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

FORM 10-Q

T **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the quarterly period ended July 3, 2016

OR

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

For the transition period from _____ to _____

Commission file number 001-34166

SUNPOWER®

SunPower Corporation

(Exact Name of Registrant as Specified in Its Charter)

Delaware	**94-3008969**
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)

77 Rio Robles, San Jose, California 95134
(Address of Principal Executive Offices and Zip Code)
(408) 240-5500
(Registrant's Telephone Number, Including Area Code)

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act. (Check one):

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

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

The total number of outstanding shares of the registrant’s common stock as of August 5, 2016 was 138,150,656.

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PART I. FINANCIAL INFORMATION
ITEM 1. *FINANCIAL STATEMENTS*

SunPower Corporation
Consolidated Balance Sheets
(In thousands, except share data)
(unaudited)

	July 3, 2016	January 3, 2016
Assets		
Current assets:		
Cash and cash equivalents	$ 590,091	$ 954,528
Restricted cash and cash equivalents, current portion	23,091	24,488
Accounts receivable, net[1]	211,753	190,448
Costs and estimated earnings in excess of billings[1]	32,677	38,685
Inventories	467,914	382,390
Advances to suppliers, current portion	72,061	85,012
Project assets - plants and land, current portion[1]	904,429	479,452
Prepaid expenses and other current assets[1]	306,616	359,517
Total current assets	2,608,632	2,514,520
Restricted cash and cash equivalents, net of current portion	45,891	41,748
Restricted long-term marketable securities	6,362	6,475
Property, plant and equipment, net	818,711	731,230
Solar power systems leased and to be leased, net	594,266	531,520
Project assets - plants and land, net of current portion	26,282	5,072
Advances to suppliers, net of current portion	246,468	274,085
Long-term financing receivables, net	429,910	334,791
Goodwill and other intangible assets, net	107,547	119,577
Other long-term assets[1]	317,095	297,975
Total assets	$ 5,201,164	$ 4,856,993
Liabilities and Equity		
Current liabilities:		
Accounts payable[1]	$ 518,598	$ 514,654
Accrued liabilities[1]	373,874	313,497
Billings in excess of costs and estimated earnings	92,295	115,739
Short-term debt	350,764	21,041
Customer advances, current portion[1]	41,544	33,671
Total current liabilities	1,377,075	998,602
Long-term debt	578,231	478,948
Convertible debt[1]	1,112,127	1,110,960
Customer advances, net of current portion[1]	112,663	126,183
Other long-term liabilities[1]	578,917	564,557
Total liabilities	3,759,013	3,279,250
Commitments and contingencies (Note 8)		
Redeemable noncontrolling interests in subsidiaries	90,551	69,104
Equity:		
Preferred stock, $0.001 par value; 10,000,000 shares authorized; none issued and outstanding as of both July 3, 2016 and January 3, 2016	—	—
Common stock, $0.001 par value, 367,500,000 shares authorized; 147,509,133 shares issued, and 138,134,648 outstanding as of July 3, 2016; 145,242,705 shares issued, and 136,712,339 outstanding as of January 3, 2016	138	137
Additional paid-in capital	2,391,912	2,359,917
Accumulated deficit	(903,018)	(747,617)
Accumulated other comprehensive loss	(12,601)	(8,023)
Treasury stock, at cost; 9,374,485 shares of common stock as of July 3, 2016; 8,530,366 shares of common stock as of January 3, 2016	(174,937)	(155,265)
Total stockholders' equity	1,301,494	1,449,149
Noncontrolling interests in subsidiaries	50,106	59,490

Total equity	1,351,600	1,508,639
Total liabilities and equity	$ 5,201,164	$ 4,856,993

[1] The Company has related-party balances for transactions made with Total S.A. and its affiliates as well as unconsolidated entities in which the Company has a direct equity investment. These related-party balances are recorded within the "Accounts Receivable, net," "Costs and estimated earnings in excess of billings," "Project assets - plants and land, current portion," "Prepaid expenses and other current assets," "Other long-term assets," "Accounts payable," "Accrued Liabilities", "Customer advances, current portion," "Convertible debt, net of current portion," and "Customer advances, net of current portion" financial statement line items in the Consolidated Balance Sheets (see Note 2, Note 6, Note 9, Note 10, and Note 11).

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

SunPower Corporation
Consolidated Statements of Operations
(In thousands, except per share data)
(unaudited)

	Three Months Ended		Six Months Ended	
	July 3, 2016	June 28, 2015	July 3, 2016	June 28, 2015
Revenue[1]				
Solar power systems, components, and other	$ 356,011	$ 330,552	$ 684,711	$ 731,765
Residential leasing	64,441	50,468	120,616	90,126
	$ 420,452	$ 381,020	$ 805,327	$ 821,891
Cost of revenue[1]				
Solar power systems, components, and other	331,194	274,148	621,435	593,796
Residential leasing	47,964	35,991	91,061	66,396
	379,158	310,139	712,496	660,192
Gross margin	41,294	70,881	92,831	161,699
Operating expenses:				
Research and development[1]	31,411	20,560	64,117	41,728
Sales, general and administrative[1]	84,683	81,520	182,474	158,734
Restructuring charges	117	1,749	213	5,330
Total operating expenses	116,211	103,829	246,804	205,792
Operating loss	(74,917)	(32,948)	(153,973)	(44,093)
Other income (expense), net:				
Interest income	806	494	1,503	1,050
Interest expense[1]	(13,950)	(8,517)	(26,831)	(24,198)
Other, net	(5,822)	14,982	(12,054)	12,362
Other income (expense), net	(18,966)	6,959	(37,382)	(10,786)
Loss before income taxes and equity in earnings of unconsolidated investees	(93,883)	(25,989)	(191,355)	(54,879)
Benefit from (provision for) income taxes	(6,648)	659	(9,829)	(1,692)
Equity in earnings of unconsolidated investees	8,350	1,864	7,586	4,055
Net loss	(92,181)	(23,466)	(193,598)	(52,516)
Net loss attributable to noncontrolling interests and redeemable noncontrolling interests	22,189	29,975	38,197	49,444
Net income (loss) attributable to stockholders	$ (69,992)	$ 6,509	$ (155,401)	$ (3,072)
Net income (loss) per share attributable to stockholders:				
Basic	$ (0.51)	$ 0.05	$ (1.13)	$ (0.02)
Diluted	$ (0.51)	$ 0.04	$ (1.13)	$ (0.02)
Weighted-average shares:				
Basic	138,084	134,376	137,644	133,205
Diluted	138,084	156,995	137,644	133,205

[1] The Company has related-party transactions with Total S.A. and its affiliates as well as unconsolidated entities in which the Company has a direct equity investment. These related-party transactions are recorded within "Revenue: Solar power systems and components," "Cost of revenue: Solar power systems and components," "Operating expenses: Research and development," "Operating expenses: Sales, general and administrative," and "Other income (expense), net: Interest expense" financial statement line items in the Consolidated Statements of Operations (see Note 2 and Note 9).

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

SunPower Corporation
Consolidated Statements of Comprehensive Income (Loss)
(In thousands)
(unaudited)

	Three Months Ended		Six Months Ended	
	July 3, 2016	June 28, 2015	July 3, 2016	June 28, 2015
Net loss	$ (92,181)	$ (23,466)	$ (193,598)	$ (52,516)
Components of comprehensive loss:				
Translation adjustment	138	242	1,557	(1,761)
Net change in derivatives (Note 11)	(136)	4,996	(6,881)	808
Income taxes	(4)	346	746	457
Net change in accumulated other comprehensive income (loss)	(2)	5,584	(4,578)	(496)
Total comprehensive loss	(92,183)	(17,882)	(198,176)	(53,012)
Comprehensive loss attributable to noncontrolling interests and redeemable noncontrolling interests	22,189	29,975	38,197	49,444
Comprehensive income (loss) attributable to stockholders	$ (69,994)	$ 12,093	$ (159,979)	$ (3,568)

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

SunPower Corporation
Consolidated Statements of Equity
(In thousands)
(unaudited)

	Redeemable Noncontrolling Interests	Common Stock Shares	Common Stock Value	Additional Paid-in Capital	Treasury Stock	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total Stockholders' Equity	Noncontrolling Interests	Total Equity
Balances at January 3, 2016	**$ 69,104**	**136,711**	**$137**	**$2,359,917**	**$(155,265)**	**$ (8,023)**	**$ (747,617)**	**$ 1,449,149**	**$ 59,490**	**$1,508,639**
Net loss	(35,497)	—	—	—	—	—	(155,401)	(155,401)	(2,700)	(158,101)
Other comprehensive loss	—	—	—	—	—	(4,578)	—	(4,578)	—	(4,578)
Issuance of restricted stock to employees, net of cancellations	—	2,266	2	—	—	—	—	2	—	2
Stock-based compensation expense	—	—	—	31,995	—	—	—	31,995	—	31,995
Contributions from noncontrolling interests	59,366	—	—	—	—	—	—	—	(2,201)	(2,201)
Distributions to noncontrolling interests	(2,422)	—	—	—	—	—	—	—	(4,483)	(4,483)
Purchases of treasury stock	—	(845)	(1)	—	(19,672)	—	—	(19,673)	—	(19,673)
Balances at July 3, 2016	**$ 90,551**	**138,132**	**$138**	**$2,391,912**	**$(174,937)**	**$ (12,601)**	**$ (903,018)**	**$ 1,301,494**	**$ 50,106**	**$1,351,600**

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

SunPower Corporation
Consolidated Statements of Cash Flows
(In thousands)
(unaudited)

	Six Months Ended	
	July 3, 2016	**June 28, 2015**
Cash flows from operating activities:		
Net loss	$ (193,598)	$ (52,516)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	83,015	60,005
Stock-based compensation	32,995	27,586
Non-cash interest expense	655	5,251
Equity in earnings of unconsolidated investees	(7,586)	(4,055)
Excess tax benefit from stock-based compensation	—	(6,727)
Deferred income taxes	849	(367)
Gain on sale of residential lease portfolio to 8point3 Energy Partners LP	—	(27,915)
Other, net	1,799	1,377
Changes in operating assets and liabilities, net of effect of acquisitions:		
Accounts receivable	(23,295)	65,202
Costs and estimated earnings in excess of billings	6,301	138,638
Inventories	(115,047)	(130,726)
Project assets	(433,383)	(311,774)
Prepaid expenses and other assets	48,709	29,425
Long-term financing receivables, net	(95,119)	(69,258)
Advances to suppliers	40,569	25,094
Accounts payable and other accrued liabilities	12,077	(71,529)
Billings in excess of costs and estimated earnings	(23,049)	9,330
Customer advances	(5,884)	(12,482)
Net cash used in operating activities	(669,992)	(325,441)
Cash flows from investing activities:		
Increase in restricted cash and cash equivalents	(2,747)	(28,407)
Purchases of property, plant and equipment	(93,324)	(68,778)
Cash paid for solar power systems, leased and to be leased	(46,156)	(41,832)
Cash paid for solar power systems	(2,282)	(10,007)
Proceeds from (payments to) 8point3 Energy Partners LP	(9,838)	341,174
Cash paid for investments in unconsolidated investees	(10,309)	(7,092)
Cash paid for intangibles	—	(526)
Net cash used in investing activities	(164,656)	184,532
Cash flows from financing activities:		
Cash paid for repurchase of convertible debt	—	(324,273)
Proceeds from settlement of 4.50% Bond Hedge	—	74,628
Payments to settle 4.50% Warrants	—	(574)
Repayment of bank loans and other debt	(7,887)	(15,819)
Proceeds from issuance of non-recourse residential financing, net of issuance costs	53,228	54,830
Repayment of non-recourse residential financing	(2,166)	(40,802)
Contributions from noncontrolling interests and redeemable noncontrolling interests attributable to residential projects	57,165	91,936
Distributions to noncontrolling interests and redeemable noncontrolling interests attributable to residential projects	(6,905)	(4,567)
Proceeds from issuance of non-recourse power plant and commercial financing, net of issuance costs	433,492	207,710
Repayment of non-recourse power plant and commercial financing	(37,352)	(226,578)
Proceeds from 8point3 Energy Partners LP attributable to operating leases and unguaranteed sales-type lease residual values	—	29,300
Proceeds from exercise of stock options	—	178
Excess tax benefit from stock-based compensation	—	6,727
Purchases of stock for tax withholding obligations on vested restricted stock	(19,671)	(40,326)
Net cash provided by (used in) financing activities	469,904	(187,630)
Effect of exchange rate changes on cash and cash equivalents	307	(4,593)

Net decrease in cash and cash equivalents		(364,437)		(333,132)
Cash and cash equivalents, beginning of period		954,528		956,175
Cash and cash equivalents, end of period	$	590,091	$	623,043
Non-cash transactions:				
Assignment of residential lease receivables to third parties	$	2,476	$	1,689
Costs of solar power systems, leased and to be leased, sourced from existing inventory	$	29,891	$	30,428
Costs of solar power systems, leased and to be leased, funded by liabilities	$	6,282	$	3,971
Costs of solar power systems under sale-leaseback financing arrangements, sourced from project assets	$	7,375	$	6,076
Property, plant and equipment acquisitions funded by liabilities	$	73,247	$	37,017
Net reclassification of cash proceeds offset by project assets in connection with the deconsolidation of assets sold to the 8point3 Group	$	8,726	$	—
Exchange of receivables for an investment in an unconsolidated investee	$	2,890	$	—
Sale of residential lease portfolio in exchange for non-controlling equity interests in the 8point3 Group	$	—	$	68,273

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

Note 1. *THE COMPANY AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES*

The Company

SunPower Corporation (together with its subsidiaries, the "Company" or "SunPower") is a leading global energy company that delivers complete solar solutions to residential, commercial, and power plant customers worldwide through an array of hardware, software, and financing options and through utility-scale solar power system construction and development capabilities, operations and maintenance ("O&M") services, and "Smart Energy" solutions. SunPower's Smart Energy initiative is designed to add layers of intelligent control to homes, buildings and grids—all personalized through easy-to-use customer interfaces. Of all the solar cells commercially available to the mass market, the Company believes its solar cells have the highest conversion efficiency, a measurement of the amount of sunlight converted by the solar cell into electricity. SunPower Corporation is a majority owned subsidiary of Total Energies Nouvelles Activités USA ("Total"), a subsidiary of Total S.A. ("Total S.A.") (see Note 2).

The Company's President and Chief Executive Officer, as the chief operating decision maker ("CODM"), has organized the Company, manages resource allocations and measures performance of the Company's activities among three end-customer segments: (i) Residential Segment, (ii) Commercial Segment and (iii) Power Plant Segment. The Residential and Commercial Segments combined are referred to as Distributed Generation.

The Company’s Residential Segment refers to sales of solar energy solutions to residential end customers through a variety of means, including cash sales and long-term leases directly to end customers, sales to resellers, including the Company's third-party global dealer network, and sales of the Company's O&M services. The Company’s Commercial Segment refers to sales of solar energy solutions to commercial and public entity end customers through a variety of means, including direct sales of turn-key engineering, procurement and construction ("EPC") services, sales to the Company's third-party global dealer network, sales of energy under power purchase agreements ("PPAs"), and sales of the Company's O&M services. The Power Plant Segment refers to the Company's large-scale solar products and systems business, which includes power plant project development and project sales, EPC services for power plant construction, power plant O&M services and component sales for power plants developed by third parties, sometimes on a multi-year, firm commitment basis.

Basis of Presentation and Preparation

Principles of Consolidation

The consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States of America ("United States" or "U.S.") and include the accounts of the Company, all of its subsidiaries and special purpose entities, as appropriate under consolidation accounting guidelines. Intercompany transactions and balances have been eliminated in consolidation. The assets of the special purpose entities that the Company establishes in connection with certain project financing arrangements for customers are not designed to be available to service the general liabilities and obligations of the Company.

Reclassifications

Certain prior period balances have been reclassified to conform to the current period presentation in the Company's consolidated financial statements and the accompanying notes. Such reclassifications had no effect on previously reported results of operations or accumulated deficit.

Fiscal Years

The Company has a 52-to-53-week fiscal year that ends on the Sunday closest to December 31. Accordingly, every fifth or sixth year will be a 53-week fiscal year. The current fiscal year, fiscal 2016, is a 52-week fiscal year, while fiscal year 2015 was a 53-week fiscal year and had a 14-week fourth fiscal quarter. The second quarter of fiscal 2016 ended on July 3, 2016, while the second quarter of fiscal 2015 ended on June 28, 2015. The second quarters of fiscal 2016 and fiscal 2015 were both 13-week quarters.

Management Estimates

The preparation of the consolidated financial statements in conformity with U.S. generally accepted accounting principles ("U.S. GAAP") requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Significant estimates in these consolidated financial statements

include percentage-of-completion for construction projects; allowances for doubtful accounts receivable and sales returns; inventory and project asset write-downs; stock-based compensation; estimates for future cash flows and economic useful lives of property, plant and equipment, goodwill, valuations for business combinations, other intangible assets, investments, and other long-term assets; the fair value and residual value of solar power systems; fair value of financial instruments; valuation of contingencies and certain accrued liabilities such as accrued warranty; and income taxes and tax valuation allowances and indemnities. Actual results could materially differ from those estimates.

Summary of Significant Accounting Policies

Long-Lived Assets

The Company evaluates its long-lived assets, including property, plant and equipment, solar power systems leased and to be leased, and other intangible assets with finite lives, for impairment whenever events or changes in circumstances indicate that the carrying value of such assets may not be recoverable. Factors considered important that could result in an impairment review include significant under-performance relative to expected historical or projected future operating results, significant changes in the manner of use of acquired assets, and significant negative industry or economic trends. The Company's impairment evaluation of long-lived assets includes an analysis of estimated future undiscounted net cash flows expected to be generated by the assets over their remaining estimated useful lives. If the Company's estimate of future undiscounted net cash flows is insufficient to recover the carrying value of the assets over the remaining estimated useful lives, it records an impairment loss in the amount by which the carrying value of the assets exceeds the fair value. Fair value is generally measured based on either quoted market prices, if available, or discounted cash flow analysis.

Project Assets - Plant and Land

Project assets consist primarily of capitalized costs relating to solar power system projects in various stages of development that the Company incurs prior to the sale of the solar power system to a third-party. These costs include costs for land and costs for developing and constructing a solar power system. Development costs can include legal, consulting, permitting, and other similar costs. Once the Company enters into a definitive sales agreement, it reclassifies these project asset costs to deferred project costs within "Prepaid expenses and other current assets" in its Consolidated Balance Sheet until the Company has met the criteria to recognize the sale of the project asset or solar power project as revenue. The Company releases these project costs to cost of revenue as each respective project asset or solar power system is sold to a customer, since the project is constructed for a customer (matching the underlying revenue recognition method).

The Company evaluates the realizability of project assets whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. The Company considers the project to be recoverable if it is anticipated to be sellable for a profit once it is either fully developed or fully constructed or if costs incurred to date may be recovered via other means, such as a sale prior to the completion of the development cycle. The Company examines a number of factors to determine if the project will be profitable, including whether there are any environmental, ecological, permitting, or regulatory conditions that have changed for the project since the start of development. In addition, the company must anticipate market conditions, such as the future cost of energy and changes in the factors that its future customers use to value its project assets in sale arrangements, including the internal rate of return that customers expect. Changes in such conditions could cause the cost of the project to increase or the selling price of the project to decrease. Due to the development, construction, and sale timeframe of the Company's larger solar projects, it classifies project assets which are not expected to be sold within the next 12 months as "Project assets - plants and land, net of current portion" on the Consolidated Balance Sheets. Once specific milestones have been achieved, the Company determines if the sale of the project assets will occur within the next 12 months from a given balance sheet date and, if so, it then reclassifies the project assets as current.

Inventories

Inventories are valued at the lower of cost or market value. The Company evaluates the realizability of its inventories, including purchase commitments under fixed-price long-term supply agreements, based on assumptions about expected demand and market conditions. The Company’s assumption of expected demand is developed based on its analysis of bookings, sales backlog, sales pipeline, market forecast, and competitive intelligence. The Company’s assumption of expected demand is compared to available inventory, production capacity, future polysilicon purchase commitments, available third-party inventory, and growth plans. The Company’s factory production plans, which drive materials requirement planning, are established based on its assumptions of expected demand. The Company responds to reductions in expected demand by temporarily reducing manufacturing output and adjusting expected valuation assumptions as necessary. In addition, expected demand by geography has changed historically due to changes in the availability and size of government mandates and economic incentives.

The Company evaluates the terms of its long-term inventory purchase agreements with suppliers, including joint ventures, for the procurement of polysilicon, ingots, wafers, and solar cells and establishes accruals for estimated losses on adverse purchase commitments as necessary, such as lower of cost or market value adjustments, forfeiture of advanced deposits and liquidated damages. Obligations related to non-cancellable purchase orders for inventories match current and forecasted sales orders that will consume these ordered materials and actual consumption of these ordered materials are compared to expected demand regularly. The Company anticipates total obligations related to long-term supply agreements for inventories will be realized because quantities are less than management's expected demand for its solar power products. Other market conditions that could affect the realizable value of the Company's inventories and are periodically evaluated by management include historical inventory turnover ratio, anticipated sales price, new product development schedules, the effect new products might have on the sale of existing products, product obsolescence, customer concentrations, the current market price of polysilicon as compared to the price in the Company's fixed-price arrangements, and product merchantability, among other factors. If, based on assumptions about expected demand and market conditions, the Company determines that the cost of inventories exceeds its net realizable value or inventory is excess or obsolete, the Company records a write-down or accrual, which may be material, equal to the difference between the cost of inventories and the estimated net realizable value. If actual market conditions are more favorable, the Company may have higher gross margin when products that have been previously written down are sold in the normal course of business.

Recent Accounting Pronouncements

In June 2016, the Financial Accounting Standards Board (“FASB”) issued an update to the standards to amend the methodology for measuring credit losses on financial instruments and the timing of when such losses are recorded. The new guidance is effective for the Company no later than the first quarter of fiscal 2020. Early adoption is permitted beginning in the first quarter of fiscal 2019. The Company is evaluating the potential impact of this standard on its consolidated financial statements and disclosures.

In March 2016, the FASB issued an update to the standards to simplify the accounting for employee share-based payment transactions, including the income tax consequences, classification of awards as either equity or liabilities, and classification on the statement of cash flows. The new guidance is effective for the Company no later than the first quarter of fiscal 2017. Early adoption is permitted. The Company is evaluating the potential impact of this standard on its consolidated financial statements and disclosures.

In February 2016, the FASB issued an update to the standards to require lessees to recognize a lease liability and a right-of-use asset for all leases (lease terms of more than 12 months) at the commencement date. The new guidance is effective for the Company no later than the first quarter of fiscal 2019 and requires a modified retrospective approach to adoption. Early adoption is permitted. The Company is evaluating the potential impact of this standard on its consolidated financial statements and disclosures.

In January 2016, the FASB issued an update to the standards to require equity investments to be measured at fair value with changes in the fair value recognized through net income (other than those accounted for under the equity method of accounting or those that result in consolidation of the investee). The new guidance is effective for the Company no later than the first quarter of fiscal 2018 and upon adoption, an entity should apply the amendments by means of a cumulative-effect adjustment to the balance sheet at the beginning of the first reporting period in which the guidance is effective. Early adoption is permitted for the accounting guidance on financial liabilities under the fair value option. The Company is evaluating the potential impact of this standard on its consolidated financial statements and disclosures.

In July 2015, the FASB issued an update to the standards to simplify the measurement of inventory. The updated standard more closely aligns the measurement of inventory with that of International Financial Reporting Standards (“IFRS”) and amends the measurement standard from lower of cost or market to lower of cost or net realizable value. The new guidance is effective for the Company no later than the first quarter of fiscal 2017 and requires a prospective approach to adoption. The Company elected early adoption of the updated accounting standard, effective in the second quarter of fiscal 2016. The adoption of this updated accounting standard did not result in a significant impact to the Company’s consolidated financial statements.

In April 2015, the FASB issued an update to the standards to provide a practical expedient for the measurement date of defined benefit obligation and plan assets for reporting entities with fiscal year-ends that do not coincide with a month-end. The updated standard allows such entities to measure defined benefit plan assets and obligations using the month-end that is closest to the entity's fiscal year-end and apply that practical expedient consistently from year to year and to all plans, if an entity has more than one plan. The Company elected early adoption of the updated accounting standard, effective in the fourth

quarter of fiscal 2015, and measured its defined benefit plan assets and obligations as of December 31, 2015, the calendar month-end closest to the Company's fiscal year-end. The adoption of this updated accounting standard did not have a significant impact to the Company's consolidated financial statements.

In February 2015, the FASB issued a new standard that modifies existing consolidation guidance for reporting organizations that are required to evaluate whether they should consolidate certain legal entities. The Company adopted the new accounting standard, effective in the first quarter of fiscal 2016. Adoption of the new accounting standard did not have a material impact to the Company's consolidated financial statements.

In August 2014, the FASB issued an update to the standards to require management to evaluate whether there are conditions and events that raise substantial doubt about the Company's ability to continue as a going concern within one year after the date the financial statements are issued and provide related disclosures. The new guidance is effective for the Company no later than the fourth quarter of fiscal 2016. Early adoption is permitted. The Company is evaluating the potential impact of this standard on its consolidated financial statements and disclosures.

In May 2014, the FASB issued a new revenue recognition standard based on the principle that revenue is recognized to depict the transfer of goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods and services. The FASB has issued several updates to the standard which i) clarify the application of the principal versus agent guidance; ii) clarify the guidance relating to performance obligations and licensing; and iii) clarify assessment of the collectability criterion, presentation of sales taxes, measurement date for noncash consideration and completed contracts at transaction. The new revenue recognition standard, amended by the updates, becomes effective for the Company in the first quarter of fiscal 2018 and is to be applied retrospectively using one of two prescribed methods. Early adoption is permitted. The Company is evaluating the available methods and the potential impact of this standard on its consolidated financial statements and disclosures.

Other than as described above, there has been no issued accounting guidance not yet adopted by the Company that it believes is material or potentially material to its consolidated financial statements.

Note 2. *TRANSACTIONS WITH TOTAL AND TOTAL S.A.*

In June 2011, Total completed a cash tender offer to acquire 60% of the Company's then outstanding shares of common stock at a price of $23.25 per share, for a total cost of approximately $1.4 billion. In December 2011, the Company entered into a Private Placement Agreement with Total, under which Total purchased, and the Company issued and sold, 18.6 million shares of the Company's common stock for a purchase price of $8.80 per share, thereby increasing Total's ownership to approximately 66% of the Company's outstanding common stock as of that date. As of July 3, 2016, through the increase of the Company's total outstanding common stock due to the exercise of warrants and issuance of restricted and performance stock units, Total's ownership of the Company's outstanding common stock has decreased to approximately 57%.

Amended and Restated Credit Support Agreement

In June 2016, the Company and Total S.A. entered into an Amended and Restated Credit Support Agreement (the "Credit Support Agreement") which amended and restated the Credit Support Agreement dated April 28, 2011 by and between the Company and Total S.A., as amended. Under the Credit Support Agreement, Total S.A. agreed to enter into one or more guarantee agreements (each a "Guaranty") with banks providing letter of credit facilities to the Company. At any time until December 31, 2018, Total S.A. will, at the Company's request, guarantee the payment to the applicable issuing bank of the Company's obligation to reimburse a draw on a letter of credit and pay interest thereon in accordance with the letter of credit facility between such bank and the Company. Such letters of credit must be issued no later than December 31, 2018 and expire no later than March 31, 2020. Total is required to issue and enter into the Guaranty requested by the Company, subject to certain terms and conditions. In addition, Total will not be required to enter into the Guaranty if, after giving effect to the Company's request for a Guaranty, the sum of (a) the aggregate amount available to be drawn under all guaranteed letter of credit facilities, (b) the amount of letters of credit available to be issued under any guaranteed facility, and (c) the aggregate amount of draws (including accrued but unpaid interest) on any letters of credit issued under any guaranteed facility that have not yet been reimbursed by the Company, would exceed $500 million in the aggregate. Such maximum amounts of credit support available to the Company can be reduced upon the occurrence of specified events.

In consideration for the commitments of Total S.A. pursuant to the Credit Support Agreement, the Company is required to pay Total S.A. a guaranty fee for each letter of credit that is the subject of a Guaranty under the Credit Support Agreement and was outstanding for all or part of the preceding calendar quarter. The Credit Support Agreement will terminate following

December 31, 2018, after the later of the satisfaction of all obligations thereunder and the termination or expiration of each Guaranty provided thereunder.

Affiliation Agreement

The Company and Total have entered into an Affiliation Agreement that governs the relationship between Total and the Company (the "Affiliation Agreement"). Until the expiration of a standstill period specified in the Affiliation Agreement (the "Standstill Period"), and subject to certain exceptions, Total, Total S.A., any of their respective affiliates and certain other related parties (collectively the "Total Group") may not effect, seek, or enter into discussions with any third-party regarding any transaction that would result in the Total Group beneficially owning shares of the Company in excess of certain thresholds, or request the Company or the Company's independent directors, officers or employees, to amend or waive any of the standstill restrictions applicable to the Total Group.

The Affiliation Agreement imposes certain limitations on the Total Group's ability to seek to effect a tender offer or merger to acquire 100% of the outstanding voting power of the Company and imposes certain limitations on the Total Group's ability to transfer 40% or more of the outstanding shares or voting power of the Company to a single person or group that is not a direct or indirect subsidiary of Total S.A. During the Standstill Period, no member of the Total Group may, among other things, solicit proxies or become a participant in an election contest relating to the election of directors to the Company's Board of Directors.

The Affiliation Agreement provides Total with the right to maintain its percentage ownership in connection with any new securities issued by the Company, and Total may also purchase shares on the open market or in private transactions with disinterested stockholders, subject in each case to certain restrictions.

The Affiliation Agreement also imposes certain restrictions with respect to the Company's and its Board of Directors' ability to take certain actions, including specifying certain actions that require approval by the directors other than the directors appointed by Total and other actions that require stockholder approval by Total.

Research & Collaboration Agreement

Total and the Company have entered into a Research & Collaboration Agreement (the "R&D Agreement") that establishes a framework under which the parties engage in long-term research and development collaboration ("R&D Collaboration"). The R&D Collaboration encompasses a number of different projects, with a focus on advancing the Company's technology position in the crystalline silicon domain, as well as ensuring the Company's industrial competitiveness. The R&D Agreement enables a joint committee to identify, plan and manage the R&D Collaboration.

Upfront Warrant

In February 2012, the Company issued a warrant (the "Upfront Warrant") to Total S.A. to purchase 9,531,677 shares of the Company's common stock with an exercise price of $7.8685, subject to adjustment for customary anti-dilution and other events. The Upfront Warrant, which is governed by the Private Placement Agreement and a Compensation and Funding Agreement, is exercisable at any time for seven years after its issuance, provided that, so long as at least $25.0 million in aggregate of the Company's convertible debt remains outstanding, such exercise will not cause "any person," including Total S.A., to, directly or indirectly, including through one or more wholly-owned subsidiaries, become the "beneficial owner" (as such terms are defined in Rule 13d-3 and Rule 13d-5 under the Securities Exchange Act of 1934, as amended), of more than 74.99% of the voting power of the Company's common stock at such time, a circumstance which would trigger the repurchase or conversion of the Company's existing convertible debt.

0.75% Debentures Due 2018

In May 2013, the Company issued $300.0 million in principal amount of its 0.75% senior convertible debentures due 2018 (the "0.75% debentures due 2018"). $200.0 million in aggregate principal amount of the 0.75% debentures due 2018 were acquired by Total. The 0.75% debentures due 2018 are convertible into shares of the Company's common stock at any time based on an initial conversion price equal to $24.95 per share, which provides Total the right to acquire up to 8,017,420 shares of the Company's common stock. The applicable conversion rate may adjust in certain circumstances, including a fundamental change, as described in the indenture governing the 0.75% debentures due 2018.

0.875% Debentures Due 2021

In June 2014, the Company issued $400.0 million in principal amount of its 0.875% senior convertible debentures due 2021 (the "0.875% debentures due 2021"). An aggregate principal amount of $250.0 million of the 0.875% debentures due 2021 were acquired by Total. The 0.875% debentures due 2021 are convertible into shares of the Company's common stock at any time based on an initial conversion price equal to $48.76 per share, which provides Total the right to acquire up to 5,126,775 shares of the Company's common stock. The applicable conversion rate may adjust in certain circumstances, including a fundamental change, as described in the indenture governing the 0.875% debentures due 2021.

4.00% Debentures Due 2023

In December 2015, the Company issued $425.0 million in principal amount of its 4.00% senior convertible debentures due 2023 (the "4.00% debentures due 2023"). An aggregate principal amount of $100.0 million of the 4.00% debentures due 2023 were acquired by Total. The 4.00% debentures due 2023 are convertible into shares of the Company's common stock at any time based on an initial conversion price equal to $30.53 per share, which provides Total the right to acquire up to 3,275,680 shares of the Company's common stock. The applicable conversion rate may adjust in certain circumstances, including a fundamental change, as described in the indenture governing the 4.00% debentures due 2023.

Joint Projects with Total and its Affiliates:

The Company enters into various EPC and O&M agreements relating to solar projects, including EPC and O&M services agreements relating to projects owned or partially owned by Total and its affiliates. As of July 3, 2016, the Company had $13.3 million of "Costs and estimated earnings in excess of billings" and $1.4 million of "Accounts receivable, net" on its Consolidated Balance Sheets related to projects in which Total and its affiliates have a direct or indirect material interest.

Related-Party Transactions with Total and its Affiliates:

	Three Months Ended		Six Months Ended	
(In thousands)	**July 3, 2016**	**June 28, 2015**	**July 3, 2016**	**June 28, 2015**
Revenue:				
EPC, O&M, and components revenue under joint projects	$ 20,613	$ 2,208	$ 61,529	$ 2,963
Research and development expense:				
Offsetting contributions received under the R&D Agreement	$ (421)	$ (395)	$ (421)	$ (817)
Interest expense:				
Guarantee fees incurred under the Credit Support Agreement	$ 1,622	$ 2,272	$ 3,268	$ 4,998
Interest expense incurred on the 0.75% debentures due 2018	$ 375	$ 375	$ 750	$ 750
Interest expense incurred on the 0.875% debentures due 2021	$ 547	$ 547	$ 1,094	$ 1,094
Interest expense incurred on the 4.00% debentures due 2023	$ 1,000	n/a	$ 2,000	n/a

Note 3. *GOODWILL AND OTHER INTANGIBLE ASSETS*

Goodwill

The following table presents the changes in the carrying amount of goodwill under the Company's reportable business segments:

(In thousands)	**Residential**	**Commercial**	**Power Plant**	**Total**
As of January 3, 2016	$ 32,180	$ 10,314	$ 15,641	$ 58,135
Adjustments to goodwill	—	(570)	—	(570)
As of July 3, 2016	$ 32,180	$ 9,744	$ 15,641	$ 57,565

Other Intangible Assets

The following tables present details of the Company's acquired other intangible assets:

(In thousands)	Gross	Accumulated Amortization	Net
As of July 3, 2016			
Patents and purchased technology	$ 48,619	$ (10,645)	$ 37,974
Project pipeline assets	9,446	(902)	8,544
Purchased in-process research and development	3,700	(236)	3,464
Other	500	(500)	—
	$ 62,265	$ (12,283)	$ 49,982
As of January 3, 2016			
Patents and purchased technology	$ 53,499	$ (5,328)	$ 48,171
Project pipeline assets	9,446	—	9,446
Purchased in-process research and development	3,700	—	3,700
Other	500	(375)	125
	$ 67,145	$ (5,703)	$ 61,442

During the three and six months ended July 3, 2016, aggregate amortization expense for intangible assets totaled $3.2 million and $11.5 million, respectively. During the three and six months ended June 28, 2015, aggregate amortization expense for intangible assets totaled $0.6 million and $1.1 million, respectively.

As of July 3, 2016, the estimated future amortization expense related to intangible assets with finite useful lives is as follows:

(In thousands)	Amount
Fiscal Year	
2016 (remaining six months)	$ 9,676
2017	11,854
2018	12,014
2019	8,902
2020	6,317
	$ 48,763

Note 4. ***BALANCE SHEET COMPONENTS***

	As of	
(In thousands)	July 3, 2016	January 3, 2016
Accounts receivable, net:		
Accounts receivable, gross[1,2]	$ 232,688	$ 207,860
Less: allowance for doubtful accounts	(19,274)	(15,505)
Less: allowance for sales returns	(1,661)	(1,907)
	$ 211,753	$ 190,448

[1] Includes short-term financing receivables associated with solar power systems leased of $16.3 million and $12.5 million as of July 3, 2016 and January 3, 2016, respectively (see Note 5).

[2] Includes short-term retainage of $14.5 million and $11.8 million as of July 3, 2016 and January 3, 2016, respectively. Retainage refers to the earned, but unbilled, portion of a construction and development project for which payment is deferred by the customer until certain contractual milestones are met.

(In thousands)	As of July 3, 2016	As of January 3, 2016
Inventories:		
Raw materials	$ 164,244	$ 124,297
Work-in-process	139,022	131,258
Finished goods	164,648	126,835
	$ 467,914	$ 382,390

(In thousands)	As of July 3, 2016	As of January 3, 2016
Prepaid expenses and other current assets:		
Deferred project costs	$ 78,149	$ 67,479
VAT receivables, current portion	10,574	14,697
Deferred costs for solar power systems to be leased	38,522	40,988
Derivative financial instruments	5,172	8,734
Prepaid inventory	—	50,615
Other receivables	69,862	78,824
Prepaid taxes	70,116	71,529
Other prepaid expenses	34,141	26,651
Other current assets	80	—
	$ 306,616	$ 359,517

(In thousands)	As of July 3, 2016	As of January 3, 2016
Project assets - plants and land:		
Project assets — plants	$ 926,263	$ 479,108
Project assets — land	4,448	5,416
	$ 930,711	$ 484,524
Project assets - plants and land, current portion	$ 904,429	$ 479,452
Project assets - plants and land, net of current portion	$ 26,282	$ 5,072

(In thousands)	As of July 3, 2016	As of January 3, 2016
Property, plant and equipment, net:		
Manufacturing equipment[1]	$ 665,567	$ 556,963
Land and buildings	32,134	32,090
Leasehold improvements	394,447	244,098
Solar power systems[2]	151,735	141,075
Computer equipment	115,443	103,443
Furniture and fixtures	11,414	10,640
Construction-in-process	90,963	247,511
	1,461,703	1,335,820
Less: accumulated depreciation	(642,992)	(604,590)
	$ 818,711	$ 731,230

[1] The Company's mortgage loan agreement with International Finance Corporation ("IFC") is collateralized by certain manufacturing equipment with a net book value of $70.1 million and $85.1 million as of July 3, 2016 and January 3, 2016, respectively.

[2] Includes $120.1 million and $110.4 million of solar power systems associated with sale-leaseback transactions under the financing method as of July 3, 2016 and January 3, 2016, respectively, which are depreciated using the straight-line method to their estimated residual values over the lease terms of up to 20 years (see Note 5).

	As of	
(In thousands)	**July 3, 2016**	**January 3, 2016**
Property, plant and equipment, net by geography[1]:		
Philippines	$ 516,961	$ 460,420
United States	219,312	201,419
Mexico	58,783	44,164
Europe	22,588	22,962
Other	1,067	2,265
	$ 818,711	$ 731,230

[1] Property, plant and equipment, net by geography is based on the physical location of the assets.

	As of	
(In thousands)	**July 3, 2016**	**January 3, 2016**
Other long-term assets:		
Equity method investments	$ 186,172	$ 186,405
Cost method investments	48,485	36,369
Other	82,438	75,201
	$ 317,095	$ 297,975

	As of	
(In thousands)	**July 3, 2016**	**January 3, 2016**
Accrued liabilities:		
Employee compensation and employee benefits	$ 57,974	$ 59,476
Deferred revenue	25,389	19,887
Short-term residential lease financing	19,783	7,395
Interest payable	15,318	8,165
Short-term warranty reserves	7,522	16,639
Restructuring reserve	1,065	1,823
VAT payables	6,243	4,225
Derivative financial instruments	10,522	2,316
Inventory payable	—	50,615
Liability due to 8point3 Energy Partners	—	9,952
Proceeds from 8point3 Energy Partners attributable to pre-COD projects	11,239	—
Contributions from noncontrolling interests attributable to pre-COD projects	52,494	—
Taxes payable	38,370	36,824
Other	127,955	96,180
	$ 373,874	$ 313,497

(In thousands)	As of July 3, 2016	As of January 3, 2016
Other long-term liabilities:		
Deferred revenue	$ 179,321	$ 179,779
Long-term warranty reserves	157,262	147,488
Long-term sale-leaseback financing	138,871	125,286
Long-term residential lease financing with 8point3 Energy Partners	29,407	29,389
Unrecognized tax benefits	44,131	43,297
Long-term pension liability	13,703	12,014
Derivative financial instruments	1,962	1,033
Other	14,260	26,271
	$ 578,917	$ 564,557

(In thousands)	As of July 3, 2016	As of January 3, 2016
Accumulated other comprehensive loss:		
Cumulative translation adjustment	$ (9,607)	$ (11,164)
Net unrealized gain (loss) on derivatives	(939)	5,942
Net loss on long-term pension liability adjustment	(2,055)	(2,055)
Deferred taxes	—	(746)
	$ (12,601)	$ (8,023)

Note 5. ***LEASING***

Residential Lease Program

The Company offers a solar lease program, which provides U.S. residential customers with SunPower systems under 20-year lease agreements that include system maintenance and warranty coverage. Leases are classified as either operating or sales-type leases in accordance with the relevant accounting guidelines.

Operating Leases

The following table summarizes "Solar power systems leased and to be leased, net" under operating leases on the Company's Consolidated Balance Sheets as of July 3, 2016 and January 3, 2016:

(In thousands)	As of July 3, 2016	As of January 3, 2016
Solar power systems leased and to be leased, net[1,2]:		
Solar power systems leased	$ 619,311	$ 543,358
Solar power systems to be leased	32,936	34,319
	652,247	577,677
Less: accumulated depreciation	(57,981)	(46,157)
	$ 594,266	$ 531,520

[1] Solar power systems leased and to be leased, net are physically located exclusively in the United States.

[2] As of July 3, 2016 and January 3, 2016, the Company had pledged solar assets with an aggregate book value of $95.3 million and zero, respectively, to third-party investors as security for the Company's contractual obligations.

The following table presents the Company's minimum future rental receipts on operating leases placed in service as of July 3, 2016:

(In thousands)	Fiscal 2016 (remaining six months)	Fiscal 2017	Fiscal 2018	Fiscal 2019	Fiscal 2020	Thereafter	Total
Minimum future rentals on operating leases placed in service[1]	$ 9,508	20,425	20,465	20,505	20,546	292,630	$ 384,079

[1] Minimum future rentals on operating leases placed in service does not include contingent rentals that may be received from customers under agreements that include performance-based incentives nor does it include rent receivables on operating leases sold to the 8point3 Group.

Sales-Type Leases

As of July 3, 2016 and January 3, 2016, the Company's net investment in sales-type leases presented in "Accounts receivable, net" and "Long-term financing receivables, net" on the Company's Consolidated Balance Sheets was as follows:

	As of	
(In thousands)	July 3, 2016	January 3, 2016
Financing receivables[1]:		
Minimum lease payments receivable[2]	$ 474,023	$ 366,759
Unguaranteed residual value	61,516	50,722
Unearned income	(89,362)	(70,155)
Net financing receivables	$ 446,177	$ 347,326
Current	$ 16,267	$ 12,535
Long-term	$ 429,910	$ 334,791

[1] As of July 3, 2016 and January 3, 2016, the Company had pledged financing receivables of $99.2 million and zero, respectively, to third-party investors as security for the Company's contractual obligations.

[2] Net of allowance for doubtful accounts.

As of July 3, 2016, future maturities of net financing receivables for sales-type leases are as follows:

(In thousands)	Fiscal 2016 (remaining six months)	Fiscal 2017	Fiscal 2018	Fiscal 2019	Fiscal 2020	Thereafter	Total
Scheduled maturities of minimum lease payments receivable[1]	$ 11,956	23,599	23,794	23,997	24,205	366,472	$ 474,023

[1] Minimum future rentals on sales-type leases placed in service does not include contingent rentals that may be received from customers under agreements that include performance-based incentives.

Sale-Leaseback Arrangements

The Company enters into sale-leaseback arrangements under which solar power systems are sold to third parties and subsequently leased back by the Company over minimum lease terms of up to 25 years. Separately, the Company enters into PPAs with end customers, who host the leased solar power systems and buy the electricity directly from the Company under PPAs with terms of up to 25 years. At the end of the lease term, the Company has the option to purchase the systems at fair value or may be required to remove the systems and return them to the third parties.

The Company has classified its sale-leaseback arrangements of solar power systems not involving integral equipment as operating leases. The deferred profit on the sale of these systems is recognized over the term of the lease. As of July 3, 2016, future minimum lease obligations associated with these systems were $82.2 million, which will be recognized over the minimum lease terms. Future minimum payments to be received from customers under PPAs associated with the solar power systems under sale-leaseback arrangements classified as operating leases will be recognized over the lease terms of up to 20 years and are contingent upon the amounts of energy produced by the solar power systems.

The Company enters into certain sale-leaseback arrangements under which the systems subject to the sale-leaseback arrangements have been determined to be integral equipment as defined under the accounting guidance for such transactions. The Company has continuing involvement with the solar power systems throughout the lease due to purchase option rights in the arrangements. As a result of such continuing involvement, the Company accounts for each of these transactions as a financing. Under the financing method, the proceeds received from the sale of the solar power systems are recorded by the Company as financing liabilities. The financing liabilities are subsequently reduced by the Company's payments to lease back the solar power systems, less interest expense calculated based on the Company's incremental borrowing rate adjusted to the rate required to prevent negative amortization. The solar power systems under the sale-leaseback arrangements remain on the Company's balance sheet and are classified within "Property, plant and equipment, net" (see Note 4). As of July 3, 2016, future minimum lease obligations for the sale-leaseback arrangements accounted for under the financing method were $116.7 million, which will be recognized over the lease terms of up to 25 years. During both the three and six months ended July 3, 2016, the Company had net financing proceeds of $15.7 million, in connection with these sale-leaseback arrangements. During the three and six months ended June 28, 2015 the Company had net financing proceeds of $14.3 million and $15.0 million, respectively, in connection with these sale-leaseback arrangements. As of July 3, 2016 and January 3, 2016 the carrying amount of the sale-leaseback financing liabilities, presented in "Other long-term liabilities" on the Company's Consolidated Balance Sheets, was $138.9 million and $125.3 million, respectively (see Note 4).

Note 6. ***FAIR VALUE MEASUREMENTS***

Fair value is estimated by applying the following hierarchy, which prioritizes the inputs used to measure fair value into three levels and bases the categorization within the hierarchy upon the lowest level of input that is available and significant to the fair value measurement (observable inputs are the preferred basis of valuation):

- Level 1 — Quoted prices in active markets for identical assets or liabilities.
- Level 2 — Measurements are inputs that are observable for assets or liabilities, either directly or indirectly, other than quoted prices included within Level 1.
- Level 3 — Prices or valuations that require management inputs that are both significant to the fair value measurement and unobservable.

Assets and Liabilities Measured at Fair Value on a Recurring Basis

The Company measures certain assets and liabilities at fair value on a recurring basis. There were no transfers between fair value measurement levels during any presented period. The Company did not have any assets or liabilities measured at fair value on a recurring basis requiring Level 3 inputs as of July 3, 2016 or January 3, 2016.

The following table summarizes the Company's assets and liabilities measured and recorded at fair value on a recurring basis as of July 3, 2016 and January 3, 2016:

	July 3, 2016			January 3, 2016		
(In thousands)	**Total**	**Level 1**	**Level 2**	**Total**	**Level 1**	**Level 2**
Assets						
Cash and cash equivalents[1]:						
Money market funds	$ 112,624	$ 112,624	$ —	$ 540,000	$ 540,000	$ —
Prepaid expenses and other current assets:						
Derivative financial instruments (Note 11)	5,172	—	5,172	8,734	—	8,734
Other long-term assets:						
Derivative financial instruments (Note 11)	474	—	474	—	—	—
Total assets	$ 118,270	$ 112,624	$ 5,646	$ 548,734	$ 540,000	$ 8,734
Liabilities						
Accrued liabilities:						
Derivative financial instruments (Note 11)	10,522	—	10,522	2,316	—	2,316
Other long-term liabilities:						
Derivative financial instruments (Note 11)	1,962	—	1,962	1,033	—	1,033
Total liabilities	$ 12,484	$ —	$ 12,484	$ 3,349	$ —	$ 3,349

[1] The Company's cash equivalents consist of money market fund instruments and commercial paper that are classified as available-for-sale and are highly liquid investments with original maturities of 90 days or less. The Company's money market fund instruments are categorized within Level 1 of the fair value hierarchy because they are valued using quoted market prices for identical instruments in active markets.

Other financial instruments, including the Company's accounts receivable, accounts payable and accrued liabilities, are carried at cost, which generally approximates fair value due to the short-term nature of these instruments.

Assets and Liabilities Measured at Fair Value on a Non-Recurring Basis

The Company measures certain investments and non-financial assets (including property, plant and equipment, and other intangible assets) at fair value on a non-recurring basis in periods after initial measurement in circumstances when the fair value of such asset is impaired below its recorded cost.

Held-to-Maturity Debt Securities

The Company's debt securities, classified as held-to-maturity, are Philippine government bonds that the Company maintains as collateral for business transactions within the Philippines. These bonds have various maturity dates and are classified as "Restricted long-term marketable securities" on the Company's Consolidated Balance Sheets. As of July 3, 2016 and January 3, 2016 these bonds had a carrying value of $6.4 million and $6.5 million, respectively. The Company records such held-to-maturity investments at amortized cost based on its ability and intent to hold the securities until maturity. The Company monitors for changes in circumstances and events that would affect its ability and intent to hold such securities until the recorded amortized costs are recovered. No other-than-temporary impairment loss was incurred during any presented period. The held-to-maturity debt securities were categorized in Level 2 of the fair value hierarchy.

Equity and Cost Method Investments

The Company holds equity investments in non-consolidated entities that are accounted for under both the equity and cost method. The Company monitors these investments, which are included in "Other long-term assets" in its Consolidated Balance Sheets, for impairment and records reductions in the carrying values when necessary. Circumstances that indicate an other-than-temporary decline include Level 2 and Level 3 measurements such as the valuation ascribed to the issuing company in subsequent financing rounds, decreases in quoted market prices, and declines in the results of operations of the issuer.

As of July 3, 2016 and January 3, 2016, the Company had $186.2 million and $186.4 million, respectively, in investments accounted for under the equity method (see Note 9). As of July 3, 2016 and January 3, 2016, the Company had $48.5 million and $36.4 million respectively, in investments accounted for under the cost method.

Note 7. *RESTRUCTURING*

During fiscal 2011, 2012 and 2014, the Company implemented approved restructuring plans, related to all segments, to align with changes in the global solar market which included the consolidation of the Company's Philippine manufacturing operations as well as actions to accelerate operating cost reduction and improve overall operating efficiency. These restructuring activities were substantially complete as of July 3, 2016; however, the Company expects to continue to incur costs as it finalizes previous estimates and actions in connection with these plans, primarily due to other costs, such as legal services.

The following table summarizes the restructuring charges recognized in the Company's Consolidated Statements of Operations:

	Six Months Ended		
(In thousands)	**July 3, 2016**	**June 28, 2015**	**Cumulative To Date**
Non-cash impairment charges	$ —	$ 5	$ 61,320
Severance and benefits	350	3,178	61,949
Lease and related termination costs	(280)	—	6,704
Other costs[1]	143	2,147	13,680
Total restructuring charges	$ 213	$ 5,330	$ 143,653

[1]Other costs primarily represent associated legal services and costs of relocating employees.

The following table summarizes the restructuring reserve activity during the six months ended July 3, 2016:

	Six Months Ended			
(In thousands)	**January 3, 2016**	**Charges (Benefits)**	**Payments**	**July 3, 2016**
Severance and benefits	$ 395	$ 350	$ (157)	$ 588
Lease and related termination costs	743	(280)	(203)	260
Other costs[1]	685	143	(611)	217
Total restructuring liability	$ 1,823	$ 213	$ (971)	$ 1,065

[1] Other costs primarily represent associated legal services and costs of relocating employees.

Note 8. *COMMITMENTS AND CONTINGENCIES*

Facility and Equipment Lease Commitments

The Company leases certain facilities under non-cancellable operating leases from unaffiliated third parties. As of July 3, 2016, future minimum lease payments for facilities under operating leases were $44.9 million, to be paid over the remaining contractual terms of up to 8 years. The Company also leases certain buildings, machinery and equipment under non-cancellable capital leases. As of July 3, 2016, future minimum lease payments for assets under capital leases were $5.3 million, to be paid over the remaining contractual terms of up to 7 years.

Purchase Commitments

The Company purchases raw materials for inventory and manufacturing equipment from a variety of vendors. During the normal course of business, in order to manage manufacturing lead times and help assure adequate supply, the Company enters into agreements with contract manufacturers and suppliers that either allow them to procure goods and services based on specifications defined by the Company, or that establish parameters defining the Company's requirements. In certain instances, these agreements allow the Company the option to cancel, reschedule or adjust the Company's requirements based on its

business needs before firm orders are placed. Consequently, not all of the Company's disclosed purchase commitments arising from these agreements are firm, non-cancellable, and unconditional commitments.

The Company also has agreements with several suppliers, including some of its non-consolidated investees, for the procurement of polysilicon, ingots, wafers, and Solar Renewable Energy Credits, among others, which specify future quantities and pricing of products to be supplied by the vendors for periods up to 8 years and provide for certain consequences, such as forfeiture of advanced deposits and liquidated damages relating to previous purchases, in the event that the Company terminates the arrangements.

Future purchase obligations under non-cancellable purchase orders and long-term supply agreements as of July 3, 2016 are as follows:

(In thousands)	Fiscal 2016 (remaining six months)	Fiscal 2017	Fiscal 2018	Fiscal 2019	Fiscal 2020	Thereafter	Total[1,2]
Future purchase obligations	$ 763,595	354,224	200,165	175,730	161,847	3,000	$ 1,658,561

[1] Total future purchase obligations as of July 3, 2016 include $206.3 million to related parties.

[2] Total future purchase obligations were composed of $244.9 million related to non-cancellable purchase orders and $1.4 billion related to long-term supply agreements.

The Company expects that all obligations related to non-cancellable purchase orders for manufacturing equipment will be recovered through future cash flows of the solar cell manufacturing lines and solar panel assembly lines when such long-lived assets are placed in service. Factors considered important that could result in an impairment review include significant under-performance relative to expected historical or projected future operating results, significant changes in the manner of use of acquired assets, and significant negative industry or economic trends. Obligations related to non-cancellable purchase orders for inventories match current and forecasted sales orders that will consume these ordered materials and actual consumption of these ordered materials are compared to expected demand regularly. The Company anticipates total obligations related to long-term supply agreements for inventories will be recovered because quantities are less than management's expected demand for its solar power products. The terms of the long-term supply agreements are reviewed by management and the Company assesses the need for any accruals for estimated losses on adverse purchase commitments, such as lower of cost or market value adjustments that will not be recovered by future sales prices, forfeiture of advanced deposits and liquidated damages, as necessary.

Advances to Suppliers

As noted above, the Company has entered into agreements with various vendors, some of which are structured as "take or pay" contracts, that specify future quantities and pricing of products to be supplied. Certain agreements also provide for penalties or forfeiture of advanced deposits in the event the Company terminates the arrangements. Under certain agreements, the Company was required to make prepayments to the vendors over the terms of the arrangements. As of July 3, 2016 and January 3, 2016, advances to suppliers totaled $318.5 million and $359.1 million, respectively, of which $72.1 million and $85.0 million, respectively, is classified as short-term in the Company's Consolidated Balance Sheets. Two suppliers accounted for 85% and 15% of total advances to suppliers, respectively, as of July 3, 2016, and 82% and 16%, respectively, as of January 3, 2016.

Advances from Customers

The Company has entered into other agreements with customers who have made advance payments for solar power products and systems. These advances will be applied as shipments of product occur or upon completion of certain project milestones. The estimated utilization of advances from customers as of July 3, 2016 is as follows:

(In thousands)	Fiscal 2016 (remaining six months)	Fiscal 2017	Fiscal 2018	Fiscal 2019	Fiscal 2020	Thereafter	Total
Estimated utilization of advances from customers	$ 13,621	41,442	27,039	28,842	43,263	—	$ 154,207

In fiscal 2010, the Company and its joint venture, AUO SunPower Sdn. Bhd. ("AUOSP"), entered into an agreement under which the Company resells to AUOSP polysilicon purchased from a third-party supplier. Advance payments provided by AUOSP related to such polysilicon are then made by the Company to the third-party supplier. These advance payments are applied as a credit against AUOSP's polysilicon purchases from the Company. Such polysilicon is used by AUOSP to manufacture solar cells that are sold to the Company on a "cost-plus" basis. The outstanding advance payments received from AUOSP are included in the table above and as of July 3, 2016 and January 3, 2016, totaled $137.5 million and $148.9 million, respectively, of which $24.8 million and $22.7 million, respectively, was classified as short-term in the Company's Consolidated Balance Sheets, based on projected product shipment dates.

Product Warranties

The following table summarizes accrued warranty activity for the three and six months ended July 3, 2016 and June 28, 2015, respectively:

	Three Months Ended		Six Months Ended	
(In thousands)	**July 3, 2016**	**June 28, 2015**	**July 3, 2016**	**June 28, 2015**
Balance at the beginning of the period	$ 166,440	$ 154,098	$ 164,127	$ 154,648
Accruals for warranties issued during the period	3,235	4,181	9,114	12,342
Settlements and adjustments during the period	(4,891)	(1,748)	(8,457)	(10,459)
Balance at the end of the period	$ 164,784	$ 156,531	$ 164,784	$ 156,531

Contingent Obligations

Project agreements entered into with the Company's Commercial and Power Plant customers often require the Company to undertake obligations including: (i) system output performance warranties; (ii) system maintenance; (iii) penalty payments or customer termination rights if the system the Company is constructing is not commissioned within specified timeframes or other milestones are not achieved; and (iv) system put-rights whereby the Company could be required to buy back a customer's system at fair value on specified future dates if certain minimum performance thresholds are not met for specified periods. Historically, the Company's systems have performed significantly above the performance warranty thresholds, and there have been no cases in which the Company has had to buy back a system.

Future Financing Commitments

The Company is required to provide certain funding under the joint venture agreement with AU Optronics Singapore Pte. Ltd. ("AUO") and other unconsolidated investees, subject to certain conditions (see Note 9). As of July 3, 2016, the Company's financing obligations related to these agreements are as follows:

(In thousands)	**Amount**
Year	
2016 (remaining six months)	$ 176,742
2017	2,366
	$ 179,108

Liabilities Associated with Uncertain Tax Positions

Total liabilities associated with uncertain tax positions were $44.1 million and $43.3 million as of July 3, 2016 and January 3, 2016, respectively. These amounts are included in "Other long-term liabilities" in the Company's Consolidated Balance Sheets in their respective periods as they are not expected to be paid within the next 12 months. Due to the complexity and uncertainty associated with its tax positions, the Company cannot make a reasonably reliable estimate of the period in which cash settlement, if any, would be made for its liabilities associated with uncertain tax positions in other long-term liabilities.

