

Exhibit B

CREDIT AGREEMENT

among

EPV SOLAR, INC.,

as Borrower,

**THE DOMESTIC SUBSIDIARIES OF THE BORROWER
FROM TIME TO TIME GUARANTORS HEREUNDER,**

as Guarantors,

THE LENDERS PARTY HERETO,

and

PATRIARCH PARTNERS AGENCY SERVICES, LLC,

as Agent

Dated as of November 18, 2009

TABLE OF CONTENTS

	Page
ARTICLE I Defined Terms	1
Section 1.1 Definitions.....	1
ARTICLE II Loans.....	19
Section 2.1 Term Loans	19
Section 2.2 [Reserved.].....	20
Section 2.3 Borrowing Mechanics.....	20
Section 2.4 Pro Rata Shares	20
Section 2.5 Use of Proceeds.....	21
Section 2.6 Evidence of Debt; Register; Notes.....	21
Section 2.7 Interest on Loans.....	22
Section 2.8 Changed Circumstances.....	23
Section 2.9 Fees	23
Section 2.10 Repayment	23
Section 2.11 Optional Prepayment	23
Section 2.12 Mandatory Prepayments; Mandatory Commitment Reductions.....	24
Section 2.13 Application of Prepayments.....	25
Section 2.14 General Provisions Regarding Payments.....	25
Section 2.15 Ratable Sharing.....	26
Section 2.16 Termination or Reduction of Commitments	26
ARTICLE III Conditions Precedent; Conditions Subsequent	26
Section 3.1 Conditions Precedent; Closing Date	26
Section 3.2 Conditions to Each Borrowing.....	30
Section 3.3 Conditions Subsequent.....	30
ARTICLE IV Representations and Warranties.....	32
Section 4.1 Representations and Warranties.....	32
ARTICLE V Affirmative Covenants.....	41
Section 5.1 Affirmative Covenants.....	41
ARTICLE VI Negative Covenants/Financial Covenants	50
Section 6.1 Negative Covenants	50
Section 6.2 Financial Covenants.....	61
ARTICLE VII Increased Costs; Taxes; Indemnifications, Set Off; Etc	62
Section 7.1 Increased Costs; Capital Adequacy	62
Section 7.2 Taxes; Withholding, Etc	62
Section 7.3 Indemnification	64
Section 7.4 Right of Set Off.....	65
Section 7.5 Funding Breakage	65
ARTICLE VIII Events of Default	66
Section 8.1 Events of Default	66
Section 8.2 Remedies.....	69

TABLE OF CONTENTS
(Continued)

	Page
ARTICLE IX The Agent.....	70
Section 9.1 Appointment of Agent	70
Section 9.2 Powers and Duties.....	70
Section 9.3 Delegation of Duties	71
Section 9.4 General Immunity	71
Section 9.5 Agent Entitled to Act with the Borrower.....	72
Section 9.6 Lenders' Representations, Warranties and Acknowledgment.....	72
Section 9.7 Right to Indemnity	72
Section 9.8 Successor Agent.....	73
Section 9.9 Collateral Documents.....	74
Section 9.10 Notice of Default.....	74
Section 9.11 Delivery of Documents, Notices, Etc	75
ARTICLE X Miscellaneous	75
Section 10.1 Amendments and Waivers; Release of Collateral	75
Section 10.2 Notices	76
Section 10.3 Expenses	77
Section 10.4 Enforceability; Successors and Assigns.....	78
Section 10.5 Lenders' Obligations Several	79
Section 10.6 Integration.....	79
Section 10.7 No Waiver; Remedies	80
Section 10.8 Submission to Jurisdiction	80
Section 10.9 Execution in Counterparts.....	80
Section 10.10 Governing Law	80
Section 10.11 Waiver of Jury.....	80
Section 10.12 Severability	81
Section 10.13 Survival.....	81
Section 10.14 Maximum Lawful Interest	81
Section 10.15 Interpretation.....	82
Section 10.16 Ambiguities.....	82
Section 10.17 Subordination Agreement	82
Section 10.18 Certifications Regarding Indenture.....	82
Section 10.19 Board Observer Rights.....	83

Exhibit A	Form of Borrowing Certificate
Exhibit B	[Reserved]
Exhibit C	Form of Credit Party Certificate
Exhibit D	Form of Closing Date Certificate
Exhibit E	Form of Joinder
Exhibit F	Form of Assignment Agreement
Exhibit G	Form of Term Loan Note
Exhibit H	Initial Budget
SCHEDULE 2.1	Commitments
SCHEDULE 4.1(c)	Real Property
SCHEDULE 4.1(f)	Legal Proceedings
SCHEDULE 4.1(j)	Partnerships, Etc.
SCHEDULE 4.1(l)	Subsidiaries
SCHEDULE 4.1(m)	Capitalization of Borrower
SCHEDULE 4.1(p)	Labor Practices
SCHEDULE 4.1(q)	Employee Benefits
SCHEDULE 4.1(r)	Environmental Liabilities
SCHEDULE 4.1(s)	Insurance
SCHEDULE 4.1(t)	Intellectual Property
SCHEDULE 4.1(v)	Defaults
SCHEDULE 4.1(w)	Material Contracts
SCHEDULE 4.1(x)	Brokerage Fees
SCHEDULE 6.1(a)	Indebtedness
SCHEDULE 6.1(b)	Liens
SCHEDULE 6.1(e)	Investments
SCHEDULE 8.1(e)	Existing Defaults
SCHEDULE 8.1(n)	Defaults under Material Contracts
SCHEDULE 8.1(o)	Officers

THIS CREDIT AGREEMENT, dated as of November 18, 2009, among EPV SOLAR, INC., a New Jersey corporation (the "Borrower"), the Domestic Subsidiaries (such term and each other capitalized term used but not defined herein have the meanings given to them in Article I) that from time to time become guarantors hereunder (collectively, the "Guarantors"), the financial institutions and other investors from time to time lenders hereunder (collectively, the "Lenders"), and PATRIARCH PARTNERS AGENCY SERVICES, LLC, a Delaware limited liability company ("PPAS"), as agent for the Lenders (in such capacity, the "Agent").

RECITALS

WHEREAS, the Borrower has requested and the Lenders have agreed to provide a term loan facility for working capital and general corporate purposes of the Borrower, but only upon the terms and conditions set forth in this Agreement; and

WHEREAS, each Guarantor is willing to guaranty all of the obligations of the Borrower under the Credit Documents on the terms and conditions set forth in the Guaranty to which it is a party, and is willing to secure its guaranty obligations by granting to the Agent, for the benefit of the Agent and the Lenders, security interests in and liens upon certain of its existing and after-acquired personal and real property, including, without limitation, its intellectual property.

NOW THEREFORE, in consideration of the premises and the mutual covenants and the agreements herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE I Defined Terms

Section 1.1 Definitions. As used in this Agreement, including, without limitation, the preamble, recitals, exhibits and schedules hereto, the following terms have the meanings stated:

"Account" has the meaning assigned to such term in the UCC as adopted and in effect in the State of New York.

"Action" against a Person means an action, suit, litigation, arbitration, investigation, complaint, contest, hearing, inquiry, inquest, audit, examination or other proceeding threatened or pending against or affecting such Person or its property, whether civil, criminal, administrative, investigative or appellate, in law or equity before any arbitrator or Governmental Body.

"Affiliate" means, with respect to a specified Person, any other Person which directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with such Person, and without limiting the generality of the foregoing, includes (i) any Person which beneficially owns or holds five (5%) percent or more of any class of Voting Stock of such Person or other equity interests in such Person, (ii) any Person of which such Person beneficially owns or holds five (5%) percent or more of any class of Voting Stock or in which such Person beneficially owns or holds five (5%) percent or more of

the equity interests and (iii) any director or executive officer of such Person. For the purposes of this definition, the term "control" (including with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of Voting Stock, by agreement or otherwise. Notwithstanding the foregoing, for purposes of this Agreement, none of the Agent, any Lender or any Affiliate of any Lender shall be an Affiliate of the Borrower or any of its Subsidiaries.

"Agent" means initially PPAS and thereafter any successor agent appointed pursuant to Section 9.8.

"Agent Fee" has the meaning stated in Section 2.9(b).

"Aggregate Amounts Due" has the meaning stated in Section 2.15.

"Agreement" means this Agreement, as it may be amended, restated, supplemented or otherwise modified from time to time.

"AKART LOI" means the Letter of Intent, dated as of September 24, 2009, by and among AKART Enerji Fabrika Anonim Sirketi, AEE Aktiengesellschaft Fur Erneuerbare Energie and the Borrower.

"Applicable Current Budget" means the Initial Budget; provided, however, that upon the request of the Borrower, the Agent, at the direction and the sole discretion of the Required Lenders, may designate any Applicable Subsequent Budget delivered hereunder to be the "Applicable Current Budget" by giving its written consent thereof to the Borrower (which consent may be in an email that specifically refers to this definition and the agreement of the Agent and the Required Lenders with respect to such designation) and thereafter such Applicable Subsequent Budget shall be deemed to be the Applicable Current Budget unless and until the Borrower, the Agent and the Required Lenders make a subsequent designation hereunder.

"Applicable Margin" means 8.0%.

"Applicable Subordination Agreement" has the meaning set forth in Section 6.1(a)(v).

"Applicable Subsequent Budget" means the Budget that both (i) is the Budget then most recently delivered prior to the date of the Weekly Variance Report in issue (acknowledging, for clarification, that a new Budget is also due pursuant to Section 5.1(a)(vi) on the date of any such Weekly Variance Report and this clause (i) refers to the Budget delivered immediately prior to that Budget), and (ii) that satisfies the requirements (including the Lenders' approval of such Budget) of Section 5.1(a)(vi).

"Asset Sale" means a sale, lease or sublease (as lessor or sublessor), sale and leaseback, assignment, conveyance, transfer or other disposition to, or any exchange of property with, any Person (other than the Borrower or any wholly-owned Guarantor), in one or more transactions or a series of related transactions, of all or any part of the businesses of the Borrower and/or any of its Subsidiaries, and/or of all or any part of the assets or properties of any kind of the Borrower and/or any of its Subsidiaries, whether real, personal, or mixed and whether tangible or intangible, whether now owned or hereafter acquired, including, without limitation, the Capital Stock of any Subsidiary of the Borrower, other than inventory (or other assets) sold or leased in the ordinary course of business.

"Assignee" has the meaning stated in Section 10.4(b).

"Assignment" has the meaning stated in Section 10.4(b).

"Assignment Agreement" has the meaning stated in Section 10.4(b).

"Assignment Fee" has the meaning stated in Section 10.4(b).

"Authorized Officer" means, as applied to any Person, any individual holding the position of chairman of the board (if an office), chief executive officer, president or one of its vice presidents (or the equivalent thereof), and such Person's chief financial officer or treasurer.

"Bankruptcy Code" means Title 11 of the United States Code entitled "Bankruptcy", as now and hereafter in effect, or any successor statute.

"Base Rate" means, for any day, a fluctuating rate per annum equal to the "prime rate" of interest in effect for such day as published in the Wall Street Journal, such rate to be adjusted by the Agent on the effective date of any change thereafter.

"Borrower" has the meaning stated in the Preamble of this Agreement.

"Borrowing" means the making of any Loan.

"Borrowing Certificate" means a Borrowing Certificate substantially in the form of Exhibit A.

"Borrowing Date" means the date of a Borrowing.

"Budget" has the meaning stated in Section 5.1(a)(vi).

"Business Day" means a day other than Saturday or Sunday or other day on which commercial banks in New York City, New York are authorized or required by law or other governmental action to close; and, with respect to any borrowings, disbursements and payments in respect of any calculations, interest rates and interest periods pertaining to LIBOR Loans, such day is also a day on which

dealings are carried on for deposits in Dollars by and among banks in the London interbank market.

"Capital Lease" means, as applied to any Person, any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, is or should be accounted for as a capital lease on the balance sheet of that Person.

"Capital Stock" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation), including, without limitation, partnership interests and membership interests, and any and all warrants, rights or options to purchase or other arrangements or rights to acquire any of the foregoing.

"Cash" means a credit balance in any Deposit Account, money or currency.

"Change of Control" means any one or more of the following events:

(i) the transfer (in one transaction or a series of transactions) of all or substantially all of the assets of the Borrower or any Guarantor to any Person or group (as such term is used in Section 13(d)(3) of the Exchange Act), other than as permitted in Section 6.1(g) hereof;

(ii) the liquidation or dissolution of the Borrower or any Guarantor or the adoption of a plan by the stockholders of the Borrower or any Guarantor relating to the dissolution or liquidation of the Borrower or such Guarantor, other than as permitted in Section 6.1(g) hereof;

(iii) the acquisition by any Person or "group" (as such term is used in Section 13(d)) of the Exchange Act of record or beneficial ownership, directly or indirectly, of 35% or more of the aggregate ordinary voting power of the total outstanding Voting Stock of the Borrower without the Agent's prior written consent;

(iv) the occurrence of any "Change of Control" as defined in the Indenture; or

(v) the failure of the Borrower to own directly or indirectly one hundred (100%) percent of the voting power of the total outstanding Voting Stock of any Guarantor.

"Closing Date" means the date hereof.

"Closing Date Certificate" has the meaning stated in Section 3.1(g).

"Collateral" means any and all "Collateral" as defined in the Security Agreement, any mortgage or any other Collateral Document, as applicable.

"Collateral Documents" means the Security Agreement and all other instruments, documents and agreements delivered by any Credit Party pursuant to this Agreement or any of the other Credit Documents (including, without limitation, all UCC financing statements, intellectual property security agreements and Controlled Account Agreements) in order to grant to the Agent, for the benefit of the Lenders and the Agent, a Lien on any real, personal or mixed property of that Credit Party as security for the Obligations.

"Commitments" means the Term Loan Commitments.

"Controlled Account" has the meaning stated in Section 5.1(g).

"Controlled Account Agreement" has the meaning stated in Section 5.1(g).

"Consents" means any approval, consent, authorization or order of, notice to or registration or filing with, or any other action by, any Governmental Body or other Person.

"Credit Document" means any of this Agreement, the Notes (if any), the Collateral Documents, the Guaranty (if any), the Subordination Agreement and all other documents, instruments or agreements executed and delivered by a Credit Party for the benefit of the Agent or any Lender in connection herewith.

"Credit Party" means the Borrower, each Guarantor and each other Person (i) which executes this Agreement as a "Credit Party," (ii) which executes a Guaranty, and/or (iii) which grants a Lien in any of its assets to secure payment of any of the Obligations.

"Currency Agreement" means any foreign exchange contract, currency swap agreement, futures contract, option contract, synthetic cap or other similar agreement or arrangement, each of which is for the purpose of hedging the foreign currency risk associated with the operations of the Borrower or any of its Subsidiaries.

"Default" means a condition or event that, after notice or lapse of time or both, would constitute an Event of Default.

"Deposit Account" means any deposit account (as such term is defined in the UCC as adopted and in effect in the State of New York), including, without limitation, a demand, time, savings, passbook or like account with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a negotiable certificate of deposit.

"Dollars" and the sign "\$" mean the lawful money of the United States of America.

"Domestic Subsidiary" means any Subsidiary of the Borrower organized under the laws of the United States of America or any State or other political subdivision thereof.

"Eligible Assignee" means (i) any Lender or any Affiliate of any Lender, (ii) any commercial bank, insurance company, investment or mutual fund or other entity that is an "accredited investor" (as defined in Regulation D under the Securities Act) and that extends credit or buys loans as one of its businesses and/or (iii) any other Person approved by the Agent; provided, neither Borrower nor any Affiliate of the Borrower shall be an Eligible Assignee.

"Employee Benefit Plan" means any "employee benefit plan" as defined in Section 3(3) of ERISA that is or, within the six years preceding the date of this Agreement, was sponsored, maintained or contributed to by, or required to be contributed to by, the Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates.

"Environmental Laws" means all federal, state, local and foreign laws (including without limitation common law), statutes, regulations and rules whether now or hereinafter in effect relating in any way to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any Hazardous Material or health and safety matters, including, without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response Compensation and Liability Act of 1980, the Superfund Amendments and Reauthorization Act of 1986, the Federal Clean Water Act, the Federal Clean Air Act, the Toxic Substances Control Act, in each case as amended, and all rules, regulations, judgments, decrees, orders and licenses arising under all such laws.

"Environmental Liability" means any actual, alleged or contingent liability or obligations of the Borrower, any of its Subsidiaries or any other Credit Party directly or indirectly resulting from or based on (i) violations or alleged violations of any Environmental Law, (ii) the generation, use, handling, transportation, management, storage, treatment or disposal of any Hazardous Material, (iii) exposure to any Hazardous Material, (iv) the release or threatened release of any Hazardous Material into the environment or (v) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with any of the foregoing.

"Environmental Permits" means all permits, licenses, authorizations, registrations and other governmental consents required by applicable Environmental Laws for the use, storage, treatment, transportation, release, emission and disposal of raw materials, by-products, wastes and other substances used or produced by or otherwise relating to the operations of the Borrower, any of its Subsidiaries or any other Credit Party.

"Equipment" means, as to the Borrower and each Guarantor, all of the Borrower's and such Guarantor's now owned and hereafter acquired equipment, wherever

located, including machinery, data processing and computer equipment (whether owned or licensed and including embedded software), vehicles, tools, furniture, fixtures, all attachments, accessions and property now or hereafter affixed thereto or used in connection therewith, and substitutions and replacements thereof, wherever located.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor thereto.

"ERISA Affiliate" means, as applied to any Person, (i) any corporation that is a member of a controlled group of corporations within the meaning of Section 414(b) of the Internal Revenue Code of which that Person is a member, (ii) any trade or business (whether or not incorporated) that is a member of a group of trades or businesses under common control within the meaning of Section 414(c) of the Internal Revenue Code of which that Person is a member, and (iii) any member of an affiliated service group within the meaning of Section 414(m) or (o) of the Internal Revenue Code of which that Person, any corporation described in clause (i) above or any trade or business described in clause (ii) above is a member. Any former ERISA Affiliate of the Borrower, any of its Subsidiaries or any other Credit Party shall continue to be considered an ERISA Affiliate of the Borrower, such Subsidiary or such Credit Party within the meaning of this definition with respect to the period such entity was an ERISA Affiliate of the Borrower, such Subsidiary or such Credit Party and with respect to liabilities arising after such period for which the Borrower, such Subsidiary or such Credit Party could be liable under the Internal Revenue Code or ERISA.

"ERISA Event" means (i) a "reportable event" within the meaning of Section 4043 of ERISA and the regulations issued thereunder with respect to any Pension Plan (excluding those for which the provision for 30-day notice to the PBGC has been waived by regulation), (ii) the failure to meet the minimum funding standard of Section 412 of the Internal Revenue Code with respect to any Pension Plan (whether or not waived in accordance with Section 412(d) of the Internal Revenue Code) or the failure to make by its due date a required installment under Section 412(m) of the Internal Revenue Code with respect to any Pension Plan or the failure to make any required contribution to a Multiemployer Plan, (iii) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA, (iv) the withdrawal by the Borrower, any of its Subsidiaries, any other Credit Party or any of their respective ERISA Affiliates from any Pension Plan with two or more contributing sponsors or the termination of any such Pension Plan resulting in liability pursuant to Section 4063 or 4064 of ERISA, (v) the institution by the PBGC of proceedings to terminate any Pension Plan, or the occurrence of any event or condition which might constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan, (vi) the imposition of liability on the Borrower, any of its Subsidiaries, any other Credit Party or any of their respective ERISA Affiliates pursuant to Section 4062(e) or 4069 of ERISA or by reason of

the application of Section 4212(c) of ERISA, (vii) the withdrawal of the Borrower, any of its Subsidiaries, any other Credit Party or any of their respective ERISA Affiliates in a complete or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) from any Multiemployer Plan if there is any potential liability therefor, or the receipt by the Borrower, any of its Subsidiaries, any other Credit Party or any of their respective ERISA Affiliates of notice from any Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA, or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA, (viii) the occurrence of an act or omission which could give rise to the imposition on the Borrower, any of its Subsidiaries, any other Credit Party or any of their respective ERISA Affiliates of fines, penalties, taxes or related charges under Chapter 43 of the Internal Revenue Code or under Section 409, Section 502(c), (i) or (1), or Section 4071 of ERISA in respect of any Employee Benefit Plan, (ix) the assertion of a material claim (other than routine claims for benefits) against any Employee Benefit Plan other than a Multiemployer Plan or the assets thereof, or against the Borrower, any of its Subsidiaries, any other Credit Party or any of their respective ERISA Affiliates in connection with any Employee Benefit Plan, (x) receipt from the Internal Revenue Service of notice of the failure of any Pension Plan (or any other Employee Benefit Plan intended to be qualified under Section 401(a) of the Internal Revenue Code) to qualify under Section 401(a) of the Internal Revenue Code, or the failure of any trust forming part of any Pension Plan to qualify for exemption from taxation under Section 501(a) of the Internal Revenue Code, or (xi) the imposition of a Lien pursuant to Section 401(a)(29) or 412(n) of the Internal Revenue Code or pursuant to ERISA with respect to any Pension Plan.

"Event of Default" means each of the conditions or events set forth in Section 8.1.

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, and any successor statute.

"Existing Notes" means, collectively, the Borrower's 1% Convertible Senior Secured PIK Notes due 2016, as amended, and otherwise modified, by the Subordinate Document Amendment and the Subordination Agreement and as further amended, modified or supplemented after the date hereof as and to the extent permitted by the terms and conditions of the Credit Documents.

"Financial Officer Certification" means, with respect to the financial statements for which such certification is required, the certification of the chief financial officer of the Borrower that such financial statements fairly present, in all material respects, the financial condition of the Borrower and its Subsidiaries on a consolidated basis as at the dates indicated and the results of their operations and their cash flows for the periods indicated, subject to the absence of footnotes and changes resulting from audit and normal year-end adjustments.

"Financials" means, with respect to any Person for any period, the balance sheet of such Person as at the end of such period, and the related statement of income

and expense and statement of cash flow of such Person for such period, each setting forth in comparative form the figures for the previous comparable fiscal period, all in reasonable detail and prepared in accordance with GAAP (provided that, in respect of any Financials required to be delivered pursuant to Section 5.1(a)(iii), such Financials are not required to contain all the footnote disclosures required in accordance with GAAP and may be subject to normal year-end audit adjustments).

"Fiscal Quarter" means a fiscal quarter of any Fiscal Year.

"Fiscal Year" means the fiscal year of the Borrower and its Subsidiaries ending on December 31 of each calendar year.

"Foreign Lender" has the meaning stated in Section 7.2(a).

"Foreign Subsidiary" means any Subsidiary of the Borrower that is not a Domestic Subsidiary.

"GAAP" means generally accepted accounting principles in the United States as in effect from time to time, consistently applied throughout the periods to which reference is made.

"Governmental Body" means any agency, bureau, commission, court, department, official, political subdivision, tribunal or other instrumentality of any administrative, judicial, legislative, executive, regulatory, police or taxing authority of any government, whether supranational, national, federal, state, regional, provincial, local, domestic or foreign.

"Guarantors" has the meaning stated in the Preamble to this Agreement.

"Guaranty" has the meaning stated in Section 5.1(n).

"Hazardous Materials" means any hazardous or toxic substance, waste, contaminant, pollutant, gas or material, including, without limitation, radioactive materials, oil, petroleum and petroleum products and constituents thereof, which are regulated under any Environmental Law, including, without limitation, any substance, waste or material which is (i) designated a "pollutant", "hazardous substance", "extremely hazardous substance" or "toxic chemical" under any Environmental Law, or (ii) regulated in any way under the Regulations of any state where the Borrower, or any of its Subsidiaries or any other Credit Party conducts its business or owns any real property or has any leasehold or in which any Relevant Property is located.

"Hedge Agreement" means an Interest Rate Agreement or a Currency Agreement entered into in order to satisfy the requirements of this Agreement or otherwise in the ordinary course of the business of the Borrower or any of its Subsidiaries.

"Indebtedness" means, with respect to any Person, without duplication, the following: (i) all indebtedness of such Person for borrowed money, (ii) all obligations of such Person for the deferred purchase price of property or services, (other than accounts payable and accrued liabilities that would be classified as current liabilities under GAAP which payables and liabilities are incurred in respect of property or services purchased in the ordinary course of business if and only for so long as either (A) no item of such accounts payable and accrued liabilities is more than 90 days past due or (B) in the case of the Borrower and its Subsidiaries, Borrower has notified Agent in writing thereof (including pursuant to the Schedules hereto) and payments in respect thereof are being made (or not made, as applicable) in accordance with the Applicable Current Budget, (iii) all obligations of such Person evidenced by notes, bonds, debentures or similar borrowing or securities instruments, (iv) all obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person, (v) all obligations of such Person as lessee under Capital Leases, (vi) all obligations of such Person in respect of banker's acceptances and letters of credit, (vii) all obligations of such Person secured by Liens on the assets and property of such Person, (viii) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Capital Stock or other ownership or profit interest in such Person or any other Person or any warrants, rights or options to acquire such Capital Stock, (ix) net liabilities in respect of such Person's Hedge Agreements as determined in accordance with GAAP, (x) all obligations of such Person in respect of any guaranty by such Person of any obligation of another Person of the type described in clauses (i) through (ix) of this definition and (xi) all obligations of another Person of the type described in clauses (i) through (x) secured by a Lien on the property or assets of such Person (whether or not such Person is otherwise liable for such obligations of such other Person).

"Indemnified Agent Person" has the meaning stated in Section 9.7.

