 2011, there have been no changes to the liability for uncertain tax positions, and there are no unrecognized tax benefits.

The Company files income tax returns in the United States federal jurisdiction, as well as in various states and foreign jurisdictions. With few exceptions, the Company is no longer subject to United States federal, state, and local, or non-United States income tax examinations by tax authorities for years before 2008.

The Company's policy is to reflect interest expense related to uncertain income tax positions as part of income tax expense, when and if they become applicable.

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The components of the benefit from (provision for) income taxes are as follows (in thousands):

	Years ended December 31,		
	2011	2010	2009
Current			
Federal	$ —	$ —	$ —
Foreign	12	—	—
State	2	(10)	(3)
	14	(10)	(3)
Deferred			
Federal	—	—	—
Foreign	(12)	4	(4)
State	—	—	—
	(12)	4	(4)
Benefit from (provision for) income taxes	$ 2	$ (6)	$ (7)

The following table shows the geographic components of pretax income (loss) from continuing operations between United States and foreign subsidiaries (in thousands):

	December 31,		
	2011	2010	2009
United States	$(5,752)	$(8,410)	$(9,902)
Foreign subsidiaries	(305)	(101)	95
Pretax loss from continuing operations	$(6,057)	$(8,511)	$(9,807)

The principal items accounting for the difference between income taxes computed at the United States statutory rate and the benefit from (provision for) income taxes reflected in the statements of operations are as follows:

	Years ended December 31,		
	2011	2010	2009
United States statutory rate	34.0%	34.0%	34.0%
State taxes (net of federal tax benefit)	2.7%	(0.1%)	— %
Valuation allowance	(34.4%)	(33.7%)	(35.7%)
Other	(2.3%)	(0.3%)	1.6%
	0.0%	(0.1%)	(0.1%)

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The tax effects of temporary differences that give rise to significant portions of the deferred tax assets are as follows (in thousands):

	December 31,		
	2011	2010	2009
Allowance for doubtful accounts	$ 60	$ 87	$ 75
Accrued expenses and other reserves	2,264	2,146	1,936
Tax credits, deferred R&D, and other	656	899	633
Net operating loss	24,931	22,088	19,576
Valuation allowance	(27,909)	(25,206)	(22,209)
Total deferred tax asset	2	14	11
Deferred tax liabilities associated with indefinite-lived intangibles	—	—	—
Net total deferred taxes	$ 2	$ 14	$ 11

Since the Company believes that it is more likely than not that the benefit from net operating loss carry-forwards will not be realized, the Company has provided a full valuation allowance against its United States deferred tax assets. The net deferred tax assets for 2011 amounted to $2 thousand and were for the Company's United Kingdom subsidiary, which has been profitable in prior years. The Company had no net deferred tax liabilities at December 31, 2011 and at December 31, 2010. There were no Federal tax expenses for the United States operations in 2011, as any expected benefits were offset by an increase in the valuation allowance.

As of December 31, 2011, the Company has a net operating loss carry-forward of approximately $66.9 million for federal, state and local income tax purposes. If not utilized, these carry-forwards will begin to expire in 2021 for federal and have begun to expire for state and local purposes.

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14. Segments and Geographic Information

The Company has two reportable segments: product-based sales featuring pool lighting and general commercial lighting, each of which markets and sells lighting systems, and solutions-based sales providing turnkey, high-quality, energy-efficient lighting application alternatives. The Company's products are sold through a combination of direct sales employees, independent sales representatives, and various distributors in different geographic markets throughout the world. The Company's solutions-based sales are designed to enhance total value by positively impacting customers' profitability, the environment, and the communities it serves. These solutions are sold through the Company's direct sales employees as well as our SRC subsidiary, and include not only its proprietary energy-efficient lighting solutions, but also sourced lighting systems, energy audits, and service agreements.

The following summarizes the Company's reportable segment data for periods indicated (in thousands):

	Years ended December 31,		
	2011	2010	2009
Solutions:			
Net sales	$ 9,563	$19,763	$ —
Cost of sales	8,041	16,332	—
Gross profit	1,522	3,431	—
Operating expenses:			
Sales and marketing	1,332	1,407	—
General and administrative	939	1,377	—
Total operating expenses	2,271	2,784	—
Segment (loss) income	$ (749)	$ 647	$ —
Products:			
Net sales	$16,189	$15,366	$ 12,489
Cost of sales	12,540	12,394	10,449
Gross profit	3,649	2,972	2,040
Operating expenses:			
Research and development	(515)	(202)	319
Sales and marketing	4,629	4,796	5,843
General and administrative	318	293	546
Loss on impairment	—	156	—
Restructuring	—	26	125
Total operating expenses	4,432	5,069	6,833
Segment loss	$ (783)	$ (2,097)	$ (4,793)
Reconciliation of segment income (loss) to net loss:			
Segment (loss) income:			
Solutions	$ (749)	$ 647	$ —
Products	(783)	(2,097)	(4,793)
Total segment loss	(1,532)	(1,450)	(4,793)
Operating expenses:			
Sales and marketing	239	212	201
General and administrative	3,805	4,445	4,787
Valuation of equity instruments	56	1,812	—
Change in estimate of contingent liabilities	(411)	—	—
Total operating expenses	3,689	6,469	4,988
Other expense	(836)	(592)	(26)
Net loss from continuing operations before income taxes	(6,057)	(8,511)	(9,807)
Benefit from (Provision for) income taxes	2	(6)	(7)
Net loss from continuing operations	(6,055)	(8,517)	(9,814)
Loss from discontinued operations	—	—	(1,201)
Net loss	$ (6,055)	$ (8,517)	$(11,015)

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The following table provides additional business unit gross profitability detail for the Company's Products-based business segment for the periods indicated (in thousands):

	Years ended December 31,		
	2011	2010	2009
Products segment net sales:			
Pool and commercial products	$11,911	$12,265	$11,561
Government products/R&D services	4,278	3,101	928
Total products segment net sales	16,189	15,366	12,489
Products segment cost of sales:			
Pool and commercial products	8,560	7,988	7,248
Government products/R&D services	3,980	3,104	838
Unallocated manufacturing overhead [1]	—	1,302	2,363
Total products segment cost of sales	12,540	12,394	10,449
Products segment gross profit:			
Pool and commercial products	3,351	4,277	4,313
Government products/R&D services	298	(3)	90
Unallocated manufacturing overhead [1]	—	(1,302)	(2,363)
Total products segment gross profit	$ 3,649	$ 2,972	$ 2,040

1) Unallocated manufacturing overhead is defined as follows:

a. costs associated with the operation and shut down of the Solon manufacturing facility which has been relocated to the Mexico facility; and

b. specific expenses which are not attributable to a specific business unit but rather are calculated on the total products business segment. Expenses include Solon manufacturing facility rent, Solon manufacturing depreciation, inventory reserves and accruals and Solon manufacturing support payroll and severance.

A geographic summary of net sales from continuing operations is as follows (in thousands):

	Years ended December 31,		
	2011	2010	2009
United States Domestic	$21,730	$31,314	$ 7,930
International	4,022	3,815	4,559
Net sales	$25,752	$35,129	$12,489

A geographic summary of long-lived assets, which consists of property and equipment, goodwill, and intangible assets, is as follows (in thousands):

	December 31,	
	2011	2010
United States	$3,747	$4,676
International	57	119
Long-lived assets, net	$3,804	$4,795

15. Restructuring

The Company recognized restructuring expenses of $26 thousand and $0.1 million for 2010 and 2009, respectively. In 2010, the restructuring expense was associated with relocating the Company's distribution facility from Solon, Ohio to its new distribution facility in Pleasanton, California. In 2009, the restructuring expense was associated with relocating the Company's manufacturing equipment and operations from Solon, Ohio to its contract manufacturing facility near Tijuana, Mexico.

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16. Related Party Transactions

On May 27, 2009, the Company entered into a Promissory Note with Quercus in the amount of $70 thousand. David Gelbaum, a trustee of Quercus, was a member of the Company's Board of Directors at the time of the transaction. Please refer to Note 10, Debt, for a discussion of the terms of the Promissory Note.

In November, 2009, the Company received an additional $3.3 million in equity financing, net of expenses, by selling 4,813,000 shares of common stock in a registered offering. The investment was made by numerous current Energy Focus shareholders, including two then current members of the Company's Board of Directors. The investment was made under the Company's registration statement for a $3.5 million common stock subscription rights offering. Under the terms of the rights offering, the Company distributed, at no charge to its shareholders, transferable rights to purchase up to $3.5 million of the Company's common stock at the established subscription price per share of $0.75, which was set by the Company's Board of Directors. At the time the offering began, the Company distributed to each shareholder one transferable right for each share of common stock owned by the shareholder. Each right entitled the holder to purchase one share of the Company's common stock, par value $0.0001 per share, subject to a maximum of 4,600,000 shares to be issued in the offering. Shareholders were entitled to subscribe for shares not subscribed for by other shareholders. Among the investors were Philip E. Wolfson and Quercus, whose trustees include David Gelbaum, who were both members of the Company's Board of Directors at the time of the offering.

In the Company's subscription rights offering discussed above, an investor inadvertently purchased 1,000,000 shares of our common stock at $0.75 per share. The Company agreed to facilitate the sale of these shares to another shareholder or investor or to purchase them directly. A purchase of those shares by the Company would have severely depleted its cash-on-hand and working capital. After contacting selected shareholders and investors, the Company introduced the investor to Quercus, the Company's largest shareholder. The Company was informed on December 30, 2009, by the investor and Quercus that Quercus had agreed to purchase those shares at $0.80 per share. At that time, the closing market price of a share of the Company's common stock was approximately $0.65 per share. To facilitate the purchase of the 1,000,000 shares by Quercus, on December 30, 2009, the Company's Board of Directors agreed with Quercus to reduce the exercise price of 1,560,062 warrants issued to Quercus, in the March 2008 private placement, to $0.01 per share upon the completion of the purchase of all 1,000,000 shares in 2010. The purchase of the 1,000,000 shares by Quercus was completed on February 20, 2010. The Company incurred a non-cash charge of $1.4 million for the quarter ended March 31, 2010 related to the valuation of the warrants to purchase shares of the Company's common stock acquired by Quercus in the Company's March 2008 equity financing. On April 28, 2010, Quercus exercised the 2008 warrants. The Company's shareholders approved the reduction in exercise price of the above mentioned warrants at its Annual Meeting on June 16, 2010.

On December 29, 2009, and in conjunction with the acquisition of SRC, the Company entered into Letter of Credit Agreements ("LOC's") with John Davenport, President of the Company, and with Quercus, for $0.3 million and $0.3 million, respectively. Additionally, on August 11, 2011, the Company entered into a Letter of Credit agreement with Mark Plush, Chief Financial Officer of the Company, for $0.3 million. Please refer to Note 10, Debt, for discussion of the terms of these LOC's.

The former Vice President of SRC, who resigned on December 31, 2011, is a minority owner in TLC Investments, LLC ("TLC"), a Tennessee limited liability company, as well as in Woodstone Energy, LLC ("Woodstone"), a Tennessee limited liability company, both of which are located in Nashville, Tennessee.

SRC renders lighting design and lighting solution services to these related parties within the scope of their ordinary business activities. Conversely, these related parties, operating as electrical subcontractors, provide installation support services to SRC as part of their normal business. For 2011 and 2010, related party revenue totaled $1.6 million and $7.0 million, respectively. The related party receivable, including retainage, at December 31, 2011 was $0.4 million and $1.2 million at December 31, 2010. Subcontractor installation support services provided by these related parties totaled $6.2 million in 2011 and $14.6 million in 2010. The related party payable at December 31, 2011 was $1.2 million and at December 31, 2010, the related party payable was $4.5 million.

With the acquisition of SRC, the Company entered into an agreement with the seller, TLC, whereby, SRC would be guaranteed a profit percentage of 25% on certain projects which were begun prior to the acquisition or were out for bid at the time the acquisition occurred on December 31, 2009. During 2010, a significant portion of projects were subject to this guarantee. At December 31, 2011, many of the previously described projects have been completed or are nearing completion.

In conjunction with the acquisition of SRC on December 31, 2009, the Company entered into an agreement with TLC whereby a Convertible Promissory Note ("Convertible Note") was issued for the principal amount of $0.5 million. This Convertible Note bears interest at a rate of the Wall Street Journal Prime Rate plus two percent (2%), which along with the principal, is due and payable on June 30, 2013. Additionally, TLC has the right to convert the principal of the Convertible Note, in whole, into 500,000 shares of the Company's common stock at any time during the period commencing on June 30, 2010 and ending on the maturity date.

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Additionally, as a provision to the Convertible Note, if the reported closing price of a share of the Company's common stock shall not be equal to or greater than $2.00 for at least twenty (20) trading days between June 30, 2010 and June 30, 2013, the Company shall pay TLC an additional fee of $0.5 million on the maturity date.

On December 31, 2009, the Company issued to Woodstone, warrants to purchase up to 600,000 shares of the Company's common stock at an exercise price of $0.65 per share, and with a term ending on December 31, 2014. The warrants become exercisable only if SRC receives from Woodstone firm contracts or purchase orders for at least $10.0 million by June 30, 2013. The warrants vest in two tranches: 400,000 shares when contracts or purchase orders between SRC and Woodstone reach $10.0 million and an additional 200,000 shares when contracts or purchase orders between SRC and Woodstone reach an additional $5.0 million.

The Company, in the agreement for the acquisition of SRC, provided for payment of a management fee to TLC for overhead expenses in support of up to $20.0 million in project billings for 2010 on projects which TLC provided installation support services. The management fee totaled $1.2 million, payable in equal monthly installments, and began January 31, 2010 and ended on December 31, 2010. For fiscal years after December 31, 2010, where TLC provides installation support services on projects that were pending at the date of acquisition, SRC is to pay 8% of billings as a management fee. For the fiscal year ending December 31, 2011, the Company incurred management fees of $0.3 million.

17. Legal Matters

On January 29, 2010, a competitor and former supplier filed a complaint against the Company in the Court of Chancery of the State of Delaware, alleging that the Company had misused proprietary trade secrets, breached a contract, and engaged in deceptive trade practices relating to one of the Company's lighting products. The complaint sought injunctive relief and damages. The Company answered the complaint and filed a counterclaim for breach of contract. The parties settled and dismissed the case in the second quarter of 2011. Neither the defense of the lawsuit nor the implementation of the settlement has had an adverse effect on the Company's financial condition, cash flows, or results of operations.

In the ordinary course of business, the Company may become involved in lawsuits and administrative proceedings. Some of these proceedings may result in fines, penalties or judgments which, from time to time, may have an impact on its business and financial condition. Although the outcome of such lawsuits or other proceedings cannot be predicted with certainty, the Company does not believe that any uninsured ultimate liabilities, individually or in the aggregate, will have a material adverse effect on its liquidity, financial position or results of operations.

18. Subsequent Events

Between February 29, 2012 and March 2, 2012, the Company entered into Securities Purchase Agreements with ten investors, under which it sold 19,600,000 units, each of which consists of one share of the Company's common stock, par value $0.0001 per share, and one-half warrant to purchase one share of common stock, and raised $4.9 million. The purchase price of each unit was $0.25, based on a formula involving the stock's 30 day average price prior to February 24, 2012. Each warrant entitles the holder to purchase one share of common stock at an exercise price of $0.54. Each warrant is immediately separable from the unit and immediately exercisable, and expires three years from the date of issuance. The Company plans to use the proceeds of the offering to retire debt and for working capital purposes. Eight of the ten investors are new investors and the largest single investment was $1.0 million.

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Supplementary Financial Information to Item 8

The following table sets forth our selected unaudited financial information for the four quarters in the periods ended December 31, 2011 and 2010, respectively. This information has been prepared on the same basis as the audited financial statements and, in the opinion of management, contains all adjustments necessary for a fair presentation thereof.

Any variations from year-to-date amounts reported in this table are a result of rounding.

QUARTERLY FINANCIAL DATA (UNAUDITED)
(amounts in thousands, except per share amounts)

2011	Fourth Quarter	Third Quarter	Second Quarter	First Quarter
Net sales from continuing operations	$ 6,053	$ 6,046	$ 8,193	$ 5,460
Gross Profit	1,249	1,215	1,548	1,159
Net loss from continuing operations	(610)	(1,459)	(1,173)	(2,813)
Net loss per share:				
Basic	$ (0.02)	$ (0.07)	$ (0.04)	$ (0.12)
Diluted	$ (0.02)	$ (0.07)	$ (0.04)	$ (0.12)

2010	Fourth Quarter	Third Quarter	Second Quarter	First Quarter
Net sales from continuing operations	$ 8,765	$ 9,049	$ 8,958	$ 8,357
Gross Profit	1,578	1,862	1,568	1,395
Net loss from continuing operations	(1,572)	(1,563)	(1,812)	(3,570)
Net loss per share:				
Basic	$ (0.06)	$ (0.06)	$ (0.08)	$ (0.17)
Diluted	$ (0.06)	$ (0.06)	$ (0.08)	$ (0.17)

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosures

None.

Item 9A. Controls and Procedures

(a) Evaluation of Disclosure Controls and Procedures

We maintain “disclosure controls and procedures,” as such term is defined in Rule 13a-15(e) under the Securities Exchange Act of 1934 (the “Exchange Act”), that are designed to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in Securities and Exchange Commission rules and forms and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating our disclosure controls and procedures, management recognized that disclosure controls and procedures, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the disclosure controls and procedures are met. Our disclosure controls and procedures have been designed to meet, and management believes that they meet, reasonable assurance standards. Additionally, in designing disclosure controls and procedures, our management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible disclosure controls and procedures. Any design of disclosure controls and procedures also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions.

Based on their evaluation as of the end of the period covered by this Report on Form 10-K, our Chief Executive Officer and Chief Financial Officer have concluded that, subject to the limitations noted above, our disclosure controls and procedures were effective to ensure that material information relating to us, including our consolidated subsidiaries, is made known to them by others within those entities, particularly during the period in which this annual report on Form 10-K was being prepared.

(b) Changes in Internal Control over Financial Reporting

There were no material changes in our internal controls over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act). Further, there were no other items identified in connection with our internal evaluations that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Management's Report on Internal Controls over Financial Reporting

The management of Energy Focus, Inc. is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rule 13a-15(f). Under the supervision and with the participation of management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of internal control over financial reporting based upon criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in Internal Control—Integrated Framework ("COSO framework").

An effective internal control system, no matter how well designed, has inherent limitations, including the possibility of human error and circumvention or overriding of controls; therefore, it can provide only reasonable assurance with respect to reliable financial reporting. Furthermore, effectiveness of an internal control system in future periods cannot be guaranteed, because the design of any system of internal controls is based in part upon assumptions about the likelihood of future events. There can be no assurance that any control design will succeed in achieving its stated goals under all potential future conditions. Over time, certain controls may become inadequate because of changes in business conditions, or the degree of compliance with policies and procedures may deteriorate. As such, misstatements due to error or fraud may occur and not be detected.

Based upon our evaluation under the COSO framework, management concluded that its internal control over financial reporting was effective as of December 31, 2011.

Attestation Report of Independent Registered Public Accounting Firm

This annual report does not include an attestation report of our independent registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by our independent public accounting firm pursuant to the rules of the Securities and Exchange Commission that permit us to provide only management's report in this annual report.

Item 9B. Other Information

None.

PART III

Item 10. Directors, Executive Officers, and Corporate Governance

Directors

The information regarding our directors is set forth under the caption “Election of Directors” in our Proxy Statement for our 2012 Annual Meeting of Stockholders (the “Proxy Statement”) and is incorporated herein by reference.

There were no material changes to the procedures by which security holders may recommend nominees to our Board of Directors during 2011.

Executive Officers

The information regarding our executive officers is set forth under the caption entitled “Executive Officers of the Registrant” following Item 4, in Part I, of this report and is incorporated herein by reference.

Section 16(a) Beneficial Ownership Reporting Compliance

The information regarding compliance with Section 16 of the Securities Exchange Act of 1934 is set forth under the caption entitled “Section 16(a) Beneficial Ownership Reporting Compliance” in our Proxy Statement and is incorporated herein by reference.

Audit Committee

The information regarding the Audit Committee of our Board of Directors and the information regarding “Audit Committee Financial Experts” are set forth under the caption entitled “Committees of the Board” in our Proxy Statement and is incorporated herein by reference.

Code of Ethics

We have adopted a Code of Ethics and Business Conduct, which applies to all of our directors, officers, and employees. Our Code of Ethics and Business Conduct is on our website at http://www.efoi.com. Any person may receive a copy without charge by writing to us at Energy Focus, Inc., 32000 Aurora Road, Solon, Ohio 44139, Attention: Secretary.

We intend to disclose on our website any amendment to, or waiver from, a provision of our Code of Ethics and Business Conduct that applies to our directors and executive officers, including our principal executive officer, principal financial officer, principal accounting officer or controller, or any persons performing similar functions, and that is required to be publicly disclosed pursuant to the rules of the Securities and Exchange Commission.

Item 11. Executive Compensation

The information required by this item is incorporated herein by reference from the information provided in the section captioned **“**Executive Compensation and Other Information**”** in our Proxy Statement.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information about security ownership of certain beneficial owners and management and related stockholder matters required by this item is incorporated herein by reference from the information provided in the sections captioned “Security Ownership of Principal Shareholders and Management**”** and “Equity Compensation Plan Information” in our Proxy Statement.

The information regarding securities authorized for issuance under our equity compensation plans required by this item is incorporated herein by reference from the information provided in the section captioned “Equity Compensation Plan Information**”** in our Proxy Statement.

Item 13. Certain Relationships and Related Transactions and Director Independence

The information regarding certain relationships and related transactions and director independence required by this item is incorporated herein by reference to the information in our Proxy Statement under the captions “Certain Transactions**”** and **“**Director Independence.**”**

Item 14. Principal Accountant Fees and Services

The information regarding principal accountant fees and services and the pre-approval policies and procedures required by this item is incorporated herein by reference from the information contained in our Proxy Statement under the captions **"**Ratification of Appointment of Independent Registered Public Accountants—Principal Accountant Fees and Services**"** and **"**Pre-Approval Policies and Procedures.**"**

PART IV

Item 15. Exhibits and Financial Statement Schedules

(a) (1) Financial Statements

The financial statements required by this Item 15(a)(1) are set forth in Item 8.

(2) Financial Statement Schedules

Schedule II—Valuation and Qualifying Accounts is set forth below. All other schedules are omitted either because they are not applicable or the required information is shown in the financial statements or the notes.

SCHEDULE II
ENERGY FOCUS, INC.
SCHEDULE OF VALUATION AND QUALIFYING ACCOUNTS
(amounts in thousands)

Description	Balance at Beginning of Year	Charges to Revenue/ Expenses	Deductions	Balance at End of Year
Year ended December 31, 2011				
Allowance for doubtful accounts and returns	$ 446	$ 343	$ 342	$ 447
Valuation allowance for deferred tax assets	25,206	2,703	—	27,909
Year ended December 31, 2010				
Allowance for doubtful accounts and returns	$ 395	$ 291	$ 240	$ 446
Valuation allowance for deferred tax assets	22,209	2,997	—	25,206
Year ended December 31, 2009				
Allowance for doubtful accounts and returns	$ 486	$ 73	$ 164	$ 395
Valuation allowance for deferred tax assets	18,622	3,587	—	22,209

(3) Exhibits required by Item 601 of Regulation S-K

The information required by this Item is set forth on the Exhibit Index that follows the signature page of this report.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this Report to be signed on its behalf by the undersigned, thereto duly authorized.

ENERGY FOCUS, INC.
(Registrant)

By: /s/ JOSEPH G. KAVESKI
Joseph G. Kaveski
Chief Executive Officer
Date: March 30, 2012

Pursuant to the requirements of the Securities Exchange Act of 1934, this Report has been signed below by the following persons on behalf of the Registrant and in the capacities indicated on March 30, 2012.

Signature	Title
/s/ JOSEPH G. KAVESKI Joseph G. Kaveski	Chief Executive Officer and Director *(Principal Executive Officer)*
/s/ JOHN M. DAVENPORT John M. Davenport	President and Director
/s/ MARK J. PLUSH Mark J. Plush	Vice President of Finance and Chief Financial Officer *(Principal Financial and Accounting Officer)*
*/s/ PAUL VON PAUMGARTTEN Paul von Paumgartten	Lead Director
*/s/ J. JAMES FINNERTY J. James Finnerty	Director
*/s/ R. LOUIS SCHNEEBERGER R. Louis Schneeberger	Director

* The undersigned, by signing his name, signs this Report on March 30, 2012 on behalf of the above officers and directors pursuant to a Power of Attorney executed by them and filed as an exhibit to this Report.

By: /s/ JOSEPH G. KAVESKI
Joseph G. Kaveski, Attorney-in-Fact.

EXHIBIT INDEX

Exhibit Number	Description of Documents
2.1	Agreement and Plan of Merger between Fiberstars, Inc., a California corporation, and Fiberstars, Inc., a Delaware corporation (incorporated by reference to Appendix C to the Registrant's Definitive Proxy Statement filed on May 1, 2006).
3.1	Certificate of Incorporation of the Registrant (incorporated by reference to Appendix A to the Registrant's Definitive Proxy Statement filed on May 1, 2006).
3.2	Certificate of Designation of Series A Participating Preferred Stock of the Registrant (incorporated by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K filed on November 27, 2006).
3.3	Bylaws of the Registrant (incorporated by reference to Appendix C to the Registrant's Current Report on Form 8-K filed on November 27, 2006).
3.4	Certificate of Ownership and Merger, Merging Energy Focus, Inc., a Delaware corporation, into Fiberstars, Inc., a Delaware corporation (incorporated by reference to Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q filed on May 10, 2007).
4.1	Form of Common Stock Certificate (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed on November 27, 2006).
4.2	Rights Agreement dated as of October 25, 2006 between the Registrant and Mellon Investor Services, LLC, as rights agent (incorporated by reference to Exhibit 4.2 to the Registrant's Current Report on Form 8-K filed on November 27, 2006).
4.3	Form of Warrant for the purchase of shares of common stock (incorporated by reference to Exhibit 4.2 to the Registrant's Current Report on Form 8-K filed on November 27, 2006).
4.4	Form of Warrant for the purchase of shares of common stock (incorporated by reference to Exhibit 1.2 to the Registrant's Current Report on Form 8-K filed on March 19, 2008).
4.5	Amendment No. 1 to Rights Agreement between the Registrant and Mellon Investment Services, LLC, as Rights Agent, dated as of March 12, 2008 (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on March 19, 2009).
4.6	Amendment No. 2 to the Rights Agreement between the Registrant and Mellon Investment Services, LLC, as Rights Agent, dated as of December 31, 2009 (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on March 3, 2010).
4.7	Common Stock Purchase Warrant No. 2009SRCW-01 for the purchase of 600,000 shares of common stock dated December 31, 2009 in the name of Woodstone Energy, LLC (incorporated by reference to Exhibit 4.8 to the Registrant's Annual Report on Form 10-K filed on March 31, 2010).
4.8	Form of Common Stock Purchase Warrant for the purchase of shares of common stock dated as of December 29, 2009 (incorporated by reference to Exhibit 4.9 to the Registrant's Annual Report on Form 10-K filed on March 31, 2010).
4.9	Form of Common Stock Purchase Warrant No. 2010LPCW-01 for the purchase of 350,000 shares of common stock (incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K filed on March 19, 2010).
4.10	Form of Common Stock Purchase Warrant for the purchase of shares of common stock dated as of March 30, 2010 (incorporated by reference to Exhibit 4.11 to the Registrant's Annual Report on Form 10-K filed on March 31, 2010).
4.11	Form of Common Stock Purchase Warrant for the purchase of shares of common stock dated as of February 27, 2012 (filed with this Report).
10.1†	1994 Employee Stock Purchase Plan, amended as of December 7, 2000 (incorporated by reference to Exhibit 99.3 to the Registrant's Registration Statement on Form S-8 (Commission File No. 333-52042) filed on December 18, 2000).
10.2	Form of Agreement between the Registrant and independent sales representatives (incorporated by reference to Exhibit 10.20 to the Registrant's Registration Statement on Form SB-2 (Commission File No. 33-79116-LA)).
10.3†	Form of Indemnification Agreement for officers of the Registrant (incorporated by reference to Exhibit 10.42 to the Registrant's Annual Report on Form 10-K filed on March 30, 2004).
10.4	Form of Indemnification Agreement for directors of the Registrant (incorporated by reference to Exhibit 10.44 to the Registrant's Annual Report on Form 10-K filed on March 30, 2004).
10.5	Production Share Agreement dated October 9, 2003 among the Registrant, North American Production Sharing, Inc., and Industrias Unidas de B.C., S.A. de C.V. (incorporated by reference to Exhibit 10.45 to the Registrant's Annual Report on Form 10-K filed on March 30, 2004).
10.6	First Amendment to Production Share Agreement, effective as of August 17, 2005, among the Registrant, North American Production Sharing, Inc., and Industrias Unidas de B.C., S.A. de C.V. (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed on October 25, 2005).
10.7*	Equipment Purchase and Product Supply Agreement entered into as of May 25, 2006 between the Registrant and Deposition Sciences, Inc. (incorporated by reference to Exhibit 10.1 to Amendment No. 2 to the Registrant's Quarterly Report on Form 10-Q filed on March 6, 2009).

10.8	Modification to Sublease between the Registrant and Keystone Ruby, LLC. (incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q filed on August 11, 2006).
10.9†	Form of Indemnification Agreement for directors and officers of the Registrant (incorporated by reference to Exhibit 10.31 of the Registrant's Annual Report on Form 10-K filed on March 16, 2007).
10.10	Form of Securities Purchase Agreement dated as of March 14, 2008 (incorporated by reference to Exhibit 1.1 to the Registrant's Current Report on Form 8-K filed on March 19, 2008).
10.11†	1994 Stock Option Plan, amended as of May 24, 2000 (incorporated by reference to Exhibit 99.1 to the Registrant's Registration Statement on Form S-8 (Commission File No. 333-52042) filed on December 18, 2000).
10.12†	1994 Director's Stock Option Plan, amended as of May 12, 1999 (incorporated by reference to Exhibit 99.2 to the Registrant's Registration Statement on Form S-8 (Commission File No. 333-52042) filed on December 18, 2000).
10.13†	2004 Stock Incentive Plan (incorporated by reference to Exhibit 99.1 to the Registrant's Registration Statement on Form S-8 (Commission File No. 333-122-686) filed on February 10, 2005).
10.14†	2008 Incentive Stock Plan (incorporated by reference to Appendix D to the Registrant's Definitive Proxy Statement filed on August 8, 2008).
10.15	Member Interest Purchase Agreement among the Registrant and TLC Investments, LLC, Jamie Hall, and Robert E. Wilson dated December 31, 2009 (incorporated by reference to Exhibit 10.40 to the Registrant's Annual Report on Form 10-K filed on March 31, 2010).
10.16	Convertible Promissory Note from the Registrant to TLC Investments, LLC, Jamie Hall, and Robert E. Wilson dated December 31, 2009 (incorporated by reference to Exhibit 10.41 to the Registrant's Annual Report on Form 10-K filed on March 31, 2010).
10.17	Warrant Acquisition Agreement between the Registrant and Woodstone Energy, LLC dated December 31, 2009 (incorporated by reference to Exhibit 10.42 to the Registrant's Annual Report on Form 10-K filed on March 31, 2010).
10.18	Form of Bonding Support Agreement dated as of December 29, 2009 (incorporated by reference to Exhibit 10.43 to the Registrant's Annual Report on Form 10-K filed on March 31, 2010).
10.19	Form of Warrant Acquisition Agreement for bonding support dated as of December 29, 2009 (incorporated by reference to Exhibit 10.44 to the Registrant's Annual Report on Form 10-K filed on March 31, 2010).
10.20†	Form of Agreement of Confidentiality and Non-Competition for employees including officers (incorporated by reference to Exhibit 10.45 to the Registrant's Annual Report on Form 10-K filed on March 31, 2010).
10.21	Purchase Agreement between the Registrant and Lincoln Park Capital Fund, LLC dated March 17, 2010 (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed on March 19, 2010).
10.22	Registration Rights Agreement between the Registrant and Lincoln Park Capital Fund, LLC dated March 17, 2010 (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed on March 19, 2010).
10.23	Note Purchase Agreement between the Registrant and EF Energy Partners LLC dated March 30, 2010 (incorporated by reference to Exhibit 10.48 to the Registrant's Annual Report on Form 10-K filed on March 31, 2010).
10.24	Secured Subordinated Promissory Note from the Registrant to EF Energy Partners LLC dated March 30, 2010 (incorporated by reference to Exhibit 10.49 to the Registrant's Annual Report on Form 10-K filed on March 31, 2010).
10.25	Warrant Acquisition Agreement among the Registrant and the investors named therein dated March 30, 2010 (incorporated by reference to Exhibit 10.50 to the Registrant's Annual Report on Form 10-K filed on March 31, 2010).
10.26	Form of Management Continuity Agreement for Executive Officers (incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q filed on May 13, 2010).
10.27	2008 Incentive Stock Plan (as amended November 19, 2008 and February 25, 2010) (incorporated by reference to Exhibit 99.1 to the Registrant's Registration Statement on Form S-8 filed on September 8, 2010).
10.28	Form of Notice of Stock Option Grant for 2008 Stock Incentive Plan (incorporated by reference to Exhibit 99.2 to the Registrant's Registration Statement on Form S-8 filed on September 8, 2010).
10.29	Modification to Sublease between the Registrant and Keystone Ruby, LLC and Cognovit Promissory Note as of September 1, 2010 (filed with this Report).
10.30	Financing Agreement between the Registrant and Rosenthal & Rosenthal, Inc. dated December 22, 2011 (filed with this Report).
10.31	Form of Securities Purchase Agreement between the Registrant and investors dated as of February 27, 2012 (filed with this Report).
10.32	Collaboration Agreement between the Registrant and Communal International Ltd. dated as of February 27, 2012 (filed with this Report).
21.1	Subsidiaries of the Registrant (filed with this Report).
23.1	Consent of Plante & Moran, PLLC, Independent Registered Public Accounting Firm (filed with this Report).
24.1	Power of Attorney (filed with this Report).
31.1	Rule 13a-14(a) Certification by Chief Executive Officer (filed with this Report).
31.2	Rule 13a-14(a) Certification by Vice President of Finance and Chief Financial Officer (filed with this Report).

32.1	Section 1350 Certification of Chief Executive Officer and Vice President of Finance and Chief Financial Officer (filed with this Report).
101	The following financial information from Energy Focus, Inc. Annual Report on Form 10-K for the year ended December 31, 2011, formatted in XBRL (eXtensible Business Reporting Language): (i) Consolidated Balance Sheets, (ii) Consolidated Statements of Operations, (iii) Consolidated Statements of Comprehensive Income (Loss), (iv) Consolidated Statements of Shareholders' Equity, (v) Consolidated Statements of Cash Flows, (vi) the Notes to Consolidated Financial Statements.

* Confidential treatment has been granted with respect to certain portions of this agreement.
† Management contract or compensatory plan or arrangement.

THIS COMMON STOCK PURCHASE WARRANT AND THE SECURITIES ISSUABLE UPON EXERCISE HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE TRANSFERRED IN VIOLATION OF SUCH ACT, THE RULES AND REGULATIONS THEREUNDER OR THE PROVISIONS OF THIS COMMON STOCK PURCHASE WARRANT.

Number of Shares of Common Stock: _____
Warrant No. _____

COMMON STOCK PURCHASE WARRANT

To Purchase Common Stock of
ENERGY FOCUS, INC.

THIS IS TO CERTIFY THAT _____, or its, his, or her registered assign, is entitled, at any time from the Issuance Date (as hereinafter defined) to the Expiration Date (as hereinafter defined) to purchase from Energy Focus, Inc., a Delaware corporation (the "**Company**"), _____(_____) shares of Common Stock (as hereinafter defined and subject to adjustment as provided herein), in whole or in part, including fractional parts, at a purchase price equal to $0.54 (subject to adjustment as provided herein, the "**Exercise Price**"), all on the terms and conditions and pursuant to the provisions hereinafter set forth.

This Warrant is issued pursuant to, and the Holder is entitled to the benefits of, that certain Securities Purchase Agreement dated as of February 27, 2012 by and among the Company and the investors party thereto (the "**Securities Purchase Agreement**"). Capitalized terms used herein without definition are used with the definitions assigned thereto in such Securities Purchase Agreement.

1. DEFINITIONS

As used in this Common Stock Purchase Warrant (this "**Warrant**"), the following terms shall have the respective meanings set forth below:

"**Business Day**" shall mean any day that is not a Saturday or Sunday or a day on which banks in New York City, New York are required or permitted to be closed in the City of New York.

"**Issuance Date**" shall mean February 27, 2012.

"**Commission**" shall mean the Securities and Exchange Commission or any other federal agency then administering the Securities Act and other federal securities laws.

"**Common Stock**" shall mean (except where the context otherwise indicates) the Common Stock, par value $0.0001 per share, of the Company as constituted on the Issuance Date, and any capital stock into which such Common Stock may thereafter be changed, and shall

also include (i) capital stock of the Company of any other class (regardless of how denominated) issued to the holders of shares of Common Stock upon any reclassification thereof which is also not preferred as to dividends or assets over any other class of stock of the Company and which is not subject to redemption and (ii) shares of common stock of any successor or acquiring company received by or distributed to the holders of Common Stock of the Company in the circumstances contemplated by Section 4.5.

"**Convertible Securities**" shall mean options, evidences of indebtedness, shares of stock or other securities which are convertible into or exchangeable, with or without payment of additional consideration in cash or property, for shares of Common Stock, either immediately or upon the occurrence of a specified date or a specified event.

"**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended, or any successor federal statute, and the rules and regulations of the Commission thereunder, all as the same shall be in effect from time to time.

"**Exercise Period**" shall mean the period during which this Warrant is exercisable pursuant to Section 2.1.

"**Expiration Date**" shall mean the third anniversary hereof.

"**Fundamental Corporate Change**" shall have the meaning set forth in Section 4.5.

"**Holder**" shall mean the Person in whose name the Warrant or Warrant Shares set forth herein is registered on the books of the Company maintained for such purpose.

"**Market Price**" shall mean, on any date of determination, (i) the closing price of a share of Common Stock on such day as reported on the principal Trading Market on which the Common Stock is listed or traded, or (ii) if the Common Stock is not listed or traded on a Trading Market, the closing bid price for a share of Common Stock on such day in the over-the-counter market, as reported by the OTC Bulletin Board, or (iii) if the Common Stock is not then listed on a Trading Market or quoted on the OTC Bulletin Board, the closing bid price for a share of Common Stock on such day in the over-the-counter market as reported by the Pink OTC Market, Inc. or any similar organization or agency succeeding to its functions of reporting prices.

"**Other Property**" shall have the meaning set forth in Section 4.5.

"**Person**" shall mean any individual, sole proprietorship, partnership, joint venture, trust, incorporated organization, association, Company, institution, public benefit Company, entity or government (whether federal, state, county, city, municipal or otherwise, including, without limitation, any instrumentality, division, agency, body or department thereof).

"**Securities Act**" shall mean the Securities Act of 1933, as amended, or any successor federal statute, and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

"Trading Day" means (i) a day on which the Common Stock is traded on a Trading Market, or (ii) if the Common Stock is not listed on a Trading Market, a day on which the Common Stock is quoted in the over-the-counter market, as reported by the OTC Bulletin Board, or (iii) if the Common Stock is not then listed on a Trading Market or quoted on the OTC Bulletin Board, a day on which the Common Stock is quoted in the over-the-counter market as reported by the Pink OTC Market, Inc. or any similar organization or agency succeeding to its functions of reporting prices; *provided*, that in the event that the Common Stock is not listed or quoted as set forth in (i), (ii) and (iii) hereof, then the term "Trading Day" shall mean a Business Day.

"Trading Market" means whichever of the New York Stock Exchange or the NASDAQ Stock Market, Inc. on which the Common Stock is listed or traded on the date in question.

"**Transfer**" shall mean any disposition of any Warrant or Warrant Shares or of any interest in either thereof, which would constitute a sale thereof within the meaning of the Securities Act.

"**Warrant Shares**" shall mean the shares of Common Stock issued or issuable to the Holder of this Warrant upon the exercise thereof.

"**Warrants**" shall mean this Warrant and all warrants issued upon transfer, division or combination of, or in substitution for, any thereof. All Warrants shall at all times be identical as to terms and conditions and date, except as to the number of shares of Common Stock for which they may be exercised.

2. EXERCISE OF WARRANT

2.1 Manner of Exercise

From and after the Issuance Date and until 5:00 p.m., Eastern Standard Time, on the Expiration Date, the Holder may exercise this Warrant, on any Business Day, for all or any part of the number of shares of Common Stock purchasable hereunder.