Indemnifications

The Company is a party to a variety of agreements under which it may be obligated to indemnify the counterparty with respect to certain matters. Typically, these obligations arise in connection with contracts and license agreements or the sale of assets, under which the Company customarily agrees to hold the other party harmless against losses arising from a breach of

warranties, representations and covenants related to such matters as title to assets sold, negligent acts, damage to property, validity of certain intellectual property rights, non-infringement of third-party rights, and certain tax related matters including indemnification to customers under §48(c) solar commercial investment tax credit ("ITC") and U.S. Treasury Department ("Treasury Department") grant payments under Section 1603 of the American Recovery and Reinvestment Act (each a "Cash Grant"). In each of these circumstances, payment by the Company is typically subject to the other party making a claim to the Company that is contemplated by and valid under the indemnification provisions of the particular contract, which provisions are typically contract-specific, as well as bringing the claim under the procedures specified in the particular contract. These procedures usually allow the Company to challenge the other party's claims or, in case of breach of intellectual property representations or covenants, to control the defense or settlement of any third party claims brought against the other party. Further, the Company's obligations under these agreements may be limited in terms of activity (typically to replace or correct the products or terminate the agreement with a refund to the other party), duration and/or amounts. In some instances, the Company may have recourse against third parties and/or insurance covering certain payments made by the Company.

In certain circumstances, the Company has provided indemnification to customers and investors under which the Company is contractually obligated to compensate these parties for losses they may suffer as a result of reductions in benefits received under ITC and Treasury Cash Grant programs. The Company applies for ITC and Cash Grant incentives based on guidance provided by the Internal Revenue Service ("IRS") and the Treasury Department, which include assumptions regarding the fair value of the qualified solar power systems, among others. Certain of the Company's development agreements, sale-leaseback arrangements, and financing arrangements with tax equity investors, incorporate assumptions regarding the future level of incentives to be received, which in some instances may be claimed directly by its customers and investors. Generally, such obligations would arise as a result of reductions to the value of the underlying solar power systems as assessed by the IRS. At each balance sheet date, the Company assesses and recognizes, when applicable, the potential exposure from these obligations based on all the information available at that time, including any audits undertaken by the IRS. The maximum potential future payments that the Company could have to make under this obligation would depend on the difference between the eligible basis claimed on the tax filing for the solar energy systems sold or transferred to indemnified parties and the values that the IRS may redetermine as the eligible basis for the systems for purposes of claiming ITCs or U.S. Treasury grants. The Company uses the eligible basis for tax filing purposes determined with the assistance of independent third-party appraisals to determine the ITCs that are passed-through to and claimed by the indemnified parties. Since the Company cannot determine future revisions to Treasury Department guidelines governing system values, how the IRS will evaluate system values used in claiming ITCs, or U.S. Treasury grants, or how its customers and investors have utilized these benefits in their own filings, the Company is unable to reliably estimate the maximum potential future payments that it could have to make under the Company's contractual investor obligation as of each reporting date.

Defined Benefit Pension Plans

The Company maintains defined benefit pension plans for the majority of its non-U.S. employees. Benefits under these plans are generally based on an employee's years of service and compensation. Funding requirements are determined on an individual country and plan basis and are subject to local country practices and market circumstances. The funded status of the pension plans, which represents the difference between the benefit obligation and fair value of plan assets, is calculated on a plan-by-plan basis. The benefit obligation and related funded status are determined using assumptions as of the end of each fiscal year. The Company recognizes the overfunded or underfunded status of its pension plans as an asset or liability on its Consolidated Balance Sheets. As of July 3, 2016 and January 3, 2016, the underfunded status of the Company's pension plans, presented in "Other long-term liabilities" on the Company's Consolidated Balance Sheets, was $13.7 million and $12.0 million, respectively. The impact of transition assets and obligations and actuarial gains and losses are recorded in "Accumulated other comprehensive loss", and are generally amortized as a component of net periodic cost over the average remaining service period of participating employees. Total other comprehensive gain related to the Company's benefit plans was zero for the three and six months ended July 3, 2016.

Legal Matters

Tax Benefit Indemnification Litigation

On March 19, 2014, a lawsuit was filed by NRG Solar LLC, now known as NRG Renew LLC ("NRG"), against SunPower Corporation, Systems, a wholly-owned subsidiary of the Company ("SunPower Systems"), in the Superior Court of Contra Costa County, California. The complaint asserts that, according to the indemnification provisions in the contract pertaining to SunPower Systems' sale of a large California solar project to NRG, SunPower Systems owes NRG $75.0 million in connection with certain tax benefits associated with the project that were approved by the Treasury Department for an amount that was less than expected. The Company does not believe that the facts support NRG's claim under the operative

indemnification provisions and is vigorously contesting the claim. Additionally, SunPower Systems filed a cross-complaint against NRG seeking damages in excess of $7.5 million for breach of contract and related claims arising from NRG's failure to fulfill its obligations under the contract, including its obligation to take "reasonable, available steps" to engage the Treasury Department. The Company is currently unable to determine if the resolution of this matter will have a material effect on the Company's consolidated financial statements.

First Philec Arbitration

On January 28, 2015, an arbitral tribunal of the International Court of Arbitration of the International Chamber of Commerce issued a first partial award in the matter of an arbitration between First Philippine Electric Corporation ("FPEC") and First Philippine Solar Corporation ("FPSC") against SunPower Philippines Manufacturing, Ltd. ("SPML"), our wholly-owned subsidiary. FPSC was a joint venture of FPEC and SPML for the purpose of slicing silicon wafers from ingots. The tribunal found SPML in breach of its obligations under its supply agreement with FPSC, and in breach of its joint venture agreement with FPEC. In its first partial award, the tribunal ordered that (i) SPML must purchase FPEC's interests in FPSC for an aggregate of $30.3 million, and (ii) after completing the purchase of FPEC's controlling interest in FPSC, SPML must pay FPSC damages in the amount of $25.2 million. The arbitral tribunal issued its second partial award dated July 14, 2015, which ordered that (i) the price payable by SPML to FPEC for its interests in FPSC be reduced from $30.3 million to $23.2 million, (ii) FPEC's request for interest is refused, and (iii) the payment and transfer of shares between FPEC and SPML is to take place in accordance with the procedure agreed between the parties. The tribunal issued its final award dated September 30, 2015, which ordered that (i) each side should bear its own costs and attorneys' fees, and (ii) the arbitration costs should be split between the parties evenly.

SPML had filed a challenge to both the first and second partial awards, as well as the final award, with the High Court in Hong Kong. SPML had also filed applications to the Court in the Philippines to: (i) prevent FPSC or FPEC from enforcing the awards pending the outcome of the challenge in Hong Kong; and (ii) gain access to FPSC's books and records. The application for access was granted, and the application to prevent enforcement of the award had not been ruled on as of July 3, 2016.

On July 22, 2016, SPML entered into an agreement (the "Compromise Agreement") with FPEC and FPSC to settle all claims, counterclaims, disputes, and proceedings between FPEC and FPSC on the one hand, and SPML on the other hand. The parties have filed the appropriate Consent Orders and motions in order to discontinue, terminate, or dismiss (as the case may be) all the legal proceedings that are pending between them in Hong Kong and in the Philippines. Pursuant to the terms of the Compromise Agreement, on July 22, 2016, SPML paid a total of $50.5 million to FPSC and FPEC in settlement of all claims between the parties. Also pursuant to the Compromise Agreement, SPML will transfer all of its shares in FPSC to FPEC.

As of July 3, 2016, the Company recorded an accrual of $50.5 million related to this matter.

AUO Arbitration

On April 17, 2015, SunPower Technology Ltd. ("SPTL"), a wholly-owned subsidiary, commenced an arbitration before the ICC International Court of Arbitration against AUO and AU Optronics Corporation, the ultimate parent company of AUO ("AUO Corp.," and together with AUO, the "AUO Group"), for breaches of the AUOSP Joint Venture Agreement and associated agreements (the "JVA"). SPTL's claim alleges that, among other things, the AUO Group has sold solar modules containing cells manufactured by AUOSP in violation of provisions in the JVA that set geographical restrictions on sales activities as well as provisions that restrict each party's use of the other's confidential information. SPTL seeks approximately $23.0 million in damages, as well as the right to purchase AUO's shares in SPTL at 70% of "fair market value" determined as provided under the JVA.

On June 23, 2015, the AUO Group filed and served its formal Memorial of Claim and Counterclaims against SPTL and the Company (collectively, the "SunPower Group"). In its counterclaim, the AUO Group alleges breach of contract, breach of covenant of good faith and fair dealing, several tort causes of action, and improper use of the AUO Group's proprietary manufacturing expertise. The AUO Group seeks $20.0 million in lost profits and $48.0 million in disgorgement from the SunPower Group, and an order requiring SPTL to purchase AUO's shares in SPTL at 150% of "fair market value" determined as provided under the JVA. The hearing for the arbitration has not been set. Depending upon the outcome of this matter and other related factors, it is possible that SPTL's investment in AUOSP may not be fully recoverable. Based on the significant uncertainties that currently exist, the Company is currently unable to determine whether the resolution of this matter will have a material effect on the Company's consolidated financial statements.

Other Litigation

The Company is also a party to various other litigation matters and claims that arise from time to time in the ordinary course of its business. While the Company believes that the ultimate outcome of such matters will not have a material adverse effect on the Company, their outcomes are not determinable and negative outcomes may adversely affect the Company's financial position, liquidity or results of operations.

Note 9. *EQUITY METHOD INVESTMENTS*

As of July 3, 2016 and January 3, 2016, the Company's carrying value of its equity method investments totaled $186.2 million and $186.4 million, respectively, and is classified as "Other long-term assets" in its Consolidated Balance Sheets. The Company's share of its earnings (loss) from equity method investments is reflected as "Equity in earnings of unconsolidated investees" in its Consolidated Statements of Operations.

Equity Investment and Joint Venture with AUOSP

In fiscal 2010, the Company, AUO and AUO Corp. formed the joint venture AUOSP. The Company and AUO each own 50% of AUOSP. AUOSP owns a solar cell manufacturing facility in Malaysia and manufactures solar cells and sells them on a "cost-plus" basis to the Company and AUO.

In connection with the joint venture agreement, the Company and AUO also entered into licensing and joint development, supply, and other ancillary transaction agreements. Through the licensing agreement, the Company and AUO licensed to AUOSP, on a non-exclusive, royalty-free basis, certain background intellectual property related to solar cell manufacturing (in the case of the Company) and manufacturing processes (in the case of AUO). Under the seven-year supply agreement with AUOSP, renewable by the Company for one-year periods thereafter, the Company is committed to purchase 80% of AUOSP's total annual output allocated on a monthly basis to the Company. The Company and AUO have the right to reallocate supplies from time to time under a written agreement. In fiscal 2010, the Company and AUOSP entered into an agreement under which the Company will resell to AUOSP polysilicon purchased from a third-party supplier and AUOSP will provide prepayments to the Company related to such polysilicon, which prepayment will then be made by the Company to the third-party supplier.

The Company and AUO are not permitted to transfer any of AUOSP's shares held by them, except to each other. The Company and AUO agreed to each contribute additional amounts through fiscal 2016 amounting to $169.0 million, or such lesser amount as the parties may mutually agree. In addition, if AUOSP, the Company or AUO requests additional equity financing to AUOSP, then the Company and AUO will each be required to make additional cash contributions of up to $50.0 million in the aggregate.

The Company has concluded that it is not the primary beneficiary of AUOSP since, although the Company and AUO are both obligated to absorb losses or have the right to receive benefits, the Company alone does not have the power to direct the activities of AUOSP that most significantly impact its economic performance. In making this determination the Company considered the shared power arrangement, including equal board governance for significant decisions, elective appointment, and the fact that both parties contribute to the activities that most significantly impact the joint venture's economic performance. The Company accounts for its investment in AUOSP using the equity method as a result of the shared power arrangement. As of July 3, 2016, the Company's maximum exposure to loss as a result of its equity investment in AUOSP is limited to the carrying value of the investment. As of July 3, 2016 and January 3, 2016, the Company's investment in AUOSP had a carrying value of $208.2 million and $202.3 million, respectively.

Equity Investment in Huaxia CPV (Inner Mongolia) Power Co., Ltd. ("CCPV")

In December 2012, the Company entered into an agreement with Tianjin Zhonghuan Semiconductor Co. Ltd., Inner Mongolia Power Group Co. Ltd. and Hohhot Jinqiao City Development Company Co., Ltd. to form CCPV, a jointly owned entity to manufacture and deploy the Company's LCPV concentrator technology in Inner Mongolia and other regions in China. CCPV is based in Hohhot, Inner Mongolia. The establishment of the entity was subject to approval of the Chinese government, which was received in the fourth quarter of fiscal 2013. In December 2013, the Company made a $16.4 million equity investment in CCPV, for a 25% equity ownership.

The Company has concluded that it is not the primary beneficiary of CCPV since, although the Company is obligated to absorb losses and has the right to receive benefits, the Company alone does not have the power to direct the activities of CCPV that most significantly impact its economic performance. The Company accounts for its investment in CCPV using the equity method since the Company is able to exercise significant influence over CCPV due to its board position.

Equity Investment in Diamond Energy Pty Ltd. ("Diamond Energy")

In October 2012, the Company made a $3.0 million equity investment in Diamond Energy, an alternative energy project developer and clean electricity retailer headquartered in Melbourne, Australia, in exchange for a 25% equity ownership.

The Company has concluded that it is not the primary beneficiary of Diamond Energy since, although the Company is obligated to absorb losses and has the right to receive benefits, the Company alone does not have the power to direct the activities of Diamond that most significantly impact its economic performance. The Company accounts for its investment in Diamond using the equity method since the Company is able to exercise significant influence over Diamond due to its board position.

Equity Investment in 8point3 Energy Partners

In June 2015, 8point3 Energy Partners, a joint YieldCo vehicle formed by the Company and First Solar, Inc. ("First Solar" and, together with the Company, the "Sponsors") to own, operate and acquire solar energy generation assets, consummated its initial public offering ("IPO") and its Class A shares are now listed on the NASDAQ Global Select Market under the trading symbol “CAFD”.

Immediately after the IPO, the Company contributed a portfolio of solar generation assets (the "SPWR Projects") to 8point3 Operating Company, LLC ("OpCo"), 8point3 Energy Partners' primary operating subsidiary. In exchange for the SPWR Projects, the Company received cash proceeds of $371 million as well as equity interests in several 8point3 Energy Partners affiliated entities: primarily common and subordinated units representing a 40.7% stake in OpCo and a 50.0% economic and management stake in 8point3 Holding Company, LLC (“Holdings”), the parent company of the general partner of 8point3 Energy Partners and the owner of incentive distribution rights (“IDRs”) in OpCo. Holdings, OpCo, 8point3 Energy Partners and their respective subsidiaries are referred to herein as the “8point3 Group.” Additionally, pursuant to a Right of First Offer Agreement between the Company and OpCo, the 8point3 Group has rights of first offer on interests in an additional portfolio of the Company’s solar energy projects that are currently contracted or are expected to be contracted before being sold by the Company to other parties (the “ROFO Projects”). In connection with the IPO, the Company also entered into O&M, asset management and management services agreements with the 8point3 Group. The services the Company provides under these agreements are priced consistently with market rates for such services and the agreements are terminable by the 8point3 Group for convenience.

The Company has concluded that it is not the primary beneficiary of the 8point3 Group or any of its individual subsidiaries since, although the Sponsors are both obligated to absorb losses or have the right to receive benefits, the Company alone does not have the power to direct the activities of the 8point3 Group that most significantly impact its economic performance. In making this determination the Company considered, among other factors, the equal division between the Sponsors of management rights in the 8point3 Group and the corresponding equal influence over its significant decisions, the role and influence of the independent directors on the board of directors of the general partner of 8point3 Energy Partners, and how both Sponsors contribute to the activities that most significantly impact the 8point3 Group's economic performance. The Company accounts for its investment in the 8point3 Group using the equity method because the Company determined that, notwithstanding the division of management and ownership interests between the Sponsors, the Company exercises significant influence over the operations of the 8point3 Group.

Future quarterly distributions from OpCo are subject to certain forbearance and subordination periods. During the forbearance period, the Sponsors have agreed to forego any distributions declared on their common and subordinated units. The forbearance period will end when, on or after March 1, 2016, the board of directors of the general partner of 8point3 Energy Partners, with the concurrence of its conflicts committee, determines that OpCo will be able to earn and pay at least the minimum quarterly distribution on each of its outstanding common and subordinated units for such quarter and the successive quarter. As of July 3, 2016, the forbearance period remained in effect.

During the subordination period, holders of the subordinated units are not entitled to receive any distributions until the common units have received their minimum quarterly distribution plus any arrearages in the payment of minimum distributions from prior quarters. Approximately 70% of the Company’s OpCo units are subject to subordination. The subordination period will end after OpCo has earned and paid minimum quarterly distributions for three years ending on or after August 31, 2018 and there are no outstanding arrearages on common units. Notwithstanding the foregoing, the subordination period could end after OpCo has earned and paid 150% of minimum quarterly distributions, plus the related distribution on the incentive distribution rights, for one year ending on or after August 31, 2016 and there are no outstanding arrearages on common units. At the end of the subordination period, all subordinated units will convert to common units on a one-for-one basis. The Company

also, through its interests in Holdings, holds IDRs in OpCo, which represent rights to incremental distributions after certain distribution thresholds are met.

In June 2015, OpCo entered into a $525.0 million senior secured credit facility, consisting of a $300.0 million term loan facility, a $25.0 million delayed draw term loan facility, and a $200.0 million revolving credit facility (the “8point3 Credit Facility”). Proceeds from the term loan were used to make initial distributions to the Sponsors. The 8point3 Credit Facility is secured by a pledge of the Sponsors’ equity interests in OpCo.

Under relevant guidance for leasing transactions, the Company treated the portion of the sale of the residential lease portfolio originally sold to the 8point3 Group in connection with the IPO transaction, composed of operating leases and unguaranteed sales-type lease residual values, as a borrowing and reflected the cash proceeds attributable to this portion of the residential lease portfolio as liabilities recorded within “Accrued liabilities” and “Other long-term liabilities” in the Consolidated Balance Sheets (see Note 4). As of July 3, 2016 and January 3, 2016 the operating leases and the unguaranteed sales-type lease residual values which were sold to the 8point3 Group had an aggregate carrying value of $76 million and $78 million, respectively, on the Company's Consolidated Balance Sheets.

During the first quarter of fiscal 2016, the Company sold its first two ROFO Projects to 8point3 Energy Partners, comprised of the 60 MW Hooper utility-scale power plant in Colorado and a 20 MW commercial project. The Company accounted for the sale of Hooper as a partial sale of real estate and recognized revenue equal to its total project costs. No profit on the sale of Hooper was recognized as unconditional cash proceeds did not exceed total project costs, and the derecognition resulted in a net $8.7 million reduction in the carrying value of the Company’s investments in the 8point3 Group. The remaining project has not yet reached its commercial operations date and therefore, the Company continues to record the project on its Consolidated Balance Sheet as of July 3, 2016. Please refer to the treatment outlined in "Item 1. Financial Statements—Notes to Consolidated Financial Statements—Note 3. 8point3 Energy Partners LP" in our Annual Report on Form 10-K for the fiscal year ended January 3, 2016 for further information related to the Company's accounting for transactions with the 8point3 Group. The net cash proceeds from the sales of these projects to the 8point3 Group as well as related proceeds from tax equity investors were classified as operating cash inflows in the Consolidated Statement of Cash Flows.

As of July 3, 2016 and January 3, 2016, the Company's investment in the 8point3 Group had a negative carrying value of $34.2 million and $30.9 million, respectively, resulting from the continued deferral of profit recognition for projects sold to the 8point3 Group that included the sale or lease of real estate.

Related-Party Transactions with Investees:

	As of	
(In thousands)	**July 3, 2016**	**January 3, 2016**
Accounts receivable	$ 18,071	$ 32,389
Other long-term assets	$ 1,497	$ 1,455
Accounts payable	$ 31,441	$ 42,080
Accrued liabilities	$ 11,239	$ 9,952
Customer advances	$ 1,332	$ 710
Other long-term liabilities	$ 29,407	$ 29,389

	Three Months Ended		Six Months Ended	
(In thousands)	**July 3, 2016**	**June 28, 2015**	**July 3, 2016**	**June 28, 2015**
Payments made to investees for products/services	$ 115,879	$ 108,853	$ 239,509	$ 228,030
Revenues and fees received from investees for products/services[1]	$ 17,404	$ 21,199	$ 132,049	$ 26,802

[1] Includes a portion of proceeds received from tax equity investors in connection with 8point3 transactions.

Cost Method Investment in Tendril Networks, Inc.

In November 2014, the Company purchased $20.0 million of preferred stock constituting a minority stake in Tendril Networks, Inc. ("Tendril"), accounted for under the cost method because the preferred stock was deemed not to be in-substance common stock. In connection with the investment, the Company acquired warrants to purchase up to approximately 14 million shares of Tendril common stock exercisable through November 23, 2024. The number of shares of Tendril common stock that

may be purchased pursuant to the warrants is subject to the Company's and Tendril's achievement of certain financial and operational milestones and other conditions.

In connection with the initial investment in Tendril, the Company also entered into commercial agreements with Tendril under a Master Services Agreement and related Statements of Work. Under these commercial agreements, Tendril will use up to $13.0 million of the Company's initial investment to develop, jointly with the Company, certain solar software solution products.

Note 10. ***DEBT AND CREDIT SOURCES***

The following table summarizes the Company's outstanding debt on its Consolidated Balance Sheets:

	July 3, 2016				January 3, 2016			
(In thousands)	**Face Value**	**Short-term**	**Long-term**	**Total**	**Face Value**	**Short-term**	**Long-term**	**Total**
Convertible debt:								
4.00% debentures due 2023	$ 425,000	$ —	$ 416,831	$ 416,831	$ 425,000	$ —	$ 416,369	$ 416,369
0.875% debentures due 2021	400,000	—	396,749	396,749	400,000	—	396,424	396,424
0.75% debentures due 2018	300,000	—	298,547	298,547	300,000	—	298,167	298,167
IFC mortgage loan	25,000	14,994	9,452	24,446	32,500	14,994	16,778	31,772
CEDA loan	30,000	—	28,002	28,002	30,000	—	27,778	27,778
Non-recourse financing and other debt[1]	876,801	334,703	536,520	871,223	435,963	4,642	429,981	434,623
	$ 2,056,801	$ 349,697	$ 1,686,101	$ 2,035,798	$ 1,623,463	$ 19,636	$ 1,585,497	$ 1,605,133

[1] Other debt excludes payments related to capital leases, which are disclosed in Note 8.

As of July 3, 2016, the aggregate future contractual maturities of the Company's outstanding debt, at face value, were as follows:

(In thousands)	**Fiscal 2016 (remaining six months)**	**Fiscal 2017**	**Fiscal 2018**	**Fiscal 2019**	**Fiscal 2020**	**Thereafter**	**Total**
Aggregate future maturities of outstanding debt	$ 225,212	143,909	365,468	23,362	34,423	1,264,427	$ 2,056,801

Convertible Debt

The following table summarizes the Company's outstanding convertible debt:

	July 3, 2016			January 3, 2016		
(In thousands)	**Carrying Value**	**Face Value**	**Fair Value[1]**	**Carrying Value**	**Face Value**	**Fair Value[1]**
Convertible debt:						
4.00% debentures due 2023	$ 416,831	$ 425,000	$ 373,907	$ 416,369	$ 425,000	$ 515,903
0.875% debentures due 2021	396,749	400,000	324,000	396,424	400,000	340,500
0.75% debentures due 2018	298,547	300,000	283,875	298,167	300,000	396,792
	$ 1,112,127	$ 1,125,000	$ 981,782	$ 1,110,960	$ 1,125,000	$ 1,253,195

[1] The fair value of the convertible debt was determined using Level 2 inputs based on quarterly market prices as reported by an independent pricing source.

The Company's outstanding convertible debentures are senior, unsecured obligations of the Company, ranking equally with all existing and future senior unsecured indebtedness of the Company.

4.00% Debentures Due 2023

In December 2015, the Company issued $425.0 million in principal amount of its 4.00% debentures due 2023. Interest is payable semi-annually, beginning on July 15, 2016. Holders may exercise their right to convert the debentures at any time into shares of the Company's common stock at an initial conversion price approximately equal to $30.53 per share, subject to adjustment in certain circumstances. If not earlier repurchased or converted, the 4.00% debentures due 2023 mature on January 15, 2023.

0.875% Debentures Due 2021

In June 2014, the Company issued $400.0 million in principal amount of its 0.875% debentures due 2021. Interest is payable semi-annually, beginning on December 1, 2014. Holders may exercise their right to convert the debentures at any time into shares of the Company's common stock at an initial conversion price approximately equal to $48.76 per share, subject to adjustment in certain circumstances. If not earlier repurchased or converted, the 0.875% debentures due 2021 mature on June 1, 2021.

0.75% Debentures Due 2018

In May 2013, the Company issued $300.0 million in principal amount of its 0.75% debentures due 2018. Interest is payable semi-annually, beginning on December 1, 2013. Holders may exercise their right to convert the debentures at any time into shares of the Company's common stock at an initial conversion price approximately equal to $24.95 per share, subject to adjustment in certain circumstances. If not earlier repurchased or converted, the 0.75% debentures due 2018 mature on June 1, 2018.

4.50% Debentures Due 2015

In 2010, the Company issued $250.0 million in principal amount of its 4.50% senior cash convertible debentures ("4.50% debentures due 2015"). Interest was payable semi-annually, beginning on September 15, 2010. The 4.50% debentures due 2015 were convertible only into cash, and not into shares of the Company's common stock (or any other securities) at a conversion price of $22.53 per share. The 4.50% debentures due 2015 matured on March 15, 2015. During March 2015, the Company paid holders an aggregate of $324.3 million in cash in connection with the settlement of the outstanding 4.50% debentures due 2015. No 4.50% debentures due 2015 remained outstanding after the maturity date.

The embedded cash conversion option was a derivative instrument (derivative liability) that was required to be separated from the 4.50% debentures due 2015. The fair value of the derivative liability is classified within "Other long-term liabilities" on the Company's Consolidated Balance Sheets. Changes in the fair value of the derivative liability were reported in the Company's Consolidated Statements of Operations until the 4.50% debentures due 2015 matured in March 2015.

During the three and six months ended June 28, 2015, the Company recognized a non-cash loss of zero and $52.0 million, respectively, recorded in "Other, net" in the Company's Consolidated Statements of Operations to recognize the change in fair value prior to the expiration of the embedded cash conversion option.

Call Spread Overlay with Respect to 4.50% Debentures

Concurrently with the issuance of the 4.50% debentures due 2015, the Company entered into privately-negotiated convertible debenture hedge transactions (collectively, the "4.50% Bond Hedge") and warrant transactions (collectively, the "4.50% Warrants" and together with the 4.50% Bond Hedge, the “CSO2015” transactions), with certain of the initial purchasers of the 4.50% debentures due 2015 or their affiliates. The CSO2015 transactions represented a call spread overlay with respect to the 4.50% debentures due 2015, whereby the cost of the 4.50% Bond Hedge purchased by the Company to cover the cash outlay upon conversion of the debentures is reduced by the sales prices of the 4.50% Warrants. The transactions effectively reduced the Company's potential payout over the principal amount on the 4.50% debentures due 2015 upon conversion of the 4.50% debentures due 2015.

Under the terms of the 4.50% Bond Hedge, the Company bought options to acquire, at an exercise price of $22.53 per share, subject to customary adjustments for anti-dilution and other events, cash in an amount equal to the market value of up to 11.1 million shares of the Company's common stock.

Each 4.50% Bond Hedge was a separate transaction, entered into by the Company with each counterparty, and was not part of the terms of the 4.50% debentures due 2015. The 4.50% Bond Hedge, which was indexed to the Company's common stock, was a derivative instrument that required mark-to-market accounting treatment due to the cash settlement features until the 4.50% Bond Hedge settled in March 2015. During March 2015, the Company exercised its rights under the 4.50% Bond Hedge, resulting in a payment to the Company of $74.6 million.

During the three and six months ended June 28, 2015, the Company recognized a non-cash gain of zero and $52.0 million, respectively, recorded in "Other, net" in the Company's Consolidated Statements of Operations related to recognize the change in fair value before settlement of the 4.50% Bond Hedge.

In connection with the 4.50% Warrants, the Company entered into warrant confirmations (collectively, and as amended from time to time, the “2015 Warrant Confirms”) with Deutsche Bank AG, London Branch, Bank of America, N.A., Barclays Bank PLC and Credit Suisse International providing for the acquisition, subject to anti-dilution adjustments, of up to approximately 11.1 million shares of the Company's common stock via net share settlement. Each 4.50% Warrant transaction was a separate transaction, entered into by the Company with each counterparty, and was not part of the terms of the 4.50% debentures due 2015.

During the second quarter of fiscal 2015, the Company entered into separate partial unwind agreements with each of Deutsche Bank AG, London Branch; Bank of America, N.A.; Barclays Bank PLC; and Credit Suisse International in order to reduce the number of warrants issued pursuant to the 2015 Warrant Confirms. Pursuant to the terms of these partial unwind agreements, the Company issued an aggregate of approximately 3.0 million shares of common stock to settle all of the warrants under the 2015 Warrant Confirms. Accordingly, as of July 3, 2016, no 4.50% Warrants remained outstanding.

Other Debt and Credit Sources

Mortgage Loan Agreement with IFC

In May 2010, the Company entered into a mortgage loan agreement with IFC. Under the loan agreement, the Company borrowed $75.0 million and is required to repay the amount borrowed starting two years after the date of borrowing, in 10 equal semi-annual installments. The Company is required to pay interest of LIBOR plus 3% per annum on outstanding borrowings; a front-end fee of 1% on the principal amount of borrowings at the time of borrowing; and a commitment fee of 0.5% per annum on funds available for borrowing and not borrowed. The Company may prepay all or a part of the outstanding principal, subject to a 1% prepayment premium. The Company has pledged certain assets as collateral supporting its repayment obligations (see Note 4). As of both July 3, 2016 and January 3, 2016, the Company had restricted cash and cash equivalents of $9.2 million related to the IFC debt service reserve, which is the amount, as determined by IFC, equal to the aggregate principal and interest due on the next succeeding interest payment date.

Loan Agreement with California Enterprise Development Authority ("CEDA")

In 2010, the Company borrowed the proceeds of the $30.0 million aggregate principal amount of CEDA's tax-exempt Recovery Zone Facility Revenue Bonds (SunPower Corporation - Headquarters Project) Series 2010 (the "Bonds") maturing April 1, 2031 under a loan agreement with CEDA. The Bonds mature on April 1, 2031, bear interest at a fixed rate of 8.50% through maturity, and include customary covenants and other restrictions on the Company.

Revolving Credit Facility with Credit Agricole

In July 2013, the Company entered into a revolving credit facility with Credit Agricole, as administrative agent, and certain financial institutions, under which the Company may borrow up to $250.0 million. On August 26, 2014, the Company entered into an amendment to the revolving credit facility that, among other things, extends the maturity date of the facility from July 3, 2016 to August 26, 2019 (the "Maturity Date"). Amounts borrowed may be repaid and reborrowed until the Maturity Date. On February 17, 2016, the Company entered into an amendment to the credit agreement, expanding the available borrowings under the revolving credit facility to $300.0 million and adding a $200.0 million letter of credit subfacility, subject to the satisfaction of certain conditions. The revolving credit facility includes representations, covenants, and events of default customary for financing transactions of this type.

The revolving credit facility was entered into in conjunction with the delivery by Total S.A. of a guarantee of the Company's obligations under the related facility. On January 31, 2014, as contemplated by the facility, (i) the Company's obligations under the facility became secured by a pledge of certain accounts receivable and inventory; (ii) certain of the Company's subsidiaries entered into guarantees of the facility; and (iii) Total S.A.'s guarantee of the Company's obligations under the facility expired.

After January 31, 2014, the Company is required to pay interest on outstanding borrowings and fees of (a) with respect to any LIBOR rate loan, an amount ranging from 1.50% to 2.00% (depending on the Company's leverage ratio from time to time) plus the LIBOR rate divided by a percentage equal to one minus the stated maximum rate of all reserves required to be maintained against "Eurocurrency liabilities" as specified in Regulation D; (b) with respect to any alternate base rate loan, an amount ranging from 0.50% to 1.00% (depending on the Company's leverage ratio from time to time) plus the greater of (1) the prime rate, (2) the Federal Funds rate plus 0.50%, and (3) the one-month LIBOR rate plus 1%; and (c) a commitment fee ranging from 0.25% to 0.35% (depending on the Company's leverage ratio from time to time) per annum on funds available for borrowing and not borrowed. The Company will be required to pay interest on letters of credit under the agreement of (a) with respect to any performance letter of credit, an amount ranging from 0.90% to 1.20% (depending on the Company’s leverage ratio from time to time); and (b) with respect to any other letter of credit, an amount ranging from 1.50% to 2.00% (depending on the Company’s leverage ratio from time to time).

As of July 3, 2016, the Company had $18.2 million of outstanding borrowings under the revolving credit facility, all of which were related to letters of credit. The Company had no outstanding borrowings under the revolving credit facility as of January 3, 2016.

2016 Letter of Credit Facility Agreements

In June 2016, the Company entered into a Continuing Agreement for Standby Letters of Credit and Demand Guarantees with Deutsche Bank and Deutsche Bank Trust (the “2016 Non-Guaranteed LC Facility”) which provides for the issuance, upon request by the Company, of letters of credit to support the Company’s obligations in an aggregate amount not to exceed $50.0 million. The 2016 Non-Guaranteed LC Facility will terminate on June 29, 2018. As of July 3, 2016 and January 3, 2016, letters of credit issued and outstanding under the 2016 Non-Guaranteed LC Facility totaled $46.8 million and zero, respectively.

In June 2016, the Company entered into bilateral letter of credit facility agreements (the “2016 Guaranteed LC Facilities”) with The Bank of Tokyo-Mitsubishi UFJ, Credit Agricole, and HSBC. Each letter of credit facility agreement provides for the issuance, upon the Company’s request, of letters of credit by the issuing bank thereunder in order to support certain of the Company’s obligations until December 31, 2018. Payment of obligations under each of the letter of credit facilities are guaranteed by Total S.A. pursuant to the Credit Support Agreement. Aggregate letter of credit amounts may be increased upon the agreement of the respective parties but, otherwise, may not exceed $75.0 million with The Bank of Tokyo-Mitsubishi UFJ, $75.0 million with Credit Agricole and $175.0 million with HSBC. Each letter of credit issued under one of the letter of credit facilities generally must have an expiration date, subject to certain exceptions, no later than the earlier of (a) two years from completion of the applicable project and (b) March 31, 2020.

In June 2016, in connection with the 2016 Guaranteed LC Facilities, the Company entered into a transfer agreement to transfer to the 2016 Guaranteed LC Facilities all existing outstanding letters of credit issued under the Company’s letter of credit facility agreement with Deutsche Bank, as administrative agent, and certain financial institutions, entered into in August 2011 and amended from time to time. In connection with the transfer of the existing outstanding letters of credit, the aggregate commitment amount under the August 2011 letter of credit facility was permanently reduced to zero on June 29, 2016. As of July 3, 2016 and January 3, 2016, letters of credit issued and outstanding under the August 2011 letter of credit facility with Deutsche Bank totaled zero and $294.5 million, respectively. As of July 3, 2016 and January 3, 2016, letters of credit issued and outstanding under the 2016 Guaranteed LC Facilities totaled $246.0 million and zero, respectively.

September 2011 Letter of Credit Facility with Deutsche Bank and Deutsche Bank Trust Company Americas (together, "Deutsche Bank Trust")

In September 2011, the Company entered into a letter of credit facility with Deutsche Bank Trust which provides for the issuance, upon request by the Company, of letters of credit to support obligations of the Company in an aggregate amount not to exceed $200.0 million. Each letter of credit issued under the facility is fully cash-collateralized and the Company has entered into a security agreement with Deutsche Bank Trust, granting them a security interest in a cash collateral account established for this purpose.

As of July 3, 2016 and January 3, 2016, letters of credit issued and outstanding under the Deutsche Bank Trust facility totaled $4.3 million and $8.6 million, respectively, which were fully collateralized with restricted cash on the Consolidated Balance Sheets.

Revolving Credit Facility with Mizuho and Goldman Sachs

On May 4, 2016, the Company entered into a revolving credit facility (the “Construction Revolver”) with Mizuho Bank Ltd., as administrative agent, and Goldman Sachs Bank USA, under which the Company may borrow up to $200 million. The Construction Revolver also includes a $100 million accordion feature. Amounts borrowed under the facility may be repaid and reborrowed in support of the Company’s commercial and small scale utility projects in the United States until the May 4, 2021 maturity date. The facility includes representations, covenants, and events of default customary for financing transactions of this type.

Borrowings under the Construction Revolver bear interest at the applicable LIBOR rate plus 1.50% for the first two years, with the final year at LIBOR plus 1.75%. All outstanding indebtedness under the facility may be voluntarily prepaid in whole or in part without premium or penalty (with certain limitations to partial repayments), other than customary breakage costs. The facility is secured by the assets of, and equity in, the various project companies to which the borrowings relate, but is otherwise non-recourse to the Company and its other affiliates.

As of July 3, 2016 and January 3, 2016, the aggregate carrying value of the Construction Revolver totaled $12.3 million and zero, respectively.

Non-recourse Financing and Other Debt

In order to facilitate the construction, sale or ongoing operation of certain solar projects, including the Company's residential leasing program, the Company regularly obtains project-level financing. These financings are secured either by the assets of the specific project being financed or by the Company's equity in the relevant project entity and the lenders do not have recourse to the general assets of the Company for repayment of such debt obligations, and hence the financings are referred to as non-recourse. Non-recourse financing is typically in the form of loans from third-party financial institutions, but also takes other forms, including "partnership flip" structures, sale-leaseback arrangements, or other forms commonly used in the solar or similar industries. The Company may seek non-recourse financing covering solely the construction period of the solar project or may also seek financing covering part or all of the operating life of the solar project. The Company classifies non-recourse financings in the Consolidated Balance Sheets in accordance with their terms; however, in certain circumstances, the Company may repay or refinance these financings prior to stated maturity dates in connection with the sale of the related project or similar such circumstances. In addition, in certain instances, the customer may assume the loans at the time that the project entity is sold to the customer. In these instances, subsequent debt assumption is reflected as a financing outflow and operating inflow in the Consolidated Statements of Cash Flows to reflect the substance of the assumption as a facilitation of customer financing from a third party.

The following presents a summary of the Company's non-recourse financing arrangements, including arrangements that are not classified as debt:

(In thousands)	Aggregate Carrying Value July 3, 2016	Aggregate Carrying Value January 3, 2016	Balance Sheet Classification
Residential Lease Program			
Bridge loans	$ 33,827	$ —	Short-term debt and Long-term debt
Long-term loans	174,062	171,752	Short-term debt and Long-term debt
Financing arrangements with third parties	49,190	36,784	Accrued liabilities and Other long-term liabilities
Tax equity partnership flip facilities	140,657	128,594	Redeemable non-controlling interests in subsidiaries and non-controlling interests in subsidiaries
Power Plant and Commercial Projects			
Stanford and Turlock credit facility	$ 201,563	$ —	Short-term debt and Long-term debt
Henrietta credit facility	216,691	216,691	Short-term debt and Long-term debt
Boulder credit facility	117,825	—	Short-term debt and Long-term debt
Rio Bravo credit facility	80,086	—	Short-term debt
Wildwood credit facility	26,088	—	Short-term debt
Hooper credit facility	—	37,269	Short-term debt and Long-term debt
Construction Revolver	12,301	—	Long-term debt
Arizona loan	8,030	8,113	Short-term debt and Long-term debt

For the Company’s residential lease program, non-recourse financing is typically accomplished by aggregating an agreed-upon volume of solar power systems and leases with residential customers into a specific project entity. The Company has entered into the following non-recourse financings with respect to its residential lease program:

In fiscal 2016, the Company entered into bridge loans to finance solar power systems and leases under its residential lease program. The loans are repaid over terms ranging from two to seven years. Some loans may be prepaid without penalties at the Company's option at any time, while other loans may be prepaid, subject to a prepayment fee, after one year. During the three and six months ended July 3, 2016, the Company had net proceeds of $17.1 million and $34.1 million, respectively, in connection with these loans. As of July 3, 2016, the aggregate carrying amount of these loans, presented in "Short-term debt" and "Long-term debt" on the Company's Consolidated Balance Sheets, was $33.8 million.

In fiscal 2014 and 2015 the Company entered into long-term loans to finance solar power systems and leases under its residential lease program. The loans are repaid over their terms of between 17 and 18 years, and may be prepaid without penalty at the Company’s option beginning seven years after the original issuance of the loan. During the three and six months ended July 3, 2016, the Company had net proceeds (repayments) of $(1.1) million and $2.1 million, respectively, in connection with these loans. During the three and six months ended June 28, 2015, the Company had net proceeds of $54.4 million and $54.0 million, respectively, in connection with these loans. As of July 3, 2016, and January 3, 2016, the aggregate carrying amount of these loans, presented in "Short-term debt" and "Long-term debt" on the Company's Consolidated Balance Sheets, was $174.1 million and $171.8 million, respectively.

The Company has entered into multiple arrangements under which solar power systems are financed by third-party investors or customers, including by a legal sale of the underlying asset that is accounted for as a borrowing under relevant accounting guidelines as the requirements to recognize the transfer of the asset were not met. Under the terms of these arrangements, the third parties make an upfront payment to the Company, which the Company recognizes as a liability that will be reduced over the term of the arrangement as lease receivables and government incentives are received by the third party. As the liability is reduced, the Company makes a corresponding reduction in receivables. During the three and six months ended July 3, 2016, the Company had net proceeds of $7.8 million and $14.9 million, respectively, in connection with these facilities. During the three and six months ended June 28, 2015, the Company had net repayments of $29.4 million and $40.0 million, respectively. As of July 3, 2016, and January 3, 2016, the aggregate carrying amount of these facilities, presented in "Accrued liabilities" and "Other long-term liabilities" on the Company's Consolidated Balance Sheets, was $49.2 million and $36.8 million, respectively (see Note 4).

The Company also enters into facilities with third-party tax equity investors under which the investors invest in a structure known as a partnership flip. The Company holds controlling interests in these less-than-wholly-owned entities and

therefore fully consolidates these entities. The Company accounts for the portion of net assets in the consolidated entities attributable to the investors as noncontrolling interests in its consolidated financial statements. Noncontrolling interests in subsidiaries that are redeemable at the option of the noncontrolling interest holder are classified accordingly as redeemable, between liabilities and equity on the Company's Consolidated Balance Sheets. During the three and six months ended July 3, 2016, the Company had net contributions of $31.5 million and $50.3 million, respectively, under these facilities and attributed losses of $20.2 million and $36.8 million, respectively, to the non-controlling interests corresponding principally to certain assets, including tax credits, that were allocated to the non-controlling interests during the periods. During the three and six months ended June 28, 2015, the Company had net contributions of $43.7 million and $87.4 million, respectively, under these facilities and attributed losses of $30.1 million and $49.7 million, respectively, to the non-controlling interests corresponding principally to certain assets, including tax credits, that were allocated to the non-controlling interests during the periods. As of July 3, 2016 and January 3, 2016, the aggregate carrying amount of these facilities, presented in “Redeemable non-controlling interests in subsidiaries” and “Non-controlling interests in subsidiaries” on the Company’s Consolidated Balance Sheets, was $140.7 million and $128.6 million, respectively.

For the Company’s power plant and commercial solar projects, non-recourse financing is typically accomplished using an individual solar power system or a series of solar power systems with a common end customer, in each case owned by a specific project entity. The Company has entered into the following non-recourse financings with respect to its power plant and commercial projects:

In fiscal 2016, the Company entered into the Construction Revolver credit facility to support the construction of the Company’s commercial and small scale utility projects in the United States. As of July 3, 2016, the aggregate carrying amount of the Construction Revolver, presented in "Long-term debt" on the Company's Consolidated Balance Sheets, was $12.3 million.

In fiscal 2016, the Company entered into a long-term credit facility to finance the 125 MW utility-scale Boulder power plant project in Nevada. During both the three and six months ended July 3, 2016, the Company had net proceeds of $110.9 million in connection with the facility. As of July 3, 2016, the aggregate carrying amount of this facility, presented in "Short-term debt" and "Long-term debt" on the Company's Consolidated Balance Sheets, was $117.8 million.

In fiscal 2016, the Company entered into a short-term credit facility to finance the utility-scale Rio Bravo power plant projects in California, with an aggregate size of approximately 50 MW. During both the three and six months ended July 3, 2016, the Company had net proceeds of $77.3 million in connection with the facility. As of July 3, 2016, the aggregate carrying amount of this facility, presented in "Short-term debt" on the Company's Consolidated Balance Sheets, was $80.1 million.

In fiscal 2016, the Company entered into a short-term credit facility to finance the 20 MW utility-scale Wildwood power plant project in California. During both the three and six months ended July 3, 2016, the Company had net proceeds of $25.0 million in connection with the facility. As of July 3, 2016, the aggregate carrying amount of this facility, presented in "Short-term debt" on the Company's Consolidated Balance Sheets, was $26.1 million.

In fiscal 2016, the Company entered into a long-term credit facility to finance several related utility-scale power plant projects in California, including the Stanford and Turlock projects, with an aggregate size of approximately 350 MW. During the three and six months ended July 3, 2016, the Company had net proceeds of $112.8 million and $192.2 million, respectively, in connection with the facility. As of July 3, 2016, the aggregate carrying amount of this facility, presented in "Short-term debt" and "Long-term debt" on the Company's Consolidated Balance Sheets, was 201.6 million.

In fiscal 2015, the Company entered into a long-term credit facility to finance the 128 MW utility-scale Henrietta power plant in California. As of both July 3, 2016 and January 3, 2016, the aggregate carrying amount of this loan, presented in "Short-term debt" and "Long-term debt" on the Company's Consolidated Balance Sheets, was $216.7 million.

In fiscal 2015, the Company entered into a long-term credit facility to finance the 60 MW Hooper utility-scale power plant in Colorado. In fiscal 2016, the Company repaid the full amount outstanding. During both the three and six months ended July 3, 2016, the Company had net repayments of $37.4 million, in connection with the facility. As of January 3, 2016, the carrying amount of this facility, presented in "Long-term debt" on the Company's Consolidated Balance Sheets, was $37.3 million.

In fiscal 2013, the Company entered into a long-term loan agreement to finance a 5.4 MW utility and power plant operating in Arizona. As of both July 3, 2016, and January 3, 2016, the aggregate carrying amount under this loan, presented in "Short-term debt" and "Long-term debt" on the Company's Consolidated Balance Sheets, was $8.0 million.

Other debt is further composed of non-recourse project loans in EMEA, which are scheduled to mature through 2028.

See Note 5 for discussion of the Company's sale-leasebacks accounted for under the financing method.

Note 11. ***DERIVATIVE FINANCIAL INSTRUMENTS***

The following tables present information about the Company's hedge instruments measured at fair value on a recurring basis as of July 3, 2016 and January 3, 2016, all of which utilize Level 2 inputs under the fair value hierarchy:

(In thousands)	Balance Sheet Classification	July 3, 2016	January 3, 2016
Assets:			
Derivatives designated as hedging instruments:			
Foreign currency option contracts	Prepaid expenses and other current assets	$ 1,022	$ —
Foreign currency option contracts	Other long-term assets	474	—
		$ 1,496	$ —
Derivatives not designated as hedging instruments:			
Foreign currency option contracts	Prepaid expenses and other current assets	$ 1,163	$ —
Foreign currency forward exchange contracts	Prepaid expenses and other current assets	2,987	8,734
		$ 4,150	$ 8,734
Liabilities:			
Derivatives designated as hedging instruments:			
Foreign currency option contracts	Accrued liabilities	$ 1,459	$ —
Foreign currency forward exchange contracts	Accrued liabilities	—	141
Foreign currency option contracts	Other long-term liabilities	569	—
Interest rate contracts	Other long-term liabilities	886	583
		$ 2,914	$ 724
Derivatives not designated as hedging instruments:			
Foreign currency option contracts	Accrued liabilities	$ 1,214	$ —
Foreign currency forward exchange contracts	Accrued liabilities	7,849	2,175
Interest rate contracts	Other long-term liabilities	507	450
		$ 9,570	$ 2,625

	July 3, 2016					
				Gross Amounts Not Offset in the Consolidated Balance Sheets, but Have Rights to Offset		
(In thousands)	Gross Amounts Recognized	Gross Amounts Offset	Net Amounts Presented	Financial Instruments	Cash Collateral	Net Amounts
Derivative assets	$ 5,646	$ —	$ 5,646	$ 5,646	$ —	$ —
Derivative liabilities	$ 12,484	$ —	$ 12,484	$ 5,646	$ —	$ 6,838

	January 3, 2016					
				Gross Amounts Not Offset in the Consolidated Balance Sheets, but Have Rights to Offset		
(In thousands)	Gross Amounts Recognized	Gross Amounts Offset	Net Amounts Presented	Financial Instruments	Cash Collateral	Net Amounts
Derivative assets	$ 8,734	$ —	$ 8,734	$ 2,316	$ —	$ 6,418
Derivative liabilities	$ 3,349	$ —	$ 3,349	$ 2,316	$ —	$ 1,033

The following table summarizes the pre-tax amount of unrealized gain or loss recognized in "Accumulated other comprehensive income" ("OCI") in "Stockholders' equity" in the Consolidated Balance Sheets:

	Three Months Ended		Six Months Ended	
(In thousands)	July 3, 2016	June 28, 2015	July 3, 2016	June 28, 2015
Derivatives designated as cash flow hedges:				
Gain (loss) in OCI at the beginning of the period	$ (803)	$ (5,631)	$ 5,942	$ (1,443)
Unrealized gain (loss) recognized in OCI (effective portion)	(326)	7,343	(11)	4,635
Less: Gain reclassified from OCI to revenue (effective portion)	190	(2,347)	(6,870)	(3,827)
Net change in derivatives	$ (136)	$ 4,996	$ (6,881)	$ 808
Loss in OCI at the end of the period	$ (939)	$ (635)	$ (939)	$ (635)

The following table summarizes the amount of gain or loss recognized in "Other, net" in the Consolidated Statements of Operations in the three and six months ended July 3, 2016, and June 28, 2015:

	Three Months Ended		Six Months Ended	
(In thousands)	July 3, 2016	June 28, 2015	July 3, 2016	June 28, 2015
Derivatives designated as cash flow hedges:				
Loss recognized in "Other, net" on derivatives (ineffective portion and amount excluded from effectiveness testing)	$ (1,211)	$ (1,968)	$ (1,671)	$ (5,223)
Derivatives not designated as hedging instruments:				
Gain (loss) recognized in "Other, net"	$ (5,394)	$ (8,417)	$ (11,709)	$ (902)

Foreign Currency Exchange Risk

Designated Derivatives Hedging Cash Flow Exposure

The Company's cash flow exposure primarily relates to anticipated third-party foreign currency revenues and expenses and interest rate fluctuations. To protect financial performance, the Company enters into foreign currency forward and option contracts designated as cash flow hedges to hedge certain forecasted revenue transactions denominated in currencies other than their functional currencies.

As of July 3, 2016, the Company had designated outstanding cash flow hedge option contracts with an aggregate notional value of $91.0 million. As of January 3, 2016, the Company had designated outstanding cash flow hedge forward contracts with an aggregate notional value of $23.6 million. The Company designates either gross external or intercompany revenue up to its net economic exposure. These derivatives have a maturity of 15 months or less and consist of foreign currency option and forward contracts. The effective portion of these cash flow hedges is reclassified into revenue when third-party revenue is recognized in the Consolidated Statements of Operations.

Non-Designated Derivatives Hedging Transaction Exposure

Derivatives not designated as hedging instruments consist of forward and option contracts used to hedge re-measurement of foreign currency denominated monetary assets and liabilities primarily for intercompany transactions, receivables from customers, and payables to third parties. Changes in exchange rates between the Company's subsidiaries' functional currencies and the currencies in which these assets and liabilities are denominated can create fluctuations in the Company's reported consolidated financial position, results of operations and cash flows. As of July 3, 2016, to hedge balance sheet exposure, the Company held options contracts and forward contracts with an aggregate notional value of $2.7 million and $5.1 million, respectively. The maturity dates of these contracts range from July 2016 to October 2016. As of January 3, 2016, to hedge balance sheet exposure, the Company held forward contracts with an aggregate notional value of $12.1 million. The maturity dates of these contracts ranged from December 2015 to April 2016.

Interest Rate Risk

The Company also enters into interest rate swap agreements to reduce the impact of changes in interest rates on its project specific non-recourse floating rate debt. As of both July 3, 2016 and January 3, 2016, the Company had interest rate swap agreements designated as cash flow hedges with an aggregate notional value of $8.0 million and interest rate swap agreements not designated as cash flow hedges with an aggregate notional value of $32.4 million. These swap agreements allow the Company to effectively convert floating-rate payments into fixed rate payments periodically over the life of the agreements. These derivatives have a maturity of more than 12 months. The effective portion of these swap agreements designated as cash flow hedges is reclassified into interest expense when the hedged transactions are recognized in the Consolidated Statements of Operations. The Company analyzes its designated interest rate swaps quarterly to determine if the hedge transaction remains effective or ineffective. The Company may discontinue hedge accounting for interest rate swaps prospectively if certain criteria are no longer met, the interest rate swap is terminated or exercised, or if the Company elects to remove the cash flow hedge designation. If hedge accounting is discontinued, and the forecasted hedged transaction is considered possible to occur, the previously recognized gain or loss on the interest rate swaps will remain in accumulated other comprehensive loss and will be reclassified into earnings during the same period the forecasted hedged transaction affects earnings or is otherwise deemed improbable to occur. All changes in the fair value of non-designated interest rate swap agreements are recognized immediately in current period earnings.

Credit Risk

The Company's option and forward contracts do not contain any credit-risk-related contingent features. The Company is exposed to credit losses in the event of nonperformance by the counterparties to these option and forward contracts. The Company enters into derivative contracts with high-quality financial institutions and limits the amount of credit exposure to any single counterparty. In addition, the Company continuously evaluates the credit standing of its counterparties.

Note 12. *INCOME TAXES*

In the three and six months ended July 3, 2016, the Company's income tax provision of $6.6 million and $9.8 million on a loss before income taxes and equity in earnings of unconsolidated investees of $93.9 million and $191.4 million, respectively, was primarily due to projected tax expense in profitable jurisdictions, the recognition of U.S. prepaid income tax due to intercompany transactions, and provision-to-return adjustments in U.S. and foreign jurisdictions. In the three and six months ended June 28, 2015, the Company's income tax benefit of $0.7 million and income tax provision of $1.7 million, respectively, on a loss before income taxes and equity in earnings of unconsolidated investees of $26.0 million and $54.9 million, respectively, was primarily due to projected tax expense, partially offset by discrete benefits pertaining to tax settlements in certain foreign jurisdictions. For the reporting period ended July 3, 2016, in accordance with FASB guidance for interim reporting of income tax, the Company has computed its provision for income taxes based on a projected annual effective tax rate while excluding loss jurisdictions which cannot be benefitted.

Note 13. *NET INCOME (LOSS) PER SHARE*

The Company calculates net income (loss) per share by dividing earnings allocated to common stockholders by the weighted average number of common shares outstanding for the period.

Diluted weighted average shares is computed using basic weighted average shares plus any potentially dilutive securities outstanding during the period using the treasury-stock-type method and the if-converted method, except when their effect is

anti-dilutive. Potentially dilutive securities include stock options, restricted stock units, the Upfront Warrants held by Total, warrants associated with the CSO2015, and the outstanding senior convertible debentures.

The following table presents the calculation of basic and diluted net income (loss) per share:

	Three Months Ended		Six Months Ended	
(In thousands, except per share amounts)	**July 3, 2016**	**June 28, 2015**	**July 3, 2016**	**June 28, 2015**
Basic net income (loss) per share:				
Numerator				
Net income (loss) attributable to stockholders	$ (69,992)	$ 6,509	$ (155,401)	$ (3,072)
Denominator				
Basic weighted-average common shares	138,084	134,376	137,644	133,205
Basic net income (loss) per share	$ (0.51)	$ 0.05	$ (1.13)	$ (0.02)
Diluted net income (loss) per share:				
Numerator				
Net income (loss) attributable to stockholders	$ (69,992)	$ 6,509	$ (155,401)	$ (3,072)
Add: Interest expense incurred on the 4.00% debentures due 2023, net of tax	—	n/a	—	n/a
Add: Interest expense incurred on the 0.75% debentures due 2018, net of tax	—	512	—	—
Add: Interest expense incurred on the 0.875% debentures due 2021, net of tax	—	—	—	—
Net income (loss) available to common stockholders	$ (69,992)	$ 7,021	$ (155,401)	$ (3,072)
Denominator				
Basic weighted-average common shares	138,084	134,376	137,644	133,205
Effect of dilutive securities:				
Stock options	—	36	—	—
Restricted stock units	—	1,483	—	—
Upfront Warrants (held by Total)	—	7,201	—	—
Warrants (under the CSO2015)	n/a	1,873	n/a	—
4.00% debentures due 2023	—	n/a	—	—
0.75% debentures due 2018	—	12,026	—	—
0.875% debentures due 2021	—	—	—	—
Dilutive weighted-average common shares	138,084	156,995	137,644	133,205
Diluted net income (loss) per share	$ (0.51)	$ 0.04	$ (1.13)	$ (0.02)

The Upfront Warrants allow Total to acquire up to 9,531,677 shares of the Company's common stock at an exercise price of $7.8685. The warrants under the CSO2015, when such warrants were still outstanding, entitled holders to acquire up to 11.1 million shares of the Company's common stock at an exercise price of $24.00. During the second quarter of fiscal 2015, the Company entered into unwind agreements pursuant to which the Company issued common stock to settle all of the outstanding warrants relating to the CSO2015 (refer to "Note 12. Debt and Credit Sources" in our Annual Report on Form 10-K for the fiscal year ended January 3, 2016).

Holders of the Company's 4.00% debentures due 2023, 0.875% debentures due 2021, and 0.75% debentures due 2018 can convert the debentures into shares of the Company's common stock, at the applicable conversion rate, at any time on or before maturity. These debentures are included in the calculation of diluted net income per share if they were outstanding during the period presented and if their inclusion is dilutive under the if-converted method.

Holders of the Company's 4.50% debentures due 2015 could, under certain circumstances at their option and before maturity, convert the debentures into cash, and not into shares of the Company's common stock (or any other securities). Therefore, the 4.50% debentures due 2015 are excluded from the net income per share calculation. In March 2015, the 4.50% debentures due 2015 matured and were settled in cash (refer to "Note 12. Debt and Credit Sources" in our Annual Report on Form 10-K for the fiscal year ended January 3, 2016).