"Indemnified Persons" has the meaning stated in Section 7.3(a).

"Indenture" means the Indenture, dated as of June 4, 2009, among the Borrower and the Note Agent, as amended, and otherwise modified, by the Subordinate Document Amendment and the Subordination Agreement and as further amended, modified or supplemented as and to the extent permitted by the terms and conditions of the Credit Documents.

"Initial Budget" means the Budget delivered as of the date hereof pursuant to Section 5.1(a)(vi)(A), a copy of which is attached hereto as Exhibit H.

"Intellectual Property" means, collectively, all copyrights, all patents and all trademarks, together with: (i) all inventions, processes, production methods, proprietary information, know-how and trade secrets; (ii) all licenses or user or other agreements granted to the Borrower or any of its Subsidiaries with respect to any of the foregoing, in each case whether now or hereafter owned or used

including the licenses or other agreements with respect to any Collateral; (iii) all customer lists, identification of suppliers, data, plans, blueprints, specifications, designs, drawings, recorded knowledge, surveys, engineering reports, test reports, manuals, materials standards, processing standards, performance standards, catalogs, computer and automatic machinery software and programs; (iv) all field repair data, sales data and other information relating to sales or service of products now or hereafter manufactured; (v) all accounting information and all media in which or on which any information or knowledge or data or records may be recorded or stored and all computer programs used for the compilation or printout of such information, knowledge, records or data; and (vi) all causes of action, claims and warranties, in each case, now or hereafter owned or acquired by the Borrower or any of its Subsidiaries in respect of any of the items listed above.

"Intellectual Property Security Agreement" means an Intellectual Property Security Agreement executed from time to time by a Credit Party with any right, title or interest in Intellectual Property for recording with the U.S. Patent and Trademark Office or the U.S. Copyright Office.

"Intercompany Subordination Agreement" means the Intercompany Subordination Agreement, dated as of the date hereof, among the Borrower and each of its Subsidiaries.

"Interest Period" means consecutive one-month periods, beginning on the date hereof and ending on the Maturity Date; provided that:

(i) the initial Interest Period shall begin on the Closing Date and end on the last day of November 2009. Thereafter, each subsequent Interest Period will begin on the day following the last day of the preceding Interest Period (with such last day of such preceding Interest Period determined with reference to clauses (ii) through (v) below);

(ii) any Interest Period that would otherwise end on a day that is not a Business Day shall, subject to the provisions of clause (iv) below, be extended to the next succeeding Business Day unless such Business Day falls in the next calendar month, in which case such Interest Period shall end on the immediately preceding Business Day;

(iii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall, subject to clause (iv) below, end on the last Business Day of a calendar month;

(iv) any Interest Period that would otherwise end after the Maturity Date shall end on the Maturity Date; and

(v) except as otherwise provided under clause (i), (ii), (iii) or (iv) above, no Interest Period shall have a duration of less than one month and if any applicable Interest Period would be for a shorter period, such Interest Period shall not be available hereunder.

"Interest Rate Agreement" means any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedging agreement or other similar agreement or arrangement, each of which is for the purpose of hedging the interest rate exposure associated with the operation of the Borrower or any of its Subsidiaries.

"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended to the date hereof and from time to time hereafter, and any successor statute.

"Investment" means (i) any direct or indirect purchase or other acquisition by the Borrower or any of its Subsidiaries of, or of a beneficial interest in, any of the Securities (including any Capital Stock) of any other Person, (ii) any direct or indirect redemption, retirement, purchase or other acquisition for value, by the Borrower or any of its Subsidiaries from any Person, of any Capital Stock of such Person, and (iii) any direct or indirect loan, advance (other than advances to employees for moving, entertainment and travel expenses, drawing accounts and similar expenditures in the ordinary course of business) or capital contribution by the Borrower or any of its Subsidiaries to any other Person (other than the Borrower or any of its Subsidiaries), including all indebtedness and accounts receivable from that other Person that are not current assets or did not arise from sales to that other Person and/or constitute ordinary trade credit extended in the ordinary course of business. The amount of any Investment shall be the original cost of such Investment plus the cost of all additional Investments, without any adjustments for increases or decreases in value, or write-ups, write-downs or write-offs with respect to such Investment.

"Joint Venture" means a joint venture, partnership or other similar arrangement, whether in corporate, partnership or other legal form; provided, in no event shall any corporate Subsidiary of any Person be considered to be a Joint Venture to which such Person is a party.

"Knowledge" means, with respect to the Borrower or any other Credit Party as the context requires, the knowledge of the Borrower's or such Credit Party's Authorized Officers, after reasonable inquiry by such Authorized Officers.

"Leasehold Property" means any leasehold interest of the Borrower or any Guarantor as lessee under any lease of real property, other than any such leasehold interest designated from time to time by the Agent in its sole discretion as not being required to be included in the Collateral.

"Lenders" has the meaning stated in the Preamble to this Agreement.

"LIBOR" means, as to any Loan for any Interest Period, the rate quoted by Bloomberg Information Service (or by any successor or substitute for such Service, providing rate quotations comparable to those currently provided by such Service, as determined by the Agent from time to time for purposes of providing quotations of interest rates applicable to Dollar deposits in the London interbank

market) at approximately 11:00 a.m., London time, two Business Days before the beginning of such Interest Period, as the rate for Dollar deposits with a maturity comparable to such Interest Period. If such rate is not available at such time for any reason, LIBOR as to any LIBOR Loan for any Interest Period shall be the arithmetic mean (rounded upward, if necessary, to the next 1/16 of 1%) of the offered quotations of at least two Reference Banks to the prime banks in the London interbank market for dollar deposits with a maturity comparable to such Interest Period at approximately 11:00 a.m., London time, two Business Days before the beginning of such Interest Period. For purposes of this definition, "Reference Banks" shall mean major banks in the London interbank market selected by the Agent. For all purposes hereunder, LIBOR shall never be below 2.0% per annum.

"LIBOR Loans" means Loans bearing interest at a rate determined by reference to LIBOR.

"License Agreement" has the meaning stated in Section 4.1(t).

"Lien" means any encumbrance, mortgage, pledge, hypothecation, charge, lien, assignment, restriction or other security interest of any kind securing any obligation of any Person.

"Loans" means the Term Loans.

"Losses" has the meaning stated in Section 7.3(a).

"Margin Stock" means "margin stock" as defined in Regulation U of the Board of Governors of the Federal Reserve System as in effect from time to time.

"Material Adverse Effect" means any material adverse effect on or change in (i) the business, operations, properties, assets or condition (financial or otherwise) of the Borrower and its Subsidiaries taken as a whole, (ii) the ability of the Borrower or any other Credit Party to perform its obligations hereunder or under of any of the other Credit Documents, (iii) the legality, validity or enforceability of any Credit Document, or (iv) the Collateral or the perfection or priority of any Liens granted to the Agent or any Lender under any of the Collateral Documents.

"Material Contracts" means, with respect to any Person, each contract listed on Schedule 4.1(w), each contract which is a replacement or a substitute for any contract listed on such Schedule and each other contract to which such Person is a party which is material to the business, financial condition, operations, performance, properties or reasonably foreseeable business prospects of such Person.

"Maturity Date" means the earlier of (i) February 18, 2010 and (ii) the date that the Loans shall become due and payable in full hereunder, whether by acceleration or otherwise.

"Multiemployer Plan" means any Employee Benefit Plan that is a "multi-employer plan" as defined in Section 3(37) of ERISA.

"Net Asset Sale Proceeds" means, for the Borrower or any of its Subsidiaries, with respect to any Asset Sale, an amount equal to: (i) Cash payments (including any Cash received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) received by the Borrower or any of its Subsidiaries from such Asset Sale, minus (ii) the sum of (A) income or gains taxes actually payable by the seller as a result of any gain recognized in connection with such Asset Sale (provided that there will be (and the Borrower hereby represents that there will be) no delay in repatriating to the Borrower at least \$40,000,000 of the cash proceeds received upon consummation of the initial transactions contemplated by the AKART LOI), and (B) if at the time of payment thereof and after giving thereto, (i) the Borrower is in pro forma compliance with the provisions of Section 6.2, (ii) such payment is permitted to be made at such time in accordance with the Applicable Current Budget and (iii) no Default or Event of Default shall have occurred and be continuing or would result therefrom, reasonable, customary and documented out-of-pocket attorneys' fees, accountants' fees, investment banking fees, and brokerage, consultant and other reasonable customary and documented fees and expenses actually incurred in connection with such Asset Sale.

"Net Insurance/Condemnation Proceeds" means, for the Borrower or any of its Subsidiaries, an amount equal to: (i) any Cash payments or proceeds received by or owed to the Borrower or such Subsidiaries (A) under any casualty insurance policy in respect of a covered loss thereunder or (B) as a result of the taking of any assets of the Borrower or such Subsidiaries by any Person pursuant to the power of eminent domain, condemnation or otherwise, or pursuant to a sale of any such assets to a purchaser with such power under threat of such a taking minus (ii) (A) any actual and reasonable documented costs and expenses (including reasonable out-of-pocket attorney's fees) incurred by the Borrower or such Subsidiaries in connection with the adjustment or settlement of any claims of the Borrower or such Subsidiaries in respect thereof, and (B) any bona fide, reasonable, customary and documented costs actually incurred in connection with any sale of such assets as referred to in clause (i)(B) of this definition, including income taxes actually payable as a result of any gain recognized in connection therewith.

"Note Agent" means The Bank of New York Mellon, as trustee under the Indenture, together with its successors and assigns in accordance with the Indenture.

"Notes" means the Term Loan Notes.

"Notices" has the meaning stated in Section 10.2.

"Obligations" means all indebtedness, obligations and liabilities of each Credit Party from time to time owed to the Agent, the Lenders or any of them or their respective Affiliates direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, arising by contract, operation of law or otherwise, arising or incurred under this Agreement or any other Credit Document or in respect of any of the Loans, the Notes or any other instruments at any time evidencing any thereof.

"Participant" has the meaning stated in Section 10.4(c).

"Participation" has the meaning stated in Section 10.4(c)

"PBGC" means the Pension Benefit Guaranty Corporation or any successor thereto.

"Pension Plan" means any Employee Benefit Plan, other than a Multiemployer Plan, that is subject to Section 412 of the Internal Revenue Code or Section 302 of ERISA.

"Permit" means any permit, license, approval, consent, permission, notice, franchise, confirmation, endorsement, waiver, certification, registration, qualification, clearance or other authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Body or pursuant to any federal, state, local or foreign Regulation.

"Permitted Indebtedness" means the Indebtedness permitted pursuant to Section 6.1(a).

"Permitted Investment" has the meaning stated in Section 6.1(e).

"Permitted Liens" has the meaning stated in Section 6.1(b).

"Permitted Subordinated Indebtedness" has the meaning stated in Section 6.1(a)(v).

"Person" means and includes natural persons, corporations, limited partnerships, general partnerships, limited liability companies, limited liability partnerships, joint stock companies, Joint Ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, other legal entities and Governmental Bodies.

"PPAS" has the meaning stated in the Preamble to this Agreement.

"Principal Office" means, for the Agent, its office located at 32 Avenue of the Americas, 17th Floor, New York, New York 10013, Attention: Loan Administration/EPV Solar, or such other office as the Agent may from time to time designate in writing to the Borrower and each Lender.

"Pro Rata Share" means with respect to all payments, computations and other matters relating to the Term Loans of any Term Loan Lender, the percentage obtained by dividing (i) the aggregate principal amount of Term Loans of such Term Loan Lender by (ii) the aggregate principal amount of Term Loans of all Term Loan Lenders. For all other purposes with respect to each Lender, "Pro Rata Share" means the percentage obtained by dividing (x) the aggregate principal amount of the Loans of such Lender by (y) the aggregate principal amount of the Loans of all Lenders.

"Register" has the meaning stated in Section 2.6(b).

"Regulation" means each applicable law, rule, regulation, order, guidance or recommendation (or any change in its interpretation or administration) by any Governmental Body, central bank or comparable agency and any request or directive (whether or not having the force of law) of any of those Persons and each judgment, injunction, order, writ, decree or award of any Governmental Body, arbitrator or other Person.

"Relevant Property" means, for the Borrower, its Subsidiaries and any other Credit Party, all sites, facilities, locations, real property and leaseholds (i) presently or formerly owned, leased, used or operated by the Borrower, any of its Subsidiaries or any other Credit Party (whether or not such properties are currently owned, leased, used or operated by the Borrower, any of its Subsidiaries or any other Credit Party), (ii) at which any Hazardous Material has been transported, disposed, treated, stored or released by the Borrower, any of its Subsidiaries or any other Credit Party, or (iii) that are directly adjacent to any sites, facilities, locations, real property or leaseholds presently or formerly owned, leased, used or operated by the Borrower, any of its Subsidiaries or any other Credit Party.

"Required Lenders" means, at any time, one or more of the Lenders having Pro Rata Shares representing more than 50%.

"Restricted Junior Payment" means, for the Borrower and/or any of its Subsidiaries, whether made using cash, securities or other property, (i) any dividend or other distribution, direct or indirect (by setoff or otherwise), on account of any shares of any class of Capital Stock of the Borrower or such Subsidiary now or hereafter outstanding, except a dividend payable solely in shares of that class of Capital Stock to the holders of that class, (ii) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect (by setoff or otherwise), of any shares of any class of stock of the Borrower or such Subsidiary now or hereafter outstanding, (iii) any payment or distribution, direct or indirect (by setoff or otherwise), made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of Capital Stock of the Borrower or such Subsidiary now or hereafter outstanding, or (iv) any payment or distribution, direct or indirect (by setoff or otherwise), of any kind in respect of

(A) the Subordinate Obligations (as defined in the Subordination Agreement), except as permitted by the Subordination Agreement, or (B) any Permitted Subordinated Indebtedness, except in accordance with the Applicable Subordination Agreement for such Permitted Subordinated Indebtedness.

"R&R LOI" means the Letter of Intent, dated as of July 27, 2009, by and between Roth & Rau AG and the Borrower.

"Securities" means any stock, shares, limited liability company membership interests, partnership interests, voting trust certificates, certificates of interest or participation in any profit-sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as "securities" or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

"Securities Act" means the Securities Act of 1933, as amended from time to time, and any successor statute.

"Security Agreement" means the Security Agreement, dated as of the date hereof, among the Borrower and the Agent (for itself and as the Agent for the Lenders).

"Solvent" means, with respect to any Person, that as of the date of determination both (i)(A) the sum of such Person's debt (including contingent liabilities) does not exceed all of its property, at a fair valuation, (B) the present fair saleable value of the property of such Person is not less than the amount that will be required to pay the probable liabilities on such Person's then existing debts as they become absolute, and matured, (C) such Person's capital is not unreasonably small in relation to its business or any contemplated or undertaken transaction, and (D) such Person does not intend to incur, or believe (nor should it reasonably believe) that it will incur, debts beyond its ability to pay such debts as they become due, and (ii) such Person is "solvent" within the meaning given that term and similar terms under applicable laws relating to fraudulent transfers and conveyances. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

"Structuring Fee" has the meaning stated in Section 2.9(c).

"Sub-Agent" has the meaning stated in Section 9.3.

"Subordinate Document Amendment" means the Waiver, Consent and Amendment to Indenture and Collateral Documents, dated as of the date hereof, among the Borrower, the Note Agent and each Subordinate Note Holder.

"Subordinate Documents" has the meaning stated in the Subordination Agreement.

"Subordinate Note Holder" means each holder of the Existing Notes in its capacity as holder of the Existing Notes, as holder of the Borrower's Capital Stock and otherwise, and collectively with its successors, assigns, affiliates, heirs, beneficiaries, personal representatives, estates and executors and transferees.

"Subordination Agreement" means the Subordination Agreement, dated as of the date hereof, among the Agent, the Note Agent and the Borrower.

"Subsidiary" means, with respect to any Person, any corporation, partnership, limited liability company, association, joint venture or other business entity of which more than 50% of the total voting power of shares of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the Person or Persons (whether directors, managers, trustees or other Persons performing similar functions) having the power to direct or cause the direction of the management and policies thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, provided, in determining the percentage of ownership interests of any Person controlled by another Person, no ownership interest in the nature of a "qualifying share" of the former Person shall be deemed to be outstanding.

"Tax" means any present or future tax, levy, impost, duty, assessment, charge, fee, deduction or withholding of any nature and whatever called, by whomsoever, on whomsoever and wherever imposed, levied, collected, withheld or assessed, provided, "Tax on the overall net income" of a Person shall be construed as a reference to a tax imposed by the jurisdiction in which that Person is organized or in which that Person's applicable principal office (and/or, in the case of a Lender, its lending office) is located or in which that Person (and/or, in the case of a Lender, its lending, office) is deemed to be doing business on all or part of the net income, profits or gains (whether worldwide, or only insofar as such income, profits or gains are considered to arise in or to relate to a particular jurisdiction, or otherwise) of that Person (and/or, in the case of a Lender, its applicable lending office).

"Term Loan" means a Loan made by a Term Loan Lender to the Borrower pursuant to Section 2.1.

"Term Loan Commitment" means, (i) with respect to each Term Loan Lender that is a Lender on the Closing Date, the amount set forth opposite such Term Loan Lender's name on a Schedule 2.1 as such Lender's "Term Loan Commitment" and (ii) in the case of any lender that becomes a Term Loan Lender after the Closing Date, the amount specified as such Term Loan Lender's "Term Loan Commitment" in the Assignment Agreement pursuant to which such Lender assumed such Term Loan Commitment, in each case as the same may be reduced or increased from time to time pursuant to the terms hereof.

"Term Loan Commitment Period" means the period commencing on the Closing Date up to (but not including) the Maturity Date.

"Term Loan Lender" means a Lender that has a Term Loan Commitment.

"Term Loan Note" has the meaning stated in Section 2.6(c).

"UCC" means the Uniform Commercial Code (or any similar or equivalent legislation) as in effect in any applicable jurisdiction.

"Voight Note" means that certain Promissory Note, dated as of June 1, 2009, issued by F.A. Voight & Associate, LP in favor of the Borrower in the aggregate principal amount of \$575,186 outstanding as of the Closing Date.

"Voting Stock" means with respect to any Person, (i) one (1) or more classes of Capital Stock of such Person having general voting powers to elect at least a majority of the board of directors, managers or trustees of such Person, irrespective of whether at the time Capital Stock of any other class or classes have or might have voting power by reason of the happening of any contingency, and (ii) any Capital Stock of such Person convertible or exchangeable without restriction at the option of the holder thereof into Capital Stock of such Person described in clause (i) of this definition.

"Weekly Variance Report" means, for each calendar week, a budget variance report in form and substance reasonably satisfactory to Agent; each such report (i) shall include, by each line item in the Applicable Current Budget and in the Applicable Subsequent Budget, (A) a comparison of the actual results for such calendar week to the projections, in each case, for each such line item contained in the Applicable Current Budget and in the Applicable Subsequent Budget, and (B) explanations for all variances in each such comparison of more than five percent (5%) from the corresponding line item of the Applicable Current Budget and the Applicable Subsequent Budget, and (ii) shall be certified by the chief financial officer of the Borrower as being prepared in good faith and fairly presenting in all material respects the information set forth therein.

ARTICLE II Loans

Section 2.1 Term Loans.

(a) On the Closing Date, subject to the terms and conditions hereof and relying on the representations and warranties set forth herein, each Term Loan Lender severally, and not jointly and severally, agrees to make a Term Loan to the Borrower in an aggregate amount up to but not exceeding such Lender's Term Loan Commitment. Notwithstanding anything to the contrary contained herein (and without affecting any other provision hereof), the aggregate funded portion of the Term Loans to be made on the Closing Date (i.e., the aggregate amount advanced to the Borrower on the Closing Date) shall be equal to \$3,500,000, and the remaining aggregate portion of the Term

Loans shall be deemed to have been advanced to the Borrower but shall be retained by the Agent or the Lenders in full satisfaction of the Agent Fee and the Structuring Fee, in each case, payable on the Closing Date pursuant to Section 2.9.

(b) Any amount borrowed under this Section 2.1 and subsequently repaid or prepaid may not be reborrowed. Subject to Sections 2.11 and 2.12, all amounts owed under this Section 2.1 shall be paid in full no later than the Maturity Date.

(c) Any amount borrowed under this Section 2.1 shall (i) bear interest as provided in Section 2.7(a) hereof and (ii) be entitled to the security interests, collateral and other rights and benefits provided pursuant to this Agreement and the other Credit Documents.

Section 2.2 **[Reserved.]**

Section 2.3 **Borrowing Mechanics.**

(a) **[Reserved.]**

(b) Whenever the Borrower desires that the Lenders make a Loan, the Borrower shall deliver to the Agent a fully executed Borrowing Certificate no later than 10:00 a.m. (New York City time) at least one Business Day in advance of the proposed Borrowing Date, which Borrowing Date shall be a Business Day.

(c) Notice of receipt of each Borrowing Certificate in respect of the applicable Loans, together with the amount of each Lender's Pro Rata Share thereof, together with the applicable interest rate, shall be provided by the Agent to each applicable Lender by facsimile with reasonable promptness, but (provided, the Agent shall have received such notice by 10:00 a.m. (New York City time)) not later than 4:00 p.m. (New York City time) on the same day as the Agent's receipt of such Borrowing Certificate from the Borrower.

(d) Each Lender shall make the amount of its Loans available to the Agent no later than 2:00 p.m. (New York City time) on the applicable Borrowing Date by wire transfer of same day funds in Dollars, at the Agent's Principal Office. Except as provided herein, upon satisfaction or waiver of the conditions precedent specified herein, the Agent shall make the proceeds of such Loans available to the Borrower on the applicable Borrowing Date by causing an amount of same day funds in Dollars equal to the proceeds of all such Loans received by the Agent from the Lenders to be deposited by wire transfer to the account of the Borrower designated in writing (which may be included on the Borrowing Certificate) to the Agent by the Borrower.

Section 2.4 **Pro Rata Shares.** All Loans shall be made by the Lenders simultaneously and proportionately to their respective Pro Rata Shares, it being understood that no Lender shall be responsible for any default by any other Lender in such other Lender's obligation to make the Loans hereunder.

Section 2.5 Use of Proceeds. The Loans and proceeds thereof shall be used by the Borrower solely (a) for working capital and general corporate purposes of the Borrower and its Subsidiaries (including providing cash collateral for the letters of credit permitted under Section 6.1(a)(vi), (b) to pay the costs and expenses (including broker's and finder's commissions and reasonable out-of-pocket attorneys' fees) related to the transactions contemplated by this Agreement, the AKART LOI and the R&R LOI, including consents under and modifications to the Subordinate Documents in connection therewith and (c) to make an Investment, in the form of a loan satisfying the requirements of Section 6.1(a)(xii), of up to \$350,000 in EPV Solar Germany GmbH, a wholly owned Subsidiary of Borrower, and only as and to the extent permitted by such Section 6.1(a)(xii); provided, however, that notwithstanding the foregoing and anything to the contrary contained herein, the Loans and the proceeds thereof may only be used as and to the extent that, at the time of and after giving effect thereto, (x) any such use of proceeds is permitted to be made at such time in accordance with the Applicable Current Budget, (y) the Borrower and its Subsidiaries are in pro forma compliance with the provisions of Section 6.2, and (z) no Default or Event of Default shall have occurred and be continuing or would result therefrom. No portion of the proceeds of any Borrowing shall be used by the Borrower or any of its Subsidiaries in any manner that might cause such Borrowing or the application of such proceeds to violate Regulation T, Regulation U or Regulation X of the Board of Governors of the Federal Reserve System or any other regulation thereof or to violate the Exchange Act, in each case as in effect on the date or dates of such Borrowing and such use of proceeds.

Section 2.6 Evidence of Debt; Register; Notes.

(a) Lenders' Evidence of Debt. Each Lender shall maintain on its internal records an account or accounts evidencing the Indebtedness of the Borrower to such Lender, including the amounts of the Loans owed to it and each repayment and prepayment in respect thereof. Any such recordation shall be conclusive and binding on the Borrower, absent manifest error; provided, failure to make any such recordation, or any error in such recordation, shall not affect any Lender's Commitments, Loans or any of the Borrower's Obligations in respect of any applicable Loans; and provided, further, in the event of any inconsistency between the Register and any Lender's records, the recordations in the Register shall govern.

(b) Register. The Agent shall maintain, as the Borrower's agent, at the Agent's Principal Office a register for the recordation of the names and addresses of each Lender and such Lender's Commitments and the fees, interest and principal amount of Loans owed to each Lender (the "Register"). The Register shall be available for inspection by the Borrower or any Lender at any reasonable time and from time to time upon reasonable prior notice. The Agent shall record in the Register the Commitments, and the fees, interest and the outstanding balance of the Loans, and each repayment or prepayment in respect of the principal amount of and interest, fees and other amounts with respect to the Loans, and any such recordation shall be conclusive and binding on the Borrower and each Lender, absent manifest error; provided, failure to make any such recordation, or any error in such recordation, shall not affect any Lender's Commitments or the Borrower's Obligations in respect of any Loan. No transfer of the Commitments, the Loans and/or any interests therein shall be effective until such transfer is recorded in

the Register. In addition, the Lenders, the Agent and the Borrower shall treat each Person whose name is recorded in the Register as a Lender for all purposes of this Agreement, unless such Person's Commitments and Loans have been assigned in full to another Person.

(c) Notes. At closing, the Borrower shall (if requested by the Agent) execute and deliver a promissory note, in the form of Exhibit G (each, a "Term Loan Note"), to evidence each Term Loan Lender's Term Loan.