In order to exercise this Warrant, in whole or in part, the Holder shall surrender this Warrant to the Company at its principal office at 32000 Aurora Road, Solon, Ohio 44139, or at the office or agency designated by the Company pursuant to Section 12, together with a written notice of the Holder's election to exercise this Warrant, which notice shall specify the number of shares of Common Stock to be purchased, and shall be accompanied by payment of the Exercise Price in cash or wire transfer or cashier's check drawn on a United States bank. Such notice shall be substantially in the form of the subscription form appearing at the end of this Warrant as Exhibit A, duly executed by the Holder or his agent or attorney. Upon receipt of the items referred to above, the Company shall, as promptly as practicable, execute or cause to be executed and deliver or cause to be delivered to the Holder a certificate or certificates representing, or if the Investor shall direct the Company, cause to be issued in book entry form on the records of the Company's transfer agent or through the Direct Registration System of The Depositor Trust Company in the, aggregate number of full shares of Common Stock issuable

upon such exercise, together with cash in lieu of any fraction of a share, as hereinafter provided. The stock certificate or certificates so delivered, or the book entry or entries so made, shall be, to the extent possible, in such denomination or denominations as the Holder shall request in the notice and shall be registered in the name of the Holder or, subject to Section 9, such other name as shall be designated in the notice. This Warrant shall be deemed to have been exercised and such certificate or certificates shall be deemed to have been issued, or such book entry or entries shall be deemed to have been made, and the Holder or any other Person so designated to be named therein shall be deemed to have become the holder of record of such shares for all purposes, as of the date the notice, together with the cash or check or wire transfer of funds and this Warrant is received by the Company as described above and all taxes required to be paid by the Holder, if any, pursuant to Section 2.2 prior to the issuance of such shares have been paid, provided that if the Warrant is exercised in connection with a merger, reorganization or other Fundamental Corporate Change, such exercise may be made conditional upon the consummation of such event. If this Warrant shall have been exercised in part, the Company shall, at the time of delivery of the certificate or certificates representing Warrant Shares, or the making of the book entry relating to the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased shares of Common Stock called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant, or, at the request of the Holder, appropriate notation may be made on this Warrant and the same returned to the Holder. Notwithstanding any provision herein to the contrary, the Company shall not be required to register shares in the name of any Person who acquired this Warrant (or part hereof) or any Warrant Shares otherwise than in accordance with this Warrant.

2.2 Payment of Taxes and Charges

All shares of Common Stock issuable upon the exercise of this Warrant pursuant to the terms hereof shall be validly issued, fully paid and nonassessable, freely tradable and without any preemptive rights, except as set forth in Section 5.5 of the Securities Purchase Agreement. The Company shall pay all expenses in connection with, and all taxes and other governmental charges that may be imposed with respect to, the issuance or delivery thereof, unless such tax or charge is a tax on income imposed by law upon the Holder in connection with the issuance of the Common Stock to a person other than the Holder, in which case such taxes or charges shall be paid by the Holder.

2.3 Fractional Shares

The Company shall not be required to issue a fractional share of Common Stock upon exercise of any Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall pay a cash adjustment in respect of such fraction in an amount equal to the same fraction of the Market Price per share of Common Stock as of the date of exercise of the Warrant giving rise to such fraction of a share.

2.4 Cashless Exercise During Event

Notwithstanding any other provision contained herein to the contrary, from and after the six-month anniversary of the Closing Date, whenever an Event, as defined in Section 4.1(d) of the Securities Purchase Agreement, has occurred and is continuing and at any time after

the expiration of the Effectiveness Period, the Holder may elect to receive, without the payment by the Holder of the aggregate Exercise Price in respect of the shares of Common Stock to be acquired, shares of Common Stock of equal value to the value of this Warrant, or any specified portion hereof, by the surrender of this Warrant (or such portion of this Warrant being so exercised) together with a subscription form in the form attached hereto as Exhibit A, with appropriate modification to reflect such cashless exercise, duly executed, to the Company. Thereupon, the Company shall issue to the Holder such number of fully paid, validly issued and nonassessable shares of Common Stock as is computed using the following formula:

$$X = \frac{Y\,(A - B)}{A}$$

where

X = the number of shares of Common Stock to which the Holder is entitled upon such cashless exercise;

Y = the total number of shares of Common Stock covered by this Warrant for which the Holder has surrendered purchase rights at such time for cashless exercise (including both shares to be issued to the Holder and shares as to which the purchase rights are to be canceled as payment therefor);

A = the Market Price of one share of Common Stock as at the date the net issue election is made; and

B = the Warrant Price in effect under this Warrant at the time the net issue election is made.

2.5 Buy–In

If at any time when a Registration Statement is in effect or required to be in effect with respect to the Warrant Shares, as provided for by the Securities Purchase Agreement, (a) a certificate representing the Warrant Shares is not delivered to the Holder, or a book entry for the Warrant Shares is not made for the Holder, within three (3) Business Days of the due exercise of this Warrant by the Holder and (b) prior to the time such certificate is received by the Holder, or such book entry is made for the Holder, the Holder, or any third party on behalf of the Holder or for the Holder's account, purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by the Holder of shares represented by such certificate or covered by such book entry (a **"Buy-In"**), then the Company shall pay in cash to the Holder (for costs incurred either directly by such Holder or on behalf of a third party) the amount by which the total purchase price paid for Common Stock as a result of the Buy-In (including brokerage commissions, if any) exceeds the proceeds received by such Holder as a result of the sale to which such Buy-In relates. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In.

3. TRANSFER, DIVISION AND COMBINATION

3.1 Transfer

Subject to compliance with Section 9, transfer of this Warrant and all rights hereunder, in whole or in part, shall be registered on the books of the Company to be maintained for such purpose, upon surrender of this Warrant at the principal office of the Company referred to in Section 2.1 or the office or agency designated by the Company pursuant to Section 12, together with a written assignment of this Warrant substantially in the form of Exhibit B hereto duly executed by the Holder or the Holder's agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall, subject to Section 9, execute and deliver a new Warrant or Warrants in the name of the assignee or assignees and in the denomination specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be canceled. A Warrant, if properly assigned in compliance with Section 9, may be exercised by a new Holder for the purchase of shares of Common Stock without having a new warrant issued.

3.2 Division and Combination

Subject to Section 9, this Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office or agency of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or the Holder's agent or attorney. Subject to compliance with Sections 3.1 and 9, as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice.

3.3 Expenses

The Company shall prepare, issue and deliver at its own expense (other than transfer taxes) the new Warrant or Warrants under this Section 3.

3.4 Maintenance of Books

The Company agrees to maintain, at its aforesaid office or agency, books for the registration and the registration of transfers of the Warrants.

4. ADJUSTMENTS

The number of shares of Common Stock for which this Warrant is exercisable, or the price at which such shares may be purchased upon exercise of this Warrant, shall be subject to adjustment from time to time as set forth in this Section 4. The Company shall give the Holder notice of any event described below which requires an adjustment pursuant to this Section 4 at the time of such event.

4.1 Stock Dividends, Subdivisions and Combinations

If at any time the Company shall:

(a) declare or pay to the holders of its Common Stock a dividend payable in, or other distribution of, shares of Common Stock or in Convertible Securities;

(b) subdivide its outstanding shares of Common Stock into a larger number of shares of Common Stock; or

(c) combine its outstanding shares of Common Stock into a smaller number of shares of Common Stock;

then (i) the number of shares of Common Stock for which this Warrant is exercisable immediately after the occurrence of any such event shall be adjusted to equal the number of shares of Common Stock which a record holder of the same number of shares of Common Stock for which this Warrant is exercisable immediately prior to the occurrence of such event would own or be entitled to receive after the occurrence of such event, and (ii) the then-current Exercise Price shall be adjusted to equal (A) the then-current Exercise Price multiplied by the number of shares of Common Stock for which this Warrant is exercisable immediately prior to the adjustment divided by (B) the number of shares for which this Warrant is exercisable immediately after such adjustment.

4.2 Certain Other Distributions

If at any time the Company shall declare or pay to the holders of its Common Stock any dividend or other distribution of:

(a) cash;

(b) any evidences of its indebtedness, any shares of its stock or any other securities or property of any nature whatsoever (other than cash, Convertible Securities or additional shares of Common Stock), or any warrants or other rights to subscribe for or purchase any evidences of its indebtedness, any shares of its stock or any other securities or property of any nature whatsoever (other than cash, Convertible Securities or additional shares of Common Stock);

then, upon exercise of this Warrant, the Holder shall be entitled to receive such dividend or distribution as if the Holder had exercised this Warrant prior to the date of such dividend or distribution. A reclassification of the Common Stock (other than a change in par value, or from par value to no par value or from no par value to par value) into shares of Common Stock and shares of any other class of stock shall be deemed a distribution by the Company to the holders of its Common Stock of such shares of such other class of stock within the meaning of this Section 4.2 and, if the outstanding shares of Common Stock shall be changed into a larger or smaller number of shares of Common Stock as a part of such reclassification, such change shall be deemed a subdivision or combination, as the case may be, of the outstanding shares of Common Stock within the meaning of Section 4.1.

4.3 Dilutive Issuances

If at any time after the Issuance Date the Company shall issue or sell shares of Common Stock or Convertible Securities (other than (i) securities issued or issuable in Exempt Issuances, as defined in the Securities Purchase Agreement, or (ii) shares of Common Stock issued as a result of a dividend or other distribution on the Common Stock payable in Common Stock, or (iii) a subdivision of outstanding shares of Common Stock), without consideration or for a consideration per share less than $0.25, the Exercise Price shall be reduced to a price (calculated to the nearest cent) determined in accordance with the following formula:

$$\text{New Exercise Price} = \frac{P1\ Q1 + P2\ Q2}{Q1 + Q2}$$

where:

P1	=	Applicable Exercise Price in effect immediately prior to such new issue or sale.
Q1	=	Number of shares of Common Stock outstanding plus the number of shares of Common Stock issuable upon conversion or exercise of Convertible Securities outstanding immediately prior to such new issue or sale.
P2	=	100% of the weighted average price per share of Common Stock received, or deemed to be received, by the Company upon such new issue or sale.
Q2	=	Number of shares of Common Stock issued or sold, or deemed to have been issued or sold, in the subject transaction.

For purposes of this Section 4.3, upon the sale or issuance of Convertible Securities, the maximum number of shares of Common Stock issuable upon the exercise, conversion or exchange of such Convertible Securities (as set forth in the instrument relating thereto without regard to any provisions contained therein for a subsequent adjustment of such number) shall be deemed to be issued as of the time of such issue or sale and the consideration deemed received for such shares of Common Stock shall be the consideration actually received by the Company for the issue of such Convertible Securities plus the minimum additional consideration to be received by the Company upon the full exercise, conversion or exchange of such Convertible Securities. Insofar as any consideration received, or to be received, by the Company consists of property other than cash, such consideration shall be computed at the fair value thereof at the time of such issue or sale, as determined in good faith by the Board of Directors of the Company.

4.4 Other Provisions Applicable to Adjustments under this Section

The following provisions shall be applicable to the making of adjustments of the number of shares of Common Stock for which this Warrant is exercisable and the current Exercise Price provided for in this Section 4:

(a) **When Adjustments to be Made.** The adjustments required by this Section 4 shall be made whenever and as often as any specified event requiring an adjustment shall occur. For the purpose of any adjustment, any specified event shall be deemed to have occurred at the close of business on the date of its occurrence.

(b) **Fractional Interests.** In computing adjustments under this Section 4, fractional interests in Common Stock shall be taken into account to the nearest 1/10th of a share.

(c) **When Adjustment not Required.** If the Company shall take a record of the holders of its Common Stock for the purpose of entitling them to receive a dividend or distribution or subscription or purchase rights and shall, thereafter and before the distribution to the holders thereof, legally abandon its plan to pay or deliver such dividend, distribution, subscription or purchase rights, then thereafter no adjustment shall be required by reason of the taking of such record and any such adjustment previously made in respect thereof shall be rescinded and annulled.

4.5 Reorganization, Reclassification, Merger, Consolidation or Disposition of Assets

In case the Company shall reorganize its capital, reclassify its capital stock, consolidate or merge with or into another Person (where the Company is not the survivor or where there is a change in or distribution with respect to the Common Stock of the Company), or sell, convey, transfer or otherwise dispose of all or substantially all its property, assets or business to another Person, or effectuate a transaction or series of related transactions in which more than 50% of the voting power of the Company is disposed of (each, a "**Fundamental Corporate Change**") and, pursuant to the terms of such Fundamental Corporate Change, shares of common stock of the successor or acquiring company, or any cash, shares of stock or other securities or property of any nature whatsoever (including warrants or other subscription or purchase rights) in addition to or in lieu of common stock of the successor or acquiring company ("**Other Property**"), are to be received by or distributed to the holders of Common Stock, then the Holder shall have the right thereafter to receive, upon exercise of the Warrant, such number of shares of common stock of the successor or acquiring company or of the Company, if it is the surviving company, and Other Property as is receivable upon or as a result of such Fundamental Corporate Change by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Corporate Change. In case of any such Fundamental Corporate Change, this Warrant shall expire and be of no further force and effect on the closing date of such Fundamental Corporate Change and, in lieu of any other rights of the Holder hereunder, the Holder shall have the right to receive, within five (5) Business Days of the closing of such Fundamental Corporate Change, cash in an amount equal to the Black Scholes Value of the remaining unexercised portion of this Warrant on the date of such Fundamental Corporate Change. In the event the Company and the Holder are unable to agree on the Black Scholes Value, the parties shall submit the matter to a mutually agreeable accounting firm of regional or national stature for the purpose of making a binding determination of the Black Scholes Value.

4.6 Other Action Affecting Common Stock

In case at any time or from time to time the Company shall take any action in respect of its Common Stock, other than any action described in this Section 4, or any other event occurs, which would have a materially adverse effect upon the rights of the Holder, the number of shares of Common Stock and/or the purchase price thereof shall be adjusted in such manner as may be equitable in the circumstances, as determined in good faith by the Board of Directors of the Company.

4.7 Trading Market Limitation; Par Value Limitation

(a) Notwithstanding any other provision in Sections 4.3 or 4.6 to the contrary, if a reduction in the Exercise Price pursuant to Sections 4.3 or 4.6 would require the Company to obtain stockholder approval of the transactions contemplated by the Securities Purchase Agreement pursuant to a rule of the Trading Market on which the Company's Common Stock is listed or traded on the date in question (the "**Rule**") and such stockholder approval has not been obtained, (i) the Exercise Price shall be reduced under Section 4.3, or may be reduced under Section 4.6, to the maximum extent that would not require stockholder approval under such Rule, and (ii) the Company shall under Section 4.3, or may under Section 4.6, use its commercially reasonable efforts to obtain such stockholder approval as soon as reasonably practicable, including by calling a special meeting of stockholders to vote on such Exercise Price adjustment. This provision shall not restrict the number of shares of Common Stock which a Warrantholder may receive or beneficially own in order to determine the amount of securities or other consideration that such Holder may receive in the event of a Fundamental Corporate Change.

(b) Notwithstanding anything herein to the contrary, the Company agrees not to enter into any transaction which, by reason of any adjustment hereunder, would cause the Exercise Price to be less than the par value per share of Common Stock.

5. NOTICES TO THE HOLDER

5.1 Notice of Adjustments

Whenever the number of shares of Common Stock for which this Warrant is exercisable, or whenever the price at which a share of such Common Stock may be purchased upon exercise of the Warrants, shall be adjusted pursuant to Section 4, the Company shall forthwith prepare a certificate to be executed by the chief financial officer of the Company setting forth, in reasonable detail, the event requiring the adjustment and the method by which such adjustment was calculated (including a description of the basis on which the Board of Directors of the Company determined the fair value of any evidences of indebtedness, shares of stock, other securities or property or warrants or other subscription or purchase rights referred to in Section 4.2), specifying the number of shares of Common Stock for which this Warrant is exercisable and (if such adjustment was made pursuant to Section 4.2 or 4.5) describing the number and kind of any other shares of stock or Other Property for which this Warrant is exercisable, and any change in the purchase price or prices thereof, after giving effect to such adjustment or change. The Company shall promptly cause a signed copy of such certificate to be

delivered to the Holder in accordance with Section 14.2. The Company shall keep, along with the transfer register maintained in accordance with Section 3.4, copies of all such certificates and cause the same to be available for inspection at said office during normal business hours by the Holder or any prospective purchaser of a Warrant designated by the Holder.

5.2 Notice of Corporate Action

If at any time:

(a) the Company shall take a record of the holders of its Common Stock for the purpose of entitling them to receive a dividend or other distribution, or any right to subscribe for or purchase any evidences of its indebtedness, any shares of stock of any class or any other securities or property, or to receive any other right; or

(b) there shall be any capital reorganization of the Company, any reclassification or recapitalization of the capital stock of the Company or any consolidation or merger of the Company with, or any sale, transfer or other disposition of all or substantially all the property, assets or business of the Company to, another Company; or

(c) there shall be a voluntary or involuntary dissolution, liquidation or winding up of the Company;

then, in any one or more of such cases, the Company shall give to Holder (i) at least ten (10) days prior written notice of the date on which a record date shall be selected for such dividend, distribution or right or for determining rights to vote in respect of any such reorganization, reclassification, merger, consolidation, sale, transfer, disposition, dissolution, liquidation or winding up, and (ii) in the case of any such reorganization, reclassification, merger, consolidation, sale, transfer, disposition, dissolution, liquidation or winding up, at least ten (10) days' prior written notice of the date when the same shall take place. Such notice in accordance with the foregoing clause also shall specify (i) the date on which any such record is to be taken for the purpose of such dividend, distribution or right, the date on which the holders of Common Stock shall be entitled to any such dividend, distribution or right, and the amount and character thereof, and (ii) the date on which any such reorganization, reclassification, merger, consolidation, sale, transfer, disposition, dissolution, liquidation or winding up is to take place and the time, if any such time is to be fixed, as of which the holders of Common Stock shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such reorganization, reclassification, merger, consolidation, sale, transfer, disposition, dissolution, liquidation or winding up. Each such written notice shall be sufficiently given if addressed to the Holder at the last address of the Holder appearing on the books of the Company and delivered in accordance with Section 14.2.

6. NO IMPAIRMENT

The Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issuance or sale of securities or other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in

good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of the Holder against impairment. Without limiting the generality of the foregoing, the Company will (a) not increase the par value of any shares of Common Stock receivable upon the exercise of this Warrant above the amount payable therefor upon such exercise immediately prior to such increase in par value, (b) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable shares of Common Stock upon the exercise of this Warrant, and (c) use its best efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof as may be necessary to enable the Company to perform its obligations under this Warrant.

Upon the request of the Holder, the Company will at any time during the period this Warrant is outstanding acknowledge in writing, in form satisfactory to the Holder, the continuing validity of this Warrant and the obligations of the Company hereunder.

7. RESERVATION AND AUTHORIZATION OF COMMON STOCK

From and after the Issuance Date, the Company shall at all times reserve and keep available for issuance upon the exercise of Warrants such number of its authorized but unissued shares of Common Stock as will be sufficient to permit the exercise in full of all outstanding Warrants. All shares of Common Stock which shall be so issuable, when issued upon exercise of any Warrant and payment therefor in accordance with the terms of such Warrant, shall be duly and validly issued and fully paid and nonassessable, and not subject to preemptive rights except as set forth in Section 5.5 of the Securities Purchase Agreement.

Before taking any action which would cause an adjustment reducing the then-current Exercise Price below the then par value, if any, of the shares of Common Stock issuable upon exercise of the Warrants, the Company shall take any corporate action which may be necessary in order that the Company may validly and legally issue fully paid and nonassessable shares of such Common Stock at such adjusted Exercise Price.

Before taking any action which would result in an adjustment in the number of shares of Common Stock for which this Warrant is exercisable or in the then-current Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

8. TAKING OF RECORD; STOCK AND WARRANT TRANSFER BOOKS

In the case of all dividends or other distributions by the Company to the holders of its Common Stock with respect to which any provision of Section 4 refers to the taking of record of such holders, the Company will in each case take such a record and will take such record as of the close of business on a Business Day. The Company will not at any time, except upon dissolution, liquidation or winding up of the Company, close its stock transfer books or Warrant transfer books so as to result in preventing or delaying the exercise or transfer of any Warrant.

9. RESTRICTIONS ON TRANSFERABILITY

The Warrants and the Warrant Shares shall not be transferred, hypothecated or assigned before satisfaction of the conditions specified in the legend affixed to the first page of this Warrant, which conditions are intended, in part, to ensure compliance with the provisions of the Securities Act with respect to the transfer of any Warrant or any Warrant Shares. The Holder, by acceptance of this Warrant, agrees to be bound by the provisions of this Section 9.

10. LIMITATIONS ON EXERCISE

Notwithstanding anything to the contrary contained herein, the number of Warrant Shares that may be acquired by the Warrantholder upon any exercise of this Warrant (or otherwise in respect hereof) shall be limited to the extent necessary to insure that, following such exercise (or other issuance), the total number of shares of Common Stock then beneficially owned by such Warrantholder and the Warrantholder's Affiliates and any other Persons whose beneficial ownership of Common Stock would be aggregated with the Warrantholder's for purposes of Section 13(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"): (a) does not exceed that percentage of the total number of issued and outstanding shares of Common Stock (including for such purpose the shares of Common Stock issuable upon such exercise) that the rules of any Trading Market on which the Company's Common Stock is listed or traded on the date in question provides cannot be exceeded without prior shareholder approval; and (b) together with the total number of shares then beneficially owned by the other Warrantholders that acquired Warrants under the Securities Purchase Agreement, and with their Affiliates and other Persons whose beneficial ownership of Common Stock would be aggregated with theirs, does not result in the occurrence of an Event of Default under Section 2(c)(g) of the Company's Convertible Promissory Note dated December 31, 2009 payable to the Lenders named in that Note, as the term "Event of Default" is defined in that Section 2. For such purposes, beneficial ownership shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. This provision shall not restrict the number of shares of Common Stock which a Warrantholder may receive or beneficially own in order to determine the amount of securities or other consideration that such Holder may receive in the event of a Fundamental Corporate Change.

11. LOSS OR MUTILATION

Upon receipt by the Company from the Holder of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction or mutilation of this Warrant and indemnity reasonably satisfactory to it (it being understood that the written agreement of the Holder shall be sufficient indemnity), and in case of mutilation upon surrender and cancellation hereof, the Company will execute and deliver in lieu hereof a new Warrant of like tenor to the Holder; *provided*, in the case of mutilation no indemnity shall be required if this Warrant in identifiable form is surrendered to the Company for cancellation.

12. OFFICE OF THE COMPANY

As long as any of the Warrants remain outstanding, the Company shall maintain an office or agency (which may be the principal executive offices of the Company) where the Warrants may be presented for exercise, registration of transfer, division or combination as provided in this Warrant.

13. LIMITATION OF LIABILITY

No provision hereof, in the absence of affirmative action by the Holder to purchase shares of Common Stock, and no enumeration herein of the rights or privileges of the Holder hereof, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company. Nothing in the foregoing shall be construed in any manner to limit or deny the liability of a Holder in any other capacity, including, without limitation, as a director of the Company.

14. MISCELLANEOUS

14.1 Unit; Separation

The Company has offered and sold shares of its Common Stock and Warrants under the Securities Purchase Agreement as Units each consisting of one (1) share of Common Stock and one-half (1/2) Warrant to purchase one (1) share of Common Stock. On closing each half Warrant is separable from, and transferable separate from, the share of Common Stock in the Unit.

14.2 Nonwaiver

No course of dealing or any delay or failure to exercise any right hereunder on the part of the Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. No waiver by the Holder of any right hereunder on any one occasion shall operate as a waiver of such right on any other occasion.

14.3 Notice Generally

Except as may be otherwise provided herein, any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of (a) the date of transmission, if such notice or communication is delivered via facsimile (provided the sender receives a machine-generated confirmation of successful transmission) at the facsimile number specified in this Section prior to 6:30 p.m. eastern time on a Business Day, (b) the next Business Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number specified in this Section on a day that is not a Business Day or later than 6:30 p.m. eastern time on any Business Day, (c) the Business Day following the date of transmission, if sent by a nationally recognized overnight courier service, or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be the same as provided in the Securities Purchase Agreement or such other address as may be designated in writing hereafter, in the same manner, by such addressee.

14.4 Remedies

The Holder in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under Section 2 of this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of Section 2 of this Warrant and hereby agrees to waive the defense in any action for specific performance that a remedy at law would be adequate.

14.5 Successors and Assigns

Subject to the provisions of Sections 3.1 and 9, this Warrant and the rights evidenced hereby shall inure to the benefit of and be binding upon the successors of the Company and the successors and assigns of the Holder. The provisions of this Warrant are intended to be for the benefit of all Holders from time to time of this Warrant and, with respect to Section 9 hereof, the holders of Warrant Shares, and shall be enforceable by any such holder or the holder of Warrant Shares.

14.6 Amendment

This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and the Holder.

14.7 Severability

Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall only be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Warrant.

14.8 Headings

The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

14.9 Governing Law

This Warrant shall be governed by the laws of the State of Delaware, without regard to the provisions thereof relating to conflicts of law.

14.10 Disputes

In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the securities or other property deliverable upon exercise of this Warrant, the Company shall promptly issue and deliver to the Holder the securities or other properties that are not in dispute.

IN WITNESS WHEREOF, the Company has caused this Warrant to be duly executed by the undersigned, thereunto duly authorized, as of the date written below.

Dated: February 27, 2012

ENERGY FOCUS, INC.

By: _____

Name: _____

Title: _____

EXHIBIT A

SUBSCRIPTION FORM

[To be executed only upon exercise of Warrant]

The undersigned registered owner of this Warrant irrevocably exercises this Warrant for the purchase of _____ shares of Common Stock of Energy Focus, Inc. and herewith makes payment therefor, all at the price and on the terms and conditions specified in this Warrant and requests that certificates for the shares of Common Stock hereby purchased (and any securities or other property issuable upon such exercise) be issued in the name of and delivered to

_____

whose address is

and, if such shares of Common Stock shall not include all of the shares of Common Stock issuable as provided in this Warrant, that a new Warrant of like tenor and date for the balance of the shares of Common Stock issuable hereunder be delivered to the undersigned.

_____
(Name of Registered Owner)

_____
(Signature of Registered Owner)

_____
(Street Address)

_____
(City) (State) (Zip Code)

Notice: The signature on this subscription must correspond with the name as written upon the face of the within Warrant in every particular, without alteration or enlargement or any change whatsoever.

EXHIBIT B

ASSIGNMENT FORM

FOR VALUE RECEIVED the undersigned registered owner of this Warrant hereby sells, assigns and transfers unto the Assignee named below all of the rights of the undersigned under this Warrant, with respect to the number of shares of Common Stock set forth below:

Name and Address of Assignee	No. of Shares of Common Stock

and does hereby irrevocably constitute and appoint

attorney-in-fact to register such transfer on the books of Energy Focus, Inc. maintained for the purpose, with full power of substitution in the premises.

Dated: _____

(Name of Registered Owner)

(Signature of Registered Owner)

Notice: The signature on this assignment must correspond with the name as written upon the face of the within Warrant in every particular, without alteration or enlargement or any change whatsoever.

Exhibit 10.29

AMENDED AND RESTATED SUBLEASE AGREEMENT

By and Between

KEYSTONE RUBY, LLC

(Landlord)

and

ENERGY FOCUS, INC.
(Tenant)

32000 Aurora Road
Solon, Ohio

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AMENDED AND RESTATED
SUBLEASE AGREEMENT

THIS AMENDED AND RESTATED SUBLEASE AGREEMENT (the "Lease") is entered into effective as of September 1, 2010, by and between Landlord and Tenant named below.

RECITALS

A. Landlord and Tenant have entered into that Sublease Agreement dated March 11, 1998, for the sublease of certain real property and improvements located at 32000 Aurora Road, Solon, Ohio (as amended by the Modification to Sublease dated May 12, 2006, and the First Amendment dated April 1, 2007, and the Second Modification of Sublease Agreement dated June 28, 2010 (collectively, the "Sublease").

B. Landlord and Tenant desire to amend and restate the Sublease in accordance with the terms and conditions set forth herein.

PROVISIONS

The foregoing Recitals are true and accurate and are incorporated herein by reference.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1
DEFINITIONS AND EXHIBITS

1.1 Definitions. Whenever used herein, the following terms shall have the following meanings:

Landlord:	Keystone Ruby, LLC, an Ohio limited liability company.
Address of Landlord:	10020 Aurora/Hudson Road Streetsboro, Ohio 44241 Attn: Mr. James F. Doyle
	Copy to:
	10020 Aurora/Hudson Road Streetsboro, Ohio 44241 Attn: Kevin M. Brokaw, Esq.
Tenant:	Energy Focus, Inc. f/k/n Fiberstars, Inc., a Delaware corporation
Address of Tenant:	32000 Aurora Road Solon, Ohio 44139

Broker:	N/A
Lease Commencement Date:	September 1,2010.
Lease Term:	The Lease shall commence on the Lease Commencement Date and expire on April 30, 2014, unless the same is earlier terminated in accordance with the terms and conditions of this Lease, subject to Tenant's right to extend the term of this Lease in accordance with Section 2.4 hereof. If the Rent Commencement Date does not occur on the first (1st) day of a calendar month, the irst Lease Year shall include any partial calendar month.
Rent Commencement Date:	September 1,2010.
Land:	Certain real property, having an address of 32000 Aurora Road, Solon, Ohio, containing approximately twenty-one (21) acres of real property, on which the Building is located. A legal description of the Land is set forth in Exhibit A. which is attached hereto and incorporated herein by this reference.
Building:	The building located on the Land, containing approximately 310,747 square feet of rentable space. A depiction of the Building is set forth in Exhibit B, which is attached hereto and incorporated herein by this reference.
Building Complex:	The Land and the Building, together with any and all other structures and improvements located thereon (including, without limitation, driveways, parking areas, landscaping and the like).
Premises:	Approximately 25,428 rentable square feet of space located in the Building and shown on the depiction attached hereto and incorporated herein by this reference as Exhibit B.
Permitted Use:	General office and laboratory and uses customarily accessory thereto, and for no other purposes, subject in all cases to the Legal Requirements (as hereinafter defined).

Base Rent:	Period	Per SF Rental Rate	Annual Base Rent	Monthly Installment of Base Rent
	9/1/2010-4/30/2011	N/A	N/A	$ 25,000.00
	5/1/2011-4/30/2014	$ 8.25	$ 209,781.00	$ 17,481.75
	5/1/2014-4/30/2017	$ 8.75	$ 222,495.00	$ 18,541.25

Tenant Improvement Allowance: None.

Operating Expenses: Collectively, the Impositions (as defined below) and the aggregate expenses incurred by Landlord in the operation, maintenance, repair and management of the Building Complex, including, without limitation, the following: utilities supplied to the Building Complex (to the extent the same are not being paid directly by Tenant or other tenants of the Building); security for the Common Areas of the Building Complex; wages and "fringe" benefits for employees or contractors engaged on a full-time basis in connection with servicing the Building Complex up to the grade of building manager only, and payroll taxes, workmen's compensation insurance premiums and similar costs with respect thereto, and an appropriate portion of same with respect to employees or contractors on a part-time basis up to the grade of building manager only; resurfacing or repaving of the parking areas, all insurance obtained by Landlord relating to or otherwise in connection with its ownership or the operation, rental, or management of the Building Complex, the foregoing to include without limitation any liability insurance, rent loss insurance, and any insurance required by Landlord's mortgagee; services obtained for the benefit of the Building Complex (including, without limitation, window cleaning, rubbish and recycling collection and removal, snow removal and grounds maintenance) at a reasonable cost therefore; repairs, replacement, repainting, maintenance, supplies and the like for the Building Complex; a management fee equal to three percent (3%) of the Base Rent and Operating Expenses for any Lease Year; depreciation (on a straight line basis) for capital replacements and improvements made by Landlord which are required in the ordinary course of maintaining the Building Complex or which will reduce the Operating Expenses thereof in Landlord's reasonable judgment, the cost of which shall be amortized over the useful life of the capital replacement or improvement for federal income tax purposes in accordance with generally accepted accounting principles ("GAAP"). The following items shall be excluded from "Operating Expenses": principal or interest payments on any mortgages or other financing

arrangements, leasing commissions and depreciation for the Building Complex, except as specifically provided above; leasing commissions, attorneys' fees, costs and disbursements and other expenses incurred in connection with negotiations or disputes with tenants, other occupants, or prospective tenants or occupants (other than Tenant, any occupant of the Premises, or any subtenant or assignee of Tenant); renovating or otherwise improving, decorating, painting or redecorating space for tenants or other occupants of the Building which is not common area; Landlord's cost of electricity and other services which are separately metered or separately charged to tenants and for which Landlord is entitled to be reimbursed by tenants; expenses in connection with services or other benefits of a type which are not provided Tenant but which are provided to another tenant or occupant (other than an occupant of the Premises); damages and penalties incurred due to a violation by Landlord or any tenant of the terms and conditions of any lease; overhead and profit increment paid to subsidiaries or affiliates of Landlord for services, to the extent only that the costs of such services exceed competitive costs of such services were they not so rendered by a subsidiary or affiliate; Landlord's general overhead and administrative expenses (except that Tenant hereby acknowledges that Operating Expenses shall include a management fee as set forth above); and advertising and promotional expenditures.

Impositions: All taxes including real estate taxes (which term shall include payments in lieu of real estate taxes), assessments, levies, license and permit fees and other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, which at any time during the Lease Term may be assessed, levied, confirmed, imposed upon, or may become due and payable out of or in respect of, or become a lien upon, the Building Complex (including all improvements thereto), other than: (i) municipal, state and federal income taxes (if any) assessed against Landlord; or (ii) municipal, state or federal capital levy, gift, estate, succession, inheritance or transfer taxes of Landlord; or (iii) corporation excess profits or franchise taxes imposed upon any corporate owner of the Building Complex; or (iv) any income, profits or revenue tax, assessment or charge imposed upon the Rent payable by Tenant under this Lease, provided, however, that if at any time during the Lease Term the methods of taxation prevailing at the commencement of the Lease Term shall be altered so that in lieu of or as a substitute for the whole or any part of the taxes, assessments, levies or charges now levied, assessed or imposed on real estate and the improvements thereon, there shall be levied, assessed and imposed a tax, assessment, levy, imposition or charge, wholly or

	partially as a capital levy or otherwise, on the rents received therefrom, or measured by or based in whole or in part upon the Building Complex and imposed upon Landlord, then all such taxes, assessments, levies, impositions or charges or the part thereof so measured or based, shall be deemed to be included within- the term "Impositions" for the purposes hereof. In addition to the foregoing, the term "Impositions" shall include any new tax of a nature not presently in effect, but which may be hereafter levied, assessed, or imposed upon Landlord or the Building Complex, if such tax shall be based solely on or arise out of the ownership, use or occupation of the Building Complex. Landlord shall elect to pay all betterments and special assessments of real estate taxes over the longest period permitted under applicable law and Impositions shall include only those installments which become due during the Lease Term plus any interest payments due during the same period. In the event the Impositions or any portion thereof are abated or reduced for any reason, then there shall be a readjustment in Tenant's Proportionate Share of such Impositions.
Tenant's Proportionate Share:	Tenant's Proportionate Share shall be determined by dividing the gross leasable area of the Premises by the gross leasable area of the Building Complex.
Lease Year:	The twelve (12) month period commencing on the Rent Commencement Date and each successive twelve (12) month period included in the Lease Term commencing on the anniversary of that day and, if the expiration of the Lease Term or the earlier termination of this Lease does not coincide with the termination of such twelve (12) month period, Lease Year shall mean the portion of such twelve (12) month period before such expiration or termination.
Landlord's Mortgagee:	Any party holding a mortgage on the Building Complex or any portion thereof, given as security for indebtedness owed by Landlord to the holder of the mortgage.

1.2 Effect of Reference to Definitions. Any reference in this Lease to any of the terms defined above shall be deemed, to the extent possible, to mean and include all aspects of the definition set forth above for such term.

1.3 Exhibits. The exhibits listed in this Section and attached to this Lease are incorporated by reference and are a part of this Lease.

Exhibit A:	Description of the Land
Exhibit B:	Depiction of the Building and Premises
Exhibit C:	Cognovit Promissory Note

ARTICLE 2

PREMISES, LEASE TERM AND COMMENCEMENT OF LEASE TERM

2.1 Premises. Landlord hereby LEASES to Tenant the Premises, subject to and with the benefit of the terms, covenants, conditions and provisions of this Lease, together with all easements, rights or privileges necessary in connection with the use of the Premises for the Permitted Uses. Tenant shall have the use, in common with others entitled thereto, of the roadways, driveways, parking areas, sidewalks and all other Common Areas serving the Building Complex, as the same may be adjusted by Landlord from time to time and all subject to reasonable rules and regulations promulgated by Landlord from time to time (the "Common Areas").

Notwithstanding anything to the contrary contained herein, Landlord and Tenant acknowledge and agree that effective May 1, 2011, the Premises will be reduced to 25,428 square feet as depicted on Exhibit B attached hereto and incorporated herein. Landlord and Tenant further acknowledge and agree that Rent calculations set forth in Section 1.1 contemplate and that Tenant's Proportionate Share shall be calculated upon the 25,428 square foot measurement of the Premises.

Landlord hereby reserves the right at any time, and from time to time, to make alterations or additions to, and to build additional stories on, the Building in which the Premises are located and to build adjoining the same. Landlord also reserves the right at any time, and from time to time, to construct other buildings and improvements in the Building Complex, and to enlarge or reduce the Building or buildings within the Building Complex, and to build adjoining thereto, and to sell or lease any part of the land comprising the Building Complex. Notwithstanding the foregoing, no such rights of Landlord shall be permitted if same will result in a material adverse effect upon any of the rights and entitlements granted to Tenant hereunder. The purpose of the depiction attached hereto as Exhibit B is to show the approximate location of the Premises within the Building Complex and Landlord reserves the right at any time to relocate the various buildings, parking area and other areas of the Building Complex. In the event the Building Complex is enlarged as provided in this Section, Tenant's Proportionate Share shall be reduced as a result of the increased gross leasable area of the Building Complex.

2.2 Lease Term. TO HAVE AND TO HOLD the Premises for the Lease Term commencing on the Lease Commencement Date, subject to the terms, covenants, agreements and conditions contained in this Lease. As used in this Lease, "Lease Term" shall refer to the initial term of this Lease expiring on April 30, 2014, and the Renewal Term (defined herein), if exercised by Tenant.

2.3 Renewal Term. Landlord hereby grants to Tenant the right and option to extend the term of this Lease for one (1) consecutive period of three (3) years (the "Renewal Term"). The Renewal Term shall commence upon the day next following the last day of the expiring Lease Term. Notwithstanding anything herein contained to the contrary, Tenant's right and option as aforesaid shall be conditioned upon: (i) the Lease remaining in full force and effect; and (ii) Tenant not being in default beyond any applicable grace period. Tenant shall notify Landlord in writing of its election to extend this Lease for the Renewal Term not less than one hundred eighty (180) days prior to the

expiration of the current Lease Term. Notice thereof shall be deemed sufficient if given in the manner hereinafter provided. The Renewal Term shall be upon all of the terms, covenants and conditions of this Lease except that the Base Rent payable during the Renewal Term shall be as set forth in Section 1.1 hereinabove.

ARTICLE 3
BASE RENT AND ADDITIONAL RENT

3.1 Base Rent. Tenant covenants and agrees to pay, during the Lease Term, to Landlord, or to such other person as Landlord by written notice instructs Tenant to make such payments for Landlord's benefit and account, without demand (except as otherwise herein specifically provided), at the Address of Landlord set forth in Section 1.1 or at such other place as Landlord may by written notice to Tenant direct, commencing with the Rent Commencement Date, the Base Rent in equal monthly installments, in advance, subject to Section 3.8 of this Lease. The Base Rent shall be paid on the first day of each full calendar month of the Lease Term commencing on the Rent Commencement Date, and pro rata for any portion of a calendar month included at the beginning or end of the Lease Term, 1 /30 of a monthly payment being due for each day of a partial month, payable on the first day of such month or partial month.

3.2 Additional Rent. In addition to Base Rent, commencing on May 1,2011, and continuing on the first calendar day of each and every calendar month thereafter until the expiration of the Lease Term, Tenant also agrees and covenants to pay to Landlord, or to such other person as Landlord by written notice instructs Tenant to make such payments for Landlord's benefit and account, without demand (except as otherwise herein specifically provided), at the Address of Landlord set forth in Section 1.1 or at such other place as Landlord may by written notice to Tenant direct, Tenant's Proportionate Share of the Operating Expenses.