The following is a summary of outstanding anti-dilutive potential common stock that was excluded from income (loss) per diluted share in the following periods:

	Three Months Ended		Six Months Ended	
(In thousands)	**July 3, 2016[1]**	**June 28, 2015**	**July 3, 2016[1]**	**June 28, 2015[1]**
Stock options	147	149	147	185
Restricted stock units	5,502	293	5,502	1,776
Upfront Warrants (held by Total)	5,338	—	5,853	7,055
Warrants (under the CSO2015)	n/a	—	n/a	1,827
4.00% debentures due 2023	13,922	n/a	13,922	n/a
0.75% debentures due 2018	12,026	—	12,026	12,026
0.875% debentures due 2021	8,203	8,203	8,203	8,203

[1] As a result of the net loss per share for the three and six months ended July 3, 2016 and the six months ended June 28, 2015, the inclusion of all potentially dilutive stock options, restricted stock units, and common shares under noted warrants and convertible debt would be anti-dilutive. Therefore, those stock options, restricted stock units and shares were excluded from the computation of the weighted-average shares for diluted net loss per share for such periods.

Note 14. ***STOCK-BASED COMPENSATION***

The following table summarizes the consolidated stock-based compensation expense by line item in the Consolidated Statements of Operations:

	Three Months Ended		Six Months Ended	
(In thousands)	**July 3, 2016**	**June 28, 2015**	**July 3, 2016**	**June 28, 2015**
Cost of Residential revenue	$ 1,652	$ 1,212	$ 2,479	$ 2,134
Cost of Commercial revenue	745	531	1,397	919
Cost of Power Plant revenue	3,066	1,517	5,712	2,773
Research and development	2,966	2,380	5,998	4,653
Sales, general and administrative	8,046	8,400	17,409	17,107
Total stock-based compensation expense	$ 16,475	$ 14,040	$ 32,995	$ 27,586

The following table summarizes the consolidated stock-based compensation expense by type of award:

	Three Months Ended		Six Months Ended	
(In thousands)	**July 3, 2016**	**June 28, 2015**	**July 3, 2016**	**June 28, 2015**
Restricted stock units	$ 15,734	$ 14,885	$ 33,167	$ 29,389
Change in stock-based compensation capitalized in inventory	741	(845)	(172)	(1,803)
Total stock-based compensation expense	$ 16,475	$ 14,040	$ 32,995	$ 27,586

Note 15. ***SEGMENT AND GEOGRAPHICAL INFORMATION***

The Company's President and Chief Executive Officer, as the CODM, has organized the Company, manages resource allocations and measures performance of the Company's activities among three end-customer segments: (i) Residential Segment, (ii) Commercial Segment and (iii) Power Plant Segment (see Note 1). The Residential and Commercial Segments combined are referred to as Distributed Generation.

The CODM assesses the performance of the three end-customer segments using information about their revenue, gross margin, and earnings before interest, taxes, depreciation and amortization ("EBITDA") after certain adjustments such as those related to 8point3 Energy Partners, utility and power plant projects and the sale of operating lease assets, and adding back certain expenses such as stock-based compensation expense and IPO-related costs, as well as other items. Additionally, for purposes of calculating EBITDA, the calculation excludes cash interest expense, net of interest income, provision for income taxes, and depreciation. The CODM does not review asset information by segment.

The following tables present information by end-customer segment including revenue, gross margin, and EBITDA, each as reviewed by the CODM, as well as information about significant customers and revenue by geography, based on the destination of the shipments.

	Three Months Ended		Six Months Ended	
(In thousands):	**July 3, 2016**	**June 28, 2015**	**July 3, 2016**	**June 28, 2015**
Revenue				
Distributed Generation				
Residential				
Solar power systems, components, and others	$ 113,274	$ 101,737	$ 208,906	$ 217,403
Residential leasing	64,441	50,468	120,616	90,126
Commercial	97,846	62,984	150,087	112,047

Power Plant	144,891	165,831	325,718	402,315
Total revenue	$ 420,452	$ 381,020	$ 805,327	$ 821,891
Cost of revenue				
Distributed Generation				
Residential				
Solar power systems, components, and others	$ 90,995	$ 80,988	$ 166,058	$ 173,355
Residential leasing	47,964	35,991	91,061	66,396
Commercial	89,523	58,842	134,749	105,722
Power Plant	150,676	134,318	320,628	314,719
Total cost of revenue	$ 379,158	$ 310,139	$ 712,496	$ 660,192
Gross margin				
Distributed Generation				
Residential				
Solar power systems, components, and others	$ 22,279	$ 20,749	$ 42,848	$ 44,048
Residential leasing	16,477	14,477	29,555	23,730
Commercial	8,323	4,142	15,338	6,325
Power Plant	(5,785)	31,513	5,090	87,596
Total gross margin	$ 41,294	$ 70,881	$ 92,831	$ 161,699

Revenue and Gross margin by segment (in thousands, except percentages):	Three Months Ended July 3, 2016								
	Revenue			Gross margin					
	Residential	Commercial	Power Plant	Residential		Commercial		Power Plant	
As reviewed by CODM	$ 186,611	$ 110,492	$ 104,693	$ 42,249	22.6%	$ 11,973	10.8%	$ (1,630)	(1.6)%
8point3 Energy Partners	1,287	—	113	419		(179)		(30)	
Utility and power plant projects	—	—	40,085	—		—		(4,128)	
Sale of operating lease assets	(10,183)	—	—	(2,966)		—		—	
Sale-leaseback transactions	—	(12,646)	—	—		(2,988)		—	
Stock-based compensation	—	—	—	(1,652)		(745)		(3,067)	
Other	—	—	—	706		262		3,070	
GAAP	$ 177,715	$ 97,846	$ 144,891	$ 38,756	21.8%	$ 8,323	8.5%	$ (5,785)	(4.0)%

Revenue and Gross margin by segment (in thousands, except percentages):	Three Months Ended June 28, 2015								
	Revenue			Gross margin					
	Residential	Commercial	Power Plant	Residential		Commercial		Power Plant	
As reviewed by CODM	$ 152,205	$ 62,984	$ 161,518	$ 35,410	23.3%	$ 4,016	6.4%	$ 26,717	16.5%
Utility and power plant projects	—	—	4,313	—		—		4,328	
Stock-based compensation	—	—	—	(1,212)		(531)		(1,516)	
Other	—	—	—	1,028		657		1,984	
GAAP	$ 152,205	$ 62,984	$ 165,831	$ 35,226	23.1%	$ 4,142	6.6%	$ 31,513	19.0%

Revenue and Gross margin by segment (in thousands, except percentages):	Six Months Ended July 3, 2016								
	Revenue			Gross margin					
	Residential	Commercial	Power Plant	Residential		Commercial		Power Plant	
As reviewed by CODM	$ 347,509	$ 162,733	$ 325,196	$ 79,832	23.0%	$ 20,305	12.5%	$ 11,477	3.5%
8point3 Energy Partners	2,599	—	13,975	904		(179)		4,127	
Utility and power plant projects	—	—	(13,453)	—		—		(7,685)	
Sale of operating lease assets	(20,586)	—	—	(6,078)		—		—	
Sale-leaseback transactions	—	(12,646)	—	—		(2,988)		—	
Stock-based compensation	—	—	—	(2,479)		(1,397)		(5,713)	
Other	—	—	—	224		(403)		2,884	
GAAP	$ 329,522	$ 150,087	$ 325,718	$ 72,403	22.0%	$ 15,338	10.2%	$ 5,090	1.6%

Revenue and Gross margin by segment (in thousands, except percentages):	Six Months Ended June 28, 2015								
	Revenue			Gross margin					
	Residential	Commercial	Power Plant	Residential		Commercial		Power Plant	
As reviewed by CODM	$ 307,529	$ 112,047	$ 387,732	$ 70,688	23.0%	$ 7,041	6.3%	$ 76,575	19.7%
Utility and power plant projects	—	—	14,583	—		—		15,579	
Stock-based compensation	—	—	—	(2,134)		(919)		(2,772)	
Other	—	—	—	(776)		203		(1,786)	

GAAP	$ 307,529	$ 112,047	$ 402,315	$ 67,778	22.0%	$ 6,325	5.6%	$ 87,596	21.8%

(In thousands):	Three Months Ended July 3, 2016	Three Months Ended June 28, 2015	Six Months Ended July 3, 2016	Six Months Ended June 28, 2015
EBITDA as reviewed by CODM				
Distributed Generation				
Residential	$ 37,092	$ 75,082	$ 66,670	$ 107,706
Commercial	244	(2,088)	(2,196)	(8,988)
Power Plant	(15,922)	20,796	(24,800)	51,973
Corporate and unallocated	8,490	(30,235)	(3,464)	(28,305)
Total EBITDA as reviewed by CODM	$ 29,904	$ 63,555	$ 36,210	$ 122,386
Reconciliation to Consolidated Statements of Income (Loss)				
8point3 Energy Partners	(18,039)	4,688	(28,758)	4,688
Utility and power plant projects	(4,128)	4,328	(7,685)	15,579
Sale of operating lease assets	(2,979)	—	(6,099)	—
Sale-leaseback transactions	(2,988)	—	(2,988)	—
Stock-based compensation	(16,475)	(14,040)	(32,995)	(27,586)
Other	2,235	(13,838)	(6,373)	(37,908)
Cash interest expense, net of interest income	(13,144)	(8,023)	(25,328)	(19,115)
Benefit from (provision for) income taxes	(6,648)	659	(9,829)	(1,692)
Depreciation	(37,730)	(30,820)	(71,556)	(59,424)
Net loss attributable to stockholders	$ (69,992)	$ 6,509	$ (155,401)	$ (3,072)

(As a percentage of total revenue):		Three Months Ended July 3, 2016	Three Months Ended June 28, 2015	Six Months Ended July 3, 2016	Six Months Ended June 28, 2015
Significant Customers:	**Business Segment**				
8point3 Energy Partners	Power Plant	*	*	14%	*
MidAmerican Energy Holdings Company	Power Plant	*	15%	*	25%
Customer C	Power Plant	19%	*	10%	*

(As a percentage of total revenue):	Three Months Ended July 3, 2016	Three Months Ended June 28, 2015	Six Months Ended July 3, 2016	Six Months Ended June 28, 2015
Revenue by geography:				
United States	79%	62%	78%	66%
Japan	6%	15%	5%	15%
Rest of World	15%	23%	17%	19%
	100%	100%	100%	100%

Note 16. ***SUBSEQUENT EVENTS***

August 2016 Restructuring Plan

On August 9, 2016, the Company adopted and began implementing initiatives to realign the Company's downstream investments, optimize the Company's supply chain and reduce operating expenses, in response to expected near-term challenges primarily relating to the Company's power plant segment. In connection with the realignment, which is expected to be completed by the end of fiscal 2017, the Company expects approximately 1,200 employees to be affected, primarily in the Philippines, representing approximately 15% of the Company's global workforce. The Company expects to incur restructuring charges totaling approximately $30 million to $45 million, consisting primarily of severance benefits, asset impairments, lease and related termination costs, and other associated costs. A substantial portion of such charges are expected to be incurred in the third quarter of fiscal 2016, and the Company expects more than 50% of total charges to be cash. The actual timing and costs of the plan may differ from the Company's current expectations and estimates.

ITEM 2: *MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS*

Cautionary Statement Regarding Forward-Looking Statements

You should read the following discussion of our financial condition and results of operations in conjunction with the consolidated financial statements and the notes thereto included elsewhere in this Quarterly Report on Form 10-Q and our Annual Report on Form 10-K for the fiscal year ended January 3, 2016 filed with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act").

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are statements that do not represent historical facts and the assumptions underlying such statements. We use words such as "anticipate," "believe," "continue," "could," "estimate," "expect," "intend," "may," "plan," "predict," "project," "potential," "will," "would," "should," and similar expressions to identify forward-looking statements. Forward-looking statements in this Quarterly Report on Form 10-Q include, but are not limited to, our plans and expectations regarding future financial results, expected operating results, business strategies, projected costs and cost reduction, development of new products and improvements to our existing products, our manufacturing capacity and manufacturing costs, the adequacy of our agreements with our suppliers, our ability to monetize utility projects, competitive positions, management's plans and objectives for future operations, the sufficiency of our cash and our liquidity, our ability to obtain financing, our ability to comply with debt covenants or cure any defaults, trends in average selling prices, the success of our joint ventures and acquisitions, expected capital expenditures, warranty matters, outcomes of litigation, our exposure to foreign exchange, interest and credit risk, general business and economic conditions in our markets, industry trends, the impact of changes in government incentives, expected restructuring charges, and the likelihood of any impairment of project assets, long-lived assets, and investments. These forward-looking statements are based on information available to us as of the date of this Quarterly Report on Form 10-Q and current expectations, forecasts and assumptions and involve a number of risks and uncertainties that could cause actual results to differ materially from those anticipated by these forward-looking statements. Such risks and uncertainties include a variety of factors, some of which are beyond our control. Factors that could cause or contribute to such differences include, but are not limited to, those identified below, those discussed in the section titled "Risk Factors" included in this Quarterly Report on Form 10-Q and our Annual Report on Form 10-K for the fiscal year ended January 3, 2016, and our other filings with the Securities and Exchange Commission ("SEC"). These forward-looking statements should not be relied upon as representing our views as of any subsequent date, and we are under no obligation to, and expressly disclaim any responsibility to, update or alter our forward-looking statements, whether as a result of new information, future events or otherwise.

Our fiscal year ends on the Sunday closest to the end of the applicable calendar year. All references to fiscal periods apply to our fiscal quarter or year, which end on the Sunday closest to the calendar month end.

Overview

SunPower is a leading global energy company that delivers complete solar solutions to residential, commercial, and power plant customers worldwide through an array of hardware, software, and financing options and through utility-scale solar power system construction and development capabilities, O&M services, and "Smart Energy" solutions. Our Smart Energy initiative is designed to add layers of intelligent control to homes, buildings and grids—all personalized through easy-to-use customer interfaces. Of all the solar cells commercially available to the mass market, we believe our solar cells have the highest conversion efficiency, a measurement of the amount of sunlight converted by the solar cell into electricity. For more information about our business, please refer to the section titled "Part I. Item 1. *Business*" in our Annual Report on Form 10-K for the fiscal year January 3, 2016.

Unit of Power

When referring to our solar power systems, our facilities' manufacturing capacity, and total sales, the unit of electricity in watts for kilowatts ("KW"), megawatts ("MW"), and gigawatts ("GW") is direct current ("DC"), unless otherwise noted as alternating current ("AC").

Levelized Cost of Energy ("LCOE")

LCOE is an evaluation of the life-cycle energy cost and life-cycle energy production of an energy producing system. It allows alternative technologies to be compared across different scales of operation, investment or operating time periods. It

captures capital costs and ongoing system-related costs, along with the amount of electricity produced, and converts them into a common metric. Key drivers for LCOE reduction for photovoltaic products include panel efficiency, capacity factors, reliable system performance, and the life of the system.

Customer Cost of Energy ("CCOE™")

Our customers are focused on reducing their overall cost of energy by intelligently integrating solar and other distributed generation, energy efficiency, energy management, and energy storage systems with their existing utility-provided energy. The CCOE™ measurement is an evaluation of a customer's overall cost of energy, taking into account the cost impact of each individual generation source (including the utility), energy storage systems, and energy management systems. The CCOE measurement includes capital costs and ongoing operating costs, along with the amount of electricity produced, stored, saved, or re-sold, and converts all of these variables into a common metric. The CCOE metric allows a customer to compare different portfolios of generation sources, energy storage, and energy management, and to tailor towards optimization.

Seasonal Trends

Our business is subject to industry-specific seasonal fluctuations including changes in weather patterns and economic incentives, among others. Sales have historically reflected these seasonal trends with the largest percentage of total revenues realized during the last two quarters of a fiscal year. The construction of solar power systems or installation of solar power components and related revenue may decline during cold winter months. In the United States, many customers make purchasing decisions towards the end of the year in order to take advantage of tax credits or for other budgetary reasons. In addition, revenues may fluctuate due to the timing of project sales, construction schedules, and revenue recognition of certain projects, such as those involving the sale of real estate, which may significantly impact the quarterly profile of our results of operations. We may also retain certain development projects on our balance sheet for longer periods of time than in preceding periods in order to optimize the economic value we receive at the time of sale in light of market conditions, which can fluctuate after we have committed to projects. Delays in disposing of projects, or changes in amounts realized on disposition, may lead to significant fluctuations to the period-over-period profile of our results of operations and our cash available for working capital needs.

Fiscal Years

We have a 52-to-53-week fiscal year that ends on the Sunday closest to December 31. Accordingly, every fifth or sixth year will be a 53-week fiscal year. The current fiscal year, fiscal 2016, is a 52-week fiscal year, while fiscal year 2015 was a 53-week fiscal year and had a 14-week fourth fiscal quarter. The first quarter of fiscal 2016 ended on July 3, 2016, while the first quarter of fiscal 2015 ended on June 28, 2015. The first quarters of fiscal 2016 and fiscal 2015 were both 13-week quarters.

Outlook

Demand

We remain focused on each of our three business segments. We believe that our key growth areas will be in our U.S. market in our Residential business and in emerging markets in our Commercial and Power Plant businesses. We plan to focus our development resources on a limited number of core markets, primarily in the Americas, where we believe we have a sustainable competitive advantage. Outside of these core markets, we will focus our power plant business on the sale of our new Oasis complete solution, incorporating Performance Series panel technology, to developers and EPC companies in global markets. We are working to expand our global components sales capabilities and international commercial opportunities. We also expect to grow our Power Plants business with investments in project development pipelines and in conjunction with our HoldCo strategy of retaining development projects on our balance sheet for longer periods of time in order to optimize the economic value that we receive at the time of sale in light of market conditions. Market conditions, however, can deteriorate after we have committed to projects; for example, shifts in the timing of demand and changes in the internal rate of return ("IRR") that our customers expect can significantly affect project sale prices. A pronounced increase in expected customer and investor IRR rates in light of market conditions may drive lower overall project sale prices.

In June 2015, 8point3 Energy Partners, our joint YieldCo vehicle formed to own, operate, and acquire solar energy generation assets, completed its initial public offering. 8point3 Energy Partners remains a source of demand for our business and we plan to continue to sell to it our solar energy generating assets, including utility-scale solar power plants, commercial solar projects, and portfolios of residential solar power systems. We have used and expect to continue to use additional financing structures and sources of demand in order to maximize economic returns. For additional information on transactions

with 8point3 Energy Partners and associated revenue recognition, please see "Note 9. Equity Method Investments – *Equity Investment in 8point3 Energy Partners"* and "– *Related-Party Transactions with Investees*."

In late fiscal 2015, the U.S. government enacted a budget bill that extended the solar commercial investment tax credit (the “Commercial ITC”) under Section 48(c) of the Internal Revenue Code of 1986 (the “IRC”) and the individual solar investment tax credit under Section 25D of the IRC (together with the Commercial ITC, the “ITC”) for five years, at rates gradually decreasing from 30% through 2019 to 22% in 2021. After 2021, the Commercial ITC is retained at 10%. We also saw other recent developments that contributed to a favorable policy environment, including (i) a significant focus on reducing world-wide carbon emissions through such events as the COP21 sustainable innovation forum held in Paris and the announcement of the Clean Power Plan in the United States, and (ii) domestic policy measures such as the extension of bonus depreciation and approval of California Net Metering "NEM 2.0." We believe these factors will strengthen long-term demand for our products in all three business segments in U.S. and global markets and provide us an opportunity to expand our suite of energy solutions and complement our strong, existing core business. However, in the near term, the extension of the ITC could have adverse impacts on our business, as it may reduce the pressure for commercial or residential customers to make purchases before the end of 2016, which was the time when the ITC had previously been set to expire, and instead may push demand from these customers into fiscal 2017 and 2018. For more information about the ITC and other policy mechanisms, please refer to the section titled "Part I. Item 1. Business—Regulations—Public Policy Considerations" in our Annual Report on Form 10-K for the fiscal year ended January 3, 2016. For more information about how we avail ourselves of the benefits of public policies and the risks related to public policies, please see the risk factors set forth under the caption "Part I. Item 1A. Risk Factors," including "Risks Related to Our Sales Channels—The reduction, modification or elimination of government incentives could cause our revenue to decline and harm our financial results" and "Risks Related to Our Sales Channels—Existing regulations and policies and changes to these regulations and policies may present technical, regulatory, and economic barriers to the purchase and use of solar power products, which may significantly reduce demand for our products and services" in our Annual Report on Form 10-K for the fiscal year ended January 3, 2016 and under the caption “Part I. Item 1A. Risk Factors,” including “Our operating results are subject to significant fluctuations and are inherently unpredictable.” in this Quarterly Report on Form 10-Q.

Supply

We are focused on delivering complete solutions to customers in all three of our business segments. As part of our complete solution approach, we launched our Helix™ product for our Commercial Segment during fiscal 2015, and in the first quarter of fiscal 2016 we launched our SunPower Equinox™ product for our Residential Segment. The SunPower Equinox and Helix systems are pre-engineered modular solutions for residential and commercial applications, respectively, that combine our high-efficiency solar module technology with integrated plug-and-play power stations, cable management systems, and mounting hardware that enable our customers to quickly and easily complete system installations and manage their energy production. We continue to work on developing our next generation technology for our existing Oasis modular solar power blocks for power plant applications. With the addition of these modular solutions in our residential and commercial applications, we are able to provide complete solutions across all end-customer segments. Additionally, in the fourth quarter of fiscal 2015 we announced the launch of our new lower cost, high efficiency Performance Series product line, which will enhance our ability to rapidly expand our global footprint with minimal capital cost.

We continue to see significant and increasing opportunities in technologies and capabilities adjacent to our core product offerings that can significantly reduce our customers' CCOE measurement, including the integration of energy storage and energy management functionality into our systems, and have made investments to realize those opportunities, including our investment in a data-driven Energy Services Management Platform from Tendril Networks, Inc., and our strategic partnership with EnerNOC to deploy their Software as a Service energy intelligence software solution to our commercial and power plant customers, enabling our customers to make intelligent energy choices by addressing how they buy energy, how they use energy and when they use it. We have added advanced module-level control electronics to our portfolio of technology designed to enable longer series strings and significant balance of system components cost reductions in large arrays. We are developing next generation microinverter technology and currently offer solar panels that use microinverters designed to eliminate the need to mount or assemble additional components on the roof or the side of a building and enable optimization and monitoring at the solar panel level to ensure maximum energy production by the solar system. We also continue to work on making combined solar and distributed energy storage solutions broadly commercially available to certain customers in the United States through our agreement to offer Sunverge SIS energy solutions comprising batteries, power electronics, and multiple energy inputs controlled by software in the cloud.

We continue to improve our unique, differentiated solar cell and panel technology. We emphasize improvement of our solar cell efficiency and LCOE and CCOE performance through enhancement of our existing products, development of new products and reduction of manufacturing cost and complexity in conjunction with our overall cost-control strategies. We are

now producing our solar cells with over 25% efficiency in the lab, have reached production panel efficiencies over 24%, and have started up our first high-volume Performance Series production lines in Mexico.

We are expanding our solar cell manufacturing capacity through the construction of a facility in the Philippines with a planned annual capacity of 350 MW once fully operational, which is expected to occur in fiscal 2016; initial production launched during the fourth quarter of fiscal 2015. We plan to close our Philippine panel assembly facility and transfer the equipment to our latest generation, lower cost facilities in Mexico. As part of this realignment, we expect to expand panel assembly capacity for our highest efficiency X-Series panels while ramping production of our new Performance Series technology.

We are focused on reducing the cost of our solar panels and systems and are working with our suppliers and partners along all steps of the value chain to reduce costs by improving manufacturing technologies and expanding economies of scale. We also continually focus on reducing manufacturing cost and complexity in conjunction with our overall cost-control strategies. We believe that the global demand for solar systems is highly elastic and that our aggressive, but achievable, cost reduction roadmap will reduce installed costs for our customers across all business segments and drive increased demand for our solar solutions.

We also work with our suppliers and partners to ensure the reliability of our supply chain. We have contracted with some of our suppliers for multi-year supply agreements, under which we have annual minimum purchase obligations. We also have certain purchase obligations under our material supply agreement with our joint venture AUOSP, which is a supplier of our cells. For more information about our purchase commitments and obligations, please see "Part I. Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Contractual Obligations" and "Note 8. Commitments and Contingencies" in the Notes to the Consolidated Financial Statements in this Quarterly Report on Form 10-Q.

We currently believe our supplier relationships and various short- and long-term contracts will afford us the volume of material and services required to meet our planned output; however, we face the risk that the pricing of our long-term contracts may exceed market value. We purchase our polysilicon under fixed-price long-term supply agreements; purchases in fiscal 2015 under these agreements significantly exceeded market value and the volume contracted to be purchased in fiscal 2016 exceeds our planned utilization, which may result in higher inventory balances until we are able to fully utilize the polysilicon inventory in future periods. Additionally, we face the risk that our joint venture AUOSP may not remain financially healthy or a reliable source in our supply chain. For more information about these risks, please see "—Our long-term, firm commitment supply agreements could result in excess or insufficient inventory, place us at a competitive disadvantage on pricing, or lead to disputes, each of which could impair our ability to meet our cost reduction roadmap" and "—We will continue to be dependent on a limited number of third-party suppliers for certain raw materials and components for our products, which could prevent us from delivering our products to our customers within required timeframes and could in turn result in sales and installation delays, cancellations, penalty payments and loss of market share" under "Part 1. Item 1A. Risk Factors—Risks Related to Our Supply Chain" in our Annual Report on Form 10-K for the fiscal year ended January 3, 2016.

M&A

During fiscal 2015 and the first half of 2016, we made strategic acquisitions and investments that will allow us to service a broader market with enhanced expertise. We look for similar investment opportunities to expand our business and portfolio of technology by making investments that will enable us to achieve our strategic vision.

Financing

We are able to utilize various means to finance our utility-scale power plant development and construction projects, including our ability to sell projects to 8point3 Energy Partners. Through our investments in and involvement with the 8point3 Group, as well as through the use of our various other financing structures, we seek to access a lower cost of capital, in order to enable the continued development of our project pipeline described below in our key U.S. market and in select, sustainable foreign markets. As part of this strategy, we plan to retain these development projects on our balance sheet for longer periods of time than in preceding periods in order to optimize the economic value we receive at the time of sale.

Projects Under Contract

The table below presents significant construction and development projects under contract as of July 3, 2016:

Project	Location	Size (MW)	Third-Party Owner / Purchaser	Power Purchase Agreement(s)	Expected Substantial Completion of Project[2]
Prieska Solar Project[1]	South Africa	86	Mulilo Prieska PV (RF) Proprietary Limited	Eskom Holdings Soc LTD	2016
Henrietta Solar Project	California, USA	128	Southern Renewable Partnerships, LLC	PG&E	2016
Boulder Solar Project	Nevada, USA	125	Southern Renewable Partnerships, LLC	NV Energy	2016
Rio Bravo Solar Projects	California, USA	50	Duke Energy Renewables Solar, LLC	Southern California Edison	2016

[1] We have entered into an EPC agreement and a long-term fixed price O&M agreement with the owners of the Prieska Solar Project, which includes a subsidiary of Total S.A.

[2] Expected completion of revenue recognition assumes completion of construction in the stated fiscal year.

As of July 3, 2016, an aggregate of approximately $511.5 million of remaining revenue is expected to be recognized on projects reflected in the table above through the expected completion dates noted. Projects will be removed from the table above in the period in which substantially all of the revenue for such project has been recognized.

Projects with Executed Power Purchase Agreements - Not Sold / Not Under Contract

The table below presents significant construction and development projects with executed PPAs, but not sold or under contract as of July 3, 2016:

Project	Location	Size (MW)	Power Purchase Agreement(s)	Expected Substantial Completion of Project[1]
El Pelicano Solar Project	Chile	111	Empresa de Transporte de Pasajeros Metro S.A.	2017
Stanford Solar Generating Station[2]	California, USA	68	Stanford University	2016
Turlock Solar Generating Station[2]	California, USA	68	Turlock Irrigation District	2016
Boulder Solar Project II	Nevada, USA	50	Sierra Pacific Power Company	2016

[1] Expected completion of revenue recognition assumes completion of construction and sale of the project in the stated fiscal year.

[2] ROFO Project—pursuant to a Right of First Offer Agreement between SunPower and OpCo, the 8point3 Group has rights of first offer on interests in these projects. For additional information on 8point3 Energy Partners and related transactions, please refer to the section titled "Note 6. Fair Value Measurements" and "Note 9. Equity Method Investments" in the Notes to the Consolidated Financial Statements in this Quarterly Report on Form 10-Q.

Our project pipeline extends beyond the projects represented in the tables above. Significant projects with development and milestone activities in progress will be excluded from the table above until an associated PPA has been executed.

Results of Operations

Revenue

(In thousands)	Three Months Ended July 3, 2016	Three Months Ended June 28, 2015	% Change	Six Months Ended July 3, 2016	Six Months Ended June 28, 2015	% Change
Distributed Generation						
Residential	$ 177,715	$ 152,205	17%	$ 329,522	$ 307,529	7%
Commercial	97,846	62,984	55%	150,087	112,047	34%
Power Plant	144,891	165,831	(13)%	325,718	402,315	(19)%
Total revenue	$ 420,452	$ 381,020	10%	$ 805,327	$ 821,891	(2)%

Total Revenue: Our total revenue increased by ten percent during the three months ended July 3, 2016 as compared to the three months ended June 28, 2015 due to increased sales of solar power systems in our Residential and Commercial Segments, partially offset by a decline in revenue in our Power Plant Segment, primarily driven by a decrease in the sale of power plant components. Our total revenue decreased two percent during the six months ended July 3, 2016 as compared to the six months ended June 28, 2015, due to a decline in Power Plant revenue primarily driven by a decrease in component sales during the first half of fiscal 2016 which was partially offset by higher revenue in our Residential and Commercial Segments driven by increased sales of solar power systems in both segments.

Concentrations: The Power Plant Segment as a percentage of total revenue recognized was approximately 34% and 40% during the three and six months ended July 3, 2016 as compared to 44% and 49% during the three and six months ended June 28, 2015, respectively. The revenue for the Power Plant Segment as a percentage of total revenue recognized decreased primarily due to declines in Power Plants component revenue and an increase in revenue from sales of solar power systems in our Residential and Commercial Segments.

The table below represents our significant customers that accounted for greater than 10 percent of total revenue in each of the three and six months ended July 3, 2016 and June 28, 2015.

Revenue		Three Months Ended July 3, 2016	Three Months Ended June 28, 2015	Six Months Ended July 3, 2016	Six Months Ended June 28, 2015
Significant Customers:	**Business Segment**				
8point3 Energy Partners	Power Plant	*	*	14%	*
MidAmerican Energy Holdings Company	Power Plant	*	15%	*	25%
Customer C	Power Plant	19%	*	10%	*

* denotes less than 10% during the period

Residential Revenue: Residential revenue increased 17% and seven percent during the three and six months ended July 3, 2016 as compared to the three and six months ended June 28, 2015, respectively, primarily due to an increase in sales of residential solar power systems in North America driven by stronger sales through our dealer network, an increase in the number of leases placed in service under our residential leasing program within the United States, and an increase in the proportion of capital leases relative to total leases placed in service. This increase in revenue in North America was partially offset by a decline in the sales of solar power components and systems to our residential customers in Japan, where a reduction in the country's feed-in tariff during the last half of fiscal 2015 continued to reduce demand for solar power systems and the volatility of the value of the Japanese Yen reduced demand for imported goods in general.

Commercial Revenue: Commercial revenue increased 55% and 34% during the three and six months ended July 3, 2016 as compared to the three and six months ended June 28, 2015, respectively, primarily because of stronger sales of commercial components and systems in North America due to a favorable policy environment, partially offset by a decrease in commercial component and system sales in Japan, where a reduction in the country's feed-in tariff during the during the last half of fiscal 2015 continued to reduce demand for solar power systems and the volatility of the value of the Japanese Yen reduced demand for imported goods in general.

Power Plant Revenue: Power Plant revenue decreased 13% and 19% during the three and six months ended July 3, 2016 as compared to the three and six months ended June 28, 2015, respectively, primarily due to a decline in component sales to Power Plant customers in Japan, France, and China, partially offset by an increase in revenue recognized on certain large-scale utility projects in the North America.

Cost of Revenue

(In thousands)	Three Months Ended July 3, 2016	Three Months Ended June 28, 2015	% Change	Six Months Ended July 3, 2016	Six Months Ended June 28, 2015	% Change
Distributed Generation						
Residential	$ 138,959	$ 116,979	19%	$ 257,119	$ 239,751	7%
Commercial	89,523	58,842	52%	134,749	105,722	27%
Power Plant	150,676	134,318	12%	320,628	314,719	2%
Total cost of revenue	$ 379,158	$ 310,139	22%	$ 712,496	$ 660,192	8%
Total cost of revenue as a percentage of revenue	90%	81%		88%	80%	
Total gross margin percentage	10%	19%		12%	20%	

Total Cost of Revenue: Our total cost of revenue increased 22% and eight percent during the three and six months ended July 3, 2016 as compared to the three and six months ended June 28, 2015, respectively, primarily as a result of the increase in the recognition of revenue and corresponding costs of certain large-scale solar power systems within the United States during the first half of fiscal 2016, as well as impairment charges totaling $16.5 million taken on certain solar power development projects during the second quarter of fiscal 2016.

Gross Margin

	Three Months Ended July 3, 2016	Three Months Ended June 28, 2015	% Change	Six Months Ended July 3, 2016	Six Months Ended June 28, 2015	% Change
Distributed Generation						
Residential	22%	23%	(1)%	22%	22%	—%
Commercial	9%	7%	2%	10%	6%	4%
Power Plant	(4)%	19%	(23)%	2%	22%	(20)%

Residential Gross Margin: Gross margin for our Residential Segment decreased one percentage point and remained flat during the three and six months ended July 3, 2016 as compared to the three and six months ended June 28, 2015, respectively, as a result of declining average selling prices in Japan, where a reduction in the country's feed-in tariff during the last half of fiscal 2015 continued to reduce demand for solar power systems and the volatility of the value of the Japanese Yen reduced demand for imported goods in general, partially offset by an increased volume of sales with favorable margins for residential leases and higher average selling prices for residential components and systems in North America.

Commercial Gross Margin: Gross margin for our Commercial Segment increased two and four percentage points during the three and six months ended July 3, 2016 as compared to the three and six months ended June 28, 2015, respectively, primarily due to an increase in the volume of projects and sales of components and systems with favorable margins as a result of a more favorable policy environment in North America, partially offset by declining average selling prices in Japan, where a reduction in the country's feed-in tariff during the during the last half of fiscal 2015 continued to reduce demand for solar power systems and the volatility of the value of the Japanese Yen reduced demand for imported goods in general.

Power Plant Gross Margin: Gross margin for our Power Plant Segment decreased 23 and 20 percentage points during the three and six months ended July 3, 2016 as compared to the three and six months ended June 28, 2015, respectively, primarily due to the substantial completion of certain large-scale solar power projects with favorable margins during the second half of fiscal 2015 and because, during the first half of fiscal 2016, we deferred the recognition of any profit on the sale of projects involving real estate to 8point3 Energy Partners under the accounting treatment described in "Note 9. Equity Method Investments—Equity Investment in 8point3 Energy Partners" in this Quarterly Report on Form 10-Q. Additionally, during the second quarter of fiscal 2016 we experienced pressure on project pricing due to increased global competition and also recorded impairment charges totaling $15.6 million on certain solar power development projects as a result of a variety of factors, including an increase in the internal rate of return expected by our customers in light of market conditions.

Research and Development ("R&D")

	Three Months Ended			Six Months Ended		
(In thousands)	**July 3, 2016**	**June 28, 2015**	**% Change**	**July 3, 2016**	**June 28, 2015**	**% Change**
R&D	$ 31,411	$ 20,560	53%	$ 64,117	$ 41,728	54%
As a percentage of revenue	7%	5%		8%	5%	

R&D expense increased $10.9 million and $22.4 million, in the three and six months ended July 3, 2016 as compared to the three and six months ended June 28, 2015, respectively, primarily due to an increase in labor costs as a result of additional headcount and salary related expenses, as well as an increase in other net expenses such as materials, consulting and outside services as we continue to develop our next generation solar technology and expand our product offering. The remaining increase was a result of other net expenses to support R&D programs as well as amortization of intangible assets attributable to R&D activity. These increases were partially offset by contributions under the R&D Agreement with Total.

Sales, General and Administrative ("SG&A")

	Three Months Ended			Six Months Ended		
(In thousands)	**July 3, 2016**	**June 28, 2015**	**% Change**	**July 3, 2016**	**June 28, 2015**	**% Change**
SG&A	$ 84,683	$ 81,520	4%	$ 182,474	$ 158,734	15%
As a percentage of revenue	20%	21%		23%	19%	

SG&A expense increased $3.2 million and $23.7 million in the three and six months ended July 3, 2016 as compared to the three and six months ended June 28, 2015, respectively, due to an increase in selling and marketing expenses as we grow our sales teams and increase our marketing activity for residential and commercial products in North America and through digital media, as well as increases in other costs related to ongoing legal proceedings and non-cash charges primarily related to depreciation and the amortization and disposition of intangible assets.

Restructuring Charges

	Three Months Ended			Six Months Ended		
(In thousands)	**July 3, 2016**	**June 28, 2015**	**% Change**	**July 3, 2016**	**June 28, 2015**	**% Change**
Restructuring charges	$ 117	$ 1,749	(93)%	$ 213	$ 5,330	(96)%
As a percentage of revenue	—%	—%		—%	1%	

Restructuring charges decreased $1.6 million and $5.1 million during the three and six months ended July 3, 2016 as compared to the three and six months ended June 28, 2015, respectively, due to the substantial completion in fiscal 2015 of the activities associated with legacy restructuring plans approved in fiscal 2014, 2012 and 2011.

See "Item 1. Financial Statements—Notes to Consolidated Financial Statements—Note 7. Restructuring" for further information regarding our restructuring plans.

Other Income (Expense), Net

(In thousands)	Three Months Ended July 3, 2016	Three Months Ended June 28, 2015	% Change	Six Months Ended July 3, 2016	Six Months Ended June 28, 2015	% Change
Interest income	$ 806	$ 494	63%	$ 1,503	$ 1,050	43%
Interest expense	(13,950)	(8,517)	64%	(26,831)	(24,198)	11%
Other, net	(5,822)	14,982	(139)%	(12,054)	12,362	(198)%
Other income (expense), net	$ (18,966)	$ 6,959	(373)%	$ (37,382)	$ (10,786)	247%
As a percentage of revenue	(5)%	2%		(5)%	(1)%	

Other income (expense), net decreased $25.9 million and $26.6 million, in the three and six months ended July 3, 2016 as compared to the three and six months ended June 28, 2015, respectively, primarily driven by the gain recognized on the sale of a residential lease portfolio to 8point3 Energy Partners during the second quarter of fiscal 2015, an increase in interest expense in fiscal 2016 due to the issuance of the 4.00% debentures due 2023 late in the fourth quarter of fiscal 2015, as well as unfavorable changes in the fair value of foreign currency derivatives and other net expenses.

Income Taxes

(In thousands)	Three Months Ended July 3, 2016	Three Months Ended June 28, 2015	% Change	Six Months Ended July 3, 2016	Six Months Ended June 28, 2015	% Change
Benefit from (provision for) income taxes	$ (6,648)	$ 659	(1,109)%	$ (9,829)	$ (1,692)	481%
As a percentage of revenue	(2)%	—%		(1)%	— %	

In the three and six months ended July 3, 2016, our income tax provision of $6.6 million and $9.8 million, respectively, on a loss before income taxes and equity in earnings of unconsolidated investees of $93.9 million and $191.4 million, respectively, was primarily due to the projected tax expense in profitable jurisdictions, the recognition of U.S. prepaid income tax due to intercompany transactions, and provision-to-return adjustments in U.S. and foreign jurisdictions. In the three and six months ended June 28, 2015, our income tax benefit of $0.7 million and income tax provision of $1.7 million, respectively, on a loss before income taxes and equity in earnings of unconsolidated investees of $26.0 million and $54.9 million, respectively, was primarily due to projected tax expense, partially offset by discrete benefits pertaining to tax settlements in certain foreign jurisdictions in the three months ended June 28, 2015. The increase in income tax provision for the three and six months ended July 3, 2016 as compared to the three and six months ended June 28, 2015 is primarily due to an the recognition of tax expense from intercompany transactions and provision-to return adjustments in US and foreign jurisdictions in the first half of 2016 and discrete tax benefits realized in the second quarter of fiscal 2015 related to the settlement of foreign audits.

A material amount of our total revenue is generated from customers located outside of the United States, and a substantial portion of our assets and employees are located outside of the United States. U.S. income taxes and foreign withholding taxes have not been provided on the undistributed earnings of our non-U.S. subsidiaries as such earnings are intended to be indefinitely reinvested in operations outside the United States to the extent that such earnings have not been currently or previously subjected to taxation of the United States.

We record a valuation allowance to reduce our U.S. and French deferred tax assets to the amount that is more likely than not to be realized. In assessing the need for a valuation allowance, we consider historical levels of income, expectations and risks associated with the estimates of future taxable income and ongoing prudent and feasible tax planning strategies. In the event we determine that we would be able to realize additional deferred tax assets in the future in excess of the net recorded amount, or if we subsequently determine that realization of an amount previously recorded is unlikely, we would record an adjustment to the deferred tax asset valuation allowance, which would change income tax in the period of adjustment. As of July 3, 2016, we believe there is insufficient evidence to realize additional deferred tax assets.

Equity in Earnings of Unconsolidated Investees

	Three Months Ended			Six Months Ended		
(In thousands)	**July 3, 2016**	**June 28, 2015**	**% Change**	**July 3, 2016**	**June 28, 2015**	**% Change**
Equity in earnings of unconsolidated investees	$ 8,350	$ 1,864	348%	$ 7,586	$ 4,055	87%
As a percentage of revenue	2.0%	0.5%		1%	0.5%	

Our equity in earnings of unconsolidated investees increased $6.5 million and $3.5 million, in the three and six months ended July 3, 2016, compared to the three and six months ended June 28, 2015, respectively, primarily due to our share of the earnings generated by the activities of the 8point3 Group during the first half of fiscal 2016.

Net Loss

	Three Months Ended			Six Months Ended		
(In thousands)	**July 3, 2016**	**June 28, 2015**	**% Change**	**July 3, 2016**	**June 28, 2015**	**% Change**
Net loss	$ (92,181)	$ (23,466)	293%	$ (193,598)	$ (52,516)	269%

Net loss increased by $68.7 million in the three months ended July 3, 2016 as compared to the three months ended June 28, 2015. The increase in net loss was primarily driven by: (i) a $29.6 million decrease in gross margin, primarily due to the substantial completion of certain large-scale solar power projects with favorable margins during the second half of fiscal 2015 and because we recognized revenue, but deferred all profit, on projects involving real estate pursuant to real estate accounting guidelines and, additionally, because we recorded impairment charges totaling $16.5 million on certain solar power development projects in the second quarter of fiscal 2016; (ii) a $25.9 million decrease in other income (expense), net primarily driven by the gain recognized on the sale of a residential lease portfolio to 8point3 Energy Partners during the second quarter of fiscal 2015, an increase in interest expense in fiscal 2016 due to the issuance of the 4.00% debentures due 2023, as well as unfavorable changes in the fair value of foreign currency derivatives; (iii) a $14.0 million increase in operating expenses due to increased marketing spend and increased headcount in R&D and sales departments in addition to certain non-cash charges; and (iv) a $7.3 million increase in provision for income taxes primarily due to the recognition of tax expense from intercompany transactions and provision-to return adjustments in US and foreign jurisdictions in the second quarter of 2016 and discrete tax benefits realized in the second quarter of fiscal 2015 related to the settlement of foreign audits that reduced the overall tax provision in the period. The increase in net loss was partially offset by: (i) a $6.5 million increase in equity in earnings of unconsolidated investees due to our share of the earnings generated by the activities of the 8point3 Group; and (ii) a $1.6 million decrease in restructuring charges due to the substantial completion in fiscal 2015 of the activities associated with legacy restructuring plans.

Net loss increased by $141.1 million in the six months ended July 3, 2016, as compared to the six months ended June 28, 2015. The increase in net loss was primarily driven by: (i) a $68.9 million decrease in gross margin, primarily due to the substantial completion of certain large-scale solar power projects with favorable margins during the second half of fiscal 2015 and because we recognized revenue, but deferred all profit, on projects involving real estate pursuant to real estate accounting guidelines and, additionally, because we recorded impairment charges totaling $16.5 million on certain solar power development projects in the second quarter of fiscal 2016; (ii) a $46.1 million increase in operating expenses due to increased marketing spend and increased headcount in R&D and sales departments in addition to certain non-cash charges; (iii) a $26.6 million increase in other expense, net primarily driven by the gain recognized on the sale of a residential lease portfolio to 8point3 Energy Partners during the second quarter of fiscal 2015, an increase in interest expense in fiscal 2016 due to the issuance of the 4.00% debentures due 2023, as well as unfavorable changes in the fair value of foreign currency derivatives; and (iv) an $8.1 million increase in provision for income taxes primarily due to the recognition of tax expense from intercompany transactions and provision-to return adjustments in US and foreign jurisdictions in the first half of 2016 and discrete tax benefits realized in the second quarter of fiscal 2015 related to the settlement of foreign audits that reduced the overall tax provision in the period. The increase in net loss was partially offset by: (i) a $5.1 million decrease in restructuring charges due to the substantial completion in fiscal 2015 of the activities associated with legacy restructuring plans; and (ii) a $3.5 million increase in equity in earnings of unconsolidated investees due to our share of the earnings generated by the activities of the 8point3 Group in the first half of fiscal 2016.

Information about other significant variances in our results of operations is described above.

Net Loss Attributable to Noncontrolling Interests and Redeemable Noncontrolling Interests

	Three Months Ended			Six Months Ended		
(In thousands)	**July 3, 2016**	**June 28, 2015**	**% Change**	**July 3, 2016**	**June 28, 2015**	**% Change**
Net loss attributable to noncontrolling interests and redeemable noncontrolling interests	$ 22,189	$ 29,975	(26)%	$ 38,197	$ 49,444	(23)%

We have entered into facilities with third-party tax equity investors under which the investors invest in a structure known as a partnership flip. We determined that we hold controlling interests in these less-than-wholly-owned entities and therefore we have fully consolidated these entities. We apply the hypothetical liquidation at book value method in allocating recorded net income (loss) to each investor based on the change in the reporting period, of the amount of net assets of the entity to which each investor would be entitled to under the governing contractual arrangements in a liquidation scenario.

In the three months ended July 3, 2016 and June 28, 2015, we attributed $22.2 million and $30.0 million, respectively, of net losses primarily to the third-party investors as a result of allocating certain assets, including tax credits and accelerated tax depreciation benefits, to the investors. The $7.8 million decrease in net loss attributable to noncontrolling interests and redeemable noncontrolling interests is primarily attributable to a decrease in income per watt for leases placed in service under new facilities executed with third-party investors, partially offset by an increase in total number of leases placed in service under new and existing facilities with third-party investors.

In the six months ended July 3, 2016 and June 28, 2015, we attributed $38.2 million and $49.4 million, respectively, of net losses primarily to the third-party investors as a result of allocating certain assets, including tax credits and accelerated tax depreciation benefits, to the investors. The $11.2 million decrease in net loss attributable to noncontrolling interests and redeemable noncontrolling interests is primarily attributable to a decrease in income per watt for leases placed in service under new facilities executed with third-party investors, partially offset by an increase in total number of leases placed in service under new and existing facilities with third-party investors.

Critical Accounting Estimates

We prepare our consolidated financial statements in conformity with U.S. generally accepted accounting principles, which requires management to make estimates and assumptions that affect the amounts of assets, liabilities, revenues, and expenses recorded in our financial statements. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions and conditions. In addition to our most critical estimates discussed below and in our 2015 Annual Report on Form 10-K, we also have other key accounting policies that are less subjective and, therefore, judgments involved in their application would not have a material impact on our reported results of operations (See "Note 1. The Company and Summary of Significant Accounting Policies" under "Item 8. Financial Statements and Supplementary Data-Notes to Consolidated Financial Statements" in our 2015 Annual Report on Form 10-K and Note 1. on this Form 10-Q).

Valuation of Long-Lived Assets

Our long-lived assets include property, plant and equipment, solar power systems leased and to be leased, and other intangible assets with finite lives. We evaluate our long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying value of such assets may not be recoverable. Factors considered important that could result in an impairment review include significant under-performance relative to expected historical or projected future operating results, significant changes in the manner of use of acquired assets and significant negative industry or economic trends. Our impairment evaluation of long-lived assets includes an analysis of estimated future undiscounted net cash flows expected to be generated by the assets over their remaining estimated useful lives. If our estimate of future undiscounted net cash flows is insufficient to recover the carrying value of the assets over the remaining estimated useful lives, we record an impairment loss in the amount by which the carrying value of the assets exceeds the fair value. Fair value is generally measured based on either quoted market prices, if available, or discounted cash flow analyses.

Valuation of Project Assets - Plant and Land

Project assets consist primarily of capitalized costs relating to solar power system projects in various stages of development that we incur prior to the sale of the solar power system to a third-party. These costs include costs for land and costs for developing and constructing a solar power system. Development costs can include legal, consulting, permitting, and other similar costs. Once we enter into a definitive sales agreement, we reclassify these project asset costs to deferred project costs within "Prepaid expenses and other current assets" in our Consolidated Balance Sheet until we have met the criteria to recognize the sale of the project asset or solar power project as revenue. We release these project costs to cost of revenue as each respective project asset or solar power system is sold to a customer, since the project is constructed for a customer (matching the underlying revenue recognition method).

We evaluate the realizability of project assets whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. We consider the project to be recoverable if it is anticipated to be sellable for a profit once it is either fully developed or fully constructed or if costs incurred to date may be recovered via other means, such as a sale prior to the completion of the development cycle. We examine a number of factors to determine if the project will be profitable, including whether there are any environmental, ecological, permitting, or regulatory conditions that have changed for the project since the start of development. In addition, we must anticipate market conditions, such as the future cost of energy and changes in the factors that our future customers use to value our project assets in sale arrangements, including the internal rate of return that customers expect. Changes in such conditions could cause the cost of the project to increase or the selling price of the project to decrease. Due to the development, construction, and sale timeframe of our larger solar projects, we classify project assets which are not expected to be sold within the next 12 months as "Project assets - plants and land, net of current portion" on the Consolidated Balance Sheets. Once specific milestones have been achieved, we determine if the sale of the project assets will occur within the next 12 months from a given balance sheet date and, if so, we then reclassify the project assets as current.

Valuation of Inventories

Inventories are valued at the lower of cost or market value. We evaluate the realizability of our inventories, including future purchase commitments under fixed-price long-term supply agreements, based on assumptions about expected demand and market conditions. Our assumption of expected demand is developed based on our analysis of bookings, sales backlog, sales pipeline, market forecast and competitive intelligence. Our assumption of expected demand is compared to available inventory, production capacity, future polysilicon purchase commitments, available third-party inventory and growth plans. Our factory production plans, which drive materials requirement planning, are established based on our assumptions of expected demand. We respond to reductions in expected demand by temporarily reducing manufacturing output and adjusting expected valuation assumptions as necessary. In addition, expected demand by geography has changed historically due to changes in the availability and size of government mandates and economic incentives.

We evaluate the terms of our long-term inventory purchase agreements with suppliers, including joint ventures, for the procurement of polysilicon, ingots, wafers, and solar cells and establish accruals for estimated losses on adverse purchase commitments as necessary, such as lower of cost or market value adjustments, forfeiture of advanced deposits and liquidated damages. Obligations related to non-cancellable purchase orders for inventories match current and forecasted sales orders that will consume these ordered materials and actual consumption of these ordered materials are compared to expected demand regularly. We anticipate total obligations related to long-term supply agreements for inventories will be realized because quantities are less than management's expected demand for its solar power products. Other market conditions that could affect the realizable value of our inventories and are periodically evaluated by management include the aging of inventories on hand, historical inventory turnover ratio, anticipated sales price, new product development schedules, the effect new products might have on the sale of existing products, product obsolescence, customer concentrations, the current market price of polysilicon as compared to the price in our fixed-price arrangements, and product merchantability, among other factors. If, based on assumptions about expected demand and market conditions, we determine that the cost of inventories exceeds its net realizable value or inventory is excess or obsolete, we record a write-down or accrual, which may be material, equal to the difference between the cost of inventories and the estimated net realizable value. If actual market conditions are less favorable than those projected by management, additional inventory write-downs may be required that could negatively affect our gross margin and operating results. If actual market conditions are more favorable, we may have higher gross margin when products that have been previously written down are sold in the normal course of business.

Liquidity and Capital Resources

Cash Flows

A summary of the sources and uses of cash and cash equivalents is as follows:

	Six Months Ended	
(In thousands)	**July 3, 2016**	**June 28, 2015**
Net cash used in operating activities	$ (669,992)	$ (325,441)
Net cash provided by (used in) investing activities	$ (164,656)	$ 184,532
Net cash provided by (used in) financing activities	$ 469,904	$ (187,630)

Operating Activities

Net cash used in operating activities in the six months ended July 3, 2016 was $670.0 million and was primarily the result of: (i) a net loss of $193.6 million; (ii) a $433.4 million increase in project assets primarily related to the construction of our Commercial and Power Plant solar energy projects in North America; (iii) a $115.0 million increase in inventories driven by construction of our solar energy projects; (iv) a $95.1 million increase in long-term financing receivables related to our net investment in sales-type leases; (v) a $23.3 million increase in accounts receivable, primarily driven by billings; (vi) a $23.0 million decrease in billings in excess of costs and estimated earnings driven by the recognition revenue and corresponding costs of certain utility-scale projects; (vii) a $7.6 million increase in equity in earnings of unconsolidated investees; and (viii) a $5.9 million decrease in customer advances. This was partially offset by: (i) other net non-cash charges of $118.4 million related to depreciation, non-cash interest charges and stock-based compensation; (ii) a $48.7 million decrease in prepaid expenses and other assets, primarily related to recognition of revenue and corresponding costs of certain utility-scale projects; (iii) a $40.6 million decrease in advance payments made to suppliers; (iv) a $12.1 million increase in accounts payable and other accrued liabilities, primarily attributable to contributions from noncontrolling interests attributable to pre-COD projects; (v) a $6.3 million decrease in costs and estimated earnings in excess of billings driven by milestone billings; and (vi) a $0.8 million net change in deferred income taxes.

Net cash used in operating activities in the six months ended June 28, 2015 was $325.4 million and was primarily the result of: (i) a net loss of $52.5 million; (ii) a $311.8 million increase in project assets primarily related to our Quinto Solar Energy Project; (iii) a $130.7 million increase in inventories driven by project assets for construction of solar power systems for Commercial and Power Plant projects in North America and purchases of polysilicon; (iv) a $69.3 million increase in long-term financing receivables related to our net investment in sales-type leases; (v) a $66.1 million decrease in accounts payable and other accrued liabilities; (vi) a $27.9 million gain on the sale of a residential lease portfolio to 8point3 Energy Partners; (vii) a $12.5 million decrease in customer advances; (viii) a $6.7 million in excess tax benefit from stock-based compensation; (ix) a $4.1 million increase in equity in earnings of unconsolidated investees; and (x) a $5.8 million net change in deferred income taxes and other liabilities. This was partially offset by: (i) a $138.6 million decrease in costs and estimated earnings in excess of billings driven by a decrease related to the Solar Star Projects; (ii) a $65.2 million decrease in accounts receivable; (iii) other net non-cash charges of $94.2 million related to depreciation, non-cash interest charges and stock-based compensation; (iv) a $29.4 million decrease in prepaid expenses and other assets driven by an increase in deferred costs related to the Solar Star Projects; (v) a $25.1 million decrease in advance payments made to suppliers; and (vi) a $9.3 million increase in billings in excess of costs and estimated earnings driven by an increase related to the Solar Star Projects.

Investing Activities

Net cash used in investing activities in the six months ended July 3, 2016 was $164.7 million, which included (i) $141.8 million in capital expenditures primarily related to the expansion of our solar cell manufacturing capacity and costs associated with solar power systems, leased and to be leased; (ii) $10.3 million paid for investments in consolidated and unconsolidated investees; (iii) $9.8 million in payments to 8point3 Energy Partners; and (iv) a $2.7 million increase in restricted cash.

Net cash provided by investing activities in the six months ended June 28, 2015 was $184.5 million, which included $341.2 million in proceeds from 8point3 Energy Partners. This was partially offset by (i) a $120.6 million related to capital expenditures primarily related to the expansion of our solar cell manufacturing capacity and costs associated with solar power systems, leased and to be leased; (ii) a $28.4 million increase in restricted cash; and (iii) $7.1 million paid for investments in unconsolidated investees.

Financing Activities

Net cash provided by financing activities in the six months ended July 3, 2016 was $469.9 million, which included: (i) $396.1 million in net proceeds from the issuance of non-recourse power plant and commercial financing, net of issuance costs; (ii) $51.1 million in net proceeds from the issuance of non-recourse residential financing, net of issuance costs; and (iii) $50.3 million of net contributions from noncontrolling interests and redeemable noncontrolling interests related to the residential lease projects. This was partially offset by: (i) $19.7 million in purchases of treasury stock for tax withholding obligations on vested restricted stock; and (ii) $7.9 million in repayments of bank loans and other debt.

Net cash used in financing activities in the six months ended June 28, 2015 was $187.6 million, which included: (i) a $249.6 million net payment to settle the 4.50% debentures due 2015 and the 4.50% Bond Hedge; (ii) $240.2 million in repayments of bank loans, project loans and other debt, primarily in the Quinto Credit Facility; (iii) $40.3 million in purchases of stock for tax withholding obligations on vested restricted stock; and (iv) $40.0 million of repayments of residential lease financing. This was partially offset by: (i) $190.5 million in net proceeds from the issuance of project loans; (ii) $87.4 million of net contributions from noncontrolling interests and redeemable noncontrolling interests related to the residential lease program; (iii) $54.8 million in proceeds from the issuance of non-recourse debt financing, net of issuance costs; (iv) $29.3 million in proceeds from 8point3 Energy Partners; (v) $15.0 million in net proceeds from sale-leaseback financing; and (vi) $5.5 million in other net financing activities.

Debt and Credit Sources

Convertible Debentures

As of July 3, 2016, an aggregate principal amount of $425.0 million of the 4.00% debentures due 2023 remained issued and outstanding. The 4.00% debentures due 2023 were issued on December 15, 2015. Interest on the 4.00% debentures due 2023 is payable on January 15 and July 15 of each year, beginning on July 15, 2016. Holders are able to exercise their right to convert the debentures at any time into shares of our common stock at an initial conversion price approximately equal to $30.53 per share, subject to adjustment in certain circumstances. If not earlier repurchased or converted, the 4.00% debentures due 2023 mature on January 15, 2023. Holders may require us to repurchase all or a portion of their 4.00% debentures due 2023, upon a fundamental change, as described in the related indenture, at a cash repurchase price equal to 100% of the principal amount plus accrued and unpaid interest. If we undergo a non-stock change of control fundamental change, as described in the related indenture, the 4.00% debentures due 2023 will be subject to redemption at our option, in whole but not in part, for a period of 30 calendar days following a repurchase date relating to the non-stock change of control fundamental change, at a cash redemption price equal to 100% of the principal amount plus accrued and unpaid interest. Otherwise, the 4.00% debentures due 2023 are not redeemable at our option prior to the maturity date. In the event of certain events of default, Wells Fargo Bank, National Association ("Wells Fargo"), the trustee, or the holders of a specified amount of then-outstanding 4.00% debentures due 2023 will have the right to declare all amounts then outstanding due and payable.