Section 2.7 Interest on Loans.

(a) Applicable Rates. Except as otherwise set forth herein, each Loan shall bear interest on the unpaid principal amount thereof from the date made through repayment (whether by acceleration or otherwise) on the unpaid principal amount thereof at a rate per annum equal to LIBOR plus the Applicable Margin.

(b) Calculation of Interest Rates. Interest payable pursuant to this Section 2.7 shall be computed on the basis of a 360-day year for the actual number of days elapsed in the period during which it accrues. In computing interest on any Loan, the date of the making of such Loan or the first day of an Interest Period applicable to such Loan shall be included, and the date of payment of such Loan or the expiration date of an interest period applicable to such Loan shall be excluded; provided, if such Loan is repaid on the same day on which it is made, one day's interest shall be paid on such Loan.

(c) Payment of Interest. Interest on the Loans shall be payable in arrears on (i) the first day of each calendar month (and if such day is not a Business Day, the immediately preceding Business Day), (ii) the date of any prepayment of the Loans, whether voluntary or mandatory, to the extent accrued on the amount being prepaid, and (iii) the Maturity Date.

(d) Default Interest. Upon the occurrence and during the continuance of an Event of Default described in Section 8.1, the principal amount of all Loans and, to the extent permitted by applicable law, any interest payments on the Loans or any fees or other amounts owed hereunder not paid when due, in each case whether at stated maturity, by notice of prepayment, by acceleration or otherwise, shall thereafter bear interest (including, without limitation, interest, as provided in this Agreement, accruing after the filing of a petition initiating any insolvency proceedings, whether or not such interest accrues or is recoverable against the Borrower after the filing of such petition for purposes of the Bankruptcy Code or is an allowed claim in such proceeding) payable on written demand (or automatically upon the occurrence and during the continuation of an Event of Default under Sections 8.1(f) or 8.1(g)) at a rate that is 2.0% per annum in excess of the interest rate otherwise payable hereunder with respect to the Loans. Payment or acceptance of the increased rates of interest provided for in this Section 2.7 is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of the Agent or any Lender.

Section 2.8 Changed Circumstances. If the introduction of or any change in or in the interpretation of (in each case, after the date hereof) any law or regulation applicable to any Lender makes it unlawful, or any Governmental Body asserts, after the date hereof, that it is unlawful, for any Lender to perform its obligations hereunder to maintain the Loans at LIBOR, such Lender shall notify the Agent of such event and the Agent shall notify the Borrower of such event, and the right of the Borrower to apply LIBOR to any subsequent Interest Period shall be suspended until the Agent shall notify the Borrower that the circumstances causing such suspension no longer exist, and the Borrower shall forthwith prepay in full the Loans then outstanding, and shall pay all interest accrued thereon through the date of such prepayment, unless the Borrower, within three (3) Business Days after such notice from the Agent, requests that the interest rate applicable to the Loans be converted from LIBOR plus the Applicable Margin to the Base Rate as in effect from time to time plus 7.0%; provided, that if the date of such repayment or proposed conversion is not the last day of an Interest Period applicable to the Loans, the Borrower shall also pay any amount due pursuant to Section 7.5.

Section 2.9 Fees.

(a) **[Reserved.]**

(b) The Borrower agrees to pay to the Agent, for its own account, a fee (the "Agent Fee") in an amount equal to \$75,000 due on the Closing Date and on each one-year anniversary thereof so long as any Obligations remain outstanding.

(c) On the Closing Date, the Borrower agrees to pay to the Agent, for the ratable benefit of the Lenders, a nonrefundable structuring fee (the "Structuring Fee") in an amount equal to \$425,000, which Structuring Fee shall be deemed fully earned and due and payable on the Closing Date and in addition to any other fee from time to time payable under the Credit Documents.

(d) All annual fees referred to in this Section 2.9 shall be calculated on the basis of a 360-day year and the actual number of days elapsed and shall be paid to the Agent at its Principal Office. Upon receipt of the fees referred to in Section 2.9(c) above, the Agent shall promptly distribute to each Lender its Pro Rata Share thereof.

Section 2.10 Repayment. Subject to Sections 2.11 and 2.12, the Loans shall be due and payable, and the Borrower shall be required to repay all of the Obligations (including, without limitation, all accrued and unpaid principal and interest on the principal amounts of the Loans) on the Maturity Date.

Section 2.11 Optional Prepayment.

(a) Optional Prepayment. At any time the Borrower may prepay, without premium or penalty, the Loans on any Business Day in whole (but not in part); any such prepayment must include all accrued and unpaid interest on the Loans and all other accrued and unpaid fees, expenses and other amounts payable under the Credit Documents. The Loans shall be prepaid according to each respective Lender's Pro Rata Share thereof.

(b) Notice of Optional Prepayment. Such prepayment shall be made on a Business Day and upon not less than ten Business Days' prior written or telephonic notice from the Borrower given to the Agent by 12:00 p.m. (New York City time) on the date required and, if given by telephone, promptly confirmed in writing to the Agent (and the Agent will promptly transmit such telephonic or original notice for the applicable Loans by facsimile or telephone to each Lender). Upon the giving of such notice, the principal amount of the Loans specified in such notice shall become due and payable on the date specified therein.

Section 2.12 Mandatory Prepayments; Mandatory Commitment Reductions.

(a) **[Reserved.]**

(b) Asset Sales. No later than the first Business Day following the date of receipt by the Borrower or any of its Subsidiaries of any Net Asset Sale Proceeds, the Borrower shall prepay the Loans as set forth in Section 2.13 in an aggregate amount equal to such Net Asset Sale Proceeds; provided, however, that, so long as no Default or Event of Default shall have occurred and be continuing or would result therefrom, the Borrower shall not be required to prepay the Loans pursuant to this Section 2.12(b) (i) in an amount equal to \$250,000 of the Net Asset Sale Proceeds received by the Borrower and/or any of its Subsidiaries from all Asset Sales permitted pursuant to clause (F) of Section 6.1(g), (ii) in an amount equal to \$500,000 of the Net Asset Sale Proceeds received by the Borrower and/or any of its Subsidiaries from the sale of inventory expressly permitted hereby, (iii) in an amount equal to \$150,000 of the New Asset Sale Proceeds received by the Borrower and/or any of its Subsidiaries from the sale or settlement of the Voight Note or any collateral thereof expressly permitted hereby, or (iv) in an amount equal to \$200,000 of the Net Asset Sale Proceeds received by the Borrower and/or any of its Subsidiaries from the sale of accounts receivable at a discount expressly permitted hereby; provided that, notwithstanding the foregoing, an aggregate of only \$500,000 of Net Asset Sale Proceeds may be excluded from the prepayment requirements of this Section 2.12(b) pursuant to clauses (i), (ii), (iii) and (iv) of this Section.

(c) Insurance/Condemnation Proceeds. No later than the first Business Day following the date of receipt by the Borrower or any of its Subsidiaries, or the Agent as loss payee, of any Net Insurance/Condemnation Proceeds, the Borrower shall prepay the Loans as set forth in Section 2.13 in an aggregate amount equal to such Net Insurance/Condemnation Proceeds.

(d) **[Reserved.]**

(e) Prepayment Certificate. Concurrently with any prepayment of the Loans pursuant to Section 2.12(b) or 2.12(c), the Borrower shall deliver to the Agent a certificate of an Authorized Officer demonstrating the calculation of the amount of the applicable net proceeds. In the event that the Borrower shall subsequently determine that the actual amount received exceeded the amount set forth in such certificate, the Borrower shall promptly make an additional prepayment of the Loans in accordance

with Section 2.13 in an amount equal to such excess, and the Borrower shall concurrently therewith deliver to the Agent a certificate of an Authorized Officer demonstrating the derivation of such excess.

Section 2.13 Application of Prepayments. Any amount required to be paid pursuant to Sections 2.12(b) and (c) shall be applied to prepay the Term Loans.

Section 2.14 General Provisions Regarding Payments.

(a) Payments. All payments by the Borrower of principal, interest, fees and other Obligations shall be made to the Agent for the benefit of the Lenders in Dollars in same day funds, without defense, setoff or counterclaim, free of any restriction or condition, and delivered to the Agent not later than 2:00 p.m. (New York City time) on the date due at the Agent's Principal Office without presentment, demand, protest or notice or any kind, all of which are expressly waived by the Borrower.

(b) Non-Conforming Payments. The Agent shall deem any payment by or on behalf of the Borrower that is not made to the Agent in same day funds prior to 2:00 p.m. (New York City time) to be a non-conforming payment. Any such payment shall not be deemed to have been received by the Agent until the later of (i) the time such funds become available funds and (ii) the applicable next Business Day. The Agent shall give prompt telephonic notice to the Borrower and each applicable Lender (confirmed in writing) if any payment is non-conforming. To the extent any non-conforming payment may be deemed to have been received on a date after the date such payment was due hereunder pursuant to the provisions of this Section 2.14(b), such failure of such payment to have been made when due will constitute or become a Default or Event of Default to the extent so provided under the terms of Section 8.1. Interest shall continue to accrue on any principal as to which a non-conforming payment is made until such funds become available funds (but in no event less than the period from the date of such payment to the next succeeding applicable Business Day) at the rate determined pursuant to Section 2.7 from the date such amount was due and payable until the date such funds become available funds (but in no event less than the period from the date of such payment to the next succeeding applicable Business Day).

(c) Payments to Include Accrued Interest. All payments in respect of the principal amount of any Loan (whether mandatory or optional) shall include payment of accrued interest on the principal amount being repaid or prepaid, and all such payments (and, in any event, any payments in respect of any Loan on a date when interest is due and payable with respect to such Loan) shall be applied to the payment of interest before application to principal.

(d) Distributions by the Agent. The Agent shall promptly distribute to each Lender such Lender's applicable Pro Rata Share of all payments and prepayments of principal and interest due hereunder, together with all other amounts due thereto, including, without limitation, all fees payable with respect thereto, to the extent received by the Agent.

(e) Business Days. Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day (subject to the definition of Interest Period) and such extension of time shall be included in the computation of the payment of interest hereunder.

Section 2.15 Ratable Sharing. If at any time and from time to time there is more than one Lender, the Lenders hereby agree among themselves that, except as otherwise provided in the Collateral Documents with respect to amounts realized from the exercise of rights with respect to Liens on the Collateral, if any of them shall, whether by voluntary payment (other than a voluntary prepayment of Loans made and applied in accordance with the terms hereof), through the exercise of any right of set-off or banker's lien, by counterclaim or cross action or by the enforcement of any right under the Credit Documents or otherwise, or as adequate protection of a deposit treated as cash collateral under the Bankruptcy Code, receive payment or reduction of a proportion of the aggregate amount of principal, interest, fees and other amounts then due and owing to such Lender hereunder or under the other Credit Documents (collectively, the "Aggregate Amounts Due" to such Lender) which is greater than the proportion received by any other Lender in respect of the Aggregate Amounts Due to such other Lender, then the Lender receiving such proportionately greater payment shall (a) notify the Agent and each other Lender of the receipt of such payment and (b) apply a portion of such payment to purchase participations (which it shall be deemed to have purchased from each seller of a participation simultaneously upon the receipt by such seller of its portion of such payment) in the Aggregate Amounts Due to the other Lenders so that all such recoveries of Aggregate Amounts Due shall be shared by all the Lenders in proportion to the Aggregate Amounts Due to them; provided, if all or part of such proportionately greater payment received by such purchasing Lender is thereafter recovered from such Lender upon the bankruptcy or reorganization of the Borrower or otherwise, those purchases shall be rescinded and the purchase prices paid for such participations shall be returned to such purchasing Lender ratably to the extent of such recovery, but without interest. The Borrower expressly consents to the foregoing arrangement and agrees that any holder of a participation so purchased may exercise any and all rights of banker's lien, set-off or counterclaim with respect to any and all monies owing by the Borrower to that holder with respect thereto as fully as if that holder were owed the amount of the participation held by that holder.

Section 2.16 Termination or Reduction of Commitments. Unless previously terminated, each of the Commitments automatically shall terminate on the Maturity Date. Upon the making of any Term Loan, each Term Loan Lender's Term Loan Commitment shall be permanently reduced by an amount equal to the principal amount of such Term Loan.

ARTICLE III Conditions Precedent; Conditions Subsequent

Section 3.1 Conditions Precedent; Closing Date. The obligation of any Lender to make any Loan and the other financial accommodations described herein on the Closing Date is subject to the satisfaction, or waiver in accordance with Section 10.1, of the following conditions on or before the Closing Date:

(a) Certificate. The Lenders shall have received a certificate of the secretary or assistant secretary, the chief executive officer, the authorized signatory, the manager or the general partner, as the case may be, of the Borrower substantially in the form of Exhibit C, with respect to (i) the articles of incorporation or certificate of formation, as the case may be, of the Borrower, (ii) the bylaws, operating agreement or limited partnership agreement, as the case may be, of the Borrower, (iii) the resolutions of the board of directors, manager or general partner, as the case may be, of the Borrower approving each Credit Document to which the Borrower is a party and the other documents to be delivered by the Borrower under the Credit Documents and the performance of the obligations of the Borrower thereunder, and (iv) the names and true signatures of the officers of the Borrower or such other persons authorized to sign each Credit Document to which the Borrower is a party and the other documents to be delivered by it under the Credit Documents.

(b) Organizational and Capital Structure. On the Closing Date, the organizational structure and the capital structure of the Borrower and its Subsidiaries, shall be as set forth in Section 4.1(m) and Schedule 4.1(m).

(c) Good Standing Certificates. The Lenders shall have received a good standing certificate from the applicable Governmental Body of each jurisdiction of incorporation, organization or formation of the Borrower and in each jurisdiction in which it is qualified as a foreign corporation or other entity to do business, each dated a recent date prior to the Closing Date.

(d) **[Reserved.]**

(e) **[Reserved.]**

(f) **[Reserved.]**

(g) Closing Date Certificate. The Agent shall have received an executed Closing Date Certificate, in the form of Exhibit D (the "Closing Date Certificate"), from the Borrower, together with any attachments thereto.

(h) UCC Financing Statements and IP Filings. The Agent shall have received UCC financing statements and intellectual property lien filings duly authorized by each applicable Credit Party with respect to all personal, real and mixed property Collateral of such Credit Party, for filing in all jurisdictions as may be necessary or, in the opinion of the Lenders, desirable, to perfect the security interests created in such Collateral pursuant to the Collateral Documents.

(i) Collateral Documents; Notes. The Lenders shall have received duly executed original copies of the Security Agreement, the Intellectual Property Security Agreements and the Notes. The financing statements and other Credit Documents related to perfection of the security interest and Liens of the Agent and the Lenders in the Collateral shall have been filed in all appropriate jurisdictions (or arrangements for such filings acceptable to the Agent shall have been made).

(j) Security Collateral. The Agent shall have received the Security Agreement, certificates, instruments and promissory notes (which certificates, instruments and promissory notes shall be accompanied by instruments of transfer or assignment duly endorsed in blank and otherwise in form and substance satisfactory to the Agent and the Lenders) representing or evidencing all negotiable documents, instruments, tangible chattel paper, certificated securities and certificates of title covering goods included in the Collateral and pledged pursuant to the Collateral Documents, except as otherwise provided by Section 3.3.

(k) Other Actions to Perfect Security Interests. The Lenders shall have received evidence that each Credit Party shall have taken or caused to be taken any other action, executed and delivered or caused to be executed and delivered any other agreement, document and instrument, and made or caused to be made any other filing and recording (other than as set forth herein), reasonably required by the Agent and the Lenders to perfect, and to ensure the perfection of, their security interests in the Collateral with the priority required by the Credit Documents.

(l) Other Information. The Agent and the Lenders shall have received any other financial or non-financial information regarding the Borrower and its Subsidiaries as the Agent or any Lender may reasonably request.

(m) Proceedings. All proceedings taken or to be taken in connection with the transactions contemplated by this Agreement shall be satisfactory to the Agent and the Lenders and their counsel.

(n) Fees and Costs. The Borrower shall have (i) paid all fees and reasonable out-of-pocket expenses of the Lenders and the Agent incurred in connection with this Agreement and the other Credit Documents, including the reasonable fees, costs and expenses of Jones Day, as counsel to the Agent and the Lenders, and any other reasonable attorneys' fees, costs and expenses of local counsel to the Agent and the Lenders, and (ii) remitted to Jones Day the amounts required pursuant to Section 10.3(b).

(o) **[Reserved.]**

(p) Controlled Account Agreements. The Agent and the Lenders shall have received a duly executed Controlled Account Agreement, in form and substance satisfactory to the Lenders, with respect to each Deposit Account of the Borrower and each Guarantor.

(q) Evidence of Insurance. The Agent and the Lenders shall have received a certificate from the Borrower's insurance broker or other evidence satisfactory to it that all insurance required to be maintained pursuant to Section 5.1(h) is in full force and effect and that the Agent, for the benefit of the Lenders and the Agent, has been named as additional insured and loss payee thereunder.

(r) Lien Search Results. The Agent and the Lenders shall received UCC, Lien, judgment and intellectual property lien searches from all jurisdictions requested by Agent, the results of which shall be satisfactory to Agent and the Lenders.

(s) Legal Opinion The Agent and the Lenders shall have received favorable written opinions of Goodwin Procter, LLP, and Le Clair Ryan, in each case, in form and substance satisfactory to Agent and the Lenders, covering such matters requested by the Agent or its counsel.

(t) Subordinate Documents. The Agent and the Lenders shall have received copies of the Subordinate Documents, duly executed by the parties thereto and in form and substance satisfactory to the Lenders, certified as true and correct by an Authorized Officer of the Borrower.

(u) Consent of Subordinate Note Holders. The Agent and the Lenders shall have received evidence satisfactory to each of them that each of the Subordinate Note Holders as of the Closing Date shall have consented to the transactions contemplated by the Credit Documents, all of the provisions and matters set forth in the Subordinate Document Amendment and the Subordination Agreement and such other matters as the Agent may request, and that the Subordinate Document Amendment and the Subordination Agreement are in full force and effect as of the Closing Date.

(v) Subordination Agreement. The Agent and the Lenders shall have received the Subordination Agreement, duly executed and delivered by the Borrower and the Note Agent.

(w) Initial Budget; Pro Forma Balance Sheet. The Borrower shall have delivered to the Agent and each of the Lenders (i) the Initial Budget in form and substance satisfactory to the Agent, and (ii) a pro forma consolidated balance sheet of the Borrower and its Subsidiaries prepared as at the Closing Date and in form and substance satisfactory to the Agent, such balance sheet (A) to be prepared in accordance with GAAP (except that such balance sheet is not required to contain all the footnote disclosures required in accordance with GAAP and may be subject to normal year-end audit adjustments) and after taking into account and giving effect to the Loans and all impairment, depreciation, amortization and other charges and writedowns of asset book values required to have been or be made in accordance with GAAP and (B) such balance sheet to be accompanied by a Financial Officer Certification.

(x) Landlord Consents. The Agent shall have received fully-executed landlord consents and waivers, in form and substance acceptable to the Agent in its sole discretion, in respect of the Borrower's Leased Properties located at (i) 8 Marlen Drive, Robbinsville, New Jersey and (ii) 1 South Gold, Robbinsville, New Jersey.

(y) No Material Adverse Change. The Borrower and its Subsidiaries shall have continued to operate its and their businesses in the ordinary course through the Closing Date, and there shall have been no material adverse change with respect to the assets, liabilities, operations, condition (financial or otherwise), business or prospects of

the Borrower or in the value of the Collateral, in each case, in the sole opinion of the Agent.

(z) Intercompany Subordination Agreement. The Agent shall have received a fully-executed original Intercompany Subordination Agreement, in form and substance acceptable to Agent in its sole discretion, in respect of Indebtedness now or hereafter owed by the Borrower and any of its Subsidiaries to any of them.

Section 3.2 Conditions to Each Borrowing. The obligation of each Lender to make any Loan on any Borrowing Date, including the Closing Date, is subject to the satisfaction, or waiver in accordance with Section 10.1, of the following conditions precedent:

(a) Borrowing Certificate. The Agent and the Lenders shall have received a fully executed and delivered Borrowing Certificate, in accordance with Section 2.3. Each Borrowing Certificate shall be executed by an Authorized Officer of the Borrower and delivered to the Agent on a Business Day.

(b) Representations and Warranties. As of such Borrowing Date, the representations and warranties of the Credit Parties contained in the Credit Documents shall be true and correct with on and as of that Borrowing Date, as if made on and as of that Borrowing Date (except to the extent such representations and warranties specifically relate to an earlier date, such representations and warranties were true and correct on and as of such earlier date).

(c) No Default or Event of Default. As of such Borrowing Date, no event shall have occurred and be continuing or would result from the consummation of the applicable Borrowing that would constitute an Event of Default or a Default.

(d) Consents. The Lenders shall have received such Consents and other information, approvals, opinions or documents reasonably requested by the Agent or the Lenders in connection with such Borrowing.

(e) Available Commitment. After making the Loans requested on such Borrowing Date, the aggregate outstanding principal amount of Term Loans shall not exceed the aggregate amount of Term Loan Commitments.

(f) Use of Proceeds. The Borrower shall have confirmed in writing that the proceeds of such Borrowing shall be used only in accordance with the provisions of Section 2.5.

(g) No Material Adverse Effect. Since September 30, 2009, no Material Adverse Effect shall have occurred after giving effect to the making of the Loans, in the sole opinion of the Agent.

Section 3.3 Conditions Subsequent. The Borrower shall satisfy each of the following conditions in the time period provided below therefor:

(a) Pledge of Equity in Foreign Subsidiaries. No later than 10 Business Days after the Closing Date, the Borrower shall deliver to the Agent evidence, in form and substance reasonably acceptable to the Agent, that all actions required under the laws of the jurisdictions of organization of EPV Solar Europe Limited (a nonresident Irish company domiciled in Bermuda) and any other Foreign Subsidiaries directly owned by the Borrower, in each case, to perfect the Agent's Lien in 65% of the outstanding voting Capital Stock and 100% of the outstanding nonvoting Capital Stock owned by the Borrower in such Foreign Subsidiaries shall have been completed, together with a favorable written opinion of the applicable legal counsel for the opinion matters in issue, in form and substance satisfactory to the Agent and the Lenders, covering such matters reasonably requested by the Agent or its counsel.

(b) Release of Liens by Note Agent; Pledge of Additional Collateral. On or prior to December 23, 2009, the Borrower shall deliver to the Agent and the Lenders either (i) evidence satisfactory to the Agent that each of the Subordinate Note Holders shall have released the Liens in favor of the Note Agent in the assets and all outstanding Capital Stock of all direct and indirect Foreign Subsidiaries of the Borrower (except the Capital Stock described in Section 3.3(a) should the Note Agent retain or obtain such Liens and Section 3.3(a) shall be and remain satisfied), or (ii) evidence, in form and substance reasonably acceptable to the Agent, that all actions required under the laws of the jurisdictions of organization of such Foreign Subsidiaries to perfect the Agent's first-priority Lien in any assets and outstanding Capital Stock of such Foreign Subsidiaries that continue to be pledged in favor of the Note Agent (except the Capital Stock described in Section 3.3(a), which must be pledged to the Agent in any circumstance as required thereby) shall have been completed, together with a favorable written opinion of the applicable foreign local counsel, in form and substance reasonably satisfactory to the Agent and the Lenders, covering such matters requested by the Agent or its counsel.

(c) Landlord Consents. The Borrower shall use commercially reasonable efforts to deliver to the Agent, within 10 Business Days after the Closing Date, fully-executed landlord consents and waivers, in form and substance satisfactory to the Agent, in respect of Borrower's Leased Properties located at (i) 276 Bakers Basin Road, Lawrenceville, New Jersey and (ii) 584 Route 130, Yardville, New Jersey.

(d) Notice to Customers of Controlled Accounts. The Borrower shall, within five Business Days after the Closing Date, give written notice to all of its customers and its Domestic Subsidiaries' customers and, if required to maintain Controlled Account Agreements in respect of its Deposit Accounts by Section 5(g)(ii), each of its Foreign Subsidiaries' customers directing each of them to remit payment directly to the Controlled Accounts, and shall thereafter use its commercially reasonable best efforts to cause such customers to do so.

(e) Insurance Endorsements. The Borrower shall, within 10 Business Days after the Closing Date, take all actions reasonably required by the Agent to (i)(x) make each insurance policy of the Borrower payable to the Agent for the benefit of the Lenders, as their interests may appear, in case of loss, or (y) name the Agent, for the benefit of the Lenders, as a named insured under each such policy, and (ii) deliver to the

Agent endorsements, reasonably satisfactory to the Agent in its sole discretion, with respect to such policies.

ARTICLE IV
Representations and Warranties

Section 4.1 Representations and Warranties. In order to induce the Agent and the Lenders to enter into this Agreement and to make each Borrowing to be made thereby, each Credit Party hereby represents and warrants to the Agent and each Lender, on the Closing Date and on each Borrowing Date as follows:

(a) Status; Authorization. Each of the Borrower, its Subsidiaries and each other Credit Party is duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization and is duly qualified and in good standing in every other jurisdiction where it is doing business except where the failure to so qualify could not reasonably be expected to have a Material Adverse Effect, and the execution, delivery and performance by each Credit Party of the Credit Documents (i) are within its respective authority, (ii) have been duly authorized, and (iii) do not conflict with or contravene their respective constitutive documents. The execution, delivery, performance of their respective obligations, and exercise of their respective rights under the Credit Documents by each Credit Party thereto, including, without limitation, the making of the Loans under this Agreement, (y) do not require any Consents that have not been obtained and (z) are not and will not be in conflict with or prohibited or prevented by (A) any Regulation, (B) any corporate governance document, corporate minute or resolution or (C) any instrument, agreement or provision thereof, in each case binding on any of them or affecting any of their property.