(i) Within ninety (90) days following the end of each calendar year included in whole or in part in the Lease Term, Landlord shall deliver to Tenant Landlord's good faith estimate of the Operating Expenses for the current year of the Lease Term. Following receipt of Landlord's estimate, Tenant shall pay to Landlord on the first day of each calendar month thereafter, as Additional Rent, an amount equal to 1/12th of Tenant's Proportionate Share applicable thereto of the amount shown in Landlord's estimate.

(ii) Within ninety (90) days after the end of each calendar year or portion thereof included in the Lease Term, Landlord shall deliver to Tenant a statement setting forth the actual Operating Expenses for the immediately preceding calendar year. If the total estimated amount paid for Operating Expenses by Tenant for such preceding calendar year or portion thereof during the Term exceeds the actual amount due therefore as shown on Landlord's statement, the excess shall be credited against the monthly installments of Rent next due (or promptly refunded to Tenant if the Lease Term has expired or is terminated). If the total estimated amount paid by Tenant for any preceding year or portion thereof during the Lease Term is less than the actual amount due therefore as shown on Landlord's statement, then Tenant shall pay the difference to Landlord within thirty (30) days after receipt of such statement from Landlord. Tenant's and Landlord's rights and obligations under this Section 3.2 with respect to the last calendar year, or portion thereof, included in the Lease

Term shall survive the expiration or sooner termination of this Lease. For purposes of calculating Tenant's Proportionate Share of Operating Expenses, a year shall mean a calendar year except the first year, which shall begin on the Rent Commencement Date, and the last year, which shall end on the expiration of this Lease.

(iii) Provided that Tenant shall have first paid all amounts due and payable by Tenant pursuant to this Section 3.2, within ninety (90) days after receiving Landlord's statement of actual Operating Expenses for a particular calendar year, Tenant shall have the right to provide Landlord with written notice (the "Review Notice") of its intent to review Landlord's books and records relating to the Operating Expenses for such calendar year. Within a reasonable time after receipt of a timely Review Notice, Landlord shall make such books and records available to Tenant or Tenant's agent for its review at either Landlord's office or at the Building Complex, provided that if Tenant retains an agent to review Landlord's books and records for any calendar year, such agent must be a certified public accountant licensed to do business in the state in which the Building Complex is located and must not be compensated on a contingent fee basis. Landlord shall be solely responsible for any and all costs, expenses and fees incurred by Tenant or Tenant's agent in connection with such review only if the total amount of Operating Expenses used for the calculation of Tenant's Proportionate Share for the year in question exceeded five percent (5%) or more of the total amount of Operating Expenses that should have been charged to Tenant; otherwise, Tenant shall pay the costs of such audit. If Tenant elects to review Landlord's books and records, within thirty (30) days after such books and records are made available to Tenant, Tenant shall have the right to give Landlord written notice stating in reasonable detail any objection to Landlord's statement of actual Operating Expenses for such calendar year. If Tenant fails to give Landlord written notice of objection within such thirty (30) day period or fails to provide Landlord with a Review Notice within the ninety (90) day period provided above, Tenant shall be deemed to have approved Landlord's statement of Operating Expenses in all respects and shall thereafter be barred from raising any claims with respect thereto. Upon Landlord's receipt of a timely objection notice from Tenant, Landlord and Tenant shall work together in good faith to resolve the discrepancy between Landlord's statement and Tenant's review. If Landlord and Tenant determine that Operating Expenses for the calendar year in question are less than reported, Landlord shall forthwith provide Tenant with a credit against future Additional Rent in the amount of any overpayment by Tenant. Likewise, if Landlord and Tenant determine that Operating Expenses for the calendar year in question are greater than reported, Tenant shall pay to Landlord within thirty (30) days the amount of underpayment by Tenant. Any information obtained by Tenant pursuant to the provisions of this Section shall be treated as confidential. Tenant shall have the right to perform such review or audit of Landlord's books, records and documents as provided for herein not more than once during each calendar year.

3.3 Rent. References in this Lease to "Rent" or "rent" shall be deemed to include both Base Rent and Additional Rent when the context so allows. All monetary obligations of Tenant under this Lease, except for the obligation to pay Base Rent, shall be deemed obligations to pay Additional Rent, unless such presumption is repugnant to the context.

3.4 Landlord's Right to Seek Abatement. Landlord shall have the right to seek a reduction in the valuation of the Premises assessed for tax purposes. To the extent any tax refund payable as a result of any proceeding which Landlord may institute, or payable by reason of compromise or settlement

of any such proceeding, is based upon a payment made by Tenant, then Tenant shall be authorized to collect the same (or the appropriate portion thereof), subject, however, to Tenant's obligation, if any sums are recovered, to reimburse Landlord forthwith for any actual reasonable expense incurred by Landlord in connection therewith out of such sums paid to Tenant.

3.5 Lease to be Deemed Net. This Lease shall be deemed and construed to be an absolutely triple net lease, and Tenant shall accordingly pay to Landlord, absolutely net, the Base Rent and Additional Rent, free of any off-sets or deductions of any kind.

3.6 Independent Covenants. Each covenant, agreement, obligation and/or other provision in this Lease to be performed on Tenant's part shall be deemed and construed to be a separate and independent covenant of Tenant and not dependent on any other provision of this Lease.

3.7 Late Charge. Tenant agrees that if any monthly installment of Base Rent or Additional Rent or any other sum is not paid within five (5) days following written notice to Tenant of its failure to pay, a late charge shall be imposed in an amount equal to five percent (5%) of the unpaid monthly installment(s) of Rent and Additional Rent or other payment; provided, however, that after Landlord shall have given Tenant notice of such failure to pay when due two (2) times during any twelve month period, a late charge shall thereafter be paid upon any amount not paid when due without the necessity of Landlord providing Tenant with any notice of same. The amount of the late charge to be paid by Tenant shall be reassessed and added to Tenant's obligation for each successive monthly period until paid. The provisions of this Section 3.7 shall in no way relieve Tenant of the obligation to pay the monthly installment(s) of Base Rent or Additional Rent or other payments on or before the date on which they are due, nor do the terms of this Section 3.7 in any way affect Landlord's remedies pursuant to Article 9 in the event said monthly installments) of Base Rent, Additional Rent or other payment is unpaid after date due.

ARTICLE 4
SECURITY DEPOSIT

Landlord will not require a Security Deposit.

ARTICLE 5
UTILITIES AND SERVICES

5.1 Utilities. Landlord and Tenant acknowledge that the utilities serving the Premises are not separately metered. Unless and until such time as the utilities are separated metered, all costs for utilities which are not separately metered or billed separately by Landlord shall be included in Operating Expenses, and Tenant shall be responsible for Tenant's Proportionate Share thereof. Notwithstanding anything to the contrary contained herein, Landlord and Tenant agree that: (i) Tenant's Proportionate Share of the annual cost for electric to the Building Complex shall be equal to ninety-five cents ($0.95) per square foot; and (ii) Tenant's Proportionate Share of the annual" cost for gas to the Building shall be equal to twenty-two cents ($0.22) per square foot. Landlord reserves the right hereunder, at Landlord's sole cost and expense, to separately meter or sub-meter any utilities serving the Premises to the extent such utilities are not now so separately metered or sub-

metered. Once separately metered, Tenant shall make arrangements with appropriate utility or service companies for its own service for any utilities and/or services which are to serve the Premises exclusively or directly and which can be billed to Tenant directly, and Tenant shall promptly pay all costs with respect to same, such payments to be made, to the extent possible, directly to the utility or service provider or to the appropriate party charged with collecting the same, the foregoing to include all charges for such utilities or services. Landlord shall be under no obligation to furnish any utilities or services to the Premises and shall not be liable for any interruption or failure in the supply of any such utilities or services to the Premises.

5.2 Landlord's Services. Landlord, during the Lease Term, shall provide the following services, the cost of which, unless otherwise expressly provided herein, shall be included in Operating Expenses:

(i) the repair, maintenance and replacement (when necessary or appropriate) of the structural components of the Premises including the structural walls, concrete floors and roof (but specifically excluding all glass, interior and exterior), and the mechanical systems serving the Building (including, without limitation, the heating, air conditioning, electrical, plumbing and sanitary sewer) to the point where the same enter the Premises, provided, however, that notwithstanding anything to the contrary contained herein neither (A) the cost of replacing (as opposed to maintaining and repairing) the structural components of the Premises and the Building (including the roof) nor (B) any mechanical systems that exclusively service another tenant's premises shall be Operating Expenses or otherwise charged to Tenant. Landlord shall not be liable for damages caused by its failure to make any such repairs, provided that Landlord has used reasonable efforts to attempt to have such repair made after having been notified by Tenant that such repair must be made promptly and that Tenant will be damaged by the failure to make such repairs promptly;

(ii) The maintenance of the landscaping on the Land;

(iii) The maintenance, repair and replacement of the parking areas, driveways, and walkways located on the Land (including, without limitation, the removal of snow and ice);

(iv) The insurance which Landlord is required to maintain on the Building Complex pursuant to Article 6 below;

(v) The management of the Building Complex;

(vi) Parking and common area lighting; and

(vii) Security for the Common Areas of the Building Complex (but specifically excluding the interior of the Premises or any other leased space in the Building Complex which security, if any, shall be at the election of and the sole responsibility of the tenant occupying such [eased space).

(viii) The maintenance, repair and replacement of the heating and air conditioning ("HVAC"), electrical, plumbing and sewer systems that serving the Building Complex, which may

include a service contract for the semi-annual performance of standard HVAC system maintenance, including but not limited to, periodic replacement of filters, oiling of mechanical components and inspection for wear and tear.

5.3 Rubbish and Recycling. Tenant shall be responsible for the collection and removal of rubbish and recycling from the Premises and Building Complex.

5.4 Tenant's Access. Subject to Tenant's compliance with all Legal Requirements, Tenant shall have access to the Premises twenty-four (24) hours a day, seven (7) days a week. Notwithstanding Section 5.2(vii) above, Tenant shall be solely responsible, at Tenant's sole cost and expense, for security for the Premises.

ARTICLE 6
INSURANCE

6.1 Required Coverage. Tenant covenants and agrees with Landlord that during the Lease Term the following insurance shall be obtained by Tenant and carried at Tenant's sole expense:

(i) Tenant's comprehensive public liability insurance insuring and indemnifying Tenant, Landlord, and Landlord's Mortgagee against liability for injury to persons and damage to property which may be claimed to have occurred upon the Premises or the sidewalks, ways and other real property adjoining said Premises and covering all Tenant's obligations under this Lease and with limits of at least $1,000,000 for property damage, $1,000,000 for injury or death of one person, and $2,000,000 for injury or death of more than one person in any single accident, or such higher limits in any case as may reasonably be required in case of increase in risk or as may be customarily carried in the state where the Building Complex is located by prudent occupants of similar property, as determined by Landlord in its reasonable discretion.

(ii) Workmen's Compensation covering all Tenant's employees working at the Premises.

(iii) Such additional insurance (including, without limitation, rent loss insurance) as Landlord or Landlord's Mortgagee shall reasonably require, provided that such insurance is in an amount and of the type customarily carried in the state in which the Building Complex is located by prudent occupants of similar property.

6.2 Writing and Disposition of Insurance Policies. All insurance required under Section 6.1 above shall be written with companies reasonably satisfactory to Landlord and in forms customarily in use from time to time in the market area of the Building Complex. Tenant shall furnish Landlord with certificates of said policies, and said policies, if appropriate, shall (i) name Landlord and Landlord's Mortgagee as named insureds, as their respective interests may appear, and (ii) provide that the coverage thereunder may not lapse or be cancelled without thirty (30) days prior written notice to Landlord, Landlord's Mortgagee and Tenant.

6.3 Mutual Waiver of Subrogation. Landlord and Tenant each hereby releases the other, its officers, directors, employees and agents, from any and all liability or responsibility (to the other or

anyone claiming through or under them by way of subrogation or otherwise) for any loss or damage to property covered by insurance which either party is required to maintain under this Lease, even if such loss or damage shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible. However, this release shall be applicable and in force and effect only with respect to loss or damage occurring during such time as the releasor's insurance policies shall contain a clause or endorsement to the effect that any such release shall not adversely affect or impair said policies or prejudice the right of the releasor to recover thereunder. Landlord and Tenant each agrees that any ire and extended coverage insurance policies will include such a clause or endorsement as long as the same shall be obtainable without extra costs, or, if extra cost shall be charged therefore, so long as the other party pays such extra cost. If extra cost shall be chargeable therefore, each party shall advise the other party and of the amount of the extra cost, and the other party, at its election, may pay the same, but shall not be obligated to do so.

6.4 Blanket Policies. Nothing contained herein shall prevent Tenant from taking out insurance of the kind and in the amounts provided for herein under a blanket insurance policy or policies covering properties other than the Premises, provided however, that any such policy or policies of blanket insurance (a) shall specify therein, or Tenant shall furnish Landlord with the written statement from the insurers under such policy or policies specifying the amount of the total insurance allocated to the Premises, which amounts shall not be less than the amounts required herein, and (b) amounts so specified shall be sufficient to prevent any of the insureds from being a co-insurer within the terms of the applicable policy or policies, and provided further, however, that any such policy or policies of blanket insurance shall, as to the Premises, otherwise comply as to endorsements and coverage with the provisions herein.

6.5 Landlord's Insurance Covenant. Landlord covenants and agrees that, during the Lease Term, it shall obtain all risk insurance against damage by ire or other casualty in an amount at least equal to the replacement cost of the Premises as determined from time to time by Landlord or (at Landlord's election or upon Tenant's request) by appraisal made at the expense of Tenant by an accredited insurance appraiser approved by Landlord. Tenant's Proportionate Share of the cost of such insurance shall be paid by Tenant as an Operating Expense in accordance with Section 3.2 hereof.

ARTICLE 7
TENANT'S ADDITIONAL COVENANTS

Tenant covenants and agrees during the Lease Term and such further time as Tenant occupies the Premises or any part thereof:

7.1 Performing Obligations. To perform fully, faithfully and punctually all of the obligations of Tenant set forth in this Lease; and to pay when due Rent and all charges, rates and other sums which by the terms of this Lease are to be paid by Tenant.

7.2 Use. Tenant shall use the Premises only for the Permitted Uses, and for no other purposes. In no event shall Tenant's use of the Premises consist of any of the following prohibited activities or businesses: operation of any private or commercial golf course; country club; massage parlor; hot tub

facility; suntan facility; race track or other facility used for gambling; any store the principal business of which is the sale of alcoholic beverages for consumption off premises; or the rental to others in the Premises of residential property (defined in Section 168(e)(2)(A) of the Code as any building or structure where eighty percent (80%) or more of the gross rental income is derived from dwelling units). Tenant's use of the Premises in any manner that violates the foregoing Use Restrictions shall constitute a material default or Event of Default by Tenant under this Lease giving rise to a right of Lease termination by Landlord.

7.3 Maintenance and Repair. At Tenant's expense, and except for reasonable wear and tear and damage from ire or other casualty, to keep the Premises, including, without limitation, (i) all interior and exterior glass, and (ii) any loading docks and other installations used in connection with the Premises, clean, neat and in good order, repair and condition, and to arrange for, or enter into contracts regarding the provision of such services as are necessary to do so including, without limitation, the removal of rubbish, replacement of all light bulbs and ballasts as necessary, and to keep the Premises and such installations in as good condition, order and repair as the same are at the Lease Commencement Date or such better conditions as they thereafter may be put, reasonable wear and use and damage by ire or other casualty or eminent domain only excepted, it being understood that the foregoing exception for reasonable wear and use shall not relieve Tenant from the obligation to keep the Premises and such installation in good order, repair and condition including, without limitation, all necessary and ordinary non-structural repairs, replacements and the like. Tenant also agrees to abide by reasonable rules and regulations which may be adopted by Landlord from time to time for the Building Complex and uniformly applied to all tenants of the Building Complex.

7.4 Compliance with Laws. At Tenant's sole cost and expense, to comply promptly with all present and future laws, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments, departments, commissions, boards and officials, foreseen and unforeseen, ordinary as well as extraordinary, which may be applicable to the Premises or to Tenant's use, occupancy or presence in or at the Premises or the Building Complex, including the Americans with Disabilities Act ("ADA") and all laws with respect to the handling, storage and disposal of hazardous materials (the "Legal Requirements"), except that Tenant may defer compliance so long as the validity of any such Legal Requirement shall be contested by Tenant in good faith and by appropriate legal proceedings, and:

(i) If by the terms of such Legal Requirement, compliance therewith pending the prosecution of any such proceeding may legally be delayed without the incurrence of any lien, charge or liability of any kind against the Premises or the Building Complex or any portion thereof and without subjecting Tenant or Landlord to any liability, civil or criminal, for failure so to comply therewith, Tenant may delay compliance therewith until the final determination of such proceeding, or

(ii) If any lien, charge or civil liability would be incurred by reason of any such delay, Tenant nevertheless may contest as aforesaid and delay as aforesaid, provided that such delay would not subject Landlord to criminal liability or fine, and Tenant (i) furnishes to Landlord security, reasonably satisfactory to Landlord, against any loss or injury by reason of such contest or delay, and (ii) prosecutes the contest with due diligence; and

(iii) Such delay in compliance will not constitute a default by Landlord under any lease, mortgage or other agreement, will not affect the use of all or any portion of the Building Complex by Landlord or any tenant of the Building, and will not affect the sale, leasing, or refinancing of all or any portion of the Building Complex.

Notwithstanding the foregoing, Tenant shall not be responsible for compliance with any Legal Requirement requiring structural repairs, repairs to improvements located outside of and not exclusively serving the Premises, or the installation of new building equipment such as sprinklers, unless the need for such compliance arises from any work or alterations performed for or on behalf of Tenant, Tenant's particular manner of use of the Premises, or Tenant's negligence.

7.5 Payment for Tenant's Work. To pay promptly when due the entire cost of any work at or on the Premises undertaken by Tenant so that the Premises shall at all times be free of liens for labor and materials; promptly to clear the record of any notice of any such lien; to procure all necessary permits and before undertaking such work; to do all of such work in a good and workmanlike manner, employing materials of good quality and complying with all governmental requirements; and to save Landlord harmless and indemnified from all injury, loss, claims or damage to any person or properly occasioned by or growing out of such work.

7.6 Indemnity. To save Landlord harmless and indemnified from, and to defend Landlord against, all injury, loss, claims or damage (including reasonable attorneys' fees) to any person or property while on the Premises unless arising from any omission, fault, negligence or other misconduct of Landlord, or its agents, servants, employees, or contractors; and to save Landlord harmless and indemnified from, and to defend Landlord against, all injury, loss, claims or damage (including reasonable attorneys' fees) to any person or property anywhere occasioned by any act, omission, neglect or default of Tenant or Tenant's agents, servants, employees, contractors, guests, invitees or licensees.

7.7 Personal Property at Tenant's Risk. That all personal property, equipment, inventory and the like from time to time upon the Premises shall be at the sole risk of Tenant; and that Landlord shall not be liable for any damage which may be caused to such property or the Premises or to any person for any reason including, without limitation, the bursting or leaking of or condensation from any plumbing, cooling or heating pipe or fixture.

7.8 Payment of Cost of Enforcement. To pay on demand Landlord's expenses, including reasonable attorneys' fees, incurred in enforcing any obligation of Tenant under this Lease or in curing any default by Tenant under this Lease, provided that Landlord is successful in enforcing such obligation or has a right under this Lease to cure such default.

7.9 Surrender. At the termination of the Lease Term, Tenant shall peaceably to surrender the Premises clean and in good order, repair and condition, and in conformance with all Legal Requirements, reasonable wear and tear and damage by ire or casualty or taking excepted and to deliver to Landlord all keys to the Premises or any pat thereof. Any alteration, addition or improvement in, on, or to the Premises made or installed by Tenant shall become a part of the realty

and belong to Landlord without compensation to Tenant upon the expiration or sooner termination of the Lease Term, at which time title shall pass to Landlord under this Lease as if by a bill of sale, unless Landlord elects otherwise and notifies Tenant to remove any such tenant improvements at any time prior to the expiration of the Lease Term. If Landlord elects for Tenant to remove any or all of such tenant improvements, Landlord shall notify Tenant in writing no later than thirty (30) days prior to the expiration of the Lease Term as to which tenant improvements are to be removed prior to the expiration of the Lease. If Landlord fails to so notify Tenant, Tenant shall have no obligation to remove such tenant improvements and restore the Premises as a result of such removal. Notwithstanding the foregoing, any and all trade equipment (including but not limited to manufacturing and processing equipment), trade fixtures, furniture, data lines, inventory and business equipment ("Personal Property") shall remain Tenant's property and shall be removed by Tenant at the expiration or earlier termination of this Lease. Upon demand by Landlord, Tenant shall remove, at Tenant's sole cost and expense, forthwith and with all due diligence (but in any event prior to the expiration or earlier termination of the Lease Term), any such alterations, additions or improvements which are designated by Landlord to be removed, and Tenant shall forthwith and with all due diligence, at its sole cost and expense, repair any damage to the Premises or the Building Complex caused by such removal. In the event Tenant fails so to remove any Personal Property or any such alterations, additions and improvements or fails to repair any such damage to the Premises or the Building Complex caused thereby, Landlord may do so and collect from Tenant the cost of such removal and repair in accordance with Section 7.8 hereof.

7.10 Rights of Mortgagees.

(i) This Lease shall be subordinate to any mortgage, deed of trust or ground lease or similar encumbrance (collectively, a "Mortgage") from time to time encumbering the Premises, whether executed and delivered prior to or subsequent to the date of this Lease, unless Landlord's Mortgagee shall elect otherwise. If this Lease is subordinate to any Mortgage and Landlord's Mortgagee or any other party shall succeed to the interest of Landlord pursuant to the Mortgage (such Mortgagee or other party, a "Successor"), at the election of the Successor, Tenant shall attorn to the Successor and this Lease shall continue in full force and effect between the Successor and Tenant. Not more than fifteen (15) days after Landlord's written request, Tenant agrees to execute such instruments of subordination or attornment in confirmation of the foregoing agreement as the Successor reasonably may request, and Tenant hereby appoints the Successor as Tenant's attorney-in-fact to execute such subordination or attornment agreement upon Tenant's failure timely to comply with the Successor's request. Notwithstanding the foregoing, if this Lease is subordinate to a Mortgage as aforesaid, then upon the written request of Tenant, Landlord agrees to use commercially reasonable efforts to obtain the written agreement of Landlord's Mortgagee that, subject to such reasonable qualifications as such Mortgagee may impose, in the event that Landlord's Mortgagee or any other party shall succeed to the interest of Landlord hereunder pursuant to such Mortgage, so long as no Event of Default exists hereunder, Tenant's right to possession of the Premises shall not be disturbed and Tenant's other rights hereunder shall not be adversely affected by any foreclosure of such Mortgage. For purposes hereof, the term "'commercially reasonable efforts" shall not include the payment of any sum of money or the consent to less favorable terms and conditions with respect to the obligations or indebtedness secured or created by the Mortgage. In the event that, despite using commercially reasonable efforts, Landlord is unable to obtain such an

agreement, then this Lease nonetheless shall be subordinate as aforesaid. Landlord shall use commercially reasonable efforts to obtain a Subordination, Non-Disturbance and Attornment Agreement by and among Landlord, Tenant and Landlord's mortgagee(s), in a form reasonably acceptable to Tenant and in recordable form, prior to the Rent Commencement Date.

(ii) With reference to any assignment by Landlord of Landlord's interest in this Lease, or the rents payable hereunder, conditional in nature or otherwise, which assignment is made to the holder of a mortgage on property which includes the Premises, Tenant agrees that the execution thereof by Landlord, and the acceptance thereof by the holder of such mortgage shall never be treated as an assumption by such holder of any of the obligations of Landlord hereunder unless such holder shall, by notice sent to Tenant, specifically otherwise elect and, except as aforesaid, such holder shall be treated as having assumed Landlord's obligations hereunder only upon foreclosure of such holder's mortgage and the taking of possession of the Premises. In no event shall the acquisition of Landlord's interest in the Building Complex by a purchaser which, simultaneously therewith, leases Landlord's entire interest in the Building Complex back to the seller thereof be treated as an assumption by operation of law or otherwise, of Landlord's obligations hereunder, but Tenant shall look solely to such seller lessee, and its successors from time to time in title, for performance of Landlord's obligations hereunder. In any such event, this Lease shall be subject and subordinate to the lease to such purchaser. For all purposes, such seller lessee, and its successors in title, shall be the Landlord hereunder unless and until Landlord's position shall have been assumed by such purchaser lessor. Except as provided herein, in the event of any transfer of title to the Building Complex by Landlord, Landlord shall thereafter be entirely freed and relieved from the performance and observance of all covenants and obligations hereunder.

(iii) Tenant shall not seek to enforce any remedy it may have for any default on the pat of Landlord without first giving written notice by certified mail, return receipt requested, specifying the default in reasonable detail to any mortgage holder whose address has been given to Tenant, and affording such mortgage holder a reasonable opportunity to perform Landlord's obligations hereunder. Notwithstanding any such attornment or subordination of a mortgage to this Lease, the holder of any mortgage shall not be liable for any acts of any previous landlord, shall not be obligated to install any tenant improvements, and shall not be bound by any amendment to which it did not consent in writing nor any payment of rent made more than one month in advance.

7.11 Estoppel Certificates. From time to time, upon not less than fifteen (15) days' prior written request by Landlord, to execute and acknowledge and deliver to Landlord, for delivery to a prospective purchaser or mortgagee of the Premises or the Building Complex or to any assignee of any mortgage of the Premises or the Building Complex, a statement in writing certifying: (a) that this Lease is unamended (or, if there have been any amendments, stating the amendments); (b) that it is then in full force and effect, if that be the fact; (c) the dates to which Rent and any other payments to Landlord have been paid; (d) any defenses, offsets and counterclaims which Tenant, at the time of the execution of said statement, believes that Tenant has with respect to Tenant's obligation to pay Rent and to perform any other obligations under this Lease or that there are none, if that be the fact; and (e) such other data as may reasonably be requested. Any such statement may be relied upon by such prospective purchaser or mortgagee of the Premises, or portion thereof, or any assignee of any mortgagee of the Premises, or portion thereof.

7.12 Nuisance. At all times during the Lease Term and such further time as Tenant occupies the Building Complex, not to injure, overload, deface or otherwise harm the Building Complex; nor commit any nuisance; nor to do or suffer any waste to the Building Complex; nor permit the emission of any objectionable noise or odor; nor make any use of the Building Complex which is improper or contrary to any Legal Requirement or which will invalidate any insurance policy covering the Building Complex or any portion thereof, including, without limitation, the handling, storage and disposal of any Hazardous Material.

7.13 Changes and Alterations. Except as otherwise explicitly set forth herein, Tenant shall have no authority, without the express written consent of Landlord to alter, remodel, reconstruct, demolish, add to, improve or otherwise change the Premises, except that Tenant shall have such authority, without the consent of Landlord, to make repairs to the Premises and do such things as are appropriate to comply with the obligations imposed on Tenant under other provisions of this Lease. Tenant shall not construct or permit any alterations, installations, additions or improvements, including any exterior or interior signs ("Alterations") to the Premises or the Building without having first submitted to Landlord plans and specifications therefore for Landlord's approval, which approval shall not be unreasonably withheld or delayed provided that:

(i) If the Alteration involves a sign or will otherwise be visible from the exterior then the Alteration must be compatible with the architectural and aesthetic qualities of the Premises and the Land; and

(ii) The Alteration must be non-structural and have no effect on the plumbing, heating (and cooling), mechanical, electrical or other systems or services in the Building, and the Alteration (except for signs) must be entirely within the Premises; and

(iii) The Alteration, when completed, will not adversely affect the value of the Premises or the Land in Landlord's reasonable discretion; and

(iv) Tenant demonstrates to Landlord' s satisfaction that the Alteration will be made in accordance with all Legal Requirements using good quality materials and good quality construction practices and will not result in any liens on the Premises; and

(v) As soon as such work is completed, Tenant will have prepared and provide Landlord with "as-built" plans (in form acceptable to Landlord) showing all such work; and

(vi) Tenant will comply with any rules or requirements reasonably promulgated by Landlord in connection with the doing of any work, and if requested by Landlord, Tenant will obtain and maintain Builder's Risk insurance in connection with such work.

Tenant shall have the right to make minor non-structural Alterations from time to time in the Premises which do not affect the Building systems without obtaining Landlord's prior written consent therefore, provided that all of such work conforms to all of the above requirements in all respects, and further provided that Tenant provides Landlord with a written description of such work

(and such other data as Landlord may request) prior to commencing any such Alteration, and further provided that the aggregate cost of such minor alterations may not exceed $10,000.00 in any twelve (12) month period.

7.14 Financial Statements. Tenant will provide Landlord with annual financial statements prepared by outside accountants within 120 days of Tenant's year-end. Tenant will also provide Landlord with financial statements prepared by outside accountants upon request of Landlord's lenders.

7.15 Holding Over. If Tenant remains in the Premises beyond the expiration of the Lease Term, or sooner following an early termination as provided for herein, such holding over shall not be deemed to create any tenancy, but Tenant shall be a tenant at sufferance only subject to all of Tenant obligations set forth herein, but at a daily rate equal to one hundred fifty percent (150%) of the Rent, the cost of electricity and all other utilities supplied to the Premises, and other charges provided for under this Lease. The acceptance of a purported rent check following termination shall not constitute the creation of a tenancy at will, it being agreed that Tenant's status shall remain that of a tenant at sufferance, at the aforesaid daily rate. Any reference in this Lease to Tenant's obligations continuing during the period of any holdover shall not be deemed to grant Tenant the right to a holdover or imply Landlord's consent to any such holdover. In addition, Tenant shall be liable for all costs, claims, liabilities and damages arising from or in any manner related to any such holdover including, without limitation, damages payable to the subsequent tenant and related to the loss of a tenant.

ARTICLE 8
QUIET ENJOYMENT

Landlord covenants that Tenant on paying the Rent and performing Tenant's obligations under this Lease shall peacefully and quietly have, hold and enjoy the Premises throughout the Lease Term or until it is terminated as in this Lease provided without hindrance by Landlord or by anyone claiming by, through or under Landlord. The foregoing covenant of quiet enjoyment is in lieu of any other covenant, express or implied.

ARTICLE 9
DAMAGE AND EMINENT DOMAIN

9.1 Fire and Other Casualty. In the event that at any time during the Lease Term the Premises are totally damaged or destroyed by fire or other casualty or substantially damaged so as to render them or a material portion thereof untenantable, then there shall be a just and proportionate abatement of the Rent payable hereunder, until the Premises are made suitable for Tenant's occupancy. In the event of any casualty damage to the Premises, Landlord shall proceed at its expense and with reasonable diligence to repair and restore the Premises (not including Tenant's trade fixtures, business equipment and furniture) to substantially the same condition they were in immediately prior to such casualty. Notwithstanding the foregoing, if Landlord in its sole discretion determines that timely restoration is not possible or practical or that there are or will be insufficient insurance proceeds available to Landlord to accomplish same, then Landlord shall have the right to

terminate this Lease by written notice given to Tenant within sixty (60) days after the occurrence of such casualty. In the event the Premises have not been restored to a condition substantially suitable for their intended purpose within one hundred and eighty (180) days following the issuance of all permits required for such restoration, then either Landlord or Tenant may terminate this Lease by written notice given to the other within five (5) business days following such one hundred and eighty (180) day period.

9.2 Eminent Domain. Landlord reserves for itself all rights to any damages or awards with respect to the Premises and the leasehold estate hereby created by reason of any exercise of the right of eminent domain, or by reason of anything lawfully done in pursuance of any public or other authority; and by way of confirmation Tenant grants and assigns to Landlord all Tenant's rights to such damages so reserved, except as otherwise provided herein. Tenant reserves all rights to any damages or awards relating to its trade fixtures, equipment, personal property, exterior signs and relocation costs. Tenant covenants to execute and deliver any instruments confirming such assignment as Landlord may from time to time reasonably request. If all the Premises are taken by eminent domain, this Lease shall terminate when Tenant is required to vacate the Premises or such earlier date as Tenant is required to begin the payments of rent to the taking authority. If a partial taking by eminent domain results in so much of the Premises being taken as to render the Premises or a material portion thereof unsuitable for Tenant's continued use and occupancy, as determined by Landlord in its reasonable discretion, either Landlord or Tenant may elect to terminate this Lease as of the date when Tenant is required to vacate the portion of the Premises so taken, by written notice to the other given not more than sixty (60) days after the date on which Tenant or Landlord, as the case may be, receives notice of the taking. If a partial taking by eminent domain does not result in such potion of the Premises as aforesaid being taken, then this Lease shall not be terminated or otherwise affected by any exercise of the right of eminent domain. Whenever any portion of the Premises shall be taken by any exercise of the right of eminent domain, and if this Lease shall not be terminated in accordance with the provisions of this Section 9.2, Landlord shall, at its expense, proceeding with all reasonable dispatch do such work as may be required to restore the Premises or what remains thereof (not including Tenant's trade fixtures, business equipment and furniture) as nearly as may be to the condition they were in immediately prior to such taking, and Tenant shall at its expense, proceeding with all reasonable dispatch, provided sufficient condemnation proceeds are available therefore (or, in not, provided that Tenant provides additional funds needed above the amount of the condemnation proceeds available, do such work to its trade fixtures, business equipment and furniture, as may be required. A just proportion of the Rent payable hereunder, according to the nature and extent of the taking shall be abated from the time Tenant is required to vacate that portion of the Premises taken. If the Premises have not been restored to a condition substantially suitable for their intended purpose within one hundred eighty (180) days of the issuance of all permits required for such restoration, Tenant may elect to terminate this Lease by written notice to Landlord sent within five (5) business days following such one hundred eighty (180) day period.

ARTICLE 10
DEFAULTS AND REMEDIES

10.1 Tenant's Default. Each of the following shall be an event of default ("Event of Default") hereunder: (A) if Tenant shall fail to pay any installment of Base Rent, Additional- Rent or any other payment due under this Lease, and such failure shall continue for a period of five (5) business days following Landlord's notice of same to Tenant, provided that such notice from Landlord shall be in lieu of, and not in addition to, any notice of default required by applicable law, and provided further Landlord shall be obligated to give only two (2) such notices per any twelve (12) month period, with subsequent payment default to be an Event of Default if such failure to pay shall continue for a period of five (5) days from the date such payment is due (without any notice); (B) if Tenant or any guarantor or surety of Tenant's obligations hereunder shall (i) make a general assignment for the benefit of creditors; (ii) commence any proceeding for relief, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or of any substantial pat of its property; (iii) become the subject of any such proceeding which is not dismissed within sixty (60) days after its filing or entry; or (iv) die or suffer a legal disability (if Tenant, guarantor or surety is an individual) or be dissolved or otherwise fail to maintain its legal existence (if Tenant, guarantor or surety is a corporation, partnership or other entity); (C) Tenant shall fail to discharge or bond over any lien placed upon the Premises in violation of this Lease within thirty (30) days after Tenant receives notice that any such lien or encumbrance is filed against the Premises; (D) if Tenant shall fail to comply with any provision of this Lease, other than those specifically referred to hereinabove and, except as otherwise expressly provided therein, such default shall continue for more than thirty (30) days after Landlord shall have given Tenant written notice of such default, or such longer period if such default cannot be reasonably cured within such thirty (30) day period, provided that Tenant diligently commences the cure within the thirty (30) day period and diligently prosecutes such cure to completion; and (E) if default by Maker be made in the observance or performance of any of the covenants or agreements under the Cognovit Promissory Note attached hereto and incorporated herein as Exhibit C (the "Note") and such default shall continue beyond the applicable cure period provided in the Note. Upon the occurrence of an Event of Default, defined as aforesaid, then in any such case, notwithstanding any waiver or other indulgence of any prior default, Landlord may terminate this Lease by written notice to Tenant sent at any time thereafter, but before Tenant has cured or removed the cause for such termination. Such termination shall take effect on the later of (i) the last day of the month in which Tenant receives the notice, or (ii) twenty-one (21) days after Tenant receives the notice, and shall be without prejudice to any remedy Landlord might otherwise have for any prior breach of covenant.

10.2. Landlord's Election. Upon each occurrence of an Event of Default and so long as such Event of Default shall be continuing, Landlord may at any time thereafter, at its election by written notice to Tenant:
(i) terminate this Lease or Tenant's right of possession, but Tenant shall remain liable as hereinafter provided; and/or (ii) pursue any remedies provided for under this Lease or at law or in equity. Upon the termination of this Lease or termination of Tenant's right of possession, it shall be lawful for Landlord, without formal demand or notice of any kind, to re-enter the Premises by summary dispossession proceedings or any other action or proceeding authorized by law and to remove Tenant and all persons and property therefrom. If Landlord re-enters the Premises, Landlord

shall have the right to keep in place and use, or remove and store all of the fixtures, equipment and other property of Tenant left at the Premises or elsewhere at the Building Complex. If Landlord terminates this Lease or terminates Tenant's right of possession, Landlord may recover from Tenant the sum of (i) all Base Rent, Additional Rent and all other amounts accrued hereunder to the date of such termination, (ii) the costs set forth in Section 10.3 below, and (iii) an amount equal to (A) the Base Rent and Additional Rent which would have been payable by Tenant under this Lease had this Lease not been so terminated (or had Tenant's right of possession not been terminated) for the period commencing after said termination and ending on the last day of the Lease Term with such amounts becoming due and payable by Tenant on such dates as Base Rent would otherwise become due and payable hereunder, less (B) the net rents received by Landlord from re-letting the Premises (or any portion(s) thereof) for the period commencing after said termination and ending on the last day of the Lease Term, such net rents to be determined by first deducting from the gross rents received by Landlord from such re-letting the expenses incurred or paid by Landlord in connection with said termination and in re-entering the Premises and in securing possession thereof, as well as the actual expenses of re-letting (including, without limitation, altering and preparing the Premises for new tenants and any broker's commission as determined pursuant to Section 10.3 below). Subject to the provisions of Section 10.4 below, any such re-letting may be for a shorter or longer period than the remaining Lease Term, and in no event shall Tenant be entitled to receive any excess of such net rents over the Base Rent payable by Tenant to Landlord under this Lease.

10.3. Reimbursement of Landlord's Expenses. Upon each occurrence of an Event of Default, whether or not such event of Default results in the termination of this Lease or termination of Tenant's right of possession pursuant to Section 10.2. Tenant shall reimburse Landlord for all actual and reasonable expenses arising out of such Event of Default, including, without limitation, (i) all actual and reasonable costs incurred in collecting such amounts due from Tenant under this Lease (including actual and reasonable attorneys' fees incurred and the costs of litigation and the like but only if Landlord is successful in its litigation) and (ii) all customary and necessary expenses incurred by Landlord in attempting to relet the Premises or pats thereof, such as advertising and brokerage fees but excluding lease inducements and build-out or retrofit of the premises to accommodate another tenant. The reimbursement from Tenant shall be due and payable within thirty (30) days following written notice from Landlord that an expense has been incurred with documentation substantiating such expenses, without regard to whether the expense was incurred before or after the termination.

10.4. Termination of Right of Possession. Even though Tenant has breached this Lease and abandoned the Premises, this Lease shall continue in effect for so long as Landlord does not terminate the Lease (even though it has terminated Tenant's right of possession), and Landlord may enforce all its rights and remedies under this Lease, including the right to recover Base Rent and Additional Rent as it becomes due. Any such payments due Landlord shall be made on the dates that Base Rent and Additional Rent would otherwise come due under this Lease, and Tenant agrees that Landlord may file suit to recover any sums falling due from time to time. Notwithstanding any such termination of possession only, Landlord may at any time thereafter elect in writing to terminate this Lease for such previous breach.

10.5. Mitigation. Landlord shall use commercially reasonable efforts to relet the Premises which efforts shall be subject to the reasonable requirements of Landlord to lease to high quality tenants and to develop the Premises in a harmonious manner with an appropriate mix of uses, tenants, and terms of tenancies, and the like and factoring in the location and nature of the Premises. It is agreed that hiring a reputable leasing broker to lease the Premises and cooperating in good faith with such broker shall satisfy the requirement that Landlord use commercially reasonable efforts to relet.

10.6. Claims in Bankruptcy. Nothing herein shall limit or prejudice the right of Landlord to prove and obtain in a proceeding for bankruptcy, insolvency, arrangement or reorganization, by reason of the termination, an amount equal to the maximum allowed by the statute of law in effect at the time when, and governing the proceedings in which, the damages are to be provided, whether or not the amount is greater to, equal to, or less than the amount of the loss or damage which Landlord has suffered.