As of July 3, 2016, an aggregate principal amount of $400.0 million of the 0.875% debentures due 2021 remained issued and outstanding. The 0.875% debentures due 2021 were issued on June 11, 2014. Interest on the 0.875% debentures due 2021 is payable on June 1 and December 1 of each year. Holders are able to exercise their right to convert the debentures at any time into shares of our common stock at an initial conversion price approximately equal to $48.76 per share, subject to adjustment in certain circumstances. If not earlier repurchased or converted, the 0.875% debentures due 2021 mature on June 1, 2021. Holders may require us to repurchase all or a portion of their 0.875% debentures due 2021, upon a fundamental change, as described in the related indenture, at a cash repurchase price equal to 100% of the principal amount plus accrued and unpaid interest. If we undergo a non-stock change of control fundamental change, as described in the related indenture, the 0.875% debentures due 2021 will be subject to redemption at our option, in whole but not in part, for a period of 30 calendar days following a repurchase date relating to the non-stock change of control fundamental change, at a cash redemption price equal to 100% of the principal amount plus accrued and unpaid interest. Otherwise, the 0.875% debentures due 2021 are not redeemable at our option prior to the maturity date. In the event of certain events of default, Wells Fargo, the trustee, or the holders of a specified amount of then-outstanding 0.875% debentures due 2021 will have the right to declare all amounts then outstanding due and payable.

As of July 3, 2016, an aggregate principal amount of $300.0 million of the 0.75% debentures due 2018 remained issued and outstanding. The 0.75% debentures due 2018 were issued on May 29, 2013. Interest on the 0.75% debentures due 2018 is payable on June 1 and December 1 of each year. Holders are able to exercise their right to convert the debentures at any time into shares of our common stock at an initial conversion price equal to $24.95 per share. The applicable conversion rate may be subject to adjustment in certain circumstances. If not earlier converted, the 0.75% debentures due 2018 mature on June 1, 2018. Holders may require us to repurchase all or a portion of their 0.75% debentures due 2018, upon a fundamental change,

as described in the related indenture, at a cash repurchase price equal to 100% of the principal amount plus accrued and unpaid interest. If we undergo a non-stock change of control fundamental change, as described in the related indenture, the 0.75% debentures due 2018 will be subject to redemption at our option, in whole but not in part, for a period of 30 calendar days following a repurchase date relating to the non-stock change of control fundamental change, at a cash redemption price equal to 100% of the principal amount plus accrued and unpaid interest. Otherwise, the 0.75% debentures due 2018 are not redeemable at our option prior to the maturity date. In the event of certain events of default, Wells Fargo, the trustee, or the holders of a specified amount of then-outstanding 0.75% debentures due 2018 will have the right to declare all amounts then outstanding due and payable. Please see "Part I. Item 1A. Risk Factors —Risks Related to our Debt and Equity Securities—Conversion of our outstanding 0.75% debentures, 0.875% debentures, 4.00% debentures, and future substantial issuances or dispositions of our common stock or other securities, could dilute ownership and earnings per share or cause the market price of our stock to decrease" in our Annual Report on Form 10-K for the fiscal year ended January 3, 2016.

Mortgage Loan Agreement with IFC

On May 6, 2010, we entered into a mortgage loan agreement with IFC. Under the loan agreement, we borrowed $75.0 million and are required to repay the amount borrowed starting two years after the date of borrowing, in 10 equal semiannual installments over the following 5 years. We are required to pay interest of LIBOR plus 3% per annum on outstanding borrowings; a front-end fee of 1% on the principal amount of borrowings at the time of borrowing; and a commitment fee of 0.5% per annum on funds available for borrowing and not borrowed. We may prepay all or a part of the outstanding principal, subject to a 1% prepayment premium. We have pledged certain assets as collateral supporting repayment obligations.

As of July 3, 2016, we had $25.0 million outstanding under the mortgage loan agreement. Additionally, in accordance with the terms of the mortgage loan agreement, we are required to establish a debt service reserve account which shall contain the amount, as determined by IFC, equal to the aggregate principal and interest due on the next succeeding interest payment date after such date. As of July 3, 2016, we had restricted cash and cash equivalents of $9.2 million related to the IFC debt service reserve.

Loan Agreement with California Enterprise Development Authority ("CEDA")

On December 29, 2010, we borrowed from CEDA the proceeds of the $30.0 million aggregate principal amount of CEDA's tax-exempt Recovery Zone Facility Revenue Bonds (SunPower Corporation - Headquarters Project) Series 2010 (the "Bonds") maturing April 1, 2031 under a loan agreement with CEDA. Certain of our obligations under the loan agreement were contained in a promissory note dated December 29, 2010 issued by us to CEDA, which assigned the promissory note, along with all right, title and interest in the loan agreement, to Wells Fargo, as trustee, with respect to the Bonds for the benefit of the holders of the Bonds. The Bonds bear interest at a fixed-rate of 8.50% per annum.

As of July 3, 2016, the $30.0 million aggregate principal amount of the Bonds was classified as "Long-term debt" in our Consolidated Balance Sheets.

Revolving Credit Facility with Credit Agricole

On July 3, 2013, we entered into a revolving credit agreement with Credit Agricole, as administrative agent, and certain financial institutions, under which we may borrow up to $250.0 million. On August 26, 2014, we entered into an amendment to the revolving credit facility that extends, among other things, the maturity date of the facility from July 3, 2016 to August 26, 2019 (the "Maturity Date"). Amounts borrowed may be repaid and reborrowed until the Maturity Date. On February 17, 2016, the Company entered into an amendment to the credit agreement, expanding the available borrowings under the revolving credit facility to $300.0 million and adding a $200.0 million letter of credit subfacility, subject to the satisfaction of certain conditions. The revolving credit facility includes representations, covenants, and events of default customary for financing transactions of this type. The revolving credit facility was entered into in conjunction with the delivery by Total S.A. of a guarantee of our obligations under the facility. On January 31, 2014, (i) our obligations under the revolving credit facility became secured by a pledge of certain accounts receivable and inventory, (ii) certain of our subsidiaries entered into guaranties of the revolving credit facility, and (iii) Total S.A.'s guarantee of our obligations under the revolving credit facility expired.

We are required to pay (a) interest on outstanding borrowings under the facility of (i) with respect to any LIBOR rate loan, an amount ranging from 1.50% to 2.00% (depending on our leverage ratio from time to time) plus the LIBOR rate divided by a percentage equal to one minus the stated maximum rate of all reserves required to be maintained against "Eurocurrency liabilities" as specified in Regulation D; and (ii) with respect to any alternate base rate loan, an amount ranging from 0.50% to 1.00% (depending on our leverage ratio from time to time) plus the greater of (1) the prime rate, (2) the Federal Funds rate plus 0.50%, and (3) the one-month LIBOR rate plus 1%; and (b) a commitment fee ranging from 0.25% to 0.35% (depending on our

leverage ratio from time to time) per annum on funds available for borrowing and not borrowed. We will be required to pay interest on letters of credit under the agreement of (a) with respect to any performance letter of credit, an amount ranging from 0.90% to 1.20% (depending on our leverage ratio from time to time); and (b) with respect to any other letter of credit, an amount ranging from 1.50% to 2.00% (depending on our leverage ratio from time to time).

As of July 3, 2016, we had $18.2 million of outstanding borrowings under the revolving credit facility, all of which were related to letters of credit.

2016 Letter of Credit Facility Agreements

In June 2016, we entered into a Continuing Agreement for Standby Letters of Credit and Demand Guarantees with Deutsche Bank and Deutsche Bank Trust (the "2016 Non-Guaranteed LC Facility") which provides for the issuance, upon request by us, of letters of credit to support our obligations in an aggregate amount not to exceed $50.0 million. The 2016 Non-Guaranteed LC Facility will terminate on June 29, 2018. As of July 3, 2016, letters of credit issued and outstanding under the 2016 Non-Guaranteed LC Facility totaled $46.8 million.

In June 2016, we entered into bilateral letter of credit facility agreements (the "2016 Guaranteed LC Facilities") with The Bank of Tokyo-Mitsubishi UFJ, Crédit Agricole, and HSBC. Each letter of credit facility agreement provides for the issuance, upon our request, of letters of credit by the issuing bank thereunder in order to support certain of our obligations until December 31, 2018. Payment of obligations under each of the letter of credit facilities are guaranteed by Total S.A. pursuant to the Credit Support Agreement. Aggregate letter of credit amounts may be increased upon the agreement of the respective parties but, otherwise, may not exceed $75.0 million with The Bank of Tokyo-Mitsubishi UFJ, $75.0 million with Credit Agricole and $175.0 million with HSBC, for a total capacity of $325.0 million. Each letter of credit issued under one of the letter of credit facilities generally must have an expiration date, subject to certain exceptions, no later than the earlier of (a) two years from completion of the applicable project and (b) March 31, 2020.

In June 2016, in connection with the 2016 Guaranteed LC Facilities, we entered into a transfer agreement to transfer to the 2016 Guaranteed LC Facilities all existing outstanding letters of credit issued under our letter of credit facility agreement with Deutsche Bank, as administrative agent, and certain financial institutions, entered into in August 2011 and amended from time to time. In connection with the transfer of the existing outstanding letters of credit, the aggregate commitment amount under the August 2011 letter of credit facility was permanently reduced to zero on June 29, 2016. As of July 3, 2016, letters of credit issued and outstanding under the August 2011 letter of credit facility with Deutsche Bank totaled zero. As of July 3, 2016, letters of credit issued and outstanding under the 2016 Guaranteed LC Facilities totaled $246.0 million.

September 2011 Letter of Credit Facility with Deutsche Bank Trust

On September 27, 2011, we entered into a letter of credit facility with Deutsche Bank Trust which provides for the issuance, upon request by us, of letters of credit to support our obligations in an aggregate amount not to exceed $200.0 million. Each letter of credit issued under the facility is fully cash-collateralized and we have entered into a security agreement with Deutsche Bank Trust, granting them a security interest in a cash collateral account established for this purpose.

As of July 3, 2016 letters of credit issued under the Deutsche Bank Trust facility totaled $4.3 million, which was fully collateralized with restricted cash as classified on the Consolidated Balance Sheets.

Revolving Credit Facility with Mizuho and Goldman Sachs

On May 4, 2016, we entered into a revolving credit facility (the "Construction Revolver") with Mizuho Bank Ltd., as administrative agent, and Goldman Sachs Bank USA, under which we may borrow up to $200 million. The Construction Revolver also includes a $100 million accordion feature. Amounts borrowed under the Construction Revolver may be repaid and reborrowed in support of our commercial and small scale utility projects in the United States until the May 4, 2021 maturity date. The Construction Revolver includes representations, covenants, and events of default customary for financing transactions of this type.

Borrowings under the Construction Revolver bear interest at the applicable LIBOR rate plus 1.50% for the first two years (with the final year at LIBOR plus 1.75%). All outstanding indebtedness under the facility may be voluntarily prepaid in whole or in part without premium or penalty (with certain limitations to partial repayments), other than customary breakage costs. The Construction Revolver is secured by the assets of, and equity in, the various project companies to which the borrowings relate, but is otherwise non-recourse to us and our other affiliates.

As of July 3, 2016, outstanding borrowings under the Construction Revolver totaled $12.3 million.

Non-recourse Financing and Other Debt

In order to facilitate the construction, sale or ongoing operation of certain solar projects, including our residential leasing program, we regularly obtain project-level financing. These financings are secured either by the assets of the specific project being financed or by our equity in the relevant project entity and the lenders do not have recourse to the general assets of the Company for repayment of such debt obligations, and hence the financings are referred to as non-recourse. Non-recourse financing is typically in the form of loans from third-party financial institutions, but also takes other forms, including "flip partnership" structures, sale-leaseback arrangements, or other forms commonly used in the solar or similar industries. We may seek non-recourse financing covering solely the construction period of the solar project or may also seek financing covering part or all of the operating life of the solar project. We classify non-recourse financings in our Consolidated Balance Sheets in accordance with their terms; however, in certain circumstances, we may repay or refinance these financings prior to stated maturity dates in connection with the sale of the related project or similar such circumstances. In addition, in certain instances, the customer may assume the loans at the time that the project entity is sold to the customer. In these instances, subsequent debt assumption is reflected as a financing outflow and operating inflow in the Consolidated Statements of Cash Flows to reflect the substance of the assumption as a facilitation of customer financing from a third party.

For our residential lease program, non-recourse financing is typically accomplished by aggregating an agreed-upon volume of solar power systems and leases with residential customers into a specific project entity. The Company has entered into the following non-recourse financings with respect to its residential lease program:

In fiscal 2016, we entered into bridge loans to finance solar power systems and leases under our residential lease program. The loans are repaid over terms ranging from two to seven years. Some loans may be prepaid without penalties at our option at any time, while other loans may be prepaid, subject to a prepayment fee, after one year. During the three and six months ended July 3, 2016, we had net proceeds of $17.1 million and $34.1 million, respectively, in connection with these loans. As of July 3, 2016, the aggregate carrying amount of these loans, presented in "Short-term debt" and "Long-term debt" on our Consolidated Balance Sheets, was $33.8 million.

In fiscal 2014 and 2015, we entered into long-term loans to finance solar power systems and leases under our residential lease program. The loans are repaid over their terms of between 17 and 18 years, and may be prepaid without penalty at our option beginning seven years after the original issuance of the loan. During the three and six months ended July 3, 2016, we had net proceeds (repayments) of $(1.1) million and $2.1 million, respectively, in connection with these loans. During the three and six months ended June 28, 2015, we had net proceeds of $54.4 million and $54.0 million, respectively, in connection with these loans. As of July 3, 2016, and January 3, 2016, the aggregate carrying amount of these loans, presented in "Short-term debt" and "Long-term debt" on our Consolidated Balance Sheets, was $174.1 million and $171.8 million, respectively.

We have entered into multiple arrangements under which solar power systems are financed by third-party investors or customers, including by a legal sale of the underlying asset that is accounted for as a borrowing under relevant accounting guidelines as the requirements to recognize the transfer of the asset were not met. Under the terms of these arrangements, the third parties make an upfront payment to us, which we recognize as a liability that will be reduced over the term of the arrangement as lease receivables and government incentives are received by the third party. As the liability is reduced, we make a corresponding reduction in receivables. We use this approach to account for both operating and sales-type leases with our residential lease customers in our consolidated financial statements. During the three and six months ended July 3, 2016, we had net proceeds of $7.8 million and $14.9 million, respectively, in connection with these facilities. During the three and six months ended June 28, 2015, we had net repayments of $29.4 million and $40.0 million, respectively, in connection with these facilities. As of July 3, 2016 and January 3, 2016, the aggregate carrying amount of these facilities, presented in "Accrued liabilities" and "Other long-term liabilities" on our Consolidated Balance Sheets, was $49.2 million and $36.8 million, respectively (see Note 4).

We also enter into facilities with third-party tax equity investors under which the investors invest in a structure known as a partnership flip. We hold controlling interests in these less-than-wholly-owned entities and therefore fully consolidate these entities. We account for the portion of net assets in the consolidated entities attributable to the investors as noncontrolling interests in our consolidated financial statements. Noncontrolling interests in subsidiaries that are redeemable at the option of the noncontrolling interest holder are classified accordingly as redeemable, between liabilities and equity on the Company's Consolidated Balance Sheets. During the three and six months ended July 3, 2016, we had net contributions of $31.5 million and $50.3 million, respectively, under these facilities and attributed losses of $20.2 million and $36.8 million, respectively, to the non-controlling interests corresponding principally to certain assets, including tax credits, which were allocated to the non-controlling interests during the periods. During the three and six months ended June 28, 2015, we had net contributions of

$43.7 million and $87.4 million, respectively, under these facilities and attributed losses of $30.1 million and $49.7 million, respectively, to the non-controlling interests corresponding principally to certain assets, including tax credits, which were allocated to the non-controlling interests during the periods. As of July 3, 2016 and January 3, 2016, the aggregate carrying amount of these facilities, presented in “Redeemable non-controlling interests in subsidiaries” and “Non-controlling interests in subsidiaries” on our Consolidated Balance Sheets, was $140.7 million and $128.6 million, respectively.

For our power plant and commercial solar projects, non-recourse financing is typically accomplished using an individual solar power system or a series of solar power systems with a common end customer, in each case owned by a specific project entity. We have entered into the following non-recourse financings with respect to our power plant and commercial projects:

In fiscal 2016, we entered into the Construction Revolver credit facility to support the construction of our commercial and small scale utility projects in the United States. As of July 3, 2016, the aggregate carrying value of the Construction Revolver, presented in "Long-term debt" on our Consolidated Balance Sheets, was $12.3 million.

In fiscal 2016, we entered into a long-term credit facility to finance the 125 MW utility-scale Boulder power plant project in Nevada. During both the three and six months ended July 3, 2016, we had net proceeds of $110.9 million in connection with the facility. As of July 3, 2016, the aggregate carrying amount of this facility, presented in "Short-term debt" and "Long-term debt" on our Consolidated Balance Sheets, was $117.8 million.

In fiscal 2016, we entered into a short-term credit facility to finance the utility-scale Rio Bravo power plant projects in California, with an aggregate size of approximately 50 MW. During both the three and six months ended July 3, 2016, we had net proceeds of $77.3 million in connection with the facility. As of July 3, 2016, the aggregate carrying amount of this facility, presented in "Short-term debt" on our Consolidated Balance Sheets, was $80.1 million.

In fiscal 2016, we entered into a short-term credit facility to finance the 20 MW utility-scale Wildwood power plant project in California. During both the three and six months ended July 3, 2016, we had net proceeds of $25.0 million in connection with the facility. As of July 3, 2016, the aggregate carrying amount of this facility, presented in "Short-term debt" on our Consolidated Balance Sheets, was $26.1 million.

In fiscal 2016, we entered into a long-term credit facility to finance several related utility-scale power plant projects in California, including the Stanford and Turlock projects, with an aggregate size of approximately 350 MW. During the three and six months ended July 3, 2016, we had net proceeds of $112.8 million and $192.2 million, respectively, in connection with the facility. As of July 3, 2016, the aggregate carrying amount of this facility, presented in "Short-term debt" and "Long-term debt" on our Consolidated Balance Sheets, was $201.6 million.

In fiscal 2015, we entered into a long-term credit facility to finance the 128 MW utility-scale Henrietta utility-scale power plant in California. As of both July 3, 2016 and January 3, 2016, the aggregate carrying amount of this loan, presented in "Short-term debt" and "Long-term debt" on our Consolidated Balance Sheets, was $216.7 million.

In fiscal 2015, we entered into a long-term credit facility to finance the 60 MW Hooper utility-scale power plant in Colorado. In fiscal 2016, we repaid the full amount outstanding. During both the three and six months ended July 3, 2016, we had net repayments of $37.4 million in connection with the facility. As of January 3, 2016, the carrying amount of this facility, presented in "Long-term debt" on our Consolidated Balance Sheets, was $37.3 million.

In fiscal 2013, we entered into a long-term loan agreement to finance a 5.4 MW utility and power plant operating in Arizona. As of both July 3, 2016, and January 3, 2016, the aggregate carrying amount under this loan, presented in "Short-term debt" and "Long-term debt" on our Consolidated Balance Sheets, was $8.0 million.

Other debt is further composed of non-recourse project loans in EMEA, which are scheduled to mature through 2028.

See Note 5 for discussion of the Company’s sale-leasebacks accounted for under the financing method.

Liquidity

As of July 3, 2016, we had unrestricted cash and cash equivalents of $590.1 million as compared to $954.5 million as of January 3, 2016. Our cash balances are held in numerous locations throughout the world and as of July 3, 2016, we had approximately $144.0 million held outside of the United States. This offshore cash is used to fund operations of our business in the Europe and Asia Pacific regions as well as non-U.S. manufacturing operations, which require local payment for product materials and other expenses. The amounts held outside of the United States represent the earnings of our foreign subsidiaries

which, if repatriated to the United States under current law, would be subject to United States federal and state tax less applicable foreign tax credits. Repatriation of earnings that have not been subjected to U.S. or foreign withholding tax and that have been indefinitely reinvested outside the U.S. could result in additional United States federal income tax or foreign withholding tax payments in future years.

On July 5, 2010, we formed AUOSP, our joint venture with AUO. Under the terms of the joint venture agreement, we and AUO each own 50% of AUOSP. We are each obligated to provide additional funding to AUOSP in the future. Under the joint venture agreement, each shareholder agreed to contribute additional amounts to the joint venture amounting to $169.0 million, or such lesser amount as the parties may mutually agree (see the Contractual Obligations table below). In addition, if AUOSP, or either shareholder requests additional equity financing for AUOSP, then the shareholders will each be required to make additional cash contributions of up to $50.0 million in the aggregate. See also "Part I. Item 1A. Risk Factors—Risks Related to Our Operations—If we experience interruptions in the operation of our solar cell production lines, or we are not successful in operating our joint venture AUOSP, our revenue and results of operations may be materially and adversely affected" in our Annual Report on Form 10-K for the fiscal year ended January 3, 2016.

We expect total capital expenditures related to purchases of property, plant and equipment in the range of $225 million to $245 million in fiscal 2016 in order to increase our manufacturing capacity, improve our current and next generation solar cell manufacturing technology, and other projects. In addition, we expect to invest a significant amount of capital to develop solar power systems and plants for sale to customers. The development of solar power plants can require long periods of time and substantial initial investments. Our efforts in this area may consist of all stages of development, including land acquisition, permitting, financing, construction, operation and the eventual sale of the projects. We often choose to bear the costs of such efforts prior to the final sale to a customer, which involves significant upfront investments of resources (including, for example, large transmission deposits or other payments, which may be non-refundable), land acquisition, permitting, legal and other costs, and in some cases the actual costs of constructing a project, in advance of the signing of PPAs and EPC contracts and the receipt of any revenue, much of which is not recognized for several additional months or years following contract signing. Any delays in disposition of one or more projects could have a negative impact on our liquidity.

Certain of our customers also require performance bonds issued by a bonding agency or letters of credit issued by financial institutions, which are returned to us upon satisfaction of contractual requirements. If there is a contractual dispute with the customer, the customer may withhold the security or make a draw under such security, which could have an adverse impact on our liquidity. Obtaining letters of credit may require adequate collateral. All letters of credit issued under our 2016 Guaranteed LC Facilities are guaranteed by Total S.A. pursuant to the Credit Support Agreement. Our September 2011 letter of credit facility with Deutsche Bank Trust is fully collateralized by restricted cash, which reduces the amount of cash available for operations. As of July 3, 2016, letters of credit issued under the Deutsche Bank Trust facility amounted to $4.3 million which were fully collateralized with restricted cash on the Consolidated Balance Sheets.

In fiscal 2011, we launched our residential lease program with dealers in the United States, in partnership with a third-party financial institution, which allows customers to obtain SunPower systems under lease agreements up to 20 years, subject to financing availability. We have entered into facilities with financial institutions that will provide financing to support additional residential solar lease projects. Under the terms of certain programs, we receive upfront payments for periods under which the third-party financial institution has agreed to assume collection risk for certain residential leases. Changes in the amount or timing of upfront payments received from the financial institutions may have an impact on our cash position within the next twelve months. The normal collection of monthly rent payments for leases placed in service is not expected to have a material impact on our cash position within the next twelve months. We have entered into multiple facilities with third-party investors under which both parties will invest in entities that hold SunPower solar power systems and leases with residential customers. We determined that we hold a controlling interest in these less-than-wholly-owned entities and have fully consolidated these entities as a result (see "Item 1. Financial Statements—Notes to Consolidated Financial Statements—Note 5. Leasing"). During the six months ended July 3, 2016, we received $57.2 million in contributions from investors under the related facility agreements. Additionally, during fiscal 2014, 2015 and 2016, we entered into several long-term non-recourse loans to finance solar power systems and leases under our residential lease program. In fiscal 2016, we drew down $4.3 million of proceeds, net of issuance costs, under the loan agreements. The loans have 17- and 18-year terms and as of July 3, 2016, the short-term and long-term balances of the loans were $4.3 million and $169.8 million, respectively. We are actively arranging additional third-party financing for our residential lease program; however, the credit markets are unpredictable, and if they become challenging, we may be unable to arrange additional financing partners for our residential lease program in future periods, which could have a negative impact on our sales. In the unlikely event that we enter into a material number of additional leases without promptly obtaining corresponding third-party financing, our cash and working capital could be negatively affected.

Solar power plant projects often require significant up-front investments. These include payments for preliminary engineering, permitting, legal, and other expenses before we can determine whether a project is feasible. We often make arrangements with third-party financiers to acquire and build solar power systems or to fund project construction using non-recourse project debt. As of July 3, 2016, outstanding amounts related to our project financing totaled $870.5 million.

We believe that our current cash, cash equivalents, cash expected to be generated from operations and funds available under our existing credit facilities will be sufficient to meet our working capital and fund our committed capital expenditures over the next 12 months, including the development and construction of solar power systems and plants. Additionally, we work with our vendors to obtain favorable payment terms, when possible, in order to actively monitor and manage our working capital. We expect to be able to supplement our short-term liquidity, if necessary, with broad access to capital markets and additional credit facilities, including non-recourse debt, made available by various domestic and foreign financial institutions. However, there can be no assurance that our liquidity will be adequate over time or that we will in fact have access to capital markets on reasonable terms or at all. A significant portion of our revenue is generated from a limited number of customers and large projects and our inability to execute these projects, or to collect from these customers or for these projects, would have a significant negative impact on our business. Our capital expenditures and use of working capital may be greater than we expect if we decide to make additional investments in the development and construction of solar power plants and sales of power plants and associated cash proceeds are delayed, or if we decide to accelerate increases in our manufacturing capacity internally or through capital contributions to joint ventures. We generally obtain project financing in connection with the construction of solar power plants, which financing may not be available on terms acceptable to us. In addition, we could in the future make additional investments in our joint ventures or guarantee certain financial obligations of our joint ventures, which could reduce our cash flows, increase our indebtedness and expose us to the credit risk of our joint venture*s.* See also "Risks Related to Our Sales Channels—A limited number of customers and large projects are expected to continue to comprise a significant portion of our revenues and any decrease in revenues from those customers or projects, payment of liquidated damages, or an increase in related expenses, could have a material adverse effect on our business, results of operations and financial condition," and "Risks Related to Our Liquidity—We may be unable to generate sufficient cash flows or obtain access to external financing necessary to fund our operations and make adequate capital investments as planned due to the general economic environment and the continued market pressure driving down the average selling prices of our solar power products," among other factors in Part I. "Item 1A. Risk Factors" in our Annual Report on Form 10-K for the fiscal year ended January 3, 2016.

On February 17, 2016, we entered into an amendment to the credit agreement with Credit Agricole to expand the available borrowings under the revolving credit facility to $300.0 million and to add a $200.0 million letter of credit subfacility, subject to the satisfaction of certain conditions. As of July 3, 2016, we had $281.8 million available to us under the revolving credit facility. Proceeds from our revolving credit facility with Credit Agricole may be used for general corporate purposes. Our revolving credit facility with Credit Agricole requires that we maintain certain financial ratios, including the ratio that our debt at the end of each quarter to our EBITDA for the last twelve months, as defined, will not exceed 4.5 to 1. It is possible that we may not be in compliance with this or other covenants in the future, which could affect the availability of borrowings under the line, if not remedied. Additionally, on May 4, 2016, we entered into the Construction Revolver credit facility, under which we may borrow up to $200 million, with a $100 million accordion feature, in support of our commercial and small scale utility projects in the United States until its May 4, 2021 maturity date, subject to certain conditions. As of July 3, 2016, we had $187.7 million available to us under the Construction Revolver credit facility. There are no assurances, however, that we will have sufficient available cash to repay our indebtedness or that we will be able to refinance such indebtedness on similar terms to the expiring indebtedness. If our capital resources are insufficient to satisfy our liquidity requirements, we may seek to sell additional equity securities or debt securities or obtain other debt financing. The current economic environment, however, could limit our ability to raise capital by issuing new equity or debt securities on acceptable terms, and lenders may be unwilling to lend funds on acceptable terms in the amounts that would be required to supplement cash flows to support operations. The sale of additional equity securities or convertible debt securities would result in additional dilution to our stockholders (and the potential for further dilution upon the exercise of warrants or the conversion of convertible debt) and may not be available on favorable terms or at all, particularly in light of the current conditions in the financial and credit markets. Additional debt would result in increased expenses and would likely impose new restrictive covenants which may be similar or different than those restrictions contained in the covenants under our current loan agreements and debentures. In addition, financing arrangements, including project financing for our solar power plants and letters of credit facilities, may not be available to us, or may not be available in amounts or on terms acceptable to us.

Contractual Obligations

The following table summarizes our contractual obligations as of July 3, 2016:

		Payments Due by Fiscal Period			
(In thousands)	**Total**	**2016 (remaining six months)**	**2017-2018**	**2019-2020**	**Beyond 2020**
Convertible debt, including interest[1]	$ 1,257,862	$ 11,502	$ 344,194	$ 41,000	$ 861,166
IFC mortgage loan, including interest[2]	25,621	7,851	17,770	—	—
CEDA loan, including interest[3]	67,627	1,289	5,100	5,100	56,138
Other debt, including interest[4]	1,031,582	233,203	225,886	92,262	480,231
Future financing commitments[5]	179,108	176,742	2,366	—	—
Operating lease commitments[6]	127,075	8,737	28,587	24,817	64,934
Sale-leaseback financing[7]	116,733	8,219	16,986	14,930	76,598
Capital lease commitments[8]	5,324	565	2,068	1,238	1,453
Non-cancellable purchase orders[9]	244,939	244,939	—	—	—
Purchase commitments under agreements[10]	1,413,622	518,656	554,389	337,577	3,000
Total	$ 4,469,493	$ 1,211,703	$ 1,197,346	$ 516,924	$ 1,543,520

[1] Convertible debt, including interest, relates to the aggregate of $1,125.0 million in outstanding principal amount of our senior convertible debentures on July 3, 2016. For the purpose of the table above, we assume that all holders of the outstanding debentures will hold the debentures through the date of maturity, and upon conversion, the values of the senior convertible debentures will be equal to the aggregate principal amount with no premiums.

[2] IFC mortgage loan, including interest, relates to the $25.0 million outstanding principal amount as of July 3, 2016. Under the loan agreement, we are required to repay the amount borrowed, starting 2 years after the date of borrowing, in 10 equal semiannual installments over the following 5 years. We are required to pay interest of LIBOR plus 3% per annum on outstanding borrowings; a front-end fee of 1% on the principal amount of borrowings at the time of borrowing; and a commitment fee of 0.5% per annum on funds available for borrowing and not borrowed.

[3] CEDA loan, including interest, relates to the proceeds of the $30.0 million aggregate principal amount of the Bonds. The Bonds mature on April 1, 2031 and bear interest at a fixed rate of 8.50% through maturity.

[4] Other debt, including interest, primarily relates to non-recourse finance projects and solar power systems and leases under our residential lease program as described in "Item 1. Financial Statements—Notes to Consolidated Financial Statements—Note 8. Commitments and Contingencies."

[5] We and AUO agreed in the joint venture agreement to contribute additional amounts to AUOSP through 2016 amounting to $169.0 million by each shareholder, or such lesser amount as the parties may mutually agree. Further, in connection with purchase and joint venture agreements with non-public companies, we will be required to provide additional financing to such parties of up to $10.1 million, subject to certain conditions.

[6] Operating lease commitments primarily relate to certain solar power systems leased from unaffiliated third parties over minimum lease terms of up to 20 years and various facility lease agreements.

[7] Sale-leaseback financing relates to future minimum lease obligations for solar power systems under sale-leaseback arrangements which were determined to include integral equipment and accounted for under the financing method.

[8] Capital lease commitments primarily relate to certain buildings, manufacturing and equipment under capital leases in Europe for terms of up to 12 years.

[9] Non-cancellable purchase orders relate to purchases of raw materials for inventory and manufacturing equipment from a variety of vendors.

[10] Purchase commitments under agreements relate to arrangements entered into with several suppliers, including joint ventures, for polysilicon, ingots, wafers, and Solar Renewable Energy Credits, among others. These agreements specify future quantities and pricing of products to be supplied by the vendors for periods up to 8 years and there are certain consequences, such as forfeiture of advanced deposits and liquidated damages relating to previous purchases, in the event that we terminate the arrangements.

Liabilities Associated with Uncertain Tax Positions

Due to the complexity and uncertainty associated with our tax positions, we cannot make a reasonably reliable estimate of the period in which cash settlement will be made for our liabilities associated with uncertain tax positions in other long-term liabilities. Therefore, they have been excluded from the table above. As of July 3, 2016, total liabilities associated with uncertain tax positions were $44.1 million and are included in "Other long-term liabilities" in our Consolidated Balance Sheets as they are not expected to be paid within the next twelve months.

Off-Balance-Sheet Arrangements

As of July 3, 2016, we did not have any significant off-balance-sheet arrangements, as defined in Item 303(a)(4)(ii) of SEC Regulation S-K.

ITEM 3: *QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK*

Foreign Currency Exchange Risk

Our exposure to movements in foreign currency exchange rates is primarily related to sales to European customers that are denominated in Euros. Revenue generated from European customers represented 5% of our total revenue in both the three and six months ended July 3, 2016, and 10% and 9% of our total revenue in the three and six months ended June 28, 2015, respectively. A 10% change in the Euro exchange rate would have impacted our revenue by approximately $2.0 million and $3.8 million in the three and six months ended July 3, 2016, respectively, and $3.7 million and $7.2 million in the three and six months ended June 28, 2015, respectively.

In the past, we have experienced an adverse impact on our revenue, gross margin and profitability as a result of foreign currency fluctuations. When foreign currencies appreciate against the U.S. dollar, inventories and expenses denominated in foreign currencies become more expensive. Strengthening of the Malaysian Ringgit against the U.S. dollar would increase AUOSP's liability under the facility agreement with the Malaysian government which in turn would negatively impact our equity in earnings (loss) of the unconsolidated investee. An increase in the value of the U.S. dollar relative to foreign currencies could make our solar power products more expensive for international customers, thus potentially leading to a reduction in demand, our sales and profitability. Furthermore, many of our competitors are foreign companies that could benefit from such a currency fluctuation, making it more difficult for us to compete with those companies.

We currently conduct hedging activities which involve the use of option and forward currency contracts that are designed to address our exposure to changes in the foreign exchange rate between the U.S. dollar and other currencies. As of July 3, 2016, we had outstanding hedge option currency contracts and forward currency contracts with aggregate notional values of $93.7 million and $5.1 million, respectively. As of January 3, 2016, we had outstanding hedge option currency contracts and forward currency contracts with aggregate notional values of zero and $35.7 million, respectively. Because we hedge some of our expected future foreign exchange exposure, if associated revenues do not materialize we could experience a reclassification of ineffective gains or losses into earnings. Such a reclassification could adversely impact our revenue, margins and results of operations. We cannot predict the impact of future exchange rate fluctuations on our business and operating results.

Credit Risk

We have certain financial and derivative instruments that subject us to credit risk. These consist primarily of cash and cash equivalents, restricted cash and cash equivalents, investments, accounts receivable, notes receivable, advances to suppliers, foreign currency option contracts, foreign currency forward contracts, bond hedge and warrant transactions. We are exposed to credit losses in the event of nonperformance by the counterparties to our financial and derivative instruments. Our investment policy requires cash and cash equivalents, restricted cash and cash equivalents, and investments to be placed with high-quality financial institutions and limits the amount of credit risk from any one issuer. We additionally perform ongoing credit evaluations of our customers’ financial condition whenever deemed necessary and generally do not require collateral.

We enter into agreements with vendors that specify future quantities and pricing of polysilicon to be supplied for periods up to 10 years. Under certain agreements, we are required to make prepayments to the vendors over the terms of the arrangements. As of July 3, 2016 and January 3, 2016, advances to suppliers totaled $318.5 million and $359.1 million, respectively. Two suppliers accounted for 85% and 15% of total advances to suppliers as of July 3, 2016, and 82% and 16% as of January 3, 2016.

We enter into foreign currency derivative contracts and convertible debenture hedge transactions with high-quality financial institutions and limit the amount of credit exposure to any single counterparty. The foreign currency derivative contracts are limited to a time period of 15 months or less. We regularly evaluate the credit standing of our counterparty financial institutions.

Interest Rate Risk

We are exposed to interest rate risk because many of our customers depend on debt financing to purchase our solar power systems. An increase in interest rates could make it difficult for our customers to obtain the financing necessary to purchase our solar power systems on favorable terms, or at all, and thus lower demand for our solar power products, reduce revenue and adversely impact our operating results. An increase in interest rates could lower a customer's return on investment in a system or make alternative investments more attractive relative to solar power systems, which, in each case, could cause our customers to seek alternative investments that promise higher returns or demand higher returns from our solar power systems, reduce gross margin and adversely impact our operating results. This risk is significant to our business because our

sales model is highly sensitive to interest rate fluctuations and the availability of credit, and would be adversely affected by increases in interest rates or liquidity constraints.

Our interest expense would increase to the extent interest rates rise in connection with our variable interest rate borrowings. As of July 3, 2016, the outstanding principal balance of our variable interest borrowings was $723.8 million. We do not believe that an immediate 10% increase in interest rates would have a material effect on our financial statements. In addition, lower interest rates would have an adverse impact on our interest income. Our investment portfolio primarily consists of $112.6 million in money market funds as of July 3, 2016 which exposes us to interest rate risk. Due to the relatively short-term nature of our investment portfolio, we do not believe that an immediate 10% increase in interest rates would have a material effect on the fair market value of our money market funds. Since we believe we have the ability to liquidate substantially all of this portfolio, we do not expect our operating results or cash flows to be materially affected to any significant degree by a sudden change in market interest rates on our investment portfolio.

Equity Price Risk Involving Minority Investments in Joint Ventures and Other Non-Public Companies

Our investments held in joint ventures and other non-public companies expose us to equity price risk. As of July 3, 2016 and January 3, 2016, investments of $186.2 million and $186.4 million, respectively, are accounted for using the equity method, and $48.5 million and $36.4 million, respectively, are accounted for using the cost method. These strategic investments in third parties are subject to risk of changes in market value, which if determined to be other-than-temporary, could result in realized impairment losses. We generally do not attempt to reduce or eliminate our market exposure in equity and cost method investments. We monitor these investments for impairment and record reductions in the carrying values when necessary. Circumstances that indicate an other-than-temporary decline include the valuation ascribed to the issuing company in subsequent financing rounds, decreases in quoted market prices and declines in operations of the issuer. There can be no assurance that our equity and cost method investments will not face risks of loss in the future.

Interest Rate Risk and Market Price Risk Involving Convertible Debt

The fair market value of our outstanding convertible debentures is subject to interest rate risk, market price risk and other factors due to the convertible feature of the debentures. The fair market value of the debentures will generally increase as interest rates fall and decrease as interest rates rise. In addition, the fair market value of the debentures will generally increase as the market price of our common stock increases and decrease as the market price of our common stock falls. The interest and market value changes affect the fair market value of the debentures, but do not impact our financial position, cash flows or results of operations due to the fixed nature of the debt obligations, except to the extent increases in the value of our common stock may provide the holders of our 4.00% debentures due 2023, 0.875% debentures due 2021, or 0.75% debentures due 2018 the right to convert such debentures into cash in certain instances. The aggregate estimated fair value of our outstanding convertible debentures was $981.8 million as of July 3, 2016. The aggregate estimated fair value of our outstanding convertible debentures was $1,253.2 million as of January 3, 2016. Estimated fair values are based on quoted market prices as reported by an independent pricing source. A 10% increase in quoted market prices would increase the estimated fair value of our then-outstanding debentures to $1,080.0 million and $1,378.5 million as of July 3, 2016 and January 3, 2016, respectively, and a 10% decrease in the quoted market prices would decrease the estimated fair value of our then-outstanding debentures to $883.6 million and $1,127.9 million as of July 3, 2016 and January 3, 2016, respectively.

ITEM 4: ***CONTROLS AND PROCEDURES***

Evaluation of Disclosure Controls and Procedures

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

Based on their evaluation as of the end of the period covered by this Quarterly Report on Form 10-Q, our Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures were effective as of July 3, 2016 at a reasonable assurance level.

Changes in Internal Control over Financial Reporting

We regularly review our system of internal control over financial reporting and make changes to our processes and systems to improve controls and increase efficiency, while ensuring that we maintain an effective internal control environment. Changes may include such activities as implementing new, more efficient systems, consolidating activities, and migrating processes.

There were no changes in our internal control over financial reporting that occurred during our most recent fiscal quarter that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II

ITEM 1. ***LEGAL PROCEEDINGS***

The disclosure under "Note 8. Commitments and Contingencies—Legal Matters" in "Notes to Consolidated Financial Statements" contained in this Quarterly Report on Form 10-Q is incorporated herein by reference**.**

ITEM 1A. ***RISK FACTORS***

There have been no material changes to the risk factors we previously disclosed in our Annual Report on Form 10-K for the fiscal year ended January 3, 2016, except for the risk factors described and included below.

Our operating results are subject to significant fluctuations and are inherently unpredictable.

We do not know whether our revenue will continue to grow, or if it will continue to grow sufficiently to outpace our expenses, which we also expect to grow. As a result, we may not be profitable on a quarterly basis. Our quarterly revenue and operating results are difficult to predict and have in the past fluctuated significantly from quarter to quarter. The principal reason for these significant fluctuations in our results is that we derive a substantial portion of our total revenues from our large commercial and utility-scale and power plant customers, and, consequently:

- the amount, timing and mix of sales to our large commercial, utilities and power plant customers, often for a single medium or large-scale project, may cause large fluctuations in our revenue and other financial results because, at any given time, a single large-scale project can account for a material portion of our total revenue in a given quarter;

- our inability to monetize our projects as planned, or any delay in obtaining the required government support or initial payments to begin recognizing revenue under the relevant recognition criteria, and the corresponding revenue impact under the percentage-of-completion method of recognizing revenue, may similarly cause large fluctuations in our revenue and other financial results;

- our ability to monetize projects as planned is also subject to market conditions, including, fluctuations in demand based on the availability of regulatory incentives and other factors, changes in the internal rate of return expected by customers in light of market conditions, the increasing number of power plants being constructed or available for sale, and competition for financing, which can make both financing and disposition more challenging and may significantly affect project sale prices;

- market conditions may deteriorate after we have committed to projects, resulting in delays in disposing of projects, or changes in amounts realized on disposition, which may lead to significant fluctuations in the period-over-period profile of our results of operations and our cash available for working capital needs;

- in the event a project is subsequently canceled, abandoned, or is deemed unlikely to occur, we will charge all prior capital costs as an operating expense in the quarter in which such determination is made, which could materially adversely affect operating results;

- a delayed disposition of a project could require us to recognize a gain on the sale of assets instead of recognizing revenue;

- our agreements with these customers may be canceled if we fail to meet certain product specifications or materially breach the agreement;

- in the event of a customer bankruptcy, our customers may seek to renegotiate the terms of current agreements or renewals; and

- the failure by any significant customer to pay for orders, whether due to liquidity issues or otherwise, could materially and adversely affect our results of operations.

Any decrease in revenue from our large commercial and utility–scale power plant customers, whether due to a loss or delay of projects or an inability to collect, could have a significant negative impact on our business. See also "Item 7A. Quantitative and Qualitative Disclosures About Market Risk" in our 2015 Annual Report on Form 10-K. See also "Risks Related to Our Sales Channels–Revenues from a limited number of customers and large projects are expected to continue to comprise a significant portion of our total revenues and any decrease in revenues from those customers or projects, payment of liquidated damages, or an increase in related expenses, could have a material adverse effect on our business, results of operations and financial condition" in our 2015 Annual Report on Form 10-K.

Sales to our residential and light commercial customers are similarly susceptible to fluctuations in volumes and revenue, as well as fluctuations in demand based on the availability of regulatory incentives and other factors. In addition, demand from our commercial and residential customers may fluctuate based on the perceived cost-effectiveness of the electricity generated by our solar power systems as compared to conventional energy sources, such as natural gas and coal (which fuel sources are subject to significant price swings from time to time), and other non-solar renewable energy sources, such as wind. Declining average selling prices immediately affect our residential and light commercial sales volumes, and therefore lead to large fluctuations in revenue.

Further, our revenue mix of materials sales versus project sales can fluctuate dramatically from quarter to quarter, which may adversely affect our margins and financial results in any given period.

Any of the foregoing may cause us to miss our financial guidance for a given period, which could adversely impact the market price for our common stock and our liquidity.

We base our planned operating expenses in part on our expectations of future revenue and a significant portion of our expenses is fixed in the short term. If revenue for a particular quarter is lower than we expect, we likely will be unable to proportionately reduce our operating expenses for that quarter, which would materially adversely affect our operating results for that quarter. See also "–Risks Related to Our Sales Channels-Our business could be adversely affected by seasonal trends and construction cycles" in our 2015 Annual Report on Form 10-K.

See also "Risks Related to Our Sales Channels–The reduction, modification or elimination of government incentives could cause our revenue to decline and harm our financial results" and "Risks Related to Our Sales Channels–Existing regulations and policies and changes to these regulations and policies may present technical, regulatory, and economic barriers

to the purchase and use of solar power products, which may significantly reduce demand for our products and services" in our 2015 Annual Report on Form 10-K.

As owners and operators of solar power systems that deliver electricity to the grid, certain of our affiliated entities may be considered public utilities for purposes of the Federal Power Act, as amended (the "FPA"), and are subject to regulation by the Federal Energy Regulatory Commission ("FERC"), as well as various local and state regulatory bodies.

Although we are not directly subject to FERC regulation under the FPA, we are considered to be a "holding company" for purposes of Section 203 of the FPA, which regulates certain transactions involving public utilities, and such regulation could adversely affect our ability to grow the business through acquisitions. Likewise, investors seeking to acquire our public utility subsidiaries or acquire ownership interests in their securities may require prior FERC approval to do so. Such approval could result in transaction delays or uncertainties.

Public utilities under the FPA are required to obtain FERC acceptance of their rate schedules for wholesale sales of electricity and to comply with various regulations. FERC may grant our affiliated entities the authority to sell electricity at market-based rates and may also grant them certain regulatory waivers, such as waivers from compliance with FERC's accounting regulations. These FERC orders reserve the right to revoke or revise market-based sales authority if the FERC subsequently determines that our affiliated entities can exercise market power in the sale of generation products, the provision of transmission services, or if it finds that any of the entities can create barriers to entry by competitors. In addition, if the entities fail to comply with certain reporting obligations, FERC may revoke their power sales tariffs. Finally, if the entities were deemed to have engaged in manipulative or deceptive practices concerning their power sales transactions, they would be subject to potential fines, disgorgement of profits, and/or suspension or revocation of their market-based rate authority. If our affiliated entities were to lose their market-based rate authority, such companies would be required to obtain the FERC's acceptance of a cost-of-service rate schedule and could become subject to the accounting, record-keeping, and reporting requirements that are imposed on utilities with cost-based rate schedules, which would impose cost and compliance burdens on us and have an adverse effect on our results of operations. In addition to the risks described above, we may be subject to additional regulatory regimes at state or foreign levels to the extent we own and operate solar power systems in such jurisdictions.

ITEM 2: ***UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS***

Issuer Purchases of Equity Securities

The following table sets forth all purchases made by or on behalf of us or any "affiliated purchaser," as defined in Rule 10b-18(a)(3) under the Exchange Act, of shares of our common stock during each of the indicated periods.

Period	Total Number of Shares Purchased[1]	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number of Shares That May Yet Be Purchased Under the Publicly Announced Plans or Programs
April 4, 2016 through May 1, 2016	10,007	$ 20.96	—	—
May 2, 2016 through May 29, 2016	25,488	$ 16.61	—	—
May 30, 2016 through July 3, 2016	10,418	$ 15.66	—	—
	45,913	$ 17.34	—	—

[1] The shares purchased represent shares surrendered to satisfy tax withholding obligations in connection with the vesting of restricted stock issued to employees.

ITEM 6: ***EXHIBITS***

See the Exhibit Index following the signature page to this Quarterly Report on Form 10-Q for a list of exhibits filed or furnished with this report, which Exhibit Index is incorporated herein by reference.

SIGNATURES

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

SUNPOWER CORPORATION

Dated: August 9, 2016

By: /s/ CHARLES D. BOYNTON

Charles D. Boynton
Executive Vice President and
Chief Financial Officer

Index to Exhibits

Exhibit Number	Description
10.61*	Credit Agreement, dated May 4, 2016, by and among SunPower Revolver HoldCo I, LLC, Mizuho Bank, Ltd., Mizuho Bank (USA), Mizuho Bank, Ltd., Goldman Sachs Bank USA, and the Lenders party thereto.
10.62*	Amended and Restated Credit Support Agreement, dated June 29, 2016, between SunPower Corporation and Total S.A
10.63*	Continuing Agreement for Standby Letters of Credit and Demand Guarantees, dated June 29, 2016 by and among the Company, Deutsche Bank AG New York Branch, and Deutsche Bank Trust Company Americas.
10.64*	Letter of Credit Facility Agreement, dated June 29, 2016, by and among SunPower Corporation, SunPower Corporation, Systems, Total S.A., the Subsidiary Applicants party thereto, and The Bank of Tokyo-Mitsubishi UFJ, Ltd.
10.65*	Letter of Credit Facility Agreement, dated June 29, 2016, by and among SunPower Corporation, SunPower Corporation, Systems, Total S.A., the Subsidiary Applicants party thereto, and Credit Agricole Corporate and Investment Bank.
10.66*	Letter of Credit Facility Agreement, dated June 29, 2016, by and among SunPower Corporation, SunPower Corporation, Systems, Total S.A., the Subsidiary Applicants party thereto, and HSBC Bank USA, National Association.
10.67*	Transfer Agreement, dated June 29, 2016, by and among SunPower Corporation, SunPower Corporation, Systems, Total S.A., Deutsche Bank AG New York Branch as administrative agent, and the Banks party thereto.
10.68*	First Amendment to Credit Agreement, dated June 30, 2016, by and among SunPower Revolver HoldCo I, LLC, Mizuho Bank, Ltd., Mizuho Bank (USA), Mizuho Bank, Ltd., Goldman Sachs Bank USA, and the Lenders party thereto.
31.1*	Certification by Chief Executive Officer Pursuant to Rule 13a-14(a)/15d-14(a).
31.2*	Certification by Chief Financial Officer Pursuant to Rule 13a-14(a)/15d-14(a).
32.1**	Certification Furnished Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS*+	XBRL Instance Document.
101.SCH*+	XBRL Taxonomy Schema Document.
101.CAL*+	XBRL Taxonomy Calculation Linkbase Document.
101.LAB*+	XBRL Taxonomy Label Linkbase Document.
101.PRE*+	XBRL Taxonomy Presentation Linkbase Document.
101.DEF*+	XBRL Taxonomy Definition Linkbase Document.

Exhibits marked with an asterisk (*) are filed herewith.

Exhibits marked with two asterisks (**) are furnished and not filed herewith.

Exhibits marked with a cross (+) are XBRL (Extensible Business Reporting Language) information furnished and not filed herewith, are not a part of a registration statement or Prospectus for purposes of sections 11 or 12 of the Securities Act of 1933, are deemed not filed for purposes of section 18 of the Securities Exchange Act of 1934, and otherwise are not subject to liability under these sections.

EXECUTION VERSION

CREDIT AGREEMENT

among

SUNPOWER REVOLVER HOLDCO I, LLC,
as Borrower

MIZUHO BANK, LTD.,
as Lead Arranger, Administrative Agent and Documentation Agent

MIZUHO BANK (USA),
as Collateral Agent

MIZUHO BANK, LTD. AND GOLDMAN SACHS BANK USA,
as Issuing Banks

and

THE LENDERS PARTY THERETO

May 4, 2016

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CREDIT AGREEMENT

This CREDIT AGREEMENT (this "Agreement"), dated as of May 4, 2016, by and among SunPower Revolver HoldCo I, LLC, a Delaware limited liability company (the "Borrower"), the several banks and other financial institutions or entities from time to time parties to this Agreement as Lenders, MIZUHO BANK, LTD., as Lead Arranger (in such capacity, the "Lead Arranger"), Administrative Agent (in such capacity, the "Administrative Agent"), Documentation Agent (in such capacity, the "Documentation Agent") and an Issuing Bank, MIZUHO BANK (USA), as Collateral Agent (in such capacity, the "Collateral Agent") and GOLDMAN SACHS BANK USA, as an Issuing Bank.

The Borrower has, subject to the terms and conditions set forth in this Agreement, requested that (a) the Lenders make loans to the Borrower and provide other extensions of credit, for the benefit of a Project Company and the Borrower, to fund, among other things, (i) certain Project Costs in respect of a Project, up to the amounts specified in this Agreement and (ii) any Drawings on the Letters of Credit and (b) the Issuing Bank to issue the Letters of Credit. The Lenders are willing to make such loans and provide such other extensions of credit upon the terms and subject to the conditions of this Agreement.

RECITALS

A. Borrower has requested that the Lenders provide a secured revolving credit facility (including a letter of credit facility) in connection with the construction of the Projects.

B. The Lenders party hereto are willing to make such a loan and provide such an extension of credit, upon the terms and subject to the conditions of this Agreement.

AGREEMENT

In consideration of the agreements herein and in the other Loan Documents and in reliance upon the representations and warranties set forth herein and therein, the parties agree as follows:

ARTICLE 1.

DEFINITIONS

1.1 Definitions. Except as otherwise expressly provided, capitalized terms used in this Agreement (including in the preamble hereto) and its exhibits shall have the meanings given in this Section 1.1.

"1934 Act" means the Securities Exchange Act of 1934, as amended.

"Acceptable Credit Support" has the meaning given to such term in the Equity Contribution Agreement.

"Additional Project Agreements" means, collectively, any contract or agreement entered into by (i) the Borrower and any Holdco after the Signing Date and (ii) any other Borrower Party

subsequent to the Initial Project Construction Loan Date for the applicable Project that either (a) replaces or is entered into in substitution of an existing Material Project Document, and any further replacement or substitution thereof or (b) obligates any party thereto to make payments in an aggregate amount exceeding $250,000 in any fiscal year or $500,000 in the aggregate over the term of such contract.

"Administrative Agent" means Mizuho Bank, Ltd., in its capacity as administrative agent for the Lenders, or its successors or assigns appointed pursuant to the terms of this Agreement.

"Affiliate" means, as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, either to (a) vote more than 10% of the securities having ordinary voting power for the election of directors (or persons performing similar functions) of such Person or (b) direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

"Agent Fee Agreement" means the Fee Letter Agreement, dated as of the date hereof, by and between the Borrower and Mizuho Bank, Ltd., as Administrative Agent, Depositary Bank and Collateral Agent.

"Agent Indemnitee" has the meaning given to such term in Section 8.7.

"Agents" means, collectively or individually, depending on the context, the Administrative Agent, the Collateral Agent, and the Documentation Agent.

"Agreement" has the meaning given to such term in the preamble to this Agreement.

"Anti-Corruption Laws" has the meaning given to such term in Section 4.32(c).

"Applicable Margin" means for each Type of Loan during each applicable period set forth in the table shown below, the applicable per annum percentage under the relevant column heading below:

Construction Loan Facility; DSR LC Facility and Project LC Facility	Base Rate Margin	LIBOR Margin
From the Signing Date until but not including the second anniversary of the Signing Date	0.500%	1.500%
From the second anniversary of the Signing Date until but not including the fourth anniversary of the Signing Date	0.625%	1.625%
From the fourth anniversary of the Signing Date and thereafter	0.75%	1.75%

"Applicable Permit" means, at any time, any Permit to be obtained by or on behalf of a Borrower Party, including any such Permit relating to zoning, environmental, wildlife or natural resource protection, archaeological and cultural resources, wetlands, pollution, sanitation, ERO, NERC, FPA, FERC, PUHCA 2005, any state public utility commission, safety, siting or building, importation of technology, equipment and materials, that is (a) material and necessary at such time in light of the stage of development, construction or operation of the Project to construct, test, operate, maintain, repair, own or use the Project as contemplated by the Operative Documents, to sell electricity therefrom, to enter into any Operative Document or to consummate any transaction contemplated thereby; (b) necessary so that (i) none of the Agents, the Lenders, the Issuing Banks or any Affiliate of any of them may be deemed by any Governmental Authority to be subject to regulation under the FPA or PUHCA 2005 or under applicable state law, respecting the regulation of electrical corporations solely as a result of a Borrower Party's construction, operation, ownership or control of a Project or the sale of electricity therefrom by such Borrower Party (except in the event that any of the Agents, the Lenders, or any Affiliate of any of them exercises remedies under the Operative Documents or otherwise becomes the owner or operator of the Project or directs the sale of electricity therefrom), or (ii) none of the Borrower nor any Affiliate of the Borrower that is a party to an Operative Document may be deemed by any Governmental Authority to be subject to, or not exempt from, regulation under the federal access to books and records provisions of PUHCA 2005, or under any financial, organizational or rate regulation as a "public utility" or "electric utility" under applicable state law, or (c) listed as such on Schedule 4.15.

"Approved Fund" has the meaning given to such term in Section 9.7(b).

"Asset Management Agreements" and "Asset Management Agreement" shall have the respective meanings given on Schedule 1.1B of this Agreement.

"Assignee" has the meaning given to such term in Section 9.7(b)(i).

"Assignment and Assumption" means an Assignment and Assumption, substantially in the form of Exhibit D to this Agreement.

"Available Amount" has the meaning given to such term in Section 2.16(a)(ii).

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"Bail-In Legislation" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"Base Case Model" means the Closing Date Base Case Model, as updated pursuant to Section 3.2(k).

"Base Rate" means, for any day, a rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the greater of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate for such day plus 0.50% and (c) the LIBOR Rate for a LIBOR Loan with a one-month interest period commencing on such day plus 1%. Any change in the Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the LIBOR Rate shall be effective as of the opening of business on the day of such change in the Prime Rate, the Federal Funds Effective Rate or the LIBOR Rate, respectively.

"Base Rate Loans" means Loans that bear interest at rates based upon the Base Rate.

"Benefited Lender" has the meaning given to such term in Section 9.8(a).

"Board" means the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Borrower" has the meaning given to such term in the preamble hereto.

"Borrower Parties" means, collectively, Borrower, each Holdco and each applicable Project Company, and "Borrower Party" means any one of the Borrower Parties.

"Borrowing" means a borrowing or advance of credit under this Agreement.

"Breakage Costs" has the meaning given to such term in Section 2.21.

"Business Day" means a day other than a Saturday, Sunday or other day on which commercial banks in either New York City or London are authorized or required by law to close; provided, that with respect to notices and determinations in connection with, and payments of principal and interest on, LIBOR Loans, such day is also a day for trading by and between banks in Dollar deposits in the interbank eurodollar market.

"Capital Lease Obligations" means, as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

"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) and any and all warrants, rights or options to purchase any of the foregoing.

"Cash Collateral" has the meaning given to such term in Section 2.16(o).

"Casualty Event" has the meaning given to such term in Section 1.1 of the Depositary Agreement.

"Change of Control" means (i) SunPower Corporation failing to have the power, directly or indirectly, to direct or cause the direction of the management, operation and policies of the Borrower and the construction, operation and management of each Project, through the ownership of voting interests or (ii) Pledgor failing to directly own 100% of the equity interest in the Borrower.

"Class" means, when used in reference to any Loan, whether such Loan is a Construction Loan, DSR LC Loan or Project LC Loan and, when used in reference to any Commitment, whether such Commitment is a Construction Loan Commitment, DSR LC Commitment or Project LC Commitment.

"COD" has the meaning given to such term in Schedule 1.1B.

"Code" means the Internal Revenue Code of 1986, as amended.