(b) Execution and Binding Effect. Upon execution and delivery thereof, each Credit Document shall constitute the legal, valid and binding obligation of each Credit Party which is a party thereto, enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

(c) Properties.

(i) Each of the Borrower and its Domestic Subsidiaries has good and marketable title to all real property owned or purported to be owned by it, in each case free of all Liens other than the Permitted Liens.

(ii) Each of the Borrower and its Domestic Subsidiaries is, or when leases creating Leasehold Properties are executed will be, lawfully possessed of a valid and subsisting leasehold estate in and to its Leasehold Properties which it purports to lease free and clear of all Liens other than the Permitted Liens.

(iii) Except as set forth on Schedule 4.1(c), each of the Borrower and its Subsidiaries enjoys, and will enjoy, peaceful and undisturbed possession of, or

a lease or license to use, all property (subject only to the Permitted Liens) that are necessary for their respective businesses.

(iv) Set forth on Schedule 4.1(c) is a list, as of the date hereof, of all real property held by the Borrower and each of its Subsidiaries, indicating in each case whether the respective property is owned or leased, the identity of the owner or lessee, the location of the respective property.

(v) Each of the Borrower and its Subsidiaries owns, or is licensed or otherwise has the right to use, the Intellectual Property necessary to own and operate its properties and to carry on its business as presently conducted and presently planned to be conducted without conflict with the rights of others, except for such instances of non-compliance that, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

(d) Real Property. Except as set forth in Schedule 4.1(c), neither the Borrower nor any of its Domestic Subsidiaries owns or leases any real property.

(e) **[Reserved.]**

(f) Litigation. Except as set forth on Schedule 4.1(f), there are no legal or other proceedings or investigations pending or, to the Knowledge of Borrower, threatened against the Borrower or any of its Subsidiary or any other Credit Party before any court, tribunal or regulatory authority which could, if adversely determined, alone or together, reasonably be expected to have a Material Adverse Effect.

(g) Governmental Approvals and Filings. No approval, order, consent, authorization, certificate, license, permit or validation of, or exemption or other action by, or filing, recording or registration with, or notice to, any Governmental Body is or will be necessary in connection with the execution and delivery of this Agreement or any other Credit Document, consummation by the Credit Parties of the transactions herein or therein contemplated, or performance of or compliance with the terms and conditions hereof or thereof, other than the filings and recordations contemplated by the Collateral Documents. None of the Borrower or any of its Subsidiaries is subject to regulation under the Public Utility Holding Company Act of 2005, the Federal Power Act, the Interstate Commerce Act or the Investment Company Act of 1940 or to any federal, state or provisional statute or regulation limiting the Borrower's ability to incur Indebtedness for money borrowed. None of the Borrower, any of its Subsidiaries or any other Credit Party is an "investment company" or a company "controlled" by an "investment company", with the meaning of the Investment Company Act of 1940, as amended.

(h) Absence of Conflicts. The execution and delivery by each Credit Party of this Agreement and each other Credit Document to which it is a party and performance by it hereunder and thereunder will not violate any law (including, without limitation, Regulations T, U and X of the Federal Reserve Board) and will not conflict with or result in a breach of any order, writ, injunction, resolution, decree or other

similar document or instrument of any court or Governmental Body or its certificate of incorporation or by-laws or similar constituent documents or create (with or without the giving of notice or lapse of time, or both) a default under or breach of any material agreement, bond, note or indenture, in each case to which it is a party (by successor in interest or otherwise), or by which it is bound or any material portion of its properties or assets is affected, or, except under the Collateral Documents, result in the imposition of any Lien (other than Permitted Liens) of any nature whatsoever upon any of the properties or assets owned by or used in connection with the business of the Borrower and its Subsidiaries.

(i) Collateral. From and after the execution and delivery of the Collateral Documents and the filing of the documents thereby required, the Agent, on behalf of the Lenders, shall have first-priority perfected security interests and Liens in and to all of the Collateral, free and clear of any Liens other than the Permitted Liens, and entitled to priority under applicable law, with no financing statements, hypothecations, chattel mortgages, real estate mortgages or similar filings on record with respect to any Credit Party or Collateral anywhere other than such filings in connection with this Agreement, the Collateral Documents or the Permitted Liens. Each of the representations and warranties made by each Credit Party in each Collateral Document to which it is a party is true and correct in all material respects as of each date made or deemed made.

(j) Partnerships, Etc. Except as set forth on Schedule 4.1(j), none of the Borrower or any of its Subsidiaries is a partner (general or limited) of any partnership, is a party to any Joint Venture or owns (beneficially or of record) any equity or similar interest in any similar Person (including, without limitation, any interest pursuant to which the Borrower or any of its Subsidiaries has or may in any circumstance have an obligation to make capital contributions to, or be generally liable for or on account of the liabilities, acts or omissions of such other Person) other than, in each case, such arrangement solely between and/or among the Borrower and any of its Subsidiaries.

(k) Fiscal Year. Each fiscal year of the Borrower and each of its Subsidiaries begins on January 1 of each calendar year and ends on December 31 of each calendar year.

(l) Subsidiaries.

(i) Schedule 4.1(l) sets forth a true, correct and complete list, as of the Closing Date, of each Subsidiary of the Borrower, showing as to each such Subsidiary (A) the jurisdiction of its organization and jurisdictions in which it is qualified to do business, (B) the number of shares of Capital Stock of each class (1) authorized and (2) issued and outstanding, (C) the percentage of the outstanding shares of Capital Stock of each such Subsidiary owned directly or indirectly by the Borrower, (D) the names of the record holders of each class of outstanding shares of Capital Stock of each such Subsidiary and the number of such shares held by each such holder, (E) the number of shares of Capital Stock of each such Subsidiary covered by all outstanding options, warrants, rights of conversion or purchase, and similar rights, (F) the percentage of those options,

warrants or rights owned directly or indirectly by the Borrower or such other Persons, and (G) the names of the record holders of such options, warrants and rights and the number of such options, warrants and rights held by each such holder.

(ii) None of the Borrower's Subsidiaries (except for EPV Solar Germany GmbH) has any assets or operations, other than (i) any equity interests that they may hold in other Subsidiaries, (ii) minimal administrative operations and corporate formalities necessary to preserve their corporate or other organizational existence and (iii) Indebtedness as set forth on Schedule 6.1(a). To the best of Borrower's Knowledge, neither of Heliodomi, S.A. nor Solar +, Producao de Paneis Solares, S.A. is Solvent, and the Borrower, in good faith and in its reasonable, informed opinion, does not believe its Investments in these two entities represent any material value to the Borrower and does not expect to receive any return on its Investments in either of such entities.

(m) Capitalization.

(i) The Borrower, each Guarantor, each other Credit Party and each other Subsidiary or holder listed in Schedule 4.1(l) is the record and beneficial owner of all of the issued and outstanding shares of Capital Stock of each of the Subsidiaries listed on Schedule 4.1(l) as being owned by the Borrower, such Guarantor, such other Credit Party or such other Subsidiary or other holder listed therein; in each case all of such shares have been duly authorized and are fully paid and non-assessable, free and clear of all claims, Liens, pledges and encumbrances of any kind; there are no proxies, irrevocable or otherwise, with respect to such shares; no equity securities of any of the Subsidiaries are or may become required to be issued by reason of any options, warrants, rights to subscribe to, calls or commitments of any kind or nature; and there are no contracts, commitments, understandings or arrangements by which any Subsidiary is or may become bound to issue additional shares of its Capital Stock or securities convertible into or exchangeable for such shares.

(ii) Schedule 4.1(m) sets forth as of the Closing Date with respect to the Borrower (A) the jurisdiction of the Borrower's organization and the jurisdictions in which it is qualified to do business, (B) the number of shares of Borrower's Capital Stock of each class (1) authorized and (2) issued and outstanding and (C) the number of shares of Capital Stock covered by all outstanding options, warrants, rights of conversion or purchase, and similar rights. In each case, all such shares have been duly authorized and are fully paid and nonassessable, free and clear of all claims, Liens, pledges and encumbrances of any kind.

(iii) Except as set forth on Schedule 4.1(l) or 4.1(m), no equity securities of the Borrower or any Subsidiary is or may become required to be issued by reason of any options, warrants, rights to subscribe to, calls or commitments of any kind or nature; and there are no contracts, commitments,

understandings or arrangements by which the Borrower, or any Subsidiary is or may become bound to issue additional shares of its Capital Stock or securities convertible into or exchangeable for such shares.

(n) Material Misstatements and Omissions. There are no facts pertaining to the Borrower or any of its Subsidiaries, its assets or properties or its businesses which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect and which have not been disclosed in the Credit Documents. None of the representations or warranties of the Borrower, any of its Subsidiaries or any other Credit Party contained in the Credit Documents is untrue or incorrect in any material respect when made and on the Closing Date. There is no information, as of the Closing Date, which would contradict or is inconsistent in any material respect with any representation or warranty of the Borrower, any of its Subsidiaries or any other Credit Party contained in or delivered pursuant to the Credit Documents. Any projections and pro forma financial information contained in or delivered pursuant to any Credit Document (including the Initial Budget and each subsequent Budget) or any other document, certificate or written statement furnished to the Agent or any Lender pursuant to any Credit Document are based upon good faith estimates and assumptions believed by the Borrower to be reasonable at the time made, it being recognized by the Agent and the Lenders that any projections as to future events contained therein are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results (provided that nothing in this clause (n) shall operate to eliminate or derogate any of the Borrower's obligations under the Credit Documents, including, without limitation, Sections 5.1(a)(vi) and 6.2).

(o) Budgets. All facts in the Initial Budget and each subsequent Budget (when delivered) are accurate and the Borrower has disclosed to the Agent and each Lender all material assumptions in the Initial Budget and each subsequent Budget (when delivered). After giving effect to the Loans to be made on the Closing Date, the Borrower believes, in good faith and in the exercise of its commercially reasonable judgment, that it has or will have sufficient capital and funds to pay and satisfy the expenses, obligations and liabilities of the Borrower and its Subsidiaries as set forth, as and when provided to be paid or satisfied, in the Initial Budget and each Applicable Subsequent Budget.

(p) Labor Practices. Except as described in Schedule 4.1(p), neither the Borrower nor any of its Subsidiaries is engaged in any unfair labor practice that could reasonably be expected to have a Material Adverse Effect. There is no (i) no unfair labor practice complaint pending against the Borrower or any of its Subsidiaries or to their knowledge threatened against any of them before the National Labor Relations Board and no grievance or arbitration proceeding arising out of or under any collective bargaining agreement that is so pending against the Borrower or any of its Subsidiaries or to their knowledge threatened against any of them, (ii) no strike or work stoppage in existence or to their knowledge threatened involving the Borrower or any of its Subsidiaries, and (iii) no union representation question existing with respect to the employees of the Borrower or any of its Subsidiaries, as the case may be, and no union organization activity that is taking place, except (with respect to any matter specified in

clause (i), (ii) or (iii) above, either individually or in the aggregate) such as could not reasonably likely to have a Material Adverse Effect.

(q) Employee Benefits. Except as set forth on Schedule 4.1(q), (i) the Borrower, each of its Subsidiaries, each other Credit Party and each of their ERISA Affiliates are in substantial compliance with all applicable provisions and requirements of ERISA and the Internal Revenue Code and the regulations and published interpretations thereunder with respect to each Employee Benefit Plan, and have performed all their obligations under each Employee Benefit Plan, except where the failure to perform such obligations could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; (ii) no material liability to the PBGC (other than required premium payments), the Internal Revenue Service, any Employee Benefit Plan or any Trust established under Title IV of ERISA has been or is reasonably expected to be incurred by the Borrower or any of its Subsidiaries or any of their ERISA Affiliates, other than contributions required to be made to Employee Benefit Plans or Trusts; (iii) no ERISA Event has occurred or is reasonably expected to occur which could reasonably be expected to have a Material Adverse Effect; and (iv) the Borrower, each of its Subsidiaries, each other Credit Party and each of their ERISA Affiliates have complied with the requirements of Section 515 of ERISA with respect to each Multiemployer Plan and are not in material "default" (as defined in Section 4219(c)(5) of ERISA) with respect to payments to a Multiemployer Plan). Except to the extent required under Section 4980B of the Internal Revenue Code or similar state laws, no Employee Benefit Plan provides health or welfare benefits (through the purchase of insurance or otherwise) for any retired or former employee of the Borrower, any of its Subsidiaries, any other Credit Party or any of their respective ERISA Affiliates. Each Employee Benefit Plan that is intended to qualify under Section 401(a) of the Internal Revenue Code is the subject of a favorable determination, opinion or advisory letter from the Internal Revenue Service.

(r) Environmental Matters.

(i) Except as set forth on Schedule 4.1(r), none of the Borrower, any of its Subsidiaries or any other Credit Party has any Environmental Liabilities at any Relevant Property, which individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(ii) The Borrower, each of its Subsidiaries and each other Credit Party: (A) has operated its business in compliance with all applicable Environmental Laws; (B) has obtained all Environmental Permits required by applicable Environmental Laws for the ownership and operation of its properties, and all such Environmental Permits are in full force and effect or such Person has made all appropriate filings for issuance or renewal of such Environmental Permits; (C) is not aware of any acts, omissions, events or circumstances that may interfere with or prevent continued compliance with the Environmental Laws and Environmental Permits referred to in the preceding clauses (A) and (B); (D) has not received notice of any asserted or threatened claim, action, suit, proceeding, hearing, investigation or request for information relating to any environmental

matter; and (E) has not received notice from any Governmental Body that the Borrower, any of its Subsidiaries or any other Credit Party is a potentially responsible party under any Environmental Law at any disposal site containing Hazardous Materials, nor received any notice that any lien under any Environmental Law against any property of the Borrower or any of its Subsidiaries exists, in each case, except for matters set forth on Schedule 4.1(r) and matters, which individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

(s) Insurance. The policies, binders or self-insurance programs for fire, liability, product liability, workmen's compensation, vehicular and other insurance currently held by or on behalf of the Borrower and each of its Subsidiaries insure its material properties and business activities against such losses and risks as are adequate to protect its properties in accordance with customary industry practice when entered into or renewed. As of the date hereof, all such policies, binders and self-insurance programs are in full force and effect. As of the date hereof, except as set forth on Schedule 4.1(s), none of the Borrower or any of its Subsidiaries has received notice from any insurer or agent of such insurer that substantial capital improvements or other expenditures are required. As of the date hereof, none of the Borrower or any of its Subsidiaries has received notice of cancellation of any material insurance policy or binder.

(t) Intellectual Property. Except as set forth on Schedule 4.1(t), the Borrower and each of its Subsidiaries owns or licenses or otherwise has the right to use all Intellectual Property necessary for the operation of its business as presently conducted or proposed to be conducted. As of the date hereof, the Borrower and its Subsidiaries do not have any Intellectual Property registered, or subject to pending applications, in the United States Patent and Trademark Office or any similar office or agency in the United States, any State thereof, any political subdivision thereof or in any other country, other than those described in Schedule 4.1(t) and has not granted any licenses with respect thereto other than as set forth in Schedule 4.1(t). No event has occurred which permits or would permit after notice or passage of time or both, the revocation, suspension or termination of such rights. Except as set forth on Schedule 4.1(t), to the best of the Borrower's and its Subsidiaries' knowledge, no slogan or other advertising device, product, process, method, substance or other Intellectual Property or goods bearing or using any Intellectual Property presently contemplated to be sold by or employed by the Borrower or any of its Subsidiaries infringes any patent, trademark, servicemark, tradename, copyright, license or other Intellectual Property owned by any other Person presently and no claim or litigation is pending or threatened against or affecting the Borrower or any of its Subsidiaries contesting its right to sell or use any such Intellectual Property. Schedule 4.1(t) sets forth all of the agreements or other arrangements of the Borrower and each of its Subsidiaries pursuant to which the Borrower or such Subsidiary has a license or other right to use any trademarks, logos, designs, representations or other Intellectual Property owned by another Person as in effect on the date hereof and the dates of the expiration of such agreements or other arrangements of the Borrower or such Subsidiary as in effect on the date hereof (collectively, together with such agreements or other arrangements as may be entered

into by the Borrower or any of its Subsidiaries after the date hereof, collectively, the "License Agreements" and individually, a "License Agreement"). As of the date hereof, all material license and related rights are in full force and effect, no default or event of default exists with respect thereto in respect of the obligations of licensor or with respect to any royalty or other payment obligations of the Borrower or any of its Subsidiaries or any obligations of the Borrower or any of its Subsidiaries with respect to manufacturing standards, quality control or specifications and the Borrower or any of its Subsidiaries thereto is in compliance with the terms thereof in all material respects and no owner, licensor or other party thereto has sent any notice of termination or its intention to terminate such license or rights.

(u) Absence of Events of Default and Material Adverse Effect. No event has occurred and is continuing and no condition exists which constitutes a Default or Event of Default; and since September 30, 2009, the consolidated book value of the Borrower's and its Subsidiaries' consolidated assets determined in accordance with GAAP, and of each specific category of assets comprising such consolidated assets, has not decreased by fifty percent (50%) or more compared to the corresponding book values thereof (on an aggregate or specific asset category basis) determined in accordance with GAAP and set forth in the consolidated balance sheet of the Borrower and its Subsidiaries as at September 30, 2009 (which balance sheet the Borrower has previously provided to the Agent, and the Borrower hereby represents was prepared in accordance with GAAP, except for the absence of footnote disclosures and normal year-end audit adjustments required in accordance with GAAP), which comparison has been made after taking into account and giving effect to all impairment, depreciation, amortization and other charges and writedowns of asset book values required to have been or be made in accordance with GAAP (regardless of whether actually made) since September 30, 2009. Since the Closing Date, no Material Adverse Effect has occurred.

(v) Absence of Other Defaults. Except as disclosed on Part I of Schedule 4.1(v), none of the Borrower, any of its Subsidiaries or any other Credit Party is in default under any agreement, ordinance, resolution, judicial decree, bond, note, indenture, order or judgment to which it is a party (by successor in interest or otherwise) or by which it is bound, or any other agreement or other instrument by which any of the properties or assets owned by it or used in the conduct of its business is affected, which individually or in the aggregate could reasonably be expected to have a Material Adverse Effect. Except as disclosed on Part II of Schedule 4.1(v), the Borrower, each of its Subsidiaries and each other Credit Party has complied and is in compliance in all respect with all laws, except for such instances of non-compliance that, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

(w) Material Contracts. Schedule 4.1(w) sets forth a true, correct and complete list and description of all the Material Contracts, as of the Closing Date, to which the Borrower or any of its Subsidiaries is a party. Except as set forth on Part II of Schedule 4.1(v), none of the Borrower or any of its Subsidiaries is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any of the Material Contracts, and no condition exists which, with the giving of notice or the lapse of time or both, could constitute such a default,

except where the consequences, direct or indirect, of such default or defaults, if any, could not reasonably be expected to have a Material Adverse Effect.

(x) Brokerage Fees. Except as set forth on Schedule 4.1(x), no broker's or finder's fee or commission will be payable with respect to the execution and delivery of this Agreement and the other Credit Documents, and no other similar fees or commissions will be payable by the Credit Parties for any other services rendered to the Credit Parties ancillary to the credit transactions contemplated herein.

(y) Margin Regulations. No part of the proceeds of the Loans issued hereunder will be used for the purpose of buying or carrying any Margin Stock or to extend credit to others for the purpose of buying or carrying any Margin Stock, in either case in a manner which would violate or conflict with Regulations T, U or X of the Board Governors of the Federal Reserve System. No Credit Party is engaged in the business of extending credit to others for the purpose of buying or carrying Margin Stock. Neither the making of the Loans nor any use of proceeds of any such Loans will violate or conflict with the provisions of Regulations T, U or X of the Board of Governors of the Federal Reserve System, as amended from time to time.

(z) Taxes. The Borrower, each of its Subsidiaries and each other Credit Party has filed all federal and other material Tax returns required to be filed by it and has not failed to pay any material taxes, or interest and penalties relating thereto, on or before the due dates thereof except for Taxes not yet due and except for those the amount or validity of which is currently being contested in good faith by appropriate proceedings diligently pursued and available to the Borrower or any Subsidiary, as the case may be, and with respect to which adequate reserves have been set aside on its books. Except as may be previously disclosed in writing to the Agent and except to the extent that reserves therefor are reflected in the Financials, (i) there are no material federal, state or local tax liabilities of the Borrower, any of its Subsidiaries or any other Credit Party due or to become due for any tax year ended on or prior to the date hereof relating to the Borrower, any of its Subsidiaries or any other Credit Party, that are not reflected in the Financials delivered pursuant to Section 5.1(a), and (ii) there are no material claims pending, proposed or to the Knowledge of the Borrower threatened against the Borrower, any of its Subsidiaries or any other Credit Party for past federal, state or local taxes, except those, if any, as to which proper reserves in accordance with GAAP are reflected in such Financials.

(aa) USA Patriot Act; Etc. Each Credit Party is in compliance in all material respects with the USA Patriot Act (Title III of Pub.L. 107-56 (signed into law October 26, 2001)). No part of the proceeds of the extensions of credit 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 federal Foreign Corrupt Practices Act of 1977.

ARTICLE V
Affirmative Covenants

Section 5.1 Affirmative Covenants. Each Credit Party covenants and agrees that until payment in full of all Obligations (other than indemnification obligations for which a claim does not exist as of the applicable date of determination), each Credit Party shall perform, and shall cause each of its Subsidiaries to perform, all the covenants in this Article V applicable to it:

(a) Basic Reporting Requirements. The Borrower shall furnish to the Agent and the Lenders:

(i) as soon as available but in any event within one hundred fifty (150) days after the close of each Fiscal Year, commencing with the Fiscal Year ended December 31, 2009, the audited consolidated Financials of the Borrower and its Subsidiaries for such Fiscal Year, certified by the Borrower's accountants;

(ii) as soon as available but in any event within forty-five (45) days after the end of each Fiscal Quarter, the unaudited consolidated Financials of the Borrower and its Subsidiaries for such quarter, certified by its chief financial officer pursuant to a Financial Officer Certification;

(iii) as soon as available but in any event within fifteen (15) Business Days after the end of each fiscal month, the unaudited consolidated Financials of the Borrower and its Subsidiaries for such month, certified by its chief financial officer pursuant to a Financial Officer Certification;

(iv) together with the monthly, quarterly and annual audited consolidated Financials, a certificate of the Borrower setting forth computations demonstrating compliance with the provisions set forth in Section 6.2, and certifying that no Default or Event of Default has occurred, or if a Default or an Event of Default has occurred, the actions taken by the Borrower with respect thereto;

(v) not later than thirty (30) days prior to the end of each Fiscal Year an updated financial projection for the succeeding Fiscal Year;

(vi) on the date hereof and on every Friday following the date hereof until the Maturity Date (or, in the case of any Friday that is not a Business Day, the immediately preceding Business Day), the Borrower agrees to deliver to the Agent and the Lenders a cash-flow budget (such budget, as amended or modified from time to time by mutual agreement between the Borrower and the Lenders, the "Budget") for, (A) in the case of the Budget to be delivered as of the date hereof, the thirteen (13) week period following the date of delivery thereof, and (B) in the case of each other Budget, the eight (8) week period following the date of delivery thereof, which Budget, in each case, shall be reasonably satisfactory to the Lenders;

(vii) **[Reserved]**;

(viii) at any time and from time to time the Borrower or any Guarantor acquires an ownership interest in any real property or an interest in any Leasehold Property, it shall promptly deliver to the Agent a written notice of such acquisition and copies of the documentation evidencing such acquisition and such ownership interest or interest in Leasehold Property;

(ix) on each Friday (or, in the case of any Friday that is not a Business Day, the immediately preceding Business Day) following the date hereof until all Obligations (other than indemnification obligations for which a claim does not exist as of the applicable date of determination) have been paid in full, the Borrower agrees to deliver to the Agent and the Lenders a Weekly Variance Report for the immediately preceding week ending on such Friday (or, if such Friday is not a Business Day, the immediately preceding Business Day); and

(x) at any time and from time to time that the Borrower receives any written notice from the Note Agent, the Borrower shall immediately provide a copy of such notice to the Agent, and the Borrower shall provide to the Agent copies of all reports, certificates and notices that the Borrower may provide to the Note Agent or otherwise pursuant to the Subordinate Documents simultaneously therewith.

(b) Visitation; Verification. The Borrower, each of its Subsidiaries and each of the other Credit Parties shall keep true and accurate books of account in accordance with GAAP and shall permit the Agent and, if an Event of Default has occurred and is continuing, any Lender, or any of their designated representatives, upon reasonable notice and at the expense of the Borrower, during normal business hours to visit and inspect the premises of the Borrower, any of its Subsidiaries and/or other Credit Party, to examine the books of account of any such Persons and their Subsidiaries (and to make copies and/or extracts therefrom) and to discuss the affairs, finances and accounts of such Persons and their Subsidiaries with, and to be advised as to the same by, the managers, executives and officers of such Persons and to be advised as to such or other business records upon the request of the Agent and/or Lender. Notwithstanding the foregoing, so long as no Event of Default has occurred and is continuing, the Borrower shall not be responsible for the cost and expense of more than two (2) such visitations and inspections per Fiscal Year.