10.7. Landlord's Right to Cure Defaults. Landlord may, but shall not be obligated to cure, at any time any default by Tenant under this Lease after the applicable notice and cure period (if any) has expired. In curing such defaults, Landlord may enter upon the Premises and take such action thereon as may be necessary to effect such cure. In the case of an emergency threatening serious injury to persons or property, Landlord may cure such default without notice. All costs and expenses incurred by Landlord in curing a default, including reasonable attorneys' fees actually incurred, together with interest thereon at a rate equal to the lesser of (a) eighteen percent (18%) per annum, or (b) the highest lawful rate of interest which Landlord may charge to Tenant without violating any applicable law from the day of payment by Landlord shall be paid by Tenant to Landlord on demand. Landlord may use the Security Deposit to effectuate any such cure.

10.8. No Waiver. Exercise by Landlord of any one or more remedies hereunder granted or otherwise available shall not be deemed to be an acceptance of surrender of the Premises and/or a termination of this Lease by Landlord, whether by agreement or by operation of law, it being understood that such surrender and/or termination can be effected only by the written agreement of Landlord and Tenant. Tenant and Landlord further agree that forbearance or waiver by either party to enforce its rights pursuant to this Lease, or at law or in equity, shall not be a waiver of such party's right to enforce one or more of its rights in connection with any subsequent default. A receipt by Landlord of rent with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision of this Lease shall be deemed to have been made unless expressed in writing and signed by Landlord. No payment by Tenant, or acceptance by Landlord, of a lesser amount than shall be due from Tenant to Landlord shall be treated otherwise than as a payment on account of the earliest installment of any payment due from Tenant under the provisions hereof. The acceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, that such lesser amount is payment in full, shall be given no effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant.

10.9 Default Interest. If any payment of Base Rent, Additional Rent or any other payment payable hereunder by Tenant to Landlord shall not be paid when due, Landlord may impose, at its election, interest on the overdue amount from the date when the same was payable until the date paid at a rate equal to the lesser of (a) eighteen percent (18%) per annum, or (b) the highest lawful rate of interest which Landlord may charge to Tenant without violating any applicable law. Such interest shall constitute Additional Rent payable hereunder.

10.10 Landlord Default. Landlord's failure or refusal to perform any provision of this Lease which it is obligated to perform or the breach of any covenant herein, and the continuation of such failure or refusal for thirty (30) days after receipt of written notice from Tenant of such failure or refusal, shall be a default by Landlord (each, a "Landlord Default"); provided, however, that if the failure or refusal to perform cannot reasonably be cured by Landlord within thirty (30) days after receipt by Landlord of the required notice from Tenant, despite reasonably diligent effort by Landlord, then Tenant shall not exercise any of its rights and remedies under this Section 10.10 if Landlord commences a cure within thirty (30) days after receipt of notice thereof and diligently pursues such cure to completion. In the event of a Landlord Default, and without waiving any other remedy or claim for damages or breach of this Lease, but subject to the preceding sentence, Tenant may elect to cure the Landlord Default and Landlord shall reimburse Tenant for the actual and reasonable cost of curing such Landlord Default. Notwithstanding anything in Section 10.10 to the contrary, in the event of an Emergency Situation (defined herein), if the Landlord Default is not cured after reasonable notice to or attempts to notify Landlord, which may be a shorter notice as practicable under the circumstances, Tenant may cure the Landlord Default and Landlord shall reimburse Tenant for the actual and reasonable cost of curing such Landlord Default, provided that such cure is not more extensive than is reasonably necessary under the circumstances. As used in this Section 10.10. "Emergency Situation" means a situation which imminently threatens the physical well-being of persons in or on the Premises.

10.11 Tenant Remedies. If Tenant incurs any costs or expenses because of a Landlord Default, the actual and reasonable sums paid by Tenant to cure such Landlord Default shall be due from Landlord to Tenant within thirty (30) days following written notice from Tenant that an expense has been incurred with documentation substantiating such actual and reasonable expenses. If Landlord fails to reimburse Tenant for such actual and reasonable costs incurred by Tenant to cure a Landlord Default within thirty (30) days of invoice therefore, such actual and reasonable costs incurred shall bear interest at the rate of twelve percent (12%) per annum from the date due until repaid by Landlord. In addition to Tenant's right to cure a Landlord Default as set forth above, Tenant shall have the right, at its option, to: (i) pursue a remedy of specific performance, (ii) seek money damages for actual loss arising from Landlord's failure to discharge its obligations under this Lease, or (iii) to terminate this Lease, subject to the terms of this Lease; provided that notwithstanding anything to the contrary contained in this Lease, in no event shall Tenant be able to recover from Landlord and special, indirect, incidental or consequential damages of any kind or nature whatsoever. Tenant's remedies under this Section 10.11 shall be cumulative with, and not exclusive of, any other remedies to which Tenant may be entitled under this Lease, at law or in equity. Nothing herein contained shall relieve Landlord from its obligations hereunder, nor shall this Section 10.11 be construed to obligate Tenant to perform Landlord's obligations under the Lease.

ARTICLE 11
ASSIGNMENT AND SUBLETTING

11.1 Prohibition. Tenant covenants and agrees that neither this Lease nor the term and estate hereby granted, nor any interest herein or therein, will be assigned, mortgaged, pledged, encumbered or otherwise transferred, and that neither the Premises, nor any pat thereof will be encumbered in any manner by reason of any act or omission on the pat of Tenant, or used or occupied, by anyone other than Tenant, or for any use or purpose other than as stated herein, or be sublet, without the prior written consent of Landlord in each and every case, which consent shall not be unreasonably withheld, delayed or conditioned. Not in limitation of the foregoing, Tenant's request for Landlord's consent to subletting or assignment shall be submitted in writing in advance of the proposed effective date of such proposed assignment or sublease, which request shall be accompanied by the following information (the "Required Information"): (i) the name, current address and business of the proposed assignee or subtenant; (ii) the precise square footage and location of the portion of the Premises proposed to be so subleased or assigned; (iii) the effective date and term of the proposed assignment or subletting; and (iv) the rent and other consideration to be paid to Tenant by such proposed assignee or subtenant. Upon Landlord's request, Tenant also shall promptly supply Landlord with such financial statements and other information as Landlord may request, prepared in accordance with generally accepted accounting principles, not more than ninety (90) days old when delivered to Landlord, indicating the net worth, liquidity and credit worthiness of the proposed assignee or subtenant in order to permit Landlord to evaluate the proposed assignment or sublease. In the event that Tenant intends to assign or sublease fifty percent (50%) or more of the Premises, Tenant agrees to reimburse Landlord for reasonable legal fees and any other reasonable expenses and costs incurred by Landlord in connection with any proposed assignment or subletting.

11.2. Conditions to Consent. Notwithstanding anything to the contrary contained herein, it shall not be unreasonable for Landlord to withhold its consent to any proposed assignment or sublease if (i) Tenant proposes to assign this Lease or sublease the Premises or any portion thereof to any person or entity with whom Landlord is then negotiating for the rental of other space in the Building or who is a tenant in the Building or any other building owned by Landlord or any affiliate of Landlord; or (ii) the net worth of any such proposed assignee or subtenant is less than the greater of (A) the net worth of Tenant on the date hereof or (B) the net worth of Tenant at the time of any such assignment or sublease; or (iii) the proposed use is not limited to the Permitted Uses; or (iv) there are then two (2) or more leases or subleases in effect with respect to the Premises (including this Lease); or (v) any rent payable by Tenant hereunder is so-called "percentage rent" (provided, however, that it is hereby agreed and acknowledged that in no event shall Landlord's right to withhold consent be limited to the basis set forth in clauses (i) through (v) above). Landlord's consent shall be granted only if the assignee or subtenant shall promptly execute, acknowledge, and deliver to Landlord an agreement in form and substance satisfactory to Landlord whereby the assignee or subtenant shall agree to be bound by and upon the covenants, agreements, terms, provisions and conditions set forth in this Lease other than the payment of Rent hereunder.

11.3 Excess Rents. If Tenant shall sublet the Premises, having first obtained Landlord's consent, at a rental in excess of the rent and additional rent due and payable by Tenant under the provisions of this Lease, such excess Rent and Additional Rent, net of Tenant's commercially reasonable and

necessary expenses related to the sublease, shall be paid by Tenant to Landlord, it being agreed, however, that Landlord shall not be responsible for any deficiency if Tenant shall sublet the Premises at a rental less than that provided for herein.

11.4 Assignment or Sublease to an Affiliate. Notwithstanding anything to the contrary contained herein, Tenant shall have the right to assign this Lease or sublet the Premises or any pat thereof without the prior consent of Landlord to either (x) an entity into or with which Tenant is merged or consolidated, or to which all or substantially all of Tenant's assets are transferred, or (y) any entity which controls or is controlled by Tenant or is under common control with Tenant ("Affiliate"), provided that in any such event (i) the successor to Tenant has a net worth, computed in accordance with generally accepted accounting principles consistently applied, at least equal to the greater of (1) the net worth of Tenant immediately prior to such merger, consolidation or transfer, or (2) the net worth of Tenant herein named on the date of this Lease; (ii) proof satisfactory to Landlord of such net worth shall have been delivered to Landlord at least ten (10) days prior to the effective date of any such transaction, and (iii) the assignee agrees directly with Landlord, by written instrument in form satisfactory to Landlord in its reasonable discretion, to be bound by all the obligations of Tenant hereunder, including, without limitation, the covenant against further assignment and subletting.

11.5 No Waiver; Tenant to Remain Liable. If this Lease is assigned, or if the Premises or any part thereof is sublet or occupied by anybody other than Tenant, Landlord may, after default by Tenant, collect Rent and/or Additional Rent from the assignee, subtenant or occupant, and apply the net amount collected to the Rent and/or Additional Rent herein reserved, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of this covenant, or the acceptance of the assignee, subtenant or occupant as a tenant, or a release of Tenant from the further performance by Tenant of covenants on the pat of Tenant herein contained. The consent by Landlord to an assignment or subletting shall not in any way be construed to relieve Tenant from obtaining the express consent in writing of Landlord to any further assignment or subletting. No assignment, subletting or use of the Premises shall affect the Permitted Use hereunder. Notwithstanding any permitted assignment or subletting, Tenant shall at all times remain directly, primarily and fully responsible and liable for the payment of all sums payable hereunder and for compliance with all the obligations of Tenant hereunder.

ARTICLE 12
NOTICES

All notices, consents, approvals, or other communication required by the provisions of this Lease to be given to Landlord or Tenant shall be in writing and shall be hand delivered or given by registered or certified mail or by Federal Express or other recognized overnight courier, addressed to the address of the party set forth in Section 1.1 hereof or to such other address as the party shall have last designated by notice. The customary receipt shall be conclusive evidence of compliance with this Article 11. Notice shall be deemed given on the earlier of the date of actual receipt, or the third (3rd) business day following the date when deposited in the U.S. mail or on the first (1st) business day following the date when deposited with such courier, postage paid.

ARTICLE 13
ENTIRE AGREEMENT, MEMORANDUM OF LEASE

This Lease, including the Exhibits, other attachments and instruments to be delivered by the parties pursuant to the provisions herein contain the entire understanding and agreement of the parties with respect to the subject matter of this Lease.

Tenant agrees that it will not record this Lease. Landlord and Tenant shall, upon the request of either, execute, acknowledge, and deliver a recordable Memorandum of this Lease. At Landlord's request, promptly upon expiration of or earlier termination of the Lease Term, Tenant shall execute and deliver to Landlord a release of any document recorded in the real property records for the location of the Premises evidencing this Lease, and Tenant hereby appoints Landlord Tenant's attorney-in-fact, coupled with an interest, to execute any such document if Tenant fails to respond to Landlord's request to do so within fifteen (15) days. The obligations of Tenant under this Article 13 shall survive the expiration or any earlier termination of the Lease Term.

ARTICLE 14
APPLICABLE LAW, SEVERAB1LITY, CONSTRUCTION

This Lease shall be governed by and construed in accordance with the laws of the state in which the Building Complex is located and, if any provisions of this Lease shall to any extent be invalid, the remainder of this Lease, and the application of such provisions in other circumstances, shall not be affected thereby. This Lease may be amended only by an instrument in writing executed by Landlord and Tenant. The titles of the several Articles and Sections contained herein are for convenience only and shall not be considered in construing this Lease.

ARTICLE 15
SUCCESSORS AND ASSIGNS, ETC.

15.1 Covenants Run With The Land. It is understood and agreed that the covenants and agreements of the parties hereto shall run with the land and that no covenant or agreement of Landlord, expressed or implied, shall be binding upon Landlord except in respect of any breach or breaches thereof committed during Landlord's seizing and ownership of the Premises. If Landlord acts as a Trustee or Trustees of a trust in making this Lease only the estate for which Landlord acts shall be bound hereby, neither any such Trustee executing this Lease as Landlord nor any shareholder or beneficiary of such trust shall be personally liable for any of the covenants or agreements of Landlord expressed herein or implied hereunder or otherwise because of anything arising from or connected with the use and occupation of the Premises by Tenant. Reference in this Lease to "Landlord" or to "Tenant" and all expressions referring thereto, shall mean the person or persons, natural or corporate, named herein as Landlord or as Tenant, as the case may be, and the heirs, executors, administrators, successors and assigns of such person or persons, and those claiming by, through or under them or any of them, unless repugnant to the context. If Tenant is a partnership or a firm of several persons, natural or corporate, the obligations of each person executing this Lease as Tenant shall be joint and several. Any person who signs this Lease for Tenant or for Landlord in a representative capacity personally warrants and represents that he or she is duly authorized to do so.

15.2 Limitation on Landlord's Liability. It is further understood and agreed that Tenant shall look solely to the estate and property of Landlord in the Premises for the satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default or breach by Landlord with respect to any of the terms, covenants and conditions of this Lease to be observed or performed by Landlord and any other obligations of Landlord created by or under this Lease, and no other property or assets of Landlord or of its partners, beneficiaries, co-tenants, shareholders or principals (as the case may be) shall be subject to levy, execution or other enforcement procedures for the satisfaction of Tenant's remedies.

ARTICLE 16
LANDLORD'S ACCESS

Landlord and its authorized agents, employees, subcontractors and representatives shall have the right to enter the Premises at any time during emergencies (Landlord agrees to use reasonable efforts to notify Tenant of any such emergency) and at all reasonable times with prior notice for any of the following purposes: (i) to determine whether the Premises are in good condition and whether Tenant is complying with its obligations under this Lease; (ii) to do any necessary maintenance and to make such repairs, alterations, improvements or additions in or to the Premises or the Building as Landlord has the right or obligation to perform under this Lease, as Landlord may be required to do or make by law, or as Landlord may from time to time deem necessary or desirable; (iii) to exhibit the Premises to prospective tenants during the last twelve (12) months of the Lease Term or during any period while an Event of Default exists hereunder; and (iv) to show the Premises to prospective lenders, brokers, agents, buyers or persons interested in an exchange, at any time during the Lease Term.

If, at any time during the last month of the Lease Term, Tenant shall have removed all of Tenant's property from all or any potions(s) of the Premises, Landlord may immediately enter and alter, renovate and decorate the same, and such acts shall have no effect upon Tenant's remaining obligations and covenants under this Lease.

ARTICLE 17
CONDITION OF PREMISES

17.1 Condition of the Premises. Except as expressly set forth herein, Tenant shall accept the Premises on the Substantial Completion Date in its "AS-IS" condition, subject to all applicable laws, ordinances, regulations, covenants and restrictions, and Landlord shall have no obligation to perform or pay for any repair or other work therein. Landlord has made no representation or warranty as to the suitability of the Premises for the conduct of Tenant's business, and Tenant waives any implied warranty that the Premises are suitable for Tenant's intended purposes. TENANT ACKNOWLEDGES THAT (1) IT HAS INSPECTED AND ACCEPTS THE PREMISES IN AN "AS IS, WHERE IS" CONDITION, (2) THE BUILDING AND IMPROVEMENTS COMPRISING THE SAME ARE SUITABLE FOR THE PURPOSE FOR WHICH THE PREMISES ARE LEASED AND LANDLORD HAS MADE NO WARRANTY, REPRESENTATION, COVENANT, OR AGREEMENT WITH RESPECT TO THE MERCHANTABILITY OR FITNESS FOR ANY

PARTICULAR PURPOSE OF THE PREMISES, (3) THE PREMISES ARE IN GOOD AND SATISFACTORY CONDITION, (4) NO REPRESENTATIONS AS TO THE REPAIR OF THE PREMISES, NOR PROMISES TO ALTER, REMODEL OR IMPROVE THE PREMISES HAVE BEEN MADE BY LANDLORD AND (5) THERE ARE NO REPRESENTATIONS OR WARRANTIES, EXPRESSED, IMPLIED OR STATUTORY, THAT EXTEND BEYOND THE DESCRIPTION OF THE PREMISES. Except as otherwise may expressly be provided herein, in no event shall Landlord have any obligation for any defects in the Premises or any limitation on its use. The taking of possession of the Premises shall be conclusive evidence that Tenant accepts the Premises and that the Premises were in good condition at the time possession was taken.

17.2 Tenant's Work. Tenant shall perform any work required to permit Tenant to open the Premises for business ("Tenant's Work"). Tenant shall not commence any of Tenant's Work until Tenant has submitted to Landlord plans and specifications (in such detail as Landlord shall reasonably require) for such work and Landlord has approved such plans in writing. Tenant's Work shall be performed at Tenant's sole cost and expense, in accordance with such approved plans and specifications and in accordance with the terms and conditions of this Lease, including, without limitation, Section 7.5 and Section 7.13 hereof, and shall be performed by contractor(s) approved by Landlord, which approval shall not be unreasonably withheld or delayed. Tenant shall commence Tenant's Work promptly after receipt of Landlord's approval of Tenant's plans and specifications (but not before the Lease Commencement Date) and shall diligently prosecute the same to completion. Landlord's approval of Tenant's plans and specifications for Tenant's Work shall create no responsibility or liability on the pat of Landlord for their completeness, design sufficiency, or compliance with all laws, rules and regulations of governmental agencies or authorities. Prior to beginning Tenant's Work, Tenant shall, if required by law, obtain appropriate performance and payment bonds covering the labor and materials required to complete Tenant's Work. Prior to beginning Tenant's Work, Tenant shall also deliver to Landlord and Landlord's Mortgagee, at Tenant's cost, a builder's risk insurance policy naming Landlord and Landlord's Mortgagee as additional insureds, as their interests may appear, with the amount and type of coverage being required by Landlord and Landlord's Mortgagee and otherwise in compliance with the requirements for insurance set forth in Article 6 above, together with evidence that the premium for said insurance has been paid in full by Tenant for a period of no less than one year. Tenant covenants and represents that the foregoing work shall be completed in a good and workmanlike manner and in compliance with all Legal Requirements. Tenant shall promptly pay in full all costs and expenses associated with Tenant's Work and shall be responsible for the performance of Tenant's Work to completion. Upon completion of Tenant's Work, Tenant shall deliver to Landlord a certificate of completion from Tenant's architect certifying that all Tenant's Work has been installed and completed in accordance the approved plans and specifications therefore and in compliance with all Legal Requirements.

17.3 Signage. Tenant shall have the right to install Tenant' s signage at the Premises, provided that (a) Tenant obtains all necessary permits and complies with all applicable Legal Requirements and any applicable covenants and restrictions applicable to the Premises in connection therewith, (b) Tenant otherwise complies with Section 7.12 of this Lease, and (c) Tenant obtains the prior written consent of Landlord for such signage (which consent shall not be unreasonably withheld, delayed or conditioned provided that Tenant delivers to Landlord reasonably detailed plans and specifications

for the sign). All such signage shall be installed and maintained by Tenant, at its sole cost and expense, and shall be removed by Tenant at the expiration or earlier termination of this Lease in accordance with Section 7.9 hereof. Tenant shall be entitled to maintain its existing exterior building signage currently located in the center of the face of the building facing and running parallel to Aurora Road; provided that Landlord shall have the right to relocate, at Landlord's sole cost and expense, Tenant's existing signage to the eastern side of the face of the building facing and running parallel to Aurora Road in order to balance the exterior building signage with that of other key tenants of the Building upon the leasing of a potion of the Building to a new tenant.

17.4 Parking. Tenant shall have the exclusive use of the thirty-eight (38) parking spaces identified as the "Energy Focus Reserved Parking" on the depiction attached hereto and incorporated herein as Exhibit D (the "Energy Focus Reserved Parking") free of any charge over and above the Rent due hereunder throughout the Lease Term and any Renewal Terms or extensions thereof. Notwithstanding the foregoing, in the event that Landlord leases space in the second floor of the Building to a third party and Landlord adds a man door on the east wall of the Building leading directly into the Premises and a path leading from the parking area to such man door, Tenant shall release no less than ten (10) parking spaces from the Energy Focus Reserved Parking which will be replaced by an equal number of new reserved parking spaces on the east side of the Building. Tenant shall be entitled to post signage designating the Energy Focus Reserved Parking; provided that such parking signage shall be subject to and installed in accordance with the terms, conditions and requirements of Section 17.3 above.

ARTICLE 18
WARRANTY REGARDING BROKER

Tenant warrants and represents that Tenant has dealt with no broker in connection with the consummation of this Lease other than the Broker named in Section 1.1 hereof, and, in the event of any brokerage claims against Landlord predicated upon prior dealings with Tenant by any broker other than the Broker, Tenant agrees to defend the same and indemnify Landlord against any such claim. Landlord warrants and represents that Landlord has dealt with no broker other than the Broker in connection with the consummation of this Lease, and, in the event of any brokerage claims against Tenant predicated upon prior dealings with Landlord by any broker, Landlord agrees to defend the same and indemnify Tenant against any such claim. Landlord agrees to pay any commission due Broker pursuant to the terms of a separate agreement.

ARTICLE 19
HAZARDOUS MATERIALS

Tenant shall not (either with or without negligence) cause or permit the escape, disposal, release or threat of release of any biologically or chemically active or other Hazardous Materials (as said term is hereafter defined) on, in, upon or under the Premises or the Building Complex. Tenant shall not allow the generation, storage, use or disposal of such Hazardous Material's in any manner not sanctioned by law or by the highest standards prevailing in the industry for the generation, storage, use and disposal of such Hazardous Materials, nor allow to be brought into the Premises or the Building Complex any such Hazardous Materials except for use in the ordinary course of

Tenant's business, and then only after written notice is given to Landlord of the identity of such Hazardous Materials. Hazardous Materials shall include, without limitation, any material or substance which is (i) petroleum, (ii) asbestos, (iii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. '1251 et seq. (33 U.S.C. '1321) or listed pursuant to * 307 of the Federal Water Pollution Control Act (33 U.S.C. ^317), (iv)
defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq. (42 U.S.C. ' 6903), (v) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. -9601 et seq. (42 U.S.C. '9601), as amended, or (vi) defined as "oil" or a "hazardous waste", a "hazardous substance", a "hazardous material" or a "toxic material" under any other law, rule or regulation applicable to the Building Complex or any portion thereof. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of Hazardous Materials, then the reasonable costs thereof shall be reimbursed by Tenant to Landlord upon demand as additional charges but only if such requirement applies to the Premises or may be the result of the acts or omissions of Tenant. In addition, Tenant shall execute affidavits, representations and the like, from time to time, at Landlord's request concerning Tenant's best knowledge and belief regarding the presence of Hazardous Materials in the Premises or at the Building Complex or any portion thereof. In all events, Tenant shall indemnify and save Landlord harmless from any release or threat of release or the presence or existence of any Hazardous Materials in or on the Premises occurring while Tenant is in possession or elsewhere at the Building Complex if caused by Tenant or any person acting under Tenant. The within covenants and indemnity shall survive the expiration or earlier termination of the Lease Term. Landlord expressly reserves the right to enter the Premises to perform regular inspections. Landlord agrees to save Tenant harmless and to indemnify Tenant from and against any liability, injury loss, claim, damage, settlement, attorneys' fees, fines, penalties, interest or expense which may be incurred by Tenant (including, without, limitation, any cost which Landlord may incur for testing and remediation) arising from any release, presence or existence of Hazardous Materials which existed at the Building Complex prior to Tenant's occupation of the Premises.

ARTICLE 20
FORCE MAJEURE

In the event that Landlord or Tenant shall be delayed, hindered in or prevented from the performance of any act required hereunder other than the payment of any Base Rent, Additional Rent or other sums payable hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, the act, failure to act or default of the other party, war or other reason beyond their control ("Force Majeure"), then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Force Majeure shall not be construed to excuse Tenant from making any payments due hereunder in a timely manner as set forth in this Lease or from performing any covenant or obligation imposed under this Lease by reason of the financial inability of Tenant.

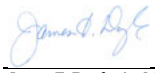
[Signatures appear on the following page]

IN TESTIMONY HEREOF, Landlord and Tenant have caused this Lease to be signed in multiples as of the date indicated below.

LANDLORD:

Keystone Ruby, LLC,
an Ohio limited liability company

By: Landon Investments, LLC
Its Manager

By: 
James F. Doyle, its Member

Date: August 2, 2011

TENANT:

Energy Focus, Inc.,
A Delaware corporation

By: 

Print: Eric Hilliard

Title: VP/COO

Date: August 1, 2011

STATE OF OHIO)
) SS.
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public in and for said County and State, personally appeared James F. Doyle, known to me to be the Manager of Dunham Square Land, LLC, an Ohio limited liability company, which is the manager of Keystone Ruby, LLC, who executed the foregoing instrument for, and on behalf of, said company, and who acknowledged that the same is his/her free act and deed as such officer and the free act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio, this 2nd day of August, 2011.

NOTARY PUBLIC

Louann Paul, Notary Public
In and for the State of Ohio
My Commission Expires May 16, 2015

STATE OF OHIO)
) SS.
COUNTY OF CUYAHOGA)

BEFORE ME, a. Notary Public in and for said County and State, personally appeared Eric Hellard, known to me to be the COO of Energy Focus, Inc., a Delaware corporation, who executed the foregoing instrument for, and on behalf of, said company, and who acknowledged that the same is his/her free act and deed as such officer and the free act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio, this 1st day of August, 2011

Virginia F. Benson
NotaryPublic
State of Ohio
My Commission Expires
September 18, 2013

NOTARY PUBLIC

EXHIBIT A

DESCRIPTION OF THE LAND

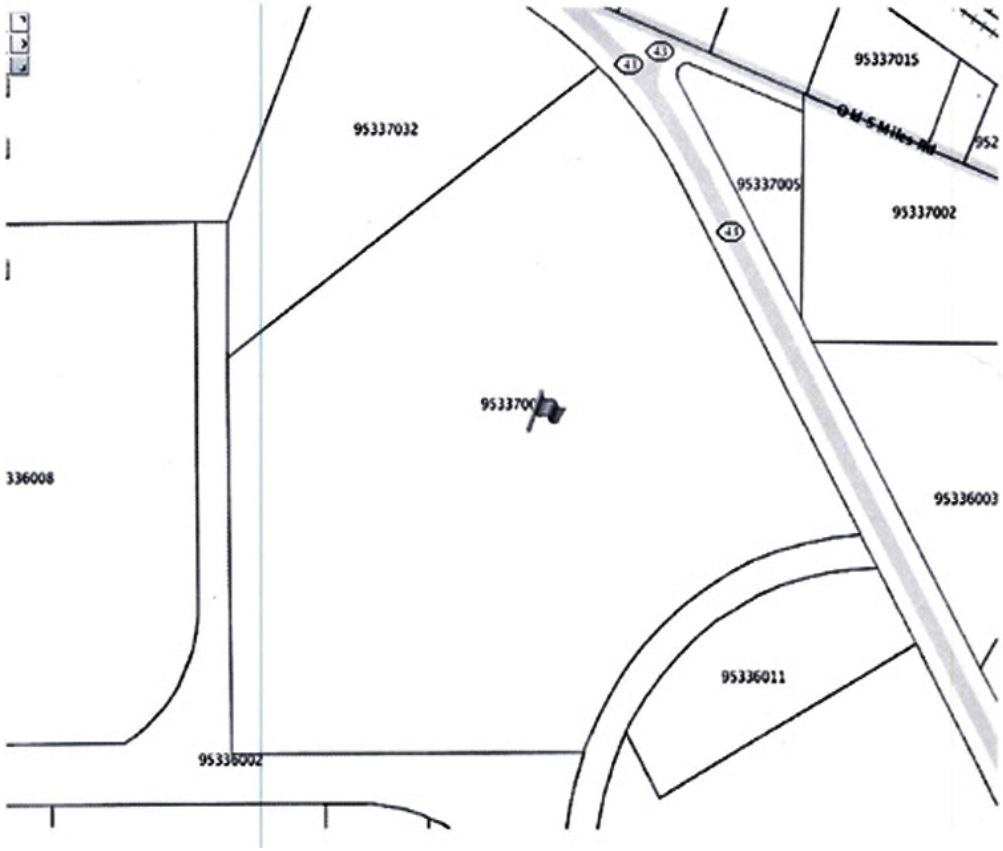

95337015
95337032
95337005
95337002
95336008
95336003
95336011
95336002

EXHIBIT B

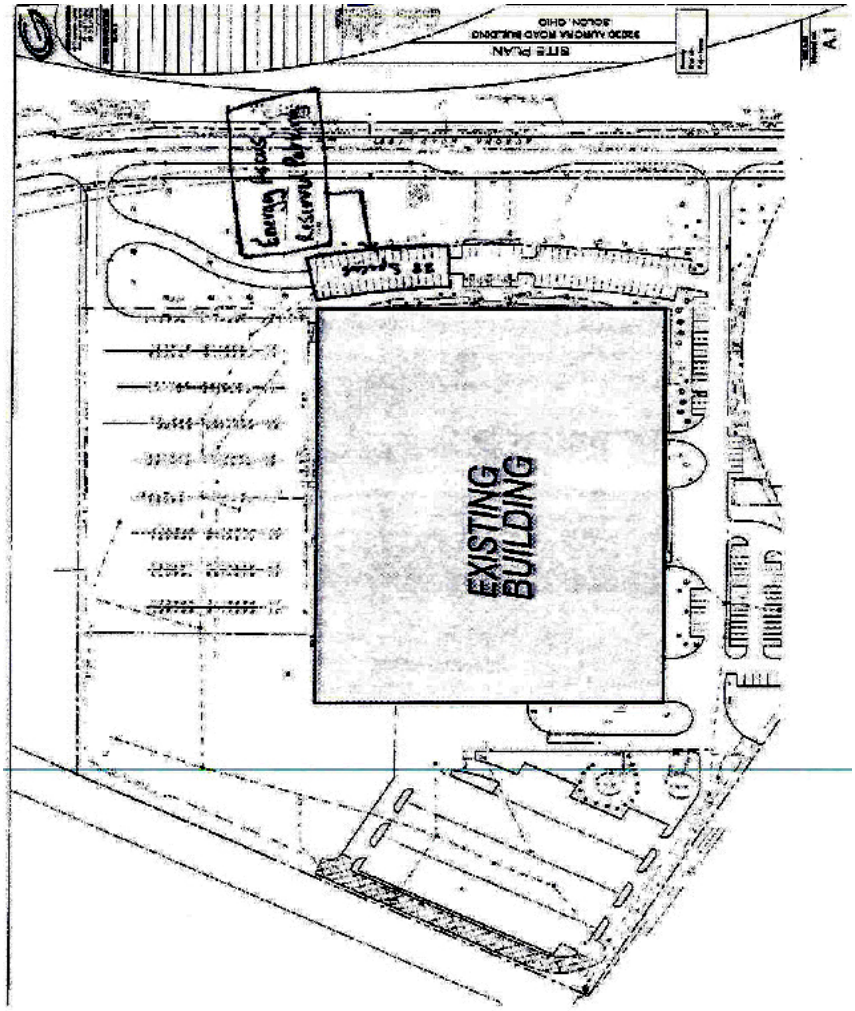
DEPICTION OF THE BUILDING AND PREMISES

[See Attached]

EXHIBIT C

COGNOVIT PROMISSORY NOTE

[See Attached]


SITE PLAN
3230 AURORA ROAD BUILDING
SOLON, OHIO
A1
EXISTING
BUILDING

COGNOVIT PROMISSORY NOTE

$675,882.88

September 1, 2010
Solon, Ohio

FOR VALUE RECEIVED, the receipt and sufficiency of which is hereby acknowledged, the undersigned, Energy Focus, Inc. (the "Maker"), hereby promises to pay to Keystone Ruby, LLC, an Ohio limited liability company (the "Holder"), without setoff or deduction the principal amount of Six Hundred Seventy-Five Thousand Eight Hundred Eighty- Two and 88/100 Dollars ($675,882.88) (the "Principal") at the address of 10020 Aurora-Hudson Road, Streetsboro, Ohio 442241 or at such other address as may be designated in writing by Holder. The purpose of this Note is to memorialize the obligation of undersigned to repay to the Holder a debt arising from the lease between Maker, as Tenant, and Holder, as Landlord, for certain Premises located at 32000 Aurora Road, Solon, Ohio, 44139, to which this Note is attached (the "Lease"). Terms not otherwise defined herein shall have the meaning ascribed to them in the Lease.

The term of this Note shall commence on September 1, 2010, and shall end on April 30, 2017, unless accelerated in accordance with the terms and conditions hereof (the "Maturity Date"). The entire Principal balance and any other sums due hereunder shall be payable in full by Maker on or before 12:00 p.m. on the Maturity Date.

Commencing on May 1, 2011, this Note shall bear interest at a rate equal to ten percent (10%) per annum (the "Interest Rate").

The Principal and accrued interest thereon due under this Note shall be repaid by Maker as follows:

A. The outstanding Principal balance due under this Note shall be reduced by the eight (8) monthly payments of Rent each in the amount of Twenty-Five Thousand and 00/100 Dollars ($25,000.00) paid by Maker and received by Holder pursuant to the Lease during the period commencing on September 1, 2010 and ending April 30, 2011.

B. On or before 12:00 p.m. on April 30, 2011, Maker shall make a Principal payment to Holder in the amount of One Hundred Twenty-One Thousand Thirty and 00/100 Dollars ($121,030.00).

C. The remaining Principal balance equal to Three Hundred Fifty-Four Thousand Eight Hundred Fifty-Two and 88/100 Dollars ($354,852.88) shall be repaid by Maker in seventy-two (72) equal monthly installments of principal and interest equal to Six Thousand Five Hundred Seventy-Three and 95/100 Dollars ($6,573.95) (the "Monthly Payments") and shall be due and payable on the first (1st) day of April, 2010, and on the first (1st) day of each succeeding month through the Maturity Date in accordance with the amortization schedule attached hereto and incorporate herein as Schedule 1 (the "Amortization Schedule").

D. Notwithstanding anything to the contrary contained herein, in the event that Maker does not notify Holder in writing on or before October 31, 2013, that Maker is electing to extend the Term of the Lease for the Renewal Term, then the Maturity Date shall be accelerated and Maker shall repay the entire remaining Principal balance and any other sums due hereunder on or before 12:00 p.m. on December 31, 2013 (the "Accelerated Maturity Date").

All payments due under this Note shall be applied first against accrued interest and then to late charges and lastly against the outstanding principal amount due under this Note, except that if any advance made by Lender under the terms of any instrument securing this Note is not repaid, any monies received, at the option of Lender, may first be applied to repay such advances, plus interest thereon, and the balance, if any, shall be applied as above. Each interest rate referred to herein shall be calculated based on a 360-day year of twelve (12) thirty (30) day months, and shall be payable for the actual number of days elapsed in any period. Borrower shall pay all amounts due under this Note directly to Lender in lawful money of the United States of America.

Payments on this Note are to be made in lawful money of the United States of America in immediately available funds at such location as the Holder shall designate to the Makers. Failure to exercise any right contained in this Note by the Holder shall not constitute a waiver of the right to exercise such right in the event of any subsequent default.

The Maker may prepay all or part of this Note. Partial prepayments shall not excuse any subsequent payment due.

Notwithstanding any of the foregoing, (i) if Maker shall be in default if the Maker shall be in default of the payment of this Note for more than ten (10) days; (ii) if default be made in the observance or performance of any of the covenants or agreements in this Note and such default shall continue for a period of thirty (30) days after the receipt by the Maker of written notice specifying the nature of such default during which time the Maker has failed to cure such default or take steps reasonably designed to cure such default; (iii) if default by Maker be made in the observance or performance of any of the covenants or agreements under the Lease and such default shall continue beyond the applicable cure period provided in the Lease; (iv) if the Maker shall file a voluntary petition in bankruptcy, or shall be adjudicated as bankrupt or insolvent, or shall file any petition or answer seeking for the Maker any arrangement, composition, readjustment, or similar relief under any present or future statute, law or regulation, or shall file any answer admitting the material allegations of a petition filed against it, in any such proceeding, or if a decree or order by a court having jurisdiction in the premises shall have been entered adjudging the Maker to be bankrupt or insolvent under the federal bankruptcy laws or any applicable law of the United States of America or any state law, or appointing a receiver or trustee or assignee in bankruptcy or insolvency of the Maker; (v) if the Maker shall make an assignment for the benefit of creditors; or (vi) if the Maker shall die; then the unpaid balance of said Principal sum with all accumulated interest thereon and all other sums due hereunder shall, at the option of the Holder hereof, become immediately due and payable without notice, presentment or demand of any kind, such notice, presentment and demand being hereby expressly waived by the Maker and shall thereafter bear interest at the rate equal to fifteen percent (15%) per annum.

Except as otherwise specifically provided for in this Note, the Maker hereby waives presentment, demand, notice, protest, and all other demands and notices in connection with the delivery, acceptance, performance, default or enforcement of this Note, assents to any extension or postponement of the time of payments or any other indulgence, to any substitution, exchange or release of collateral, and to the addition or release of any other person primarily or secondarily liable under this Note.

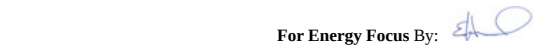
The undersigned hereby authorizes any attorney at law to appear in any court of record in the State of Ohio or in any other state or territory of the United States, after the above obligation becomes due by acceleration or otherwise, to admit the maturity thereof, to waive the issuing and service of process and confess a judgment against the Maker in favor of any holder of this Note, for the amount then appearing due, together with costs of suit.

The Maker hereby waives any conflict of interest which would otherwise be prohibited by Disciplinary Rule 5-105(A) and (B) of the Ohio Code of Professional Responsibility, and hereby authorizes any attorney representing the holder of this Note to confess judgment against the undersigned. The Maker authorizes any attorney confessing judgment against the Maker on this Note to accept compensation for the confession of judgment from the holder of this Note and the Maker waives any restrictions against the payment of such compensation as would be provided in Disciplinary Rule 5-107(A)(l) and (2) of the Ohio Code of Professional Responsibility.

The Maker hereby waives any right to have a jury participate in resolving any dispute, whether sounding in contract, tot or otherwise between the Maker and the Holder arising out of, in connection with, relating to or incidental to the relationship established between them in connection with this Note or any other instrument, document or agreement executed or delivered in connection herewith or the transactions related thereto. This waiver shall not in any way affect, waive, amend or modify the Holder's ability to pursue remedies pursuant the confession of judgment and cognovit provision contained in this Note.

This Note has been duly executed by the Maker in Twinsburg Township, Ohio as of the date first written above. The undersigned understands and agrees that this Note is subject to and shall be construed according to the laws of the State of Ohio.

WARNING—BY SIGNING THIS PAPER MAKER GIVES UP MAKER'S RIGHT TO NOTICE AND COURT TRIAL. IF MAKER DOES NOT PAY ON TIME, A COURT JUDGMENT MAY BE TAKEN AGAINST MAKER WITHOUT MAKER'S PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM MAKER REGARDLESS OF ANY CLAIMS MAKER MAY HAVE AGAINST THE CREDITOR WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT, OR ANY OTHER CAUSE.