"Collateral" means all property of the Loan Parties, now owned, leased, or hereafter acquired, upon which a Lien is purported to be created by any Security Document.

"Collateral Accounts" has the meaning given to such term in Section 1.1 of the Depositary Agreement.

"Collateral Agent" means Mizuho Bank (USA), as collateral agent for the Secured Parties, together with any of its successors appointed pursuant to the Loan Documents.

"Commitment Fee Rate" means 0.50% per annum.

"Commitments" means the Construction Loan Commitments and the LC Commitments.

"Conduit Lender" means any special purpose corporation organized and administered by any Lender for the purpose of making Loans otherwise required to be made by such Lender and designated by such Lender in a written instrument; provided, that the designation by any Lender of a Conduit Lender shall not relieve the designating Lender of any of its obligations to fund a Loan under this Agreement if, for any reason, its Conduit Lender fails to fund any such Loan, and the designating Lender (and not the Conduit Lender) shall have the sole right and responsibility to deliver all consents and waivers required or requested under this Agreement with respect to its Conduit Lender, and provided, further, that no Conduit Lender shall (a) be entitled to receive any greater amount pursuant to Sections 2.19, 2.20, 2.21 or 9.5 than the designating Lender would have been entitled to receive in respect of the extensions of credit made by such Conduit Lender or (b) be deemed to have any Commitment.

"Consents" has the meaning given to such term in Section 3.2(v).

"Construction Account" has the meaning given to such term in Section 1.1 of the Depositary Agreement, including any sub-account thereof opened in respect of each applicable Project.

"Construction Budget and Schedule" means a detailed schedule of the development and construction of each applicable Project, a detailed total Project budget and an indicative monthly

draw-down schedule for each applicable Project, each as prepared by the Borrower and approved by the Administrative Agent and the Lenders (in consultation with the Independent Engineer) as of the Initial Project Construction Loan Date for each Project, in the form of Exhibit E to this Agreement (as modified in accordance with Section 6.9(a)), and containing a detailed description of Project Costs incurred and expected to be incurred with respect to the development and construction of each applicable Project, in each case for the period commencing on the date of the applicable Construction Budget and Schedule through the expected date of Final Completion for such Project.

"Construction Loan" has the meaning given to such term in Section 2.1.

"Construction Loan Availability Period" means for the Construction Loans allocated to each Project, the period commencing on the first date upon which the Borrower satisfies the conditions precedent set forth in Sections 3.2 and 3.3 for such Project (or such conditions precedent are waived in accordance therewith) and ending on the earlier of (a) November 4, 2020; (b) COD for such Project, (c) the date such Construction Loan has been repaid in full, (d) the date any Tax Equity Investor has fully funded its commitment under the Tax Equity Documents related to such Project and (e) the date the Construction Loan Commitments are earlier cancelled or expire pursuant to this Agreement.

"Construction Loan Commitments" means, with respect to any Lender, the commitment of such Lender, if any, to make Construction Loans in an aggregate principal amount not to exceed the amount, expressed as a Dollar amount, set forth under the heading "Construction Loan Commitment" opposite such Lender's name on Schedule 1.1A, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Construction Loan Commitment, as applicable, as such commitment may be reduced or increased from time to time pursuant to assignments by or to such Lender under Section 9.7. The aggregate amount of the Construction Loan Commitments on the Signing Date is $191,100,000, which is allocated to each Project in accordance with Annex 2.

"Construction Loan Facility" has the meaning given to such term in the definition of Facilities.

"Construction Loan Maturity Date" means, with respect to each Construction Loan allocated to each Project, the earlier of (a) the Date Certain for such Project and (b) the Final Maturity Date.

"Construction Loan Notes" means the notes provided for under Section 2.15.

"Construction Loan Notice of Borrowing" has the meaning given to such term in Section 2.2.

"Construction Management Agreements" and "Construction Management Agreement," have the respective meanings in Schedule 1.1B of this Agreement.

"Construction Managers" and "Construction Manager" have the respective meanings given in Schedule 1.1B of this Agreement.

"Construction Status Report" has the meaning given to such term in Section 5.17.

"Consumer Price Index" means the Consumer Price Index, "All Urban Consumers; U.S. City Average," as published by the U.S. Department of Labor, Bureau of Labor Statistics, or if such index shall cease to be published, such other index as shall be reasonably selected by the Administrative Agent and the Borrower.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Date Certain" for each Project, has the meaning given to such term in Schedule 1.1B for such Project.

"Debt Service" means an amount equal to all principal including, without duplication, all amounts overdue and not paid when due, of the unpaid principal amount of the Loans, and any interest and fees accrued with respect to the Loans and Letters of Credit, then due and payable by the Borrower under any Loan Document (including, without duplication of interest amounts payable under this Agreement).

"Debt Service Reserve Account" has the meaning given to such term in Section 1.1 of the Depositary Agreement, and shall include any sub-account established for each Project thereunder.

"Deed of Trust" means each Deed of Trust, Mortgage, Security Agreement, Assignment of Leases, Rents and Profits, Financing Statement, Fixture Filing and Request for Notice or similar agreement, delivered pursuant to Section 3.2(a) on the Initial Project Construction Loan Date for such Project (excluding Small Projects) made by the Borrower in favor of the Collateral Agent for the benefit of the Secured Parties, in form and substance satisfactory to the Administrative Agent, the Borrower and the Lenders.

"Default" means any occurrence, circumstance or event, or any combination thereof, which, with the lapse of time, the giving of notice or both, would constitute an Event of Default.

"Default Rate" has the meaning given to such term in Section 2.13(c).

"Defaulting Lender" means, subject to Section 2.23(b), any Lender that (a) has failed to perform any of its funding obligations hereunder or to perform any of its obligations to issue a Letter of Credit, including in respect of its Construction Loans, within two (2) Business Days of the date required to be funded by it hereunder, unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's reasonable determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, (b) has notified the Borrower or the Administrative Agent that it does not intend to comply with its funding or issuance obligations or has made a public statement to that effect with respect to its funding or issuance obligations hereunder or under other agreements generally in which it commits to extend credit (unless such writing or public statement relates to such Lender's obligation to fund a Construction Loan or issue a Letter of Credit hereunder and

states that such position is based on such Lender's reasonable determination that a condition precedent to funding or issuance (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after request by the Administrative Agent to confirm in writing that it will comply with its funding or issuance obligations (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), (d) is subject to a Bail-In Action; or (e) has (i) become the subject of a proceeding under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or a custodian appointed for it, or (iii) taken any action in furtherance of, or indicated its consent to, approval of or acquiescence in any such proceeding or appointment; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Capital Stock in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

"Deferred Development Fee" for each Project, has the meaning given to such term in Schedule 1.1B for such Project.

"Delay Liquidated Damages" has the meaning given to such term in the Depositary Agreement.

"Depositary Agreement" means that certain Depositary Agreement, dated prior to the initial Construction Loan Borrowing Date, among the Borrower, the Administrative Agent, the Collateral Agent and the Depositary Bank, in form and substance acceptable to the Administrative Agent, the Borrower and the Lenders.

"Depositary Bank" means Mizuho Bank, Ltd., in its capacity as Depositary Bank as defined in and as acting under the Depositary Agreement, or its successor or assign appointed pursuant to the terms of the Depositary Agreement.

"Developer" for each Project, has the meaning given to such term in Schedule 1.1B for such Project.

"Development Services Agreement" for each Project, has the meaning given to such term in Schedule 1.1B for such Project.

"Distribution Conditions" has the meaning given to such term in the Depositary Agreement.

"Documentation Agent" has the meaning given to such term in the preamble of this Agreement.

"Dollars" and "$" means United States dollars or such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts in the United States of America.

"Drawing" means a drawing by the applicable beneficiary on a Letter of Credit.

"DSR Issuing Bank" means each of (i) Mizuho Bank, Ltd.; (ii) Goldman Sachs Bank USA, in each such case, in its capacity as issuing bank of a DSR Letter of Credit and (iii) any other Lenders which agree to issue Letters of Credit hereunder.

"DSR LC Commitment" means with respect to each DSR Issuing Bank, the commitment of each DSR Issuing Bank to issue and continue to make available each DSR Letter of Credit for each Project and make DSR LC Loans to the Borrower in respect of each such DSR Letter of Credit, in an aggregate stated or principal amount at any one time not to exceed the amount, expressed as a Dollar amount, set forth under the heading "DSR LC Commitment" opposite each such DSR Issuing Bank's name on Schedule 1.1A, as such amount may be reduced from time to time pursuant to Section 2.10 (and, in respect of each Project, as such amount has been allocated to each Project pursuant to Annex 2). The aggregate amount of the DSR LC Commitments of each DSR Issuing Bank on the Signing Date shall be with respect to (i) Mizuho Bank, Ltd. DSR Issuing Bank, $3,100,000 and (ii) Goldman Sachs Bank USA DSR Issuing Bank, $900,000.

"DSR LC Facility" has the meaning given to such term in the definition of Facilities.

"DSR LC Loan" means any loan made to the Borrower by the DSR Issuing Bank as a result of a Drawing on a DSR Letter of Credit issued by such DSR Issuing Bank as set forth in Section 2.16(e).

"DSR Letter of Credit" means each irrevocable standby letter of credit to be issued pursuant to Section 2.16, for the account of the Borrower by each DSR Issuing Bank for the benefit of the Administrative Agent in respect of each applicable Project, in form and substance acceptable to the Administrative Agent and the Lenders and in a maximum stated amount not to exceed the (i) DSR LC Commitment of each such DSR Issuing Bank and (ii) the DSR LC Commitment allocated to such Project (as set forth on Annex 2).

"DSR Requirement" means, with respect to any Project, an amount equal to the aggregate amount of interest projected (as of such Project's COD) to be due and payable with respect to the Loans made to such Project from such Project's COD until the Date Certain for such Project, as set forth on Annex 2.

"ECCA Parent Guarantor" means SunPower Corporation, in its capacity as guarantor under the ECCA Parent Guaranty.

"ECCA Guaranty" has the meaning given to such term in Schedule 1.1B.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of

an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent;

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Environment" means ambient and indoor air, surface water and groundwater (including potable water, navigable water and wetlands), the land surface, soil or subsurface strata or sediment, or natural resources such as flora and fauna.

"Environmental Claim" means any and all actions, suits, demands, demand letters, written claims, Liens, notices of non-compliance or violation, written notices of liability or potential liability, investigations, proceedings, directives, orders or agreements relating to Environmental Law or common law or the release of or human exposure to any Hazardous Substance.

"Environmental Consultant" means an environmental consultant selected by the Borrower and reasonably acceptable to the Administrative Agent, or any successor appointed pursuant to Section 9.9.

"Environmental Law" means any and all federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority regulating, relating to or imposing liability or standards of conduct concerning protection of human health, natural resources or the Environment or that give rise to liability based on impermissible exposure to Hazardous Substances, as now or may at any time hereafter be in effect.

"Environmental Site Assessments" means the Phase I Environmental Site Assessments identified on Schedule 1.1C, including all exhibits and appendices and all other attachments thereto.

"EPC Agreements" and "EPC Agreement" shall have the respective meanings given on Schedule 1.1B of this Agreement.

"EPC Contractors" and "EPC Contractor" shall have the respective meanings given on Schedule 1.1B of this Agreement.

"EPC Parent Guarantees" and "EPC Parent Guaranty" have the respective meanings given on Schedule 1.1B of this Agreement.

"EPC Parent Guarantors" and "EPC Parent Guarantor" have the respective meanings given on schedule 1.1B of this Agreement.

"Equator Principles" means those principles and standards set forth in "The Equator Principles III - 2013", as currently available at www.equatorprinciples.com, as amended from time to time, to the extent required by Lender internal policy.

"Equity Commitment" has the meaning given to such term in the Equity Contribution Agreement.

"Equity Contribution" has the meaning given to such term in the Equity Contribution Agreement.

"Equity Contribution Agreement" has the meaning given to such term in Schedule 1.1B for such Project.

"Equity Contribution Documents" means the Equity Contribution Agreement, the ECCA Parent Guaranty and any Acceptable Credit Support.

"Equity Investor" has the meaning given to such term in the Equity Contribution Agreement.

"Equity Requirement" has the meaning given to such term in the Equity Contribution Agreement.

"ERO" means the Electric Reliability Organization, within the meaning of Section 215(a)(2) of the FPA.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that, together with any Loan Party, is treated as a single employer under Section 414 of the Code.

"ERISA Event" means (a) any Reportable Event; (b) the existence with respect to any ERISA Plan of a non-exempt Prohibited Transaction; (c) any failure by any Pension Plan to satisfy the minimum funding standards (within the meaning of Section 412 or 430 of the Code or Section 302 of ERISA) applicable to such Pension Plan), whether or not waived; (d) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Pension Plan, the failure to make by its due date a required installment under Section 430(j) of the Code with respect to any Pension Plan or the failure by any Loan Party or any of its ERISA Affiliates to make any required contribution to a Multiemployer Plan; (e) the incurrence by any Loan Party or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Pension Plan, including but not limited to the imposition of any Lien in favor of the PBGC or any Pension Plan; (f) a determination that any Pension Plan is, or is expected to be, in "at risk" status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (g) the receipt by any Loan Party or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Pension Plan or to appoint a trustee to administer any Pension Plan under Section 4042 of ERISA; (h) the incurrence by any Loan Party or any ERISA Affiliate of

any liability with respect to the withdrawal or partial withdrawal from any Pension Plan or Multiemployer Plan; (i) the receipt by any Loan Party or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from any Loan Party or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, Insolvent, in Reorganization or in endangered or critical status, within the meaning of Section 432 of the Code or Section 305 of ERISA; and (j) with respect to any Foreign Plan or Foreign Benefit Arrangement, (A) the failure to make or, if applicable, accrue in accordance with normal accounting practices, any employer or employee contributions required by applicable law or by the terms of such Foreign Plan or Foreign Benefit Arrangement; (B) the failure to register or loss of good standing with applicable regulatory authorities of any such Foreign Plan or Foreign Benefit Arrangement required to be registered; or (C) the failure of any Foreign Plan or Foreign Benefit Arrangement to comply with any material provisions of applicable law and regulations or with the material terms of such Foreign Plan or Foreign Benefit Arrangement.

"ERISA Plan" means any employee benefit plan as defined in Section 3(3) of ERISA, (whether or not subject to ERISA) including any employee welfare benefit plan (as defined in Section 3(1) of ERISA), any employee pension benefit plan (as defined in Section 3(2) of ERISA), and any plan which is both an employee welfare benefit plan and an employee pension benefit plan, and in respect of which any Loan Party or any ERISA Affiliate is (or if such plan were terminated, would under Section 4062 or 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Event of Default" and "Events of Default" have the meanings given in Article 7.

"Event of Loss" means a single insured event or a related series of insured events causing any loss of, destruction of or damage to, or any condemnation or other taking of (including by eminent domain), of all or any portion of the property or assets of the Borrower.

"EWG" means an "exempt wholesale generator," as such term is defined in Section 1262(6) of PUHCA 2005 and the FERC's implementing regulations at 18 C.F.R. § 366.1.

"Facilities" means (a) the Construction Loan Commitments and the Construction Loans made thereunder (the "Construction Loan Facility"), (b) the DSR LC Commitments and the DSR Letters of Credit and DSR LC Loans made thereunder (the "DSR LC Facility") and (c) the Project LC Commitments and the Project Letters of Credit and Project LC Loans made thereunder (the "Project LC Facility").

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations, published guidance or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any inter-governmental agreement (together with any law implementing such agreement including any U.S. or non-U.S. regulations or guidance notes).

"Federal Funds Effective Rate" means, for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day of such transactions received by the Administrative Agent from three (3) federal funds brokers of recognized standing selected by it.

"Fee Payment Date" means (a) the last day of each June and December of each year falling after the date hereof and (b) each applicable Construction Loan Maturity Date and LC Loan Maturity Date.

"FERC" means the Federal Energy Regulatory Commission, or its successor.

"Final Completion" for each Project, has the meaning given to such term in Schedule 1.1B.

"Final Discharge Date" means the date when all Obligations (excluding contingent indemnification and other provisions, that, by their express terms, survive the repayment of the Loans, interest, fees and other amounts owed under this Agreement) of the Borrower under this Agreement and the other Loan Documents have been indefeasibly paid in full in immediately available funds, no Commitments remain outstanding and the Letters of Credit have expired by their terms or been terminated by their beneficiaries (pursuant to documentation reasonably acceptable to the Administrative Agent and the Issuing Banks).

"Final Maturity Date" means the earlier of (i) the date of acceleration of the Construction Loans under this Agreement and (ii) May 4, 2021.

"Foreign Benefit Arrangement" means any employee benefit arrangement mandated by non-U.S. law that is maintained or contributed to by any Loan Party, or by any ERISA Affiliate.

"Foreign Plan" means each employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA) that is not subject to U.S. law and is maintained or contributed to by any Loan Party, or by any ERISA Affiliate.

"FPA" means the Federal Power Act, as amended, and FERC's implementing regulations.

"GAAP" means generally accepted accounting principles in the United States as in effect from time to time.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization (including the National Association of Insurance Commissioners).

"Governmental Rule" means any law, rule, regulation, ordinance, order, code interpretation, judgment, decree, binding directive, or similar form of binding decision of any Governmental Authority.

"Guaranty and Security Agreement" means each Guaranty and Security Agreement, required to be executed and delivered pursuant to Section 3.2, dated as of the Initial Project Construction Loan Date for each Project, by and between each Project Company and the Collateral Agent (for the benefit of the Secured Parties), in form and substance acceptable to the Administrative Agent, the Borrower and the Lenders.

"Guaranty, Pledge and Security Agreement" means each Guaranty, Pledge and Security Agreement, required to be executed and delivered pursuant to Section 3.2, dated as of the Initial Project Construction Loan Date for each Project, by and between each Holdco and the Collateral Agent (for the benefit of the Secured Parties), in form and substance acceptable to the Administrative Agent, the Borrower and the Lenders.

"Guarantee" as to any Person (the "guaranteeing person"), means any obligation, including a reimbursement, counterindemnity or similar obligation, of the guaranteeing Person that guarantees or in effect guarantees, or which is given to induce the creation of a separate obligation by another Person (including any bank under any Letter of Credit) that guarantees or in effect guarantees, any Indebtedness, leases, dividends or other obligations (the "primary obligations") of any other third Person (the "primary obligor") in any manner, whether directly or indirectly, including any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee of any guaranteeing person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee shall be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

"Hazardous Substances" means all pollutants, contaminants, wastes, chemicals, materials, substances and constituents, including explosive or radioactive substances, petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls or radon gas, of any nature, which in each case is or becomes subject to regulation or which can give rise to liability under any Environmental Law.

"Holdco" has the meaning given to such term in Schedule 1.1B; provided, however, that any such Holdco shall cease to be a Holdco hereunder on its respective Project Discharge Date (to the extent that the Project Discharge Date has been achieved for all Project Companies owned by such Holdco).

"Improvements" has the meaning, with respect to a Project, given to such term in the applicable Deed of Trust, or if there is not a Deed of Trust for such Project, the meaning on Schedule 1.1(B).

"Indebtedness" of any Person at any date, means, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services (other than current trade payables incurred in the ordinary course of such Person's business), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all Capital Lease Obligations of such Person, (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under or in respect of acceptances, letters of credit, surety bonds or similar arrangements, (g) the liquidation value of all redeemable preferred Capital Stock of such Person, (h) all Guarantee obligations of such Person in respect of obligations of the kind referred to in clauses (a) through (g) above, and (i) all obligations of the kind referred to in clauses (a) through (h) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on property (including accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such obligation. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness expressly provide that such Person is not liable therefor.

"Indemnified Liabilities" has the meaning given to such term in Section 9.5.

"Indemnitee" has the meaning given to such term in Section 9.5.

"Independent Consultants" means, collectively, the Insurance Consultant, the Independent Engineer, the Transmission Consultant, the Environmental Consultant and the Solar Resource Consultant or their successors appointed pursuant to Section 9.9.

"Independent Engineer" means Leidos or its successor appointed pursuant to Section 9.9.

"Initial Project Construction Loan Date" means the date when each of the conditions to the initial Borrowing for a Project set forth in Sections 3.2 and 3.3 has been satisfied (or waived in writing by the Administrative Agent and the Lenders).

"Initial Project Construction Loan Equity Contribution" means any Project Costs paid by a Borrower Party or any Affiliate of such Borrower Party in respect of a Project prior to the Initial Project Construction Loan Date for such Project as confirmed by the Independent

Engineer on Initial Project Construction Loan Date, in an amount at least equal to 10% of Project Costs for such Project.

"Insolvent" means, with respect to any Multiemployer Plan, the condition that such Multiemployer Plan is insolvent within the meaning of Section 4245 of ERISA.

"Insurance Consultant" means Moore-McNeil, LLC, or its successor appointed pursuant to Section 9.9.

"Intellectual Property" means the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including copyrights, copyright licenses, patents, patent licenses, trademarks, trademark licenses, technology, know-how and processes, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

"Interconnection Agreements" and "Interconnection Agreement" shall have the respective meanings provided in Schedule 1.1B of this Agreement.

"Interconnectors" and "Interconnector" shall have the respective meanings provided on Schedule 1.1B of this Agreement.

"Interest Payment Date" means, (i) as to any Base Rate Loan, the last day of each March, June, September and December (or, if an Event of Default is in existence, the last day of each calendar month) to occur while such Loan is outstanding and the final maturity date of such Loan, (ii) as to any LIBOR Loan, the last day of such Interest Period, and (iii) as to any Loan, the date of any repayment or prepayment made in respect.

"Interest Period" means as to any LIBOR Loan, (a) initially, the period commencing on the borrowing or conversion date, as the case may be, with respect to such LIBOR Loan and ending one (1), two (2), three (3) or six (6) months thereafter, as selected by the Borrower in its Notice of Borrowing or notice of conversion, as the case may be, given with respect thereto; and (b) thereafter, each period (i) commencing on the last day of the immediately preceding Interest Period applicable to such LIBOR Loan and ending one (1), two (2), three (3) or six (6) months thereafter and (ii) commencing on the last day of the immediately preceding Interest Period applicable to such LIBOR Loan and ending three (3) or six (6) months thereafter, in the case of either (i) or (ii) as selected by the Borrower by irrevocable notice to the Administrative Agent not later than 10:00 A.M., New York time, on the date that is three (3) Business Days prior to the last day of the then current Interest Period with respect thereto; provided that all of the foregoing provisions relating to Interest Periods are subject to the following:

(i) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;

(ii) if the Borrower selects an Interest Period with respect to Construction Loans that would extend beyond the applicable Construction Loan Maturity Date or the applicable LC Loan Maturity Date, such Interest Period will end on the Construction Loan Maturity Date or LC Loan Maturity Date, as applicable;

(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 end on the last Business Day of a calendar month; and

(iv) except as described in item (ii) above, the Borrower shall select Interest Periods so as not to require a payment or prepayment of any LIBOR Loan during an Interest Period for such Loan.

"Investment" has the meaning given to such term in Section 6.3.

"Issuing Banks" means collectively, the Project LC Issuing Bank and each DSR Issuing Bank; provided that in respect of a Letter of Credit issued pursuant to the terms of this Agreement, the "Issuing Bank" shall be the Issuing Bank which has issued the Letter of Credit and the relevant provisions herein and the other Loan Documents shall be construed accordingly to refer to the applicable Issuing Bank, as appropriate**.**

"Investment Grade" means a credit rating of at least "Baa3" by Moody's or "BBB-" by S&P or Fitch.

"Knowledge" means the actual knowledge of any Responsible Officer or any person listed on Schedule 1.1D.

"Large Project" means a Project that has an expected nameplate capacity in excess of 2.0 MW dc.

"LC Commitment" means, collectively, the Project LC Commitments and the DSR LC Commitments. The aggregate amount of the LC Commitments on the Signing Date is $8,900,000, which such amount is specifically allocated to each Project as set forth on Annex 2.

"LC Commitment Termination Date" means, for each Letter of Credit allocated to each Project, the applicable Construction Loan Maturity Date for such Project.

"LC Issuance Notice" means a written request by the Borrower to the Issuing Banks requesting the issuance of a Letter of Credit, substantially in the form of Exhibit G to this Agreement.

"LC Loan Maturity Date" means with respect to any LC Loan, the earliest of (a) the applicable LC Commitment Termination Date and (b) the date of acceleration of any Loans.

"LC Loans" means the DSR LC Loans and the Project LC Loans.

"LC Loan Note" has the meaning given to such term in Section 2.15(c).

"LC Notice" has the meaning given to such term in Section 2.16(r).

"LC Obligations" means, as at any date of determination, the aggregate maximum amount available to be drawn under all outstanding Letters of Credit (including, without limitation, any and all Letters of Credit for which documents have been presented that have not been honored or dishonored) plus the aggregate of all Unreimbursed Amounts, including all LC Loans.

"Lead Arranger" means Mizuho Bank, Ltd., in its capacity as lead arranger for the Lenders, or its successors or assigns appointed pursuant to the terms of this Agreement.

"Legal Requirements" means, as to any Person, the certificate of incorporation and by-laws, limited liability company agreement, partnership agreement or other organizational or governing documents of such Person, any law, treaty, rule or regulation, including any Governmental Rule, or determination of an arbitrator or a court or other Governmental Authority, or any requirement under a Permit, in each case applicable to or binding upon such Person or any of its properties or to which such Person or any of its property is subject.

"Lenders" means the banks and other financial institutions or entities party to this Agreement from time to time, other than the Collateral Agent and specifically including the Issuing Banks.

"Lending Office" means the office designated as such beneath the name of a Lender set forth on Annex 1 of this Agreement or such other office of such Lender as such Lender may specify in writing from time to time to the Administrative Agent and the Borrower.

"Letters of Credit" means the DSR Letters of Credit and the Project Letters of Credit.

"Letter of Credit Application" has the meaning given to such term in Section 2.16(b).

"Letter of Credit Expiration Date" means the day that is seven (7) days prior to the LC Commitment Termination Date then in effect (or, if such day is not a Business Day, the next preceding Business Day).

"LIBOR Base Rate" means, with respect to each day during each Interest Period pertaining to a LIBOR Loan, the rate per annum determined on the basis of the rate for deposits in Dollars for a period equal to such Interest Period commencing on the first day of such Interest Period appearing on the Reuters Screen LIBOR01 Page as of 11:00 A.M., London time, two Business Days prior to the beginning of such Interest Period. In the event that such rate does not appear on such page (or otherwise on such screen), the "LIBOR Base Rate" shall be determined by reference to such other comparable publicly available service for displaying eurodollar rates as may be selected by the Administrative Agent or, in the absence of such availability, by reference to the rate at which the Administrative Agent is offered Dollar deposits at or about 10:00 A.M., New York time, two Business Days prior to the beginning of such Interest Period in the interbank eurodollar market where its eurodollar and foreign currency and exchange operations are then being conducted for delivery on the first day of such Interest Period for the number of days comprised therein.

"LIBOR Loans" means Loans that bear interest at rates based upon the LIBOR Rate.

"LIBOR Rate" means, with respect to each day during each Interest Period pertaining to a LIBOR Loan, a rate per annum determined for such day in accordance with the following formula:

$$\frac{\text{LIBOR Base Rate}}{\text{1.00 - LIBOR Reserve Requirements}}$$

"LIBOR Rate Tranche" means the collective reference to LIBOR Loans under a particular Facility with respect to which all then current Interest Periods (i) begin on the same date and (ii) end on the same later date (whether or not such Loans shall originally have been made on the same day).

"LIBOR Reserve Requirements" means, for any day as applied to a LIBOR Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including basic, supplemental, marginal and emergency reserves) under any regulations of the Board or other Governmental Authority having jurisdiction with respect thereto dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D) maintained by a member bank of the Federal Reserve System.

"Lien" means any mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement and any capital lease having substantially the same economic effect as any of the foregoing), whether or not filed, recorded or otherwise perfected or effective under applicable law.

"Loan Documents" means this Agreement, the Notes, the Letter of Credit Application(s), Security Documents, the Equity Contribution Documents, the Agent Fee Agreement and any other documents, agreements or instruments entered into in connection with any of the foregoing.

"Loan Parties" means, collectively, the Borrower, each Holdco, the Pledgor, the Equity Investor, each Project Company, and the ECCA Parent Guarantor.

"Loans" means the loans made by the Lenders and the Issuing Banks under this Agreement, including Construction Loans and LC Loans.

"Local Deposit Account" means a deposit account to be held by the Borrower with a financial institution reasonably satisfactory to the Administrative Agent and subject to a deposit account control agreement in favor of the Collateral Agent on terms reasonably satisfactory to the Administrative Agent and the Collateral Agent.

"Loss Proceeds" has the meaning given to such term in Section 1.1 of the Depositary Agreement.

"Loss Proceeds Account" has the meaning given to such term in Section 1.1 of the Depositary Agreement.

"Margin Stock" shall have the meaning assigned to such term in Regulation U.

"Material Adverse Effect" means a material adverse effect on (a) the business, assets, property, operations, or condition (financial or otherwise) of any Borrower Party or any Project, (b) the validity, legality, binding effect or enforceability (i) against any Loan Party of this Agreement or any of the other Loan Documents to which it is a party or (ii) of the rights or remedies of the Agents or the Lenders under this Agreement or any of the other Loan Documents, (c) the validity, perfection or enforceability of the Liens granted under the Loan Documents; (d) the ability of any Loan Party to perform its obligations under any Loan Documents to which it is a party, or (d) the financial condition of SunPower Corporation that could be reasonably expected to impact the ability of SunPower Corporation in its ability to perform its obligations under any Operative Documents to which it is a party.

"Material Project Documents" means the agreements listed on Schedule 1.1B and any Additional Project Agreements, as of the applicable time of determination, then in force and effect; provided, however, that any such agreement shall cease to be a Material Project Document when all obligations (other than any contingent obligations that survive expiration or termination of the agreement) under such agreement have been indefeasibly performed and/or paid in full or have expired and all warranty periods if applicable have expired.

"Material Project Participants" means the counterparties to the agreements listed on Schedule 1.1B, the counterparties to the Module Warranty Providers, the counterparties to the Equity Contribution Agreements, and the counterparties to the Additional Project Agreements; provided, however, that any such Person shall cease to be a Material Project Participant when all obligations (other than any contingent obligations that survive expiration or termination of the agreement) of such Person under all Operative Documents to which it is a party have been indefeasibly performed and/or paid in full or have expired and all warranty periods if applicable have expired.

"Mechanics' Lien Endorsement" has the meaning given to such term in Section 3.2(o).

"Modules" shall have the meaning given in Schedule 1.1B of the Financing Agreement.

"Module Suppliers" and "Module Supplier" shall have the respective meanings given in Schedule 1.1B of this Agreement.

"Module Supply Agreement" and "Module Supply Agreements" shall have the respective meanings given in Schedule 1.1B of this Agreement.

"Module Warranty Provider" and "Module Warranty Providers" shall have the respective meanings given in Schedule 1.1B of this Agreement.

"Moody's" means Moody's Investors Service, Inc.

"Mortgaged Property" means the Real Property listed on Schedule 4.19(a), (for each Project other than a Small Project) constituting the Project Site for each such applicable Project, from and after the time that a Lien has been granted to the Collateral Agent for the benefit of the Lenders pursuant to a Deed of Trust, and any other property that becomes subject to the Liens of such Deed of Trust pursuant to Section 5.21 or is otherwise owned by the applicable Project Company (which shall be deemed Mortgaged Property when it so becomes subject thereto).

"MSAs" and "MSA" have the respective meanings set forth in Schedule 1.1B of this Agreement.

"Multiemployer Plan" means a multiemployer plan (as defined in Section 4001(a)(3) of ERISA).

"NERC" means the North American Electric Reliability Corporation, or successor entity.

"Non-Excluded Taxes" has the meaning given to such term in Section 2.20(a).

"Nonrecourse Parties" has the meaning given to such term in Section 9.24.

"Non-U.S. Lender" has the meaning given to such term in Section 2.20(e).

"Notes" means the Construction Loan Notes and the LC Loan Notes, substantially in the form of Exhibit C-1 and Exhibit C-2, as applicable.

"Notice of Conversion or Continuation" has the meaning given to such term in Section 2.11.

"O&M Agreements" and "O&M Agreement" shall have the respective meanings given in Schedule 1.1B of this Agreement.

"Obligations" means the unpaid principal of and interest on (including interest accruing after the maturity of the Loans and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Loans and all other obligations and liabilities of the Borrower to the Agents, the Issuing Banks (including, without limitation, the LC Obligations and any Letters of Credit for which documents have been presented that have not been honored or dishonored) or to any Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Agreement, any other Loan Document or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, Breakage Costs, Reimbursement Obligations, indemnities, costs, expenses (including all fees, charges and disbursements of counsel to the Administrative Agent or to any Lender that are required to be paid by the Borrower pursuant hereto) or otherwise (whether or not evidenced by any note or instrument and whether or not for the payment of money).

"OFAC" means the U.S. Department of Treasury Office of Foreign Assets Control.

"OFAC SDN List" means the list of "Specially Designated Nationals and Blocked Persons" maintained by OFAC.

"Operating Agreements" means the limited liability agreements of each of Borrower and each Holdco, as set forth on Schedule 1.1B of this Agreement.

"Operating Costs" means, for any period and for each Project, the sum, computed without duplication among any of the following categories or from period to period, of the following actual cash operating and maintenance costs in respect of each Project: (a) general and administrative expenses and ordinary course fees, royalties and costs, including those paid to the counterparties to the Site Lease Agreements pursuant to the Site Lease Agreements for such Project, plus (b) expenses for operating such Project and maintaining such Project in good repair and operating condition in accordance with Prudent Industry Practices paid during such period, including payments to the counterparties to the Material Project Documents as required pursuant to the Material Project Documents in respect of such Project (including (w) capital expenditures incurred in connection with normal maintenance of such Project, (x) capital expenditures required by applicable Legal Requirements or any Applicable Permit and (y) Permitted Capex, plus (c) management and other fees payable under the O&M Agreements and the Asset Management Agreement for such Project, plus (d) insurance costs paid in respect of insurance maintained or required to be maintained in respect of such Project during such period, plus (e) applicable sales and excise taxes (if any) paid or reimbursable by such Borrower Party during such period, plus (f) franchise taxes paid by such Borrower Party during such period, plus (g) property taxes paid by such Borrower Party during such period, plus (h) any other direct taxes (if any) paid by such Borrower Party during such period, plus (i) costs and fees attendant to the obtaining and maintaining in effect the Permits for such Project paid during such period, plus (j) legal, accounting and other professional fees attendant to any of the foregoing items paid during such period in respect of such Project, plus (k) expenses incurred as necessary to prevent or mitigate an emergency situation in respect of such Project. Operating Costs shall exclude, to the extent included above: (i) payments into any of the Collateral Accounts during such period, (ii) payments of any kind with respect to Restricted Payments during such period, (iii) depreciation and other non-cash charges for such period, (iv) payments of any kind with respect to Debt Service, (v) any payments of any kind with respect to any restoration of such Project during such period and (vi) capital expenditures for such Project (other than Permitted Capex).

"Operative Documents" means the Loan Documents and the Material Project Documents.

"Operators" and "Operator" have the respective meanings given in Schedule 1.1B of this Agreement.

"Other Fee Agreements" has the meaning given to such term in Section 3.1(f).

"Other Taxes" means any and all present or future stamp or documentary Taxes or any other excise or property Taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or any other Loan Document.

"P50 Production" means the production volume based on the P50 one (1) year confidence levels for the applicable Project determined by the Independent Engineer pursuant to the report delivered for such Project under Section 3.2(q).

"P99 Production" means the production volume based on the P99 one (1) year confidence levels for the applicable Project determined by the Independent Engineer pursuant to the report delivered for such Project under Section 3.2(q).

"Participant" has the meaning given to such term in Section 9.7(c).

"Participant Register" has the meaning given to such term in Section 9.7(c).

"Patriot Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA Patriot Act), Pub. L. 107-56 and all other United States laws and regulations relating to money-laundering and terrorist activities.

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"Pension Plan" means any ERISA Plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which any Loan Party or any ERISA Affiliate is (or, if such ERISA Plan were terminated, would under Section 4062 or 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Performance Guaranty Agreements" and "Performance Guaranty Agreement" shall have the respective meanings listed in Schedule 1.1B of this Agreement.

"Performance Liquidated Damages" has the meaning given to such term in Section 1.1 of the Depositary Agreement.

"Permit" means any and all franchises, licenses, leases, permits, approvals, notifications, certifications, registrations, authorizations, exemptions, and other rights, privileges and approvals required to be obtained from or provided to a Governmental Authority under any Governmental Rule.

"Permitted Affiliate Subordinated Indebtedness" means Indebtedness of the Borrower to the Equity Investor or any Affiliate of the Equity Investor that (a) is unsecured, (b) is fully and completely subordinated (and collaterally assigned) for the benefit of, and to, the Lenders pursuant to a subordination and security agreement, which shall, in each case, be in form and substance satisfactory to the Required Lenders, (c) has a final maturity date that is not earlier than, and provides for no scheduled payments of principal or mandatory redemption obligations prior to, the date that is August 4, 2021 and (d) provides for payments of interest solely in-kind (and not in cash) until the date that is August 4, 2021.

"Permitted Capex" means capital expenditures which the applicable Borrower Party is required to make pursuant to the terms of the Operative Documents.

"Permitted Indebtedness" means:

(a) Indebtedness under or in respect of the Loan Documents;

(b) obligations incurred under the Material Project Documents;

(c) trade accounts payable (other than for borrowed money) arising, and accrued expenses incurred, in the ordinary course of business operation so long as such trade accounts are not more than ninety (90) days past due;

(d) purchase money or Capital Lease Obligations to the extent incurred in the ordinary course of business to finance items of equipment not comprising an integral part of such Project; provided that (A) if such obligations are secured, they are secured only by Liens upon the equipment being financed and (B) the aggregate principal amount and the capitalized portion of such obligations do not at any time exceed $2,000,000;

(e) the Deferred Development Fee;

(f) Permitted Affiliate Subordinated Indebtedness not to exceed $5,000,000 in the aggregate; and

(g) other unsecured Indebtedness not to exceed in the aggregate $250,000.

"Permitted Investments" means (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one year from the date of acquisition; (b) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of six (6) months or less from the date of acquisition issued by any commercial bank organized under the laws of the United States or any state thereof having combined capital and surplus of not less than $500,000,000 and rated at least A-1 or the equivalent thereof by S&P or P-1 or the equivalent thereof by Moody's; (c) repurchase obligations of any Lender or of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than thirty (30) days, with respect to securities issued or fully guaranteed or insured by the United States government; (d) securities with maturities of one (1) year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth, or territory, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A2 by Moody's; (e) securities with maturities of six (6) months or less from the date acquisition backed by standby letters of credit issued by any commercial bank satisfying the requirements of clause (b) of this definition; (f) money market, mutual or similar funds that invest exclusively in assets satisfying the requirements of clauses (a) through (e) of this definition; or (g) money market funds that (i) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, as amended, (ii) are rated AAA by S&P and Aaa by Moody's and (iii) have portfolio assets of at least $5,000,000,000.

"Permitted Liens" means:

(a) the Liens created pursuant to the Security Documents;

(b) Liens imposed by any Governmental Authority for any tax, assessment or other charge to the extent not yet past due or being contested in good faith and by appropriate proceedings, so long as (a) reserves consistent with GAAP have been established on the applicable Person's books in an amount sufficient to pay any such taxes, assessments or other charges, accrued interest thereon and potential penalties or other costs relating thereto, or other provision for the payment thereof reasonably satisfactory to the Administrative Agent shall have been made bonded, (b) enforcement of the contested tax, assessment or other charge is effectively stayed for the entire duration of such contest and (c) any tax, assessment or other charge determined to be due, together with any interest or penalties thereon, is immediately paid after resolution of such contest;

(c) materialmen's, mechanics', workers', repairmen's, employees' or other like Liens arising in the ordinary course of business or in the restoration, repair or replacement of any Project in accordance with this Agreement or, prior to Final Completion, in connection with the construction of such Project, in each case for amounts not yet due or which are being contested in good faith by appropriate proceedings and which have been bonded in an amount sufficient to repay the underlying obligations and cover any penalties and enforcement costs with respect thereto or in respect of which adequate cash reserves are in place in form and substance reasonably acceptable to the Administrative Agent;

(d) Liens arising out of judgments or awards so long as an appeal or proceeding for review is being prosecuted in good faith and for the payment of which adequate reserves in accordance with GAAP, bonds or other security acceptable to the Administrative Agent in its reasonable discretion have been provided or are fully covered by insurance;

(e) Liens, deposits or pledges to secure (i) performance of bids, tenders, any Borrower Party's obligations under the Material Project Documents (other than for the repayment of borrowed money) or leases, or for purposes of like general nature in the ordinary course of its business, not to exceed $500,000 in the aggregate at any time, and with any such Lien to be released within 270 days of its attachment or (ii) mandatory statutory obligations;

(f) Liens incurred in connection with Indebtedness permitted under clause (d) of the definition of "Permitted Indebtedness"; provided that no such Lien shall extend to cover any property other than the property or equipment being financed;

(g) the exceptions to title listed on Schedule B of any applicable Title Policy;

(h) encumbrances created in connection with any Safe Harbor Agreement (but only if such encumbrance was created in the course of incidental take authorizations pursuant to the Federal Endangered Species Act, such as onsite conservation easements);

(i) easements, rights of way restrictions, title imperfections, encroachments, minor defects or irregularities in title and similar matters, in each case, that, in the aggregate, are not substantial in amount and do not or would not reasonably be expected to materially detract from the value of such Project or materially impair the construction or use of such Project;

(j) liens not incurred in connection with the incurrence of Indebtedness, in an amount not in excess of $250,000;

(k) zoning and other land use and environmental Governmental Rules of any municipality or Governmental Authority that do not secure any monetary obligations and which do not materially interfere with the use of any asset in the conduct of the business of any Borrower Party or the construction, development, operation or maintenance of such Project or materially detract from the value of such Project; and

(l) Liens expressly permitted or expressly contemplated by the Loan Documents.

"Person" means any natural person, corporation, limited liability company, partnership, firm, association, Governmental Authority or any other entity whether acting in an individual, fiduciary or other capacity.

"Plans and Specifications" means the plans and specifications for the construction and design of each Project, including any document describing the scope of work performed by any contractor under the applicable EPC Agreement and/or any other material contract or subcontract for the construction of such Project and any feeder lines and interconnections, all work drawings, engineering and construction schedules, Project schedules, Project monitoring systems, specifications status lists, material and procurement ledgers, drawings and drawing lists, manpower allocation documents, management and Project procedures documents, Project design criteria, and any other document referred to in the relevant Material Project Documents or any of the documents referred to in this definition, as the same may be amended to the extent permitted by this Agreement, in respect of such Project.

"Pledge Agreement" means the Pledge Agreement, dated as of the Initial Project Construction Loan Date for the initial Project, executed and delivered by Pledgor, substantially in the form of Exhibit J to this Agreement, in form acceptable to the Lenders, the Borrower and the Administrative Agent.

"Pledged Stock" has the meaning given to such term in the Pledge Agreement.

"Pledgor" means SunPower Revolver Holdco I Parent, LLC, a Delaware limited liability company.

"Power Purchasers" and "Power Purchaser" shall have the respective meanings given in Schedule 1.1B to this Agreement.

"Power Blocks" shall have the respective meanings given in Schedule 1.1B to this Agreement.

"Power Purchase Agreement" and "Power Purchase Agreement" shall have the respective meanings given in Schedule 1.1B of this Agreement.

"Prepayment Account" has the meaning given to such term in Section 1.1 of the Depositary Agreement.

"Prime Rate" means the rate of interest per annum publicly announced from time to time by the Administrative Agent as its prime rate in effect at its principal office in New York, New York (the Prime Rate not being intended to be the lowest rate of interest charged by the Administrative Agent in connection with extensions of credit to debtors).

"Prohibited Transaction" has the meaning given to such term in Section 406 of ERISA and Section 4975(f)(3) of the Code.

"Project" means each "Project" listed on Schedule 1.1B, including, with respect to such Project, all buildings, structures or improvements erected on the Project Site, all alterations thereto or replacements thereof, all fixtures, attachments, appliances, equipment, machinery and other articles attached thereto or used in connection therewith and all parts that may from time to time be incorporated or installed in or attached thereto, all contracts related thereto, all leases of real or personal property related thereto, all other real and tangible and intangible personal property owned by the Borrower and placed upon the Project Site (or used in connection with the Power Blocks located thereon), the Project Site, the Permits required in connection with (or otherwise related to) such Project, any electrical interconnections and, to the extent not included in the foregoing, all Collateral; provided, however, that any such Project shall cease to be a Project hereunder on its respective Project Discharge Date.

"Project Companies" and "Project Company" shall have the respective meanings given in Schedule 1.1B to this Agreement; provided, however, that any such Project Company shall cease to be a Project Company hereunder on its respective Project Discharge Date.

"Project Company Operating Agreements" and "Project Company Operating Agreement" shall have the respective meanings given in Schedule 1.1B to this Agreement.

"Project Costs" means, in respect of each Project (a) the cost of developing, designing, engineering, equipping, procuring, constructing, starting up, commissioning, acquiring and testing each applicable Project, including the cost of all labor, services, materials, supplies, equipment, tools, transportation, supervision, storage, training, balance of plant contingency, demolition, site preparation, civil works, and remediation in connection therewith, (b) the cost to the applicable Borrower Party of constructing the switching station and feeder lines and substation interconnecting each applicable Project to the applicable transmission system and interconnecting and synchronizing each applicable Project to such system, (c) the cost of acquiring and using any lease, easement and any other necessary interest in each applicable Project Site, (d) real and personal property taxes, ad valorem taxes, sales, use and excise taxes and insurance (including title insurance) premiums payable with respect to each applicable Project during the period prior to COD of such Project (the "Construction Period"), (e) interest payable on any Loans and financing-related fees and costs during the applicable Construction Period (including any and all fees, interest and other amounts payable by the Borrower under this Agreement), (f) the costs of acquiring Permits for each applicable Project during the applicable Construction Period, (g) the cost of establishing a spare parts inventory for each applicable Project (if any), (i) the costs of funding the applicable Construction Account and the DSR Requirement for the purpose of making the payments, applications and distributions further specified under the Depositary Agreement prior to the applicable Construction Loan Maturity Date, (h) other fees (but only fees payable to third parties) and expenses relating to the

construction, acquisition and closing of financing of each applicable Project, including financial, legal and consulting fees, costs and expenses in accordance with the applicable Construction Budget and Schedule, including the permitted variances thereto, (i) initial working capital, and (j) applicable Reimbursable Development Costs; provided, however, that Project Costs shall not include the Deferred Development Fee or the applicable Project and the Initial Project Construction Loan Date Equity Contribution; provided, however, that the total aggregate amount of such Project Costs for each Project shall not exceed the amount set forth on Annex 3 as set forth in respect of the Project Costs for each applicable Project in the applicable Construction Budget and Schedule, including the permitted variances thereto, unless such excess is funded with additional equity contributions from one or more Affiliates of the Borrower (excluding any Borrower Party).

"Project Discharge Date" has the meaning given such term in Section 2.9(f).

"Project LC Issuing Bank" means Mizuho Bank, Ltd., in its capacity as issuing bank of a Project Letter of Credit and any other Lenders which agree to issue Letters of Credit hereunder.

"Project LC Commitment" means the commitment of the Project LC Issuing Bank to issue and continue to make available Project Letters of Credit for each Project and make Project LC Loans to the Borrower in respect of each such Project Letter of Credit, in an aggregate stated or principal amount at any one time not to exceed the amount, expressed as a Dollar amount, set forth under the heading "Project LC Commitment" opposite the Project LC Issuing Bank's name on Schedule 1.1A, as such amount may be reduced from time to time pursuant to Section 2.10 (and, in respect of each Project, as such amount has been allocated to each Project pursuant to Annex 2). The aggregate amount of the Project LC Commitments of the Project LC Issuing Bank on the Signing Date shall be $4,900,000.

"Project LC Facility" has the meaning given to such term in the definition of Facilities.

"Project LC Loan" means any loan made to the Borrower by the Project LC Issuing Bank as a result of a Drawing on a Project Letter of Credit issued by the Project LC Issuing Bank as set forth in Section 2.16(e).

"Project Letter of Credit" means each irrevocable standby letter of credit to be issued pursuant to Section 2.16, for the account of the Borrower by the Project LC Issuing Bank for the benefit of a Material Project Participant, acceptable to the Lenders, in respect of a Borrower Party's obligations under the Material Project Document that such Material Project Participant is a party to, in form and substance acceptable to the Administrative Agent and the Lenders and in a maximum stated amount not to exceed the (i) Project LC Commitment of such Project LC Issuing Bank and (ii) the Project LC Commitment allocated to such Project (as set forth on Annex 2).

"Project Revenues" means all income and cash revenues received by any Borrower Party from the ownership or operation of each applicable Project, including (a) any payments due to any Borrower Party under any Power Purchase Agreement and all other income derived from the sale or use of electric energy, capacity and ancillary services generated by each applicable

Project, (b) all interest earned on Permitted Investments held in the Collateral Accounts, (c) payments due to any Borrower Party (or refunds received by any Borrower Party) under any Material Project Document (including any proceeds from renewable resource credit sales, liquidated damages (excluding Delay Liquidated Damages and Performance Liquidated Damages) and warranty payments due to any Borrower Party under any Material Project Document and any reimbursement of costs provided for under the Interconnection Agreements), (d) Loss Proceeds of any business interruption, delay in startup or other similar insurance maintained by or on behalf of any Borrower Party and (e) all other operating income, however earned or received, by any Borrower Party during such period, provided that Project Revenues shall not include (i) any equity contributions made to the Borrower, whether contributed to the Borrower by Pledgor or an Affiliate thereof or any other Person, (ii) the proceeds of the Loans and (iii) Loss Proceeds (other than proceeds of any business interruption, delay in startup or other similar insurance as set forth above).

"Project Site" means the Real Property on which each applicable Project will be located, which includes, among other things, the real property estates created by the Site Lease Agreements with respect to such Project and all easements and licenses benefitting the Project located thereon.

"Property" means any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

"Proportionate Share" means, with respect to any Facility, and with respect to any Lender under such Facility, the proportion that such Lender's Commitment with respect to such Facility then constitutes of the total Commitments with respect to such Facility (or, at any time after the Commitments with respect to such Facility shall have expired or terminated, the proportion which the aggregate principal amount of such Lender's outstanding Loans with respect to such Facility constitutes of the aggregate outstanding principal amount of the Loans with respect to such Facility).

"Prudent Industry Practices" means, with respect to any Person, those practices, methods, equipment, specifications and standards of safety and performance, as the same may change from time to time, as are commonly used by solar power generation facilities in the United States of America of a type and size similar to the Projects, as good, safe and prudent practices in connection with operation, maintenance, repair, improvement and use of electrical and other equipment, facilities and improvements of such solar power generation facilities, with commensurate standards of safety, performance, dependability, efficiency and economy. Prudent Industry Practices does not necessarily mean one particular practice, method, equipment specification or standard in all cases, but is instead intended to encompass a broad range of acceptable practices, methods, equipment specifications and standards.

"PUHCA 2005" means the Public Utility Holding Company Act of 2005, and FERC's implementing regulations.

"Purchasers" and "Purchaser" have the respective meanings given in Schedule 1.1B of this Agreement.

"Purchaser Guarantors" and "Purchaser Guarantor" have the respective meanings given in Schedule 1.1B of this Agreement.

"PURPA" means the Public Utility Regulatory Policies Act of 1978, and FERC's regulations promulgated thereunder.

"QF" means a qualifying small power production facility pursuant to PURPA and FERC's regulations at 18 C.F.R. Section 292.203(a).

"Real Property" means all right, title and interest of each Borrower Party in and to any and all parcels of real property owned, leased or operated by such Borrower Party together with all improvements and appurtenant fixtures, equipment, personal property, easements and other property and rights incidental to the ownership, lease or operation thereof, including the real property estates created by the Site Lease Agreements.

"REC Agreements" and "REC Agreements" have the respective meanings given in Schedule 1.1B to this Agreement.

"Reduced Commitment" has the meaning given to such term in Section 2.25(b).

"Register" has the meaning given to such term in Section 9.7(b)(iv).

"Regulation D, H, T, U or X" means Regulation D, H, T, U or X of the Board as in effect from time to time.

"Reimbursable Development Costs" means the positive difference if any between any development costs incurred by the Borrower or any Affiliate of the Borrower prior to the Initial Project Construction Loan Date and the Initial Project Construction Loan Date Equity Contribution, for each applicable Project in an amount to be evidenced by the Borrower (to the Administrative Agent's reasonable satisfaction) and certified by the Independent Engineer.

"Release" means any placing, spilling, leaking, seepage, migration, intrusion, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing or depositing into or onto the Environment.

"Reorganization" means with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty (30) day notice period is waived under subsections .27, .28, .29, .30, .31, .32, .34 or .35 of PBGC Reg. § 4043, with respect to a Pension Plan.

"Required Lenders" means at any time the holders of more than 50% of the sum of (i) the aggregate unpaid principal amount of the Construction Loans and LC Loans then outstanding and (ii) the aggregate unused amount of the Commitments then in effect.

"Responsible Officer" means a manager, the president, a vice president or the secretary of the Borrower, but in any event, with respect to financial matters, a manager of the Borrower.

"Restricted Payment" has the meaning given to such term in Section 6.7.

"Revenue Account" has the meaning given to such term in Section 1.1 of the Depositary Agreement.

"Secured Parties" means the Agents, the Lenders, the Issuing Banks and the Depositary Bank.

"Security Agreement" means the Security and Pledge Agreement, dated as of the Initial Project Construction Loan Date for the initial Project, by and between Borrower and the Collateral Agent (for the benefit of the Secured Parties), substantially in the form of Exhibit K to this Agreement, in form and substance acceptable to the Lenders, the Borrower and the Administrative Agent.

"Security Documents" means each Deed of Trust, the Security Agreement, the Pledge Agreement, the Depositary Agreement, each Guaranty, Pledge and Security Agreement, each Guaranty and Security Agreement, the Consents, any agreement entered into with a Tax Equity Investor pursuant to Exhibit F and any other security documents, financing statements and the other instruments filed or recorded in connection with the foregoing, each in form and substance acceptable to the Lenders, the Borrower and the Administrative Agent.

"Shared Facilities Agreements" and "Shared Facilities Agreement" have the respective meanings given in Schedule 1.1B of this Agreement.

"Shared Facilities Agreement Counterparties" and "Shared Facilities Agreement Counterparty" shall have the respective meanings given in Schedule 1.1B of this Agreement .

"Signing Date" means the date when each of the conditions set forth in Section 3.1 has been satisfied (or waived in writing by the Administrative Agent and the Lenders).

"Site Lease Agreements" have the respective meanings given to them in Schedule 1.1B of this Agreement.

"Small Project" means a Project (or all Projects), in each such case, owned by a Project Company that has an expected nameplate capacity to be 2.0 MW dc or less (in the aggregate).

"Solar Resource Consultant" means Leidos, or any successor appointed pursuant to Section 9.9.

"Solvent" when used with respect to any Person, means that, as of any date of determination, (a) the amount of the "present fair saleable value" of the assets of such Person will, as of such date, exceed the amount of all "liabilities of such Person, contingent or otherwise," as of such date, as such quoted terms are determined in accordance with applicable federal and state laws governing determinations of the insolvency of debtors, (b) the present fair saleable value of the assets of such Person will, as of such date, be greater than the amount that will be required to pay the liability of such Person on its debts as such debts become absolute and matured, (c) such Person will not have, as of such date, an unreasonably small amount of capital with which to conduct its business, and (d) such Person will be able to pay its debts as they

mature. For purposes of this definition, (i) "debt" means liability on a "claim," and (ii) "claim" means any (x) right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured or (y) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured or unmatured, disputed, undisputed, secured or unsecured.

"S&P" means Standard and Poor's Rating Services.

"Subject Persons" has the meaning given to such term in Section 7.5.

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

"Substantial Completion" has the meaning given to such term on Schedule 1.1B.

"Substantial Completion Date" means the date when Substantial Completion occurs.

"SunPower Corporation" means SunPower Corporation, a Delaware corporation.

"Swap Agreement" means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower shall be a "Swap Agreement".

"Tax Equity Document" and "Tax Equity Documents," have the respective meanings in Schedule 1.1B of this Agreement.

"Tax Equity Investor" and "Tax Equity Investors," have the respective meanings in Schedule 1.1B of this Agreement.

"Taxes" has the meaning given to such term in Section 2.20(a).

"Title Company" has the meaning given to such term in Schedule 1.1(b).

"Title Policy" means each policy of extended coverage ALTA mortgagee's title insurance (2006 form) issued by the Title Company dated as of the Initial Project Construction Loan Date for the applicable Project (excluding Small Projects and rooftop Projects) in an amount at least equal to the Commitments allocated to such Project (as set forth on Annex 2),

including all amendments thereto, endorsements thereof and substitutions or replacements therefor.

"Transferee" means any Assignee or Participant.

"Transformer Agreements" and "Transformer Agreement" have the respective meanings given on Schedule 1.1B of this Agreement.

"Transformer Suppliers" and "Transformer Supplier" have the meanings given to them in Schedule 1.1B of this Agreement.

"Transmission Consultant" means Leidos, or any successor appointed pursuant to Section 9.9.

"Transmission Utility" has the meanings given on Schedule 1.1B of this Agreement.

"Type" means LIBOR Loans or Base Rate Loans, as applicable, each of which constitutes a Type of Loan.

"UCC" means the Uniform Commercial Code as in effect in the applicable state of jurisdiction.

"Unreimbursed Amount" has the meaning given to such term in Section 2.16(e)(ii).

"U.S. Lender" has the meaning given to such term in Section 2.20(e).

"Warranty Agreements" and "Warranty Agreement" shall have the respective meanings given in Schedule 1.1B to this Agreement.

"Withdrawal Liability" means any liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Title IV of ERISA.

"Write-Down and Conversion Powers" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

1.2 Rules of Interpretation. Except as otherwise expressly provided, the following rules of interpretation shall apply to this Agreement and the other Loan Documents:

(a) The singular includes the plural and the plural includes the singular.

(b) The word "or" is not exclusive. Thus, if a party "may do (a) or (b)", then the party may do either or both. The party is not limited to a mutually exclusive choice between the two alternatives.

(c) A reference to a Governmental Rule includes any amendment or modification to such Governmental Rule, and all regulations, rulings and other Governmental Rules promulgated under such Governmental Rule.

(d) A reference to a Person includes its successors and permitted assigns.

(e) Accounting terms have the meanings given to them by GAAP, as applied by the accounting entity to which they refer. For purposes of determining compliance with any financial covenants contained in this Agreement, any election by the Borrower to measure an item of Indebtedness using fair value (as permitted by Statement of Financial Accounting Standards No. 159 or any similar accounting standard) shall be disregarded and such determination shall be made as if such election had not been made.

(f) The words "include," "includes" and "including" are not limiting.

(g) A reference in a document to an Article, Section, Exhibit, Schedule, Annex or Appendix is to the Article, Section, Exhibit, Schedule, Annex or Appendix of such document unless otherwise indicated. Exhibits, Schedules, Annexes or Appendices to any document shall be deemed incorporated by reference in such document.

(h) References to any document, instrument or agreement (a) shall include all exhibits, schedules and other attachments thereto, (b) shall include all documents, instruments or agreements issued or executed in replacement thereof, and (c) means such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified and supplemented from time to time and in effect at any given time.