(c) Existence; Maintenance of Properties; Compliance with Regulations. The Borrower, each of its Subsidiaries and each of the other Credit Parties shall maintain its corporate/legal existence and business, maintain its assets in good operating conditions and repair (subject to ordinary wear and tear and casualty damage and to all provisions of this Agreement permitting sales of certain of the Borrower's assets), keep its business and assets adequately insured, maintain its chief executive office in the United States, continue to engage in the same or substantially similar lines of business, and comply in all respects with all Regulations, including without limitation, ERISA and Environmental Laws, except (i) any merger, consolidation, liquidation or dissolution permitted under Section 6.1(g) or any Asset Sale, or other sales, leases, licenses or other dispositions of property or assets, in each case, as expressly permitted by Section 6.1(g)

and (ii) otherwise where a failure to do so could individually or in the aggregate reasonably be expected to have a Material Adverse Effect.

(d) Notice of Material Events. Each Credit Party shall notify the Agent and the Lenders promptly in writing upon an Authorized Officer becoming aware of any of the following: (i) the occurrence of any Default or Event of Default, (ii) any noncompliance with ERISA or any Environmental Law or proceeding in respect thereof which could reasonably be expected to have a Material Adverse Effect, (iii) any change of chief executive office address of any Credit Party, (iv) any pending or, to the Knowledge of Borrower, threatened litigation or similar proceeding affecting the Borrower, any of its Subsidiaries or any other Credit Party involving claims in excess of \$100,000 in the aggregate or any material change in any such litigation or proceeding previously reported, (v) claims in excess of \$100,000 in the aggregate against any assets or properties of the Borrower, any of its Subsidiaries or any other Credit Party encumbered in favor of the Agent and/or the Lenders, (vi) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect, (vii) any breach of the Indenture or other Subordinate Documents, and (viii) not less than two Business Days prior thereto, consummation of any of the transactions contemplated by the AKART LOI and the R&R LOI.

(e) Use of Proceeds. The Borrower, each of its Subsidiaries and each other Credit Party shall use the proceeds of the Loans only as permitted by Section 2.5 hereof (for the avoidance of doubt, the proceeds of the Loans shall not be used for the purpose of purchasing or carrying of "margin security" or "margin stock" within the meaning of Regulations U and X of the Board of Governors of the Federal Reserve System, 12 C.F.R. Parts 221 and 224). Except as expressly permitted by Section 2.5, the Borrower shall not transfer any of the proceeds of the Loans to, nor use any such proceeds for the benefit of, any of its Subsidiaries that is not a Guarantor hereunder.

(f) Further Assurances.

(i) The Borrower, each of its Subsidiaries and each of the other Credit Parties shall cooperate with the Agent, take such action, execute such documents, and provide such information as the Agent may from time to time reasonably request in order to effect the transactions contemplated by and the purposes and intent of the Credit Documents.

(ii) The Borrower, each of its Subsidiaries and each other Credit Party shall promptly, upon request by the Agent or any Lender, correct, and cause each of the other parties to the Credit Documents to promptly correct, any defect or error that may be discovered in any Credit Document or in the execution, acknowledgment or recordation of the Credit Document. Promptly upon request by the Agent or the Required Lenders, the Borrower, each of its Subsidiaries and each other Credit Party shall execute, authorize, acknowledge, deliver, record, file and register, any and all such further acts, deeds, conveyances, documents, security agreements, pledge agreements, mortgages, deeds of trust, trust deeds, assignments, financing statements and continuations, notices of assignment,

transfers, certificates, assurances and other instruments as the Agent or the Required Lenders may require from time to time in order to carry out more effectively the purposes and intent of each Credit Document. Without limiting the foregoing, the Borrower, each of its Subsidiaries and/or each other Credit Party shall (A) authorize the filing by the Agent of UCC-1 financing statements for all jurisdictions deemed necessary or desirable by the Agent, and (B) take such action from time to time (including, without limitation, authorizing, filing, executing and/or delivering such assignments, security agreements and other instruments) as shall be reasonably requested by the Agent to create, in favor of the Lenders, to the extent required under the respective Collateral Documents and to the maximum extent permitted under applicable law, a first-priority perfected Lien in all of the Collateral, subject only to Permitted Liens.

(iii) In the event that the Agent or the Lenders exercise their rights under the Credit Documents to require after the Closing Date additional Collateral or Guarantees from the Borrower and its Affiliates (other than those contemplated by Section 3.3), the delivery of additional Credit Documents following the Closing Date (other than those contemplated by Section 3.3), or the retention of a Financial Consultant and, in any such case, the Borrower incurs any costs and expenses directly associated therewith that are not otherwise covered by the Applicable Current Budget then in effect, the Borrower, the Agent and the Required Lenders shall use their commercially reasonable efforts to agree upon a new Applicable Current Budget that incorporates such costs and expenses; provided, however, that unless and until the Borrower, the Agent and the Required Lenders can so agree upon such a new Applicable Current Budget, the Applicable Current Budget then in effect shall so remain in effect.

(g) Controlled Account Agreements.

(i) **[Reserved].**

(ii) Except as and to the extent not more than \$150,000 in the aggregate is deposited or maintained in such Deposit Account at any time, the Borrower and each of its Domestic Subsidiaries shall enter into, and if requested by the Agent, each of its Foreign Subsidiaries shall use its commercially reasonable efforts to enter into, an account control agreement in form and substance acceptable to the Agent (each, a "Controlled Account Agreement") as necessary to provide the Agent, to the extent not prohibited by applicable law, with "control" over, except as set forth below, each Deposit Account of such Credit Party or Subsidiary (each, a "Controlled Account") as provided for under Section 9-104 of Article 9 of the UCC (or other applicable law) for the purpose of perfecting the security interest which the Agent has in such Deposit Account pursuant to the Collateral Documents. No arrangement contemplated hereby or by any Controlled Account Agreement in respect of any such Deposit Account of the Borrower, any of its Domestic Subsidiaries or, if applicable, any of its Foreign Subsidiaries shall be modified by such Credit Party without the prior written consent of the Agent.

(iii) The Borrower, each of its Domestic Subsidiaries and, if required to maintain Controlled Account Agreements in respect of its Deposit Accounts by Section 5(g)(ii), each of its Foreign Subsidiaries shall deposit all Account payments into a Controlled Account. The Borrower and each of its Domestic Subsidiaries and, if required to maintain Controlled Account Agreements in respect of its Deposit Accounts by Section 5(g)(ii), each of its Foreign Subsidiaries shall bear all bank charges for the Controlled Accounts.

(iv) Upon the occurrence and during the continuance of an Event of Default, all funds deposited in the Controlled Accounts shall immediately become the property of the Agent, and any disbursements of proceeds in any Controlled Account will only be made at the direction of the Agent; prior to the occurrence of an Event of Default, the Borrower will have access to any funds on deposit in the Controlled Accounts for use solely in accordance with this Agreement and the other Credit Documents. The Agent assumes no responsibility for the Controlled Accounts, including, without limitation, any claim of accord and satisfaction or release with respect to deposits which any banks accept thereunder. Upon the occurrence and during the continuance of an Event of Default, all remittances which the Borrower or any of its Domestic Subsidiaries (and its Foreign Subsidiaries, if required to maintain Controlled Account Agreements in respect of its Deposit Accounts by Section 5(g)(ii)) receives in payment of any Accounts, and the proceeds of any other Collateral, shall be (A) kept separate and apart from such Credit Party's own funds so that they are capable of identification as the Agent's property; (B) held by such Credit Party as trustee of an express trust for the Agent's benefit; and (C) immediately deposited in such accounts designated by the Agent. Upon the occurrence and during the continuance of an Event of Default, all proceeds received or collected by the Agent with respect to Accounts, and reserves and other property of the Borrower and its Domestic Subsidiaries (and its Foreign Subsidiaries, if required to maintain Controlled Account Agreements in respect of its Deposit Accounts by Section 5(g)(ii)) in possession of the Agent at any time or times hereafter, may be held by the Agent without interest to such Credit Party until all Obligations are paid in full or applied by the Agent on account of the Obligations. The Agent may release to the Borrower or any of its Domestic Subsidiaries (and its Foreign Subsidiaries, if required to maintain Controlled Account Agreements in respect of its Deposit Accounts by Section 5(g)(ii)) such portions of such reserves and proceeds as the Agent may determine. The Agent has no duty to protect, insure, collect or realize upon the Accounts to preserve rights in them.

(h) Insurance. The Borrower shall maintain and/or shall cause each of its Subsidiaries to maintain, at its respective expense, and keep in effect with responsible insurance companies, such liability insurance for bodily injury and third-party property damage as is customary in the case of companies engaged in the same or similar business or having similar properties, similarly situated. The Borrower shall, and shall cause each of its Subsidiaries to, keep and maintain, at its expense, its material real and personal property insured against loss or damage by fire, theft, explosion, spoilage and all other risks ordinarily insured against by other owners or users of such properties in

similar businesses in an amount equal to the full replacement or cash value thereof, subject to deductible amounts which the Borrower, in its reasonable judgment, deems prudent. At any time that a Default or an Event of Default has occurred and is continuing, the Agent shall make, settle, and adjust all claims under the Borrower's or any Subsidiary's policies of insurance and make all determinations and decisions with respect to such policies of insurance.

(i) Information Regarding Collateral. The Borrower will furnish to the Agent prompt written notice of any change in (i) any Credit Party's corporate name or any trade name used to identify it in the conduct of its business or any Credit Party's chief executive office, its principal place of business or its jurisdiction of organization, (ii) any Credit Party's identity or corporate structure or (iii) any Credit Party's federal Taxpayer Identification Number. The Borrower will not effect or permit any change referred to in the preceding sentence unless all filings have been made under the UCC and all other actions have been taken that are required so that such change will not at any time adversely affect the validity, perfection or priority of any Lien established under any Credit Document on the Collateral.

(j) Existence; Conduct of Business. The Borrower and each of its Subsidiaries will do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits (including, without limitation, Environmental Permits) privileges, franchises, patent, copyrights, trademarks and trade names material to the conduct of its business, except to the extent that failure to so act, which either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.1(g).

(k) Payment of Obligations. Except for Indebtedness or other obligations (in each case, other than (x) Tax liabilities, (y) obligations in respect of workers' compensation, unemployment insurance and other social security legislation and (z) other Indebtedness and obligations that have resulted in, or could result in, by statute or otherwise, Liens in any of the Collateral that are prior in ranking to, or otherwise pari passu with, any of the Liens in favor of the Agent securing the Obligations) that the Borrower and its Subsidiaries are not permitted to pay at such time in accordance with Section 6.2 and the Applicable Current Budget, the Borrower, each of its Subsidiaries and each other Credit Party will pay its Indebtedness and other obligations, including Tax liabilities, before the same shall become delinquent or in default, except where (i) the validity or amount thereof is being contested in good faith by appropriate proceedings diligently pursued and available to the Borrower or such Subsidiary, as the case may be, (ii) the Borrower or such Credit Party has set aside on its books adequate reserves with respect thereto in accordance with GAAP, (iii) such contest effectively suspends collection of the contested obligation and the enforcement of any Lien securing such obligation and (iv) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

(l) Compliance with Laws. The Borrower, each of its Subsidiaries and each other Credit Party will comply with all laws (including, without limitation, all Environmental Laws), rules, licenses, permits, Regulations and orders of any Governmental Body applicable to it or its property, except where failures to do so, in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(m) Subsidiaries. If any Subsidiary is formed or acquired by the Borrower or any Guarantor after the Closing Date, the Borrower or such Guarantor will, prior to the date upon which such Subsidiary is formed or acquired, notify the Agent and the Lenders thereof and immediately following such formation or acquisition, cause any equity interest in, assets owned or leased by, or Indebtedness owned by or on behalf, of such Subsidiary to be added to the Collateral; provided that if such newly formed Subsidiary is a Foreign Subsidiary, unless requested by the Agent to be pledged, the Borrower or such Guarantor shall only be required to cause only 65% of the voting equity interests thereof (and 100% of the non-voting equity thereof) to be added to the Collateral.

(n) Guarantors. The Borrower shall cause each Domestic Subsidiary and, if requested by the Agent, each Foreign Subsidiary, to become a Guarantor hereunder by (i) executing a joinder to this Agreement in the form of Exhibit E hereto (ii) executing a joinder to the Security Agreement in the form of Exhibit A thereto, and (iii) executing a guaranty in form and substance acceptable to the Agent and the Lenders in their sole discretion (each, a "Guaranty"). Upon delivery of any such joinder and such guaranty to the Agent, notice of which is hereby waived by the Credit Parties, each such Guarantor shall be as fully a party hereto as if such Guarantor were an original signatory hereof. Each Guarantor expressly agrees that its obligations arising hereunder shall not be affected or diminished by the addition or release of any other Guarantor hereunder, nor by any election of the Agent not to cause any Subsidiary of the Borrower to become a Guarantor hereunder. Notwithstanding anything to the contrary contained herein or in any Collateral Document, unless requested by the Agent, the Borrower shall not be required to pledge in favor of the Agent for the benefit of the Lenders any of the Capital Stock that it owns in Heliodomi, S.A. or in Solar +, Producao de Paineis Solares, S.A. in favor of the Agent for the benefit of the Lenders. The Borrower shall not pledge any of its Capital Stock in Heliodomi, S.A. or in Solar +, Producao de Paineis Solares, S.A. to any Person other than in favor of the Agent for the benefit of the Lenders and, if also pledged to the Agent, to the Note Agent pursuant to the Subordinate Documents; provided, that the Borrower may sell, convey or otherwise dispose of its interests in such Persons so long as it prepays the Loans with the Net Asset Sale Proceeds thereof as and to the extent required by Section 2.12(b).

(o) Broker's Claims. The Borrower hereby indemnifies and agrees to hold each Lender and the Agent harmless from and against any and all losses, liabilities, damages, costs and expenses which may be suffered or incurred by such Lender or the Agent, as the case may be, in respect of any claim, suit, action or cause of action now or hereafter asserted by a broker or any Person acting in a similar capacity arising from or in connection with the execution and delivery of this Agreement or any other Credit

Document or Hedge Agreements or the consummation of the transactions contemplated herein or therein. This Section 5.1(o) shall survive termination of this Agreement.

(p) Landlord Consent. Except as otherwise required by Sections 3.1 and 3.3, at the request of the Agent, to the extent that the Borrower or any of its Subsidiaries has or acquires any Leasehold Properties, the Borrower shall use its commercially reasonable efforts to deliver to the Agent such landlord consents or waivers as may be reasonably requested by the Agent within 15 days of any request by the Agent for same.

(q) Compliance with ERISA. The Borrower, each Guarantor and each other Credit Party shall and shall cause its ERISA Affiliates to: (i) maintain each Employee Benefit Plan in compliance in all material respects with the applicable provisions of ERISA, the Internal Revenue Code and other Federal and State law; (ii) cause each Employee Benefit Plan that is intended to be qualified under Section 401(a) of the Internal Revenue Code to maintain such qualification; (iii) not terminate any Pension Plan so as to incur any material liability to the Pension Benefit Guaranty Corporation; (iv) not allow or suffer to exist any prohibited transaction involving any Employee Benefit Plan or any trust created thereunder which would subject the Borrower, such Guarantor, such credit party or such ERISA Affiliate to a material tax or other material liability on prohibited transactions imposed under Section 4975 of the Internal Revenue Code or ERISA; (v) make all required contributions to any Employee Benefit Plan which it is obligated to pay under Section 302 of ERISA, Section 412 of the Internal Revenue Code or the terms of such Employee Benefit Plan; or (vi) not allow or suffer to exist any occurrence of, with respect to any such Pension Plan, an ERISA Event which could reasonably be likely to have a Material Adverse Effect or any other event or condition which presents a material risk of termination by the Pension Benefit Guaranty Corporation of any Employee Benefit Plan that is a single employer plan, which termination could result in any material liability to the Pension Benefit Guaranty Corporation.

(r) Mortgages. At the request of the Agent, to the extent that the Borrower or any of its Subsidiaries has or acquires any ownership interest in real property, the Borrower shall, or shall cause such Subsidiary to, execute and deliver to the Agent, for itself and for the benefit of the Lenders, mortgages, deeds of trust or similar instruments in form and substance satisfactory to the Agent as Agent shall deem necessary or appropriate to grant, evidence and perfect a first priority Lien in such property in favor of the Agent, for itself and for the benefit of the Lenders, together with such other assignments, conveyances, agreements, surveys, appraisals, title insurance policies, environmental assessments and other documents, in each case, as the Agent shall deem necessary or appropriate in connection with same.

(s) Senior Debt Designation. In the event that the Borrower or any other Credit Party shall at any time issue or have outstanding any Indebtedness that by its terms is subordinated to any other Indebtedness of the Borrower or such other Credit Party, the Borrower or such other Credit Party, as applicable, will take all actions necessary to cause the Obligations to constitute senior indebtedness (however denominated) in respect of such subordinated Indebtedness and to enable the Lenders or

the Agent on their behalf to exercise any payment blockage or other remedies available or potentially available to lenders of senior indebtedness under the terms of such subordinated Indebtedness. Without limiting the foregoing, the Obligations are hereby designated as "senior indebtedness" and, to the extent applicable, as "designated senior indebtedness" in respect of all such subordinated Indebtedness and are further given all such other designations as shall be required under the terms of any such subordinated Indebtedness in order that the Lenders or the Agent on their behalf may exercise any payment blockage or other remedies available or potentially available to lenders of senior indebtedness under the terms of such subordinated Indebtedness.

(t) Financial Consultant. Within three (3) Business Days of receiving a written request from the Agent or any Lender, the Borrower shall from time to time and at any time retain and employ, at the Borrower's sole cost and expense, on a full-time or part-time basis as the Agent shall direct, a financial or turnaround consultant acceptable to the Agent to advise the Borrower in connection with the financial matters, operation and improvement of its business (the "Financial Consultant"). The Financial Consultant shall perform, in addition to any requests of the Borrower, such specific duties and actions that the Agent shall request. The Borrower shall fully cooperate with the Financial Consultant, including providing access to the Borrower's and its Subsidiaries' books, records, facilities and officers or directors, such that the Financial Consultant may properly advise the Borrower regarding the improvement of its business and complete any other work requested by the Agent or the Lenders. The Borrower hereby consents to the Agent and/or any Lender contacting the Financial Consultant directly with respect to its review of the Borrower and its Subsidiaries, and hereby agrees that such communications shall not be restricted or denied in any way. In connection with the foregoing, the Financial Consultant and/or the Borrower shall deliver to the Agent and the Lenders copies of all final work product prepared by the Financial Consultant simultaneously with the Financial Consultant's delivery thereof to the Borrower or upon the Borrower's receipt thereof, as applicable, and the Financial Consultant shall provide the Agent and the Lenders with any other work product of the Financial Consultant that the Agent and the Lenders may request. The Agent and the Lenders agree that materials and information furnished to them by the Financial Consultant shall be considered confidential information for purposes of the Credit Agreement. The Borrower shall pay all fees, costs and expenses of, and related to, the Financial Consultant. The Borrower, at its sole cost and expense, shall immediately implement any changes or recommendations identified or made by the Financial Consultant if so requested by the Agent or the Lenders; provided, however, that the Borrower shall not be obligated to implement any such change or recommendation if and only as and to the extent that the Borrower's Board of Directors reasonably believes that the Borrower's implementation of such change or recommendation will violate applicable laws or applicable fiduciary duties of such Directors acting in their capacities as such Directors, which belief of the Board of Directors shall be based upon and consistent with the written opinion of outside counsel to the Borrower and/or such Board of Directors, as applicable (which counsel shall be reasonably satisfactory to the Agent and a copy (or copies) of such opinion(s) shall be provided to the Agent in connection with the Borrower's written notice to the Agent advising the Agent that it will not be implementing such change or recommendation and specifying the reasons therefor).

(u) Transfer of Existing Notes. The Borrower shall immediately, upon request of the Agent, comply with, and execute and deliver (or cause to be executed and delivered) all certificates and documents, provide (or cause to be provided) all legal opinions and take (or cause to be taken) all such other actions required by, the Indenture, applicable law and/or the Note Agent to effect any transfers of the Existing Notes made at any time and from time to time by any of the Subordinate Note Holders to any of the Agent, the Lenders and/or any of their respective affiliates or designees.

ARTICLE VI
Negative Covenants/Financial Covenants

Section 6.1 Negative Covenants. Each such Credit Party covenants and agrees that until all of the Obligations (other than indemnification obligations for which a claim does not exist as of the applicable date of determination) have been paid in full, each Credit Party shall perform, and shall cause each of its Subsidiaries to perform, all covenants in this Section 6.1 applicable to it:

(a) Indebtedness. The Borrower shall not, and shall not permit any Subsidiary to, incur, create, assume, become or be liable in any manner with respect to, or permit to exist, any Indebtedness, or guarantee, assume, endorse, or otherwise become responsible for (directly or indirectly), any Indebtedness, performance, obligations or dividends of any other Person, except:

(i) the Obligations;

(ii) purchase money Indebtedness (including Capital Leases) arising after the date hereof to the extent secured by purchase money security interests in Equipment (including Capital Leases) and purchase money mortgages on real property not to exceed \$100,000 in the aggregate at any time outstanding so long as such security interests and mortgages do not apply to any property of such Borrower, Guarantor or Subsidiary other than the Equipment or real property so acquired, and the Indebtedness secured thereby does not exceed the cost of the Equipment or real property so acquired, as the case may be;

(iii) guarantees by the Borrower or any Guarantor of the Obligations of the Borrower or other Guarantors in favor of the Agent;

(iv) the Indebtedness of the Borrower or any Guarantor to the Borrower or any other Guarantor arising after the date hereof pursuant to loans by the Borrower or any other Guarantor permitted under Section 6.1(e) hereof;

(v) unsecured Indebtedness of the Borrower or any Guarantor arising after the date hereof to any third Person (but not to the Borrower or any other Guarantor) if and only for so long as the Applicable Subordination Agreement applicable to such Indebtedness shall remain in full force and effect and enforceable in all respects against all parties thereto other than the Agent and the Lenders; provided, that, such unsecured Indebtedness shall only be permitted if and only for so long as each of the following conditions is satisfied as determined

by the Agent: (A) such Indebtedness shall be on terms and conditions acceptable to the Agent and shall be subject and subordinate in all respects to the Obligations, including in right of payment to the right of the Agent and the Lenders to receive the prior indefeasible payment and satisfaction in full payment of all of the Obligations, pursuant to the terms of an intercreditor agreement between the Agent and such third party, in form and substance satisfactory to the Agent in its sole discretion, which terms shall be no less favorable to the Agent and the Lenders than the terms set forth in the Subordination Agreement (the intercreditor agreement described in this clause (a)(v)(A) relating to such Indebtedness shall be referred to herein as the "Applicable Subordination Agreement" for such Indebtedness), (B) the Agent shall have received not less than ten (10) days prior written notice of the intention of the Borrower or such Guarantor to incur such Indebtedness, which notice shall set forth in reasonable detail satisfactory to the Agent the amount of such Indebtedness, the Person or Persons to whom such Indebtedness will be owed, the interest rate, the schedule of repayments and maturity date with respect thereto and such other information as the Agent may request with respect thereto, (C) the Agent shall have received true, correct and complete copies of all agreements, documents and instruments evidencing or otherwise related to such Indebtedness, (D) as of the date of incurring such Indebtedness and after giving effect thereto, no Default or Event of Default shall exist or have occurred, (E) the Borrower and such Guarantor shall not, directly or indirectly, except as permitted by the Applicable Subordination Agreement, (1) amend, modify, alter or change the terms of such Indebtedness or any agreement, document or instrument related thereto, except that the Borrower or the Guarantor may, after prior written notice to the Agent, amend, modify, alter or change the terms thereof so as to extend the maturity thereof, or defer the timing of any payments in respect thereof, or to forgive or cancel any portion of such Indebtedness (other than pursuant to payments thereof permitted by the Applicable Subordination Agreement), or to reduce the interest rate or any fees in connection therewith, or (2) make any payments or distributions, or redeem, retire, defease, purchase or otherwise acquire, directly or indirectly, such Indebtedness, (by setoff or otherwise) whether in cash, securities or other property, or set aside or otherwise deposit or invest any sums for such purpose, and (F) the Borrower and the Guarantors shall furnish to the Agent all notices or demands in connection with such Indebtedness either received by the Borrower or any Guarantor or on its behalf promptly after the receipt thereof, or sent by the Borrower or any Guarantor or on its behalf concurrently with the sending thereof, as the case may be (any such Indebtedness permitted by this clause (v) shall be referred to herein as "Permitted Subordinated Indebtedness");

(vi) cash-backed letters of credit in an aggregate amount not to exceed \$100,000;

(vii) guarantee, indemnity, reimbursement and contribution agreements and similar agreements entered into in the ordinary course in connection with performance bonds issued for the account of the Borrower;