For Energy Focus By: 

Print: Eric Willard

Maker EIN#: 94 3021850

Schedule 1

The Amortization Schedule

		Principal	Balance
May, 2011	$ 2,957.11	$ 3,616.84	$ 351,236.04
Jun, 2011	$ 2,926.97	$ 3,646.98	$ 347,589.06
Jul, 2011	$ 2,896.58	$ 3,677.37	$ 343,911.69
Aug, 2011	$ 2,865.93	$ 3,708.02	$ 340,203.67
Sep, 2011	$ 2,835.03	$ 3,738.92	$ 336,464.76
Oct, 2011	$ 2,803.87	$ 3,770.07	$ 332,694.68
Nov, 2011	$ 2,772.46	$ 3,801.49	$ 328,893.19
Dec, 2011	$ 2,740.78	$ 3,833.17	$ 325,060.02
Jan, 2012	$ 2,708.83	$ 3,865.11	$ 321,194.91
Feb, 2012	$ 2,676.62	$ 3,897.32	$ 317,297.59
Mar, 2012	$ 2,644.15	$ 3,929.80	$ 313,367.78
Apr, 2012	$ 2,611.40	$ 3,962.55	$ 309,405.24
May, 2012	$ 2,578.38	$ 3,995.57	$ 305,409.67
Jun, 2012	$ 2,545.08	$ 4,028.87	$ 301,380.80
Jul, 2012	$ 2,511.51	$ 4,062.44	$ 297,318.36
Aug, 2012	$ 2,477.65	$ 4,096.29	$ 293,222.07
Sep, 2012	$ 2,443.52	$ 4,130.43	$ 289,091.64
Oct, 2012	$ 2,409.10	$ 4,164.85	$ 284,926.79
Nov, 2012	$ 2,374.39	$ 4,199.56	$ 280,727.23
Dec, 2012	$ 2,339.39	$ 4,234.55	$ 276,492.68
Jan, 2013	$ 2,304.11	$ 4,269.84	$ 272,222.83
Feb, 2013	$ 2,268.52	$ 4,305.42	$ 267,917.41
Mar, 2013	$ 2,232.65	$ 4,341.30	$ 263,576.11
Apr, 2013	$ 2,196.47	$ 4,377.48	$ 259,198.63
May, 2013	$ 2,159.99	$ 4,413.96	$ 254,784.67
Jun, 2013	$ 2,123.21	$ 4,450.74	$ 250,333.93
Jul, 2013	$ 2,086.12	$ 4,487.83	$ 245,846.10
Aug, 2013	$ 2,048.72	$ 4,525.23	$ 241,320.87
Sep, 2013	$ 2,011.01	$ 4,562.94	$ 236,757.93
Oct, 2013	$ 1,972.98	$ 4,600.96	$ 232,156.97
Nov, 2013	$ 1,934.64	$ 4,639.31	$ 227,517.66
Dec, 2013	$ 1,895.98	$ 4,677.97	$ 222,839.69
Jan, 2014	$ 1,857.00	$ 4,716.95	$ 218,122.75
Feb, 2014	$ 1,817.69	$ 4,756.26	$ 213,366.49
Mar, 2014	$ 1,778.05	$ 4,795.89	$ 208,570.60
Apr, 2014	$ 1,738.09	$ 4,835.86	$ 203,734.74
May, 2014	$ 1,697.79	$ 4,876.16	$ 198,858.58

Jun, 2014	$ 1,657.15	$ 4,916.79	$ 193,941.79
Jul, 2014	$ 1,616.18	$ 4,957.77	$ 188,984.02
Aug, 2014	$ 1,574.87	$ 4,999.08	$ 183,984.94
Sep, 2014	$ 1,533.21	$ 5,040.74	$ 178,944.20
Oct, 2014	$ 1,491.20	$ 5,082.75	$ 173,861.46
Nov, 2014	$ 1,448.85	$ 5,125.10	$ 168,736.36
Dec, 2014	$ 1,406.14	$ 5,167.81	$ 163,568.55
Jan, 2015	$ 1,363.07	$ 5,210.88	$ 158,357.67
Feb, 2015	$ 1,319.65	$ 5,254.30	$ 153,103.37
Mar, 2015	$ 1,275.86	$ 5,298.09	$ 147,805.28
Apr, 2015	$ 1,231.71	$ 5,342.24	$ 142,463.05
May, 2015	$ 1,187.19	$ 5,386.75	$ 137,076.29
Jun, 2015	$ 1,142.30	$ 5,431.64	$ 131,644.65
Jul, 2015	$ 1,097.04	$ 5,476.91	$ 126,167.74
Aug, 2015	$ 1,051.40	$ 5,522.55	$ 120,645.19
Sep, 2015	$ 1,005.38	$ 5,568.57	$ 115,076.62
Oct, 2015	$ 958.97	$ 5,614.98	$ 109,461.65
Nov, 2015	$ 912.18	$ 5,661.77	$ 103,799.88
Dec, 2015	$ 865.00	$ 5,708.95	$ 98,090.93
Jan, 2016	$ 817.42	$ 5,756.52	$ 92,334.41
Feb, 2016	$ 769.45	$ 5,804.49	$ 86,529.92
Mar, 2016	$ 721.08	$ 5,852.86	$ 80,677.05
Apr, 2016	$ 672.31	$ 5,901.64	$ 74,775.41
May, 2016	$ 623.13	$ 5,950.82	$ 68,824.60
Jun, 2016	$ 573.54	$ 6,000.41	$ 62,824.19
Jul, 2016	$ 523.53	$ 6,050.41	$ 56,773.78
Aug, 2016	$ 473.11	$ 6,100.83	$ 50,672.94
Sep, 2016	$ 422.27	$ 6,151.67	$ 44,521.27
Oct, 2016	$ 371.01	$ 6,202.94	$ 38,318.33
Nov, 2016	$ 319.32	$ 6,254.63	$ 32,063.71
Dec, 2016	$ 267.20	$ 6,306.75	$ 25,756.96
Jan, 2017	$ 214.64	$ 6,359.31	$ 19,397.65
Feb, 2017	$ 161.65	$ 6,412.30	$ 12,985.35
Mar, 2017	$ 108.21	$ 6,465.74	$ 6,519.62
Apr, 2017	$ 54.33	$ 6,519.62	$ 0.00

Exhibit 10.30

EXECUTION COPY

ROSENTHAL & ROSENTHAL, INC.

Financing Agreement

AGREEMENT dated December 22, 2011 between Energy Focus, Inc. a corporation duly organized and presently existing in good standing under the laws of the State of Delaware ("**Borrower"**), whose chief executive office is at 3200 Aurora Road, Solon, OH 44139, and ROSENTHAL & ROSENTHAL, INC. ("**Lender**"), a New York corporation with an address at 1370 Broadway, New York NY 10018.

Borrower desires to obtain loans and other financial accommodations from Lender on a revolving basis upon the security of the Collateral (as herein defined). Now, therefore, Borrower and Lender agree as follows.

1. DEFINITIONS

As used in this Agreement, these terms shall have the following meanings which shall be applicable to both the singular and plural forms of such terms.

1.1. "**Account Debtor**" shall mean the account debtor with respect to a Receivable and any other person who is obligated on such Receivable.

1.2. "**Affiliate**" of a party shall mean any entity controlling, controlled by, or under common control with, the party, and the term "controlling" and such variations thereof shall mean ownership of a majority of the voting power of a party.

1.3. "**Bondholder Agreements**" means each of the Bonding Support Agreements and Stock Pledge Agreements between Borrower and Bondholders, as the same may be amended from time to time.

1.4. "**Bondholders**" shall mean John Davenport, Mark Plush and the Quercus Trust.

1.5. "**Business Day**" shall mean a day on which Lender and major banks in New York City are open for the regular transaction of business.

1.6. **"Cash Collateral"** shall mean $1,000,000 of cash pledged by Borrower pursuant to the Collateral Agreement.

1.7. "**Closing Date**" shall mean the date set forth in the first paragraph of this Agreement.

1.8. "**Collateral**" shall have the meaning given in Section 4.1 hereof.

1.9. "**Collateral Agreement**" shall mean the Collateral Agreement dated January 5, 2010 between Borrower and The Hanover Insurance Company, as agent for the Sureties (as defined therein) as the same may be amended from time to time.

1.10. "**Collateral Documents**" shall mean any and all security agreements, deposit account control agreements, mortgages and other documents executed and delivered to Lender to secure the Obligations.

1.11. "**CL LTD**" shall mean Crescent Lighting Ltd., an English company.

1.12. "**Current Assets**" shall mean, at a particular date, cash, accounts and inventory of Borrower providing however, that such amounts shall not include any amounts for any indebtedness owing by any Affiliate to Borrower.

1.13. **"Current Liabilities"** shall mean, at a particular date, all amounts which would, in conformity with GAAP, be included under current liabilities on a balance sheet of Borrower, as at such date, but in any event including, without duplications, the amounts of (a) all indebtedness payable on demand, or at the option of the person or entity to whom such indebtedness is owed, not more than twelve (12) months after such date, (b) any payments in respect of any indebtedness (whether installment, serial maturity, sinking fund payment or otherwise) required to be made not more than twelve (12) months after such date, (c) all reserves in respect of liabilities or indebtedness payable on demand or, at the option of the person or entity to whom such indebtedness is owed, not more than twelve (12) months after such date, the validity which is not contested to such date, (d) all accruals for federal or other taxes measured by income payable within twelve (12) months of such date and (e) all outstanding indebtedness to Lender

1.14. "**Default**" shall have the meaning provided in Section 8.1 hereof.

1.15. **"Effective Rate"** shall have the meaning provided in Section 3.1 hereof.

1.16. **"Eligible Inventory"** shall mean Inventory owed by Borrower in the ordinary course of its business in which Lender holds a perfected security interest pursuant to the terms hereof, ranking prior to all interests, claims and rights of others whether by priority of the filing order of Financing Statements under Article 9 of the UCC in the applicable jurisdiction, by reason of a subordination agreement executed and delivered by the parties thereto or otherwise, and has received agreements executed by any landlords and bailees where such Inventory may be located in accordance with Section 6.15 hereof, and which is and at all times shall continue to be acceptable to Lender in all respects. Standards of eligibility may be fixed and revised from time to time solely by Lender in its exclusive judgment. In determining eligibility, Lender may, but need not, rely on certificates of inventory and reports furnished by Borrower, but reliance thereon by Lender from time to time shall not be deemed to limit Lender's right to revise standards of eligibility at any time. In general, Inventory shall not be deemed eligible unless it is comprised of finished goods, located in the United States of America and otherwise complies in all respects with the representations, covenants and warranties hereinafter set forth, made by Borrower with respect thereto and meets all standards meets all standards imposed by any governmental agency or authority.

1.17. **"Eligible Receivables"** shall mean Receivables created by Borrower in the ordinary course of its business which have been validly assigned to Lender and in which Lender holds a perfected security interest pursuant to the terms hereof ranking prior to and free and clear of all interests, claims, and rights of others whether by priority of the filing order of Financing Statements under Article 9 of the UCC in the applicable jurisdiction, by reason of a subordination agreement executed and delivered by the parties thereto or otherwise and which are and at all times shall continue to be acceptable to Lender in all other respects. Standards of eligibility may be fixed and revised from time to time solely by Lender in its exclusive judgment. In determining eligibility Lender may, but need not, rely on ageings, reports and schedules of Receivables furnished by Borrower, but reliance thereon by Lender from time to time shall not be deemed to limit Lender's right to revise standards of eligibility at any time. In general, a Receivable shall not be deemed eligible unless the Receivable complies with the Minimum Receivable Eligibility Requirements and the Account Debtor on such Receivable is and at all times continues to be acceptable to Lender and unless each Receivable complies in all respects with the representations, covenants and warranties hereinafter set forth and in the event such Receivable arises from the sale of goods meet all standards imposed by any governmental agency or authority.

1.18. "**Equipment**" shall mean equipment as defined in Article 9 of the UCC.

1.19. "**ERISA**" shall mean the Employee Retirement Income Security Act.

1.20. **"GAAP"** shall mean generally accepted accounting principles in the United States of America as in effect from time to time as set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and the elements and pronouncements of the Financial Accounting Standards Board which are applicable to the circumstances as of the date of determination consistently applied.

1.21. **"Inventory"** shall mean inventory as defined in Article 9 of the UCC.

1.22. **"Inventory Availability"** shall have the meaning given in Section 2.1 hereof.

1.23. **"Lease"** and **"Leased Premises"** shall have the meanings given in Section 8.1 hereof.

1.24. **"Loan Account"** shall mean the Loan Account as described in Section 2.2 hereof.

1.25. **"Loan Availability"** shall have the meaning given in Section 2.1 hereof.

1.26. **"Loan Documents"** shall mean, collectively, this Agreement, the Collateral Documents, and each guaranty, certificate, agreement, or document executed by Borrower or any of its guarantors and delivered to Lender in connection with the foregoing.

1.27. **"Margin"** shall mean four and one half percent (4.5%) per annum.

1.28. **"Maximum Credit Facility"** shall mean $4,500,000.

1.29. **"Maximum Rate"** shall have the meaning provided in Section 9.2 hereof.

1.30. **"Minimum Receivable Eligibility Requirements"** shall have the meaning given in Section 2.3 hereof.

1.31. **"Net Amount of Eligible Receivables"** shall mean the gross amount of Eligible Receivables less sales, excise or similar taxes, returns, discounts, claims, credits and allowances of any nature at any time issued, owing, granted, outstanding or claimed, and less (without duplication) all amounts payable by any Account Debtor on Eligible Receivables if any Eligible Receivable of such Account Debtor is unpaid more than 90 days following its invoice date.

1.32. **"Obligations"** shall mean all obligations, liabilities and indebtedness of Borrower to Lender or an Affiliate of Lender, however evidenced, arising under this Agreement, any other Loan Document (whether by reason of extension of credit, guaranty, indemnity or otherwise), or under any other or supplemental financing provided to Borrower by Lender or an Affiliate of Lender, or independent hereof or thereof, whether now existing or incurred from time to time hereafter and whether before or after termination hereof, absolute or contingent, joint or several, matured or unmatured, direct or indirect, primary or secondary, liquidated or unliquidated, and whether arising directly or acquired from others (whether acquired outright, by assignment unconditionally or as collateral security from another and including participations or interest of Lender in obligations of Borrower to others), and including (without limitation) all of Lender's charges, commissions, fees, interest, expenses, costs and attorneys' fees chargeable to Borrower in connection therewith.

1.33. **"Over-advance"** shall mean any portion of all loans and advances which on any day exceeds the Loan Availability.

1.34. "**Permitted Liens**" means the liens of Lender granted under the Loan Documents and any other liens, if any, described on the attached Exhibit A.

1.35. **"Person"** shall mean any person, firm, corporation, partnership, limited liability company, association, company, trust, estate, custodian, nominee or other individual or entity.

1.36. **"Prime Rate"** shall mean the prime rate from time to time publicly announced in New York City by JPMorgan Chase Bank.

1.37. **"Receivables"** shall mean all obligations to Borrower for the payment of money arising out of the sale of goods by Borrower, now existing or hereafter arising, however evidenced, including all accounts, contract rights, general intangibles, documents, chattel paper and instruments (as each of such terms is defined in the UCC).

1.38. **"Receivable Availability"** shall have the meaning specified in Section 2.1 hereof.

1.39. **"SEC"** shall mean the United States Securities and Exchange Commission.

1.40. "**SRC**" shall mean Stones River Companies, LLC, a Tennessee limited liability company.

1.41. **"Subordinated Creditors"** shall mean the Bondholders, and/or EF Energy LLC.

1.42. **"Tangible Net Worth"** shall mean, at a particular date (a) the aggregate amount of all assets of Borrower as may be properly classified as such in accordance with GAAP consistently applied excluding such other assets as are properly classified as intangible assets under GAAP, less (b) the aggregate amount of all liabilities of Borrower (excluding liabilities subordinated to Lender) determined in accordance with GAAP.

1.43. **"Working Capital"** shall mean the excess, if any, of Current Assets less Current Liabilities.

1.44. **"UCC"** shall mean the Uniform Commercial Code as in effect from time to time in the State of New York, provided, however, that in the event by reason of mandatory provisions of law, any of the attachment, perfection, or priority of Lender's security interest in any of the Collateral is governed by the Uniform Commercial Code as in effect in any jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

2. LOANS; Eligibility of Receivables

2.1. Lender shall, in its discretion, make loans to Borrower from time to time, at Borrower's request, which loans in the aggregate shall not exceed the lesser of (A) the Maximum Credit Facility; or (B) the Loan Availability, which means (i) the Receivable Availability, equal to eighty-five percent (85%) of the Net Amount of Eligible Receivables plus (ii) the Inventory Availability, which means, the lesser of 1) fifty percent (50%) of the lower of cost or market value of Eligible Inventory; or 2) two hundred fifty thousand dollars ($250,000), minus such reserves as Lender may deem, in its sole discretion, to be necessary from time to time.

2.2. The making of any loan in excess of the percentages set forth above shall not be deemed to modify such percentages or create any obligation to make any further such loan. All loans (and all other amounts chargeable to Borrower under this Agreement or any supplement hereto) shall be charged to a Loan Account in Borrower's name on Lender's books. Lender shall render to Borrower each month a statement of the Loan Account (and all credits and charges thereto) which shall be considered correct and accepted by Borrower and conclusively binding upon Borrower as an account stated except to the extent that Lender receives a written notice by registered mail of Borrower's exceptions within 30 days after such statement has been mailed by ordinary mail to Borrower.

2.3. A Receivable meets the Minimum Receivable Eligibility Requirements if 1) the Receivable arose from bona fide completed transactions and has not remained unpaid for more than the number of days after the invoice date set forth in Section 1.31; 2) the amount of the Receivable reported to Lender is absolutely owing to Borrower and payment is not conditional or contingent, (such as consignments, guaranteed sales or right of return or other similar terms); 3) the Account Debtor's chief executive office or principal place of business is located in the United States; 4) the Receivable did not arise from progress billings, retainages or bill and hold sales; 5) there are no contra relationships, setoffs, counterclaims or disputes existing with respect thereto and there are no other facts existing or threatened which would impair or delay the collectibility of all or any portion thereof; 6) the goods giving rise thereto were not at the time of the sale subject to any liens except those permitted in this Agreement; 7) the Account Debtor is not an Affiliate of Borrower; 8) there has been compliance with the Assignment of Claims Act or similar State or local law, if applicable, if the Account Debtor is the United States or any domestic governmental unit; 9) Borrower has delivered to Lender such documents as Lender may have requested pursuant to Section 4.2 hereof in connection with such Receivable and Lender shall have received verifications of such Receivable, satisfactory to it, if sent to the Account Debtor or any other obligors or any bailees; 10) there are no facts existing or threatened which might reasonably result in any material adverse change in the Account Debtor's financial condition; 11) not more than 50% of the Receivables of the Account Debtor or its Affiliates owed to Borrower are more than 90 days from invoice date; 12) the total indebtedness to Borrower of the Account Debtor does not exceed the amount of any customer credit limits as established from time to time on notice to Borrower; 13) the Account Debtor is reasonably deemed creditworthy at all times by Lender; and 14) all representations and warranties in this Agreement or any other Loan Document with respect to such Receivable are true and correct.

3. LENDER'S CHARGES

3.1. Borrower agrees to pay to Lender each month interest (computed on the basis of the actual number of days elapsed over a year of 360 days) (a) on that portion of the average daily balances in the Loan Account during the preceding month that does not exceed the sum of the Receivable Availability at a rate per annum equal to the Prime Rate plus the Margin (the "**Effective Rate**"); (b) on the Inventory Availability, at a rate per annum equal to the Prime Rate plus six percent (6%) (the "Inventory Rate"); and (c) on the amount of Over-advances, if any, at a rate of three percent (3%) per annum in excess of the Inventory Rate. Any change in the effective interest rates due to a change in the Prime Rate shall take effect on the date of such change in the Prime Rate provided, that, with respect to Lender's charges, no decrease in the Prime Rate below 4% per annum shall be given any effect.

3.2. Borrower shall pay to Lender a facility fee payable on the Closing Date and on the anniversary of such date in each succeeding year, in the amount of one percent (1%) of the Maximum Credit Facility.

3.3. Borrower shall pay to Lender monthly an administration fee of $1,500 payable in arrears on the first day of each month with respect to the prior month for the stated term of this Agreement.

3.4. A statement of all of Lender's charges shall accompany each monthly statement of the Loan Account and such charges shall be payable by Borrower within 5 days after receipt of such statement. In lieu of the separate payment of charges, Lender at its option, shall have the right to debit the amount of such charges to Borrower's Loan Account, which charges shall be deemed to be first paid by amounts subsequently credited to the Loan Account. Borrower agrees that the minimum charges payable by Borrower to Lender each month under Section 3.1 hereof shall be $5,000. As more fully provided in Section 9.2 hereof, in no event shall the interest charges hereunder exceed the Maximum Rate.

4. SECURITY INTEREST IN COLLATERAL

4.1. As security for the prompt performance, observance and payment in full of all of the Obligations, Borrower grants to Lender a security interest in, a continuing lien upon and a right of setoff against, and Borrower hereby assigns, transfers, pledges and sets over to Lender (collectively, including any other assets of Borrower in which Lender may be granted a security interest under any Loan Document, the "**Collateral**"): (i) all Receivables (whether or not Eligible Receivables and whether or not specifically listed on any schedules, assignments or reports furnished to Lender) (ii) all of Borrower's property and the proceeds thereof, now or hereafter held or received by or in transit to Lender or held by others for Lender's account, including any and all deposits, balances, sums and credits of Borrower with, and any and all claims of Borrower against, Lender, at any time existing, (iii) all credit insurance policies, and all other insurance and all guarantees relating to the Receivables or other Collateral, (iv) all books, records and other general intangibles evidencing or relating to Receivables or other Collateral and the computer hardware and software and media containing such books and records; all deposits, or other security for the obligation of any person under or relating to Receivables, all of the Borrower's rights and remedies of whatever kind or nature it may hold or acquire for the purpose of securing or enforcing Receivables; all right, title and interest of the Borrower in and to all goods relating to, or which by sale have resulted in, Receivables, including goods returned by or reclaimed or repossessed from Account Debtors and all goods (so long as Borrower still owns such goods) described in copies of invoices delivered by Borrower to Lender; all rights of stoppage in transit, replevin, repossession and reclamation and all other rights and remedies of an unpaid vendor or lienor, and all proceeds of any Letter of Credit naming Borrower as beneficiary and which provides for, guarantees or assures the payment of any Receivable; (v) all accounts, instruments, chattel paper, documents, general intangibles, deposit accounts, investment property and letter of credit rights, whether or not arising out of the sale of goods or rendition of services, and including choses in action, causes of action, tax refunds (and claims), and reversions from terminated pension plans; (vi) all of Borrower's Inventory and Equipment; and (vii) all proceeds of such Collateral, in any form, including cash, non-cash items, checks, notes, drafts and other instruments for the payment of money; provided that the Collateral shall not include the Cash Collateral. Such security interest in favor of Lender shall continue during the term of this Agreement and until indefeasible payment in full of all Obligations, whether or not this Agreement shall have sooner terminated.

4.2. At Lender's request, Borrower will provide Lender with confirmatory assignment schedules in form satisfactory to Lender, copies of customers' invoices, evidence of shipment or delivery, and such further information as Lender may reasonably require. Borrower will take any and all steps and observe such formalities as Lender may request from time to time to create and maintain in Lender's favor a valid and first lien upon, security interest in and pledge of all of Borrower's Receivables and all other Collateral, including executing all documents that may be requested by Lender to maintain such security interest in and pledge of the Collateral. Borrower hereby authorizes Lender to file any Financing Statements under the UCC, and renewals and amendments thereof, naming Borrower as debtor, which are necessary to perfect and maintain the perfection of Lender's security interest in the Collateral. Borrower agrees to take all steps necessary to allow Lender to comply with any Federal or state statute, which, in Lender's judgment, if not complied with, might afford to any Person an interest in the Collateral that would be superior to Lender's security interest in the Collateral.

5. CUSTODY AND INSPECTION OF COLLATERAL AND RECORDS; COLLECTION AND HANDLING OF COLLATERAL

5.1. As to all moneys so collected, including all prepayments by customers, Borrower shall on the day received remit all such collections to Lender in the form received by depositing such collections into an account of Lender specified by Lender and maintained at Borrower's expense. All amounts collected on Receivables when received by Lender shall be credited to Borrower's Loan Account, adding 3 Business Days for collection and clearance of remittances. Such credits shall be conditional upon final payment to Lender. Nothing contained in this Section 5.1, or otherwise in this Agreement, shall be deemed to limit Lender's rights and powers pursuant to Section 7 of this Agreement.

5.2. All records, ledger sheets, correspondence, contracts, documentation and computer hardware and software and media relating to or evidencing Receivables or containing information relating to the Receivables shall, until delivered to Lender or removed by Lender from Borrower's premises, be kept on Borrower's premises, without cost to Lender, in appropriate containers in safe places. Lender shall at all reasonable times have full access to and the right to examine and make copies of Borrower's books and records, and shall have full access to Borrower's computer information systems, to confirm and verify all Receivables assigned to Lender and to do whatever else Lender deems necessary to protect its interest. Lender may at any time remove from Borrower's premises, or require Borrower to deliver any contracts, documentation, files and records relating to Receivables, and any computer hardware, software and media containing information relating to the Receivables or Lender may, without cost or expense to Lender, use such of Borrower's personnel, supplies, computer information systems and space at Borrower's places of business as may be reasonably necessary for collection of Receivables.

5.3. Borrower will immediately upon obtaining knowledge thereof report to Lender all reclaimed, repossessed or returned merchandise, Account Debtor claims and any other matter affecting the value, enforceability or collectibility of Receivables. Any merchandise reclaimed or repossessed by or returned to Borrower will continue to be subject to Lender's security interest. All claims and disputes relating to Receivables are to be promptly adjusted by Borrower within a reasonable time, at its own cost and expense. Following the occurrence of a Default, (a) Lender may, at its option, settle, adjust or compromise claims and disputes relating to Receivables which are not adjusted by Borrower within a reasonable time; and (b) Lender may, at its option, revoke Borrower's authority to settle or adjust disputes or to further communicate with Account Debtors.

5.4. Borrower shall reimburse Lender on demand for all costs of collection incurred by Lender in efforts to enforce payment of Receivables, recovery of or realization upon any other Collateral, including reasonable attorneys' fees and the fees and commissions of collection agencies. All and any fees, costs and expenses, of whatever kind and nature, including taxes of any kind, which Lender may incur in filing public notices, obtaining appraisals of the Collateral, and the reasonable charges of any attorney whom Lender may engage in preparing and filing documents, making title or lien examinations and rendering opinion letters, as well as all fees, costs and expenses incurred by Lender (including all attorneys' fees and including Lender's out of pocket expenses in conducting periodic field examinations of Borrower and the Collateral plus Lender's prevailing per diem charge for each of its examiners in the field and office, now $850 per person per day); provided that, except for Lender's initial audit and field exam conducted on or about the date hereof, so long as there is no Default, Borrower shall only be obligated to reimburse Lender for up to four (4) field exams in any twelve month period in administering this Agreement, protecting, preserving, enforcing or foreclosing any security interests or rights granted to Lender hereunder, whether through judicial proceedings or otherwise (including advertising costs),

enforcing or collecting the Receivables, recovery of or realization upon any other Collateral, or in defending or prosecuting any actions or proceedings arising out of or related to its transactions with Borrower, including actions or proceedings that may involve any person asserting a priority or claim with respect to the Collateral, shall be borne and paid for by Borrower on demand, shall constitute part of the Obligations and may at Lender's option be charged to Borrower's Loan Account. Borrower's obligations under this section shall survive termination of this Agreement for any reason.

6. REPRESENTATIONS, COVENANTS AND WARRANTIES

As an inducement to Lender to enter into this Agreement, Borrower represents, covenants and warrants (which shall survive the execution and delivery of this Agreement) that:

6.1. Borrower is and at all times during the term of this Agreement shall be a corporation duly organized and presently existing in good standing under the laws of the State of Delaware and is and at all times during the term of this Agreement shall be duly qualified and existing in good standing in every other state in which the nature of Borrower's business requires it to be qualified. Borrower shall not change its name without giving Lender 30 days prior written notice and, upon making any such change, Lender shall be authorized to file any additional financing statements or other documents or notices which may be necessary under the UCC or other applicable law; and Borrower is not aware, and will upon becoming aware promptly notify Lender, of any person organizing under its name in another state.

6.2. The execution, delivery and performance of this Agreement are within the corporate powers of Borrower, have been duly authorized by appropriate corporate action and are not in contravention of the terms of Borrower's charter, by-laws or of any indenture, agreement or undertaking to which Borrower is a party or by which it may be bound. Borrower is not now the subject of any pending governmental investigation or proceeding or of any insolvency proceeding. No receiver or custodian has been appointed for any of the property of Borrower. No consent, approval or authorization of any person, including stockholders of Borrower or any governmental or regulatory authority, that has not been obtained, is required in connection with the execution, delivery and performance by Borrower of this Agreement. Borrower warrants that all financial statements and other reports provided to Lender prior to the Closing Date are true and correct in all material respects.

6.3. There are no pending suits, Federal or state tax liens, or judgment liens against Borrower or affecting its assets, except for Permitted Liens. No assets of Borrower are subject to any liens or encumbrances except for Permitted Liens. Borrower has no employee benefit plans subject to ERISA that have accumulated funding deficiencies or liquidity shortfalls as defined and calculated under ERISA or with respect to which Borrower presently has withdrawal liability.

6.4. Borrower is and shall be, with respect to all Inventory, Equipment, intellectual property collateral, cash collateral and other Collateral, the owner thereof free from any lien, security interest or encumbrance of any kind, except for Permitted Liens. No Receivable or any other Collateral has been or shall hereafter be assigned, pledged or transferred to any person other than the Lender or in any way encumbered or subject to a security interest except to Lender, and except for Permitted Liens, and Borrower shall defend the same against the claims of all persons.

6.5. Borrower's books and records relating to the Receivables are maintained at the office referred to below. Except as otherwise stated below, the principal executive office of Borrower is located at such address and has been so located on a continuous basis for not less than six months. Borrower shall not change such location without first obtaining a Landlord's waiver acceptable to Lender and upon prior written notice of not less than 30 Business Days to Lender, and, upon making any such change, Lender

shall be authorized to file any additional financing statements or other documents or notices which may be necessary under the UCC or other applicable law and Borrower shall execute and deliver to Lender any such documents requiring Borrower's signature, failing which Lender shall be authorized to sign such documents on behalf of Borrower as Borrower's attorney-in-fact. The listing of offices on Schedule 6.5 hereto represents all of Borrower's places of business. Borrower shall notify Lender of the existence of any additional places of business within 5 Business Days after any such place of business is established.

6.6. All loans and advances requested by Borrower under this Agreement shall be used for the general corporate and business purposes of Borrower and in no event shall Borrower request Lender to remit a loan or advance to an account of Borrower that is used for the specific purpose of purchasing or carrying margin stock (within the meaning of Regulation U of the Federal Reserve Board) or to extend credit to others for the purpose of purchasing or carrying any such margin stock in contravention of Regulation T, U or X of the Federal Reserve Board; or to the extent that any loans and advances requested by Borrower under this Agreement shall be used for paying wages of the employees of Borrower, Borrower hereby represents and warrants that it shall withhold and pay over to the applicable tax authorities any amount thereof as it shall be so required by applicable law.

6.7. Borrower shall maintain its shipping forms, invoices and other related documents in a form reasonably satisfactory to Lender and shall maintain its books, records and accounts in accordance with sound accounting practice. Borrower shall furnish to Lender accounts receivable agings, accounts receivable roll forward reports (in the form attached hereto as Exhibit B) and reconciliations of accounts receivable Collateral and the loan balance on the monthly statements provided by Lender to Borrower's records and inventory designations, monthly, not later than the 10th of each month, covering the previous month. Borrower shall furnish to Lender such other information regarding the business affairs and financial condition of Borrower as Lender may, from time to time, reasonably request, including (a) audited consolidated financial statements ("Financial Statements") prepared in accordance with GAAP, as at the end of and for each fiscal year of Borrower, as soon as practical and in any event within ninety (90) days after the end of each such fiscal year, including, without limitation, a balance sheet, a statement of income, a statement of cash flows and notes, prepared by independent Certified Public Accountants acceptable to Lender; (b) unaudited consolidated financial statements, together with all filings made with the SEC, which financial statements shall be prepared internally as at the end of and for each fiscal quarterly period of Borrower, as soon as practical and in any event within forty-five (45) days after the end of each such fiscal quarter of Borrower, in such detail and scope as Lender may require including without limitation, a balance sheet, a statement of income, a statement of cash flows and notes, certified by the Chief Financial Officer of Borrower ("**CFO**"); and concurrently with such financial statements, a written statement signed by the CFO to the effect that, (i) CFO has not obtained any knowledge of the existence of any Default, or (ii) if such CFO has obtained from such examination any such knowledge, such CFO shall disclose in such written statement the Default and the nature thereof. All such statements and information shall fairly present the financial condition of Borrower, and the results of its operations as of the dates and for the periods, for which the same are furnished.

6.8. Borrower shall duly pay and discharge all taxes, assessments, contributions and governmental charges upon or against it or its properties or assets prior to the date on which penalties attach thereto. Borrower shall be liable for any tax (excluding a tax imposed on the overall net income of Lender) imposed upon any transaction under this Agreement or giving rise to the Receivables or which Lender may be required to withhold or pay for any reason and Borrower agrees to indemnify and hold Lender harmless with respect thereto, and to repay Lender on demand the amount thereof. Until paid by Borrower, Borrower's liability under this paragraph shall be added to the Obligations secured hereunder, and may at Lender's option be charged to Borrower's Loan Account but shall nonetheless be independent hereof and continue notwithstanding any termination hereof.

6.9. With respect to each Receivable, Borrower hereby represents and warrants that: each Receivable represents a valid and legally enforceable indebtedness based upon an actual and bona fide sale and delivery of property in the ordinary course of Borrower's business which has been completed and finally accepted by the Account Debtor and for which the Account Debtor is unconditionally liable to make payment of the amount stated in each invoice, document or instrument evidencing the Receivable in accordance with the terms thereof, without offset, defense or counterclaim; each Receivable will be paid in full at maturity; no Receivables have arisen from sales on bill and hold terms; all statements made and all unpaid balances appearing in any invoices, documents, instruments and statements of account describing or evidencing the Receivables are true and correct and are in all respects what they purport to be and all signatures and endorsements that appear thereon are genuine and all signatories and endorsers have full capacity to contract; to the best knowledge of Borrower after reasonable investigation, the Account Debtor owing the Receivable and each guarantor, endorser or surety of such Receivable is solvent and financially able to pay in full the Receivable when it matures; and all recording, filing and other requirements of giving public notice under any applicable law have been duly complied with.

6.10. Borrower shall until payment in full of all Obligations to Lender and termination of this Agreement cause to be maintained at the end of each of its fiscal quarters, Tangible Net Worth in an amount not less than negative $1,500,00 and Working Capital of not less than negative $5,000,000.00. The foregoing covenants to be tested based on financial statements delivered pursuant to Section 6.7 (b) hereof.

6.11. Prior to the making of any loans hereunder: 1) Lender shall have received opinions of Borrower's counsel in the form, and as to the matters, required by Lender; 2) Lender shall have received goodstanding Certificates and other certifications with respect to Borrower and any other Person liable on the Obligations from such governmental authorities as Lender shall require; 3) Lender or its agents shall have completed such examinations and appraisals of the Collateral and such searches with regard to Borrower and its assets, as Lender shall require, all at Borrower's expense; 4) Lender shall have received evidence in form and substance satisfactory to Lender that Borrower has established a separate operating account, together with a fully executed deposit account control agreement perfecting Lender's lien thereon from the depository institution; 5) Lender shall have received a partial repayment letter duly executed and delivered by EF Energy Partners, LLC and Borrower or other evidence of such termination in form and substance satisfactory to Lender, and any other evidence Lender may require that on the Closing Date there shall be no Liens on the Collateral other than Permitted Liens; 6) Lender shall have received subordination agreements and/or intercreditor agreements in form and substance satisfactory to Lender from: (a) EF Energy Partner LLC; and (b) the Bondholders; 7) Lender shall have received evidence, in form satisfactory to Lender, that Borrower has obtained such insurance policies, in such form, with such issuers and covering such risks, as Lender shall require, with endorsements, naming Lender as loss payee, that are acceptable to Lender; and 8) the Loan Availability on the Closing Date shall be in an amount equal to or greater than $500,000 plus the sum of all amounts required to be disbursed at closing for the purpose of paying Lender's expenses chargeable to Borrower hereunder and all amounts required to be paid to creditors to induce them to release any liens in the Collateral that are not Permitted Liens.

6.12. During the term of this Agreement, Borrower shall not make any sales to customers by accepting a credit card issued to such customers unless Borrower has prior thereto entered into a merchant agreement with a processor, relating to sales made using such credit card, on terms that are standard in the industry and acceptable to Lender, and such processor has agreed to remit the proceeds of such sales to an account of Borrower with respect to which Lender has control in accordance with Section 9-104 of the UCC.

6.13. Attached as Exhibit C is a listing of all of Borrower's patents, trademarks and copyrights. So long as any Obligations remain outstanding, and upon a Default and subsequent to acceleration, Lender is hereby irrevocably authorized to use any of Borrower's patents, trademarks and copyrights for the purpose of enforcing Lender's security interest in the Collateral and disposing of any of the Collateral.

6.14. So long as any Obligations remain outstanding, Borrower shall (i) advise Lender of the existence of any commercial tort claims in favor of Borrower, which advice shall be given to Lender in writing no later than 10 days after Borrower becomes aware of existence of such a claim in its favor; (ii) within 5 Business Days after Lender's request therefor, provide Lender with a listing of all deposit accounts and securities accounts maintained by Borrower and a listing of all letters of credit issued and outstanding in favor of Borrower as beneficiary and, if requested by Lender, arrange for the execution by each depository bank and financial intermediary of a control agreement in Lender's favor with respect to such accounts, and by each letter of credit issuer of a consent to an assignment of the proceeds of such letter of credit to Lender, in each case in form and content satisfactory to Lender; (iii) maintain in effect in favor of Lender, agreements (in form satisfactory to Lender) executed by the landlords of Borrower's places of business and the bailees of its property, pursuant to which Lender is granted access to such places of business and such bailees are directed to honor Lender's instructions with respect to the disposition of such property.

6.15. Until indefeasible payment in full of the Obligations, Borrower shall not (i) make any loans to officers, directors, shareholders or Affiliates, including, without limitation, CL Ltd. and SRC; provided that anything to the contrary contained herein notwithstanding and, so long as there is no Default, Borrower may use proceeds of Advances to make loans to SRC; provided: (a) such loans shall not exceed the total aggregate amount of $450,000.00 and once borrowed, may not reborrowed after repayment and shall only be available for the period commencing on the date hereof though and including June 19, 2012; and (b) Borrower shall pledge the note evidencing such indebtedness and any other indebtedness of SRC to Borrower, together with the security agreement, UCC-1 financing statement and any other related documents to Lender; (ii) engage in any other transactions with Affiliates except on terms similar to those that would be in effect in transactions between unrelated parties (iii) incur or repay indebtedness for borrowed money or guaranty the obligations of Affiliates or other Persons; (iv) sell, transfer or otherwise dispose of any assets except for sales of Inventory in the normal course; (v) declare any dividends, redeem or repurchase any stock, or make any other distributions in respect of its stock; or (vi) enter into any agreements to buy or sell goods on consignment terms; or (vi) merge with or into any entity or undergo any other restructuring or reorganization including reorganizations that would result in Borrower being organized under the laws of a state other than the state(s) in which Borrower are now formed.

6.16. Borrower shall not (i) conduct any business or engage in any transaction or dealing with any Blocked Person (as hereafter defined), including the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person; (ii) deal in, or otherwise engage in any transaction relating to any property or interests in property blocked pursuant to Executive Order No. 13224; or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224, the USA Patriot Act or any other Anti-Terrorism Law. Borrower shall deliver to Lender any certification or other evidence requested from time to time by Lender in its sole discretion, confirming Borrower's compliance with this Section. Borrower is not in violation of any Anti-Terrorism Law and Borrower is not a Person (a "**Blocked Person**") that (a) is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224; (b) is owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224; (c) any financial institution is prohibited from dealing or otherwise engaging in any transaction by

any Anti-Terrorism Law; (d) commits, threatens or conspires to commit or supports "terrorism" as defined in Executive Order No. 13224; (e) is named as a "specially designated national" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list, or is affiliated or associated with a person or entity listed above; (f) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224.