(i) The words "hereof," "herein" and "hereunder" and words of similar import when used in any document shall refer to such document as a whole and not to any particular provision of such document.

(j) References to "days" means calendar days, unless the term "Business Days" shall be used. References to a time of day means such time in Los Angeles, California, unless otherwise specified. If the Borrower or any Affiliate of the Borrower is required to perform an action, deliver a document or take such other action by a calendar day and such day is not a Business Day, then the Borrower or such Affiliate shall take such action by the next succeeding "Business Day."

(k) The Loan Documents are the result of negotiations between, and have been reviewed by the Borrower, the Agents, the Issuing Bank, the Depositary Bank and each Lender and their respective counsel. Accordingly, the Loan Documents shall be deemed to be the product of all parties thereto, and no ambiguity shall be construed in favor of or against Borrower, the Agents, the Depositary Bank or any Lender.

ARTICLE 2.

THE CREDIT FACILITIES

2.1 Construction Loan Commitments. Subject to the terms and conditions hereof, each Lender severally agrees to make loans to the Borrower (such loans individually, a "Construction Loan" and collectively, the "Construction Loans") from time to time during the Construction Loan Availability Period for each applicable Project, but not more often than once in a calendar month and no later than the 20th of any calendar month (except for Borrowings of Construction Loans made solely with respect to the payment of the interest under Section 2.13 and the fees under Section 2.6 and except for the first two (2) disbursements, which may be made within the same calendar month), in an aggregate principal amount that will not result in such (i) Lender's Construction Loans exceeding such Lender's Construction Loan Commitment and (ii) Lender's Construction Loans for such Project exceeding the Lender's Construction Loan Commitment allocated to such Project as set forth on Annex 2; provided, however, that the Construction Loan Commitment allocated to such Project as set forth on Annex 2 shall be determined prior to the initial Borrowing of any Construction Loans for such Project based on the debt sizing parameters set forth on Annex 5; provided, further, however, Annex 2 may be updated after the initial Borrowing of any Construction Loan for such Project in accordance with Section 2.25. Each Lender's remaining Construction Loan Commitment allocated to such Project shall be reduced to zero on the earlier of, with respect to such Project, (i) the last Business Day of the applicable Construction Loan Availability Period and (ii) the applicable Construction Loan Maturity Date (for the avoidance of doubt, the amount of the Lenders' remaining Construction Loan Commitment shall not be cancelled and shall be available for re-borrowing under this Section 2.1 for a new Project), all on and subject to the terms and conditions of this Agreement. Notwithstanding anything to the contrary set forth in the prior sentence, for the avoidance of doubt, each Lender's remaining Construction Loan Commitment hereunder for all Projects shall be reduced to zero on the last Business Day of the Construction Loan Availability Period for the last Project. Within such limits, Borrower may from time to time borrow under this Section 2.1 in respect of a Project, prepay the Loans allocated to such Project in whole or in part pursuant to Section 2.7 or Section 2.8, and re-borrow under this Section 2.1 for a new Project, all on and subject to the terms and conditions of this Agreement. The Construction Loans may from time to time be LIBOR Loans or Base Rate Loans, as determined by the Borrower and notified to the Administrative Agent in accordance with Sections 2.2 and 2.11.

2.2 Procedures for Construction Loan Borrowing and Repayment of Construction Loans.

(a) Procedures for Construction Loan Borrowing. The Borrower may borrow under the Construction Loan Commitments allocated to Projects during the applicable Construction Loan Availability Period for such Project on any Business Day (subject to the limitations in Section 2.1) provided that the Borrower shall give the Administrative Agent an irrevocable appropriately completed written notice in the form of Exhibit A-1 (a "Construction Loan Notice of Borrowing"), as applicable, which notice must be received by the Administrative Agent prior to 10:00 A.M., New York time, five (5) Business Days prior to the requested Borrowing date, specifying, among other things: (a) the amount of the requested Borrowing, which shall be in the minimum amount of $1,000,000 (except for the amount made on the Borrower's final requested

Borrowing for such Project) and in whole multiples of $500,000 in excess thereof; (b) the date of the requested Borrowing, which shall be a Business Day, and whether such Borrowing shall consist of Base Rate Loans and/or LIBOR Loans; (c) in the case of LIBOR Loans, the initial Interest Period(s) selected by the Borrower and (d) the Project to which such Borrowing relates. The Construction Loans for a Project made on the Initial Project Construction Loan Date for such Project shall be Base Rate Loans. If the Borrower elects a LIBOR Loan and changes the date of a Borrowing by 10:00 A.M. New York time within three (3) Business Days of the date of such Borrowing, the Borrower shall reimburse the Lenders for Breakage Costs, if any, incurred as a result thereof in accordance with Section 2.21. The Administrative Agent shall promptly, and in any event within two (2) Business Days prior to the requested Borrowing date in the case of LIBOR Loans, notify each Lender of the contents of such notice.

(b) Repayment of Construction Loans. With respect to any Project, the Borrower shall repay to the Lenders on the applicable Construction Loan Maturity Date all outstanding Construction Loans due and payable on such date for such Project. Notwithstanding the above and for the avoidance of doubt, the Borrower shall repay to the Lenders on the Final Maturity Date all outstanding Construction Loans due and payable on such date.

2.3 LC Loans. Subject to the terms and conditions hereof, (a) each DSR Issuing Bank agrees to make DSR LC Loans to the Borrower in respect of each DSR Letter of Credit issued by it in an aggregate principal amount at any one time outstanding which does not exceed an amount equal to the DSR LC Commitment of such DSR LC Issuing Bank (less the Available Amount with respect to, and any unreimbursed Drawings under, such DSR Letters of Credit issued by such DSR LC Issuing Bank), and (b) each Project LC Issuing Bank agrees to make Project LC Loans to the Borrower in respect of the Project Letters of Credit issued by it in an aggregate principal amount at any one time outstanding which does not exceed an amount equal to the Project LC Commitment of such Project LC Issuing Bank (less the Available Amount with respect to, and any unreimbursed Drawings under, such Project Letters of Credit issued by such Project LC Issuing Bank), in each case deemed made in accordance with Section 2.16(e). Each Issuing Bank's LC Commitments for an applicable Project, shall be reduced to zero on the LC Commitment Termination Date for such Project (for the avoidance of doubt, the amount of each Issuing Bank's LC Commitment shall not be cancelled and shall be available for re-issuance under this Section 2.3 for a new Project). Notwithstanding the above and for the avoidance of doubt, each Issuing Bank's LC Commitments allocated to all Projects, shall be reduced to zero on the Final Maturity Date.

2.4 Repayment of LC Loans. With respect to any Project, the Borrower shall repay to the Issuing Banks on the applicable LC Loan Maturity Date all outstanding LC Loans due and payable on such date for such Project. Notwithstanding the above and for the avoidance of doubt, the Borrower shall repay to the Issuing Banks on the Final Maturity Date all outstanding LC Loans due and payable on such date.

2.5 [Intentionally Omitted].

2.6 Fees.

(a) Agent Fees.

(i) On the Signing Date, the Borrower shall pay to the Administrative Agent (for the benefit of the applicable parties to each Agent Fee Agreement and each Other Fee Agreement) the up-front, arranging, participation and structuring fees, in each such case, in the amount set forth in each Agent Fee Agreement and each Other Fee Agreement.

(ii) The Borrower shall pay to the Administrative Agent, Depositary Bank and the Collateral Agent on the Signing Date and on each other date specified in the Agent Fee Agreement entered into by and between the Administrative Agent, Collateral Agent, the Depositary Bank and the Borrower, solely for the account of Administrative Agent, Depositary Bank and the Collateral Agent, as applicable, the fees payable at the times and in the amounts set forth in such Agent Fee Agreement.

(b) Loan Commitment Fees. The Borrower shall pay to the Administrative Agent for the account of each Lender a commitment fee for the period from and including the date hereof until the date on which all Construction Loan Commitments are earlier cancelled or expire pursuant to this Agreement, computed at the Commitment Fee Rate on the unused amount of the Construction Loan Commitment of such Lender for each day during the period for which payment is made, payable in arrears on each Fee Payment Date prior to the Final Discharge Date and on the Final Maturity Date (or, if the Construction Loan Commitments are irrevocably cancelled or expire prior to such date, on the date of such irrevocable cancellation or expiration); provided, however, such commitment fees shall cease to accrue with respect to the Construction Loan Commitment of any Lender for any period during which such Lender is a Defaulting Lender and the Borrower shall not be required to pay any such fees that otherwise would have been required to have been paid to such Lender.

(c) Letter of Credit Commitment Fees. The Borrower shall pay to the Administrative Agent, for the account of each Issuing Bank, a letter of credit commitment fee for the period from and including the date hereof until the date on which all LC Commitments are earlier cancelled or expire pursuant to this Agreement, computed at the Commitment Fee Rate on the unused amount of the LC Commitment of such Issuing Bank during the period for which payment is made, payable in arrears on each Fee Payment Date during such period and on the Final Maturity Date (or, if the LC Commitment of the Issuing Banks are irrevocably cancelled or expires prior to such date, on the date of such irrevocable cancellation or expiration); provided, however, such commitment fees shall cease to accrue with respect to the LC Commitment of any Defaulting Lender for any period during which such Issuing Bank is a Defaulting Lender and the Borrower shall not be required to pay any such fees that otherwise would have been required to have been paid to such Issuing Bank.

(d) Other Letter of Credit Fees. The Borrower shall pay in arrears to the Administrative Agent, for the account of each Issuing Bank, on each Fee Payment Date occurring during the period from and including the date of issuance of each Letter of Credit issued by an Issuing Bank to the Final Discharge Date, a letter of credit fee on the daily aggregate Available Amount with respect to such Letter of Credit outstanding during the period for which payment is made at a rate per annum equal to the Applicable Margin in effect for LIBOR Loans effective for each day in such period.

2.7 Optional Prepayments. Subject to Section 2.9, the Borrower may at any time and from time to time prepay the Loans, in whole or in part, without premium or penalty (except for any Breakage Costs), upon irrevocable notice delivered to the Administrative Agent no later than 10:00 A.M., New York time, three (3) Business Days prior thereto, in the case of LIBOR Loans, and no later than 10:00 A.M., New York time, one (1) Business Day prior thereto, in the case of Base Rate Loans, which notice shall specify the date and amount of prepayment and whether the prepayment is of LIBOR Loans or Base Rate Loans due in connection with such optional prepayment, if applicable (calculated as if the date of such notice were the date of the optional prepayment) setting forth the details of such computation. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof. If any such notice is given, the amount specified in such notice shall be due and payable on the date specified therein, together with accrued interest to such date on the amount prepaid. Partial prepayments of Loans shall be in an aggregate principal amount of $500,000 or a whole multiple thereof.

2.8 Mandatory Prepayments. The Borrower shall make the following mandatory prepayments, without premium or penalty (except for any Breakage Costs):

(a) Upon receipt by any Borrower Party of any Loss Proceeds (unless such Loss Proceeds are applied to, or will be applied to, restoration, replacement or repair of the affected Project in accordance with Section 5.28), in an amount equal to such Loss Proceeds but not to exceed an amount necessary to repay the outstanding principal balance of the Loans (and related Obligations) made with respect to the applicable Project when applied pursuant to Section 2.9 (and any such excess proceeds shall be deposited into the applicable Construction Account for such Project or, if the Distribution Conditions have been satisfied with respect to such Project, shall be distributed pursuant to the instructions of the Borrower given in accordance with the Depositary Agreement);

(b) Other than pursuant to a permitted sale or tax equity financing of a Project, the proceeds of which shall be applied in accordance with Section 2.8(c) and the Depositary Agreement, and the proceeds of any disposition permitted under clauses (i) through (v) of Section 6.4 (which such proceeds shall be deposited in to the applicable Construction Account), upon receipt by any Borrower Party or any of their Affiliates of any net proceeds from the sale or other disposition of Collateral;

(c) Any net proceeds of any payment made by or on behalf of an Tax Equity Investor under the Tax Equity Documents (unless such amounts are required, under the Tax Equity Documents, to be held in escrow prior to the substantial completion of the applicable Project, then, until such proceeds are released) in an amount equal to such proceeds but not to exceed an amount equal to that necessary to repay the outstanding principal balance of the Loans made with respect to the applicable Project when applied pursuant to Section 2.9 (and any such excess proceeds shall be deposited into the applicable Construction Account for such Project or, if the Distribution Conditions have been satisfied with respect to such Project, shall be distributed pursuant to the instructions of the Borrower given in accordance with the Depositary Agreement).

(d) Upon receipt by any Borrower Party of any net proceeds of performance liquidated damages with respect to a Project, in an amount equal to such performance liquidated

damages but not to exceed an amount equal to the outstanding principal balance of the Loans made with respect to the applicable Project when applied pursuant to Section 2.9 (and any such excess proceeds shall be deposited into the applicable Construction Account for such Project or, if the Distribution Conditions have been satisfied with respect to such Project, shall be distributed pursuant to the instructions of the Borrower given in accordance with the Depositary Agreement).

(e) Upon receipt by any Borrower Party of any net proceeds from the (i) issuance of equity securities of such Borrower Party (other than in connection with any capital contributions), or (ii) incurrence of Indebtedness (other than Permitted Indebtedness) by such Borrower Party, in an amount equal to such proceeds.

(f) An amount equal to the difference (if any) between (i) the Construction Loans made to a Project and (ii) the Reduced Commitment allocated to such Project.

(g) In the event of the termination of all of the Commitments in accordance with Section 2.10(a), the Borrower shall on the date of such termination, terminate the Letters of Credit and/or cash collateralize the Letters of Credit in accordance with Section 2.16(o).

(h) As required pursuant to the terms of the Depositary Agreement.

(i) If the Equity Investor shall be required to make an Equity Contribution pursuant to the Equity Contribution Agreement due to the acceleration of the Equity Contributions under the Equity Contribution Agreement following an Event of Default, the Borrower shall prepay Construction Loans with any and all proceeds thereof, promptly upon receipt thereof, in accordance with Section 2.9 and the Equity Contribution Agreement;

2.9 Terms of All Prepayments.

(a) Except as otherwise provided in this Agreement (including Section 2.8 and this Section 2.9), amounts to be applied in connection with mandatory prepayments made pursuant to Section 2.8 shall be applied: first, to any accrued fees, costs, charges or expenses of the Agents under the Loan Documents in connection with such prepayment; second, to any Breakage Costs payable to the Lenders under this Agreement in connection with such prepayment; third, to any accrued but unpaid interest on the Loans being prepaid; and fourth, to the outstanding principal of the Loans being prepaid. Amounts prepaid as mandatory prepayments of Loans may not be re-borrowed in respect of the Project in which the Loan was made.

(b) All prepayments of Loans shall be applied among the Lenders according to their respective Proportionate Shares of the Loans being repaid at the time of the applicable prepayment.

(c) The application of any prepayment pursuant to Sections 2.7 and 2.8 shall be (i) made first to Base Rate Loans and second to LIBOR Loans, in each case pro rata among such Base Rate Loans or LIBOR Loans, as applicable, and (ii) applied in inverse order of maturity, except for prepayments made under Sections 2.8(d) or (f), which shall be applied on a pro rata basis to maturities.

(d) Upon the prepayment of any Loan (whether such prepayment is an optional prepayment or a mandatory prepayment), the Borrower shall pay to the Administrative Agent for the account of each Lender which made such Loan (i) all accrued interest to the date of such prepayment owed pursuant to the terms of this Agreement on the amount prepaid; (ii) all accrued fees to the date of such prepayment owed pursuant to the terms of this Agreement corresponding to the amount being prepaid; and (iii) if such prepayment is the prepayment of a LIBOR Loan on a day other than the last day of an Interest Period for such LIBOR Loan, all Breakage Costs incurred by such Lender as a result of such prepayment. Loans prepaid or repaid may not be re-borrowed with regard to the Project such Loan was originally made in respect of.

(e) In no event shall any mandatory or optional prepayments be funded from the proceeds of any Loan.

(f) Upon the repayment in full of the Loans allocated to a Project (and all related Obligations), the return of any issued Letters of Credit in respect of such Project to the Issuing Bank and the written request of the Borrower to terminate any Commitment allocated to such Project (the "Project Discharge Date"), the Administrative Agent, Collateral Agent, Lenders and the Issuing Bank agree to release from the Collateral any Lien granted by such Project Company in such Project Company's assets, any Lien granted by the owner of such Project Company in the membership interests in such Project Company, and any Lien granted by the owner of the applicable Holdco in the membership interests in such Holdco (to the extent Holdco solely owned such Project Company). The parties hereto agree to amend this Agreement and the Security Agreement (to remove the pledge of any relevant Holdco, if applicable) as necessary to reflect the removal of the Collateral permitted pursuant to this Section 2.9(f), in addition, upon the removal of the Collateral related to a Project as permitted above, all terms in Schedule 1.1B related to such Project shall be deemed to have been removed from this Agreement.

(g) In connection with any Project Discharge Date, excluding any Project Discharge Date occurring from and after the date a Project reaches COD, the Borrower shall obtain the prior written consent from the Administrative Agent and the Lenders prior to removing, in the aggregate, Projects from the Collateral in excess of 10% of the total expected aggregate nameplate capacity of all Projects that have been allocated Loans and Commitments hereunder as of such date, as calculated by the Administrative Agent; provided, however, that such consent shall not be required if, during the existance of a Default or Event of Default, all of the outstanding Obligations relating to all defaulted Projects are prepaid.

2.10 Termination or Reduction of Commitments.

(a) The Borrower shall have the right to irrevocably terminate the Commitments in full in connection with a prepayment of all the outstanding Loans in accordance with Sections 2.7 or 2.8.

(b) The Borrower shall have the right, upon not less than three (3) Business Days' notice to the Administrative Agent, to irrevocably terminate, or from time to time reduce, any of the Construction Loan Commitments; provided that (i) each reduction of such Construction Loan Commitments (other than a Construction Loan Commitment reduction to zero) shall be in an amount that is an integral multiple of $500,000 and not less than $1,000,000 (or if less, the

remaining amount of such Construction Loan Commitments), (ii) the Borrower shall not terminate or reduce the Construction Loan Commitments that has been allocated to a Project under Annex 2 unless, after giving effect thereto, the remaining unused amount of the Construction Loan Commitments allocated to such Project, the amount of the Equity Commitment allocated to such Project and any other cash in the Construction Account allocated to such Project or the Loss Proceeds Account allocated to such Project is sufficient to fund all Project Costs (together with Punch List Items) projected to be incurred from the date of such irrevocable termination or reduction of such Construction Loan Commitments for such Project through Final Completion of such Project, as certified to the Lenders by the Borrower and confirmed by the Independent Engineer and (iii) no such termination or reduction would reasonably be expected to cause a Default or Event of Default. Any such termination or reduction of the Construction Loan Commitments set forth in this Section 2.10 shall permanently reduce the Construction Loan Commitments.

(c) The Borrower shall have the right, upon not less than three (3) Business Days' notice to the Administrative Agent and the applicable Issuing Bank and Lender, to irrevocably terminate, or from time to time irrevocably reduce, any of the LC Commitments; provided that (i) each reduction of the LC Commitments shall be in an amount that is an integral multiple of $500,000 and not less than $1,000,000 (or, if less, the remaining amount of the applicable LC Commitments), (ii) the Borrower shall not terminate or reduce the DSR LC Commitments unless, after giving effect thereto, the DSR Requirement shall be satisfied in accordance with the Depositary Agreement and (iii) the Borrower shall not terminate or reduce the Project LC Commitments unless it has demonstrated to the satisfaction of the Administrative Agent that, after giving effect to such termination or reduction, all of the collateral, support and similar requirements then in effect under the Material Project Documents are satisfied. Any such termination or reduction in the LC Commitments shall permanently and irrevocably reduce the applicable LC Commitments then in effect.

2.11 Conversion and Continuation Options. (a) The Borrower may elect from time to time to convert LIBOR Loans to Base Rate Loans by delivering to the Administrative Agent an irrevocable written notice in the form of Exhibit A-3 (a "Notice of Conversion or Continuation") no later than 10:00 A.M., New York time, on the Business Day preceding the proposed conversion date, provided that any such conversion of LIBOR Loans may only be made on the last day of an Interest Period with respect thereto. The Borrower may elect from time to time to convert Base Rate Loans to LIBOR Loans by delivering to the Administrative Agent an irrevocable Notice of Conversion or Continuation no later than 10:00 A.M., New York time, on the third Business Day preceding the proposed conversion date (which notice shall specify the length of the initial Interest Period therefor), provided that no Base Rate Loan may be converted into a LIBOR Loan when any Event of Default has occurred and is continuing and the Administrative Agent or the Required Lenders have determined in its or their sole discretion not to permit such conversions. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.

(b) Any LIBOR Loan may be continued as such upon the expiration of the then current Interest Period with respect thereto by the Borrower delivering to the Administrative Agent an irrevocable Notice of Conversion or Continuation, in accordance with the applicable provisions of the term "Interest Period" set forth in Section 1.1, of the length of the next Interest

Period to be applicable to such Loans, provided that no LIBOR Loan may be continued as such when any Event of Default has occurred and is continuing and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuations, and provided, further, that if the Borrower shall fail to give any required notice as described above in this paragraph or if such continuation is not permitted pursuant to the preceding proviso such Loans shall be automatically converted to Base Rate Loans on the last day of such then expiring Interest Period. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.

2.12 Limitations on LIBOR Rate Tranches. Notwithstanding anything to the contrary in this Agreement, absent the consent of the Administrative Agent all borrowings, conversions and continuations of LIBOR Loans and all selections of Interest Periods shall be in such amounts and be made pursuant to such elections so that, (a) after giving effect thereto, the aggregate principal amount of the LIBOR Loans comprising each LIBOR Rate Tranche shall be equal to $5,000,000 or a whole multiple of $100,000 in excess thereof and (b) no more than six (6) LIBOR Rate Tranches shall be outstanding at any one time.

2.13 Interest Rates and Payment Dates.

(a) Each LIBOR Loan shall bear interest for each day during each Interest Period with respect thereto at a rate per annum equal to the LIBOR Rate determined for such day plus the Applicable Margin.

(b) Each Base Rate Loan shall bear interest at a rate per annum equal to the Base Rate plus the Applicable Margin.

(c) (i) If all or a portion of the principal amount of any Loan shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum equal to the rate that would otherwise be applicable thereto pursuant to the foregoing provisions of this Section plus 2%, and (ii) if all or a portion of any interest payable on any Loan or any commitment fee or other amount payable hereunder shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum equal to the rate then applicable to Base Rate Loans plus 2%, in each case, with respect to clauses (i) and (ii) above, from the date of such nonpayment until such amount is paid in full (as well after as before judgment) (such applicable rate, the "Default Rate").

(d) Interest shall be payable in arrears on each Interest Payment Date, provided that interest accruing pursuant to paragraph (c) of this Section shall be payable from time to time on demand.

2.14 Computation of Interest and Fees. (a) Interest and fees payable pursuant hereto shall be calculated on the basis of a 360-day year for the actual days elapsed, except that, with respect to Base Rate Loans the rate of interest on which is calculated on the basis of the Prime Rate, the interest thereon shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of each determination of a LIBOR Rate. Any change in

the interest rate on a Loan resulting from a change in the Base Rate or the LIBOR Reserve Requirements shall become effective as of the opening of business on the day on which such change becomes effective. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of the effective date and the amount of each such change in interest rate.

(b) Each determination of an interest rate by the Administrative Agent pursuant to any provision of this Agreement shall be conclusive and binding on the Borrower and the Lenders in the absence of manifest error. The Administrative Agent shall, at the request of the Borrower, deliver to the Borrower a statement showing the quotations used by the Administrative Agent in determining any interest rate pursuant to Section 2.13(a).

2.15 Promissory Notes. The obligation of the Borrower to repay the Construction Loans made by each Lender and to pay interest thereon at the rates provided herein shall, if requested by such Lender, be evidenced by Construction Loan promissory notes in the form of Exhibit C-1 (individually, a "Construction Loan Note" and, collectively, the "Construction Loan Notes"), each payable to such Lender or its registered successors or assigns and in the principal amount of such Lender's Construction Loan Commitment. The obligation of the Borrower to repay the LC Loans made by each Issuing Bank or Lender, as applicable, and to pay all interest thereon at the rates provided herein shall if requested by such Issuing Bank or Lender, as applicable, be evidenced by an LC Loan promissory note substantially in the form of Exhibit C-2 (the, "LC Loan Note"), payable to such Issuing Bank or Lender, as applicable or its registered successors or assigns and in the principal amount of such Lender's LC Commitment. The LC Loan Notes shall be delivered to each applicable Issuing Bank or Lender, as applicable, on the Initial Project Construction Loan Date.

2.16 Letters of Credit.

(a) LC Commitment.

(i) Subject to the terms and conditions hereof, including Section 3.4, from time to time on any Business Day during the period from the Signing Date until no later than thirty (30) days prior to the LC Commitment Termination Date;

(A) Each DSR Issuing Bank agrees to issue each DSR Letter of Credit for each Project, for the account of the Borrower, on the date the applicable Project for which such DSR Letter of Credit is being issued reaches COD, in the maximum stated amount equal to such DSR LC Commitment allocated to such Project set forth on Annex 2 of each DSR Issuing Bank issuing such DSR Letter of Credit; and

(B) the Project LC Issuing Bank agrees to issue each Project Letter of Credit for each Project, for the account of the Borrower, as and when requested by the Borrower in the maximum stated amount equal to the Project LC Commitment allocated to such Project set forth on Annex 2 of the Project LC Issuing Bank issuing such Project LC Letter of Credit.

(ii) Each Letter of Credit shall (A) be denominated in Dollars; (B) expire no later than the earlier of (1) twelve (12) months from the date of issuance of such Letter of Credit and (2) the date that is seven (7) Business Days prior to the applicable LC Commitment Termination Date for such Project in respect of which such Letter of Credit relates; provided that each Letter of Credit shall provide for renewal, in the sole discretion of and on terms acceptable to the applicable Issuing Bank. for one (1) or more additional twelve 12 month periods (which in no event shall extend beyond the applicable LC Commitment Termination Date for such Project in respect of which such Letter of Credit relates) and provided that Goldman Sachs Bank USA shall not be required to have outstanding more than ten (10) Letters of Credit and notwithstanding anything herein to the contrary, shall not be obligated to issue any commercial or trade (as opposed to standby) Letter of Credit and (C) provided that, in respect of each DSR Letter of Credit issued in respect of a Project by each DSR Issuing Bank, the Administrative Agent shall draw on each such DSR Letter of Credit issued for each such Project and available to be drawn on a pro rata basis among all such DSR Letters of Credit that are outstanding for such Project at such time based on the DSR LC Commitment allocated to each such DSR Issuing Bank in regards to such Project. Each Letter of Credit shall provide that the available amount thereunder shall be irrevocably reduced by each Drawing made by the applicable beneficiary pursuant to such Letter of Credit (such amount for each such Letter of Credit, as so reduced from time to time, outstanding at any time, the "Available Amount"), subject to Section 2.16(m) in the case of Letters of Credit issued for subsequent Projects. Each Issuing Bank shall promptly notify the Administrative Agent, and the Administrative Agent shall promptly notify the Lenders, of any changes in the Available Amount of the Letter of Credit issued by it or the expiration date of any Letter of Credit; provided, however, that the failure to give such notice, or notice of a Drawing, shall not limit or impair the rights of such Issuing Bank hereunder and under the Loan Documents.

(iii) No Issuing Bank shall at any time be obligated to issue any Letter of Credit if such issuance would conflict with, or cause such Issuing Bank to exceed any limits imposed by, any applicable Governmental Rule or if the issuance of such Letter of Credit would violate one or more policies of the Issuing Bank now or hereafter applicable to letters of credit generally.

(b) Procedure for Issuance of Letters of Credit. The Borrower may request that an Issuing Bank issue the applicable Letter of Credit by delivering to such Issuing Bank and the Administrative Agent, at the applicable addresses for notices specified herein, a LC Issuance Notice, substantially in the form of Exhibit G, and a letter of credit application in such Issuing Bank's standard form in connection with any request for a letter of credit, completed to the satisfaction of such Issuing Bank, and such other certificates, documents and other papers and information as such Issuing Bank may request. Upon receipt of such LC Issuance Notice and such application and the satisfaction of the conditions precedent in Section 3.3 and Section 3.4 in respect of such Project, such Issuing Bank will process such application and the certificates, documents and other papers and information delivered to it in connection therewith in accordance with its customary procedures and shall promptly issue such Letter of Credit requested thereby (but in no event shall such Issuing Bank be required to issue such Letter of Credit earlier than three (3) Business Days after its receipt of the LC Issuance Notice and

application therefor and all such other certificates, documents and other papers and information relating thereto) by issuing the original of such Letter of Credit to the beneficiary thereof or as otherwise may be agreed to by such Issuing Bank and the Borrower. Each Issuing Bank shall furnish a copy of the Letter of Credit issued by it to the Borrower and the Administrative Agent promptly following the issuance thereof. Such Issuing Bank shall promptly furnish to the Administrative Agent, which shall in turn promptly furnish to the Lenders, notice of the issuance of such Letter of Credit.

(c) Fees and Other Charges. In addition to the fees payable pursuant to Section 2.6, the Borrower shall pay or reimburse each Issuing Bank for such normal and customary costs and expenses as are incurred or charged by such Issuing Bank in issuing, negotiating, effecting payment under, amending or otherwise administering the Letter of Credit issued by it.

(d) Drawings. In the event that a Drawing is made on any Letter of Credit on or prior to the applicable LC Commitment Termination Date, (i) the applicable Issuing Bank shall promptly notify the Borrower and the Administrative Agent, and the Administrative Agent shall notify the Lenders, of such Drawing, and (ii) any payment by such Issuing Bank of such Drawing shall, to the extent provided in Section 2.16(e) below, constitute the making by such Issuing Bank of a LC Loan to the Borrower in the amount of such Drawing. In such event, any Issuing Bank making a LC Loan shall be entitled to the same rights and remedies in respect of such LC Loans as any Lender that has made a Construction Loan has in respect of such Construction Loans hereunder. All such LC Loans made with respect to Drawings under the related Letter of Credit under this Section 2.16 shall be secured by the Security Documents as if made directly to the Borrower.

(e) Reimbursement Obligation of the Borrower.

(A) If a Drawing is paid under any Letter of Credit, the Borrower shall reimburse the applicable Issuing Bank for the amount of such Drawing so paid by paying to the Issuing Bank an amount equal to such Drawing in Dollars, no later than 3:00 p.m., New York City time, on the Business Day immediately following the date the Borrower receives notice thereof, subject to this Section 2.16(e). So long as no Event of Default has occurred and is continuing, if any Drawing is paid under any Letter of Credit issued by the related Issuing Bank, the payment by such Issuing Bank of such Drawing shall constitute the making of a DSR LC Loan or Project LC Loan, as applicable, by such Issuing Bank to the Borrower in the amount of such Drawing, and to the extent so financed, the Borrower's Reimbursement Obligations shall be discharged and replaced by the resulting LC Loans. In addition, regardless of whether a DSR LC Loan or Project LC Loan is made, the Borrower shall reimburse such Issuing Bank for any taxes, fees, charges or other costs or expenses incurred by such Issuing Bank in connection with the payment of any such Drawing not later than 12:00 Noon, New York City time, on (i) the Business Day that the Borrower receives notice of such Drawing, if such notice is received on such day prior to 10:00 A.M., New York City time, or (ii) if clause (i) above does not apply, the Business Day immediately following the day that the Borrower receives such notice. Each such payment shall be made to the applicable Issuing Bank at its address for notices referred to herein in

Dollars and in immediately available funds. Interest shall be payable on any LC Loans made by any Issuing as a result of any Drawing from the date on which the relevant Drawing is paid until payment in full.

(B) If the Borrower fails to reimburse the Issuing Bank for any payment made by any Issuing Bank for any Drawing (other than the funding of such Drawing with LC Loans as contemplated above) such payment shall not constitute a Loan and shall not relieve the Borrower of its Reimbursement Obligations with respect to such Drawing (the "Unreimbursed Amount") except to the extent such Drawing is funded with an LC Loan.

(f) Obligations Absolute. The Borrower's obligations under this Section 2.16 shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment that the Borrower may have or have had against any Issuing Bank, the beneficiary of any Letter of Credit or any other Person or the occurrence or continuance of a Default or Event of Default. The Borrower also agrees with the Issuing Banks that the Issuing Banks shall not be responsible for, and the Borrower's Reimbursement Obligations shall not be affected by, among other things, the validity or genuineness of documents (including, without limitation, any Letter of Credit or this Agreement or any other Loan Document) or of any endorsements thereon, even though such documents shall in fact prove to be invalid, fraudulent or forged, or any dispute between or among the Borrower and any beneficiary of any Letter of Credit or any other party to which any Letter of Credit may be transferred or any claims whatsoever of the Borrower against any beneficiary of any Letter of Credit or any such transferee. No Issuing Bank shall be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with the related Letters of Credit, except for errors or omissions found by a final and non-appealable decision of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Issuing Bank. The Borrower agrees that any action taken or omitted by any Issuing Bank under or in connection with the related Letter of Credit or the related drafts or documents, if done in the absence of gross negligence or willful misconduct, shall be binding on the Borrower and shall not result in any liability of any Issuing Bank to the Borrower.

(g) Letter of Credit Payments. If any draft shall be presented for payment under any Letter of Credit, the applicable Issuing Bank shall promptly notify the Borrower of the date and amount thereof. The responsibility of any Issuing Bank to the Borrower in connection with any draft presented for payment under the applicable Letter of Credit shall, in addition to any payment obligation expressly provided for in such Letter of Credit, be limited to determining that the documents (including each draft) delivered under the such Letter of Credit in connection with such presentment are substantially in conformity with the such Letter of Credit.

(h) Applications. To the extent that any provision of any letter of credit application or other agreement submitted by the Borrower to, or entered into with, any Issuing Bank related to the applicable Letter of Credit is inconsistent with the provisions of this Agreement, the provisions of this Agreement shall control.

(i) LC Loan Interest. The Borrower shall pay interest with respect to all LC Loans resulting from all Drawings pursuant to Section 2.13; provided, however, upon the occurrence of any Drawing, the Borrower shall be deemed to have elected the interest rate based on the then-applicable Base Rate. Thereafter, LC Loans may from time to time be LIBOR Loans or Base Rate Loans, as determined by the Borrower and notified to the Administrative Agent in accordance with Section 2.11.

(j) Interim Interest. If any Issuing Bank shall make any payment in respect of a Drawing, then, unless the Borrower shall reimburse such Drawing in full on the date such Drawing is made, the unpaid amount thereof shall bear interest, for each day from and including the date such Drawing is made to but excluding the date that the Borrower reimburses such Drawing (including by the making of an LC Loan), at the rate per annum then applicable to Base Rate Loans; provided that if such Drawing is not reimbursed by the Borrower when due pursuant to Section 2.16(e), then Section 2.13(c) shall apply. Interest accrued pursuant to this paragraph shall be for the account of the applicable Issuing Bank.

(k) Return of Letters of Credit. On the day that any Letter of Credit expires by its terms, the Borrower shall cause the original of such Letter of Credit to be returned by the applicable beneficiary to such Issuing Bank.

(l) Modifications and Supplements. The issuance by an Issuing Bank of any modification or supplement to any Letter of Credit (other than a reduction or release thereof or as contemplated by Section 2.16(m)) in accordance with this Agreement shall be subject to the same conditions as are applicable under this Section 2.16 and Section 3.4 to the issuance of new Letters of Credit, and no such modification or supplement shall be issued hereunder unless either (i) the respective Letter of Credit affected thereby would have complied with such conditions had it originally been issued hereunder in such modified or supplemented form or (ii) the applicable Issuing Bank shall have consented thereto.

(m) Adjustments to Amounts Available for Drawing. To the extent that any time prior to November 4, 2020 (i) any Letter of Credit issued for a Project is (A) returned by the Beneficiary thereof and requested to be cancelled by the Beneficiary thereof; (B) expires by its terms or (C) drawn and then such resulting Reimbursement Obligation or LC Loan, as applicable, is fully repaid, then, in each such case, the LC Commitment of the Issuing Bank and the Lenders shall be increased (aa) by the stated amount of such cancelled or returned LC and (bb) by the amount of the Reimbursement Obligations paid or LC Loans paid, in each such case, by the Borrower. After such LC Commitment is increased, such LC Commitment shall be available to be allocated by the Borrower to new Projects pursuant to and in accordance with the terms hereof.

(n) Resignation as Issuing Bank. Any Issuing Bank may, upon thirty (30) days' notice to the Administrative Agent, the Lenders and the Borrower, resign as an Issuing Bank. In the event of any such resignation as an Issuing Bank, Borrower shall be entitled to appoint from among the Lenders a successor Issuing Bank hereunder; provided, however, that no failure by Borrower to appoint any such successor shall affect the resignation of any Issuing Bank. When an Issuing Bank resigns as an Issuing Bank, it shall retain all of the rights, powers, privileges and duties of an Issuing Bank hereunder with respect to all Letters of Credit

that it issued, including Letters of Credit outstanding as of the effective date of its resignation as Issuing Bank and all LC Obligations with respect thereto. Upon the appointment of a successor Issuing Bank by the Borrower, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the resigning Issuing Bank as the case may be, (b) the successor Issuing Bank shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the applicable Issuing Bank to effectively assume the obligations of such Issuing Bank with respect to such Letters of Credit and (c) the resigning Issuing Bank shall assign its LC Commitment to issue Letters of Credit to such successor Issuing Bank.

(o) Cash Collateralization. In the event that:

(i) any Event of Default shall occur and be continuing, (i) in the case of an Event of Default described in Section 7.5 on the Business Day or (ii) in the case of any other Event of Default, on the third Business Day, following the date on which the Borrower receives notice from the Administrative Agent on behalf of the Issuing Bank demanding the deposit of cash collateral pursuant to Section 7, the Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Issuing Banks, an amount in cash equal to the sum of (A) 105% of the total Available Amounts of the Letters of Credit and LC Obligations as of such date plus (B) any accrued and unpaid interest thereon (the "Cash Collateral"); provided that, upon the occurrence of any Event of Default with respect to the Borrower described in Section 7.5, the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable in Dollars, without demand or other notice of any kind. The Borrower also shall deposit cash collateral pursuant to this paragraph as and to the extent required by Section 2.8. Each such deposit pursuant to this paragraph or pursuant to Section 2.8 shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. The Borrower hereby grants to the Administrative Agent, for the benefit of each Issuing Bank, and agrees to maintain, a first priority security interest in all such Cash Collateral as security and the Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of (i) for so long as an Event of Default shall be continuing, the Administrative Agent and (ii) at any other time, the Borrower, in each case, in Permitted Investments and at the risk and expense of the Borrower, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the applicable Issuing Banks for payments in respect of Drawings for which such Issuing Banks has not been repaid and, to the extent not so applied, shall be held for the satisfaction of the Reimbursement Obligations of the Borrower in respect of the applicable Letters of Credit at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of the Required Lenders in accordance with Section 7.18), be applied to satisfy other obligations of the Borrower under this Agreement. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an

Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three (3) Business Days after all Events of Default have been cured or waived. If the Borrower is required to provide an amount of cash collateral pursuant to Section 2.8, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower as and to the extent that, after giving effect to such return, the Borrower would remain in compliance with Section 2.8 and no Event of Default shall have occurred and be continuing.

(p) Letters of Credit Issued for Borrower Parties. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of a Borrower Party, subject to Section 2.16(e), Borrower shall be obligated to reimburse the applicable Issuing Bank hereunder for any and all Drawings under such Letter of Credit. The Borrower Party and the Pledgors acknowledge that the issuance of Letters of Credit in support of the obligations of the Borrower Parties inures to the benefit of the Borrower and such Pledgor and the Borrower's business derives substantial benefits from the businesses of such Borrower Parties.

(q) Applicability of ISP. Unless otherwise expressly agreed by the applicable Issuing Bank and Borrower, when a Letter of Credit is issued or when it is amended with the consent of the beneficiary thereof, the rules of the ISP shall apply to each standby Letter of Credit and as to all matters not governed thereby, the law of the State of New York. Notwithstanding the foregoing, no Issuing Bank shall be responsible to the Borrower for, and each Issuing Bank's rights and remedies against Borrower shall not be impaired by, any action or inaction of such Issuing Bank or permitted under any law, order or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the law or any order of a jurisdiction where such Issuing Bank or the beneficiary is located, the practice stated in the ISP, or in the decisions, opinions, practice statements or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade-International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(r) The effectiveness of any non-renewal, cancellation or non-issuance of any Letter of Credit pursuant to Sections 2.16(a)(ii) or 2.16(a)(iii) shall be conditioned upon the delivery of at least 90-days advance written notice (or shorter advance written notice if it relates to non-issuance) from the relevant Issuing Bank of the relevant Letter of Credit to the Borrower regarding the same (an "LC Notice"). In the event that any Issuing Bank has delivered an LC Notice, the Borrower shall have the right to replace the Issuing Bank pursuant to the terms of this paragraph (r). In the event that the Borrower elects to exercise its rights to replace the Issuing Bank, it shall first deliver a notice to the relevant Issuing Bank then party to this Agreement requesting that one of the other existing Lenders replace the terminating Issuing Bank of the relevant Letter of Credit, as may be the case. If an existing Lender agrees to replace the such Issuing Bank on the same terms as those provided by the Issuing Bank of the relevant Letter of Credit being replaced, then the Issuing Bank of the relevant Letter of Credit being replaced shall assign, and such existing other Lender shall accept, the assignment of the role of the Issuing Bank of the relevant Letter of Credit and related LC Obligations together with all (and not less than all) of the LC Commitments held by such Issuing Bank pursuant to documentation reasonably acceptable to the parties to such assignment and the Borrower. If no existing Lender

has agreed to replace such Issuing Bank of the relevant Letter of Credit within 30 days of such request by the Borrower, then the Borrower may elect to have a financial institution that is not an existing Lender replace the terminating Issuing Bank of the relevant Letter of Credit through an assignment by the Issuing Bank of its LC Commitments and Letters of Credit in accordance with this Agreement (however, no consent of the Administrative Agent shall be required) and the Issuing Bank of the relevant Letter of Credit being replaced shall assign all (and not less than all) of its LC Commitments and Letters of Credit pursuant to documentation reasonably acceptable to the parties to such assignment.

2.17 General Loan Funding Terms; Pro Rata Treatment and Payments.

(a) (i) Each Notice of Borrowing and notice of conversion of Loans shall be delivered to the Administrative Agent in accordance with the notice provisions of Section 9.2. The Administrative Agent shall promptly notify each Lender of the contents of such notices.

(ii) No later than 1:00 P.M., New York time, on a date of a requested Borrowing set forth in a timely delivered Notice of Borrowing, if the applicable conditions precedent listed in Section 3.1, Section 3.2 and Section 3.3 have been satisfied or waived, each Lender shall make available the Loans, as applicable, requested in the Notice of Borrowing in Dollars and in immediately available funds, and shall deposit such funds into the Construction Account for the applicable Project for immediate application pursuant to the Depositary Agreement.

(iii) [Intentionally Omitted].

(b) Each Borrowing by the Borrower from the Lenders hereunder and each payment by the Borrower on account of any commitment fee shall be made pro rata according to the respective Proportionate Shares of such Loans, as the case may be, of the relevant Lenders.

(c) Each payment (except as otherwise set forth in Sections 2.7, 2.8 and 2.9) by the Borrower on account of principal of and interest on the Construction Loans shall be made pro rata according to the respective outstanding principal amounts of such Loans then held by the Lenders.

All payments (including prepayments) to be made by the Borrower hereunder, whether on account of principal, interest, fees or otherwise, shall be made without setoff or counterclaim and shall be made prior to 10:00 A.M., New York time, on the due date thereof to the Administrative Agent for the account of each Agent and each Lender and each Issuing Bank (as the case may be) at its account identified in Annex 1 from time to time, in Dollars and in immediately available funds. The Administrative Agent shall distribute such payments to each relevant Person promptly upon receipt in like funds as received, net of any amounts owing by such Lender pursuant to Section 9.8. If any payment hereunder (other than payments on the LIBOR Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day. In the case of any extension of any payment of principal pursuant to the preceding sentence or the definition of Interest Period, interest thereon shall be payable at the then applicable rate during such extension.

(d) Unless the Administrative Agent shall have been notified in writing by any Lender prior to a Borrowing that such Lender will not make the amount that would constitute its share of such Borrowing available to the Administrative Agent, the Administrative Agent may assume that such Lender is making such amount available to the Administrative Agent, and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower a corresponding amount. If such amount is not made available to the Administrative Agent by the required time on the Borrowing date therefor, such Lender shall pay to the Administrative Agent, on demand, such amount with interest thereon, at a rate equal to the greater of (i) the Federal Funds Effective Rate and (ii) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, for the period until such Lender makes such amount immediately available to the Administrative Agent. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this paragraph shall be conclusive in the absence of manifest error. If such Lender's share of such borrowing is not made available to the Administrative Agent by such Lender within three (3) Business Days after such Borrowing date, the Administrative Agent shall also be entitled to recover such amount with interest thereon at the rate per annum applicable to Base Rate Loans, on demand, from the Borrower.

(e) Unless the Administrative Agent shall have been notified in writing by the Borrower prior to the date of any payment due to be made by the Borrower hereunder that the Borrower will not make such payment to the Administrative Agent, the Administrative Agent may assume that the Borrower is making such payment, and the Administrative Agent may, but shall not be required to, in reliance upon such assumption, make available to the Lenders their respective pro rata shares of a corresponding amount. If such payment is not made to the Administrative Agent by the Borrower within three (3) Business Days after such due date, the Administrative Agent shall be entitled to recover, on demand, from each Lender to which any amount which was made available pursuant to the preceding sentence, such amount with interest thereon at the rate per annum equal to the daily average Federal Funds Effective Rate. Nothing herein shall be deemed to limit the rights of the Administrative Agent or any Lender against the Borrower.

(f) If any Lender shall fail to make any payment required to be made by it pursuant to Sections 2.17(d), 2.17(e) or 9.8, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision of this Agreement), apply any amounts thereafter received by the Administrative Agent or the Issuing Banks for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid, provided, for the avoidance of doubt, notwithstanding the application of amounts received from the Borrower (including in respect of Debt Service, interest payments, fee payments or other obligations) to satisfy such Lender's obligations, the receipt of payments from the Borrower will credit the obligations of the Borrower so paid.

2.18 Inability to Determine Interest Rate. If prior to the first day of any Interest Period:

(a) the Administrative Agent shall have determined (which determination shall be conclusive and binding upon the Borrower) that, by reason of circumstances affecting the

relevant market, adequate and reasonable means do not exist for ascertaining the LIBOR Rate for such Interest Period, or

(b) the Administrative Agent shall have received notice from the Required Lenders that the LIBOR Rate determined or to be determined for such Interest Period will not adequately and fairly reflect the cost to such Lenders (as certified by such Lenders) of making or maintaining their affected Loans during such Interest Period, the Administrative Agent shall give telecopy or telephonic notice thereof to the Borrower and the relevant Lenders as soon as practicable thereafter. If such notice is given (x) any LIBOR Loans requested to be made on the first day of such Interest Period shall be made as Base Rate Loans, (y) any Loans that were to have been converted on the first day of such Interest Period to LIBOR Loans shall be continued as Base Rate Loans and (z) any outstanding LIBOR Loans shall be converted, on the last day of the then-current Interest Period, to Base Rate Loans. Until such notice has been withdrawn by the Administrative Agent (at the direction or with the consent of such notifying Lenders), no further LIBOR Loans shall be made or continued as such, nor shall the Borrower have the right to convert Loans to LIBOR Loans.

2.19 Legal Requirements. (a) If the adoption of or any change in any Legal Requirement or in the interpretation or application thereof or compliance by any Lender with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority made subsequent to the date hereof:

(i) shall subject any Lender to any Tax of any kind whatsoever with respect to this Agreement, the Letters of Credit, any application with respect to the Letters of Credit or any LIBOR Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for Non-Excluded Taxes covered by Section 2.20 and changes in the net income tax rate, franchise tax rate or branch profits tax rate of such Lender);

(ii) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans or other extensions of credit by, or any other acquisition of funds by, any office of such Lender that is not otherwise included in the determination of the LIBOR Rate; or

(iii) shall impose on such Lender any other condition;

and the result of any of the foregoing is to increase the cost to such Lender, by an amount that such Lender deems to be material, of making, converting into, continuing or maintaining LIBOR Loans or issuing the Letters of Credit, or to reduce any amount receivable hereunder in respect thereof, then, in any such case, the Borrower shall promptly pay such Lender, upon its demand, any additional amounts necessary to compensate such Lender for such increased cost or reduced amount receivable. If any Lender becomes entitled to claim any additional amounts pursuant to this paragraph, it shall promptly notify the Borrower (with a copy to the Administrative Agent) of the event by reason of which it has become so entitled.

(b) If any Lender shall have determined that the adoption of or any change in any Legal Requirement regarding capital adequacy or in the interpretation or application thereof or compliance by such Lender or any corporation controlling such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) from any Governmental Authority made subsequent to the date hereof shall have the effect of reducing the rate of return on such Lender's or such corporation's capital as a consequence of its obligations hereunder or under or in respect of the Letters of Credit to a level below that which such Lender or such corporation could have achieved but for such adoption, change or compliance (taking into consideration such Lender's or such corporation's policies with respect to capital adequacy) by an amount deemed by such Lender to be material, then from time to time, after submission by such Lender to the Borrower (with a copy to the Administrative Agent) of a written request therefor, the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender or such corporation for such reduction.

(c) A certificate describing in reasonable detail the basis and calculation of any additional amounts payable pursuant to this Section submitted by any Lender to the Borrower (with a copy to the Administrative Agent) shall be conclusive in the absence of manifest error. Notwithstanding anything to the contrary in this Section, the Borrower shall not be required to compensate a Lender pursuant to this Section 2.19 for any amounts incurred more than nine (9) months prior to the date that such Lender notifies the Borrower of such Lender's intention to claim compensation therefor; provided that, if the circumstances giving rise to such claim have a retroactive effect, then such nine-month period shall be extended to include the period of such retroactive effect. The obligations of the Borrower pursuant to this Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

(d) For the avoidance of doubt, this Section 2.19 shall apply to all requests, rules, guidelines or directives concerning capital adequacy issued in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act, regardless of the date adopted, issued, promulgated or implemented and this Section shall apply to all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States regulatory authorities, in each case pursuant to Basel III, regardless of the date enacted, adopted or issued or implemented.

2.20 Taxes.

(a) To the extent permitted by law, payments made by the Loan Parties under this Agreement or any other Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any present or future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto ("Taxes"). If any Taxes, excluding net income taxes, franchise taxes (imposed in lieu of net income taxes) and branch profits taxes imposed on the Administrative Agent or any Lender as a result of a present or former connection between the Administrative Agent or such Lender and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than

any such connection arising solely from the Administrative Agent or such Lender having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or any other Loan Document) ("Non-Excluded Taxes") or Other Taxes are required to be withheld from any amounts payable to the Administrative Agent or any Lender hereunder, the amounts so payable to the Administrative Agent or such Lender shall be increased to the extent necessary to yield to the Administrative Agent or such Lender (after payment of all Non-Excluded Taxes) interest or any such other amounts payable hereunder at the rates or in the amounts specified in this Agreement, provided, however, that Loan Parties shall not be required to increase any such amounts payable to any Lender with respect to any Non-Excluded Taxes or Other Taxes (i) that are attributable to such Lender's failure to comply with the requirements of paragraph (e) or (f) of this Section, (ii) that are United States withholding taxes imposed on amounts payable to such Lender at the time such Lender becomes a party to this Agreement, except to the extent that such Lender's assignor (if any) was entitled, at the time of assignment, to receive additional amounts from the Borrower with respect to such Non-Excluded Taxes pursuant to this paragraph, (iii) that are withholding taxes to the extent imposed as a result of the Administrative Agent or any Lender designating a different Lending Office (other than at the request of the Borrower or any of its Affiliates), except to the extent that the Administrative Agent or such Lender was entitled, immediately prior to the designation, to receive additional amounts from the Borrower with respect to such Non-Excluded Taxes pursuant to this paragraph or (iv) that are United States withholding taxes imposed under FATCA.

(b) In addition, the Loan Parties shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) The Borrower shall indemnify the Administrative Agent, and each Lender, within fifteen (15) days after written demand therefor, for the full amount of any Non-Excluded Taxes or Other Taxes (including Non-Excluded Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 2.20) paid by the Administrative Agent or such Lender and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Non-Excluded Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; provided that the Borrower will not be obligated to indemnify the Administrative Agent or Lender for (A) any penalties, interest or expenses directly related to Non-Excluded Taxes or Other Taxes, but only to the extent such penalties, interest or expenses are directly and solely caused by and arise from the indemnitee's gross negligence, willful misconduct or material breach of its obligations hereunder, as determined by a final, non-appealable judgment of a court of competent jurisdiction or (B) with respect to any taxes (i) that are attributable to such Lender's failure to comply with the requirements of paragraph (e) or (f) of this Section, (ii) that are United States withholding taxes imposed on amounts payable to such Lender at the time such Lender becomes a party to this Agreement, except to the extent that such Lender's assignor (if any) was entitled, at the time of assignment, to receive additional amounts from the Borrower with respect to such Non-Excluded Taxes pursuant to this paragraph, (iii) that are withholding taxes to the extent imposed as a result of the Administrative Agent or any Lender designating a different Lending Office (other than at the request of the Borrower or any of its Affiliates), except to the extent that the Administrative Agent or such Lender was entitled, immediately prior to the designation, to receive additional amounts from the Borrower with respect to such Non-Excluded Taxes pursuant to this paragraph or (iv) that are United States withholding taxes imposed under FATCA. The Administrative

Agent and each Lender agree to use reasonable efforts to give notice to the Borrower of the assertion of any claim against the Administrative Agent or such Lender, as applicable, relating to such Non-Excluded Taxes or Other Taxes reasonably promptly after the principal officer of the Administrative Agent or such Lender responsible for administering this Agreement has actual knowledge of such claim; provided that the Administrative Agent's or such Lender's failure to notify Borrower of such assertion shall not relieve Borrower of its obligation under this Section 2.20(c). A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent) or by the Administrative Agent on its own behalf shall be conclusive absent manifest error.

(d) Whenever any Non-Excluded Taxes or Other Taxes are payable by any Loan Party, as promptly as possible thereafter the Borrower shall send to the Administrative Agent for its own account or for the account of the relevant Lender, as the case may be, a certified copy of an original official receipt received by such Loan Party showing payment thereof, if available, or such other evidence of payment that is reasonably satisfactory to the Administrative Agent or the relevant Lender. If any Loan Party fails to pay any Non-Excluded Taxes or Other Taxes when due to the appropriate taxing authority or fails to remit to the Administrative Agent the required receipts or other required documentary evidence, the Borrower shall indemnify the Administrative Agent and the Lenders for any incremental taxes, interest or penalties that may become payable by the Administrative Agent or any Lender as a result of any such failure.

(e) To the extent required by this paragraph (e), each Lender (or Transferee) shall deliver to the Borrower and the Administrative Agent (or, in the case of a Participant, to the Lender from which the related participation shall have been purchased) either (A) if such Lender or Transferee is a "U.S. Person" as defined in Section 7701(a)(30) of the Code (a "U.S. Lender") (other than exempt holders that so certify), two copies of a U.S. Internal Revenue Service Form W-9 or any successor form, properly completed and duly executed by such U.S. Lender or (B) if such Lender or Transferee is not a U.S. Lender (a "Non-U.S. Lender"), two copies of either U.S. Internal Revenue Service Form W-8BEN, Form W-8BEN-E, Form W-8ECI or Form W-8IMY (together with any applicable underlying U.S. Internal Revenue Service forms), or, in the case of a Non-U.S. Lender claiming exemption from U.S. federal withholding tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest", a statement substantially in the form of Exhibit H to this Agreement and the applicable U.S. Internal Revenue Service Form W-8, or any subsequent versions thereof or successors thereto, properly completed and duly executed by such Non-U.S. Lender claiming complete exemption from, or a reduced rate of, U.S. federal withholding tax on all payments by the Borrower under this Agreement and the other Loan Documents. Such forms shall be delivered by each U.S. Lender or Non-U.S. Lender on or before the date it becomes a party to this Agreement (or, in the case of any Participant, on or before the date such Participant purchases the related participation) and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent. In addition, each U.S. Lender or Non-U.S. Lender shall deliver such forms promptly upon the obsolescence or invalidity of any form previously delivered by such Lender, and shall deliver extensions or renewals thereof as may reasonably be requested by the Borrower or the Administrative Agent. Each U.S. Lender or Non-U.S. Lender shall promptly notify the Borrower and the Administrative Agent at any time it determines that it is no longer in a position to provide any previously delivered certificate to the Borrower (or any other form of certification adopted by the U.S. taxing authorities for such purpose). Notwithstanding any other provision of

this paragraph, a U.S. Lender or Non-U.S. Lender shall not be required to deliver any form pursuant to this paragraph that such Lender is not legally able to deliver.

(f) A Lender that is entitled to an exemption from or reduction of non-U.S. withholding tax under the law of the jurisdiction in which the Borrower is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable law or reasonably requested by the Borrower, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate, provided that such Lender is legally entitled to complete, execute and deliver such documentation and in such Lender's judgment such completion, execution or submission would not subject such Lender to any material unreimbursed cost or would not materially prejudice the legal position of such Lender.

(g) If a payment made to a Lender would be subject to United States withholding Tax imposed under FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment.

(h) If the Administrative Agent or any Lender determines, in its sole discretion, that it has received a refund of any Non-Excluded Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.20, it shall pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 2.20 with respect to the Non-Excluded Taxes or Other Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This paragraph shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Borrower or any other Person.

(i) The agreements in this Section 2.20 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.21 Indemnity. The Borrower agrees to indemnify each Lender for, and to hold each Lender harmless from, any loss or expense that such Lender may sustain or incur as a consequence of (a) default by the Borrower in making a borrowing of, conversion into or continuation of LIBOR Loans after the Borrower has given a notice requesting the same in accordance with the provisions of this Agreement, (b) default by the Borrower in making any prepayment of or conversion from LIBOR Loans after the Borrower has given a notice thereof in accordance with the provisions of this Agreement or (c) the making of a prepayment of LIBOR Loans on a day that is not the last day of an Interest Period with respect thereto ("Breakage Costs"). Such indemnification may include an amount equal to the excess, if any, of (i) the amount of interest that would have accrued on the amount so prepaid, or not so borrowed, converted or continued, for the period from the date of such prepayment or of such failure to borrow, convert or continue to the last day of such Interest Period (or, in the case of a failure to borrow, convert or continue, the Interest Period that would have commenced on the date of such failure) in each case at the applicable rate of interest for such Loans provided for herein (excluding, however, the Applicable Margin included therein, if any) over (ii) the amount of interest (as reasonably determined by such Lender) that would have accrued to such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank eurodollar market. A certificate as to any amounts payable pursuant to this Section submitted to the Borrower by any Lender shall be conclusive in the absence of manifest error. This covenant shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.22 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 2.19 or 2.20(a) with respect to such Lender, it will, if requested by the Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event with the object of avoiding the consequences of such event; provided, that such designation is made on terms that, in the sole judgment of such Lender, cause such Lender and its lending office(s) to suffer no economic, legal or regulatory disadvantage, and provided, further, that nothing in this Section shall affect or postpone any of the obligations of the Borrower or the rights of any Lender pursuant to Section 2.19 or 2.20(a).