(viii) except that (w) Indebtedness outstanding under the Subordinate Documents is only permitted under this Section 6.1 if and to the extent it is permitted by Section 6.1(a)(ix) (and the terms in this clause (viii) shall not be permitted to apply to such Indebtedness), (x) Permitted Subordinated Indebtedness is only permitted under this Section 6.1 if and to the extent it is permitted by Section 6.1(a)(v) (and the terms of this clause (viii) shall not apply to such Permitted Subordinated Indebtedness), and (y) Indebtedness outstanding under Sections 6.1(xi) and (xii) is not permitted by this clause (viii) (and the terms of this clause (viii) shall not apply to any such Indebtedness, the Indebtedness in existence on the date hereof of the Borrower or any Subsidiary as set forth on Schedule 6.1(a) to this Agreement; provided, that, (A) the Borrower and the Guarantors may only make regularly scheduled payments of principal and interest in respect of such Indebtedness in accordance with the terms of the agreement or instrument evidencing or giving rise to such Indebtedness as in effect on the date hereof, (B) the Borrower and the Guarantors shall not, directly or indirectly, (1) amend, modify, alter or change the terms of such Indebtedness or any agreement, document or instrument related thereto as in effect on the date hereof, except that the Borrower and the Guarantors may amend, modify, alter or change the terms thereof so as to extend the maturity thereof, or defer the timing of any payments in respect thereof, or to forgive or cancel any portion of such Indebtedness (other than pursuant to payments thereof), or to reduce the interest rate or any fees or other obligations in connection therewith, or (2) redeem, retire, defease, purchase or otherwise acquire such Indebtedness (except pursuant to regularly scheduled payments permitted herein), or set aside or otherwise deposit or invest any sums for such purpose, and (C) the Borrowers and the Guarantors shall furnish to the Agent all notices or demands in connection with such Indebtedness either received by the Borrower or any Guarantor or on its behalf promptly after the receipt thereof, or sent by the Borrower or any Guarantor or on its behalf concurrently with the sending thereof, as the case may be;

(ix) Indebtedness outstanding under the Indenture, the Existing Notes and the other Subordinate Documents (including any Indebtedness as a result of the capitalization of interest paid in kind (and not in cash) on the Existing Notes) if and only for so long as the Subordination Agreement shall remain in full force and effect and enforceable in all respects against the Note Agent, the other Subordinate Creditors (as defined in the Subordination Agreement) and the Borrower; provided, that, such Indebtedness shall only be permitted if and only for so long as each of the following conditions is satisfied as determined by the Agent: (A) the Agent shall have received true, correct and complete copies of all agreements, documents and instruments evidencing or otherwise related to such Indebtedness, (B) as of the date of incurring any such Indebtedness and after giving effect thereto, no Default or Event of Default shall exist or have occurred, (C) the Borrower and such Guarantor shall not, directly or indirectly, except as permitted by the Subordination Agreement and this Agreement, (1) amend, modify, alter or change the terms of such Indebtedness or any agreement, document or instrument related thereto, except that the Borrower or the Guarantor may, after prior written notice to the Agent, amend, modify, alter or change the

terms thereof so as to extend the maturity thereof, or defer the timing of any payments in respect thereof, or to forgive or cancel any portion of such Indebtedness (other than pursuant to payments thereof permitted by the Subordination Agreement), or to reduce the interest rate or any fees in connection therewith, or (2) make any payments or distributions, or redeem, retire, defease, purchase or otherwise acquire, directly or indirectly, such Indebtedness, (by setoff or otherwise) whether in cash, securities or other property, or set aside or otherwise deposit or invest any sums for such purpose, and (D) the Borrower and the Guarantors shall furnish to the Agent all notices or demands in connection with such Indebtedness either received by the Borrower or any Guarantor or on its behalf promptly after the receipt thereof, or sent by the Borrower or any Guarantor or on its behalf concurrently with the sending thereof, as the case may be;

(x) intercompany Indebtedness from time to time outstanding between one or more direct or indirect Foreign Subsidiaries of the Borrower; provided that (A) if any such Subsidiaries are Credit Parties, such Indebtedness shall be subordinated in all respects pursuant to the terms and conditions of the Intercompany Subordination Agreement and (B) if requested by the Agent, such Indebtedness owed to any Credit Party shall be evidenced by a promissory note in form and substance acceptable to the Agent in its sole discretion and pledged to the Agent, for the benefit of the Lenders, to secure the Obligations;

(xi) unsecured Indebtedness of EPV Solar Germany GmbH, a wholly owned Subsidiary of Borrower, to the federal government of Germany, and guaranteed on an unsecured basis by the Borrower (such guarantee permitted only for so long as EPV Solar Germany GmbH remains a wholly owned Subsidiary of the Borrower), incurred solely for the purpose of purchasing plant, property, equipment and services for EPV Solar Germany GmbH's Senftenberg factory in an aggregate amount not to exceed 17,250,000 euros (such amount not to be increased, reborrowed or refinanced once repaid in whole or in part); and

(xii) Indebtedness of EPV Solar Germany GmbH, a wholly owned Subsidiary of Borrower, to the Borrower in an aggregate amount not to exceed \$350,000 (such amount not to be increased, reborrowed or refinanced once repaid in whole or in part except (x) as permitted by the Applicable Current Budget and Section 6.2 and (y) to the extent that the Investment thereof by the Borrower is permitted by Section 6.1(e)); provided that such Indebtedness may only be incurred (A) to the extent and up to the amount required by the laws of Germany applicable to EPV Solar Germany GmbH relating to minimal capital requirements to maintain the Solvency of such Subsidiary, (B) if such Indebtedness is evidenced by a promissory note in form and substance acceptable to the Agent in its sole discretion and pledged to the Agent, for the benefit of the Lenders, to secure the Obligations, and (C) if such Indebtedness is repaid in full on or before the date the Capital Stock and/or assets of such Subsidiary are sold, transferred or are otherwise not controlled by the Borrower (including pursuant to the transactions contemplated by the AKART LOI and the R&R LOI).

(b) Liens. The Borrower shall not create or incur, or cause any of its Subsidiaries to create or incur, any Liens on any of the property or assets of the Borrower or any of its Subsidiaries of such Person, except (the Liens described in the following clauses (i) through (xvi), the "Permitted Liens"):

(i) the security interests and Liens of the Agent;

(ii) Liens securing the payment of taxes, assessments or other governmental charges or levies either not yet overdue or the validity of which are being contested in good faith by appropriate proceedings diligently pursued and available to the Borrower, or such Subsidiary, as the case may be, and with respect to which adequate reserves have been set aside on its books;

(iii) non-consensual statutory Liens (other than Liens securing the payment of taxes) arising in the ordinary course of the Borrower's or such Subsidiary's business to the extent: (A) such Liens secure Indebtedness which is not overdue or (B) such Liens secure Indebtedness relating to claims or liabilities which are fully insured and being defended at the sole cost and expense and at the sole risk of the insurer or being contested in good faith by appropriate proceedings diligently pursued and available to the Borrower or such Subsidiary, in each case prior to the commencement of foreclosure or other similar proceedings and with respect to which adequate reserves have been set aside on its books;

(iv) zoning and land use restrictions, easements, encumbrances, licenses, covenants and other restrictions affecting the use of real property which do not interfere in any material respect with the use of such real property or ordinary conduct of the business of the Borrower or such Subsidiary as presently conducted thereon or materially impair the value of the real property which may be subject thereto;

(v) purchase money security interests in Equipment (including Capital Leases) and purchase money mortgages on real property to secure Indebtedness permitted under Section 6.1(a)(ii) hereof;

(vi) pledges and deposits of cash by the Borrower or any Subsidiary after the date hereof in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security benefits consistent with the current practices of the Borrower or such Subsidiary as of the date hereof;

(vii) pledges and deposits of cash by the Borrower or such Subsidiary after the date hereof to secure the performance of tenders, bids, leases, trade contracts (other than for the repayment of Indebtedness), statutory obligations and other similar obligations in each case in the ordinary course of business consistent with the current practices of the Borrower or such Subsidiary as of the date hereof; provided, that, in connection with any performance bonds issued by a

surety or other person, the issuer of such bond shall have waived in writing any rights in or to, or other interest in, any of the Collateral in an agreement, in form and substance satisfactory to the Agent;

(viii) Liens arising from (A) operating leases and the precautionary UCC financing statement filings in respect thereof and (B) Equipment or other materials which are not owned by the Borrower or any Subsidiary located on the premises of the Borrower or such Subsidiary (but not in connection with, or as part of, the financing thereof) from time to time in the ordinary course of business and consistent with current practices of the Borrower or such Subsidiary and the precautionary UCC financing statement filings in respect thereof;

(ix) judgments and other similar Liens arising in connection with court proceedings that do not constitute an Event of Default; provided, that, (A) except as otherwise consented to in writing by the Agent, such Liens are being contested in good faith and by appropriate proceedings diligently pursued and available to the Borrower or such Subsidiary, as the case may be, (B) adequate reserves or other appropriate provision, if any, as are required by GAAP have been made therefor, and (C) except as otherwise consented to in writing by the Agent, a stay of enforcement of any such Liens is in effect;

(x) Liens securing Indebtedness incurred pursuant to Section 6.1(a)(vi);

(xi) **[Reserved]**

(xii) except for Liens described in Section 6.1(b)(xvi), the security interests and Liens in existence as of the date hereof as set forth on Schedule 6.1(b);

(xiii) leases, subleases or licenses granted to others in the ordinary course of business;

(xiv) any Liens which the underlying fee interest of the owners of real property leased by the Borrower or any Subsidiary is subject, including any Liens that apply to the leasehold interests of the Borrower or such Subsidiary by virtue of the underlying fee interest being subject to such Liens;

(xv) landlord Liens for rent not yet due and payable; and

(xvi) Liens securing Indebtedness permitted by Section 6.1(a)(ix) if and only for so long as (A) the Subordination Agreement shall remain in full force and effect and enforceable in all respects against the Note Agent, the Subordinate Note Holders, the other Subordinate Creditors (as defined in the Subordination Agreement) and the Borrower, and (B) the provisions of Section 3.3 shall be and remain complied with by the Borrower and its Subsidiaries.

(c) Sales and Lease-Backs. The Borrower shall not, nor shall it permit any of its Subsidiaries to, directly or indirectly, become or remain liable as lessee or as a guarantor or other surety with respect to any lease of any property (whether real, personal or mixed), whether now owned or hereafter acquired, which such Credit Party (i) has sold or transferred or is to sell or to transfer to any other Person (other than the Borrower or any of its Subsidiaries), or (ii) intends to use for substantially the same purpose as any other property which has been or is to be sold or transferred by such Credit Party to any Person (other than the Borrower or its Subsidiaries) in connection with such lease.

(d) Transactions with Shareholders and Affiliates. The Borrower shall not, nor shall it permit any of its Subsidiaries to, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service, including as part of any management, consulting or advisory contract or arrangement) with any holder of 5% or more of any class of Capital Stock of the Borrower or any of its Subsidiaries or with any Affiliate of the Borrower, except:

(i) those transactions that are on terms no less favorable to the Borrower or such Subsidiary, as the case may be, than those that generally might be obtained at the time from a Person who is not such a holder or an Affiliate;

(ii) transactions between or among the Borrower and/or the Guarantors;

(iii) any payments made on the Existing Notes in accordance with the Subordination Agreement;

(iv) sales of inventory to Affiliates so long as at the time of any such sale, (A) no Default or Event of Default shall have occurred and be continuing or would result therefrom, (B) the Borrower and its Subsidiaries shall be in pro forma compliance with the provisions of Section 6.2 after giving effect to such sale, (C) the terms of such sales are approved in writing by a majority of the disinterested members of the boards of directors of the Borrower and, if a Subsidiary of the Borrower is involved as a seller in the transaction, such Subsidiary, (D) any such sale made pursuant to this Section 6.1(d)(iv) does not exceed \$150,000 in any instance and all such sales made pursuant to this Section 6.1(d)(iv) shall not exceed \$250,000 in the aggregate, (E) such sale is otherwise expressly permitted pursuant to this Agreement, and (F) any Net Asset Sale Proceeds received from such sale are used to prepay the Loans in accordance with Section 2.12(b);

(v) any forbearance agreement, waiver, or settlement entered into with F.A. Voight & Associates, L.P. or its Affiliates with respect to the Voight Note so long as any such agreement, waiver or settlement is approved in writing by a majority of the disinterested members of the board of directors of the Borrower; and

(vi) so long as at the time of any such payment, (x) no Default or Event of Default shall have occurred and be continuing or would result therefrom and (y) the Borrower and its Subsidiaries shall be in pro forma compliance with the provisions of Section 6.2 at the time of and after giving effect to any such payment, the payment of accrued but unpaid salaries to officers and employees of the Credit Parties and their Subsidiaries, in each case, as and to the extent permitted to be paid at such time in accordance with the Applicable Current Budget.

(e) Investments. Neither the Borrower nor any of its Subsidiaries shall make any Investments other than Investments in:

(i) marketable obligations of the United States maturing within one (1) year;

(ii) certificates of deposit, bankers' acceptances and time and demand deposits of United States banks having total assets in excess of \$1,000,000,000 or other similar cash equivalents;

(iii) subject to the last sentence of this clause (e), ownership by the Borrower or any of its Subsidiaries of the Capital Stock of their existing or hereafter created or, with the prior written consent of the Agent, acquired Subsidiaries;

(iv) so long as Sections 5.1(m) and (n) are and remain complied with, Indebtedness owing to the Borrower from any of its Domestic Subsidiaries;

(v) existing Investments set forth on Schedule 6.1(e) hereto;

(vi) Investments consisting of Accounts and promissory notes created, acquired or made and trade credit extended in the ordinary course of business and payable or dischargeable in accordance with customary trade terms in an aggregate amount not to exceed, together with Investments made pursuant to Section 6.1(e)(vii), \$100,000 at any time outstanding; provided, that (A) the Borrower shall provide the Agent with at least 2 Business Days prior written notice of such Investment and (B) upon receipt of such Investments, such Credit Party shall take all actions to ensure that such Investment is subject to the first priority Lien of the Agent;

(vii) Investments consisting of stock, obligations, securities or other property received in settlement of Accounts from financially troubled obligors in the ordinary course of business in an aggregate amount not to exceed, together with Investments made pursuant to Section 6.1(e)(vi), \$100,000 at any time outstanding; provided, that (A) the Borrower shall provide the Agent with at least 2 Business Days prior written notice of such Investment and (B) upon receipt of such Investments, such Credit Party shall take all actions to ensure that such Investment is subject to the first priority Lien of the Agent;

(viii) Investments consisting of non-cash consideration received in connection with a Disposition permitted under Section 6.1(g) hereof;

(ix) such other Investments as the Agent may from time to time approve in writing;

(x) any conversion of the Existing Notes to Capital Stock of Borrower in accordance with the terms and conditions of the Indenture; and

(xi) Investments consisting of Indebtedness as and to the extent such Indebtedness is permitted by Section 6.1(a)(xii), so long as at the time of making any such Investment, (A) no Default or Event of Default shall have occurred and be continuing, or would result therefrom, (B) the Borrower and its Subsidiaries are in pro forma compliance with the provisions set forth in Section 6.2 after giving effect to any such Investment, and (C) such Investment is permitted to be paid at such time in accordance with the Applicable Current Budget.

(each of (i) through (xi) above, a "Permitted Investment"). For the avoidance of doubt, the Borrower and the Guarantors will be permitted to create new Domestic Subsidiaries so long as Sections 5.1(m) and (n) hereof are and remain complied with.

(f) Certain Agreements. If the Borrower or any of its Subsidiaries shall create or assume any Lien upon any of its properties or assets, whether now owned or hereafter acquired, other than Permitted Liens, it shall make or cause to be made effective provision whereby the Obligations will be secured by such Lien equally and ratably with any and all other Indebtedness secured thereby as long as any such Indebtedness shall be so secured; provided, notwithstanding the foregoing, this covenant shall not be construed as a consent by the Lenders to the creation or assumption of any such Lien not otherwise permitted hereby. Except with respect to (i) specific property encumbered to secure payment of particular Indebtedness or to be sold pursuant to an executed agreement with respect to an Asset Sale, or other sale, lease transfer or disposition of assets, expressly permitted by Section 6.1(g) and (ii) restrictions by reason of customary provisions restricting assignments, subletting or other transfers contained in leases, licenses and similar agreements entered into in the ordinary course of business (provided, that such restrictions are limited to the property or assets secured by such Liens or the property or assets subject to such leases, licenses or similar agreements, as the case may be), neither the Borrower nor any of its Subsidiaries shall enter into any agreement prohibiting the creation or assumption of any Lien upon any of its properties or assets, whether now owned or hereafter acquired.

(g) Mergers; Asset Sales. Neither the Borrower nor any of its Subsidiaries shall (i) consummate a merger, amalgamation or consolidation, (ii) effect any disposition of assets, (iii) purchase, sell, lease or otherwise dispose of assets other than in the ordinary course, (iv) make any changes in the corporate structure or identity of the Borrower or any of its Subsidiaries which could reasonably be expected to have a Material Adverse Effect or (v) enter into any binding agreement to do any of the foregoing; other than any of the following so long as (x) the Net Asset Sale Proceeds

from any of the sales, disposals, transactions or actions described in the clauses below in this Section 6.1(g) are used to prepay the Loans in accordance with Section 2.12(b), (y) at the time of and after giving effect to any of the sales, disposals, transactions or actions described in the clauses below in this Section 6.1(g), (1) the Borrower and its Subsidiaries are in pro forma compliance with the provisions set forth in Section 6.2 and (2) no Default or Event of Default shall have occurred and be continuing or would result therefrom, and (z) the sale, disposal, transaction or action described in the clauses below in this Section 6.1(g) is permitted to be made at such time in accordance with the Applicable Current Budget:

- (A) (i) the Asset Sale contemplated by the AKART LOI on substantially the terms set forth therein if and only so long as, immediately following the consummation of the initial transactions contemplated by the AKART LOI, all of the Obligations are prepaid in full using the Net Asset Sale Proceeds therefrom, (ii) the Asset Sale contemplated by the R&R LOI on substantially the terms set forth therein if and only so long as, immediately following the consummation of the initial transactions contemplated by the R&R LOI, all of the Obligations are prepaid in full using the Net Asset Sale Proceeds therefrom and (iii) any other Asset Sales for 100% cash consideration made in the ordinary course business and in an aggregate amount not to exceed \$100,000;
- (B) disposals of obsolete, worn out or surplus property;
- (C) any Domestic Subsidiary of the Borrower may merge with and into the Borrower or any Guarantor upon not less than thirty (30) days' prior written notice (or such lesser time as the Agent may accept) to the Agent of such merger;
- (D) Investments as and to the extent such Investments are permitted by Section 6.1(e);
- (E) foreclosure upon, sale, assignment, disposal or other transfer of the Voight Note; provided that any such sale, assignment, disposition or transfer (and the terms thereof) are approved in writing by a majority of the disinterested members of the board of directors of the Borrower;
- (F) sales or other disposals of net operating losses of the Borrower and its Subsidiaries so long as any such sale or disposal is made in an arms-length transaction;
- (G) sales of accounts receivables for a purchase price less than the original invoice amount of any such receivable so long as any such sale is made in an arms-length transaction; and
- (H) sales of inventory permitted pursuant to Section 6.1(d)(iv).

(h) Fiscal Year; Fiscal Quarter. Neither the Borrower nor any of its Subsidiaries shall change its or any of its Subsidiaries' fiscal year or fiscal quarter without the prior written consent of the Required Lenders, which consent shall not be unreasonably withheld.

(i) Restricted Payments. Neither the Borrower nor any of its Subsidiaries shall, directly or indirectly, declare, order, pay, make or set apart any sum for (i) any Restricted Junior Payment or (ii) Indebtedness owed to any Affiliate of such Credit Party; provided that the Borrower may make (x) any payment in respect of the Existing Notes to an Affiliate if and to the extent such payment is permitted under the Subordination Agreement and (y) payments if and to the extent permitted pursuant to Section 6.1(d). For purposes of clarity, the Credit Parties may offer to redeem, on a conditional basis as described below, any Existing Notes following the payment in full of the Obligations (other than indemnification obligations for which a claim does not exist as of the applicable date of determination) (including on the same calendar day), so long as (A) no Restricted Payments are paid to any of the Subordinate Creditors (as defined in the Subordination Agreement) prior to the payment in full of the Obligations (other than indemnification obligations for which a claim does not exist as of the applicable date of determination) or otherwise in violation of the Subordination Agreement and (B) such offer to redeem is conditioned on such prepayment in full in cash of the Obligations and prior receipt by the Agent and the Lenders of such prepayment in full.

(j) Subsidiaries. Neither the Borrower nor any of its Subsidiaries shall form, or cause to be formed, any other Subsidiary, unless (i) all property and assets of such newly formed Subsidiary (if a Domestic Subsidiary and, if requested by the Agent, a Foreign Subsidiary) and (ii) all outstanding Capital Stock of any class of such newly formed Subsidiary (or in the case of a Foreign Subsidiary, unless more is requested by the Agent, 65% of each class of the outstanding voting Capital Stock and 100% of each class of the outstanding nonvoting Capital Stock of such newly formed Subsidiary), in each case, are pledged to the Agent for the benefit of the Agent and the Lenders in accordance with the terms hereof and of the Collateral Documents.

(k) Conduct of Business. From and after the Closing Date, neither Borrower nor any of its Subsidiaries shall engage in any business other than (i) the business engaged in by such Credit Party on the Closing Date and similar or related businesses, (ii) Asset Sales expressly permitted by Section 6.1(g)(A) and (iii) such other lines of business as may be consented to by the Required Lenders.

(l) Disposition of Collateral. Except as provided in Section 6.1(g) above, neither the Borrower nor any other Credit Party may, from and after the date that any Collateral Document is executed, sell, assign, lease, convey, transfer or otherwise dispose of any Collateral or enter into any agreement to do any of the foregoing without the prior written consent of the Required Lenders; provided that the Borrower and its Subsidiaries may dispose of cash pursuant to a transaction expressly permitted under this Agreement so long as at the time of any such disposal of cash and after giving effect thereto, (i) no Default or Event of Default shall have occurred and be continuing or

would result therefrom, (ii) the Borrower and its Subsidiaries are in pro forma compliance with the provisions of Section 6.2 after giving effect thereto, and (iii) such disposal of cash is permitted to be made at such time in accordance with the Applicable Current Budget.

Section 6.2 Financial Covenants. Notwithstanding anything to the contrary contained herein or in any other Credit Documents, the Borrower covenants and agrees that, until all of the Obligations (other than indemnification obligations for which a claim does not exist as of the applicable date of determination) have been paid in full:

(a) for each week and to be reflected in the applicable Weekly Variance Report with respect to such week,

(i) actual cash receipts of the Borrower and its Subsidiaries in respect of any line item shall not be less than 80% of the projection for such line item contained in the Applicable Current Budget;

(ii) actual cash and other asset disbursements, payments, sales, transfers and dispositions made by the Borrower and its Subsidiaries in respect of any line item shall not exceed by more than 20% the projection for such line item contained in the Applicable Current Budget;

(iii) the aggregate sum of all actual cash and other asset disbursements, payments, sales, transfers and dispositions made by the Borrower and its Subsidiaries shall not exceed by more than 15% the projection for such aggregate sum contained in the Applicable Current Budget; and

(iv) the actual results of the Borrower and its Subsidiaries for any line item may not differ by more than 20% from the projection for such line item contained in the Applicable Current Budget;

(b) no line item in any subsequent Budget delivered after the Closing Date pursuant to Section 5.1(a)(vi) shall differ by more than 20% from the projection for such line item contained in the Applicable Current Budget;

(c) in no circumstance may any cash or other asset disbursements, payments, sales, transfers or dispositions be made by the Borrower or any of its Subsidiaries except as and to the extent any such disbursement, payment, sale, transfer or disposition is contemplated to be made by, and no such disbursement, payment, sale, transfer or disposition can be made prior to the applicable time it is permitted to be made in accordance with, the Applicable Current Budget; and

(d) excluding the proceeds of the Loans, the aggregate sum of all actual cash receipts of the Borrower and its Subsidiaries must equal in the aggregate (i) by Friday, December 11, 2009, \$100,000; (ii) by January 1, 2010, \$200,000; and (iii) by January 15, 2010, \$300,000.

ARTICLE VII

Increased Costs; Taxes; Indemnifications, Set Off; Etc.

Section 7.1 Increased Costs; Capital Adequacy. In the event that any Lender shall have determined that the adoption, effectiveness, phase in or applicability after the Closing Date of any law, rule or regulation (or any provision thereof) regarding capital adequacy, or any change therein or in the interpretation or administration thereof by any Governmental Body, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any Lender (or its applicable lending office) with any guideline, request or directive regarding capital adequacy (whether or not having the force of law) of any such Governmental Body, central bank or comparable agency, has or would have the effect of reducing the rate of return on the capital of such Lender or any corporation controlling such Lender as a consequence of, or with reference to, such Lender's Loans or Commitments or other obligations hereunder with respect to the Loans to a level below that which such Lender or such controlling corporation could have achieved but for such adoption, effectiveness, phase in, applicability, change or compliance (taking into consideration the policies of such Lender or such controlling corporation with regard to capital adequacy), then from time to time after the adoption, effectiveness or applicability of such Regulation, within five (5) Business Days after receipt by the Borrower from such Lender of the statement referred to in the next sentence, the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender or such controlling, corporation on an after tax basis for such reduction. Such Lender shall deliver to the Borrower (with a copy to the Agent) a written statement, setting forth in reasonable detail the basis for calculating the additional amounts owed to Lender under this Section 7.1, which statement shall be conclusive and binding, upon all parties hereto absent manifest error.

Section 7.2 Taxes; Withholding, Etc.