6.17. For purposes of this Section 6.16, (i) "Anti-Terrorism Laws" shall mean any laws, regulations, rules, orders and directives relating to terrorism or money laundering, including Executive Order No. 13224, the USA Patriot Act, the Laws comprising or implementing the Bank Secrecy Act, and the Law administered by the United States Treasury Department's Office of Foreign Asset Control (as any of the foregoing laws, regulations, rules, orders and directives may from time to time be amended, renewed, extended, or replaced); (ii) "**Executive Order No. 13224**" shall mean Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, as the same has been, or shall hereafter be, renewed, extended, amended or replaced; and (iii) "**USA Patriot Act**" shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

6.18. Borrower shall deliver to Lender within 5 days of any of Borrower's senior officers obtaining knowledge of any condition or event which constitutes, or might reasonably be expected to constitute, a Default or that any Person has given notice to Borrower or any Affiliates of Borrower or taken any other action with respect to a claimed Default, Borrower shall deliver to Lender an officer's certificate describing the same and the period of existence thereof and specifying what action Borrower has taken, are taking and propose to take with respect thereto

7. SPECIFIC POWERS OF LENDER

7.1. Borrower hereby constitutes Lender or its agent, or any other person whom Lender may designate, as Borrower's attorney, at Borrower's own cost and expense to exercise at any time all or any of the following powers which, being coupled with an interest, shall be irrevocable until all Obligations have been paid in full: (a) to receive, take, endorse, assign, deliver, accept and deposit, in Lender's or Borrower's name, any and all checks, notes, drafts, remittances and other instruments and documents relating to Receivables and proceeds thereof; (b) to receive, open and dispose of all mail addressed to Borrower and, after a Default, to notify postal authorities to change the address for delivery thereof to such address as Lender may designate; (c) to transmit to Account Debtors indebted on Receivables notice of Lender's interest therein and to request from such Account Debtors at any time, in Borrower's name or in Lender's or that of Lender's designee, information concerning the Receivables and the amounts owing thereon; (d) after a Default, to notify Account Debtors to make payment directly to Lender; and (e) after a Default, to take or bring, in Borrower's name or Lender's, all steps, actions, suits or proceedings deemed by Lender necessary or desirable to effect collection of the Receivables. In addition, to the extent permitted by law, Lender may file one or more financing statements, naming Borrower as debtor and Lender as secured party and indicating therein the types or describing the items of Collateral. Without limitation of any of the powers enumerated above, Lender is hereby authorized to accept and to deposit all collections in any form, relating to Receivables, received from or for the account of Account Debtors (whether such collections are remitted directly to Lender by Account Debtors or are forwarded to Lender by Borrower), including remittances which may reflect deductions taken by Account Debtors, regardless of amount, the Loan Account of Borrower to be credited only with amounts actually collected on

Receivables in accordance with Section 5.1. Borrower hereby releases (i) any bank, trust company or other firm receiving or accepting such collections in any form, and (ii) Lender and its officers, employees and designees, from any liability arising from any act or acts hereunder or in furtherance hereof, whether of omission or commission, and whether based upon any error of judgment or mistake of law or fact, except such release shall not be effective in the event of Lender's gross negligence or willful misconduct as determined by a final non-appealable decision of a court of competent jurisdiction.

8. LENDER'S REMEDIES

8.1. Borrower agrees that all of the loans and advances made by Lender under the terms of this Agreement, together with all Obligations of Borrower as defined herein (unless otherwise provided in any instrument evidencing the same or agreement relating thereto), shall be payable by Borrower at Lender's demand at the office of Lender in New York, New York. In addition, all Obligations shall be, at Lender's option, due and payable without notice or demand upon termination of this Agreement or upon the occurrence of any one or more of the following events of default ("**Default**"): (1) if Borrower shall fail to pay to Lender when due any amounts owing to Lender under any Obligation, or if there shall occur a breach by Borrower or any Affiliate of Borrower of any of the terms, covenants, conditions or provisions of this Agreement or any other agreement between Borrower or any of its Affiliates and Lender or any of its Affiliates or if Borrower shall fail to pay when due any indebtedness for borrowed money; (2) if any guarantor, endorser or other person liable on the Obligations or who has pledged or granted collateral security for the Obligations, shall die, terminate or attempt to terminate its guaranty or pledge agreement or shall breach any of the terms, covenants, conditions or provisions of any guarantee, endorsement or other agreement of such person with, or in favor of, Lender or if a material portion of any tangible Collateral for the Obligations is destroyed or lost or rendered valueless; (3) if any representation, warranty, or statement of fact made to Lender or an Affiliate of Lender at any time by or on behalf of Borrower or an Affiliate of Borrower is or becomes false or misleading in any material respect; (4) if Borrower shall become insolvent, is generally unable to pay its debts as they mature, files or has filed against it a petition in bankruptcy, liquidation or reorganization, or if a judgment against Borrower remains unpaid, unstayed or undismissed for a period of more than five days, or if Borrower discontinues doing business for any reason, or if a custodian, receiver or trustee of any kind is appointed for it or any of its property; (5) if at any time Lender shall, in its sole discretion, reasonably exercised, consider the Obligations insecure or any part of the Receivables unsafe, insecure or insufficient and Borrower shall not on demand furnish other collateral or make payment on account, satisfactory to Lender; (6) f (x) Borrower shall default under or breach the terms of any present or future lease (each a "**Lease**") of any premises now or hereafter leased by Borrower ("**Leased Premises**") and fail to cure within thirty (30) days or (y) Lender shall receive notice from any lessor of any Leased Premises that a default has occurred under any Lease, and that any Lease has been terminated; (7) any employee benefit plan of Borrower subject to ERISA is completely or partially terminated or the Pension Benefit Guaranty Corporation commences proceedings for the purpose of effecting any such termination or an event or circumstance occurs which could result in any such termination; (8) if a claim is made or threatened, or a proceeding is commenced, by any governmental agency or authority against Borrower or any Affiliate of Borrower under any environmental protection laws; (9) if (w) Borrower or Bondholders fail to comply with Bondholder Agreements, the Collateral Agreement or any other agreements among Borrower and Bondholders or any documents related thereto, or (x) Borrower and EF Energy Partners LLC fail to comply with any agreements among Borrower and EF Energy Partners LLC or (y) the subordination agreements delivered in connection herewith or (z) Borrower, or any other party thereto, fails to comply with the terms of the Members Interest Purchase Agreement, Convertible Promissory Note or any other documents related thereto among Borrower and TLC Investments, LLC, in each case subject to any cure or grace periods, contained therein; or (10) if Borrower fails to timely (including any extension thereof)

make any filings required to be made with the SEC. Upon the occurrence of any Default and upon written notice to Borrower, (i) Borrower shall pay to Lender, as liquidated damages and as part of the Obligations, in addition to amounts payable under Section 9.1 hereof, a charge at the rate of two percent per month upon the outstanding balance of the Obligations from the date of Default until the date of full payment of the Obligations, which charge shall be in lieu of compensation payable under Section 3.1 from such date; provided, that in no event shall such rate exceed the Maximum Rate and (ii) Lender shall have the right (in addition to any other rights Lender may have under this Agreement or otherwise) without further notice to Borrower, to enforce payment of any Receivables, to settle, compromise, or release in whole or in part, any amounts owing on Receivables, to prosecute any action, suit or proceeding with respect to Receivables, to extend the time of payment of any and all Receivables, to make allowances and adjustments with respect thereto, to issue credits in Lender's name or Borrower's, to sell, assign and deliver the Receivables (or any part thereof) and any returned, reclaimed or repossessed merchandise or other property held by Lender or by Borrower for Lender's account, at public or private sale, at broker's board, for cash, upon credit or otherwise, at Lender's sole option and discretion, and Lender may bid or become purchaser at any such sale if public, free from any right of redemption which is hereby expressly waived. Borrower agrees that the giving of ten days' notice by Lender, sent by ordinary mail, postage prepaid, to the mailing address of Borrower set forth in this Agreement, designating the place and time of any public sale or the time after which any private sale or other intended disposition of the Receivables or any other security held by Lender is to be made, shall be deemed to be reasonable notice thereof and Borrower waives any other notice with respect thereto. The net cash proceeds resulting from the exercise of any of the foregoing rights or remedies shall be applied by Lender to the payment of the Obligations in such order as Lender may elect, and Borrower shall remain liable to Lender for any deficiency. Notwithstanding anything to the contrary contained in this section, (i) to the extent that an event or occurrence described in this section consists of Borrower's failure to take, do or perform an act or action, then such failure shall not constitute a Default if no other Default has occurred and if such act or action is taken, done or performed by Borrower within 5 Business Days, or such other amount of time as provided in this section, after Borrower's receipt of written notice from Lender that the act or action is required to be taken, done or performed by Borrower and has not been taken, done or performed; and (ii) to the extent that an event or occurrence described in this section consists of the commencement of a proceeding against Borrower under Federal or state law or the appointment of a receiver or custodian under Federal or state law, then the commencement of such proceeding or the appointment of such receiver or custodian shall not constitute a Default if no other Default has occurred and if such proceeding or appointment is contested by Borrower within the time period and in the manner required by law and is dismissed, terminated or vacated within forty-five (45) Business Days after such commencement or appointment.

8.2. The enumeration of the foregoing rights and remedies is not intended to be exhaustive, and such rights and remedies are in addition to and not by way of limitation of any other rights or remedies Lender may have under the UCC or other applicable law. Lender shall have the right, in its sole discretion, to determine which rights and remedies, and in which order any of the same, are to be exercised, and to determine which Receivables are to be proceeded against and in which order, and the exercise of any right or remedy shall not preclude the exercise of any others, all of which shall be cumulative. No act, failure or delay by Lender shall constitute a waiver of any of its rights and remedies. No single or partial waiver by Lender of any provision of this Agreement, or breach or default thereunder, or of any right or remedy which Lender may have shall operate as a waiver of any other provision, breach, default, right or remedy or of the same provision, breach, default, right or remedy on a future occasion. Borrower waives presentment, notice of dishonor, protest and notice of protest of all instruments included in or evidencing any of the Obligations or the Receivables and any and all notices or demands whatsoever (except as expressly provided herein). Lender may, at all times, proceed directly

against Borrower to enforce payment of the Obligations and shall not be required to first enforce its rights in the Receivables or any other security granted to it. Lender shall not be required to take any action of any kind to preserve, collect or protect its or Borrower's rights in the Receivables or any other security granted to it.

8.3. BORROWER WAIVES ALL RIGHTS TO A TRIAL BY JURY IN THE EVENT OF ANY LITIGATION WITH RESPECT TO ANY MATTER CONNECTED WITH THIS AGREEMENT, THE OBLIGATIONS, THE RECEIVABLES, OR ANY OTHER TRANSACTION BETWEEN THE PARTIES AND BORROWER HEREBY IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND OF ANY FEDERAL COURT LOCATED IN SUCH STATE IN CONNECTION WITH ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE OBLIGATIONS. IN ANY SUCH LITIGATION BORROWER WAIVES PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER PROCESS AND AGREES THAT SERVICE THEREOF MAY BE MADE BY CERTIFIED OR REGISTERED MAIL DIRECTED TO BORROWER AT ITS PLACE OF BUSINESS SET FORTH ABOVE. WITHIN 30 DAYS AFTER SUCH MAILING, BORROWER SHALL APPEAR IN ANSWER TO SUCH SUMMONS, COMPLAINT OR OTHER PROCESS, FAILING WHICH BORROWER SHALL BE DEEMED IN DEFAULT AND JUDGMENT MAY BE ENTERED BY LENDER AGAINST BORROWER FOR THE AMOUNT OF THE CLAIM AND OTHER RELIEF REQUESTED THEREIN.

8.4. Borrower hereby agrees to indemnify Lender and hold Lender harmless from and against any liability, loss, damage, suit or proceeding ever suffered or incurred by Lender (including attorneys' fee) as a result of Borrower's failure to observe, perform or discharge Borrower's duties hereunder or as a result of Borrower's breach of any of the representations, warranties and covenants of this Agreement. This indemnity shall survive termination of this Agreement for any reason.

9. EFFECTIVE DATE, CONTROLLING LAW AND TERMINATION

9.1. This Agreement shall become effective upon acceptance by Lender at its office in the State of New York, and shall continue in full force and effect until December 31, 2014 (the "**Renewal Date**") and from year to year thereafter, unless sooner terminated as herein provided. Borrower may terminate this Agreement on the Renewal Date or on the anniversary of the Renewal Date in any year by giving Lender at least sixty (60) days', and not more than one hundred twenty (120) days' prior written notice by registered or certified mail, return receipt requested, and in addition to its other rights hereunder, Lender shall have the right to terminate this Agreement at any time by giving Borrower sixty (60) days' prior written notice. Should a Default occur hereunder, this Agreement will be terminable by Lender at any time and Borrower shall, upon any such termination by Lender, or upon termination of this Agreement effective prior to the end of its current term for any reason other than termination by Lender in the absence of a Default, pay to Lender, as liquidated damages and as part of the Obligations, in addition to amounts payable under Section 8.1 hereof, an amount equal to (a) three percent of the Maximum Credit Facility then in effect, if such termination occurs prior to the first anniversary of the Closing Date; (b) two percent of the Maximum Credit Facility then in effect, if such termination occurs on or after the first anniversary of the Closing Date but prior to the second anniversary of the Closing Date; and (c) one percent of the Maximum Credit Facility then in effect if such termination occurs on or after the second anniversary of the Closing Date; provided that no termination fee shall be payable, so long as there is no default and the termination is the result of Lender terminating this Agreement pursuant to the second sentence of this Section 9. In the event that Lender shall permit termination of this Agreement by Borrower other than as provided herein, as a condition to such termination, Borrower shall pay to Lender such additional liquidated damages in addition to performance of any other conditions to such

termination. No termination of this Agreement, however, shall relieve or discharge Borrower of its duties, obligations and covenants hereunder until such time as all Obligations have been paid in full, and the continuing security interest in Receivables and other Collateral granted to Lender hereunder or under any other agreement shall remain in effect until such Obligations have been indefeasibly paid and performed in full and any provision hereof that by its terms survives termination of this Agreement shall survive pursuant to such terms. No provision hereof shall be modified or amended orally or by course of conduct but only by a written instrument expressly referring hereto signed by both parties. This Agreement embodies the entire agreement between Lender and Borrower as to the subject matter hereof and supersedes all prior agreements (whether oral or written) as to the subject matter hereof. This Agreement shall be binding upon and inure to the benefit of Borrower and Lender and their respective heirs, executors, administrators, successors and assigns, provided, however, that Borrower may not assign this Agreement or its rights hereunder without Lender's prior written consent. Borrower consents to Lender's sale of participations in the loans made under this Agreement.

9.2. ALL LOANS SHALL BE DISBURSED BY LENDER FROM ITS OFFICE IN THE STATE OF NEW YORK, SHALL BE PAYABLE BY BORROWER AT SUCH OFFICE, AND THIS AGREEMENT AND ALL TRANSACTIONS THEREUNDER SHALL BE DEEMED TO BE CONSUMMATED IN SUCH STATE AND SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THAT STATE. If any part or provision of this Agreement is invalid or in contravention of the applicable laws or regulations of any controlling jurisdiction, such part or provision shall be severable without affecting the validity of any other part or provision of this Agreement. Notwithstanding any provision herein or in any related document, Lender shall never be entitled to receive, collect, or apply, as interest on the Loan Account, any amount in excess of the maximum rate of interest ("**Maximum Rate**") permitted to be charged from time to time by applicable law (if such law imposes any maximum rate), and in the event Lender ever receives, collects, or applies as interest, any amount in excess of the Maximum Rate, such amount shall be deemed and treated as a partial prepayment of the principal of the Loan Account; and, if the principal of the Loan Account and all other of Lender's charges other than interest are paid in full, any remaining excess shall be paid to Borrower.

10. Miscellaneous

10.1. Unless otherwise specifically provided in this Agreement, any notices, requests, demands or other communications permitted or required to be given under this Agreement shall be in writing and shall be sent by facsimile, hand delivery or by a nationally recognized overnight delivery service, to the addresses and facsimile numbers of the parties set forth below (or to such other address or facsimile number as a party may hereafter designate by a notice to the other that complies with this section) and shall be deemed given (a) in the case of a notice sent by facsimile, when received by the recipient if the sending party receives a confirmation of delivery from its own facsimile machine; and (b) in the case of a notice that is hand delivered or sent by such overnight courier, when delivered (provided that the sending party retains a confirmation of delivery). Any notice which, pursuant to the terms hereof must be sent by Borrower by certified or registered mail shall be deemed given and effective when received by Lender, or Borrower, as the case may be.

If to Lender

ROSENTHAL & ROSENTHAL, INC.
1370 Broadway
New York NY 10018
Attn: David Flaxman, Esq., with a copy to James Occhiogrosso
Facsimile: (212) 356-0989

If to Borrower

Energy Focus, Inc.
3200 Aurora Road
Solon, OH 44139
Attn:
Facsimile:

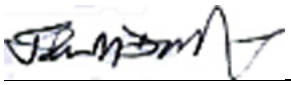
10.2. Nothing contained herein shall impose on Lender any liability for any contracts, undertakings or other obligations of Borrower to others, including obligations of Borrower to any Account Debtor for breach of the terms of any contract of sale between Borrower and the Account Debtor.

10.3. Wherever in this Agreement (i) the term “including” appears, such term shall be deemed to mean “including without limitation”; (ii) the term “satisfactory” or “acceptable” to Lender appears, such terms shall be deemed to mean “acceptable” or “satisfactory” to Lender and its counsel in their sole and absolute discretion; and (iii) the terms “in the opinion” or “in the judgment” of Lender appear, such terms shall be deemed to mean “in the sole opinion” and “in the sole judgment” of Lender and its counsel.

10.4. Terms used in this Agreement that are not defined in this Agreement but are defined in the UCC shall have the meanings given in the UCC.

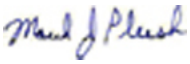
IN WITNESS WHEREOF, Lender and Borrower have caused this Agreement to be executed by their respective corporate officers thereto duly authorized as of the day and year first above written.

Attest:



PRESIDENT

ENERGY FOCUS, INC.

By: 

MARK J PLUSH (title)
VP-CFO

Accepted:

ROSENTHAL & ROSENTHAL, INC.

By: 

ROBERT L. MARTUCCI (title)
Senior Vice President

Schedule 6.3

Litigation

Utility Dynamics Inc vs Stones River Electric, LLC
Chancery Court Davidson County, TN
Case # 11-696-11

Schedule 6.5

Other locations of Borrower

7051 Commerce Circle Suite B, C, Pleasanton, CA 94588

Industrias Unidas de B C S A de CV, Parque Industrial Los Pinos, Sec1, KM 14.5 Carr Vieja a Tecate 16760-25 22120 Tijuana BC Mexico

ANNEX A

TO ALL CUSTOMERS OF: ENERGY FOCUS, INC.

Attention: Accounts Payable Supervisor

All accounts receivables of ENERGY FOCUS, INC. have been assigned and are payable to Rosenthal & Rosenthal, Inc. Accordingly, payment of all accounts receivables arising from sales made or services rendered by ENERGY FOCUS, INC. to you whether now existing or hereafter arising are to be made **directly** and only to:

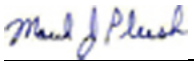
Rosenthal & Rosenthal, Inc.
1370 Broadway
New York, NY 10018
Attn:

or pursuant to such other instructions as Rosenthal & Rosenthal, Inc. may hereafter provide.

This notification of assignment of accounts receivables is being given to you in accordance with the provisions of the Uniform Commercial Code. If you should make payment to ENERGY FOCUS, INC. or anyone else other than Rosenthal & Rosenthal, Inc., unless otherwise instructed by Rosenthal & Rosenthal, Inc. hereafter such payment will **not** constitute payment of the account receivable, and may subject you to double liability for the sums due in connection therewith.

Very truly yours,

ENERGY FOCUS, INC.



By: MARK J PLUSH
Title: VP CFO

Exhibit A

PERMITTED LIENS

1. Energy Focus, Inc.
   a) the Lien of the Hanover Insurance Trust Company on the Cash Collateral
2. Stones River Companies, LLC
   a) Liens of TLC Investments LLC all assets
   b) The lien of EF Partners, LLC on Account Receivable, Inventory and Equipment
   c) The lien of Energy Focus, Inc on all assets

Exhibit B

MONTHLY ACCOUNTS RECEIVABLE ROLLFORWARD REPORT

SAMPLE FORM

Date	Beginning Balance	+ Gross Sales	- (Credits)	- (Net Collections)	- (Discounts)	+ Debit Adj	- (Credit Adj)	+ Non A/R Cash	Ending Balance
8/31/2008								Enter opening aging balance here	
9/1/2008	0.00								0.00
9/2/2008	0.00								0.00
9/3/2008	0.00								0.00
9/4/2008	0.00								0.00
9/5/2008	0.00								0.00
9/6/2008	0.00								0.00
9/7/2008	0.00								0.00
9/8/2008	0.00								0.00
9/9/2008	0.00								0.00
9/10/2008	0.00								0.00
9/11/2008	0.00								0.00
9/12/2008	0.00								0.00
9/13/2008	0.00								0.00
9/14/2008	0.00								0.00
9/15/2008	0.00								0.00
9/16/2008	0.00								0.00
9/17/2008	0.00								0.00
9/18/2008	0.00								0.00
9/19/2008	0.00								0.00
9/20/2008	0.00								0.00
9/21/2008	0.00								0.00
9/22/2008	0.00								0.00
9/23/2008	0.00								0.00
9/24/2008	0.00								0.00
9/25/2008	0.00								0.00
9/26/2008	0.00								0.00
9/27/2008	0.00								0.00
9/28/2008	0.00								0.00
9/29/2008	0.00								0.00
9/30/2008	0.00								0.00
	0.00								0.00
								Balance per Aging	
								Calculated balance	0.00
									Variance

EXHIBIT C

PATENTS, TRADEMARKS AND COPYRIGHTS

Trademarks in the United States

NEW FIBERSTARS LOGO (and Design)	United States	09; 11	77/515,013	03-Jul-08			Allowed	Statement of Use or 1st Extension	11-Feb-10	SOU $	SOU $1000.00/Ext $600
WATERMARK Logo	United States	09; 11; 40; 42	77/477,267	16-May-08			Allowed	Statement of Use or 1st Extension	11-Feb-10	SOU $	1200.00/Ext $900
FIBERSTARS EFO	United States	11	76/280,590	02-Jul-01	2,825,705	23-Mar-04	Registered	Affidavit of Use	23-Mar-10	SOU $	800.00/Ext $400
ENERGY FOCUS	United States	09; 11; 40; 42	77/100,355	06-Feb-07			Allowed	Statement of Use or 2nd Extension	24-Mar-10	SOU $	1200.00/Ext $900
ENLIGHTENED INNOVATION	United States	09; 11; 40; 42	77/127,574	09-Mar-07			Allowed	Statement of Use or 2nd Extension	24-Mar-10	SOU $	1200.00/Ext $900
ENERGY FOCUS Logo	United States	09; 11; 40; 42	77/201,872	08-Jun-07			Allowed	Statement of Use or 3rd Extension	03-Aug-10	SOU $	1200.00/Ext $900
FIBERSTARS/FX	United States	11	78/283,216	05-Aug-03	2,943,053	19-Apr-05	Registered	Affidavit of Use	19-Apr-11	USD $	1000
#1 IN FIBER OPTIC LIGHTING	United States	11	78/475,200	27-Aug-04	3,005,947	11-Oct-05	Registered	Affidavit of Use	11-Oct-11	USD $	1000
LIGHTLY EXPRESSED	United States	11	78/496,607	07-Oct-04	3,028,153	13-Dec-05	Registered	Affidavit of Use	13-Dec-11	USD $	1000
JAZZ	United States	11	76/173,712	28-Nov-00	3,051,268	24-Jan-06	Registered	Affidavit of Use	24-Jan-12	USD $	1000
BRITECORE	United States	09	75/934,202	03-Mar-00	2,553,716	26-Mar-02	Registered	Renewal/ Aff of Use	26-Mar-12	USD $	1200
EVEN GLO	United States	11	74/161,211	26-Apr-91	1,688,941	26-May-92	Registered	Renewal/ Aff of Use	26-May-12	USD $	1200
FIBERSPOTS	United States	09	76/339,346	15-Nov-01	2,685,811	11-Feb-03	Registered	Renewal/ Aff of Use	11-Feb-13	USD $	1200
EFO ICE	United States	11	78/752,627	11-Nov-05	3,389,935	26-Feb-08	Registered	Affidavit of Use	26-Feb-14	USD $	1000

FIBERSTARS EFO	United States	11	76/280,590	02-Jul-01	2,825,705	23-Mar-04	Registered	Renewal/Aff of Use	23-Mar-14	USD $	1200
EFO	United States	11	77/111,938	20-Feb-07	3,421,495	06-May-08	Registered	Affidavit of Use	06-May-14	USD $	1000
SUPERSTARS	United States	11	74/325,743	26-Oct-92	1,848,171	02-Aug-94	Registered	Renewal/Aff of Use	02-Aug-14	USD $	1200
FREEDOM SWITCH	United States	09	77/287,335	24-Sep-07	3,570,566	03-Feb-09	Registered	Affidavit of Use	03-Feb-15	USD $	1000
FIBERSTARS/FX	United States	11	78/283,216	05-Aug-03	2,943,053	19-Apr-05	Registered	Renewal/Aff of Use	19-Apr-15	USD $	1200
FIBERTWIST	United States	11	74/426,767	18-Aug-93	1,898,069	06-Jun-95	Registered	Renewal/Aff of Use	06-Jun-15	USD $	1200

Patents in United States

Patent Number	Issue Date		Count	Title
6,219,480	17-Apr-2001	USA	1	Optical coupler for coupling light between one and a plurality of light ports
6,272,267	7-Aug-2001	USA	2	Optical coupler and system for distributing light in a 360-degree pattern
6,304,693	16-Oct-2001	USA	3	Efficient arrangement for coupling light between light source and light guide
6,546,752	15-Apr-2003	USA	4	Method of making optical coupling device
6,302,571	16-Oct-2001	USA	5	Waterproof system for delivering light to a light guide
5,406,641	11-Apr-1995	USA	6	Flexible light pipe, cured composite and processes for preparation thereof
5,485,541	16-Jan-1996	USA	7	Cured composite, processes and composition
6,091,878	18-Jul-2000	USA	8	Flexible light pipe for side-lit applications
6,207,747	27-Mar-2001	USA	9	Acrylic flexible light pipe of improved photo-thermal stability
6,350,050	26-Feb-2002	USA	10	Efficient fiberoptic directional lighting system
5,616,638	1-Apr-1997	USA	11	Cured composite and process therefor
6,382,824	7-May-2002	USA	12	Fiber optics illuminators and lighting system
6,215,947	10-Apr-2001	USA	13	Flexible light pipe for side-lit applications

5,916,648	29-Jun-1999	USA	14	Flexible sheathing and cladding
6,554,456	29-Apr-2003	USA	15	Efficient Directional Lighting
6,526,213	25-Feb-2003	USA	20	Light pipe composition
5,816,128	6-Oct-1998	USA	22	Severing device
5,930,442	27-Jul-1999	USA	23	Acrylic flexible light pipe of improved thermal stability
6,545,428	8-Apr-2003	USA	24	Light fixture with submersible enclosure for an electric lamp
6,453,099	17-Sep-2002	USA	26	Multi-stranded fiberoptic light delivery system with smooth color transitioning
7,182,484	27-Feb-2007	USA	32	Light appliance and cooling arrangement
7,008,071	7-Feb-2006	USA	33	Light collection system converting ultraviolet energy to visible light
7,220,035	22-May-2007	USA	34	Compact, high-efficiency illumination system for video-imaging devices
7,163,329	16-Jan-2007	USA	35	Adjustable light pipe fixture
7,164,819	16-Jan-2007	USA	36	Side-light extraction by light pipe-surface alteration and light-extraction devices extending radially beyond the outer cladding
7,190,863	13-Mar-2007	USA	37	Light Pipe Arrangement/w Reduced Fresnel Losses
7,194,184	20-Mar-2007	USA	38	Light pipe with side-light extraction
6,942,373	13-Sep-2005	USA	39	Fiberoptic lighting system with shaped collector for efficiency
7,334,945	26-Feb-2008	USA	40	Plug-And-Socket Hub Arrangement for Mounting Light Pipe to Receive Light
6,508,579	21-Jan-2003	USA	41	Lighting apparatus for illuminating well-defined limited areas
6,379,027	30-Apr-2002	USA	42	Light-generating and beam-establishing device
7,198,398	3-Apr-2007	USA	43	Adjustable-aim light pipe fixture
7,163,326	16-Jan-2007	USA	44	Efficient luminaire with directional side-light extraction
7,348,742	25-Mar-2008	USA	45	Optical Filter Wheel Synchronization Technique and Method of Control for the Purpose of Emitting Color-Synchronized Light from Multiple Simultaneously-Powered Lighting Fixtures
7,374,313	20-May-2008	USA	46	Luminaire with Improved Lateral Illuminance Uniformity Control
7,330,632	12-Feb-2008	USA	47	Fiberoptic Luminaire with Scattering and Specular Side-Light Extractor Patterns
5,999,686	7-Dec-1999	USA	48	Fiber optic lighting system with lockable spot lights
6,050,715	18-Apr-2000	USA	49	Method and apparatus for forming surface lighting
5,479,322	26-Dec-1995	USA	50	Lighting system and method for fiber optic and area illumination
5,708,749	13-Jan-1998	USA	51	Lighting apparatus and method
5,779,353	14-Jul-1998	USA	52	Weather-protected lighting apparatus and method

5,345,531	6-Sep-1994	USA	53	Optical fiber lighting apparatus and method
5,430,825	4-Jul-1995	USA	54	Fiber optic light assembly method
D465,038	29-Oct-2002	USA	58	Illumination apparatus
D587,833	3-Mar-2009	USA	65	Docklight
7,549,783	23-Jun-2009	USA	66	Efficient Luminaire with Directional Side-Light Extraction
7,588,342	15-Sep-2009	USA	68	Lighted Refrigerated Display Case with Remote Light Source
7,855,339	21-Dec-2010	USA	73	Electrical Junction Box Cover System for Use Near Water

Copyrights in the United States

(None)

ENERGY FOCUS, INC.

SECURITIES PURCHASE AGREEMENT

February 27, 2012

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ENERGY FOCUS INC.

Securities Purchase Agreement

This Securities Purchase Agreement (this "**Agreement**") is dated as of February 27, 2012, by and among Energy Focus, Inc., a Delaware corporation (the "**Company**"), and the parties listed on the signature page hereto (each an "**Investor**" and together the "**Investors**").

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to Section 4(2) of the Securities Act (as defined below) and the Commission's Rule 506 promulgated thereunder, the Company desires to issue and sell to the Investor, and the Investor desires to purchase from the Company, certain securities of the Company, as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and the Investor agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.1. **Definitions**. In addition to the terms defined elsewhere in this Agreement, for all purposes of this Agreement, the following terms have the meanings indicated in this Section 1.1:

"Action" means any action, suit, inquiry, notice of violation, proceeding (including any partial proceeding such as a deposition) or investigation pending or threatened in writing against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency, regulatory authority (federal, state, county, local or foreign), stock market, stock exchange or trading facility.

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under the Commission's Rule 144.

"Board" means the Board of Directors of the Company.

"Business Day" means any day except Saturday, Sunday and any day which is a federal legal holiday or a day on which banking institutions in the City of New York are authorized or required by law or other governmental action to close.

"Claim" has the meaning set forth in Section 4.6(c).

"Closing" means the closing of the purchase and sale of Shares and a Warrant pursuant to Article 2.

"Closing Date" means the Business Day immediately following the date on which all of the conditions set forth in Sections 6.1 and 6.2 hereof are satisfied, or such other date as the parties may agree.

"Commission" means the Securities and Exchange Commission.

"Common Stock" means the common stock of the Company, par value $0.001 per share, and any securities into which such common stock may hereafter be reclassified.

"Common Stock Equivalents" means any securities of the Company or any Subsidiary which entitle the holder thereof to acquire Common Stock at any time, including without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock or other securities that entitle the holder to receive, directly or indirectly, Common Stock.

"Company Counsel" means Cowden & Humphrey Co. LPA.

"Company Deliverables" has the meaning set forth in Section 2.4.

"Company Stock Options" has the meaning set forth in Section 3.1(g).

"Contingent Obligations" has the meaning set forth in Section 3.1(r).

"Convertible Securities" has the meaning set forth in Section 3.1(g).

"Delaware Courts" has the meaning set forth in Section 7.9.

"Effective Date" means the date that any Registration Statement filed pursuant to Article 4 is first declared effective by the Commission.

"Effectiveness Period" has the meaning set forth in Section 4.1(b).

"Environmental Law" has the meaning set forth in Section 3.1(aa).

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder.

"ERISA Affiliate" means any trade or business, whether or not incorporated, that together with the Company would be deemed to be a single employer for purposes of Section 4001 of ERISA or Sections 414(b), (c), (m), (n) or (o) of the Internal Revenue Code of 1986, as amended.

"Evaluation Period" has the meaning set forth in Section 3.1(r).

"Event" has the meaning set forth in Section 4.1(d).

"Event Date" has the meaning set forth in Section 4.1(d).

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Exempt Issuance" means the issuance by the Company (a) to employees, officers, directors of, and consultants to, the Company of shares of Common Stock or options for the purchase of shares of Common Stock pursuant to stock option or long-term incentive plans approved by the Board, (b) of shares of Common Stock upon the exercise of Warrants issued hereunder, (c) of shares of Common Stock upon conversion of shares of Series A Preferred Stock, (d) of shares of Common Stock upon exercise of Prior Warrants or conversion of Prior Convertible Securities, (e) of securities issued pursuant to acquisitions, licensing agreements, or other strategic transactions, (f) of securities issued in connection with equipment leases, real property leases, loans, credit lines, guaranties or similar transactions approved by the Board, (g) of securities issued in connection with join ventures or similar strategic relationships approved by the Board, (h) of securities in a merger, (i) of securities in a public offering registered under the Securities Act, or (j) of shares of Common Stock under its March 17, 2010 Purchase Agreement with Lincoln Park Capital Fund LLC ("LPC"), as amended or restated, or under a similar arrangement with LPC on similar terms; provided that in the case of securities issued pursuant clauses (e), (f), (g) and (h), the purpose of such issuance may not be primarily to obtain cash financing.

"Filing Date" means the date that is thirty (30) days after the Closing Date or, if required by Commission regulation or rule, the date that is thirty (30) days after the date that the Company files with the Commission its annual report on Form 10-K for the fiscal year ended December 31, 2011.

"Financial Statements" has the meaning set forth in Section 3.1(h).

"Financing Notice" has the meaning set forth in Section 5.5(b).

"GAAP" means generally accepted accounting principles as in effect as of the date hereof in the United States of America; if the Company in the future should choose to, or be required to, follow International Financial Reporting Standards ("IFRS"), the term GAAP shall refer to IFRS as in effect at that time in the United States of America.

"Governmental Authority" has the meaning set forth in Section 3.1(e).

"Hazardous Substance" has the meaning set forth in Section 3.1(aa).

"Indebtedness" has the meaning set forth in Section 3.1(r).

"Indemnified Party" has the meaning set forth in Section 4.6(c).

"Indemnified Person" has the meaning set forth in Section 4.6(a).

"Indemnifying Party" has the meaning set forth in Section 4.6(c).

"Intellectual Property Rights" has the meaning set forth in Section 3.1(o).

"Lien" means any lien, charge, encumbrance, security interest, right of first refusal or other restrictions of any kind.

"Material Adverse Effect" means any of (i) a material and adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material and adverse effect on the results of operations, assets, prospects, business or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole, or (iii) a material impairment of the Company's ability to perform on a timely basis its obligations under any Transaction Document.

"OFAC" has the meaning set forth in Section 3.1(aa).

"Penalty Base" has the meaning set forth in Section 4.1(d).

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"**Per Unit Purchase Price**" has the meaning set forth in Section 2.1.

"Placement Agent" has the meaning set forth in Section 3.1(s).

"Post-Effective Amendment" means a post-effective amendment to the Registration Statement.

"Post-Effective Amendment Filing Deadline" means the seventh Business Day after the Registration Statement ceases to be effective pursuant to applicable securities laws due to the passage of time or the occurrence of an event requiring the Company to file a Post-Effective Amendment.

"Prior Convertible Securities" has the meaning set forth in Section 3.1(g).

"Prior Warrants" has the meaning set forth in Section 3.1(g).

"Proceeding" means an action, claim, suit, investigation or proceeding (including, without limitation, an investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"Prospectus" has the meaning set forth in Section 4.3.

"Proposed Financing" has the meaning set forth in Section 5.5(a).

"Purchase Price" has the meaning set forth in Section 2.2.

"Registrable Securities" means the Shares and the Warrant Shares; provided, however, that the Investor shall not be required to exercise the Warrants in order to have the Warrant Shares included in any Registration Statement.

"Registration Period" means the period commencing on the date hereof and ending on the date on which all of the Registrable Securities may be sold to the public without registration and without volume or manner restrictions under the Securities Act in reliance on Rule 144.

"Registration Statement" means a registration statement filed on the appropriate Form with, and declared effective by, the Commission under the Securities Act and covering the resale by the Investor of the Registrable Securities.

"Requested Information" has the meaning set forth in Section 4.3(a).

"Required Effectiveness Date" means the earlier of (i) the date that is 90 days after the Closing Date without SEC review or 120 days in the event of an SEC review process, or, in the case of the registration of Cut Back Shares (as defined in Section 4.1(a)), 120 days after the Restriction Termination Date or (ii) seven (7) Business Days after receipt by the Company from the Commission of notice of "no review" of the Registration Statement.

"Rule 144" means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

"SEC Reports" has the meaning set forth in Section 3.1(h).

"Securities" means the Shares, the Warrants, and the Warrant Shares.

"Securities Act" means the Securities Act of 1933, as amended.

"Shares" means the shares of Common Stock issuable to the Investor at the Closing.

"Subsidiary" means any "significant subsidiary" as defined in Rule 1-02(w) of Regulation S X promulgated by the Commission under the Exchange Act.

"Trading Day" means (i) a day on which the Common Stock is traded on a Trading Market, or (ii) if the Common Stock is not listed on a Trading Market, a day on which the Common Stock is quoted on the over-the-counter market, as reported by the OTC Bulletin Board, or (iii) if the Common Stock is not then listed on a Trading Market or quoted on the OTC Bulletin Board, a day on which the Common Stock is quoted in the over-the-counter market as reported by the Pink OTC Market Inc. or any similar organization or agency succeeding to its functions of reporting prices; provided, that in the event that the Common Stock is not listed or quoted as set forth in (i), (ii) and (iii) hereof, then Trading Day shall mean a Business Day.

"Trading Market" means whichever of the New York Stock Exchange or the NASDAQ Stock Market, Inc. on which the Common Stock is listed or traded on the date in question.

"Transaction Documents" means this Agreement, the Warrant and any other documents or agreements executed in connection with the transactions contemplated hereunder.

"Unit" means a unit consisting of one Share and one-half (1/2) Warrant to purchase one share of Common Stock, issued in combination.

"Warrant" means any of the Common Stock Purchase Warrants, in the form of Exhibit B, which are issuable to the Investor at the Closings.

"Warrant Shares" means the shares of Common Stock issuable upon exercise of the Warrants.

ARTICLE 2
PURCHASE AND SALE

Section 2.1. **Issuance of Securities at the Closing**. Upon the terms and subject to the conditions set forth in this Agreement, and in accordance with applicable law, the Company agrees to sell to the Investors, and the Investors agree, severally and not jointly, to purchase from the Company, for a per Unit purchase price of $0.25 (the "**Per Unit Purchase Price**"), on the Closing Date, the number of Units opposite each Investor's name on Exhibit A attached hereto, each Unit to consist of (i) one (1) Share and (ii) one-half (1/2) Warrant to purchase one (1) share of Common Stock.

Section 2.2. **Payment of Purchase Price**. As consideration for the issuance of the Securities being purchased at the Closing, each Investor shall on the Closing Date pay to the Company, by wire transfer of immediately available funds, an amount equal to (i) the Per Unit Purchase Price multiplied by (ii) the number of Units opposite each Investor's name on Exhibit A attached hereto. The aggregate purchase price payable by all of the Investors hereunder is hereinafter referred to as the "**Purchase Price**."

Section 2.3. **Delivery of Securities**. At the Closing, the Company shall, against payment by each Investor of its pro rata share of the Purchase Price, (i) issue to each Investor the Warrants included in the Units being purchased at the Closing and (ii) execute and deliver to the transfer agent for the Common Stock irrevocable instructions to issue to each Investor the number of Shares included in the Units being purchased at the Closing.

Section 2.4. **Additional Closing Deliveries**. At the Closing, the Company shall deliver or cause to be delivered to each Investor the following (the "**Company Deliverables**"):

(i) The legal opinion of Company Counsel, in substantially the form of Exhibit C hereto, addressed to each Investor;

(ii) The Certificate of Incorporation of the Company, together with all amendments thereto, certified by the Secretary of State of the State of Delaware as of a recent date;

(iii) Copies of each of the following documents, in each case certified by the Secretary of the Company to be in full force and effect on the Closing Date:

(A) resolutions of the board of directors of the Company approving the execution, delivery and performance of the Transaction Documents and the transactions contemplated thereby;

(B) the Bylaws of the Company; and

(C) irrevocable instructions to the Company's transfer agent as to the reservation and issuance of the Warrant Shares; and

(iv) A good standing certificate of the Company issued by the Secretary of State of the State of Delaware dated as of a recent date.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES

Section 3.1. **Representations and Warranties of the Company**. The Company hereby makes the following representations and warranties to each Investor:

(a) **Subsidiaries**. The Company has no direct or indirect Subsidiaries other than as specified in the SEC Reports. Except as disclosed in the SEC Reports, the Company owns, directly or indirectly, all of the capital stock of each Subsidiary free and clear of any and all Liens other than Liens disclosed in the SEC Reports, and all the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights.