2.23 Replacement of Lenders. If (a) any Lender requests reimbursement for amounts owing pursuant to Section 2.19 or 2.20(a) or (b) any Lender defaults in its obligation to make Loans hereunder, the Borrower shall have the right, exercisable on five (5) Business Days prior written notice delivered to the applicable Lender, to replace such Lender; provided that (i) such replacement does not conflict with any Governmental Rule, (ii) no Event of Default shall have occurred and be continuing at the time of such replacement, (iii) prior to any such replacement, such Lender shall have taken no action under Section 2.22 so as to eliminate the continued need for payment of amounts owing pursuant to Section 2.19 or 2.20(a), (iv) the replacement financial institution shall purchase, at par, all Loans and other amounts owing to such replaced Lender on or prior to the date of replacement, (v) the Borrower shall be liable to such replaced Lender under Section 2.21 if any LIBOR Loan owing to such replaced Lender shall be purchased other than on the last day of the Interest Period relating thereto, (vi) the replacement financial institution shall be reasonably satisfactory to the Administrative Agent, (vii) such replacement shall be made in accordance with the provisions of Section 9.7 (provided that the Borrower shall be obligated to pay the registration and processing fee referred to in Section 9.7), (viii) until such

time as such replacement shall be consummated, the Borrower shall pay all additional amounts (if any) required pursuant to Section 2.19 or 2.20(a), as the case may be, (ix) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender and (x) in the case of a Lender that is an Issuing Bank, the Letters of Credit issued by such Issuing Bank have expired or have been terminated unless other arrangements satisfactory to the applicable Issuing Bank have been made in connection therewith.

2.24 Accordion. Subject to the terms and conditions of this Section 2.24 and so long as no Default or Event of Default has occurred and is continuing (prior to or in connection with any such increase) and at any time prior to May 4, 2020, the Borrower may, by written notice to the Administrative Agent and the Lenders request a one-time increase in the Construction Loan Commitments in the amount not to exceed $100,000,000. Any Lender that has received such a notice may accept or decline such offer in its sole discretion. To the extent that any Lender agrees to increase its Construction Loan Commitment (in its sole discretion), (i) the parties hereto shall amend this Agreement accordingly to increase such Lender's Construction Loan Commitment and the total Construction Loan Commitment accordingly; (ii) the Borrower shall pay to such Lender any and all fees charged by such Lender in respect of such additional Commitment; and (iii) if requested by such Lender, Notes evidencing such increase in the Construction Loan Commitment shall be delivered to such Lender duly executed by the Borrower.

2.25 Resizing.

(a) To the extent that the Borrower causes a Borrower Party to execute Tax Equity Documents after the date of the initial Borrowing of Construction Loans for a Project and desires the Construction Loan Commitment set forth on Annex 2 and allocated to such Project to be increased (provided that the Construction Loan Commitment has not otherwise been reduced to zero as of such date), the Administrative Agent and the Lenders shall agree to amend Annex 2 to increase the Construction Loan Commitment for such Project solely to the extent following conditions are satisfied by the Borrower: (i) the revised Construction Loan Commitment allocated to such Project as set forth on Annex 2 shall be determined for such Project based on the debt sizing parameters set forth on Annex 5 (after giving effect to the deliverables delivered under this Section 2.25) and otherwise satisfactory to the Administrative Agent and the Lenders. (ii) as of the date the Borrower satisfied the conditions precedent set forth in Section 3.2 with respect to such Project, the Borrower received the written approval of the Administrative Agent and the Lenders to a term sheet setting forth the terms of a potential tax equity transaction (that was agreed to by a tax equity investor at such time) that was expected to result in executed tax equity documents between the applicable Borrower Party and such tax equity investor by no later than 130 days after the initial Construction Loan was funded for such Project and such tax equity documents have been duly executed and delivered by the applicable Borrower Party and such tax equity investor, on terms and conditions substantially similar to the terms set forth under such term sheet, and within the time frame set forth above; and (iii) such tax equity documents shall be in form and substance acceptable to the Administrative Agent and the Lenders and Schedule 1.1B shall be updated to reflect such tax equity documents as Tax Equity Documents hereunder.

(b) In the event that any counterparty to the Tax Equity Documents has failed (giving effect to any cure period provided therein) to fund when the conditions precedent to such funding have been satisfied under the applicable Tax Equity Documents, the Administrative Agent shall calculate the difference between the Construction Loan Commitment previously allocated to such Project under Annex 2 and the then applicable Construction Loan Commitment to be allocated to such Project based on the debt sizing parameters set forth in Annex 5 (excluding any debt sizing provided for the execution of any Tax Equity Documents) and Annex 2 shall be amended to reflect the updated Construction Loan Commitment allocated to such Project (the "Reduced Commitment").

2.26 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among the parties hereto, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

ARTICLE 3.

CONDITIONS PRECEDENT

3.1 Conditions Precedent to the Signing Date. The Lenders, the Administrative Agent, and the Borrower acknowledge and agree that each of the following conditions have been satisfied as of, or prior to, the date hereof:

(a) Delivery to the Administrative Agent of duly authorized and executed originals of this Agreement.

(b) Each representation and warranty set forth in the Loan Documents is true and correct on the Signing Date (or, if any representation or warranty is stated to have been made as of a specific date, as of such specific date).

(c) No Default or Event of Default has occurred and is continuing or will result from the execution of the Loan Documents on the Signing Date.

(d) No Material Adverse Effect or event, condition or circumstance that would reasonably be expected to constitute a Material Adverse Effect shall have occurred and be continuing.

(e) The Borrower shall have paid all fees, costs and other expenses and all other amounts then due and payable by the Borrower pursuant to this Agreement (including Section 9.5), each Agent Fee Agreement and each other fee agreement between any Loan Party and any Lender or Agent (the "Other Fee Agreements").

(f) Delivery by the Borrower to the Administrative Agent of all such documentation and information requested by Administrative Agent and the Lenders that are necessary (including the names and addresses of the Borrower) for Administrative Agent and the Lenders to identify the Borrower in accordance with the requirements of the Patriot Act (including the "know your customer" and similar regulations thereunder).

3.2 Conditions Precedent to the Initial Project Construction Loan Date. The obligation of the Lenders to make the initial Construction Loan and other extensions of credit with respect to any Project is subject to the prior satisfaction of the Administrative Agent and the Lenders of each of the following conditions (unless waived in writing by the Administrative Agent and the Lenders):

(a) Delivery to the Administrative Agent of duly authorized and executed originals of each Loan Document entered into on the date the initial Construction Loan is funded hereunder and each other date a Loan is funded, as applicable, including (A) any Construction Loan Notes and LC Loan Notes requested by Lenders and the Issuing Bank, (B) with respect to any Holdco or Project Company, the Guaranty and Security Agreement, Guaranty, Pledge and Security Agreement, and any amendment to the Security Agreement (to add the pledge of any additional Holdco), (C) the Depositary Agreement, (D) if required by the Lender, a Consent from the Tax Equity Investor, (E) except for Small Projects, of a Deed of Trust with respect to the Mortgaged Property related to such applicable Project and (F) if requested by or on behalf of the Borrower, the Lenders will use commercially reasonable efforts to enter into an agreement with the Tax Equity Investor containing the terms set forth on Exhibit F (to the extent Tax Equity Documents for such Project have been duly executed and delivered as of such date), in each such case, in form and substance acceptable to the Lenders, the Borrower and the Administrative Agent.

(b) Delivery to the Administrative Agent of a copy of the articles of incorporation, certificate of formation, certificate of limited partnership, certificate of registration or other formation documents, including all amendments thereto, of each of the applicable Loan Parties, each certified as of a recent date by the Secretary of State of the state of such Person's formation or organization, and a certificate as to the good standing of such Person as of a recent date from such Secretary of State;

(c) Delivery to the Administrative Agent of a certificate of a Responsible Officer or, if applicable, a Managing Member, of each of the applicable Loan Parties (certifying as to (A),

(B), (C), (D) and (E) below only), dated as of the date of such Borrowing and certifying (A) that attached thereto is a true and complete copy of the limited liability company operating agreement, bylaws or partnership agreement of such Person (which shall be in form and substance reasonably satisfactory to the Administrative Agent, the other Agents, and the Lenders), as in effect on the date of such Borrowing and the date of the resolutions described in clause (B) below, (B) that attached thereto is a true and complete copy of resolutions duly adopted by the appropriate governing entity or body of such Person, authorizing the execution, delivery and performance of the Operative Documents to which such Person is a party and, if applicable, the borrowings hereunder and the granting of the Liens contemplated to be granted by the applicable Loan Party under the Security Documents (if any), and that such resolutions have not been modified, rescinded or amended and are in full force and effect, (C) that the articles of incorporation, certificate of formation, certificate of limited partnership, certificate of registration or other formation documents of such Person have not been amended since the date of the last amendment thereto shown on the certificate of good standing furnished pursuant to clause (i) above, (D) as to the incumbency and specimen signature of each officer executing any Operative Document or any other document delivered in connection herewith on behalf of such Person, and (E) as to the absence of any pending proceeding for the dissolution or liquidation of such Person or, to the Knowledge of such Secretary or Assistant Secretary, threatening the existence of such Person;

(d) Each document (including any UCC financing statement) required by the Security Documents executed on the date of the initial Construction Loan hereunder or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral described therein, prior and superior in right to any other Person (subject only to Permitted Liens that, pursuant to applicable law, are entitled to a higher priority than the Lien of the Collateral Agent) shall be in proper form for filing, registration or recordation.

(e) Delivery to the Collateral Agent of (i) the certificates representing the shares of Capital Stock pledged pursuant to the Pledge Agreement, the Security Agreement and the Guaranty, Pledge and Security Agreement and any amendment to the Security Agreement being executed on such Borrowing date, together with an undated stock power for each such certificate executed in blank by a duly authorized officer of the applicable Holdco, the Borrower and the Pledgor, as applicable and (ii) each promissory note (if any) pledged to the Collateral Agent pursuant to the Security Documents endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof.

(f) Delivery to the Administrative Agent of the results of a recent lien search in each of the jurisdictions where assets of the Borrower and Pledgor are located, and such searches shall reveal no Liens on any of the assets of the Borrower or Pledgor except for Permitted Liens or Liens discharged on or prior to such Borrowing Date pursuant to documentation satisfactory to the Administrative Agent and the Lenders. Delivery to the Administrative Agent of the results of a recent lien search in each of the jurisdictions where assets of the Borrower (if the Security Agreement is being amended), the applicable Holdco and the applicable Project Company are located, and such searches shall reveal no Liens on any of the assets of the Borrower, the applicable Holdco or the applicable Project Company except for Permitted Liens pursuant to documentation satisfactory to the Administrative Agent and the Lenders.

(g) The Collateral Accounts shall have been established in compliance with this Agreement and the Depositary Agreement.

(h) Delivery to the Administrative Agent of the unaudited pro forma balance sheet of the Borrower as of the such Borrowing Date (including the notes thereto), which balance sheet shall have been prepared giving effect (as if such events had occurred on such date) to (i) the Construction Loans to be made hereunder on the date hereof and the use of proceeds thereof and (ii) the payment of fees and expenses in connection with the foregoing.

(i) Delivery to the Administrative Agent and the Collateral Agent of opinions, dated as of such Borrowing Date of:

(i) with respect to the first Borrowing hereunder, a New York law opinion of Chadbourne & Parke, LLP, special counsel for the Loan Parties, in form and substance satisfactory to the Administrative Agent, the Collateral Agent, and the Lenders, addressing such matters as the Administrative Agent and the Collateral Agent may request;

(ii) an opinion of Chadbourne & Parke, LLP or other counsel acceptable to the Administrative Agent, special counsel for any Loan Party, in form and substance satisfactory to the Administrative Agent, the Collateral Agent, and the Lenders, addressing such matters as the Administrative Agent and the Collateral Agent may request in connection with any Loan Document executed (or amended) after the first Borrowing hereunder;

(iii) with respect to Large Projects, special counsel for each Holdco, Project Company and the Borrower in form and substance satisfactory to the Administrative Agent, the Collateral Agent, and the Lenders, addressing such matters as the Administrative Agent and the Collateral Agent may request, including a New York law opinion, and an opinion addressing the relevant Material Project Documents for such Project, federal and state energy and regulatory matters and, for ground-mounted Projects, environmental matters and certain permitting matters, in each case, relevant to the Project Company and each applicable Project; and

(iv) such other legal opinions as the Administrative Agent may reasonably request, including, except with respect to Small Projects, opinions from counsel to the Material Project Participants that are party to a Power Purchase Agreement or EPC Agreement.

(j) Delivery to the Administrative Agent of updates to the following Exhibits, Schedules and Annexes with respect to such Project, which shall each be in form and substance acceptable to the Administrative Agent and the Lenders: (i) Exhibit E; (ii) Schedules 1.1B; 1.1C; 4.15; 4.19(a), (c) and (c); 4.34(a) and (b); and Annexes 2 and 3.

(k) Delivery to the Administrative Agent of the Construction Budget and Schedule and the Base Case Model (each certified, by a Responsible Officer of the Borrower, as having been prepared in good faith) applicable to such Project, in form and substance satisfactory to the Administrative Agent, the Lenders and the Independent Engineer; provided, however, that such

Base Case Model shall contain pro forma projections for a period of 20 years from the projected commercial operation date under the Power Purchase Agreement for such Project and shall demonstrate, based on the assumptions contained therein, that the Borrower has sufficient funds pursuant to the Construction Loan Commitments allocated to such Project and Equity Commitment allocated to such Project to achieve COD and Final Completion for such Project.

(l) Delivery to the Administrative Agent of a certificate issued by the Secretary of State of the State of state the Project is located in certifying that the applicable Project Company is authorized to transact business in such state.

(m) Delivery to the Administrative Agent of a true, complete and correct copy of each Material Project Document and any existing supplements or amendments thereto related to such Project, all of which Material Project Documents and supplements or amendments thereto shall be satisfactory in form and substance to the Administrative Agent, and the Lenders, shall have been duly authorized, executed and delivered by the parties thereto, and all of which Material Project Documents shall be in full force and effect on the applicable Borrowing Date and shall be certified by a Responsible Officer of the Borrower as being true, complete and correct copies and in full force and effect pursuant to the certificate referred to in Section 3.2(o), below, and delivery to the Administrative Agent of a certificate of a Responsible Officer of the Borrower, that to the best of the Borrower's Knowledge no party to any such Material Project Document is, or but for the passage of time or giving of notice or both will be, in material breach of any obligation thereunder; provided, however, that with respect to Small Projects, if the Borrower certifies that the form of any such Material Project Document (excluding any Tax Equity Document) is in the form attached hereto as Exhibit O, such Material Project Document shall be deemed satisfactory to the Administrative Agent and the Lenders.

(n) Except for Small Projects, deliver to the Administrative Agent and the Title Company an ALTA/ACSM survey of the land and improvements constituting the Mortgaged Property certified to the Administrative Agent and the Title Company in a manner satisfactory to them, dated within thirty (30) days of the Borrowing Date, prepared by an independent professional licensed land surveyor satisfactory to the Administrative Agent and the Title Company and in form and substance satisfactory to the Administrative Agent and the Title Company; provided, however, that for rooftop projects, delivery of a "site plan" showing the proposed improvements shall satisfy the above requirement.

(o) Delivery to the Administrative Agent of an Initial Project Construction Loan Date certificate, dated as of the Initial Project Construction Loan Date for each Project, signed by a Responsible Officer of the Borrower, in substantially the form of Exhibit I to this Agreement.

(p) Each document (including any UCC financing statement) required by the Security Documents to be executed as of the date of such Borrowing or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral described therein, prior and superior in right to any other Person (subject only to Permitted Liens that, pursuant to applicable law, are entitled to a higher priority than the Lien of the Collateral Agent) shall be in proper form for filing, registration or recordation and, for each Project other than a Small Project, the applicable Deed of Trust shall have been duly recorded (or will be duly

recorded upon the date of the Borrowing) within the applicable land records of the county in which each applicable Project is located.

(q) Except for Small Projects or with respect to individual Project sites that have an expected nameplate capacity to be 2.0 MW dc or less, the Administrative Agent shall have received in respect of the Mortgaged Property the applicable Title Policy, which Title Policy shall be in form and substance satisfactory to the Administrative Agent, contain such endorsements as reasonably requested by the Administrative Agent (including mechanics' lien endorsement with pending disbursement coverage such as the FA-61 (a "Mechanics' Lien Endorsement"), an ALTA 36.6 "Energy Projects - Encroachment Endorsement" (without any exceptions to full encroachments coverage), and an ALTA 35.2 "Minerals and Other Subsurface Substance Endorsement" (without any exceptions to full mineral coverage)). The Administrative Agent shall have received evidence satisfactory to the Administrative Agent, and the Lenders that all premiums in respect of such Title Policy, all recording tax charges, and related expenses shall have been paid.

(r) With respect to any Projects that are ground-mounted, the Administrative Agent shall have received (A) a policy of flood insurance that (1) covers any parcel of real property upon which is located a building that is part of a Project (for clarity, the solar energy generating systems themselves shall not be considered a "building" in connection with such determination) and that is located within the Project Site and which is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards, (2) is written in an amount reasonably satisfactory to the Administrative Agent, and (3) has a term ending not later than the Construction Loan Maturity Date applicable to such Project.

(s) Except for Small Projects or with respect to individual Project sites that have an expected nameplate capacity to be 2.0 MW dc or less, the Administrative Agent shall have received a copy of all recorded documents referred to, or listed as exceptions to title in, the Title Policy and a copy of all other material documents affecting the Mortgaged Property of which any Borrower Party has any Knowledge.

(t) Delivery to the Administrative Agent of counterparty consents or estoppels (the "Consents") to collateral assignment of each Material Project Document (including estoppels for the Site Lease Agreements) that the Administrative Agent requests such a consent for, in each case in form and substance as shall be reasonably satisfactory to the Administrative Agent and the Lenders; provided, however, that with respect to Small Projects, Consents shall only be required if (i) such Material Project Document does not expressly allow such contract to be collaterally assigned to lenders and (ii) the result of the Lenders due diligence with respect to such Material Project Documents requires a Consent to be delivered. The Borrower shall also have provided notices, in form and substance as shall be reasonably satisfactory to the Administrative Agent and the Lenders, to the Transmission Utility of the collateral assignment of the Interconnection Agreements then in effect.

(u) Insurance complying with Schedule 5.4 shall be in full force and effect. With respect to Large Projects, delivery to the Administrative Agent of the Insurance Consultant's certificate and the Insurance Consultant's report to the effect that each Borrower Party's insurance policies required for the construction phase of each applicable Project are in full force

and effect, are not subject to cancellation without thirty (30) days' prior notice (ten (10) days for non-payment of premiums) and otherwise materially conform with the insurance requirements set forth in Section 5.4(a) and Schedule 5.4 and the Material Project Documents set forth in the Insurance Consultant's report, and otherwise in form and substance satisfactory to the Administrative Agent and the Lenders. With respect to Small Projects, delivery to the Administrative Agent of the an insurance broker's letter with respect to each Borrower Party's insurance policies required for the construction phase of each applicable Project and the Borrower's certification that such insurance policies are in full force and effect, are not subject to cancellation without thirty (30) days' prior notice (ten (10) days for non-payment of premiums) and otherwise materially conform with the insurance requirements set forth in Section 5.4(a) and Schedule 5.4 and the Material Project Documents, and otherwise in form and substance satisfactory to the Administrative Agent and the Lenders.

(v) With respect to ground-mounted Projects, delivery to the Administrative Agent of the Environmental Site Assessments (in form and substance acceptable to the Administrative Agent and the Lenders) with respect to such Project, dated no earlier than 180 days prior to the date of such Borrowing, along with a reliance letter allowing the Administrative Agent to rely on such reports.

(w) With respect to Large Projects, delivery to the Administrative Agent of the Independent Engineer's report (in form and substance acceptable to the Administrative Agent and the Lenders) of its satisfactory review of the applicable Project, such review confirming, without limitation, the Initial Project Construction Loan Equity Contribution has been previously paid by the Borrower for the payment of Project Costs related to such Projects, the reasonableness of operating cost, major maintenance assumptions, adequacy of the proposed construction contingency and the expectation that each applicable Project can support the assumptions set forth in the Base Case Model pro forma projections, the useful life estimate for each applicable Project, overall design and technical aspects of each applicable Project, including the adequacy of the construction plan, the equipment and the proposed civil, mechanical and electrical works, confirming the adequacy of the Environmental Site Assessments (including Equator Principles) and any remediation programs necessary for such Project, confirming the adequacy of the applicable EPC Agreement and each applicable project schedule (under the applicable EPC Agreement), the Interconnection Agreements and the other Material Project Documents for such Project and the ability of the counterparties to execute the construction schedule related to such Project in a timely manner and confirming that, upon completion of each applicable Project in accordance with the relevant engineering design documentation and plans, each applicable Project shall be a facility using solar energy to produce electricity and, with respect to rooftop Projects, confirming the sufficiency of the rooftop structure design.

(x) With respect to Small Projects, delivery to the Administrative Agent of the Independent Engineer's report (in form and substance acceptable to the Administrative Agent and the Lenders) of its satisfactory review of the applicable Project, such review confirming the reasonableness of operating cost, major maintenance assumptions, adequacy of the proposed construction contingency and the expectation that each applicable Project can support the assumptions set forth in the Base Case Model pro forma projections, confirming each applicable project schedule (under the applicable EPC Agreement), and, with respect to rooftop Projects, confirming the sufficiency of the rooftop structure design.

(y) Delivery to the Administrative Agent of:

(i) a solar energy forecast provided by the Solar Resource Consultant as to the adequacy and stability of the solar energy resource of each applicable Project Site, in form and substance reasonably satisfactory to the Administrative Agent and the Lenders, together with a reliance letter with respect to the Solar Resource Consultant's report that shall entitle the Administrative Agent, the Collateral Agent, and the Lenders to rely upon such report as of such Borrowing Date, and shall be in form and substance reasonably satisfactory to the Administrative Agent and the Lenders; and

(ii) except with respect to rooftop Projects, the Transmission Consultant's report as to the adequacy of transmission capacity for each applicable Project to deliver all of its expected electrical output (including a curtailment analysis), shall be in form and substance acceptable to the Administrative Agent and the Lenders, together with a reliance letter with respect to the Transmission Consultant's report that shall entitle the Administrative Agent, the Collateral Agent, and the Lenders to rely upon such report as of such Borrowing Date, and shall be in form and substance reasonably satisfactory to the Administrative Agent and the Lenders.

(z) The initial Project Construction Loan certificate delivered pursuant to Section 3.2(k) shall confirm that all insurance premium payments due and payable as of the date of such Borrowing have been paid or will be paid from proceeds of the applicable Construction Loan and that the insurance materially complies with the requirements of Section 5.4, Schedule 5.4 and the applicable Material Project Documents. Such insurance shall be in full force and effect and the Administrative Agent shall have received certified copies of all policies evidencing such insurance (or a binder, commitment or certificates signed by the insurer or a broker authorized to bind the insurer), in form and substance satisfactory to Administrative Agent and the Lenders, and a certificate from the Borrower's insurance broker(s), dated as of the date of such Borrowing and identifying underwriters, type of insurance, insurance limits and policy terms, listing the special provisions required as set forth in Schedule 5.4, describing the insurance obtained, stating that the insurance materially complies with the requirements of Section 5.4, Schedule 5.4 and the applicable Material Project Documents and stating that such insurance is in full force and effect and that all premiums then due thereon have been paid.

(aa) Delivery to the Administrative Agent of true, correct and complete copies of all Applicable Permits required to own, develop, construct or operate each applicable Project that are identified on Part I of Schedule 4.15, in form and substance reasonably satisfactory to the Administrative Agent and the Lenders.

(bb) No action, suit, proceeding or investigation shall have been instituted or threatened, nor shall any rule, regulation, order, judgment or decree have been issued or proposed to be issued by any Governmental Authority that, (i) could, if such action, suit, proceeding or investigation were adversely determined, reasonably be expected to have a Material Adverse Effect on any applicable Project or any Loan Party or (ii) solely as a result of the Borrower Party's construction, ownership, leasing or operation of each applicable Project, the sale of electricity therefrom by the applicable Borrower Party, or the applicable Borrower Party's entering into of any Operative Document or any transaction contemplated hereby or

thereby, would cause or deem (A) the Administrative Agent or the other Lenders or any Affiliate of any of them to be subject to, or not exempt from, regulation under the FPA, PUHCA 2005 or any financial, organizational or rate regulation as a "public utility" or "electric utility" under applicable state laws and regulations respecting the rates or the financial or organizational regulation of electric utilities, except as set forth in the proviso set forth in Section 4.10(b); or (B) any Borrower Party to be subject to, or not exempt from, the federal access to books and records provisions of PUHCA 2005 or under any applicable state laws and regulations respecting the rates or the financial or organizational regulation of electric utilities except, with respect to an Affiliate of any Borrower Party, any such state laws or regulations that would not result in a Material Adverse Effect.

(cc) Delivery to the Administrative Agent of evidence that all filing, recordation, subscription and inscription fees and all recording and other similar fees, and all recording, stamp and other taxes and other expenses related to such filings, registrations and recordings necessary for the consummation of the transactions contemplated by this Agreement and the other Loan Documents have been paid in full (to the extent the obligation to make such payment then exists) by or on behalf of the Borrower or are to be paid in full out of the proceeds of the initial Construction Loans being made on such date.

(dd) On each Initial Project Construction Loan Date, the Borrower shall have paid (or shall simultaneously pay with the proceeds of any Construction Loans being Borrowed on such date) all fees, costs and other expenses and all other amounts then due and payable by the Borrower pursuant to this Agreement (including Section 9.5), each Agent Fee Agreement and each Other Fee Agreement.

(ee) Delivery to the Administrative Agent of a duly executed copy of the notice to proceed required to be issued under the applicable EPC Agreement or evidence that such notice will be issued upon receipt of the proceeds of the relevant Construction Loan.

(ff) Delivery by the Borrower to the Administrative Agent of all such documentation and information requested by Administrative Agent and the Lenders that are necessary (including the names and addresses of the Borrower) for Administrative Agent and the Lenders to identify each applicable Holdco and Project Company in accordance with the requirements of the Patriot Act (including the "know your customer" and similar regulations thereunder).

(gg) With respect to each proposed project, the Administrative Agent and each Lender shall have approved such project, in its discretion, and each of the Administrative Agent and each Lender shall have authorized such project to be a Project hereunder.

(hh) With respect to each Project approved by Administrative Agent and the Lenders pursuant to Section 3.2(gg), (i) Administrative Agent and the Lenders shall have completed, to their satisfaction, their due diligence review of such Project in all respects, and Borrower shall satisfy any additional conditions precedent requested by the Lenders and Administrative Agent as a result of such diligence; (ii) the Lenders shall have received any credit approvals needed in respect of such Project; (iii) this Agreement shall be amended to include any additional provisions, such provisions to be mutually satisfactory to the Borrower and the Lenders and applicable to a specific Project, required as a result of Lenders' due diligence with respect to

such specific Project (iv) in no event shall the expected aggregate nameplate capacity of all Small Projects that have been allocated Loans and Commitments under this Agreement exceed 10% of the total expected aggregate nameplate capacity of all Projects that have been allocated Loans and Commitments hereunder; provided, however, that such allowed aggregate nameplate capacity of Small Projects shall be reduced by the applicable percentage of nameplate capacity that is allocated to Projects set forth in clause (v) below with respect to Power Purchaser's that are not Investment Grade; (v) each Power Purchaser shall be Investment Grade, except for Power Purchaser counterparties to Power Purchase Agreements which are allocated, in the aggregate, less than 10% of the total expected aggregate nameplate capacity of all Projects that have been allocated Loans and Commitments hereunder; and (vi) Borrower shall only present two new project to be considered a project hereunder per calendar month and Borrower shall provide all information related to such proposed project (including all items necessary to satisfy the conditions precedent set forth in this Section 3.2 that are required for completion of Lenders' credit approval process) at least twenty (20) Business Days prior to the proposed date of Borrowing (unless otherwise waived by the Administrative Agent and the Lenders); provided, however, that once every calendar quarter the Borrower may present one additional project in addition to the two projects per calendar month referred to above.

(ii) With respect to any Project in respect of which Tax Equity Documents are in full force and effect as of such date, delivery to Administrative Agent of a reliance letter from the preparer of the cost segregation report and appraisal, in form and substance reasonably satisfactory to Administrative Agent, along with such cost segregation report and appraisal, in form and substance reasonably satisfactory to Administrative Agent and the Lenders.

(jj) Evidence that, upon disbursement of the initial Construction Loan, the amounts on deposit in the Debt Service Reserve Account will be at least equal to the then applicable Debt Service Reserve Requirement.

(kk) In no event shall the Borrower present any Project that could be allocated Loans and Commitments under Annex 2 in excess of $50,000,000. All Projects shall be commercial and industrial projects and certain utility-scale projects, in each such case, as approved by each Lender in accordance with this Section 3.2.

(ll) Prior to the Initial Borrowing of Construction Loans hereunder, the parties to this Agreement shall have agreed to add the following exhibits, annexes and schedules to this Agreement, in each such case, in form and substance acceptable to the Administrative Agent, the Lenders and the Borrower: (i) Exhibits E, G, I, J, K, L and M; (ii) Schedules 1.1B; 1.1C; 1.1D; 4.4; 4.13; 4.15; 4.18; 4.19(a),(c) and (e); 4.21; 4.34(a) and (b); 5.4 and (iii) Annexes 2 and 3.

(mm) For the avoidance of doubt, on or prior to the Initial Borrowing of Construction Loans hereunder, all Loan Documents not executed on the Signing Date, shall be duly executed and delivered by the parties thereto and in form and substance satisfactory to the Borrower, Administrative Agent and the Lenders.

3.3 Conditions Precedent to the Construction Loans. The obligation of the Lenders to make any Construction Loans, including the initial Construction Loan for each Project, is subject to the prior satisfaction of each of the following conditions (unless waived in writing by the

Administrative Agent and the Required Lenders or, solely with respect to the initial Construction Loan for each Project, with the consent of all Lenders):

(a) Each representation and warranty of the Loan Parties set forth in the Loan Documents shall be true and correct in all material respects as of the date of such Borrowing (or, if any representation or warranty is stated to have been made as of a specific date, as of such specific date), except if such representation is already qualified by reference to materiality, Material Adverse Effect, or a similar materiality qualifier, in which case such representation and warranty shall be true and correct without regard to materiality;

(b) No Default or Event of Default shall have occurred and be continuing or shall occur as a result of the Borrowing of such Construction Loan;

(c) All Operative Documents in effect on the date of the applicable Construction Loan shall be in full force and effect;

(d) The Borrower is in compliance with the applicable Construction Budget and Schedule (or if the Borrower is not in compliance with such schedule the Independent Engineer has certified that such applicable Project is reasonably likely to achieve COD for such Project by the Construction Loan Maturity Date for such Project in compliance with the budget aspect of the applicable Construction Budget and Schedule or, if Project Costs in excess of those contemplated by such budget (including the contingency) are required to be expended to achieve such COD by such Construction Loan Maturity Date, the Borrower has certified that sufficient funds are available pursuant to the Construction Loan Commitments allocated to such Project and Equity Commitment to so complete each applicable Project (or certifying that sufficient funds are available pursuant to such Construction Loan Commitments, Equity Commitment plus any other irrevocable funding commitment in form and substance acceptable to the Administrative Agent and the Required Lenders for any shortfall), which in each case shall be satisfactory to the Administrative Agent and the Required Lenders (in consultation with the Independent Engineer));

(e) Delivery to the Administrative Agent of a Notice of Borrowing in accordance with Section 2.2, which Notice of Borrowing shall include a certification as to certain of the matters set forth in this Section 3.3.

(f) Delivery to the Administrative Agent, no later than six (6) Business Days prior to the requested borrowing date, of a Construction Requisition (as defined in the Depositary Agreement), dated the date such Construction Loans are to be made and signed by the Borrower, as to the amount and purpose(s) of the requested borrowing of Construction Loans accompanied by appropriate invoices or other evidence of payment (or an obligation to make payment) representing Project Costs for such Project then due and payable to third parties (other than subcontractors) and together with, among other things, a certification that the proceeds of such Construction Loans shall be used solely for Project Costs for such Project set forth in the applicable Construction Budget and Schedule, or otherwise as permitted under this Agreement, and further certifying that sufficient funds are available pursuant to the Construction Loan Commitments (prior to being fully utilized) allocated to such Project, Equity Commitment to complete each applicable Project and achieve Substantial Completion for such Project (or

certifying that sufficient funds are available pursuant to the Construction Loan Commitments allocated to such Project (prior to being fully utilized), Equity Commitment plus any other irrevocable funding commitment in form and substance acceptable to the Administrative Agent and the Required Lenders for any shortfall).

(g) The Independent Engineer shall have reviewed the Borrower's certificates and supporting invoices or other evidence of payment (or an obligation to make payment) and other information referred to in Section 3.3(f), above, and shall have delivered an IE Requisition Certificate (as defined in the Depositary Agreement) to the Administrative Agent no later than five (5) Business Days prior to the requested borrowing date approving the Borrower's certificates and invoices or other evidence of payment.

(h) Delivery to the Administrative Agent of duly executed acknowledgements of payments and releases of mechanics' and materialmen's liens, (i) with respect to any payment to the EPC Contractor and all contractors and materialmen of each applicable Project Company to the extent such payment, either alone or when combined with all payments previously made to such the EPC Contractor or contractor or materialman, exceeds $250,000, in a form reasonably satisfactory to the Administrative Agent, from the EPC Contractor or all contractors and materialmen for all work, services and materials, including equipment and fixtures of all kinds, done, previously performed or furnished for the construction of each applicable Project, and (ii) with respect to any payment made to any subcontractor of any contractor referred to in clause (i), to the extent such payment, either alone or when combined with all payments previously made to such subcontractor, exceeds $250,000.

(i) All Applicable Permits with respect to the construction and operation of each applicable Project required to have been obtained by the date of such Construction Loans from any Governmental Authority shall have been issued and, except as provided on Schedule 4.15, shall be in full force and effect and no appeal of such Applicable Permits shall be pending and all statutorily prescribed appeal or rehearing periods with respect to the issuance of such Applicable Permits have expired, and such Permits shall not be subject to any unsatisfied conditions that were required to be satisfied on or before the date of such Construction Loan and that would reasonably be expected to allow for material adverse modification or revocation. The Borrower shall be in material compliance with all Applicable Permits. With respect to any of the Applicable Permits not yet required, the Administrative Agent shall have concluded (acting reasonably) that there is no reason to believe that any such Applicable Permits will not be obtained by the time required, all of which shall be reasonably satisfactory to the Administrative Agent (in consultation with the Independent Engineer).

(j) All of the Operative Documents (including the corresponding consents to collateral assignment in the case of any Additional Project Agreement entered into after the date of this Agreement to the extent consents to collateral assignment are required pursuant to Section 6.10) that were not in effect as of the date of any previous Borrowing and that are required, in connection with the development and construction of such applicable Project, to be executed and delivered on or prior to the date of such Construction Loans shall be in full force and effect and in a form, including any change or amendment thereto made since the respective dates of their execution and delivery, approved by the Required Lenders, unless approval of such

form, change or amendment was not required in accordance with Section 6.8 or 6.10 or otherwise pursuant to this Agreement.

(k) If at the time of making the Construction Loans such applicable Project shall have been materially damaged by flood, fire or other casualty, the Administrative Agent shall have received insurance proceeds or money or other assurances sufficient in the reasonable judgment of the Administrative Agent (acting at the direction of the Required Lenders), Insurance Consultant and the Independent Engineer to assure restoration and Substantial Completion for such Project on or prior to the Construction Loan Maturity Date for such Project.

(l) There has not been any uncured default under any Material Project Document, Applicable Permit, certificate, insurance policy or any other similar approval or agreement that would reasonably be expected to have a Material Adverse Effect.

(m) Except in respect of the initial Construction Loan for such Project and except for Small Projects or with respect to individual Project sites that have an expected nameplate capacity to be 2.0 MW dc or less, receipt by the Administrative Agent of a Mechanics' Lien Endorsement to the applicable Title Policy after delivery by the Borrower to the Title Company of all deliverables and any other items required by the Title Company to issue such endorsement. Each Mechanics' Lien Endorsement shall (i) show that since the effective date of such Title Policy (or the effective date of the last such endorsement, if any) there has been no change in the status of the applicable Project Company's title to the applicable Project Site and no new Lien thereon other than matters constituting Permitted Liens, (ii) state the amount of coverage then existing under the Mechanics' Lien Endorsement to such Title Policy which shall be not less than the total of all disbursements of the Construction Loan allocated to such Project, including the disbursement which is being made concurrently with the reissuance of such endorsement and (iii) updating the "Date of Coverage" (as defined in the Mechanics' Lien Endorsement) to the date of such disbursement.

(n) No Material Adverse Effect, or event, condition or circumstance that would reasonably be expected to constitute a Material Adverse Effect, shall have occurred and be continuing for which adequate provision reasonably satisfactory to the Administrative Agent has not been made.

(o) No party to any Tax Equity Document is in default of any material obligation thereunder. Borrower shall certify that to the best of its Knowledge each Borrower Party shall be able to meet the conditions precedent to the funding by each Tax Equity Investor under each Tax Equity Document by the deadline for such funding date set forth in each Tax Equity Document, and, in any event, in order to repay the Construction Loans for each applicable Project by the applicable Construction Loan Maturity Date.

3.4 Conditions Precedent to the Issuance of Letters of Credit. The obligation of an Issuing Bank to issue a Letter of Credit is subject to the prior satisfaction of each of the following conditions (unless waived in writing by the Administrative Agent and the applicable Issuing Bank):

(a) The conditions precedent set forth in Sections 3.1, 3.2 and 3.3 for the applicable Project have been satisfied and the initial Construction Loan has been funded in respect of such Project.

(b) Each representation and warranty of the Loan Parties set forth in the Loan Documents is true and correct in all material respects as if made on such date (unless such representation or warranty relates solely to an earlier date, in which case it shall have been true and correct in all material respects as of such earlier date), except if such representation is already qualified by reference to materiality, Material Adverse Effect, or a similar materiality qualifier, in which case such representation and warranty shall be true and correct without regard to materiality.

(c) No Default or Event of Default has occurred and is continuing or will result from the issuance of the applicable Letter of Credit.

(d) No Material Adverse Effect, or event conditions or circumstance that would reasonably be expected to constitute a Material Adverse Effect, shall have occurred and be continuing for which adequate provision reasonably satisfactory to the Administrative Agent and the Issuing Bank has not been made.

(e) The Borrower shall have delivered to the Issuing Bank an LC Issuance Notice and Letter of Credit Application in respect of the Letters of Credit in accordance with Section 2.16(b) at least three (3) Business Days prior to the requested date of issuance of the Letters of Credit.

3.5 Confirmation. Each Borrowing by and on behalf of the Borrower hereunder shall constitute a representation and warranty by the Borrower as of the date of such extension of credit that the applicable conditions contained in this Article 3 have been satisfied or waived.

ARTICLE 4.

REPRESENTATIONS AND WARRANTIES

The Borrower, on behalf of itself and each Borrower Party, hereby makes the following representations and warranties to and in favor of the Administrative Agent, the Collateral Agent and the Lenders on the date hereof and on the date of each Borrowing. All of such representations and warranties shall survive the Signing Date and the making of the Loans:

4.1 Existence; Compliance with Laws. Each Loan Party (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) has the power and authority, and the legal right, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged, (c) is duly qualified as a foreign corporation or other organization and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification (including, with respect to each Borrower Party, the applicable state in which the Project owned by it is located) and (d) is in compliance with all Legal Requirements except to the extent that the failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

4.2 Ownership of Capital Stock. The Capital Stock of each Borrower Party has been duly authorized and validly issued and is fully paid and non-assessable. There are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments (other than stock options granted to employees or directors and directors' qualifying shares) of any nature relating to any Capital Stock of any Borrower Party, except as created by the Loan Documents. Pledgor owns 100% of all issued and outstanding membership interests in Borrower. The entities shown on Annex 4 own the issued and outstanding membership interests of each Holdco as shown on Annex 4. Each Holdco owns 100% of all issued and outstanding membership interests of each Project Company shown on Annex 4 that Holdco is the owner of.

4.3 Power; Authorization; Enforceable Obligations; No Legal Bar.

(a) Each Loan Party has the power and authority, and the legal right, to make, deliver and perform the Operative Documents to which it is a party and to consummate the transactions contemplated thereby and, in the case of the Borrower, to obtain extensions of credit hereunder. Each Loan Party has taken all necessary organizational action to authorize the execution, delivery and performance of the Operative Documents to which it is a party and to consummate the transactions contemplated thereby and, in the case of the Borrower, to authorize the extensions of credit on the terms and conditions of this Agreement. Each Operative Document has been duly executed and delivered on behalf of each Loan Party party thereto. This Agreement and each other Operative Agreement constitute legal, valid and binding obligations of each Loan Party party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

(b) The execution, delivery and performance of this Agreement and the other Operative Documents, the borrowings hereunder and the use of the proceeds thereof will not violate any Legal Requirements applicable to any Loan Party or any Contractual Obligation of any Loan Party and will not result in, or require, the creation or imposition of any Lien (other than Permitted Liens) on any of their respective properties or revenues pursuant to any Legal Requirement or any such Contractual Obligation.

4.4 Governmental Approvals. Except as set forth in Schedule 4.15, no action, consent or approval of, registration or filing with, Permit from, notice to, or any other action by, any Governmental Authority is or will be required in connection with (a) the due execution, delivery and performance by any Loan Party of the Operative Documents to which it is a party, (b) the development, construction, ownership and operation of each applicable Project as contemplated by the Operative Documents (to the extent required to be obtained by or on behalf of any Loan Party), (c) the consummation of the transactions contemplated by the Operative Documents by the Loan Parties or (d) the grant by the Loan Parties of the Liens granted under the Security Documents or the validity, perfection and enforceability thereof or for the exercise by the Collateral Agent of its rights and remedies thereunder, except, in each case, (i) the filing of UCC financing statements and the filing and recording of each Deed of Trust, (ii) such as have been made or obtained and are in full force and effect, (iii) such as are required by securities, regulatory or applicable law in connection with an exercise of remedies, (iv) as contemplated by

Section 4.15 and (v) in the case of clauses (b) and (c) above, such actions, consents, registrations, filings, notices, actions and approvals where the failure to obtain or make could not reasonably be expected to have a Material Adverse Effect.

4.5 ERISA and Labor Matters.

(a) Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) each Loan Party and each of their respective ERISA Affiliates is in compliance with the applicable provisions of ERISA and the provisions of the Code relating to ERISA Plans and the regulations and published interpretations thereunder; (ii) no ERISA Event has occurred or is reasonably expected to occur; and (iii) all amounts required by applicable law with respect to, or by the terms of, any retiree welfare benefit arrangement maintained by any Loan Party or any ERISA Affiliate or to which any Loan Party or any ERISA Affiliate has an obligation to contribute have been accrued in accordance with Accounting Standards Codification Topic 715-60. The present value of all accumulated benefit obligations under each Pension Plan (based on the assumptions used for purposes of Financial Accounting Standards Codification Topic 715-30) did not, as of the date of the most recent financial statements reflecting such amounts, exceed by more than a material amount the fair market value of the assets of such Pension Plan allocable to such accrued benefits, and the present value of all accumulated benefit obligations of all underfunded Pension Plans (based on the assumptions used for purposes of Financial Accounting Standards Codification topic 715-30) did not, as of the date of the most recent financial statements reflecting such amounts, exceed by more than a material amount the fair market value of the assets of all such underfunded Pension Plans.

(b) Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect, (i) all employer and employee contributions required by applicable law or by the terms of any Foreign Benefit Arrangement or Foreign Plan have been made, or, if applicable, accrued in accordance with normal accounting practices; (ii) the accrued benefit obligations of each Foreign Plan (based on those assumptions used to fund such Foreign Plan) with respect to all current and former participants do not exceed the assets of such Foreign Plan; (iii) each Foreign Plan that is required to be registered has been registered and has been maintained in good standing with applicable regulatory authorities; and (iv) each such Foreign Benefit Arrangement and Foreign Plan is in compliance (A) with all material provisions of applicable law and all material applicable regulations and published interpretations thereunder with respect to such Foreign Benefit Arrangement or Foreign Plan and (B) with the terms of such plan or arrangement.

(c) Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes against the Pledgor or any Borrower Party pending or, to the Knowledge of any Borrower Party, threatened; (b) hours worked by and payment made to employees of each of the Pledgor or any Borrower Party have not been in violation of the Fair Labor Standards Act or any other applicable Legal Requirement dealing with such matters; and (c) all payments due from the Pledgor or any Borrower Party on account of employee health and welfare insurance have been paid or accrued as a liability on the books of the relevant Person.

4.6 Taxes. The Pledgor and each Borrower Party has filed or caused to be filed all Federal, state and other material Tax returns that are required to be filed and has paid all Taxes shown to be due and payable on said returns or on any material assessments made against it or any of its property and all other Taxes, fees or other charges imposed on it or any of its property by any Governmental Authority (other than any amount the validity of which is currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the relevant Person); no Tax Lien has been filed (other than Permitted Liens), and to the Knowledge of each Borrower Party, no claim is being asserted, with respect to any such Tax, fee or other charge.

4.7 Business, Debt, Contracts, Etc. No Borrower Party (a) has conducted any business other than the business contemplated by the Operative Documents or in connection with the applicable Project(s), (b) has any outstanding Indebtedness or other material liabilities other than pursuant to the Operative Documents (and any applicable Deferred Development Fee), or (c) is a party to or bound by any material contract other than the Operative Documents to which it is a party.

4.8 Filings. All filings and recordings, re-filings or re-recordings necessary to perfect and maintain the perfection and priority of the interest, title or Liens of the Collateral Agent (for the benefit of the Secured Parties), subject to Permitted Liens that pursuant to applicable law are entitled to a higher priority than the Liens created by the Security Documents, have been made as required by the Loan Documents.

4.9 Investment Company; Holding Company Act; EWG. Neither any Borrower Party nor Pledgor is an "investment company," or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940. Neither any Borrower Party nor Pledgor is subject to regulation under any Legal Requirement (other than Regulation X and subject to Section 4.10(c)(iii) below) that limits its ability to incur Indebtedness. On or before the date on which the output of a Project is sold or delivered (including test energy), such Project or Project Company, as applicable, shall be an EWG and/or a QF, and Pledgor is, or upon COD of each such Project will be, a "holding company" under Section 1262(8) of PUHCA 2005 and the FERC's implementing regulations at 18 C.F.R. § 366 *et seq*., solely with respect to its ownership of one or more EWGs and/or QFs. Neither any Borrower Party nor Pledgor is or has been determined by the FERC to be subject to, or not exempt from, regulation under the federal access to books and records provisions of PUHCA 2005.

4.10 Governmental Regulation.

(a) Each of Pledgor and each Borrower Party is in compliance in all material respects with the applicable requirements of the FPA and PUHCA 2005 and all other applicable Legal Requirements with respect to the ownership, operation, control and sale of energy, capacity and ancillary services and environmental attributes from each applicable Project.

(b) None of the Agents, the Lenders, or any Affiliate of any of them will, solely as a result of the construction, ownership, leasing or operation of any applicable Project by the applicable Borrower Party, the sale of electricity therefrom by each applicable Borrower Party or each applicable Borrower Party's entering into any Operative Document or any transaction

contemplated hereby or thereby, be subject to, or not exempt from, regulation under the FPA or PUHCA 2005 or rate regulation as an "electrical corporation" under any applicable state rule or regulation; provided, however, that in the event that any Agent or any Lender, upon the exercise of remedies under the Operative Documents or otherwise, becomes the owner or operator of any Project or directs the sale of electricity therefrom, such Agent or Lender may become subject to regulation as a public utility under the FPA and an "electrical corporation" under applicable state rules or regulations, and unless EWG status or another exemption from regulation under PUHCA 2005 is obtained, such Agent or Lender, as the case may be, could become, together with its Affiliates, subject to regulation under the federal access to books and records provisions of PUHCA 2005 and could become subject to applicable state rules or regulations of the operations of each applicable Project and, if any retail sales of electric energy, capacity or ancillary services are made from such applicable Project, financial, organizational or rate regulation as a "public utility" or "electric utility" or similar term under applicable state rules or regulations.

(c) On and after obtaining the order and approvals required pursuant to Section 5.12(ii), each applicable Project Company shall be (i) subject to regulation as a "public utility" under the FPA; (ii) authorized by FERC to make sales of electric energy, capacity and ancillary services at market-based rates pursuant to Section 205 of the FPA or an exemption under Part 292 of FERC's regulations; and (iii) as applicable, granted blanket authorization by FERC to issue securities and assume liabilities pursuant to Section 204 of the FPA and all other waivers of regulations and blanket authorizations as are customarily granted by FERC to entities with market-based rate authority.

4.11 Federal Reserve Requirements. No part of the proceeds of any Loans, and no other extensions of credit hereunder, will be used (a) for "buying" or "carrying" any Margin Stock within the respective meanings of each of the quoted terms under Regulation U as now and from time to time hereafter in effect or for the purpose of reducing or retiring any indebtedness which was originally incurred to buy or carry any Margin Stock or (b) for any purpose that violates any regulation of the Board. No more than 25% of the assets of the Pledgor or any Borrower Party consist of Margin Stock. If requested by any Lender or the Administrative Agent, the Borrower will (and will cause each Borrower Party to) furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form G-3 or FR Form U-1, as applicable, referred to in Regulation U.

4.12 Litigation. (a) No litigation, action, suit, investigation or proceeding at law or equity by or before any arbitrator or Governmental Authority is pending or, to the Knowledge of any applicable Borrower Party, threatened by or against any Loan Party or against any of their respective properties or revenues (including any Material Project Document or Applicable Permit) with respect to any of the Operative Documents or any of the transactions contemplated hereby or thereby that could, if adversely determined, reasonably be expected to have a Material Adverse Effect.

(b) There are no condemnation proceedings by or before any Governmental Authority now pending or, to the Knowledge of any Borrower Party, threatened with respect to the Real Property or any applicable Project, or sale of power therefrom or any portion thereof material to the construction, ownership or operation of any applicable Project or sale of power therefrom, unless (i) solely with respect to a condemnation proceeding occurring prior to Final Completion

of a Project, in the reasonable opinion of the Administrative Agent and the Independent Engineer, such condemnation is capable of being remedied within a satisfactory period without affecting Final Completion with respect to such applicable Project in accordance with the Construction Budget and Schedule applicable to such Project and (ii) an adequate reserve, in an amount acceptable to the Administrative Agent and the Independent Engineer, has been established for remedying such condemnation.

4.13 Compliance with Legal Requirements. Except as otherwise disclosed in Schedule 4.13, neither any Borrower Party nor its properties or assets has violated or is in violation of (nor will the continued operation of its material properties and assets as currently conducted violate) any currently applicable Legal Requirements (including any zoning, building, or Environmental Law, ordinance, code or approval or any building permit) or any restriction of record or Site Lease Agreement, or is in default with respect to any judgment, writ, injunction or decree of any Governmental Authority, where such violation or default would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

4.14 No Default.

No Loan Party is in default under or with respect to any of its Contractual Obligations in any respect that would reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

4.15 Permits.

(a) There are no material Permits issued to, or required to be provided by, or required by any Borrower Party under any Governmental Rule, including any Environmental Laws, as each applicable Project is currently designed and contemplated to be developed, constructed, owned, leased and operated that are or will become Applicable Permits other than the Permits described in Schedule 4.15. Each Permit described in Schedule 4.15 is either (i) a Permit in full force and effect and is not the subject of any current material legal proceeding and, if an appeal period is specified by a Governmental Rule, the appeal period has expired and no proceedings are pending seeking material modification or revocation, in the case of those Permits listed in Part I of Schedule 4.15, or (ii) a Permit that has not yet been obtained or provided (or has been obtained or provided but the applicable appeal period has not expired) and has not been required for any applicable Project development activities up to the date of this Agreement and is not required to for the construction of any applicable Project, and which each Borrower Party has no current actual Knowledge indicating that such Permit will not timely be obtained or provided (or applicable appeal period expire) in the ordinary course of operation of each applicable Project in the case of those Permits listed in Part II of Schedule 4.15. Each Borrower Party reasonably believes that any Permit so indicated on Part II of Schedule 4.15 will be timely obtained or provided without any material expense. Each Borrower Party is not in material violation of any Applicable Permit.

(b) To each Borrower Party's Knowledge, each Material Project Participant possesses all material Permits, or rights thereto necessary to perform its duties under the Operative Documents to which it is a party, other than those Applicable Permits listed in Part II of

Schedule 4.15, and, to each Borrower Party's Knowledge, such party is not in material violation of any such Permit.

(c) No Borrower Party has entered into any stipulations with any Governmental Authority issuing any Applicable Permit(s) which are not expressly set forth in such Permit(s) to develop, construct, own, lease and operate any applicable Project or which have not otherwise been disclosed to the Administrative Agent by such Borrower Party in writing.

4.16 Use of Proceeds. The proceeds of the Loans shall be used solely in accordance with Section 5.7.

4.17 Insurance. All policies of insurance required to be obtained by each Borrower Party under the Operative Documents have been obtained, and are in full force and effect; all premiums due thereon have been paid (or will be paid from proceeds of the initial Construction Loan) and, except with respect to policies that have been replaced with other policies in compliance with this Agreement, no notice from any insurer or its representative as to any cancellation or reduction or other change in coverage has been received.

4.18 Environmental Matters.

(a) Each Borrower Party has previously delivered to the Agents the Environmental Site Assessments and except as set forth on Schedule 4.18: (i) neither any Borrower Party nor Pledgor is or has in the past been in violation of (or received any notice that it is in violation of) any Environmental Law or Applicable Permit, which violation has not been fully cured and that would reasonably be expected to subject any Secured Party to liability or to result in a liability to either any Borrower Party or Pledgor or their respective properties or assets; (ii) neither any Borrower Party nor Pledgor has (or has received any written notice that it or any third party has) used, Released, generated, manufactured, produced, or stored (or arranged for the disposal of) in, on, under or about any applicable Project Site or the Improvements or any other Real Property owned, operated or leased by such Borrower Party, or transported thereto or therefrom, any Hazardous Substances that would reasonably be expected to subject any applicable Borrower Party, Pledgor or any Secured Party to liability under any Environmental Law; (iii) to the Knowledge of each Borrower Party after reasonable inquiry, there are no species protected under applicable Environmental Laws, historical or cultural artifacts, wetlands or underground tanks (whether operative or temporarily or permanently closed) located on any applicable Project Site or the Improvements or any other Real Property owned, operated or leased by each applicable Borrower Party; (iv) there are no Hazardous Substances used, stored or present at or on any applicable Project Site or the Improvements, except as used or stored or present in the ordinary course of business and in compliance with Environmental Laws; and (v) to the Knowledge of each Borrower Party, there is no condition, circumstance, action, activity or event that would reasonably be expected to form the basis of any violation of Environmental Law by any Borrower Party or liability to any applicable Borrower Party under any Environmental Law, in each case of clauses (i) through (v) above that would reasonably be expected to have a Material Adverse Effect.

(b) There is no pending or, to the Knowledge of each Borrower Party, threatened Environmental Claim by any Governmental Authority (including the U.S. Environmental

Protection Agency) or any other third party with respect to the presence or Release of Hazardous Substances in, on, from or to any applicable Project Site or the Improvements, or any other Real Property owned, operated or leased by any Borrower Party, or with respect to Environmental Laws or Hazardous Substances, that would reasonably be expected to have a Material Adverse Effect.

(c) After due inquiry, except as set forth on Schedule 4.18, each Borrower Party does not have Knowledge of any past or existing violations or threatened violations of any Environmental Laws by any person relating in any way to any applicable Project Site or the Improvements or any other Real Property owned, operated or leased by any Borrower Party that would reasonably be expected to have a Material Adverse Effect. As of the Initial Project Construction Loan Date for each Project, the Environmental Site Assessments are the most recent environmental site assessments each Borrower Party has knowledge or possession of with respect to each applicable Project Site or any of the applicable Real Property.

4.19 Title to Properties; Possession Under Leases.

(a) Each Borrower Party has good title to all its material properties and assets (other than Real Property), except for Permitted Liens. Each Borrower Party has good and marketable fee simple title to or valid leasehold and easement interests in, or other valid right to use, as applicable, all the Real Property set forth on Schedule 4.19(a), in each case in accordance with the applicable lease, easement, right of way, license agreement or other operating right or similar right of use, except for Permitted Liens.

(b) No landlord Lien has been filed, and, to the Knowledge of each Borrower Party, no claim is being asserted, with respect to any lease payment under any Site Lease Agreements, subject to Permitted Liens. To the Knowledge of each Borrower Party, other than Permitted Liens or except as otherwise specified by the Site Lease Agreements, none of the Real Property for a Project is subject to any lease, sublease, license, easement or other agreement granting to any person any right to the use, occupancy, possession or enjoyment of such Real Property or any portion thereof.

(c) No Borrower Party has received any written notice of, nor has any Knowledge of, (i) any pending or contemplated condemnation proceeding affecting any Project Site or any sale or disposition thereof in lieu of condemnation (additionally, no Borrower Party has received any written notice of, nor has any Knowledge of, any pending or threatened condemnation proceeding affecting a Project Site or any sale or disposition thereof in lieu of condemnation) or (ii) any existing or threatened change in the zoning classification of any of any part of any Project Site, except as set forth on Schedule 4.19(c).

(d) The Mortgaged Property for each applicable Large Project has been properly subdivided in accordance with all applicable Legal Requirements or entitled to exception therefrom, and for all purposes such Real Property may be mortgaged and conveyed in accordance with applicable legal requirements.

(e) With respect to each applicable Large Project, the Mortgaged Property constitutes all of the Real Property owned, leased or otherwise held or used by each Borrower Party in

respect of such applicable Project, or in which each applicable Borrower Party holds a direct or indirect interest, as of the Initial Project Construction Loan Date for such Project. Except for Permitted Liens, the agreements set forth on Schedule 4.19(e) constitute all of the agreements governing the Mortgaged Property for each applicable Project.

4.20 Utilities. All utility services necessary for the construction and operation of each Project for its intended purposes are available at each applicable Project Site or are reasonably expected to be so available as and when required upon commercially reasonable terms or market rates.

4.21 Roads/Feeder Lines.

(a) Except as set forth on Schedule 4.21, all roads necessary for the construction and full utilization of a Project for its intended purposes under the Material Project Documents applicable to such Project have either been completed or the necessary rights of way therefor have been acquired, except for permits to cross state, county or township roads, which are reasonably expected to be granted as a ministerial matter during the construction of each applicable Project prior to the date such permits are required to be acquired pursuant to any applicable Governmental Authority.

(b) Except as set forth on Schedule 4.21, all necessary easements, rights of way, agreements and other rights for the construction, interconnection and utilization of the feeder lines of each applicable Project have been acquired.

4.22 Sufficiency of Material Project Documents. The rights granted to each Borrower Party pursuant to the Material Project Documents are sufficient to enable each applicable Project to be located, constructed, operated and routinely maintained as contemplated by the Operative Documents and provide adequate ingress and egress for any reasonable purpose in connection with the construction, operation and routine maintenance of each applicable Project.