(a) Payments to Be Free and Clear. Except as otherwise required under this Section 7.2, all sums payable by any Credit Party hereunder and under the other Credit Documents shall (except to the extent required by law) be paid free and clear of, and without any deduction or withholding on account of, any Tax (other than a Tax on the overall net income of any Lender) imposed, levied, collected, withheld or assessed by or within the United States of America or any political subdivision in or of the United States of America or any other jurisdiction from or to which a payment is made by or on behalf of any Credit Party or by any federation or organization of which the United States of America or any such jurisdiction is a member at the time of payment; provided, however, that the Borrower shall be under no obligation to increase the sum payable to any Lender or otherwise indemnify any Lender (x) not organized under the laws of the United States or a state thereof (a "Foreign Lender") by an amount equal to the amount of the United States Tax required to be withheld under United States law from the sums paid to such Foreign Lender, if such withholding is caused by the failure of such Foreign Lender (A) to be engaged in the active conduct of a trade or business in the United States, or all amounts of interest and fees to be paid to such Foreign Lender hereunder are not effectively connected with such trade or business within the meaning of U.S. Treasury Regulation 1.1441-1(a) or (B) to comply with Section 7.2(c) or (y) that is not a

Foreign Lender if such withholding is caused by a failure of such Lender to comply with Section 7.2(d).

(b) Withholding of Taxes. If any Credit Party or any other Person is required by law to make any deduction or withholding on account of any such Tax from any sum paid or payable by any Credit Party to the Agent or any Lender in the ordinary or general conduct of business: (i) the Borrower shall notify the Agent of any such requirement or any change in any such requirement as soon as the Borrower becomes aware of it, (ii) the Borrower shall pay any such Tax before the date on which penalties attach thereto, such payment to be made (if the liability to pay is imposed on any Credit Party) for its own account or (if that liability is imposed on the Agent or such Lender, as the case may be) on behalf of and in the name of the Agent or such Lender, (iii) in the case of Taxes other than Taxes on the overall net income of any Lender or Taxes otherwise excluded from payment or indemnity under Section 7.2(a), the sum payable by such Credit Party in respect of which the relevant deduction, withholding or payment is required shall be increased to the extent necessary to ensure that, after the making of that deduction, withholding or payment, the Agent or such Lender, as the case may be, receives on the an amount equal to what it would have received had no such deduction, withholding or payment been required or made, and (iv) within 30 days after paying any sum from which it is required by law to make any deduction or withholding, and within 30 days after the due date of payment of any Tax which it is required by clause (ii) above to pay, the Borrower shall deliver to the Agent evidence satisfactory to the other affected parties of such deduction, withholding or payment and of the remittance thereof to the relevant taxing or other authority.

(c) Foreign Lenders. Upon the reasonable request of the Borrower or the Agent, each Foreign Lender agrees that it will deliver to the Borrower and the Agent (i) two (2) properly completed and duly executed copies of United States Internal Revenue Service Form W-8BEN or W-8ECI or other applicable United States Internal Revenue Service forms, or successor applicable form(s), as the case may be, together with any other certificate or statement of exemption required under the Internal Revenue Code or regulations issued thereunder on or before the date a Foreign Lender becomes a party hereunder. Upon the reasonable request of the Borrower or the Agent, each such Foreign Lender also agrees to deliver to the Borrower and the Agent two (2) further copies of said Form W-8BEN or W-8ECI or other applicable United States Internal Revenue Service forms, or successor applicable form(s) or other manner of certification, as the case may be, properly completed and duly executed, on or before the date that any such form expires or becomes obsolete or after the occurrence of any event requiring a change in the most recent form previously delivered by it to the Borrower and the Agent, and such extensions or renewals thereof as may reasonably be requested by the Borrower or the Agent, unless in any such case an event (including, without limitation, any change in treaty, law or regulation) has occurred prior to the date on which any such delivery would otherwise be required which renders all such forms inapplicable or which would prevent such Foreign Lender from duly completing and delivering any such form with respect to it and such Lender so advises the Borrower and the Agent. Such Foreign Lender shall certify in the case of a Form W-8BEN or W-8ECI or other applicable United States Internal Revenue Service forms that it is entitled to receive

payments under this Agreement without (or at a reduced rate of) deduction or withholding of any United States federal income taxes and that it is entitled to an exemption from United State backup withholding tax.

(d) U.S. Lenders. Upon the reasonable request of the Borrower or the Agent, each Lender other than a Foreign Lender shall deliver to the Borrower and the Agent two (2) properly completed and duly executed copies of United States Internal Revenue Service Form W-9 (certifying that such Lender is entitled to an exemption from U.S. backup withholding tax) or any successor form on or before the date such Lender becomes a party hereto. Upon the reasonable request of the Borrower or the Agent, each such Lender also agrees to deliver to the Borrower and the Agent two (2) further copies of said Form W-9, properly completed and duly executed, on or before the date that any such form expires or becomes obsolete or after the occurrence of any event requiring a change in the most recent form previously delivered by it to the Borrower and the Agent, and such extensions or renewals thereof as may reasonably be requested by the Borrower or the Agent, unless in any such case an event (including, without limitation, any change in treaty, law or regulation) has occurred prior to the date on which any such delivery would otherwise be required that renders all such forms inapplicable or that would prevent such Lender from duly completing and delivering any such form with respect to it and such Lender so advises the Borrower and the Agent.

Section 7.3 Indemnification.

(a) Indemnification by the Borrower. The Borrower and its Subsidiaries will indemnify and defend the Agent, the Lenders and each of their respective shareholders, partners, members, managers, directors, officers, employees, agents, attorneys and Affiliates (collectively, the "Indemnified Persons") against and hold each Indemnified Person harmless from any and all liabilities, obligations, losses, damages, costs, expenses, claims, penalties, Actions, judgments, disbursements of any kind or nature whatsoever, interest, fines, cleanup costs, settlements, costs of preparation and investigation, costs incurred in enforcing this indemnity and reasonable attorneys' fees and expenses (collectively, "Losses"), that any of the Indemnified Persons may incur, suffer, sustain or become subject to arising out of, relating to, or due to (i) any inaccuracy or breach of any of the representations and warranties of any Credit Party contained in any Credit Document or in any certificate delivered thereunder, (ii) the nonfulfillment or breach of any covenant, undertaking, agreement or other obligation of any Credit Party contained in any Credit Document or in any certificate delivered thereunder, (iii) any Environmental Liability, and/or (iv) any use of proceeds of any Loans; provided that such indemnity shall not, as to any Indemnified Person, be available to the extent such Losses arise out of the gross negligence or willful misconduct of such Indemnified Person. Upon request of an Indemnified Person, the Borrower shall retain counsel reasonably satisfactory to the Indemnified Person to represent the Indemnified Person in connection with any Losses or threatened Losses and shall pay the reasonable fees and disbursements of such counsel. The Indemnified Person shall have the right to employ its own counsel at the expense of the Borrower if (i) the employment of counsel by the Indemnified Person at the Borrower's expense has been authorized in writing by the Borrower, (ii) the Borrower has not in fact employed

counsel to represent the Indemnified Person within a reasonable time after receiving notice of a request for the retention of counsel or (iii) both the Indemnified Person and the Borrower are implicated with respect to the Losses or the threatened Losses, and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them, in each of which cases the reasonable fees and expenses of counsel (including local counsel) will be at the expense of the Borrower, and all such fees and expenses will be reimbursed promptly as they are incurred.

(b) Contribution. If the indemnification provided for in this Section 7.3 is prohibited under applicable Regulations to an Indemnified Person, then the Borrower, in lieu of indemnifying the Indemnified Person, will contribute to the amount paid or payable by the Indemnified Person as a result of the Losses in such proportion as is appropriate to reflect the relative fault of the Borrower, on the one hand, and of the Indemnified Person, on the other, in connection with the events or circumstances which resulted in the Losses as well as any other relevant equitable considerations.

Section 7.4 Right of Set Off. In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, upon the occurrence and during the continuance of any Event of Default each Lender and the Agent are hereby authorized by each Credit Party at any time or from time to time, without notice to any Credit Party or to any other Person, any such notice being hereby expressly waived, to set off and to appropriate and to apply any and all deposits (general or special, including Indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Indebtedness at any time held or owing by such Lender or the Agent to or for the credit or the account of any Credit Party against and on account of the Obligations of any Credit Party to such Lender or the Agent hereunder, irrespective of whether or not (a) such Lender or the Agent shall have made any demand hereunder or (b) the principal of or the interest on the Loans or any other amounts due hereunder or the other Credit Documents shall have become due and payable and although such obligations and liabilities, or any of them, may be contingent or unmatured.

Section 7.5 Funding Breakage. In addition to the compensation required under Section 7.1, the Borrower shall pay all administrative fees charged by Lender and indemnify each Lender against any loss or expense (including loss of margin) which such Lender has incurred as a consequence of any payment or prepayment of any Loan on a day other than the last day of the corresponding Interest Period (whether or not such payment is mandatory or automatic and whether or not such payment or prepayment is then due). If any Lender sustains or incurs any such loss or expense or if any Lender has charged the Borrower for an administrative expense it shall from time to time promptly notify the Borrower and the Agent in writing setting forth in reasonable detail the amount determined in good faith by such Lender (such determination shall be conclusive absent manifest error) to be necessary to indemnify such Lender for such loss or expense and the amount of such administrative expense. Such amount shall be due and payable by the Borrower to the Agent for the account of such Lender, five Business Days after such notice is given.

ARTICLE VIII
Events of Default

Section 8.1 Events of Default. Any one or more of the following events which shall occur and be continuing shall constitute an "Event of Default":

(a) Failure to Make Payments When Due. Failure by any Credit Party to pay any of the Obligations, including failure by any Credit Party to pay when due any installment of principal of, or interest on, the Loans, whether at stated maturity, by acceleration, by notice of voluntary prepayment, by mandatory prepayment or otherwise, or any fee or any other amount due hereunder, and such failure, except in respect of principal and interest, is continuing for three (3) Business Days after the date due therefor;

(b) Breach of Certain Covenants. Failure of any Credit Party to perform or comply with any term or condition contained in Section 2.5, Section 3.3, Article V or Article VI and, with respect only to Sections 5.1(f), 5.1(i) and 5.1(o), such failure is continuing five (5) days after the date such term or condition should have been performed or complied with; provided, that such five (5) day period shall not apply in the case of: (i) any failure to observe any such covenant which is not capable of being cured at all or within such five (5) day period or which has been the subject of a prior failure within a six (6) month period or (ii) an intentional breach by the Borrower or any Credit Party of any such covenant;

(c) Breach of Representations, Etc. Any representation, warranty, certification or other statement made or deemed made by any Credit Party in any Credit Document or in any statement or certificate at any time given by any Credit Party or any of its Subsidiaries in writing, pursuant hereto or thereto or in connection herewith or therewith shall be false in any material respect as of the date made or deemed made;

(d) Other Defaults Under Credit Documents. Any Credit Party shall default in the performance of or compliance with any term contained in any of the Credit Documents, other than any such term referred to in any other section of this Section 8.1, and such default shall not have been remedied or waived within five (5) days after the earlier of (i) the date upon which an Authorized Officer of the Borrower had Knowledge of such default and (ii) the date upon which written notice thereof is given to the Borrower by the Agent or any Lender;

(e) Default in Other Agreements. (i) Except for the failures listed on Schedule 8.1(e), failure of any Credit Party to pay when due any principal of or interest on or any other amount payable in respect of one or more items of Indebtedness in an individual principal amount of \$50,000 or more or with an aggregate principal amount of \$100,000 or more, in each case beyond the grace period, if any, provided therefor, or (ii) breach or default by any Credit Party with respect to any other material term of (A) one or more items of Indebtedness in the individual or aggregate principal amounts referred to in clause (i) above or (B) any loan agreement, mortgage, indenture or other agreement relating to such item of Indebtedness, in each case without cure or waiver

within the grace period, if any, provided therefor, if the effect of such breach or default is to cause, or to permit the holder or holders of such Indebtedness (or a trustee on behalf of such holder or holders), to cause, such Indebtedness to become or be declared due and payable (or redeemable) prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be;

(f) Involuntary Bankruptcy, Appointment of Receiver, etc. (i) A court of competent jurisdiction shall enter a decree or order for relief in respect of the Borrower, any of its Subsidiaries or any other Credit Party in an involuntary case under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, which decree or order is not stayed, or any other similar relief shall be granted under any applicable federal or state law, or (ii) an involuntary case shall be commenced against the Borrower, any of its Subsidiaries or any other Credit Party under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, manager, liquidator, sequestrator, trustee, custodian or other officer having similar powers over the Borrower, any of its Subsidiaries or any other Credit Party, or over all or a substantial part of its property, shall have been entered; or there shall have occurred the involuntary appointment of an interim receiver, trustee or other custodian of the Borrower, any of its Subsidiaries or any other Credit Party for all or a substantial part of its property or a warrant of attachment, execution or similar process shall have been issued against any substantial part of the property of the Borrower, any of its Subsidiaries or any other Credit Party, and any such event described in this clause (ii) shall continue for five (5) days without having been dismissed, bonded or discharged;

(g) Voluntary Bankruptcy, Appointment of Receiver, Etc. (i) The Borrower, any of its Subsidiaries or any other Credit Party shall have an order for relief entered with respect to it or shall commence a voluntary case under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case, or to the conversion of an involuntary case to a voluntary case, under any such law, or shall consent to the appointment of or taking possession by a receiver, manager, trustee or other custodian for all or a substantial part of its property; or the Borrower, any of its Subsidiaries or any other Credit Party shall make any assignment for the benefit of creditors, or (ii) the Borrower, any of its Subsidiaries or any other Credit Party shall be unable, or shall fail generally, or shall admit in writing its inability, to pay its debts in accordance with the Applicable Current Budget; or the board of directors (or similar governing body) of the Borrower, any of its Subsidiaries or any other Credit Party (or any committee thereof) shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to herein or in Section 8.1(f);

(h) Judgments and Attachments. Any money judgment, writ or warrant of attachment or similar process involving (i) in any individual case an amount in excess of \$150,000 or (ii) in the aggregate at any time an amount in excess of \$250,000 (in either case to the extent not adequately covered by insurance as to which a solvent and unaffiliated insurance company has acknowledged coverage) shall be entered or filed

against the Borrower, any of its Subsidiaries or any other Credit Party or any of their respective assets and shall remain undischarged, unvacated, unbonded or unstayed for a period of five (5) days (or in any event later than five (5) days prior to the date of any proposed sale of assets under such judgment, writ or warrant of attachment or similar process);

(i) Dissolution. Any order, judgment or decree shall be entered against any Credit Party decreeing, the dissolution or split up of the Borrower, any of its Subsidiaries or any other Credit Party and such order shall remain undischarged or unstayed for a period in excess of five (5) days;

(j) Change of Control. A Change of Control shall occur;

(k) Collateral Documents and other Credit Documents. At any time after the execution and delivery thereof, (i) this Agreement or any Credit Document ceases to be in full force and effect (other than by reason of a release of Collateral in accordance with the terms hereof or thereof or the satisfaction in full of the Obligations in accordance with the terms hereof) or shall be declared null and void, or the Agent shall not have or shall cease to have a valid and perfected first priority Lien, subject only to Permitted Liens, in any material portion of Collateral purported to be covered by the Collateral Documents (except (A) as expressly permitted by the Collateral Documents or (B) as a direct result of the actions or inactions of the Agent or any Lender) or (ii) any Credit Party shall contest the validity or enforceability of any Credit Document in writing or deny in writing that it has any further liability under any Credit Document to which it is a party;

(l) Liens. At any time after the execution and delivery thereof, the Liens created by the Collateral Documents shall not constitute a valid and perfected first priority Lien on the Collateral intended to be covered thereby (to the extent perfection by filing, registration, recordation or possession is required herein or therein) in favor of the Lenders, free and clear of all other Liens (other than Permitted Liens or Liens permitted under the respective Collateral Documents), or, except for expiration in accordance with its terms, any of the Collateral Documents shall for whatever reason be terminated or cease to be in full force and effect, or the enforceability thereof shall be contested by any Credit Party;

(m) Condemnation or Forfeiture of Collateral. Any judicial process, condemnation or forfeiture proceedings is brought against any material item or portion of the Collateral or any rights therein shall be subject to such judicial process, condemnation or forfeiture proceedings;

(n) Defaults Under Material Contracts and License Agreements. Except for defaults listed on Schedule 8.1(n), any default by the Borrower or any of its Subsidiaries under any contract or License Agreement, which default continues for more than the applicable cure period, if any, with respect thereto and/or is not waived in writing by the other parties thereto, or any amendment, modification, waiver, termination or failure to

renew and which default, amendment, modification, waiver, termination or failure to renew could reasonably be expected to have a Material Adverse Effect;

(o) Change of Management. Any officer listed on Schedule 8.1(o) ceases for any reason whatsoever to be actively engaged in the day-to-day management of the Borrower at a level and in a capacity substantially similar to their respective management roles as of the Closing Date as described on such Schedule 8.1(o); or

(p) a "Default" or "Event of Default" (each such term as defined in the Indenture), or other event triggering prepayment of Indebtedness under the Subordinate Documents, shall occur.

Section 8.2 Remedies. Upon and after the occurrence of an Event of Default:

(a) Non-Bankruptcy Related Defaults. In the case of any Event of Default specified in any Section other than Section 8.1(f) or 8.1(g), the Agent may, and at the request of the Required Lenders shall, by written notice to the Borrower from time to time do any or all of the following: (i) declare the unpaid principal amount of the Loans and interest accrued thereon and all other Obligations to be immediately due and payable, which shall become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower or (ii) declare the Commitments terminated, whereupon the Commitments will terminate and any fee hereunder shall be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby waived, and an action therefor shall immediately accrue.

(b) Bankruptcy Events of Default. In the case of any of the Events of Default specified in either Section 8.1(f) or 8.1(g), automatically, without any notice to the Borrower or any other act by the Agent or any Lender, automatically, (i) the Commitments shall thereupon terminate, and (ii) each of the following shall immediately become due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower, (A) the unpaid principal amount of and interest on the Loans and (B) all other Obligations.

(c) Remedies in All Events of Default. Upon the occurrence of an Event of Default, the Agent shall, at the request of or with the consent of the Required Lenders, (i) exercise all rights and remedies provided in the Credit Documents, (ii) exercise any right of counterclaim, setoff, banker's lien or otherwise which it may have with respect to money or property of the Borrower, (iii) bring any lawsuit, action or other proceeding permitted by law for the specific performance of, or injunction against any violation of, any Credit Document and may exercise any power granted under or to recover judgment under any Credit Document, (iv) enforce any and all Liens and security interests created pursuant to the Credit Documents, and (v) exercise any other right or remedy permitted by applicable Regulations or otherwise available to the Agent and/or the Lenders at law, in equity or otherwise.

(d) Lenders' Remedies. Unless otherwise directed by the Required Lenders, in case any one or more of the Events of Default shall have occurred and be continuing, and whether or not the Lenders shall have accelerated the maturity of the Loans pursuant to Section 8.2, the Required Lenders, if owed any amounts with respect to the Loans, may proceed to protect and enforce their rights by suit in equity, action at law or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained in this Credit Agreement and the other Credit Documents or any instrument pursuant to which the Obligations to the Lenders are evidenced, including as permitted by applicable law the obtaining of the ex parte appointment of a receiver, and, if such amount shall have become due, by declaration or otherwise, proceed to enforce the payment thereof or any other legal or equitable right of the such the Lenders, but subject to the provisions of Section 9.9(b).

(e) Remedies Cumulative. No remedy herein conferred upon any Lender or the Agent or the holder of any Note is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or any other provision of law.

ARTICLE IX The Agent

Section 9.1 Appointment of Agent. PPAS is hereby appointed the Agent hereunder, and each Lender hereby authorizes the Agent to act as its agent in accordance with the terms hereof and the other Credit Documents. The Agent hereby agrees to act upon the express conditions contained herein and the other Credit Documents, as applicable. The provisions of this Article IX are solely for the benefit of the Agent and the Lenders and no Credit Party shall have any rights as a third party beneficiary of any of the provisions thereof. In performing its functions and duties hereunder, the Agent shall act solely as an agent of the Lenders and does not assume and shall not be deemed to have assumed any obligation toward or relationship of agency or trust with or for the Borrower, any of its Subsidiaries or any other Credit Party. The Agent without consent of or notice to any party hereto, may assign any and all of its rights or obligations hereunder to any of its Affiliates.

Section 9.2 Powers and Duties. Each Lender irrevocably authorizes the Agent to take such action on such Lender's behalf and to exercise such powers, rights and remedies hereunder and under the other Credit Documents as are specifically delegated or granted to the Agent by the terms hereof and thereof, together with such powers, rights and remedies as are reasonably incidental thereto. The Agent shall have only those duties and responsibilities that are expressly specified herein and the other Credit Documents. The Agent may execute any of its duties under this Agreement and the other Credit Documents by or through agents or attorneys in fact, or may assign such duties to its wholly owned nominee without the consent of the Lenders, and shall be entitled to rely on advice of counsel concerning all matters pertaining to such duties. The Agent shall not have, by reason hereof or any of the other Credit Documents, a fiduciary relationship in respect of any Lender and nothing herein or any of the other Credit Documents, expressed or implied, is intended to or shall be so construed as to impose upon the Agent any obligations in

respect hereof or any of the other Credit Documents except as expressly set forth herein or therein.

Section 9.3 Delegation of Duties. The Agent may execute any of its duties under this Agreement or any other Credit Document by or through third parties, agents, employees or attorneys in fact (any such entity, a "Sub-Agent") or may assign such duties to its wholly owned nominee without the consent of the Lenders, and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Agent shall not be responsible for the negligence or misconduct of any Sub-Agent that it selects as long as such selection was made with reasonable care. The Borrower and each Lender hereby agree that any Sub-Agent appointed hereunder shall be entitled to the benefit of the provisions of Sections 7.3, 9.2, 9.4, 9.5, 9.6, 9.7, 9.9, 9.10 and 9.11 of this Agreement as if such Sub-Agent is a party to this Agreement.

Section 9.4 General Immunity.

(a) No Responsibility for Certain Matters. The Agent shall not be responsible to any Lender for the execution, effectiveness, genuineness, validity, enforceability, collectibility or sufficiency hereof or any other Credit Document or for any representations, warranties, recitals or statements made herein or therein or made in any written or oral statements or in any financial or other statements, instruments, reports or certificates or any other documents furnished or made by the Agent to any Lender or by or on behalf of any Credit Party to the Agent or any Lender in connection with the Credit Documents and the transactions contemplated thereby or for the financial condition or business affairs of any Credit Party or any other Person liable for the payment of any Obligations, nor shall the Agent be required to ascertain or inquire as to the performance or observance of any of the terms, conditions, provisions, covenants or agreements contained in any of the Credit Documents or as to the use of the proceeds of the Loans or as to the existence or possible existence of any Event of Default or Default. Anything contained herein to the contrary notwithstanding, the Agent shall not have any liability arising from confirmations of the amount of outstanding Loans.

(b) Exculpatory Provisions. None of the Agent or any of its officers, trustees, partners, members, directors, employees, attorneys or agents shall be liable to the Lenders for any action taken or omitted by the Agent under or in connection with any of the Credit Documents except to the extent caused by the Agent's gross negligence or willful misconduct. The Agent shall be entitled to refrain from any act or the taking of any action (including the failure to take an action) in connection herewith or any of the other Credit Documents or from the exercise of any power, discretion or authority vested in it hereunder or thereunder unless and until the Agent shall have received instructions in respect thereof from the Required Lenders (or such other Lenders as may be required to give such instructions under Section 10.1) and, upon receipt of such instructions from the Required Lenders (or such other Lenders, as the case may be), the Agent shall be entitled to act or (where so instructed) refrain from acting, or to exercise such power, discretion or authority, in accordance with such instructions. Without prejudice to the generality of the foregoing, (i) the Agent shall be entitled to rely, and shall be fully protected in relying, upon any communication, instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper

Person or Persons, and shall be entitled to rely and shall be protected in relying on opinions and judgments of attorneys (who may be attorneys for the Borrower and its Subsidiaries), accountants, experts and other professional advisors selected by it, and (ii) no Lender shall have any right of action whatsoever against the Agent as a result of the Agent acting or refraining from acting hereunder or any of the other Credit Documents in accordance with the instructions of the Required Lenders (or such other Lenders as may be required to give such instructions under Section 10.1). The Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Credit Document which involves discretionary decision making absent express written instructions from the Required Lenders with respect thereto.

Section 9.5 Agent Entitled to Act with the Borrower. The Agent and its Affiliates may accept deposits from, lend money to and generally engage in any kind of banking, trust, financial advisory or other business with the Borrower or any of its Affiliates as if it were not performing the duties specified herein, and may accept fees and other consideration from the Borrower for services in connection herewith and otherwise without having to account for the same to the Lenders.

Section 9.6 Lenders' Representations, Warranties and Acknowledgment.

(a) Each Lender represents and warrants that it has made its own independent investigation of the financial condition and affairs of the Borrower and its Subsidiaries in connection with Borrowings hereunder and that it has made and shall continue to make its own appraisal of the creditworthiness of the Borrower and its Subsidiaries. The Agent shall not have any duty or responsibility, either initially or on a continuing basis, to make any such investigation or any such appraisal on behalf of the Lenders or to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter, and the Agent shall not have any responsibility with respect to the accuracy of or the completeness of any information provided to the Lenders.

(b) Each Lender, by delivering its signature page to this Agreement and funding or holding any of its Loans and accepting its Commitments on the Closing Date, shall be deemed to have acknowledged receipt of, and consented to and approved, each Credit Document and each other document required to be approved by the Agent or the Lenders, as applicable on the Closing Date.