(b) **Organization and Qualification**. Each of the Company and each Subsidiary is duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization (as applicable), with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents. Each of the Company and each Subsidiary is duly qualified to conduct its respective business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect, and no proceedings have been instituted in any such jurisdiction revoking, limiting or curtailing, or seeking to revoke, such power and authority or qualification.

(c) **Authorization; Enforcement**. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by each of the Transaction Documents and otherwise to carry out its obligations thereunder. The execution and delivery of each of the Transaction Documents by the Company and the consummation by it of the transactions contemplated thereby have been duly authorized by all necessary action on the part of the Company and no further corporate action is required by the Company in connection therewith. Each Transaction Document has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally the enforcement of, creditors' rights and remedies or by other equitable principles of general application.

(d) **No Conflicts**. The execution, delivery and performance of the Transaction Documents by the Company and the consummation by the Company of the transactions contemplated thereby do not and will not (i) conflict with or violate any provision of the Company's or any Subsidiary's certificate or articles of incorporation, bylaws or other organizational or charter documents, or (ii) conflict with, or constitute a breach or default (or an event that with notice or lapse of time or both would become a breach or default) under, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, or result in the imposition of any Lien upon any of the material properties or assets of the Company or of any Subsidiary pursuant to, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect.

(e) **Filings, Consents and Approvals**. The Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority (a "**Governmental Authority**") or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents and the consummation of the transactions contemplated thereby, other than (i) the filing of a Notice of Sale of Securities on Form D with the Commission under Regulation D of the Securities Act (ii) filings required under applicable state securities laws, and (iii) the filing with the Commission of one or more Registration Statements in accordance with the requirements of Article 4 of this Agreement,.

(f) **Issuance of the Securities**. The Shares have been duly authorized and, when issued and paid for in accordance with this Agreement, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens, other than Liens created by the Investors and those imposed by applicable securities laws. The Company has reserved and set aside from its duly authorized capital stock a sufficient number of shares of Common Stock to satisfy in full the Company's obligations to issue the Warrant Shares upon exercise of the Warrants. The Warrant Shares are duly authorized and, when issued and paid for upon exercise of the Warrants in accordance with their terms, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens, other than Liens created by the Investors and those imposed by applicable securities laws.

(g) **Capitalization.** The authorized capital stock of the Company consists of 60,000,000 shares of Common Stock, par value $0.0001 per share, and 2,000 shares of Preferred Stock, par value $0.0001 per share. As of the close of business on January 31, 2012, (i) no shares of Preferred Stock were issued and outstanding, (ii) 24,913,135 shares of Common Stock were issued and outstanding, all of which are validly issued, fully-paid and non-assessable, (iii) 7,815,288 shares of Common Stock were reserved for issuance upon exercise of outstanding options granted to employees, directors, and consultants of the Company (the "**Company Stock**

Options"), for issuance upon exercise of outstanding warrants to purchase Common Stock (the "**Prior Warrants**"), for issuance upon conversion of other convertible notes, debentures or securities ("**Prior Convertible Securities**"), and for sale under our March 17, 2010 Purchase Agreement with Lincoln Park Capital Fund, LLC, and (iv) 27,271,577 shares of Common Stock were unreserved and unissued. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except pursuant to (i) the Company Stock Options, (ii) the Prior Warrants, or (iii) the Prior Convertible Securities, or as a result of the purchase and sale of the Securities as contemplated by this Agreement, there are no outstanding options, warrants, script rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exchangeable for, or giving any Person any right to subscribe for or acquire, any shares of Common Stock, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents. The issue and sale of the Securities will not obligate the Company to issue shares of Common Stock or other securities to any Person other than the Investors and will not result in a right of any holder of Company securities to adjust the exercise or conversion price under such securities. No further approval or authorization of any stockholder, the Board of Directors of the Company or any other Person is required for the issuance and sale of the Securities. There are no stockholders agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

(h) **SEC Reports; Financial Statements**. The Company has filed all reports required to be filed by it under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, for the twelve months preceding the date hereof (the foregoing materials, including reports on the SEC Form 8-K, being collectively referred to herein as the "**SEC Reports**"). As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act and the rules and regulations of the Commission promulgated thereunder, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The financial statements of the Company (the "**Financial Statements**") included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the Commission with respect thereto as in effect at the time of filing. Such Financial Statements have been prepared in accordance with GAAP applied on a consistent basis during the periods involved, except as may be otherwise specified in such Financial Statements or the notes thereto, and fairly present in all material respects the financial position of the Company and its consolidated Subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal year-end audit adjustments.

(i) **Material Changes**. Except as set forth in the Financial Statements or SEC Reports, (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities or obligations (contingent or otherwise) other than (A) trade payables, accrued expenses and other liabilities incurred in the ordinary course of business consistent with past

practice incurred since the date of the most recent Financial Statements and (B) liabilities incurred in the ordinary course of business not required to be reflected in the Financial Statements pursuant to GAAP or required to be disclosed in filings made with the Commission, (iii) the Company has not altered its method of accounting or the identity of its auditors, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its stockholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock, and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company stock option plans or the Company Stock Options. The Company does not have pending before the Commission any request for confidential treatment of information. The Company maintains and will continue to maintain a standard system of accounting established and administered in accordance with GAAP.

(j) **Litigation and Investigations**. There is no Action which (i) challenges the legality, validity or enforceability of any of the Transaction Documents or the Securities or (ii) except as specifically disclosed in the SEC Reports, could, if there were an unfavorable decision, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any Subsidiary, nor any director or officer thereof (in his capacity as such), is the subject of any pending Action involving a claim of violation of or liability under federal or state securities laws or a claim of breach of fiduciary duty, except as specifically disclosed in the SEC Reports. To the knowledge of the Company, there is not pending any investigation by the Commission involving the Company or any current or former director or officer of the Company (in his or her capacity as such). The Commission has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act. There are no outstanding comments by the staff of the Commission on any filing by the Company or any Subsidiary under the Exchange Act or the Securities Act.

(k) **Labor Relations**. No material labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company.

(l) **Compliance**. Neither the Company nor any Subsidiary (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any order of any court, arbitrator or governmental body, or (iii) is or has been in violation of any statute, rule or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters, except in each case as could not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect.

(m) **Regulatory Permits**. The Company and the Subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the SEC Reports, except where the failure to possess such permits could not, individually or in the

aggregate, have or reasonably be expected to result in a Material Adverse Effect, and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any such permits.

(n) **Title to Assets**. The Company and the Subsidiaries have good and marketable title in fee simple to all real property owned by them that is material to their respective businesses and good and marketable title in all personal property owned by them that is material to their respective businesses, in each case free and clear of all Liens, except for Liens that do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries, and except for Liens set forth in the Financial Statements or SEC Reports. All real property and facilities held under lease by the Company and the Subsidiaries are held by them under leases of which the Company and the Subsidiaries are in material compliance, except as could not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect.

(o) **Patents and Trademarks**. The Company and the Subsidiaries have, or have valid rights to use, all patents, patent applications, trademarks, trademark applications, service marks, trade names, copyrights, licenses and other similar rights that are necessary or material for use in connection with their respective businesses as described in the SEC Reports and which the failure to so have could, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect (collectively, the "**Intellectual Property Rights**"). No claims or Actions have been made or filed by any Person against the Company to the effect that Intellectual Property Rights used by the Company or any Subsidiary violate or infringe upon the rights of such claimant. To the knowledge of the Company, after commercially reasonable investigation, all of the Intellectual Property Rights are enforceable and there is no existing infringement by another Person of any of the Intellectual Property Rights or by the Company of the Intellectual Property Rights of any other Person.

(p) **Insurance**. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as the Company believes are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged. The Company has no reason to believe that it will not be able to renew its and the Subsidiaries' existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business on terms consistent with the market for the Company's and such Subsidiaries' respective lines of business.

(q) **Transactions With Affiliates and Employees**. Except as set forth in the SEC Reports, none of the officers or directors of the Company and, to the knowledge of the Company, none of the employees of the Company is a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee or partner.

(r) **Sarbanes-Oxley; Internal Accounting Controls**. The Company is in material compliance with all provisions of the Sarbanes-Oxley Act of 2002 (including the rules and regulations of the Commission adopted thereunder) which are applicable to it as of the Closing Date. The Company's certifying officers have evaluated the effectiveness of the Company's disclosure controls and procedures as of the filing date of the most recently filed periodic report under the Exchange Act (such date, the "**Evaluation Date**"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no significant changes in the Company's internal controls (as such term is defined in Item 307(b) of Regulation S-K under the Exchange Act), or to the Company's knowledge, in other factors that could significantly affect the Company's internal controls.

(s) **Certain Fees**. No brokerage or finder's fees or commissions are or will be payable by the Company to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by this Agreement. The Investors shall have no obligation with respect to any fees or with respect to any claims (other than such fees or commissions owed by the Investors pursuant to written agreements executed by the Investors which fees or commissions shall be the sole responsibility of the Investors) made by or on behalf of any Persons for fees of a type contemplated in this Section that may be due in connection with the transactions contemplated by this Agreement.

(t) **Certain Registration Matters**. Assuming the accuracy of each Investor's representations and warranties set forth in Section 3.2(b)-(e), no registration under the Securities Act is required for the offer and sale of the Securities by the Company to the Investors under the Transaction Documents.

(u) **Investment Company**. The Company is not, and is not an Affiliate of, and immediately following the Closing will not have become, an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

(v) **No Additional Agreements**. The Company does not have any agreement or understanding with the Investors with respect to the transactions contemplated by the Transaction Documents other than as specified in the Transaction Documents.

(w) **Full Disclosure**. The SEC Reports and the Company's representations and warranties set forth in this Agreement, taken together, are true and correct in all material respects and do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided any of the Investors or their agents or counsel with any information that it believes constitutes or might constitute material, non-public information. The Company understands and confirms that the Investors will rely on the foregoing representation in effecting transactions in securities of the Company. The Company acknowledges and agrees that no Investor makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 3.2 hereof.

(x) **Environmental Matters**. To the Company's knowledge: (i) the Company and its Subsidiaries have complied with all applicable Environmental Laws, except for such noncompliance as could not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect; (ii) after commercially reasonable investigation, the properties currently owned or operated by Company (including soils, groundwater, surface water, buildings or other structures) are not contaminated with any Hazardous Substances; (iii) after commercially reasonable investigation, the properties formerly owned or operated by Company or its Subsidiaries were not contaminated with Hazardous Substances during the period of ownership or operation by Company and its Subsidiaries; (iv) Company and its Subsidiaries are not subject to any material liability for any Hazardous Substance disposal or contamination on any third party property; (v) Company and its Subsidiaries have not received any written notice, demand, letter, claim or request for information alleging that Company and its Subsidiaries may be in violation of or liable under any Environmental Law; and (vi) Company and its Subsidiaries are not subject to any orders, decrees, injunctions or other arrangements with any Governmental Authority or subject to any indemnity or other agreement with any third party relating to liability under any Environmental Law or relating to Hazardous Substances which could, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect.

As used in this Agreement, the term "**Environmental Law**" means any federal, state, local or foreign law, regulation, order, decree, permit, authorization, opinion, common law or agency requirement relating to: (A) the protection, investigation or restoration of the environment, health and safety, or natural resources; (B) the handling, use, presence, disposal, release or threatened release of any Hazardous Substance or (C) noise, odor, wetlands, pollution, contamination or any injury or threat of injury to persons or property.

As used in this Agreement, the term "**Hazardous Substance**" means any substance that is: (i) listed, classified or regulated pursuant to any Environmental Law; (ii) any petroleum product or by-product, asbestos-containing material, polychlorinated biphenyls, radioactive materials or radon; or (iii) any other substance which is the subject of regulatory action by any Governmental Authority pursuant to any Environmental Law.

(y) **Taxes**. The Company and its Subsidiaries have filed all necessary federal, state and foreign income and franchise tax returns when due (or obtained appropriate extensions for filing) and have paid or accrued all taxes shown as due thereon, and the Company has no knowledge of a tax deficiency which has been or might be asserted or threatened against it or any Subsidiary which would have a Material Adverse Effect.

(z) **ERISA**. Neither the Company nor any ERISA Affiliate maintains, contributes to or has any liability or contingent liability with respect to any employee benefit plan subject to ERISA.

(aa) **Foreign Assets Control Regulations and Anti-Money Laundering**.

(i) **OFAC**. Neither the issuance of the Shares and Warrants to the Investors, nor the use of the respective proceeds thereof, shall cause the Investors to violate the U.S. Bank Secrecy Act, as amended, and any applicable regulations thereunder or any of the sanctions programs administered by the U.S. Department of the Treasury's Office of Foreign Assets Control ("**OFAC**") of the United States Department of Treasury, any regulations promulgated thereunder by OFAC or under any affiliated or successor governmental or quasi-governmental office, bureau or agency and any enabling legislation or executive order relating thereto. Without limiting the foregoing, neither the Company nor any Subsidiary (i) is a person whose property or interests in property are blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 200l Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), (ii) engages in any dealings or transactions prohibited by Section 2 of such executive order, or is otherwise associated with any such person in any manner violative of Section 2, or (iii) is a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other OFAC regulation or executive order.

(ii) **Patriot Act**. The Company and each of its Subsidiaries are in compliance, in all material respects, with the USA PATRIOT Act. No part of the proceeds of the sale of the Shares and the Warrants hereunder will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

(bb) **Acknowledgment Regarding Investors' Trading Activity**. Except as expressly set forth herein, it is understood and acknowledged by the Company that, except to the extent required by applicable law: (i) none of the Investors have been asked by the Company to agree, nor has any Investor agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or "derivative" securities based on securities issued by the Company or to hold the Securities for any specified term; (ii) that past or future open market or other transactions by any Investor, specifically including, without limitation, short sales or "derivative" transactions, before or after the closing of this or future private placement transactions, may negatively impact the market price of the Company's publicly-traded securities; (iii) that any Investor, and counter-parties in "derivative" transactions to which any such Investor is a party, directly or indirectly, presently may have a "short" position in the Common Stock and (iv) that each Investor shall not be deemed to have any affiliation with or control over any arm's length counter-party in any "derivative" transaction. The Company further understands and acknowledges that, to the extent permitted by applicable law (y) one or more Investors may engage in hedging activities at various times during the period that the Securities are outstanding, including, without limitation, during the periods that the value of the Warrant Shares deliverable with respect to Securities are being determined, and (z) such hedging activities (if any) could reduce the value of the existing stockholders' equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents, except to the extent that any such activities violate the provisions of applicable law.

(cc) **Regulation M Compliance**. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or, paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company, other than, in the case of clauses (ii) and (iii), compensation paid to the Company's placement agent in connection with the placement of the Securities.

(dd) **Form S-3 Eligibility**. The Company is eligible to register the resale of the Shares and the Warrant Shares for resale by the Investors on Form S-3 promulgated under the Securities Act; provided, however, that no violation of this Section 3.1(dd) shall be deemed to have occurred in the event that the SEC imposes any restriction on the registration of the Shares and/or the Warrant Shares pursuant to Rule 415 as contemplated in Section 4.1(a) below.

Section 3.2. **Representations and Warranties of the Investor**. Each Investor hereby represents and warrants to the Company as follows:

(a) **Authority**. This Agreement has been duly executed by the Investor, and when delivered by the Investor in accordance with terms hereof, will constitute the valid and legally binding obligation of the Investor, enforceable against him in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally the enforcement of, creditors' rights and remedies or by other equitable principles of general application.

(b) **Own Account**. The Investor is acquiring the Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof, without prejudice, however, to the Investor's right at all times to sell or otherwise dispose of all or any part of such Securities in compliance with applicable federal and state securities laws. The Investor does not have any agreement or understanding, directly or indirectly, with any Person to distribute any of the Securities.

(c) **Investor Status**. The Investor is an "accredited investor" as defined in Rule 501(a) under the Securities Act and a "qualified institutional buyer" as defined in Rule 144A under the Securities Act. The Investor is not a registered broker-dealer under Section 15 of the Exchange Act or associated or affiliated with such a broker-dealer. Any Investor which is an entity has not been formed specifically for the purpose of investing in the Securities and has its principal place of business at the address listed for it on the signature pages hereto.

(d) **Access to Information**. The Investor acknowledges that it has reviewed the SEC Reports and has been afforded (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and the Subsidiaries and their respective financial condition, results of operations, business, properties, management and prospects sufficient to enable him to evaluate his investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment.

(e) **General Solicitation**. The Investor is not purchasing the Securities as a result of any advertisement, article, notice or other communication regarding the Securities published in any newspaper, magazine or similar media or broadcast over television or radio or presented at any seminar or any other general solicitation or general advertisement.

(f) **Disclosure**. The Investor acknowledges and agrees that the Company neither makes nor has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 3.1.

(g) **Regulation M Compliance**. The Investor has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company.

ARTICLE 4
REGISTRATION RIGHTS

Section 4.1. **Shelf Registration**.

(a) As promptly as possible, and in any event on or prior to the Filing Date, the Company shall prepare and file with the Commission a "shelf" Registration Statement covering the resale of all Registrable Securities for an offering to be made on a continuous basis pursuant to Rule 415. If for any reason (including, without limitation, the Commission's interpretation of Rule 415) the Commission does not permit all of the Registrable Securities to be included in such Registration Statement, then the Company shall prepare and file with the Commission one or more separate Registration Statements with respect to any such Registrable Securities not included with the initial Registration Statements, as soon as allowed under SEC Regulations and is commercially practicable. The Registration Statement shall be on a Form S-3; in the event Form S-3 is not available for the registration of the resale of Registrable Securities hereunder, the Company shall (i) register the resale of the Registrable Securities on another appropriate form in accordance herewith and (ii) attempt to register the Registrable Securities on Form S-3 as soon as such form is available, provided that the Company shall maintain the effectiveness of the Registration Statements then in effect until such time as a Registration Statement on Form S-3 covering the Registrable Securities has been declared effective by the Commission. If at any time the SEC takes the position that the offering of some or all of the Registrable Securities in a Registration Statement is not eligible to be made on a delayed or continuous basis under the provisions of Rule 415 under the 1933 Act or requires any Investor to be named as an "underwriter", the Company shall use its commercially reasonable best efforts to persuade the SEC that the offering contemplated by the Registration Statement is a valid secondary offering and not an offering "by or on behalf of the issuer" as defined in Rule 415 and that none of the Investors is an "underwriter". The Investors shall have the right to participate or

have their counsel participate in any meetings or discussions with the SEC regarding the SEC's position and to comment or have their counsel comment on any written submission made to the SEC with respect thereto, and to have such comments relayed to the SEC with the consent of the Company, not to be unreasonably withheld. No such written submission shall be made to the SEC to which the Investors' counsel reasonably objects. In the event that, despite the Company's commercially reasonable efforts and compliance with the terms of this Section 2(e), the SEC refuses to alter its position, the Company shall (i) remove from the Registration Statement such portion of the Registrable Securities (the "**Cut Back Shares**") and/or (ii) with the consent of the Investor's counsel, not to be unreasonably withheld, agree to such restrictions and limitations on the registration and resale of the Registrable Securities as the SEC may require to assure the Company's compliance with the requirements of Rule 415; provided, however, that the Company shall not agree to name any Investor as an "underwriter" in such Registration Statement without the prior written consent of such Investor (collectively, the "**SEC Restrictions**"). The Cut Back Shares shall be allocated among the Investors on a pro rata basis unless the SEC otherwise requires. No liquidated damages shall accrue on or as to any Cut Back Shares until such time as the Company is able, using commercially reasonable efforts, to effect the filing of an additional Registration Statement with respect to the Cut Back Shares in accordance with any SEC Restrictions (such date, the "**Restriction Termination Date**"). From and after the Restriction Termination Date, all of the provisions of this Article 4 (including the liquidated damages provisions) shall again be applicable to the Cut Back Shares; provided, however, that for such purposes, references to the Filing Date shall be deemed to be the Restriction Termination Date.

(b) The Company shall use its best efforts to cause each Registration Statement filed hereunder to be declared effective by the Commission as promptly as possible after the filing thereof, but in any event prior to the Required Effectiveness Date, and shall use its best efforts to keep the Registration Statement continuously effective under the Securities Act until the earlier of (i) the fifth anniversary of the Effective Date, (ii) the date when all Registrable Securities covered by such Registration Statement have been sold publicly, or (iii) the date on which the Registrable Securities are eligible for sale without volume limitation within a three-month period pursuant to Rule 144 or any successor thereto (the "**Effectiveness Period**"). The Company shall notify the Investor in writing promptly (and in any event within one Business Day) after receiving notification from the Commission that the Registration Statement has been declared effective.

(c) As promptly as possible, and in any event no later than the Post-Effective Amendment Filing Deadline, the Company shall prepare and file with the Commission a Post-Effective Amendment. The Company shall use its best efforts to cause the Post-Effective Amendment to be declared effective by the Commission as promptly as possible after the filing thereof. The Company shall notify the investor in writing promptly (and in any event within one Business Day) after receiving notification from the Commission that the Post-Effective Amendment has been declared effective.

(d) If: (i) any Registration Statement is not filed on or prior to the Filing Date (or the Restriction Termination Date, as applicable) or a Post-Effective Amendment is not filed on or prior to the Post-Effective Amendment Filing Deadline, or (ii) the Company fails to file with the Commission a request for acceleration of effectiveness in accordance with Rule 461

promulgated under the Securities Act, within seven (7) Business Days after the date that the Company is notified (orally or in writing, whichever is earlier) by the Commission that a Registration Statement will not be "reviewed," or will not be subject to further review, or (iii) the Company fails to respond to any comments made by the Commission within fifteen (15) Business Days after the receipt of such comments, or (iv) a Registration Statement filed hereunder is not declared effective by the Commission by the Required Effectiveness Date, or a Post-Effective Amendment is not declared effective on or prior to the fifteenth Business Day following the Post-Effective Amendment Filing Deadline, or (v) after a Registration Statement is filed with and declared effective by the Commission, such Registration Statement ceases to be effective as to all Registrable Securities to which it is required to relate at any time prior to the expiration of the Effectiveness Period for a period of more than thirty (30) days without being succeeded by an amendment to such Registration Statement or by a subsequent Registration Statement filed with and declared effective by the Commission, but excluding the Tolling Period (as defined below), or (vi) an amendment to a Registration Statement is not filed by the Company with the Commission within fifteen (15) Business Days after the Commission's having notified the Company that such amendment is required in order for such Registration Statement to be declared effective, but excluding the Tolling Period, or (vii) after a Registration Statement is filed with and declared effective by the Commission, the Company advises the Investors that the Prospectus no longer may be used because it does not comply with applicable laws, rules and regulations, but the Prospectus can be supplemented to so comply without amending the Registration Statements, and the Company fails to provide a supplement so complying within fifteen (15) Business Days thereafter, but excluding the Tolling Period (any such failure or breach being referred to as an "**Event**" and the date on which such Event occurs being referred to as "**Event Date**"), then: (x) on each such Event Date the Company shall pay to the Investor an amount in cash, as liquidated damages and not as a penalty, equal to one-tenth of one percent (0.1%) of the aggregate Purchase Price paid by the Investor pursuant to this Agreement for the Registrable Securities covered by such Registration Statement (the "**Penalty Base**"); and (y) on the same day of each successive month following such Event Date (so long as the applicable Event shall not have been cured by such date) until the applicable Event is cured, the Company shall pay to the Investor an amount in cash, as liquidated damages and not as a penalty, equal to one-tenth of one percent (0.1%) of the Penalty Base. Notwithstanding the foregoing, in no event shall the Company be obligated to pay any liquidated damages pursuant to this Section 4.1(d) of more than one percent (1.0%) of the aggregate Purchase Price. Such payments shall be the Investor's sole and exclusive remedy for such Events. If the Company fails to pay any liquidated damages pursuant to this Section in full within seven (7) Business Days after the date payable, the Company will pay interest thereon at a rate of eight percent (8.0%) per annum (or such lesser maximum amount that is permitted to be paid by applicable law) to the Investor, accruing daily from the date such liquidated damages are due until such amounts, plus all such interest thereon, are paid in full. For the avoidance of doubt, any Event shall be deemed to have been cured and no further liquidated damages shall accrue with respect thereto upon the end of the Effectiveness Period; provided, however, that the Company shall not be relieved of any liability it may have hereunder (including the payment of liquidated damages) accruing prior to the end of the Effectiveness Period.

(e) Notwithstanding the foregoing, the periods set forth in Section 4.1(d)(v), (vi) and (vii) may be tolled for not more than twenty (20) consecutive days or for a total of not more than forty-five (45) days in any twelve (12) month period, if the Company determines in

good faith that such tolling period is necessary to delay the disclosure of material non-public information concerning the Company, the disclosure of which at the time is not, in the good faith opinion of the Company, in the best interests of the Company (the "**Tolling Period**"); provided, that the Company shall promptly (a) notify each Investor in writing of the commencement of and the reasons for the Tolling Period, but shall not (without the prior written consent of an Investor) disclose to such Investor any material non-public information giving rise to such Tolling Period, (b) advise the Investors in writing to cease all sales under the Registration Statement until the end of such Tolling Period, and (c) use commercially reasonable efforts to terminate such Tolling Period as promptly as practicable.

(f) The Company shall not, prior to the Effective Date of the Registration Statement, prepare and file with the Commission a registration statement relating to an offering for its own account or the account of others under the Securities Act of any of its equity securities.

(g) If the Company issues to the Investor any Common Stock pursuant to the Transaction Documents that is not included in the initial Registration Statement, then the Company shall file an additional Registration Statement covering such number of shares of Common Stock on or prior to the Filing Date and shall use it best efforts, but in no event later than the Required Effectiveness Date, to cause such additional Registration Statement to be declared effective by the Commission.

(h) The Registration Statement shall not include any securities other than the Registrable Securities without the prior written consent of the Investors then owning a majority of the Registrable Securities then owned by all of the Investors.

Section 4.2. **Registration Process**. In connection with the registration of the Registrable Securities pursuant to Section 4.1, the Company shall:

(a) Prepare and file with the Commission the Registration Statement and such amendments (including post effective amendments) to the Registration Statement and supplements to the prospectus included therein (a "**Prospectus**") as the Company may deem necessary or appropriate and take all lawful action such that the Registration Statement and any amendment thereto does not, when it becomes effective, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, not misleading and that the Prospectus forming part of the Registration Statement, and any amendment or supplement thereto, does not at any time during the Registration Period include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.;

(b) Comply with the provisions of the Securities Act with respect to the Registrable Securities covered by the Registration Statement until the end of the Effectiveness Period;

(c) Prior to the filing with the Commission of the Registration Statement (including any amendments thereto) and the distribution or delivery of any Prospectus (including any supplements thereto), provide draft copies thereof to the Investor and reflect in such documents all such comments as the Investor (and its counsel) reasonably may propose and furnish to the Investor and its legal counsel identified to the Company (i) promptly after the same is prepared and publicly distributed, filed with the Commission, or received by the Company, one copy of the Registration Statement, each Prospectus, and each amendment or supplement thereto, and (ii) such number of copies of the Prospectus and all amendments and supplements thereto and such other documents, as the Investor may reasonably request in order to facilitate the disposition of the Registrable Securities;

(d) (i) register or qualify the Registrable Securities covered by the Registration Statement under such securities or "blue sky" laws of such jurisdictions as the Investors reasonably request, (ii) prepare and file in such jurisdictions such amendments (including post effective amendments) and supplements to such registrations and qualifications as may be necessary to maintain the effectiveness thereof at all times during the Registration Period, (iii) take all such other lawful actions as may be necessary to maintain such registrations and qualifications in effect at all times during the Registration Period, and (iv) take all such other lawful actions reasonably necessary or advisable to qualify the Registrable Securities for sale in such jurisdictions; provided, however, that the Company shall not be required in connection therewith or as a condition thereto to (A) qualify to do business in any jurisdiction where it would not otherwise be required to qualify, (B) subject itself to general taxation in any such jurisdiction or (C) file a general consent to service of process in any such jurisdiction;

(e) As promptly as practicable after becoming aware of such event, notify the Investor of the occurrence of any event, as a result of which the Prospectus included in the Registration Statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and promptly prepare an amendment to the Registration Statement and supplement to the Prospectus to correct such untrue statement or omission, and deliver a number of copies of such supplement and amendment to each Investor as such Investor may reasonably request;

(f) As promptly as practicable after becoming aware of such event, notify the Investor (or, in the event of an underwritten offering, the managing underwriters) of the issuance by the Commission of any stop order or other suspension of the effectiveness of the Registration Statement and take all lawful action to effect the withdrawal, rescission or removal of such stop order or other suspension;

(g) Take all such other lawful actions reasonably necessary to expedite and facilitate the disposition by the Investor of his Registrable Securities in accordance with the intended methods therefor provided in the Prospectus which are customary under the circumstances;

(h) Make generally available to its security holders as soon as practicable, but in any event not later than 18 months after the Effective Date of the Registration Statement, an earnings statement of the Company and its subsidiaries complying with Section 11(a) of the Securities Act and the rules and regulations of the Commission thereunder;

(i) In the event of an underwritten offering, promptly include or incorporate in a Prospectus supplement or post effective amendment to the Registration Statement such information as the underwriters reasonably agree should be included therein and to which the Company does not reasonably object and make all required filings of such Prospectus supplement or post effective amendment as soon as practicable after it is notified of the matters to be included or incorporated in such Prospectus supplement or post effective amendment;

(j) Make reasonably available for inspection by the Investor, any underwriter participating in any disposition pursuant to the Registration Statement, and any attorney, accountant or other agent retained by such Investors or any such underwriter all relevant financial and other records, pertinent corporate documents and properties of the Company and its subsidiaries, and cause the Company's officers, directors and employees to supply all information reasonably requested by the Investor or any such underwriter, attorney, accountant or agent in connection with the Registration Statement, in each case, as is customary for similar due diligence examinations; provided, however, that all records, information and documents that are designated in writing by the Company, in good faith, as confidential, proprietary or containing any nonpublic information shall be kept confidential by such Investors and any such underwriter, attorney, accountant or agent (pursuant to an appropriate confidentiality agreement in the case of any such holder or agent), unless such disclosure is made pursuant to judicial process in a court proceeding (after first giving the Company an opportunity promptly to seek a protective order or otherwise limit the scope of the information sought to be disclosed) or is required by law, or such records, information or documents become available to the public generally or through a third party not in violation of an accompanying obligation of confidentiality; and provided, further, that, if the foregoing inspection and information gathering would otherwise disrupt the Company's conduct of its business, such inspection and information gathering shall, to the maximum extent possible, be coordinated on behalf of the Investors and the other parties entitled thereto by one firm of counsel designated by and on behalf of the majority in interest of Investors and other parties;

(k) In connection with any offering, make such representations and warranties to the Investor and to the underwriters if an underwritten offering, in form, substance and scope as are customarily made by a company to underwriters in secondary underwritten offerings;

(l) In connection with any underwritten offering, deliver such documents and certificates as may be reasonably required by the underwriters;

(m) Cooperate with the Investor to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold pursuant to the Registration Statement, which certificates shall, if required under the terms of this Agreement, be free of all restrictive legends, and to enable such Registrable Securities to be in such denominations and registered in such names as any Investor may request and maintain a transfer agent for the Common Stock;

(n) Use its commercially reasonable efforts to cause all Registrable Securities covered by the Registration Statement to be listed or qualified for trading on the principal Trading Market, if any, on which the Common Stock is traded or listed on the Effective Date of the Registration Statement; and

(o) Unless and to the extent that such Plan of Distribution requires modification due to inaccuracy, due to changes in the plan of distribution of Investor, or due to a change in SEC regulations, to use the Plan of Distribution attached hereto as Exhibit D in each Prospectus and Registration Statement.

Section 4.3. **Obligations and Acknowledgements of the Investors**. In connection with the registration of the Registrable Securities, each Investor shall have the following obligations and hereby make the following acknowledgements:

(a) It shall be a condition precedent to the obligations of the Company to include the Registrable Securities in the Registration Statement that the Investor (i) shall furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required to effect the registration of such Registrable Securities and (ii) shall execute such documents in connection with such registration as the Company may reasonably request. At least five (5) Business Days prior to the first anticipated filing date of a Registration Statement, the Company shall notify the Investor of the information the Company requires from the Investor (the "**Requested Information**") if the Investor elects to have any of its Registrable Securities included in the Registration Statement. If at least two (2) Business Days prior to the anticipated filing date the Company has not received the Requested Information from the Investor, then the Company may file the Registration Statement without including any Registrable Securities of the Investor and the Company shall have no further obligations under this Article 4 to the Investor after such Registration Statement has been declared effective. If the Investor notifies the Company and provides the Company the information required hereby prior to the time the Registration Statement is declared effective, the Company will file an amendment to the Registration Statement that includes the Registrable Securities of the Investor; provided, however, that the Company shall not be required to file such amendment to the Registration Statement at any time less than five (5) Business Days prior to the Effectiveness Date;

(b) The Investor agrees to cooperate with the Company in connection with the preparation and filing of a Registration Statement hereunder, unless the Investor has notified the Company in writing of its election to exclude all of its Registrable Securities from such Registration Statement; and

(c) The Investor agrees that, upon receipt of any notice from the Company of the occurrence of any event of the kind described in Section 4.2(e) or 4.2(f), the Investor shall immediately discontinue its disposition of Registrable Securities pursuant to the Registration Statement covering such Registrable Securities until the Investor's receipt of the copies of the supplemented or amended Prospectus contemplated by Section 4.2(e) and, if so directed by the Company, the Investor shall deliver to the Company (at the expense of the Company) or destroy (and deliver to the Company a certificate of destruction) all copies in the Investor's possession (other than one copy of any documents not filed with the SEC for evidentiary purposes), of the Prospectus covering such Registrable Securities current at the time of receipt of such notice.

Section 4.4. **Expenses of Registration**. All expenses (other than underwriting discounts and commissions and the fees an expenses of the Investor's counsel) incurred in connection with registrations, filings or qualifications pursuant to this Article 4, including, without limitation, all registration, listing, and qualifications fees, printing and engraving fees, accounting fees, and the fees and disbursements of counsel for the Company, shall be borne by the Company.

Section 4.5. **Accountant's Letter**. If the Investor proposes to engage in an underwritten offering, the Company shall deliver to the Investor, at the Company's expense, a letter dated as of the effective date of each Registration Statement or Post-Effective Amendment thereto, from the independent public accountants retained by the Company, addressed to the underwriters and to the Investors, in form and substance as is customarily given in an underwritten public offering, provided that such seller has made such representations and furnished such undertakings as the independent public accountants may reasonably require.

Section 4.6. **Indemnification and Contribution**

(a) **Indemnification by the Company**. The Company shall indemnify and hold harmless the Investor and each underwriter, if any, which facilitates the disposition of Registrable Securities, and each of their respective officers and directors and each Person who controls such underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (each such Person being sometimes hereinafter referred to as an "**Indemnified Person**") from and against any losses, claims, damages or liabilities, joint or several, to which such Indemnified Person may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in any Registration Statement or an omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, not misleading, or arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in any Prospectus or an omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and the Company hereby agrees to reimburse such Indemnified Person for all reasonable legal and other expenses incurred by them in connection with investigating or defending any such action or claim as and when such expenses are incurred; provided, however, that the Company shall not be liable to any such Indemnified Person in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon (i) an untrue statement or alleged untrue statement made in, or an omission or alleged omission from, such Registration Statement or Prospectus in reliance upon and in conformity with written information furnished to the Company by such Indemnified Person expressly for use therein or (ii) in the case of the occurrence of an event of the type specified in Section 4.2(e), the use by the Indemnified Person of an outdated or defective Prospectus after the Company has provided to such Indemnified Person an updated Prospectus correcting the untrue statement or alleged untrue statement or omission or alleged omission giving rise to such loss, claim, damage or liability.

(b) **Indemnification by Investors**. Each Investor agrees, as a consequence of the inclusion of any of its Registrable Securities in a Registration Statement, to (i) indemnify and hold harmless the Company, its directors (including any person who, with his or her consent, is named in the Registration Statement as a director nominee of the Company), its officers who sign any Registration Statement and each Person, if any, who controls the Company within the

meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act, against any losses, claims, damages or liabilities to which the Company or such other persons may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (A) an untrue statement or alleged untrue statement of a material fact contained in such Registration Statement or Prospectus or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein (in light of the circumstances under which they were made, in the case of the Prospectus), not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information furnished to the Company by the Investor expressly for use therein or (B) the use by an Investor of an outdated Prospectus from and after receipt by the Investor of a notice pursuant to Section 4.2(e), and (ii) reimburse the Company for any legal or other expenses incurred by the Company in connection with investigating or defending any such action or claim as such expenses are incurred; provided, however, that the Investor shall not be liable under this Section 4.6(b) for any amount in excess of the net proceeds paid to the Investor in respect of Registrable Securities sold by it.

(c) **Notice of Claims, etc**. Promptly after receipt by a Person seeking indemnification pursuant to this Section 4.6 (an "**Indemnified Party**") of written notice of any investigation, claim, proceeding or other action in respect of which indemnification is being sought (each, a "**Claim**"), the Indemnified Party promptly shall notify the Person against whom indemnification pursuant to this Section 4.6 is being sought (the "**Indemnifying Party**") of the commencement thereof; but the omission to so notify the Indemnifying Party shall not relieve it from any liability that it otherwise may have to the Indemnified Party, except to the extent that the Indemnifying Party is materially prejudiced and forfeits substantive rights and defenses by reason of such failure. In connection with any Claim as to which both the Indemnifying Party and the Indemnified Party are parties, the Indemnifying Party shall be entitled to assume the defense thereof. Notwithstanding the assumption of the defense of any Claim by the Indemnifying Party, the Indemnified Party shall have the right to employ separate legal counsel and to participate in the defense of such Claim, and the Indemnifying Party shall bear the reasonable fees, out of pocket costs and expenses of such separate legal counsel to the Indemnified Party if (and only if): (i) the Indemnifying Party shall have agreed to pay such fees, costs and expenses, (ii) the Indemnified Party shall reasonably have concluded that representation of the Indemnified Party by the Indemnifying Party by the same legal counsel would not be appropriate due to actual or, as reasonably determined by legal counsel to the Indemnified Party, potentially differing interests between such parties in the conduct of the defense of such Claim, or if there may be legal defenses available to the Indemnified Party that are in addition to or disparate from those available to the Indemnifying Party (other than that the Indemnified Party is entitled to be indemnified by the Indemnifying Party), or (iii) the Indemnifying Party shall have failed to employ legal counsel reasonably satisfactory to the Indemnified Party within a reasonable period of time after notice of the commencement of such Claim. If the Indemnified Party employs separate legal counsel in circumstances other than as described in the preceding sentence, the fees, costs and expenses of such legal counsel shall be borne exclusively by the Indemnified Party. Except as provided above, the Indemnifying Party shall not, in connection with any Claim in the same jurisdiction, be liable for the fees and expenses of more than one firm of counsel for the Indemnified Party (together with appropriate

local counsel). The Indemnified Party shall not, without the prior written consent of the Indemnifying Party (which consent shall not unreasonably be withheld), settle or compromise any Claim or consent to the entry of any judgment that does not include an unconditional release of the Indemnifying Party from all liabilities with respect to such Claim or judgment or contain any admission of wrongdoing.

(d) **Contribution**. If the indemnification provided for in this Section 4.6 is unavailable to or insufficient to hold harmless an Indemnified Party in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and the Indemnified Party in connection with the statements or omissions or alleged statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative fault of such Indemnifying Party and Indemnified Party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by such Indemnifying Party or by such Indemnified Party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 4.6(d) were determined by pro rata allocation (even if the Investors or any underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in this Section 4.6(d). The amount paid or payable by an Indemnified Party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above shall be deemed to include any legal or other fees or expenses reasonably incurred by such Indemnified Party in connection with investigating or defending any such action or claim. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

(e) **Limitation on Investors' Obligations**. Notwithstanding any other provision of this Section 4.6, in no event shall any Investor have any liability under this Section 4.6 for any amounts in excess of the dollar amount of the proceeds actually received by the Investor from the sale of Registrable Securities (after deducting any fees, discounts and commissions applicable thereto) pursuant to any Registration Statement under which such Registrable Securities are registered under the Securities Act.