Section 9.7 Right to Indemnity. Each Lender, in proportion to its Pro Rata Share, severally (and not jointly) agrees to indemnify the Agent and its stockholders, directors, officers, employees, agents, attorneys and Affiliates (each an "Indemnified Agent Person"), to the extent that the Agent shall not have been reimbursed by any Credit Party, for and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including attorneys' fees and disbursements) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against such Indemnified Agent Person in exercising its powers, rights and remedies or performing its duties hereunder or under the other Credit Documents or otherwise in its capacity as the Agent in any way relating to or arising out hereof or in connection with the Credit Documents; provided, no Lender shall be liable for any

portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Agent's gross negligence or willful misconduct. If any indemnity furnished to the Agent for any purpose shall, in the opinion of such the Agent, be insufficient or become impaired, the Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; provided, further, in no event shall this sentence require any Lender to indemnify the Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's Pro Rata Share thereof, and provided, further, this sentence shall not be deemed to require any Lender to indemnify the Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement described in the proviso in the immediately preceding sentence.

Section 9.8 Successor Agent.

(a) The Agent may resign at any time by giving not less than ten (10) Business Days prior written notice thereof to the Lenders and the Borrower. Upon any such resignation, the Required Lenders shall have the right to appoint a successor the Agent, which shall be (i) one of the Lenders or an Affiliate of one of the Lenders or (ii) a Person who would be an eligible successor agent if appointed by the resigning the Agent under Section 9.8(b).

(b) If no successor the Agent shall have been so appointed by the Lenders within ten (10) Business Days after the resigning the Agent's giving of notice of resignation, then the resigning the Agent may appoint, on behalf of the Borrower and the Lenders, a successor the Agent, which shall be a commercial bank organized under the laws of the United States of America or of any state thereof and having a combined capital and surplus of at least \$250,000,000. In the event that the Agent is unable to appoint a replacement successor within ten (10) Business Days after it is entitled to do so after using reasonable efforts, the Agent may nonetheless resign by delivering a written resignation to the Lenders and the Borrower, provided that in such circumstances, and unless and until a successor the Agent is appointed, the Agent shall remain the Agent solely for the purpose of serving as secured party of record with respect to the Collateral, its sole duty in that capacity shall be to take such ministerial actions as it shall be directed to take by the Lenders (including, without limitation, the execution and delivery of documents or instruments relating to the Collateral), and the Agent shall be entitled to reimbursement from the Borrower for its out of pocket costs and expenses and reasonable compensation from the Borrower for its services. If the Agent has resigned and no successor the Agent has been appointed, subject to the preceding sentence, the Lenders shall perform the duties of the Agent hereunder, and the Borrower shall make all payments in respect of the Obligations to the applicable Lender and shall deal directly with the Lenders.

(c) No successor the Agent shall be deemed to be appointed hereunder until such successor the Agent has accepted the appointment in writing. Upon the acceptance of any appointment as the Agent hereunder by a successor the Agent and upon the execution and filing of such financing statements, or amendments thereto, and such other instruments and notices, as may be necessary or desirable or as the Required

Lenders may request, in order to continue the perfection of the Liens granted or purported to be granted under the Collateral Documents, such successor the Agent shall succeed to and become vested with all the rights, powers, discretion, privileges and duties of the resigning the Agent, and the resignation or termination of the Agent shall then be effective for all purposes. Upon the effectiveness of the resignation or termination of the Agent, the resigning the Agent shall be discharged from its duties and obligations under the Credit Documents. After the effectiveness of the resignation or termination of an the Agent, the provisions of Section 7.3, Section 10.3 and this Article IX shall inure to the former Agent's benefit as to any actions taken or omitted to be taken by it while it was acting as the Agent under this Agreement.

Section 9.9 Collateral Documents.

(a) Agent as the Agent under Collateral Documents. Each Lender hereby further authorizes the Agent, on behalf of and for the benefit of the Lenders, to be the agent for and representative of the Lenders with respect to the Collateral and the Collateral Documents. Subject to Section 10.1, without further written consent or authorization from the Lenders, the Agent may execute any documents or instruments necessary to release any Lien encumbering any item of Collateral that is the subject of a sale or other disposition of assets permitted hereby or to which the Lenders have otherwise consented in the manner provided herein.

(b) Agent's Right to Realize on Collateral. Anything contained in any of the Credit Documents to the contrary notwithstanding the Borrower, the Agent and each Lender hereby agree that (i) no Lender shall have any right individually to realize upon any of the Collateral, it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by the Agent, on behalf of the Lenders in accordance with the terms hereof, and (ii) in the event of a foreclosure by the Agent on any of the Collateral pursuant to a public or private sale, the Agent or any Lender may be the purchaser of any or all of such Collateral at any such sale and the Agent, as agent for and representative of the Lenders (but not any Lender or the Lenders in its or their respective individual capacities unless the Required Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Agent at such sale.

Section 9.10 Notice of Default. The Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless the Agent has received notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Agent receives such a notice, the Agent shall promptly give notice thereof to the Lenders. The Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Lenders; provided that unless and until the Agent shall have received such directions, the Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders.

Section 9.11 Delivery of Documents, Notices, Etc. In addition to, and in furtherance of any requirement placed upon the Agent herein to deliver, provide, distribute, notify or otherwise convey items received from the Borrower to the Lenders, the Agent shall promptly notify the Lenders of any notices, documents, requests, demands or other items the Agent received from the Borrower and promptly deliver or convey, to the extent they are in written form, such notices, documents, requests, demands or items to the Lenders.

ARTICLE X
Miscellaneous

Section 10.1 Amendments and Waivers; Release of Collateral.

(a) General. Subject to Section 10.1(b) and Section 10.1(c) below, no amendment, modification, termination (other than pursuant to the express terms of the Credit Documents) or waiver of any provision of the Credit Documents, or consent to any departure by any Credit Party therefrom, shall be effective without the written consent of the Required Lenders.

(b) Other Consent. Notwithstanding the provisions of Section 10.1(a) above, no amendment, modification, termination (other than pursuant to the express terms of the Credit Documents) or waiver of any provision of the Credit Documents, or consent to any departure by any Credit Party therefrom, shall amend, modify, terminate or waive any provision of Article IX as the same applies to the Agent, or any other provision hereof as the same applies to the rights or obligations of the Agent, in each case without the consent of the Agent.

(c) Prior Unanimous Written Consent. Without the prior unanimous written consent of the affected the Lenders,

(i) no amendment, consent or waiver shall (A) affect the amount or extend the time of the obligation of any Lender to make Loans or (B) extend the scheduled time or times of repayment of the principal of the Loans (other than payments in connection with mandatory prepayments hereunder) or (C) alter the time or times of payment of interest on any Loan or of any fees payable for the account of the Lenders or (D) alter the amount of the principal of the Loans or the rate of interest thereon or (E) alter the amount of any fee payable hereunder to the account of the Lenders or (F) permit any subordination of the principal of or interest on the Loans or (G) permit the subordination of the Lien created by the Collateral Documents in any of the Collateral,

(ii) no Collateral, other than in connection with an Asset Sale made in accordance with the terms hereof or as otherwise specifically permitted in this Agreement or the Collateral Documents, shall be released from the Lien of the Collateral Documents; and

(iii) none of the provisions of this Section 10.1(c) shall be amended.

(d) Effect of Notices, Waivers or Consents. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on any Credit Party in any case shall entitle any Credit Party to any other or further notice (except as otherwise specifically required hereunder or under any of the Credit Documents) or demand in similar or other circumstances. Any amendment, modification, termination, waiver or consent effected in accordance with this Section 10.1 shall be binding upon each Lender at the time outstanding, each future Lender and, if signed by a Credit Party, on such Credit Party.

(e) Certain Collateral Releases. The Borrower is entitled to receive, and the Agent is authorized to effect (and the Agent shall so effect), the release of Collateral that is the subject of an Asset Sale, or any other sale, transfer or other disposition, in each case, expressly permitted by, and consummated in accordance with, Section 6.1(g) from the Lien of the Collateral Documents, so long as the proceeds (including the Net Asset Sale Proceeds) of such Asset Sale or other sale, transfer or disposition that are required to be used to prepay the Loans pursuant to the terms of the Credit Documents are in fact so prepaid as required hereby (including as required by Section 2.12(b)).

Section 10.2 Notices. All notices, requests, demands and other communications to any party or given under any Credit Document (collectively, the "Notices") will be in writing and delivered personally, by overnight courier or by registered mail to the parties at the following address or sent by facsimile, with confirmation received, to the facsimile number specified below (or at such other address or telecopy number as will be specified by a party by like notice given at least five calendar days prior thereto):

(a) If to the Borrower or any other Credit Party, at:

EPV Solar, Inc.
8 Marlen Drive
Robinsville, New Jersey 08691
Attention: General Counsel
Facsimile: 609-570-3015
Telephone: 609-587-3000

(b) If to the Agent, at:

Patriarch Partners Agency Services, LLC
32 Avenue of the Americas, 17th Floor
New York, NY 10013
Telephone: (212) 825-0550
Facsimile: (212) 825-2038
Attention: Loan Administration/EPV Solar

(c) If to the Lenders, to the address for such Lender set forth on the signature pages hereto or in the Assignment Agreement delivered by such Lender.

All Notices will be deemed delivered when actually received. Each of the parties will hereafter notify the other in accordance with this Section of any change of address or telecopy number to which notice is required to be mailed.

Section 10.3 Expenses. (a) Whether or not the transactions contemplated hereby shall be consummated or any Loans shall be made, the Borrower agrees to pay promptly:

(i) all the reasonable, out-of-pocket costs and expenses of preparation of the Credit Documents and any consents, amendments, waivers or other modifications thereto; the reasonable fees, expenses and disbursements of outside counsel to the Agent in connection with the negotiation, preparation, execution and administration of the Credit Documents and any consents, amendments, supplements, waivers or other modifications thereto and any other documents or matters requested by the Borrower;

(ii) all the reasonable, out of pocket costs and expenses of creating and perfecting Liens in favor of the Agent, for the benefit of the Lenders and the Agent, pursuant hereto, including, without limitation, filing and recording fees, expenses, stamp or documentary taxes, search fees, title insurance premiums and reasonable fees, expenses and disbursements of counsel to the Agent and the Lenders;

(iii) upon the occurrence and during the continuance of an Event of Default or as otherwise incurred in connection with visits and inspections permitted by Section 5.1(b) (the expenses for which are required to be paid by Borrower pursuant to such Section), all the actual costs and reasonable fees, expenses and disbursements of any auditors, accountants, consultants or appraisers;

(iv) all the actual costs and reasonable expenses (including, without limitation, upon the occurrence and during the continuance of an Event of Default or as otherwise incurred in connection with visits and inspections permitted by Section 5.1(b) (the expenses for which are required to be paid by Borrower pursuant to such Section), the reasonable fees, expenses and disbursements of any appraisers, consultants, advisors and agents employed or retained by the Agent and its counsel) in connection with the inspection, verification, custody or preservation of any of the Collateral, to the extent required or permitted hereunder;

(v) after the occurrence and during the continuance of a Default or an Event of Default, all out-of-pocket costs and expenses, including, without limitation, reasonable attorneys' fees (including allocated costs of internal counsel) and out-of-pocket costs of settlement, incurred by any the Agent or the Lenders in enforcing any Obligations of or in collecting any payments due from any Credit Party hereunder or under the other Credit Documents by reason of such Default or Event of Default (including in connection with the sale of, collection from, or other realization upon any of the Collateral or the enforcement

of any guaranty) or in connection with any negotiations, reviews, refinancing or restructuring of the credit arrangements provided hereunder, including without limitation in the nature of a "work out" or pursuant to any insolvency or bankruptcy cases or proceedings; and

(vi) the foregoing shall not be in addition to, and shall not be construed to limit, any other provisions of the Credit Documents regarding costs and expenses to be paid by the Borrower.

(b) The Borrower shall provide, in cash in immediately available funds, to Jones Day, as counsel to the Agent and the Lenders, on the Closing Date, and shall maintain with Jones Day at all times prior to payment in full of all Obligations, an amount in cash equal to \$20,000, which amount shall constitute an advance payment of all reasonable fees, costs, expenses and disbursements incurred by Jones Day in connection with the Credit Documents, including pursuant to Section 10.3(a) above. Jones Day may, and the Borrower hereby irrevocably authorizes Jones Day to, apply such amounts held by it to all reasonable fees, costs, expenses and disbursements owed to Jones Day by the Borrower or any other Credit Party pursuant to the Credit Documents as and when incurred by Jones Day. In the event that the amount held by Jones Day pursuant to this Section 10.3(b) shall be less than \$20,000 at any time or from time to time, the Borrower shall, upon receipt of request therefor from the Agent or Jones Day (which request shall be accompanied by an invoice reflecting the amounts incurred by Jones Day that have been applied to such advance payment), promptly remit to Jones Day additional funds, in cash in immediately available funds, such that the amount of funds then held by Jones Day pursuant hereto shall equal \$20,000.

Section 10.4 Enforceability; Successors and Assigns.

(a) Enforceability; Successors and Assigns. This Agreement will be binding upon and inure to the benefit of and is enforceable by the respective successors and permitted assigns of the parties hereto. This Agreement may not be assigned by the Borrower hereto without the prior written consent of the Agent and each Lender. Any assignment or attempted assignment in contravention of this Section will be void ab initio and will not relieve the assigning party of any obligation under this Agreement.

(b) Assignments. Each Lender may assign (each, an "Assignment") to one or more Eligible Assignees (each, an "Assignee") all or a portion of its rights and obligations under this Agreement (including all or a portion of such Lender's Loans, Commitments and Notes, as the case may be). Such Assignment may be made without the consent of the Borrower but shall require the consent of the Agent. In connection with any such Assignment, the assigning Lender and the Assignee shall execute and deliver to the Agent an Assignment Agreement, in the form of Exhibit F (each, an "Assignment Agreement"), and a \$3,500.00 fee (the "Assignment Fee") payable to the Agent. Upon its receipt of a duly executed and completed Assignment Agreement, the Agent shall record the information contained in such Assignment Agreement in the Register, shall give prompt notice thereof to the Borrower and shall maintain a copy of such Assignment Agreement in its Principal Office. From and after the effective date of

an Assignment, the Assignee shall be a party hereto and, to the extent of the interest assigned pursuant to the Assignment, have the rights and obligations of a lender under this Agreement, and the assigning Lender shall, to the extent of the interest assigned, be released from its obligations under this Agreement. The Borrower hereby consents to the disclosure of any information obtained by Lender in connection with this Agreement to any Person to which Lender sells, or proposes to sell, its Loans, Commitments or Notes, provided any such Person shall agree to keep any such information confidential.

(c) Participations. Each Lender may sell participations (each, a "Participation") to one or more Persons (each, a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of such Lender's Loans and Notes, as the case may be); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the Borrower for the performance of such obligations, and (iii) the Borrower shall continue to deal solely and directly with the Lender and the Agent in connection with the Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which the Lender sells such a participation shall provide that the Lender shall retain the sole right to enforce the Credit Documents and to approve any amendment, modification or waiver of any provision of the Credit Documents. The Borrower hereby consents to the disclosure of any information obtained by a Lender in connection with this Agreement and/or any other Credit Document to any Person to which such Lender participates, or proposes to participate, its Loans, Commitments or Notes.

(d) Notwithstanding anything else to the contrary contained herein, any Lender may any time pledge its Loans and such Lender's rights under this Agreement and the other Credit Documents to a Federal Reserve Bank and, in the case of any Lender that is a fund, to its trustee for the benefit of its investors; provided, that no such pledge to a Federal Reserve Bank (or in the case of any Lender that is a fund, to its trustee for the benefit of its investors) shall release such Lender from such Lender's obligations hereunder or under any other Credit Document.

Section 10.5 Lenders' Obligations Several. The obligation of each Lender hereunder is several and not joint and neither the Agent nor any Lender shall be responsible for the obligation of any other Lender hereunder. Nothing contained in any Credit Document and no action taken by the Agent or any Lender pursuant hereto or thereto shall be deemed to constitute the Lenders to be a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt; provided that if the Agent fails or refuses to exercise any independent debt or fails or refuses to exercise any remedies against the Borrower after receiving the direction of the Lenders, each Lender shall be entitled to protect and enforce its rights arising out of this Agreement and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

Section 10.6 Integration. This Agreement and the other Credit Documents contain and constitute the entire agreement of the parties with respect to the subject matter hereof and

supersede all prior negotiations, agreements and understandings, whether written or oral, of the parties hereto.

Section 10.7 No Waiver; Remedies. No failure or delay by any party in exercising any right, power or privilege under this Agreement or any of the other Credit Documents will operate as a waiver of such right, power or privilege. A single or partial exercise of any right, power or privilege will not preclude any other or further exercise of the right, power or privilege or the exercise of any other right, power or privilege. The rights and remedies provided in the Credit Documents will be cumulative and not exclusive of any rights or remedies provided by law.

Section 10.8 Submission to Jurisdiction. Each of the Borrower, the other Credit Parties, the Agent and the Lenders hereby (a) agrees that any Action with respect to any Credit Document may be brought only in the New York State courts sitting in New York County or the federal courts of the United States of America for the Southern District of New York and sitting in New York County, (b) accepts for itself and in respect of its property, generally and unconditionally, the non-exclusive jurisdiction of such courts, (c) irrevocably waives any objection, including, without limitation, any objection to the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any Action in those jurisdictions, and (d) irrevocably consents to the service of process of any of the courts referred to above in any Action by the mailing of copies of the process to the parties hereto as provided in Section 10.2. Service effected as provided in this manner will become effective ten (10) calendar days after the mailing of the process.

Section 10.9 Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement. Delivery of an executed counterpart of this Agreement by facsimile or other electronic transmission shall be equally as effective as delivery of an original executed counterpart of this Agreement.

Section 10.10 Governing Law. **EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE OTHER CREDIT DOCUMENTS, THIS AGREEMENT AND THE OTHER CREDIT DOCUMENTS, AND ALL CLAIMS, DISPUTES AND MATTERS ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO, WILL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS EXECUTED IN AND TO BE PERFORMED ENTIRELY WITHIN THAT STATE, WITHOUT REFERENCE TO CONFLICTS OF LAWS PROVISIONS THAT WOULD APPLY A DIFFERENT LAW.**

Section 10.11 Waiver of Jury. **THE PARTIES HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT THAT THEY MAY HAVE TO TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION, OR IN ANY LEGAL PROCEEDING, DIRECTLY OR INDIRECTLY BASED UPON OR ARISING OUT OF THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH**

PARTY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTIES WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 10.12 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, or public policy, all other conditions and provisions of this Agreement will nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto will negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

Section 10.13 Survival. All representations, warranties, covenants, agreements, and conditions contained in or made pursuant to this Agreement or the other Credit Documents shall survive (a) the making of the Loans and the payment of the Obligations and (b) the performance, observance and compliance with the covenants, terms and conditions, express or implied, of all Credit Documents, until the due and punctual (i) indefeasible payment of the Obligations and (ii) performance, observance and compliance with the covenants, terms and conditions, express or implied, of this Agreement and all of the other Credit Documents; provided, however, that the provisions of Section 5.1(o), Article VII, Section 9.4, Section 9.6, Section 9.7 and Section 10.3 (other than Section 10.3(a)(iii) and Section 10.3(b), except to the extent fees, costs and expenses have been incurred prior to termination hereof but not paid in accordance with such Sections, in which case such Sections shall survive only to require payment of such fees, costs and expenses) shall survive (x) indefeasible payment of the Obligations and (y) performance, observance and compliance with the covenants, terms and conditions, express or implied, of this Agreement and all of the other Credit Documents.

Section 10.14 Maximum Lawful Interest. Notwithstanding anything to the contrary contained herein, in no event shall the amount of interest and other charges for the use of money payable under this Agreement or any other Credit Document exceed the maximum amounts permissible under any law that a court of competent jurisdiction shall, in a final determination, deem applicable. The Borrower and the Lenders, in executing and delivering this Agreement, intend legally to agree upon the rate or rates of interest and other charges for the use of money and manner of payment stated within it; provided, however, that, anything contained herein to the contrary notwithstanding, if the amount of such interest and other charges for the use of money or manner of payment exceeds the maximum amount allowable under applicable law, then, ipso facto as of the Closing Date, the Borrower are and shall be liable only for the payment of such maximum as allowed by law, and payment received from the Borrower in excess of such legal maximum, whenever received, shall be applied to reduce the principal balance of the Loans to the extent of such excess.

Section 10.15 Interpretation. As used in this Agreement, references to the singular will include the plural and vice versa and references to the masculine gender will include the feminine and neuter genders and vice versa, as appropriate. Unless otherwise expressly provided in this Agreement (a) the words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement will refer to this Agreement as a whole and not to any particular provision of this Agreement and (b) article, section, subsection, schedule and exhibit references are references with respect to this Agreement unless otherwise specified. Unless the context otherwise requires, the term "including" will mean "including, without limitation." The headings in this Agreement and in the Schedules are included for convenience of reference only and will not affect in any way the meaning or interpretation of this Agreement.

Section 10.16 Ambiguities. This Agreement and the other Credit Documents were negotiated between legal counsel for the parties and any ambiguity in this Agreement or the other Credit Documents shall not be construed against the party who drafted this Agreement or such other Credit Documents.

Section 10.17 Subordination Agreement. Notwithstanding anything herein or in any other Credit Document to the contrary, the liens and security interests granted pursuant to the Collateral Documents and the exercise of any right or remedy hereunder or thereunder are subject to the provisions of the Subordination Agreement. In the event of any conflict between the terms of the Subordination Agreement and this Agreement, the terms of the Subordination Agreement shall govern and control.

The Lenders acknowledge that obligations of the Borrower and its Subsidiaries under the Indenture and the other Subordinate Documents, and certain obligations related thereto, are secured by Liens on assets of the Borrower and its Subsidiaries that constitute Collateral. The Agent shall enter into the Subordination Agreement establishing the relative rights of the Lenders and of the secured parties under the Indenture with respect to the Collateral. Each Lender hereby irrevocably (a) authorizes and directs the Agent to execute and deliver the Subordination Agreement and any acknowledgements, agreements or documents relating thereto, in each case, on behalf of such Lender and without any further consent, authorization or other action by such Lender, (b) agrees that, upon the execution and delivery thereof, such Lender will be bound by the provisions of the Subordination Agreement as if it were a signatory thereto and will take no actions contrary to the provisions of the Subordination Agreement and (c) agrees that no Lender shall have any right of action whatsoever against the Agent as a result of any action taken by the Agent pursuant to this Section or in accordance with the terms of the Subordination Agreement. Each Lender hereby further irrevocably authorizes and directs the Agent to enter into such amendments, supplements or other modifications to the Subordination Agreement as are contemplated thereby in connection with any extension, renewal, refinancing or replacement of the Indenture on behalf of such Lender and without any further consent, authorization or other action by such Lender. The Agent shall have the benefit of the provisions of Article IX with respect to all actions taken by it pursuant to this Section or in accordance with the terms of the Intercreditor Agreement to the full extent thereof.

Section 10.18 Certifications Regarding Indenture. The Borrower hereby certifies to the Agent and the Lenders that neither the execution, delivery or performance by the Borrower or any other Credit Party of the Credit Documents nor the incurrence of any Obligations, or the

granting of any Liens pursuant to the Collateral Documents, by the Borrower or any other Credit Party violates the Indenture or any of the other Subordinate Documents. The Borrower further certifies that the Obligations constitute "Permitted Indebtedness" and the Liens granted pursuant to the Collateral Documents constitute "Permitted Liens," in each case, under the Indenture, and that the Obligations and the Liens granted pursuant to the Collateral Documents are not prohibited under the Indenture or any of the other Subordinate Documents.

Section 10.19 Board Observer Rights. So long as any Loan or other Obligations are outstanding, the Borrower shall hold meetings of its board of directors (either in-person or by telephone) at least once every calendar quarter. The Agent and each Lender shall be notified in writing of the date and time for each board meeting by notice sent (which may be oral notice) at the same time as notice thereof is sent to the members of the Borrower's board of directors, and shall receive all reports and other board materials that are provided in writing or electronically (or otherwise made available) to the board members, except any that are subject to attorney-client or other privilege of the Borrower, any Subsidiary or any of their officers or directors. The Agent and the Lenders, collectively, shall have the right to have one (1) designated representative, at the Borrower's reasonable expense and subject to reasonable and customary confidentiality obligations, attend such board meetings as an observer; *provided, however*, such observer shall not constitute a member of such board and shall not be entitled to vote on any matters presented to such board; *provided, further*, that such observer may be required to leave such meetings (or may receive certain materials with redacted portions) to the extent a legal privilege arises in connection with the issues being discussed (or described in such materials), in each case, that reasonably would be expected to be lost if the observer were not to leave or were to receive such redacted information, as applicable.

[Remainder of page intentionally left blank; signatures on following pages.]

In witness whereof, the parties hereto have caused this Agreement to be duly executed and delivered by their respective representatives thereunto duly authorized as of the date first written above.

BORROWER:

EPV SOLAR, INC.

By: _____
Name: _____
Title: _____

AGENT:

**PATRIARCH PARTNERS AGENCY
SERVICES, LLC, as the Agent**

By: _____
Lynn Tilton
Manager

LENDERS:

c/o Patriarch Partners XIV, LLC
32 Avenue of the Americas, 17th Floor
New York, New York 10013
Telephone: (212) 825-0550
Facsimile: (212) 825-2038
Attention: Loan Administration/EPV Solar

ZOHAR II 2005-1, LIMITED

By: Patriarch Partners XIV, LLC, its
Collateral Manager

By: _____
Lynn Tilton
Manager

SCHEDULE 2.1

COMMITMENTS

Term Loan Commitments

Term Loan Lender	Term Loan Commitment
Zohar II 2005-1, Limited	\$4,000,000
Total	\$4,000,000