(f) **Other Liabilities**. The obligations of the parties under this Section 4.6 shall be in addition to any liability which such party may otherwise have to any Indemnified Person and the obligations of any Indemnified Person under this Section 4.6 shall be in addition to any liability which such Indemnified Person may otherwise have to any other party. The remedies provided in this Section 4.6 are not exclusive and shall not limit any rights or remedies which may otherwise be available to an indemnified party at law or in equity.

Section 4.7. **Rule 144**. With a view to making available to the Investor the benefits of Rule 144 or any successor thereto, until the shares are eligible for sale without volume limitations, the Company agrees to use its best efforts to:

(i) comply with the provisions of paragraph (c)(1) of Rule 144 or any successor thereto; and

(ii) file with the Commission in a timely manner all reports and other documents required to be filed by the Company pursuant to Section 13 or 15(d) under the Exchange Act; and, if at any time it is not required to file such reports but in the past had been required to or did file such reports, it will, upon the request of any Investor, make available other information as required by, and so long as necessary to permit sales of, its Registrable Securities pursuant to Rule 144 or any successor thereto.

Section 4.8. **Common Stock Issued Upon Stock Split, etc**. The provisions of this Article 4 shall apply to any shares of Common Stock or any other securities issued as a dividend or distribution in respect of the Shares or the Warrant Shares.

Section 4.9. **Tolling of Deadline.** Notwithstanding any provision of this Article 4 or of this Agreement to the contrary, if required by Commission regulation or rule, the Company shall have the right to delay the filing with the Commission of an S-3 registration statement for so long as is necessary to allow the Company to file the S-3 registration statement with the Commission at least thirty (30) days after the filing with the Commission of its annual report on Form 10-K for the fiscal year ended December 31, 2011, without any repercussion or penalty.

ARTICLE 5
OTHER AGREEMENTS OF THE PARTIES

Section 5.1. **Certificates; Legends**.

(a) The Securities may only be transferred in compliance with state and federal securities laws. In connection with any transfer of the Securities other than (i) pursuant to an effective registration statement, (ii) to the Company, or (iii) to an Affiliate of the Investor, the Company may require the transferor thereof to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Securities under the Securities Act or applicable state securities laws. In the event of a private transfer of the Securities the Transferee shall be required to execute a counterpart to this Agreement, agreeing to be bound by (and shall have the benefits of) the terms hereof other than those set forth in Article 2 hereof, and such Transferee shall be deemed to be an "Investor" for purposes of this Agreement.

(b) The certificates representing the Shares and the Warrants to be delivered at the Closing, and the certificates evidencing the Warrant Shares to be delivered upon exercise of the Warrants, will contain appropriate legends referring to restrictions on transfer relating to the registration requirements of the Securities Act and applicable state securities laws.

(c) In connection with any sale or disposition of the Securities by an Investor pursuant to Rule 144 or pursuant to any other exemption under the 1933 Act such that the purchaser acquires freely tradable shares and upon compliance by the Investor with the requirements of this Agreement, the Company shall or, in the case of Common Stock, shall cause the transfer agent for the Common Stock (the "**Transfer Agent**"), to issue replacement certificates representing the Securities sold or disposed of without restrictive legends. Upon the earlier of (i) registration for resale pursuant to the Registration Rights Agreement or (ii) the Shares becoming freely tradable without restriction pursuant to Rule 144 the Company shall (A) deliver to the Transfer Agent irrevocable instructions that the Transfer Agent shall reissue a certificate representing shares of Common Stock without legends upon receipt by such Transfer Agent of the legended certificates for such shares, and, in the case of a proposed sale pursuant to Rule 144, a customary representation by the Investor that the conditions required to freely sell the shares of Common Stock represented thereby without restriction pursuant to Rule 144 have been satisfied, and (B) cause its counsel to deliver to the Transfer Agent one or more blanket opinions to the effect that the removal of such legends in such circumstances may be effected under the 1933 Act. From and after the earlier of such dates, upon an Investor's written request, the Company shall promptly cause certificates evidencing the Investor's Securities to be replaced with certificates which do not bear such restrictive legends, and Warrant Shares subsequently issued upon due exercise of the Warrants shall not bear such restrictive legends provided the provisions of either clause (i) or clause (ii) above, as applicable, are satisfied with respect to such Warrant Shares. When the Company is required to cause an unlegended certificate to replace a previously issued legended certificate, if: (1) the unlegended certificate is not delivered to an Investor within three (3) Business Days of submission by that Investor of a legended certificate and supporting documentation to the Transfer Agent as provided above and (2) prior to the time such unlegended certificate is received by the Investor, the Investor, or any third party on behalf of such Investor or for the Investor's account, purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by the Investor of shares represented by such certificate (a "**Buy-In**"), then the Company shall pay in cash to the Investor (for costs incurred either directly by such Purchaser or on behalf of a third party) the amount by which the total purchase price paid for Common Stock as a result of the Buy-In (including brokerage commissions, if any) exceeds the proceeds received by such Investor as a result of the sale to which such Buy-In relates. The Investor shall provide the Company written notice indicating the amounts payable to the Investor in respect of the Buy-In.

(d) Notwithstanding the provisions of this Section 5.1 relating to certificates, an Investor may choose to evidence the Investor's ownership of Shares and Warrant Shares in book entry form on the records of the Transfer Agent or through the Direct Registration System of The Depository Trust Company. To the extent appropriate and feasible, the provisions of this Section 5.1 shall continue to apply to Shares and to Warrant Shares whose ownership is evidenced in such form.

Section 5.2. **Integration**. The Company has not and shall not, and shall use its best efforts to ensure that no Affiliate of the Company shall, sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2 of the Securities Act) that would be integrated with the offer or sale of the Securities in a manner that would require the registration under the Securities Act of the sale of the Securities to the Investor, or that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market in a manner that would require stockholder approval of the sale of the securities to the Investor.

Section 5.3. **Securities Laws Disclosure; Publicity.** By 5:00 p.m. (New York time) on the Closing Date, the Company shall issue a press release disclosing the material terms of the transactions contemplated hereby and the Closing. On the third Trading Day following the Closing Date the Company will file a Current Report on Form 8-K disclosing the material terms of the Transaction. In addition, the Company will make such other filings and notices in the manner and time required by the Commission.

Section 5.4. **Use of Proceeds**. The Company shall use the net proceeds from the sale of the Securities hereunder (i) to redeem existing secured debt, (ii) for working capital purposes, (iii) to purchase fixed assets used in the development or production of the Company's products, or (iv) for investment in new technologies related to the Company's business (including without limitation through the acquisition of other companies).

Section 5.5. **Right of First Refusal**

(a) **Proposed Financings**. In the event that, during the period commencing on the Closing Date and continuing to the second anniversary of the Closing Date, the Company seeks to raise additional funds through a private placement of its equity or equity related securities to one or more accredited investors (a "**Proposed Financing**"), other than Exempt Issuances, each Investor investing a minimum of $100,000 at the Closing (a "**Qualified Investor**") shall have the right to participate in the Proposed Financing on a pro rata basis, based on the percentage that (a) the number of shares of Common Stock then held by such Qualified Investor *plus* the number of shares of Common Stock issuable upon conversion of the Warrants held by such Qualified Investor bears to (b) the total number of shares of Common Stock outstanding *plus* the number of shares of Common Stock issuable upon conversion of the Warrants, the Prior Warrants, the Prior Convertible Securities and the Company Stock Options.

(b) **Pre-Notice of Proposed Financings**. At least five (5) Business Days prior to the closing of any Proposed Financing, the Company shall deliver to each Qualified Investor a written notice of its intention to effect a Proposed Financing ("**Pre-Notice**"), which Pre-Notice shall ask such Investor if it wants to review the details of such financing (such additional notice, a "**Proposed Financing Notice**"). Each such Qualified Investor hereby consents to the delivery of any such Pre-Notice by the Company. Upon the request of a Qualified Investor, and only upon a request by such Qualified Investor, for a Proposed Financing Notice, the Company shall promptly, but no later than one Business Day after such request, deliver a Proposed Financing Notice to such Qualified Investor. The Proposed Financing Notice shall describe in reasonable detail the proposed terms of such Proposed Financing, the amount of proceeds intended to be raised thereunder, the lead investor with whom such Proposed Financing is proposed to be effected, and attached to which shall be a term sheet or similar document relating thereto. Each Qualified Investor wishing to participate in the Proposed Financing shall notify the Company in writing by 6:30 p.m. (New York City time) on the second (2nd) Business Day after its receipt of the Proposed Financing Notice of its willingness to participate in the Proposed Financing on the terms described in the Proposed Financing Notice, subject to completion of mutually acceptable documentation and diligence investigation (such Qualified

Investor, a "Participating Investor"). Any Qualified Investor who fails to provide a timely notice of its willingness to so participate shall be deemed to have irrevocably waived its right to participate in the Proposed Financing. The Company shall promptly provide to Participating Investors such diligence materials as they may reasonably request, subject to execution of a non-disclosure agreement, in customary form, mutually acceptable to the parties.

(c) **Investment Terms**. The terms on which a Participating Investor shall purchase securities pursuant to the Proposed Financing shall be the same as such securities are purchased by other investors in such Proposed Financing. In the event that the terms of the Proposed Financing are changed in a manner which is material to the Participating Investors, the Company shall provide the Participating Investors with the same notice of the revised terms that are provided to the other investors in such Proposed Financing, and, shall provide the Participating Investors the same amount of time as is provided to the other investors in such Proposed Financing to allow the Participating Investors to review the revised terms of the Proposed Financing and the Company's financial condition and prospects in light of the changed terms. In no event shall any change in the terms of a Proposed Financing give any Qualified Investor which is not a Participating Investor the right to participate in such Proposed Financing.

(d) **Financings**. The Company may sell any securities not purchased by the Participating Investors in the Proposed Financing at a price and on terms which are no more favorable to the investors in such Proposed Financing than the terms disclosed to the Participating Investors pursuant to this Section 5.5.

Section 5.6. **Equal Treatment of Investors**. No consideration shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of any of the Transaction Documents unless the same consideration is also offered to all of the parties to the Transaction Documents. For clarification purposes, this provision constitutes a separate right granted to each Investor by the Company and negotiated separately by each Investor, and is intended for the Company to treat the Investors as a class and shall not in any way be construed as the Investors acting in concert or as a group with respect to the purchase, disposition or voting of Securities or otherwise.

Section 5.7. **Prospectus Delivery Requirements**. Each Investor, severally and not jointly with the other Investors, agrees that such Investor will not effect any sale, transfer or other disposition of any Securities except pursuant to either the registration requirements of the Securities Act, including any applicable prospectus delivery requirements, or an exemption therefrom, and that if Securities are sold pursuant to a Registration Statement, they will be sold in compliance with the plan of distribution set forth therein, and acknowledges that the removal of the restrictive legend from certificates representing Securities as set forth in Section 4.1 is predicated upon the Company's reliance upon this understanding.

Section 5.8. **Reservation of Common Stock**. From and after the Closing Date, the Company shall reserve and keep available at all times, free of preemptive rights, a sufficient number of shares of Common Stock for the purpose of enabling the Company to issue the Warrant Shares pursuant to any exercise of the Warrants.

Section 5.9. **Subsequent Equity Sales**. For a period of three (3) months from the final Closing Date in the transaction covered by this Agreement, the Company shall not issue any shares of Common Stock or Common Stock Equivalents, other than pursuant to an Exempt Issuance.

Section 5.10. **Disclosure of Information**. Except for the delivery of one or more Pre-Notices as contemplated by Section 5.5, except upon the prior written consent of an Investor, the Company shall not disclose any material non-public information to such Investor or its counsel. Any such disclosure shall be made pursuant to an in accordance with a customary non-disclosure agreement between the Company and such Investor.

Section 5.11. **Furnishing of Information**. If the Common Stock is not registered under Section 12(b) or 12(g) of the Exchange Act on the date hereof, the Company agrees to cause the Common Stock to be registered under Section 12(g) of the Exchange Act on or before the 60th calendar day following the date hereof. Until the earliest of the time that (i) no Investor owns Securities or (ii) the Warrants have expired, the Company covenants to maintain the registration of the Common Stock under Section 12(b) or 12(g) of the Exchange Act and to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act. As long as any Investor owns Securities, if the Company is not required to file reports pursuant to the Exchange Act, it will prepare and furnish to the Investors and make publicly available in accordance with Rule 144(c) such information as is required for the Investors to sell the Securities under Rule 144. The Company further covenants that it will take such further action as any holder of Securities may reasonably request, to the extent required from time to time to enable such Person to sell such Securities without registration under the Securities Act within the requirements of the exemption provided by Rule 144.

ARTICLE 6
CONDITIONS PRECEDENT TO CLOSING

Section 6.1. **Conditions Precedent to the Obligations of the Investor to Purchase Securities**. The obligation of the Investor to acquire Securities at any Closing is subject to the satisfaction or waiver by the Investor, at or before the Closing, of each of the following conditions:

(a) **Representations and Warranties**. The Company shall have delivered a certificate of the Company's Chief Executive Officer certifying that the representations and warranties of the Company contained herein are true and correct in all material respects as of the date when made and as of the Closing Date as though made on and as of such Closing Date;

(b) **Performance**. The Company shall have performed, satisfied and complied in all material respects with all covenants, agreements and conditions required by the Transaction Documents to be performed, satisfied or complied with by it at or prior to the Closing;

(c) **No Injunction**. No statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by any court or governmental authority of competent jurisdiction that prohibits the consummation of any of the transactions contemplated by the Transaction Documents;

(d) **No Adverse Changes**. Since the date of execution of this Agreement, no event or series of events shall have occurred that reasonably could have or result in a Material Adverse Effect;

(e) **Company Deliverables**. The Company shall have delivered the Company Deliverables in accordance with Section 2.4.

Section 6.2. **Conditions Precedent to the Obligations of the Company to Sell Securities**. The obligation of the Company to sell Securities at any Closing is subject to the satisfaction or waiver by the Company, at or before the Closing, of each of the following conditions:

(a) **Representations and Warranties**. The representations and warranties of each Investor contained herein shall be true and correct in all material respects as of the date when made and as of the Closing Date as though made on and as of such date;

(b) **Performance**. Each Investor shall have performed, satisfied and complied in all material respects with all covenants, agreements and conditions required by the Transaction Documents to be performed, satisfied or complied with by such Investor at or prior to the Closing;

(c) **No Injunction**. No statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by any court or governmental authority of competent jurisdiction that prohibits the consummation of any of the transactions contemplated by the Transaction Documents; and

(d) **Purchase Price**. Each Investor shall have paid its pro rata portion of the Purchase Price in accordance with Section 2.2.

ARTICLE 7
MISCELLANEOUS

Section 7.1. **Fees and Expenses**. Each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of the Transaction Documents. The Company shall pay all stamp and other taxes and duties levied in connection with the sale of the Shares.

Section 7.2. **Entire Agreement**. The Transaction Documents, together with the Exhibits thereto, contain the entire understanding of the parties with respect to the subject matter hereof and supersede all prior agreements, understandings, discussions and representations, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents and exhibits.

Section 7.3. **Notices**. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of (a) the date of transmission, if such notice or communication is delivered via facsimile (provided the sender receives a machine-generated confirmation of successful transmission) at the facsimile number specified in this Section prior to 6:30 p.m. on a Business Day, (b) the next Business Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number specified in this Section on a day that is not a Business Day or later than 6:30 p.m. on any Business Day, (c) the Business Day following the date of transmission, if sent by a nationally recognized overnight courier service, or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as follows:

If to the Company:	Energy Focus, Inc. 32000 Aurora Road Solon, Ohio 44139 Telephone: (440) 715-1300 Facsimile: (440) 519-1038 Attention: Chief Financial Officer
With a copy to:	Cowden & Humphrey Co. LPA 4600 Euclid Avenue, Suite 400 Cleveland, Ohio 44103 Telephone: (216) 241-2880 Facsimile: (216) 241-2881 Attention: Gerald W. Cowden

or if to an Investor at such address as is listed on Exhibit A attached hereto or such other address as may be designated by an Investor or the Company in writing hereafter, in the same manner, by such Person.

Section 7.4. **Amendments; Waivers; No Additional Consideration**. No provision of this Agreement may be waived or amended except in a written instrument signed by the Company and the Investors acquiring at least 66 and 2/3ds of the Securities sold at the Closing Date. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of either party to exercise any right hereunder in any manner impair the exercise of any such right.

Section 7.5. **Termination**. This Agreement may be terminated prior to the Closing by written agreement of the Investors and the Company. Upon a termination in accordance with this Section 7.5, the Company and the Investor shall have no further obligation or liability (including as arising from such termination) to the other, provided that any liabilities arising prior to such termination shall not be affected by the termination.

Section 7.6. **Construction**. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party. This Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement or any of the Transaction Documents.

Section 7.7. **Successors and Assigns**. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. No party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other parties.

Section 7.8. **No Third-Party Beneficiaries**. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 4.6 (with respect to rights to indemnification and contribution).

Section 7.9. **Governing Law**. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by and construed and enforced in accordance with the internal laws of the State of Delaware, without regard to the principles of conflicts of law thereof. Each party agrees that all Proceedings concerning the interpretations, enforcement and of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective Affiliates, employees or agents) shall be commenced exclusively in the state or federal courts sitting in, or having jurisdiction over, New Castle County in the State of Delaware (the "**Delaware Courts**"). Each party hereto hereby irrevocably submits to the exclusive jurisdiction of the Delaware Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of the any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any Proceeding, any claim that it is not personally subject to the jurisdiction of any such Delaware Court, or that such Proceeding has been commenced in an improper or inconvenient forum. Each party hereto hereby irrevocably waives personal service of process and consents to process being served in any such Proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby. If either party shall commence a Proceeding to enforce any provisions of a Transaction Document, then the prevailing party in such Proceeding shall be reimbursed by the other party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Proceeding.

Section 7.10. **Survival**. The representations, warranties, agreements and covenants contained herein shall survive the Closing and the delivery of the Securities; provided, however, that the representations and warranties shall expire one month after the Company files its 10-K for the period ending December 31, 2008.

Section 7.11. **Execution**. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile signature page were an original thereof, notwithstanding any subsequent failure or refusal of the signatory to deliver an original executed in ink.

Section 7.12. **Severability**. If any provision of this Agreement is held to be invalid or unenforceable in any respect, the validity and enforceability of the remaining terms and provisions of this Agreement shall not in any way be affected or impaired thereby and the parties will attempt to agree upon a valid and enforceable provision that is a reasonable substitute therefor, and upon so agreeing, shall incorporate such substitute provision in this Agreement.

Section 7.13. **Replacement of Securities**. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof, or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction and customary and reasonable indemnity, if requested. The applicants for a new certificate or instrument under such circumstances shall also pay any reasonable third-party costs associated with the issuance of such replacement Securities. If a replacement certificate or instrument evidencing any Securities is requested due to a mutilation thereof, the Company may require delivery of such mutilated certificate or instrument as a condition precedent to any issuance of a replacement.

Section 7.14. **Remedies**. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Investors and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that, except as expressly set forth herein with respect to liquidated damages, monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations described in the foregoing sentence and hereby agrees to waive in any action for specific performance of any such obligation the defense that a remedy at law would be adequate.

Section 7.15. **Independent Nature of Investors' Obligations and Rights**. The obligations of each Investor under any Transaction Document are several and not joint with the obligations of any other Investor, and no Investor shall be responsible in any way for the performance of the obligations of any other Investor under any Transaction Document. The decision of each Investor to purchase Securities pursuant to the Transaction Documents has been made by such Investor independently of any other Investor. Nothing contained herein or in any Transaction Document, and no action taken by any Investor pursuant thereto, shall be deemed to constitute the Investors as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Investors are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Investor acknowledges that no other Investor has acted as agent for such Investor in connection with making its investment hereunder and that no Investor will be acting as agent of

such Investor in connection with monitoring its investment in the Securities or enforcing its rights under the Transaction Documents. Each Investor shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Investor to be joined as an additional party in any proceeding for such purpose. The Company acknowledges that each of the Investors has been provided with the same Transaction Documents for the purpose of closing a transaction with multiple Investors and not because it was required or requested to do so by any Investor.

[Signatures are on following pages.]

IN WITNESS WHEREOF, the parties hereto have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

COMPANY

ENERGY FOCUS, INC.

By: _____
Name: _____
Title: _____

[Instructions to PURCHASER:

Fill in the blank lines below, sign, and follow the below wire transfer instructions to send your purchase price.]

PURCHASER: _____
(name of purchaser)

By: _____
Name: _____
Title: _____

Aggregate Purchase Price: $_____

Number of Units Purchased: _____

Name of Holder (if different from above):

_____

Shares: Certificated _____ [or] Book Entry _____

Tax ID No.: _____

Address for Notice:

Telephone No.:
Facsimile No.:
E-mail Address:
Attention:

Delivery Instructions (if different from above):
c/o
Street:
City/State/Zip:
Attention:
Telephone No.:

EXHIBIT A

List of Purchasers, Addresses and Number of Units Purchased

EXHIBIT B

Form of Warrant

EXHIBIT C

Form of Legal Opinion

February [24], 2012

To the Investors
Listed on Exhibit A to this Letter

Re: Securities Purchase Agreement dated as of February [24], 2012 among Energy Focus, Inc. and the Investors listed on the signature pages of the Agreement

Ladies and Gentlemen:

We have acted as counsel to Energy Focus, Inc., a Delaware corporation (the "Company"), in connection with the Securities Purchase Agreement, dated as of February [24], 2012 among you and the Company (the "Agreement"). Our engagement has been limited to specific matters on which we have been consulted by the Company, and there may be matters pertaining to the Company of which we have no knowledge.

Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Agreement.

In connection with this opinion, we have examined originals or copies of the following documents: (i) the Certificate of Incorporation of the Company, together with all amendments thereto, as certified by the Secretary of the State of Delaware on February [ ], 2012 (the "Charter"); (ii) the Bylaws of the Company, as certified by the Secretary of the Company on February [ ], 2012 (the "Bylaws"); (iii) the Certificate, dated February [ ], 2012, of the Secretary of State of the State of Delaware regarding the legal existence and corporate good standing of the Company; (iv) the Agreement; and (v) the form of Warrant. We have also examined such other records, agreements and instruments of the Company, certificates of public officials and officers of the Company, and such other documents and records and such matters of law as we have deemed appropriate as a basis for the opinions hereinafter expressed. In making such examinations, we have assumed, without independent verification, the genuineness of all signatures (other than those of the Company), the legal capacity of natural persons, the authenticity of all documents submitted to us as originals and the conformity to the originals of all documents submitted to us as copies. With respect to the legal existence and good standing of the Company, we have relied solely on the Certificate issued by the Secretary of State of the State of Delaware referenced above. As to various facts material to the opinions set forth herein, we have relied without independent verification upon factual representations made by you and the Company in the Agreement, upon certificates of public officials and upon facts certified to us in writing by officers of the Company.

For purposes of the opinions expressed herein, we have assumed that at all relevant times you had all requisite power and authority and had taken all necessary action to enter into and perform all of your obligations under the Agreement and that the Agreement was and will continue to be your valid, binding and enforceable obligation. You have not asked us to express, and we do not express, any opinion concerning the application of any federal, state or local statute, law, rule or regulation to your authority to enter into and to carry out your obligations, or to exercise your rights, under the Agreement.

This opinion is limited to the Delaware General Corporation Law (the DGCL") and the federal laws of the United States of America, and we express no opinions with respect to the law of any other jurisdiction. We are not admitted to practice law in the State of Delaware and we do not hold ourselves out as experts in the laws of the State of Delaware other than the DGCL. For purposes of this opinion, we have, with your consent, assumed that the substantive and procedural provisions of the laws of the State of Delaware (other than the DGCL) which govern the Transaction Documents are identical to those of the State of Ohio.

Based upon and subject to the foregoing and subject also to the general qualifications stated following paragraph number 8 below, we hereby advise you that, in our opinion, as of the date hereof:

1. The Company is a corporation validly existing and in good standing under the DGCL, and has all corporate power and authority necessary to own its properties and to conduct its business as described in the SEC Reports.

2. The Company has the requisite corporate power and authority to execute, deliver and perform its obligations under the Transaction Documents.

3. The execution and delivery of the Transaction Documents by the Company and the consummation by the Company of the transactions contemplated thereby have been duly authorized by the Company's Board of Directors and no further consent or authorization of the Company, its Board of Directors, or its stockholders is required.

4. The execution, delivery and performance of, and compliance by the Company with the terms of, the Transaction Documents, the issuance of the Shares and the Warrants pursuant thereto, and the issuance of the Warrant Shares upon exercise of the Warrants in accordance with their terms, do not, and will not, violate (i) any provision of the Charter or the Bylaws or (ii) any provision of the DGCL.

5. The Transaction Documents have been duly executed and delivered by the Company and constitute the valid and binding obligations of the Company enforceable against the Company in accordance with their respective terms, subject to the limitation that the indemnification and contribution provisions of Article 4 of the Agreement may be unenforceable as a matter of public policy.

6. The Warrant Shares, when issued and paid for upon exercise of the Warrants in accordance with their terms, will be duly authorized, validly issued, fully paid and nonassessable shares of Common Stock.

7. Based in part upon your representations and warranties made in Section 3.2 of the Agreement, the Securities may be issued to you without registration under the Securities Act.

8. No consent, approval or authorization of, or designation, declaration or filing with, any governmental entity or agency is required on the part of the Company as a condition to the offer, sale or issuance of the Securities or the Company's valid execution, delivery and performance of its obligations under the Transaction Documents.

Our opinions set forth above are subject to the following general qualifications:

a. The validity and enforceability of any obligation and the exercise of rights and remedies may be limited by (i) bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other similar laws affecting the enforcement generally of the rights and remedies of creditors or the obligations of debtors, and (ii) general principles of equity (regardless of whether such enforcement is considered in a proceeding at law or in equity), including, without limitation, the discretion of any court of competent jurisdiction in granting specific performance or injunctive or other equitable relief.

b. The enforcement of any rights or remedies is or may be subject to an implied duty on the part of the party seeking to enforce such rights to take action and make determinations on a reasonable basis and in good faith.

c. The enforceability of the Transaction Documents may be limited by general principles of contract law which include (i) the unenforceability of provisions requiring that amendments or waivers be in writing, to the extent that an oral agreement modifying such provisions has been entered into, and (ii) the general rule that, when less than all of an agreement is enforceable, the balance of such agreement is enforceable only when the unenforceable portion is not an essential part of the bargain expressed by the agreement.

d. We express no opinion with respect to the choice of law provisions contained in the Transaction Documents.

These opinions are limited to the matters expressly stated herein, are rendered solely for your benefit and may not be quoted or relied upon for any other purpose or by an other person. This opinion is given as of the date hereof and we assume no obligation to update or supplement this opinion to reflect any facts or circumstances which may hereafter come to our attention or any changes in laws which may hereafter occur.

Very truly yours,

Cowden & Humphrey Co. LPA

EXHIBIT D

Plan of Distribution

The selling stockholders, which as used herein includes donees, pledgees, transferees or other successors-in-interest selling shares of common stock or interests in shares of common stock received after the date of this prospectus from a selling stockholder as a gift, pledge, partnership distribution or other transfer, may, from time to time, sell, transfer or otherwise dispose of any or all of their shares of common stock or interests in shares of common stock on any stock exchange, market or trading facility on which the shares are traded or in private transactions. These dispositions may be at fixed prices, at prevailing market prices at the time of sale, at prices related to the prevailing market price, at varying prices determined at the time of sale, or at negotiated prices.

The selling stockholders may use any one or more of the following methods when disposing of shares or interests therein:

- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the shares as agent, but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- short sales effected after the date the registration statement of which this Prospectus is a part is declared effective by the SEC;
- through the writing or settlement of options or other hedging transactions, whether through an options exchange or otherwise;
- broker-dealers may agree with the selling stockholders to sell a specified number of such shares at a stipulated price per share; and
- a combination of any such methods of sale.

The selling stockholders may, from time to time, pledge or grant a security interest in some or all of the shares of common stock owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the shares of common stock, from time to time, under this prospectus, or under an amendment to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act amending the list of selling stockholders to include the pledgee, transferee or other successors in interest as selling stockholders under this prospectus. The selling stockholders also may transfer the shares of common stock in other circumstances, in which case the transferees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

In connection with the sale of our common stock or interests therein, the selling stockholders may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the common stock in the course of hedging the positions they assume. The selling stockholders may also sell shares of our common stock short and deliver these securities to close out their short positions, or loan or pledge the common stock to broker-dealers that in turn may sell these securities. The selling stockholders may also enter into option or other transactions with broker-dealers or other financial institutions or the creation of one or more derivative securities which require the delivery to such broker-dealer or other financial institution of shares offered by this prospectus, which shares such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

The aggregate proceeds to the selling stockholders from the sale of the common stock offered by them will be the purchase price of the common stock less discounts or commissions, if any. Each of the selling stockholders reserves the right to accept and, together with their agents from time to time, to reject, in whole or in part, any proposed purchase of common stock to be made directly or through agents. We will not receive any of the proceeds from this offering. Upon any exercise of the warrants by payment of cash, however, we will receive the exercise price of the warrants.

The selling stockholders also may resell all or a portion of the shares in open market transactions in reliance upon Rule 144 under the Securities Act of 1933, provided that they meet the criteria and conform to the requirements of that rule, or in private transactions under Section 4 of the Securities Act of 1933, provided that they meet the requirements for sales under that Section.

The selling stockholders and any underwriters, broker-dealers or agents that participate in the sale of the common stock or interests therein may be “underwriters” within the meaning of Section 2(11) of the Securities Act. Any discounts, commissions, concessions or profit they earn on any resale of the shares may be underwriting discounts and commissions under the Securities Act. Selling stockholders who are “underwriters” within the meaning of Section 2(11) of the Securities Act will be subject to the prospectus delivery requirements of the Securities Act.

To the extent required, the shares of our common stock to be sold, the names of the selling stockholders, the respective purchase prices and public offering prices, the names of any agents, dealer or underwriter, any applicable commissions or discounts with respect to a particular offer will be set forth in an accompanying prospectus supplement or, if appropriate, a post-effective amendment to the registration statement that includes this prospectus.

In order to comply with the securities laws of some states, if applicable, the common stock may be sold in these jurisdictions only through registered or licensed brokers or dealers. In addition, in some states the common stock may not be sold unless it has been registered or qualified for sale or an exemption from registration or qualification requirements is available and is complied with.

We have advised the selling stockholders that the anti-manipulation rules of Regulation M under the Exchange Act may apply to sales of shares in the market and to the activities of the selling stockholders and their affiliates. In addition, to the extent applicable we will make copies of this prospectus (as it may be supplemented or amended from time to time) available to the selling stockholders for the purpose of satisfying the prospectus delivery requirements of the Securities Act. The selling stockholders may indemnify any broker-dealer that participates in transactions involving the sale of the shares against certain liabilities, including liabilities arising under the Securities Act.

We have agreed to indemnify the selling stockholders against liabilities, including liabilities under the Securities Act and state securities laws, relating to the registration of the shares offered by this prospectus.

We have agreed with the selling stockholders to keep the registration statement of which this prospectus constitutes a part effective until the earlier of (1) such time as all of the shares covered by this prospectus have been disposed of pursuant to and in accordance with the registration statement or (2) the date on which the shares may be sold without restriction pursuant to Rule 144 of the Securities Act.

Confidential

ASIAN BUSINESS DEVELOPMENT/ COLLABORATION AGREEMENT

THIS ASIAN BUSINESS DEVELOPMENT/ COLLABORATION AGREEMENT (this "Agreement") is made as of February 27, 2012 between Energy Focus Inc., a Delaware corporation, (OTC BB: EFOI.OB) (the **"**Company"), and Communal International Ltd ("Communal"). The Company and Communal may be referred to hereinafter as a "Party", or collectively, as the "Parties".

WHEREAS, the Parties acknowledge and agree that the Company designs, develops, manufactures, and markets energy-efficient lighting products, and is a leading provider of turnkey, energy-efficient, lighting solutions in the governmental and public sector market, general commercial market, and the pool market. The company's lighting technology offers significant energy savings, heat dissipation and maintenance cost benefits over conventional lighting for multiple applications;

WHEREAS, the Parties acknowledge and agree that Communal has unique knowledge of and contacts, skills and operations in the Asian market and wishes to assist and facilitate the Company's entry into the Territory (as hereinafter defined);

WHEREAS, The Company desires to open markets, develop an operation and source and sell components and products in Asia; and

WHEREAS, the Parties have had numerous meetings and conferences discussing various potential strategies, tactics, activities and other methods of working jointly to achieve the Company's objectives in the Territory.

NOW, THEREFORE, subject to the terms and conditions contained herein and on the mutual consideration, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

Section 1. Services.

Commencing on the effective date hereof and continuing for a period of 60 months, Communal will provide the following services:

a) Introduce the Company to new potential investors, vendors, customers and other constituents in the Territory;

b) Assist in reducing the cost of manufacturing the Company's goods and products;

c) Assist in providing a reduction in the price and improving the quality of raw materials, components, sub-assemblies, manufactured products and other items necessary for the development, manufacture and sale of existing and new products;

d) Introduce the Company to new markets, customers, distributors, marketers, supply chain, shipping, transportation and logistics facilities in the Territory;

e) Assist in the development of a marketing, sales and distribution operation in the Territory; and

f) Commencing on January 16, 2012 act as the exclusive agent for sales, marketing and distribution of the Company's products in the Territory pursuant to the Company's standard distributor agreement which shall be negotiated, executed and delivered pursuant to Section 5 hereof (the "Distribution Agreement"). (All of the foregoing shall hereinafter be referred to as "Services").

Section 2. Compensation.

In exchange and as compensation for the Services, the Company will pay to Communal Five Hundred Twenty-Two Thousand and Five Hundred Dollars ($522,500), payable as follows:

a) Three Hundred and Fifty Thousand Dollars ($350,000) payable upon the Effective Date which payment will constitute a prepayment for the Services being rendered by Communal over the 36 month term of the Agreement;

b) One Hundred Seventy-Two Thousand and Five Hundred Dollars ($172,500) in monthly installments of Fifteen Thousand Six Hundred and Eighty Two Dollars ($15,682) commencing on the January 16, 2012 and concluding on December 31, 2012; and

As additional consideration for the Services rendered under the Distribution Agreement, the Company agrees to pay Communal five percent (5%) of the Company's net sales (excluding the sales made by its Crescent Lighting Ltd. subsidiary or its agents to any existing customers) which sales occur within the Territory and which directly result from the efforts of Communal. Commission payments will be made on a "pay-when-paid" basis, within 7 days from the day the Company receives payments.

Section 3. Territory.

The Territory shall be (with the exception of products sold by its Crescent Lighting Ltd. subsidiary and its agents and any existing Company customers) the following countries: Japan, Taiwan, China, Thailand, Singapore, Vietnam, South Korea, Brazil and Australia.

Additional territories, including but not limited to India, Malaysia, Indonesia and the Philippines, may be added from time to time by mutual agreement of the Parties.

Section 4. Effective Date.

This Agreement shall become effective upon the execution and delivery of this Agreement.

Section 5. Documentation.

As soon as practicable and no later than March 31, 2012, a services agreement, the Distribution Agreement, a commissions agreement and other agreements and documents in form and substance reasonably acceptable to the Company and Communal shall be negotiated, executed and delivered. The agreements and documents shall contain customary representations, warranties, affirmative and negative covenants, condition to close, and other typical provisions contained in similar agreements.

Section 6. Confidentiality.

No party will make any public announcement of the signing of this Agreement or any other agreement or document contemplated hereby without the consent of the other Parties hereto, except as otherwise required by law.

Section 7. Expenses.

The Company and Communal will each bear their own legal and other expenses with respect to this Agreement. The Company agrees to reimburse Communal $3,000 – $673.63 (High Speed Rail paid directily by Energy Focus) = $2,326.37 for travel expenses incurred to support the Company’s visit to Taiwan February 5, 2012 through February 8, 2012.

Section 8. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of Delaware without regard to the principles of conflicts of law of any jurisdiction.

Section 9. Survival.

All representations, warranties, and covenants made by the Parties hereto shall be considered to have been relied upon by the parties hereto and shall survive the execution, performance and delivery of this Agreement.

Section 10. Entire Agreement.

This Agreement incorporates by reference the Parties Non-Disclosure Agreement of November 2, 2011 as amended January 10, 2012 and supersedes any other agreement, whether written or oral, that may have been made or entered into by the Parties hereto respecting the matters contemplated hereby and constitutes the entire agreement of the parties with respect to the subject matter hereof.

Section 11. Further Assurances.

In case at any time any further action is necessary or desirable to carry out the purposes of this Agreement, each party agrees to take all such necessary action or cause such action to be taken.

Section 12. Counterparts.

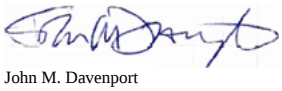
This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Executed as of the day and date set forth above at Solon, Ohio.

Communal International Ltd.

By:
Name: James Tu
Title: Managing Partner
Date: 2/27/2012

Energy Focus, Inc



By:
Name: John M. Davenport
Title: President
Date: 2/27/2012

SUBSIDIARIES

Name	Location	Doing Business as
Stones River Companies, LLC	Nashville, Tennessee	Stones River Companies, LLC
Crescent Lighting, Ltd	Thatcham, Berkshire, United Kingdom	Crescent Lighting Limited

EXHIBIT 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We have issued our report dated March 30, 2012, with respect to the consolidated financial statements (which report expressed an unqualified opinion and contains an explanatory paragraph relating to substantial doubt about Energy Focus, Inc.'s ability to continue as a going concern) and in the Annual Report of Energy Focus, Inc. on Form 10-K for the year ended December 31, 2011.

/s/ Plante & Moran, PLLC

Cleveland, Ohio
March 30, 2012

EXHIBIT 24.1

ENERGY FOCUS INC.

2011 ANNUAL REPORT ON FORM 10-K

Power of Attorney

KNOW ALL MEN BY THESE PRESENT: That each person whose name is signed below has made, constituted, and appointed, and by this instrument does make, constitute, and appoint, Joseph G. Kaveski or Mark J. Plush his true and lawful attorney for him and in his name, place, and stead, with power of substitution, to subscribe, as attorney-in-fact, his signature as Director or Officer or both, as the case may be, of Energy Focus, Inc., a Delaware corporation, to its Annual Report on Form 10-K for the year ended December 31, 2011, and to any and all amendments to that Annual Report, hereby giving and granting to each attorney-in-fact full power and authority to do and perform every act and thing necessary to be done in the premises, as fully as he might or could do if personally present, hereby ratifying and confirming all that each attorney-in-fact shall lawfully do or cause to be done by virtue hereof.

This Power of Attorney shall not apply to any Annual Report on Form 10-K or amendment thereto filed after December 31, 2012.

IN WITNESS WHEREOF, this Power of Attorney has been signed as of March 30, 2012.

/s/ Joseph G. Kaveski
Joseph G. Kaveski
Chief Executive Officer and Director
Principal Executive Officer

/s/ Mark J. Plush
Mark J. Plush
Vice President of Finance and Chief Financial Officer
Principal Financial and Accounting Officer

/s/ John M. Davenport
John M. Davenport
President and Director

/s/ R. Louis Schneeberger
R. Louis Schneeberger
Director

/s/ J. James Finnerty
J. James Finnerty
Director

/s/ Paul von Paumgartten
Paul von Paumgartten
Lead Director

EXHIBIT 31.1

CERTIFICATION

I, Joseph G. Kaveski, certify that:

1. I have reviewed this Annual Report on Form 10-K of Energy Focus, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and we have;

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 30, 2012

/s/ Joseph G. Kaveski
Joseph G. Kaveski
Chief Executive Officer

EXHIBIT 31.2

CERTIFICATION

I, Mark J. Plush, certify that:

1. I have reviewed this Annual Report on Form 10-K of Energy Focus, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and we have;

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 30, 2012

/s/ Mark J. Plush
Mark J. Plush
Vice President of Finance and Chief Financial Officer

EXHIBIT 32.1

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of Energy Focus, Inc. (the "Company") on Form 10-K for the year ended December 31, 2011 (the "Report"), I, Joseph G. Kaveski, Chief Executive Officer of the Company and I, Mark J. Plush, Chief Financial Officer of the Company, each certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes Oxley Act of 2002, that to the best of my knowledge:

(i) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Joseph G. Kaveski
Joseph G. Kaveski
Chief Executive Officer
March 30, 2012

/s/ Mark J. Plush
Mark J. Plush
Vice President of Finance and Chief Financial Officer
March 30, 2012

A signed original of this written statement required by Section 906 has been provided to Energy Focus, Inc. and will be retained by Energy Focus, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.