4.23 Material Project Documents.

(a) Each Borrower Party has delivered to the Administrative Agent a complete and correct copy of the Material Project Documents in effect for each applicable Project, including any amendments, supplements or modifications with respect thereto. None of the Material Project Documents to which each applicable Borrower Party or Pledgor is a party has been amended or modified since with respect to (i) the Borrower, the Pledgor and Holdco, the Signing Date and (ii) each Borrower Party, the Initial Project Construction Loan Date related to such Project, except in accordance with this Agreement.

(b) As of the Signing Date and as of each date upon which this representation is made, each of the Material Project Documents then in effect is in full force and effect and constitutes the legal, valid and binding obligation of each Loan Party party thereto, and, to the Knowledge of each Borrower Party, the other parties thereto. Each Borrower Party is in compliance with all Material Project Documents in effect, and to the Knowledge of each Borrower Party, each other party to a Material Project Document in effect is in compliance with its obligations thereunder and no defaults have occurred and are continuing thereunder, except to

the extent any such non-compliance or default could not reasonably be expected to result in a Material Adverse Effect.

4.24 Disclosure. Except for projections and pro forma financial information, no statement or information contained in this Agreement, any other Loan Document, or any other document, certificate or statement prepared and furnished by any Borrower Party, Pledgor or any Affiliate thereof to the Administrative Agent or the Lenders, or any of them, for use in connection with the transactions contemplated by this Agreement or the other Loan Documents, contained as of the date such statement, information, document or certificate was so furnished any untrue statement of a material fact or omitted to state a material fact necessary to make the statements contained herein or therein not misleading. The projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of each Borrower Party to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount. There is no fact known to any Borrower Party, Pledgor or any Affiliate thereof that would reasonably be expected to have a Material Adverse Effect that has not been expressly disclosed herein, in the other Loan Documents or in any other documents, certificates and statements furnished to the Administrative Agent and the Lenders for use in connection with the transactions contemplated hereby and by the other Loan Documents. The Base Case Model is based on reasonable assumptions that are consistent with the provisions of the Material Project Documents.

4.25 Construction Budget; Projection. Each Borrower Party has prepared or provided each applicable Construction Budget and Schedule in good faith and on the basis of reasonable assumptions that are consistent with the provisions of the Material Project Documents applicable to the applicable Project(s). As of the date of this Agreement and as of the date when this representation is made or deemed made, to each Borrower Party's Knowledge, there are no material Project Costs that are not included in the applicable Construction Budget and Schedule for such Project that have not otherwise been disclosed to the Administrative Agent in writing.

4.26 Intellectual Property. Each Borrower Party owns, or is licensed to use, all Intellectual Property necessary for the conduct of its business as currently conducted. No material claim has been asserted and is pending by any Person against any Borrower Party challenging or questioning any Borrower Party's use of any Intellectual Property or the validity or effectiveness of any Intellectual Property used by any Borrower Party, nor does any Borrower Party has Knowledge of any valid basis for any such claim. The use of Intellectual Property by each Borrower Party does not infringe on the rights of any Person in a manner that would reasonably be expected to result in a Material Adverse Effect.

4.27 Land Not in Flood Zone. No Deed of Trust encumbers improved real property relating to a ground-mounted Project that is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards within the meaning of the National Flood Insurance Act of 1968 unless flood insurance available under such Act has been obtained in accordance with Section 3.2(r).

4.28 Partnerships and Joint Ventures; Separateness.

(a) No Borrower Party is general partner or a limited partner in any general or limited partnership or a joint venturer in any joint venture.

(b) No Borrower Party has subsidiaries, except as set forth on Annex 4. No Project Company has any subsidiaries.

(c) Each Borrower Party maintains separate bank accounts and separate books from the other Borrower Parties and all other Persons. The separate liabilities of each Borrower Party are readily distinguishable from the liabilities of the other Borrower Parties and all other Persons.

(d) Each Borrower Party conducts its business solely in its own name in a manner not misleading to other Persons as to its identity.

4.29 Material Adverse Effect. The financial statements of each Borrower Party, heretofore delivered to the Administrative Agent with copies for the Lenders, were prepared in accordance with GAAP, as applicable, and fairly present the financial condition and operations of each Borrower Party at such date and, where applicable, the results of its operations for the period then ended (subject, where applicable, to normal year-end audit adjustments). The unaudited pro forma balance sheet of each Borrower Party as of the Signing Date and each Initial Project Construction Loan Date, as applicable (including the notes thereto), copies of which have heretofore been furnished to each Lender, has been prepared giving effect (as if such events had occurred on such date) to (i) the Loans to be made hereunder and the use of proceeds thereof and (ii) the payment of fees and expenses in connection with the foregoing, and such pro forma balance sheet has been prepared based on the best information available to each Borrower Party as of the date of delivery thereof, and presents fairly on a pro forma basis the estimated financial position of each Borrower Party as of the applicable date of deliver, assuming that the events specified in the preceding sentence had actually occurred at such date. Since the respective date of each such statement, there has been no change in the business, Property, condition (financial or otherwise) or results of operations of each Borrower Party that would reasonably be expected to have a Material Adverse Effect.

4.30 Accounts. No Borrower Party has any “deposit account” with a “bank” (within the meaning of Section 9-102 of the UCC) other than (a) the Collateral Accounts established in accordance with this Agreement and the other Loan Documents and (b) the Local Deposit Account that may contain an amount on deposit therein not in excess of $300,000 in the aggregate, to the extent such account is subject to a deposit account control agreement in favor of the Collateral Agent in form and substance reasonably satisfactory to the Administrative Agent and the Collateral Agent.

4.31 Construction of the Project. To the Knowledge of each Borrower Party, all work done on each applicable Project has been done in a good and workmanlike manner and in accordance with the EPC Agreements and the Interconnection Agreements applicable to such Project, and Prudent Industry Practices, except to the extent that any failure would not reasonably be expected to have a Material Adverse Effect.

4.32 Sanctions and Anti-Corruption Laws.

(a) No Borrower Party is in violation of any laws relating to terrorism or money laundering, including Executive Order No. 13224 on Terrorist Financing, effective September 23, 2001, and the Patriot Act.

(b) The use of the proceeds of the Loans by each Borrower Party will not violate the Trading with the Enemy Act, the International Emergency Economic Powers Act, the Comprehensive Iran Sanctions, Accountability and Divestment Act, the Iran Threat Reduction and Syria Human Rights Act, the National Defense Authorization Acts of 2012 and 2013, any regulations administered or enforced by OFAC (31 C.F.R., Subtitle B, Chapter V), or any enabling legislation or executive order relating thereto or in furtherance thereof (collectively, "Sanctions"). No Borrower Party, none of their respective subsidiaries, none of their respective directors, officers or employees, and, to the Knowledge of any Borrower Party, no agent or other person acting on behalf of any Borrower Party or any of their respective subsidiaries is currently on the OFAC SDN List, and no Borrower Party or any of their respective subsidiaries is located, organized or resident in a country or territory that is the subject or the target of Sanctions, including Cuba, Burma (Myanmar), Iran, North Korea, Sudan and Syria (each, a "Sanctioned Country"). For the past 5 years, each Borrower Party and its subsidiaries have not knowingly engaged in, are not now knowingly engaged in, any dealings or transactions with any Person that at the time of the dealing or transaction is or was the subject or the target of Sanctions or with any Sanctioned Country.

(c) No Borrower Party, none of their respective subsidiaries, none of their respective directors, officers, or employees, and, to the Knowledge of any Borrower Party, no agent or other person acting on behalf of any Borrower Party or any of their respective subsidiaries has (i) used any funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) taken any action in furtherance of an offer, promise or authorization of any direct or indirect unlawful payment or benefit to any foreign or domestic government or regulatory official or employee, including of any government-owned or controlled entity or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office; (iii) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977 or any applicable law or regulation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, or committed an offense under the Bribery Act 2010 of the United Kingdom or any other applicable anti-bribery or anti-corruption laws (collectively, "Anti-Corruption Laws"); or (iv) made, offered, agreed, requested or taken an act in furtherance of any unlawful bribe or other unlawful benefit, including, without limitation, any rebate, payoff, influence payment, kickback or other unlawful or improper payment or benefit.

(d) Each Borrower Party has established and implemented processes and procedures designed to ensure that (i) no persons or entities holding any direct or indirect legal or beneficial interest whatsoever in each Borrower Party appear on the OFAC SDN List; (ii) no persons or entities holding any direct or indirect legal or beneficial interest whatsoever in any Borrower Party are included in, owned by, controlled by, acting for or on behalf of, providing assistance, support, sponsorship, or services of any kind to, or otherwise associated with any of the persons or entities referred to or described in the OFAC SDN List; and (iii) no Borrower Party will

conduct business or engage in any transaction with any person or entity in violation of Sanctions or in violation of Anti-Corruption Laws.

4.33 Security Documents. (a) The Security Agreement, each Guaranty and Security Agreement, each Guaranty, Pledge and Security Agreement and the Pledge Agreement are each effective to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a legal, valid and enforceable security interest in the Collateral described therein and proceeds thereof. In the case of the Pledged Stock described in the Pledge Agreement, Security Agreement and each Guaranty, Pledge and Security Agreement, when stock certificates representing such Pledged Stock are delivered to the Collateral Agent (together with a properly completed and signed stock power or endorsement), the Pledge Agreement, Security Agreement and each applicable Guaranty, Pledge and Security Agreement shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of Pledgor, Borrower and such Holdco, as applicable, in such Pledged Stock and the proceeds thereof, as security for the Secured Obligations (as defined in the Pledge Agreement, Security Agreement and each Guaranty, Pledge and Security Agreement), and in the case of the other Collateral described in the Security Agreement, each Guaranty, Pledge and Security Agreement and each Guaranty and Security Agreement, when financing statements and other filings specified on Schedule 4.33(a) in appropriate form are filed in the offices specified on Schedule 4.33(a), and with respect to other property that can be perfected by control, upon execution of the Depositary Agreement by each of the parties thereto, the Security Agreement, each Guaranty, Pledge and Security Agreement, each Guaranty and Security Agreement and the Pledge Agreement shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of each Borrower Party and Pledgor in such Collateral and the proceeds thereof, as security for the Secured Obligations (as defined in the Security Agreement, each Guaranty, Pledge and Security Agreement, each Guaranty and Security Agreement or Pledge Agreement, as applicable), in each case prior and superior in right to any other Person (except, in the case of Collateral other than Pledged Stock, Permitted Liens that pursuant to applicable law are entitled to a higher priority than the Liens created by the Security Documents).

(b) Each Deed of Trust is effective to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a legal, valid and enforceable Lien on the applicable Mortgaged Property described therein and proceeds thereof, and when such Deed of Trust is filed in the office specified on Schedule 4.33(b), such Deed of Trust shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the applicable Borrower Party in the applicable Mortgaged Property and the proceeds thereof, as security for the Secured Obligations, in each case prior and superior in right to any other Person, except for Permitted Liens that pursuant to applicable law are entitled to a higher priority than the Liens created by the Security Documents.

4.34 Solvency. Each Borrower Party is, and after giving effect to the incurrence of all Indebtedness and obligations being incurred in connection herewith and therewith will be Solvent.

4.35 Sales Tax Exemption; Resale Certificate. Each Construction Budget and Schedule accurately represents each applicable Borrower Party's estimated anticipated sales and use taxes taxable to such applicable Borrower Party for the construction of each applicable Project. Each

Borrower Party has obtained, or will have obtained when required by and to the extent available under applicable law, all necessary resale certificates or other applicable documentation to secure exemption from all sales and use taxes in all applicable jurisdictions in respect of the applicable Project.

ARTICLE 5.

AFFIRMATIVE COVENANTS OF BORROWER

The Borrower covenants and agrees that, prior to the Final Discharge Date, it shall (and shall cause each Borrower Party to), unless the Required Lenders waive compliance in writing, comply with each of the following:

5.1 Reporting Requirements. The Borrower shall deliver to the Administrative Agent and each Lender:

(a) as soon as available and in any event within one hundred twenty (120) days after the end of each fiscal year of the Borrower a copy of the audited balance sheet of the Borrower as at the end of such year and the related audited statements of income and of cash flows for such year, setting forth in each case in comparative form the figures for the previous year, reported on without a "going concern" or like qualification or exception, or qualification arising out of the scope of the audit, by KPMG or other independent certified public accountants of nationally recognized standing; provided that all such financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied (except as approved by such accountants or officer, as the case may be, and disclosed in reasonable detail therein) consistently throughout the periods reflected therein and with prior periods;

(b) as soon as available but in any event within sixty (60) days after the end of each of the first three quarterly periods of each fiscal year of the Borrower, (i) the unaudited balance sheet of the Borrower as of the end of such quarter and the related unaudited statements of income and of cash flows for such quarter and the portion of the fiscal year through the end of the year, setting forth in each case in comparative form the figures for the previous year, certified by a Responsible Officer as being fairly stated in all material respects (subject to normal year-end audit adjustments); provided that all such financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied (except as approved by such accountants or officer, as the case may be, and disclosed in reasonable detail therein) consistently throughout the periods reflected therein and with prior periods, and (ii) an unaudited pro forma balance sheet of each Borrower Party (other than the Borrower) certified by a Responsible Officer as being fairly stated in all material respects;

(c) concurrently with the delivery of the financial statements referred to in Section 5.1(a), a certificate of the independent certified public accountants reporting on such financial statements stating that in making the examination necessary therefor no Knowledge was obtained of any Default or Event of Default pursuant to Article 7, except as specified in such certificate (which certificate shall not be required to be delivered if such accounting firm is not

delivering certificates of such type as a matter of national policy applied consistently to its clients);

(d) concurrently with the delivery of any financial statements pursuant to Section 5.1(a) or Section 5.1(b), a certificate of a Responsible Officer stating that such Responsible Officer has obtained no Knowledge of any Default or Event of Default except as specified in such certificate or, if any such condition existed or exists, the nature thereof and the corrective actions that the applicable Person has taken or proposes to take with respect thereto;

(e) promptly upon any Borrower Party acquiring notice or obtaining Knowledge that any Default or Event of Default has occurred, a notice of such event (which should, in accordance with Section 8.5, indicate that such notice is a "Notice of Default");

(f) promptly upon any Borrower Party acquiring notice or obtaining Knowledge thereof, notice (including to the Independent Engineer) of (i) any material breach or any default under any Material Project Document, (ii) any termination or material amendment of any Material Project Document, (iii) any litigation, arbitration, material events or material notices with respect to any Material Project Document, (iv) any event of force majeure asserted under any Material Project Document which exists for more than five Business Days (and, to the extent reasonably requested by the Administrative Agent and reasonably available to the Borrower, copies of related invoices, statements, supporting documentation, schedules, data or affidavits delivered under any Material Project Document) and (v) any change order under the EPC Agreements;

(g) promptly upon any Borrower Party (i) acquiring notice or obtaining Knowledge thereof, notice (x) of any dispute (or in the case of a modification of a material Applicable Permit, a material dispute) between the applicable Borrower Party and any Governmental Authority involving the revocation, modification, failure to renew or the like of any Applicable Permit or the imposition of additional material conditions with respect thereto and (y) that any Applicable Permit related to any applicable Project is reasonably expected to be cancelled, suspended, terminated or impaired, except that no such notice shall be required with respect to the expiration, in the ordinary course of business at the stated expiration date, of a Permit that is no longer required for construction or operation and (ii) obtaining any Applicable Permit, a copy of such Applicable Permit;

(h) promptly upon any Borrower Party acquiring notice or obtaining Knowledge that (i) a materialman's, mechanic's or other like Lien in an amount in excess of $100,000 or (ii) multiple Liens as described in clause (i) above in an aggregate amount in excess of $200,000, in each case have been recorded against the applicable Borrower Party or any applicable Project Site, a notice of such recordation describing the reasons for such Lien in reasonable detail, and attaching a copy of any documentation or correspondence relevant to such Lien;

(i) promptly upon any Borrower Party acquiring notice or obtaining Knowledge of the commencement of proceedings against the Borrower before FERC or any applicable state authority alleging a violation of the FPA or the regulations of FERC or the applicable state authority, or asserting jurisdiction over the applicable Borrower Party under PUHCA 2005

(except as an EWG), a copy of any documentation or correspondence relevant to such proceeding;

(j) promptly upon any Borrower Party acquiring notice or obtaining Knowledge thereof, notice of any (i) fact, circumstance, condition or occurrence at, on or arising from the applicable Mortgaged Property or the applicable Improvements that results in material noncompliance with any Environmental Law or any Release of Hazardous Substances on or from each applicable Project Site, the applicable Improvements or any other part of the applicable Mortgaged Property that has resulted in material property damage or has a Material Adverse Effect, or (ii) pending or, to the applicable Borrower Party's Knowledge, threatened, material Environmental Claim against the Borrower or, to the applicable Borrower Party's Knowledge, any of its Affiliates, contractors, lessees or any other Persons, arising in connection with its or their occupying or conducting operations on or at each applicable Project, the applicable Real Property or the applicable Improvements, in each case which would reasonably be expected to impose liability on any Secured Party or have a Material Adverse Effect;

(k) promptly upon any Borrower Party acquiring notice or obtaining Knowledge thereof, notice of the filing or commencement of, or any written threat or written notice of intention of any Person to file or commence any action, suit or proceeding, whether at law or equity or by or before any Governmental Authority or in arbitration, against the applicable Borrower Party, any Material Project Participant or involving any applicable Project, which involves claims in excess of $500,000 in the aggregate or as to which an adverse determination is reasonably probable and which, if adversely determined, would reasonably be expected to have a Material Adverse Effect;

(l) promptly upon any Borrower Party acquiring notice or obtaining Knowledge thereof, notice of any condemnation, taking by eminent domain or other taking or seizure by a Governmental Authority with respect to a material portion of any applicable Project or any applicable Project Site;

(m) promptly upon any Borrower Party acquiring notice or obtaining Knowledge thereof, notice of any casualty, damage or loss to any applicable Project, whether or not insured, through fire, theft, other hazard or casualty, or any act or omission of the applicable Borrower Party, its employees, agents, contractors, consultants or representatives, or of any other Person, if such casualty, damage or loss affects the applicable Borrower Party or any applicable Project in excess of $500,000 for any one such event, or $1,000,000 in the aggregate in any policy period, and the applicable Borrower Party shall keep the Administrative Agent timely apprised of any insurance claim proceedings related to such casualty or loss, including any notice received from any insurance company indicating that it is not obligated to pay any named insured, or that it is withholding any amounts that the applicable Borrower Party is claiming are due and payable under any insurance policy maintained by the applicable Borrower Party;

(n) promptly upon any Borrower Party acquiring notice or obtaining Knowledge thereof, notice of any cancellation or material change in the terms, coverages or amounts of any insurance described in Section 5.4 in respect of a Project;

(o) promptly, but in no event later than five (5) Business Days after the execution and delivery to any Borrower Party thereof, a copy of each Additional Project Agreement and any material amendment, supplement or other modification to any such agreement that is received by the Borrower after the Signing Date and the applicable Initial Project Construction Loan Date for a Project;

(p) promptly upon any Borrower Party acquiring notice or obtaining Knowledge thereof, notice of any other development specific to the applicable Borrower Party or any applicable Project that has had, or would reasonably be expected to have, a Material Adverse Effect;

(q) promptly upon any Borrower Party acquiring notice or obtaining Knowledge thereof, notice of any forced outage with respect to all or substantially all of any applicable Project for more than 72 consecutive hours;

(r) promptly, such additional financial and other information with respect to each Borrower Party or each applicable Project as is reasonably requested by the Administrative Agent or any Lender;

(s) promptly following receipt thereof, copies of any documents described in Section 101(k) and/or Section 101(l) of ERISA that any Loan Party or any ERISA Affiliate may request with respect to any Multiemployer Plan; provided, that if the relevant Loan Party or ERISA Affiliate has not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, then, upon reasonable request of the Administrative Agent, such Loan Party or the ERISA Affiliate shall promptly make a request for such documents or notices from such administrator or sponsor and the applicable Borrower Party shall provide copies of such documents and notices promptly after receipt thereof; and

(t) promptly upon any Borrower Party acquiring notice or obtaining Knowledge thereof, notice of the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, would reasonably be expected to result in liability of any Loan Party or any ERISA Affiliates in excess of $500,000;

(u) promptly, but in no event later than five (5) days after the receipt thereof by each Borrower Party, copies of any agreement referenced in Section 5.1(o) that is obtained or entered into by the applicable Borrower Party after the Signing Date and the applicable Initial Project Construction Loan Date for a Project and any material amendment, supplement or other modification to any such agreement that is received by the Borrower after the Signing Date and the applicable Initial Project Construction Loan Date for a Project; and

(v) Each notice pursuant to Section 5.1(e)-(n), (p), (q), (t) and (v) shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action each Borrower Party proposes to take with respect thereto.

5.2 Maintenance of Existence, Properties; Etc. (a) The Borrower shall (and shall cause each Borrower Party to) (i) preserve, renew and keep in full force and effect its organizational existence in the United States, (ii) take all reasonable action to maintain all rights,

privileges and franchises necessary or desirable in the normal conduct of its business, except, in each case, as otherwise permitted by Section 6.4 and except, in the case of clause (ii) above, to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

(b) The Borrower shall (and shall cause each Borrower Party to) maintain good, valid, marketable (subject to the terms of the Operative Documents) and insurable title in (i) all applicable Mortgaged Property that constitutes the applicable Real Property, subject only to Permitted Liens and (ii) all of its other properties and assets (that are individually or in the aggregate material), subject only to Permitted Liens, in each case other than those properties and assets disposed of in accordance with this Agreement or any other Operative Document.

(c) The Borrower shall (and shall cause each Borrower Party to) keep all material property useful and necessary in its business in good working order and condition in accordance with Prudent Industry Practice, ordinary wear and tear excepted.

5.3 Compliance with Legal Requirements; Etc.

(a) The Borrower shall (and shall cause each Borrower Party to) materially comply with all applicable Legal Requirements and exercise diligent good faith efforts to make such alterations to each applicable Project and the Mortgaged Property as may be required for such compliance.

(b) The Borrower shall (and shall cause each Borrower Party to) obtain all Applicable Permits as promptly as possible, have when required all Applicable Permits necessary for the development, construction, ownership, leasing, maintenance and operation of each applicable Project under applicable Legal Requirements and comply in all material respects with all Applicable Permits. The Borrower shall (and shall cause each Borrower Party to) promptly upon receipt or publication furnish a copy (certified by a Responsible Officer of each Borrower Party) of each such Applicable Permit to the Administrative Agent.

(c) The Borrower shall (and shall cause each Borrower Party to) promptly upon receipt or publication furnish a true, correct, and complete copy of each material amendment, supplement or modification to any such Applicable Permit to the Administrative Agent and shall promptly furnish copies to the Administrative Agent of all material documents furnished to the applicable Borrower Party by any Governmental Authority or furnished to any Governmental Authority by the applicable Borrower Party.

(d) The Borrower shall (and shall cause each Borrower Party to) comply in all material respects with, and ensure compliance in all material respects by all tenants and subtenants, if any, with all applicable Environmental Laws and all applicable or relevant provisions of the Equator Principles, and obtain and comply in all material respects with and maintain, and ensure that all tenants and subtenants obtain and comply in all material respects with and maintain, any and all applicable Permits required by applicable Environmental Laws or applicable provisions of the Equator Principles.

(e) The Borrower shall (and shall cause each Borrower Party to) conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other

actions required under Environmental Laws and promptly comply in all material respects with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws or the Equator Principles.

5.4 Insurance; Events of Loss.

(a) Without cost to the Lenders, the Borrower shall (and shall cause each Borrower Party to) (i) maintain or cause to be maintained on its behalf in effect at all times the types of insurance required pursuant to Schedule 5.4, in the amounts and on the terms and conditions specified therein and (ii) use all commercially reasonable efforts to cause the Material Project Participants and each other party to a Material Project Document to procure at its own expense and maintain in full force and effect, at all times on and after the applicable Initial Project Construction Loan Date the insurance required to be procured and maintained by such Person under the relevant Material Project Documents.

(b) If any Borrower Party fails to obtain or maintain, or to cause each Material Project Participant or other party to a Material Project Document to obtain or maintain, the full insurance coverage required by this Section 5.4, the Administrative Agent, upon ten (10) Business Days' prior notice (unless the aforementioned insurance would lapse within such period or has already lapsed, in which event notice shall not be required) to the applicable Borrower Party of any such failure, may (but shall not be obligated to) obtain the required policies of insurance and pay the premiums on the same. All amounts so advanced by the Administrative Agent shall become an additional obligation of the applicable Borrower Party to the Administrative Agent, and the applicable Borrower Party shall forthwith pay such amounts to the Administrative Agent, together with interest from the date of payment by the Administrative Agent at the Default Rate.

(c) No later than March 31st of each calendar year, each Borrower Party shall deliver to the Administrative Agent a certificate of a Responsible Officer, certifying that (i) the insurance requirements of this Section 5.4 (including Schedule 5.4) have been implemented and are being complied with, (ii) the applicable Borrower Party has paid all insurance premiums then due and payable and (iii) the applicable Borrower Party is in compliance with its insurance policies.

(d) The Administrative Agent shall be entitled at its option to participate in any compromise, adjustment or settlement in connection with any Event of Loss under any policy or policies of insurance or any proceeding with respect to any condemnation or other taking of property of any Borrower Party, in each such case, in excess of $1,000,000, and the Borrower shall (and shall cause the applicable Borrower Party to), within five (5) Business Days after the Administrative Agent's request, reimburse the Administrative Agent for all reasonable out-of-pocket expenses (including reasonable attorneys' and experts' fees) incurred by the Administrative Agent in connection with such participation. The Borrower shall (and shall cause the applicable Borrower Party to) not make any compromise, adjustment or settlement in connection with any such claim in excess of $1,000,000 without the approval of the Administrative Agent (acting on behalf of the Required Lenders).

(e) All Loss Proceeds of any Event of Loss received by any Borrower Party or the Administrative Agent in respect of all or any part of each applicable Project shall be deposited in the Loss Proceeds Account and the amounts on deposit in the Loss Proceeds Account will be applied as described in the Depositary Agreement.

(f) No provision of this Section 5.4 or any other provision of any Loan Document shall impose on the Administrative Agent, the Collateral Agent or the Lenders any duty or obligation to verify the existence or adequacy of the insurance coverage maintained by each Borrower Party (nor shall any action taken, or not taken, by the Administrative Agent, the Collateral Agent or the Lenders to verify the existence or adequacy of the insurance coverage maintained by any Borrower Party affect the obligations of the applicable Borrower Party pursuant to this Section 5.4), nor shall the Administrative Agent, the Collateral Agent or the Lenders be responsible for any representations or warranties made by or on behalf of any Borrower Party to any insurance company or underwriter.

5.5 Taxes; Assessments and Utility Charges. The Borrower shall (and shall cause each Borrower Party to) pay, or cause to be paid, as and when due and prior to delinquency, all Taxes, assessments and governmental charges of any kind that may at any time be lawfully assessed or levied against or with respect to any Borrower Party or any applicable Project (including all assessments and charges lawfully made by any Governmental Authority for public improvements that may be secured by a Lien on such applicable Project), and all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of such applicable Project; provided, however, that any Borrower Party may contest or cause to be contested in good faith any such Taxes, assessments and other charges and, in such event, may permit the Taxes, assessments or other charges so contested to remain unpaid during any period, including appeals, when such Borrower Party is in good faith contesting or causing to be contested the same by appropriate proceedings, so long as (a) reserves reasonably satisfactory to the Administrative Agent have been established on such Borrower Party's books in an amount sufficient to pay any such Taxes, assessments or other charges, accrued interest thereon and potential penalties or other costs relating thereto, or other provision for the payment thereof reasonably satisfactory to the Administrative Agent shall have been made, (b) enforcement of the contested Tax, assessment or other charge is effectively stayed for the entire duration of such contest and (c) any Tax, assessment or other charge determined to be due, together with any interest or penalties thereon, is immediately paid after resolution of such contest.

5.6 Properties, Books and Records. (a) The Borrower shall (and shall cause each Borrower Party to) (i) keep proper books of record and account in conformity with GAAP and all Legal Requirements of all dealings and transactions in relation to its business and activities and (ii) permit representatives of the Administrative Agent (including the Independent Consultants) or any Lender to visit and inspect, at the applicable Borrower Party's expense, each Borrower Party's financial records, each Project (including the related Real Property) and any other properties of any Borrower Party at any reasonable time and as often as may reasonably be desired and to make extracts from and copies of such financial records, and permit any Person designated by the Administrative Agent or any Lender upon reasonable prior notice to the applicable Borrower Party to discuss the affairs, finances and condition of the applicable Borrower Party with the officers thereof and independent accountants therefor (subject to reasonable requirements of confidentiality, safety requirements and other requirements imposed

by law or by contract); provided that so long as no Default or Event of Default shall have occurred and be continuing, any such visit in excess of two such visits in any calendar year by any Lender shall be at the expense of such Lender. The Independent Engineer shall have the right to visit and inspect each Project and the books, records and documents of each Borrower Party from time to time, to witness the construction, installation, testing, start up, commissioning and operation of each Project; provided that the Independent Engineer will comply with all reasonable safety requirements of such Project or such Project Site whether imposed by contract or Governmental Rule and will maintain reasonable and customary liability insurance. The Borrower shall (and shall cause each Borrower Party to) at all times maintain and preserve a complete set of the Plans and Specifications relating to the design, engineering, construction and equipping of each Project at such Project Site and available for inspection by the Independent Engineer, the Administrative Agent and any Lender.

(b) The Borrower shall (and shall cause each Borrower Party to) maintain adequate project, financial and accounting records with respect to each applicable Borrower Party and each applicable Project.

5.7 Use of Proceeds.

(a)

(i) The Borrower shall (and shall cause each Borrower Party to) use the proceeds of each Construction Loan solely to pay a portion of the Project Costs specified in the related borrowing certificate and related certificates delivered by each Borrower Party in connection with such Construction Loan. Proceeds of the Construction Loans shall be applied by the applicable Borrower Party in the order and manner set forth in the Depositary Agreement.

(ii) The Borrower shall use the DSR Letters of Credit solely to support the Borrower's obligations with respect to the Debt Service Reserve Account. The Borrower shall use the Project Letters of Credit solely to support the applicable Borrower Party's obligations under the applicable Material Project Documents.

(b) Unless otherwise applied by the Administrative Agent pursuant to this Agreement, the Borrower shall (and shall cause each Borrower Party to) deposit all Project Revenues and all Loss Proceeds in accordance with the Depositary Agreement, for application solely for the purposes and in the order and manner provided in the Depositary Agreement.

5.8 Payment of Obligations. The Borrower shall (and shall cause each Borrower Party to) duly and punctually pay and discharge its obligations in respect of its Indebtedness permitted by Section 6.1, subject to the terms and conditions of this Agreement and the other Loan Documents (including Section 7.4 hereof).

5.9 Construction and Operating Reports.

(a) With respect to each Project, as soon as available and in any event within ten (10) Business Days after the end of each calendar month, commencing with the first full month following the applicable Initial Project Construction Loan Date for each Project until COD for

such Project, the Borrower shall (and shall cause each Borrower Party to) deliver to the Administrative Agent and each of the Lenders a certificate of a Responsible Officer of the applicable Borrower Party setting forth in reasonable detail (with respect to such Project): (a) the estimated date on which Substantial Completion shall be achieved, (b) if the Substantial Completion Date is not anticipated to occur on or before the scheduled Substantial Completion Date under the EPC Agreement for such Project, the reasons therefor, (c) the status of construction of such Project (and a description of any material defects or deficiencies with respect thereto or any material discrepancies with the applicable Plans and Specifications) and compliance of the EPC Contractor with the applicable Project Schedule (as such term is defined in the applicable EPC Agreement) or project schedule, as applicable, (d) the conformance to the applicable Construction Budget and Schedule of the amount of applicable Project Costs incurred to date and during the most recent monthly period, and in the event of a material variance, the reasons therefor, (e) an update on the process of obtaining any Applicable Permits that the applicable Borrower Party has not yet obtained; and (f) confirmation of material ongoing compliance with applicable Environmental Laws, including material compliance with permits required under applicable Environmental Laws and material ongoing compliance with applicable or relevant provisions of the Equator Principles, with descriptions of any instances of material failure to so comply.

(b) For each Project, as soon as available and in any event within thirty (30) days after the end of each calendar month, commencing with the first full month following the applicable Initial Project Construction Loan Date for each Project until COD of such Project, the Borrower shall (and shall cause each Borrower Party to) cause the Independent Engineer to deliver to the Administrative Agent and each of the Lenders a report covering each of the matters referenced in Exhibit M.

(c) Following the occurrence of COD for each Project, as soon as practicable but no later than forty-five (45) days after the close of each quarterly period of its fiscal year, the Borrower shall deliver to the Administrative Agent a summary operating report, in each case substantially in the form of Exhibit L to this Agreement, which shall include a month and year-to-date numerical and narrative assessment of (A) each applicable Project's electrical production, availability, capacity, delivery and curtailment, if any, (B) the solar resource data with respect to such Project, (C) such Project's availability and unscheduled maintenance performed with respect to the Power Blocks and any other portion of such Project, (D) variance analysis of the Project's compliance with each budgeted category as compared to then applicable Annual Operating Budget, (E) casualty losses that required notice pursuant to Section 5.1(m) in any fiscal year of the Borrower, (F) replacement of equipment not contemplated by then current Annual Operating Budget of value in excess of $500,000, (G) material disputes with contractors, materialmen, suppliers or others and any related material claims against any Borrower Party with a value in excess of $500,000, (H) any claims either individually or in the aggregate equal to or greater than $500,000 for warranty under any EPC Agreement made or outstanding during such quarter and (I) confirmation of material ongoing compliance with applicable Environmental Laws, including material compliance with permits required under applicable Environmental Laws and material ongoing compliance with applicable or relevant provisions of the Equator Principles, with descriptions of any instances of material failure to so comply.

(d) The Borrower shall (and shall cause each Borrower Party to) provide to the Administrative Agent promptly upon reasonable request such information concerning each applicable Project at such times as the Administrative Agent shall reasonably require, including such reports and information as are reasonably required by the Independent Consultants.

5.10 Material Project Documents. The Borrower shall (and shall cause each Borrower Party to) (i) perform and observe all of its material covenants and material obligations contained in each of the Material Project Documents, (ii) take all reasonable and necessary action to prevent the termination or cancellation of any Material Project Documents to which the applicable Borrower Party or Pledgor is a party in accordance with the terms of such Material Project Documents or otherwise (except for the expiration of any Material Project Document in accordance with its terms and not as a result of a breach or default thereunder) and (iii) enforce against the relevant Material Project Participant each material covenant or obligation of such Material Project Document to which it is a party in accordance with its terms, including enforcing the rights and remedies of the applicable Borrower Party under the Material Project Documents to maximize the amount of liquidated damages available to the applicable Borrower Party under the Material Project Documents.

5.11 Completion; Acceptance Tests. The Borrower shall (and shall cause each Borrower Party to), subject to the provisions of this Section 5.11, obtain the prior written consent of the Independent Engineer and the Administrative Agent prior to accepting or confirming that each applicable Project has achieved Substantial Completion, and/or Final Completion under the EPC Agreements (as such term is defined therein). Except with respect to Small Projects, prior to accepting or confirming any final acceptance and/or final completion test procedures under the EPC Agreements or the applicable Power Purchase Agreement, the Borrower shall (and shall cause each Borrower Party to) allow the Independent Engineer and the Administrative Agent, at their option, to witness such test procedures and shall provide to the Independent Engineer and the Administrative Agent copies of such test procedures and allow the Independent Engineer and Administrative Agent reasonably sufficient time to review and consult with each applicable Borrower Party in respect thereof and the Borrower shall (and shall cause each Borrower Party to) take into consideration in good faith the Independent Engineer's and Administrative Agent's comments in respect thereof; provided that the Independent Engineer and the Administrative Agent will comply with all reasonable safety requirements of each applicable Project or each applicable Project Site whether imposed by contract or Governmental Rule and that no such review and consultation shall be required in respect of test procedures already prescribed by the applicable EPC Agreement or the applicable Power Purchase Agreement. Prior to accepting or confirming that any Project has satisfied any of the final acceptance or final completion tests or met any of the performance guarantees or performance criteria pertaining to such applicable Project, the Borrower shall (and shall cause each Borrower Party to) provide to the Independent Engineer and the Administrative Agent sufficient opportunity to review the written items pertaining thereto and allow the Independent Engineer and Administrative Agent reasonably sufficient time to review and consult with each applicable Borrower Party in respect thereof and the Borrower shall (and shall cause each Borrower Party to) take into consideration in good faith the Independent Engineer's and Administrative Agent's comments in respect thereof. Notwithstanding the foregoing, and so long as each Borrower Party has provided the Independent Engineer and the Administrative Agent with the information needed for the reviews, consultations and consents required by this Section 5.11 in a manner allowing for a reasonable

time period for such Person to review the same, the Borrower shall (and shall cause each Borrower Party to) comply with all time periods required with respect to the relevant acceptance procedures under the applicable EPC Agreement and the Power Purchase Agreement irrespective of whether the Independent Engineer and the Administrative Agent has provided their consent or consultation hereunder and shall not be required to withhold any approval, acceptance or confirmation of Substantial Completion or Final Completion under the applicable EPC Agreement, test procedures or any final acceptance or final completion tests.

5.12 EWG Status; Market-Based Rate Authority. Each Project Company (a) is an EWG and (b) except to the extent the Project Company is exempt pursuant to 18 C.F.R. § 292.601 (2005) or other law or regulation, the Borrower shall cause each Project Company to take or cause to be taken all necessary or appropriate actions to, at least sixty (60) days prior to the initial generation, delivery or sale of electricity from each applicable Project, or earlier to the extent required by an applicable Governmental Rule and by no later than COD of each applicable Project, apply for an order under Section 205 of the FPA authorizing the applicable Project Company to sell electric energy, capacity and ancillary services at wholesale at market-based rates, with all blanket authorizations and waivers of regulation typically granted to entities with market-based rate authority, including blanket authorization for the issuance of securities and assumption of liabilities and the notice period established by FERC with respect to such blanket authorization for the issuance of securities and assumption of liabilities shall have expired pursuant to Section 204 of the FPA. Once the applicable Project Company obtains the status, authorizations and approvals set forth in clauses (a) and (b) above, the applicable Project Company shall take or cause to be taken all necessary or appropriate actions to maintain such status, authorizations and approvals.

5.13 [Intentionally omitted].

5.14 Power Purchase Arrangement. The Borrower shall (and shall cause each Borrower Party to) direct the Power Purchasers to effect all payments due to each applicable Borrower Party from time to time under each Power Purchase Agreement directly by wire transfer (or other commercially accepted means) to the applicable Construction Account for such Project.

5.15 Sanctions and Anti-Corruption Laws. If any Borrower Party obtains actual Knowledge or receives any written notice that the applicable Borrower Party, any Affiliate, subsidiary or any Person or entity holding any legal or beneficial interest whatsoever therein (whether directly or indirectly) is named on the OFAC SDN List, is under investigation for a possible violation of Sanctions or for a possible violation of Anti-Corruption Laws, the applicable Borrower Party shall promptly (a) give written notice to the Administrative Agent of such occurrence, and (b) comply with all applicable laws with respect to such occurrence (regardless of whether the party included on the OFAC SDN List is located within the jurisdiction of the United States of America), including Sanctions and Anti-Corruption Laws, and the Borrower hereby authorizes and consents to (and will cause each applicable Borrower Party to authorize and consent to) any Agent or Lender taking any and all steps such Person deems necessary, in its reasonable discretion, to comply with all Sanctions and Anti-Corruption Laws (including the “freezing” and/or “blocking” of assets and reporting such action to OFAC).

5.16 Operation of Each Applicable Project.

Following COD of each Project, the Borrower shall (and shall cause each Borrower Party to) operate and maintain each applicable Project, or cause the same to be operated and maintained, in good operating condition consistent in all material respects with (i) Prudent Industry Practices, (ii) all Applicable Permits, (iii) Legal Requirements, and (iv) all applicable requirements of the Operative Documents (including the warranties provided for thereunder), and make or cause to be made all repairs (structural and non-structural, extraordinary or ordinary) necessary to operate and maintain each applicable Project in such condition.

5.17 Final Completion. The Borrower shall (and shall cause each Borrower Party to) use commercially reasonable efforts to cause Final Completion under the EPC Agreement for each Project to occur no later than the corresponding date required in the applicable EPC Agreement. The Borrower shall (and shall cause each Borrower Party to) prepare and deliver to the Administrative Agent and the Independent Engineer, at least five (5) Business Days prior to COD for each Project, a reasonably detailed construction status report describing the milestones remaining to be completed by applicable EPC Contractor, the timing of such milestone completion as compared to the schedule in the applicable EPC Agreement and the amount of Project Costs in respect of such Project estimated to be incurred under the Material Project Documents (each report for each Project, a "Construction Status Report"). The Administrative Agent and the Independent Engineer shall be entitled to reasonably verify and, if necessary, reasonably correct and add to such Construction Status Report in a manner reasonably acceptable to Administrative Agent and the Independent Engineer.

5.18 [Intentionally omitted]

5.19 Separateness Provisions.

(a) The Borrower shall (and shall cause each Borrower Party to) conduct its business solely in its own name in a manner not misleading to other Persons as to its identity. Without limiting the generality of the foregoing, all oral and written communications of each Borrower Party (if any), including letters, invoices, purchase orders, contracts, statements, and applications shall be made solely in the name of the applicable Borrower Party.

(b) The Borrower shall (and shall cause each Borrower Party to) maintain entity records and books of account separate from those of any other entity which is an Affiliate of any Borrower Party and shall not commingle its funds or assets with those of any other entity which is an Affiliate of any Borrower Party.

(c) The Borrower shall (and shall cause each Borrower Party to) provide that its board of directors or other analogous governing body will hold all appropriate meetings to authorize and approve the applicable Borrower Party's actions, which meetings will be separate from those of other entities.

5.20 Further Assurances.

(a) The Borrower shall, and shall cause the other Loan Parties to, promptly upon request by the Administrative Agent, correct any material defect or manifest error that may be

discovered in any Loan Document or in the execution, acknowledgement, filing or recordation thereof.

(b) The Borrower shall, and shall cause the other Borrower Parties and the Pledgor to, promptly upon request by the Administrative Agent, execute, acknowledge, deliver, record, re-record, file, re-file, register, re-register, or take any and all further acts, deeds, conveyances, pledge agreements, mortgages, deeds of trust, trust deeds, assignments, financing statements and continuations thereof, termination statements, notices of assignment, transfers, certificates, assurances and other instruments as the Administrative Agent may reasonably require from time to time in order to (i) carry out the purposes of the Loan Documents, (ii) subject any Collateral to the Liens now or hereafter intended to be covered by any of the Security Documents to the fullest extent permitted by applicable Legal Requirements, (iii) perfect and maintain the validity, effectiveness and priority of any of the Security Documents and any of the Liens intended to be created thereunder and (iv) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the Secured Parties the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document or under any other instrument executed in connection with any Loan Document to which such Loan Party is or is to be a party.

5.21 Additional Collateral.

(a) With respect to any property acquired after the Signing Date and the applicable Initial Project Construction Loan Date for each Project by each Borrower Party (other than any property described in paragraph (b) below) as to which the Collateral Agent, for the benefit of the Secured Parties, does not have a perfected Lien, promptly (i) execute and deliver to the Collateral Agent such amendments to the Security Documents as the Administrative Agent deems necessary or advisable to grant to the Collateral Agent, for the benefit of the Secured Parties, a security interest in such property, subject to Permitted Liens and (ii) take all actions necessary or advisable to grant to the Collateral Agent, for the benefit of the Secured Parties, a perfected first priority security interest in such property, including the filing of UCC financing statements in such jurisdictions as may be required by the applicable Security Document or by law or as may be requested by the Collateral Agent or the Administrative Agent, except, as to the priority of such Liens, for Permitted Liens that, pursuant to applicable law, are entitled to a higher priority than the Lien of the Collateral Agent.

(b) Except for Small Projects, if any Borrower Party shall at any time acquire any real property or leasehold or other interest in real property not covered by the applicable Deed of Trust, promptly upon such acquisition, the Borrower shall (and shall cause each Borrower Party to) execute, deliver and record a supplement to the applicable Deed of Trust, reasonably satisfactory in form and substance to the Administrative Agent and the Collateral Agent, subjecting such real property or leasehold or other interests to the lien and security interest created by such Deed of Trust.

(c) The Borrower shall (and shall cause each Borrower Party to) use its commercially reasonable efforts to cause each other party to each Additional Project Agreement to execute and deliver to the Administrative Agent, concurrently with the execution of such Additional Project Agreement, a consent to collateral assignment in form and substance reasonably satisfactory to the Administrative Agent; provided, however, that with respect to Small Projects, Consents shall

only be required if (i) such Additional Project Document does not expressly allow such contract to be collaterally assigned to lenders and (ii) the result of the Lenders due diligence with respect to such Additional Project Documents requires a Consent to be delivered.

5.22 Construction Contracts. For each Project, as of the earlier to occur of (i) COD for such Project and (ii) the Construction Loan Maturity Date for such Project, the Borrower shall (and shall cause each Borrower Party to) have paid and discharged or caused to be paid or discharged all material liabilities and obligations for payments of amounts then due to each applicable Material Project Participant with respect to the completion of the applicable Project under the relevant Material Project Documents, other than amounts being contested in good faith and by appropriate proceedings.

5.23 COD. The Borrower shall (and shall cause each Borrower Party to) use commercially reasonable efforts to achieve COD for each Project on or before the Date Certain for such Project.

5.24 Equity Commitment. Each Borrower Party shall cause the Equity Investor to fund its Equity Commitment as and to the extent required under the Equity Contribution Agreement. Each Borrower Party shall apply all proceeds of the Equity Contributions in accordance with the Equity Contribution Agreement.

5.25 Consultants. The Borrower shall (and shall cause each Borrower Party to) provide such documents and information to the Independent Engineer, the Insurance Consultant and the Lenders as they may reasonably request and consider necessary in order to deliver annually to the Administrative Agent a report on the status of each applicable Project or compliance with applicable insurance requirements, as the case may be.

5.26 [Intentionally omitted].

5.27 [Intentionally omitted].

5.28 Loss Proceeds. All Loss Proceeds shall be applied as provided in this Section 5.28 and the Depositary Agreement. All Loss Proceeds shall be paid by the relevant insurers, reinsurers and Governmental Authorities, as applicable, directly to the Collateral Agent, for the benefit of the Secured Parties, as loss payee and, if paid to any Borrower Party such Loss Proceeds shall be received in trust for the benefit of Collateral Agent, on behalf of the Secured Parties, segregated from other funds of the Borrower Parties and shall be promptly paid over to the Collateral Agent, for the benefit of the Secured Parties, in the same form as received (with any necessary endorsement), for deposit into the Loss Proceeds Account. The Collateral Agent shall apply all such Loss Proceeds in accordance with the provisions of this Section 5.28.

(a) Upon the occurrence of any Casualty Event with respect to which Loss Proceeds are payable in respect of a single loss in an amount not in excess of $2,000,000, Borrower shall apply, or cause to be applied, such Loss Proceeds to the payment of the costs of repair or restoration of the portion of the Project lost or damaged or replacement of equipment for the Project lost or damaged, and disbursement of such funds by Collateral Agent shall be made in accordance with the Depositary Agreement.

(b) Upon the occurrence of any Casualty Event with respect to which Loss Proceeds are payable in respect of a single loss in an amount in excess of $2,000,000, disbursement of funds to be applied to the payment of the costs of repair or restoration of the portion of the Project lost or damaged or replacement of equipment for the Project lost or damaged in accordance with the Depositary Agreement shall be permitted if the conditions set forth in the Depositary Agreement with respect to such disbursement of funds has been satisfied.

(c) All Loss Proceeds not otherwise applied in accordance with Section 5.28(a) or Section 5.28(b), including, without limitation, due to the absence of required approval by Administrative Agent or the Required Lenders (in consultation with the Independent Engineer), as applicable, shall be applied by Collateral Agent to the prepayment of Loans in accordance with Section 2.8(a).

ARTICLE 6.

NEGATIVE COVENANTS OF BORROWER

The Borrower covenants and agrees that, prior to the Final Discharge Date, it shall (and shall cause each Borrower Party to), unless the Required Lenders waive compliance in writing, not do any of the following:

6.1 Indebtedness. The Borrower shall (and shall cause each Borrower Party to) not directly or indirectly create, incur, assume, suffer to exist or otherwise be or become liable with respect to any Indebtedness except for Permitted Indebtedness.

6.2 Liens. The Borrower shall (and shall cause each Borrower Party to) not create, incur, assume or suffer to exist (a) any Lien on any of its Property (including any Collateral) except for Permitted Liens or (b) any Lien on its Capital Stock, except the Lien granted under the Security Documents.

6.3 Investments. The Borrower shall (and shall cause each Borrower Party to) not make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any Capital Stock, bonds, notes, debentures or other debt securities of, or any other assets constituting a business unit of, or make any other investment in, any Person (all of the foregoing, "Investments"), except investments in Permitted Investments.

6.4 Prohibition of Fundamental Changes; Sale of Assets, Fiscal Year, Etc.

(a) The Borrower shall (and shall cause each Borrower Party to) not change its legal form, merge into or consolidate with, or acquire all or any substantial part of the assets or any class of stock of (or other equity interest in), any other Person and shall not liquidate or dissolve and shall not modify its organizational documents in any manner adverse to the Agents or the Lenders.

(b) The Borrower shall (and shall cause each Borrower Party to) not convey, sell, lease, pledge, transfer or otherwise dispose of, in one transaction or a series of transactions, any assets of the Borrower except (i) pursuant to the Loan Documents, (ii) the disposition of obsolete, worn out or replaced personal property not used or useful in the development or

operation of each applicable Project, (iii) the disposition of any funds on deposit in the Distribution Account in accordance with the Depositary Agreement, (iv) sales, leases or transfers of assets as expressly contemplated by the Material Project Documents, (v) the liquidation, sale or use of cash and Permitted Investments, (vi) the granting of easements or other interests in the Real Property related to the Project to other Persons so long as such grant is in the ordinary course of business, not substantial in amount and does not or would not reasonably be expected to materially detract from the value or use of the affected property or to interfere in any material respect with the Project Company's ability to construct or operate the Project or sell or distribute power therefrom, or (vii) in connection with the sale or disposition of a Project, the proceeds of which are expected to be sufficient to satisfy all outstanding Obligations with respect to such Project as of the date of such sale or disposition, subject to the limits set forth in Section 2.9.

(c) The Borrower shall (and shall cause each Borrower Party to) not purchase or acquire any assets other than: (i) the purchase of assets required for the development, construction, completion, operation and maintenance of each applicable Project in accordance with the Material Project Documents and as contemplated by the applicable Construction Budget and Schedule, (ii) the purchase of assets required in connection with any restoration, repair or rebuilding of each applicable Project in accordance with Section 5.4(e), or (iii) the purchase of assets necessary to prevent or mitigate an emergency situation.

(d) The Borrower shall (and shall cause each Borrower Party to) not change its name, principal place of business, its fiscal year, its method of determining fiscal quarters or its federal employer identification number.

6.5 Nature of Business. The Borrower shall (and shall cause each Borrower Party to) not enter into any activities other than the ownership, development, construction, operation, maintenance and financing of each applicable Project and any activities incidental to the foregoing.

6.6 Transactions With Affiliates. The Borrower shall (and shall cause each Borrower Party to) not enter into any transaction, including any purchase, sale, lease or exchange of property, the rendering of any service or the payment of any management, advisory or similar fees, with any Affiliate unless such transaction is (a) (i) otherwise permitted under this Agreement, (ii) in the ordinary course of business of the applicable Borrower Party, (iii) upon fair and reasonable terms no less favorable to the Borrower than it would obtain in a comparable arm's length transaction with a Person that is not an Affiliate and (iv) in which expenses (if any) are reasonably equally allocated among the Affiliate parties thereto, or (b) an obligation under any Material Project Document as in existence on the applicable Initial Project Construction Loan Date for each Project.

6.7 No Distributions. The Borrower shall (and shall cause each Borrower Party to) not directly or indirectly, (a) make or declare any payment or distribution (in cash, property or obligation) to any of its Affiliates (including any distributions contemplated under any Borrower Party's limited liability company operating agreement and any payments in respect of management (or other) fees to any of Pledgor or its Affiliates not expressly provided for by the O&M Agreements or the Asset Management Agreement or as permitted upon satisfaction of the Distribution Conditions in accordance with the Depositary Agreement and (b) make any payment

of principal or interest in respect of any subordinated indebtedness (including Permitted Affiliate Subordinated Indebtedness) (each payment described in clauses (a) and (b) being hereinafter referred to as a "Restricted Payment").

6.8 Material Project Documents. The Borrower shall (and shall cause each Borrower Party to) not (i) cancel or terminate any Material Project Document to which it is a party or consent to or accept any cancellation or termination of any such Material Project Document, (ii) sell, assign (other than pursuant to the Security Documents) or otherwise dispose of (by operation of law or otherwise) any part of its interest in any Material Project Document to which it is a party or consent to any assignment by the other party thereto, (iii) waive any material default under, or material breach of, any Material Project Document to which it is a party or waive, fail to enforce, forgive, compromise, settle, adjust or release any material right, interest or entitlement, howsoever arising, under, or in respect of any such Material Project Document or in any way vary, or consent or agree to the variation of, any material provision of such Material Project Document or of the performance of any material covenant or obligation by any other Person or consent to any assignment by any other Person under any such Material Project Document, (iv) petition, request or take any other legal or administrative action that seeks, or may be expected, to materially impair any Borrower Party's rights under any Material Project Document to which it is a party or seeks to amend, modify or supplement any such Material Project Document in any material respect, (v) amend, supplement or modify in any material respect any Material Project Document (in each case as in effect when originally delivered to and accepted by the Administrative Agent) to which it is a party or (vi) enter into any new agreement or instrument replacing or supplementing any Material Project Document; in each case of clauses (i) through (vi) above without first obtaining, in the case of the Power Purchase Agreements and the Tax Equity Documents, the prior written approval of all Lenders, and in the case of each other Material Project Document, the prior written approval of the Required Lenders. For the avoidance of doubt, change orders under the EPC Agreements shall be governed exclusively by Section 6.9. Upon the execution of any Tax Equity Document with respect to a Project and upon the request of the Borrower, the Lenders will use commercially reasonable efforts to enter into an agreement with the Tax Equity Investor containing the terms set forth on Exhibit F.

6.9 Budget; Change Orders. (a) The Borrower shall (and shall cause each Borrower Party to) not amend or modify any Construction Budget and Schedule to reallocate any portion of any line item of such Construction Budget and Schedule, or agree to any change order under the EPC Agreements (except as contemplated in the applicable Construction Budget and Schedule as a separate line item) without the prior consent of the Required Lenders (in consultation with the Independent Engineer) except to (i) apply cost-savings from any line of such Construction Budget and Schedule (which cost-savings have been confirmed by the Independent Engineer) to the contingency line item of such Construction Budget and Schedule or (ii) implement changes that do not violate Section 6.9(b) (and the Borrower shall (and shall cause each Borrower Party to) deliver to the Administrative Agent copies of all amendments to each Construction Budget and Schedule and change orders effected without the consent of the Required Lenders pursuant to this paragraph (a)).

(b) Notwithstanding anything to the contrary in Section 6.9(a) or any other provisions of this Agreement, the Borrower shall (and shall cause each Borrower Party to) not agree to any change order otherwise permitted under Section 6.9(a) that represents a change in (i) to the

extent such change is individually or, in conjunction with other changes, in the aggregate material, the design of any applicable Project, (ii) "Guaranteed Capacity," "Guaranteed Substantial Completion Date or the "Long-stop Date" or similar defined terms (each as defined in the EPC Agreements), (iii) Substantial Completion or the mechanical completion deadline for such Project where the Tax Equity Investor is expected to make a funding, (iv) any liquidated damages payable under the EPC Agreements, (v) any performance guarantees set forth in the EPC Agreements, (vi) the warranty obligations set forth in the EPC Agreements, in each case without the consent of the Required Lenders (in consultation with the Independent Engineer), (vii) cost increases beyond 100% of the Construction Budget and Schedule for each Project, (viii) the construction schedule of any applicable Project that would delay COD for such Project beyond the Construction Loan Maturity Date applicable to such Project or the required commercial operation or COD date under the Power Purchase Agreement applicable to such Project, (ix) any performance guarantees or other warranties under the MSAs or the O&M Agreements, as applicable (x) any reduction in any liquidated damages set forth in the Material Project Documents, or (xi) a failure to comply with applicable Governmental Rules.

6.10 Additional Project Agreements. The Borrower shall (and shall cause each Borrower Party to) not enter into any Additional Project Agreement without first (a) delivering to the Administrative Agent, in no event later than ten (10) Business Days before the anticipated execution date of such Additional Project Agreement, a final draft thereof and (b) obtaining the prior written approval of the Required Lenders.

6.11 Swap Agreements. The Borrower shall (and shall cause each Borrower Party to) not enter into any Swap Agreement.

6.12 ERISA. The Borrower shall (and shall cause each Borrower Party to) not engage in or suffer any ERISA Event that would subject any Borrower Party to any tax, penalty or other liabilities in an amount that would reasonably be expected to have a Material Adverse Effect.

6.13 Subsidiaries. The Borrower shall (and shall cause each Borrower Party to) not create, form or acquire any subsidiary or enter into any partnership or joint venture, except, with respect to each Borrower Party, as set forth on Annex 4.

6.14 Accounts. The Borrower shall (and shall cause each Borrower Party to) not have any "deposit accounts" with a "bank" (within the meaning of Section 9-102 of the UCC) other than (a) the Collateral Accounts, as applicable, established in accordance with this Agreement and the other Loan Documents and (b) the Local Deposit Account which may contain an amount on deposit therein not in excess of $300,000 in the aggregate, to the extent such account is subject to a deposit account control agreement in favor of the Collateral Agent in form and substance satisfactory to the Administrative Agent and the Collateral Agent.

6.15 Capital Expenditures. The Borrower shall (and shall cause each Borrower Party to) not make any capital expenditures, except for Permitted Capex.

6.16 Lease Transactions. The Borrower shall (and shall cause each Borrower Party to) not enter into any transaction for the lease of any of its assets, whether operating leases, capital leases or otherwise, other than the Site Lease Agreements.

6.17 Hazardous Substances. The Borrower shall (and shall cause each Borrower Party to) not use or Release any Hazardous Substances in violation of any Environmental Laws or Applicable Permits or in a manner that could subject the Secured Parties to material liability or would reasonably be expected to result in a Material Adverse Effect.

6.18 Regulations. The Borrower shall (and shall cause each Borrower Party to) not directly or indirectly apply any part of the proceeds of any Loan or other extensions of credit hereunder or other revenues to the purchasing or carrying of any Margin Stock or take any other action that might result in a violation of any regulation of the Board.

6.19 Prepayment of Permitted Affiliate Subordinated Indebtedness. The Borrower shall (and shall cause each Borrower Party to) not make, or agree to offer to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any Permitted Affiliate Subordinated Indebtedness, or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Permitted Affiliate Subordinated Indebtedness, in each case except as permitted pursuant to Section 6.7.

6.20 Modification of Additional Documents. The Borrower shall (and shall cause each Borrower Party to) not amend or modify, or permit the amendment or modification of, any provision of any Permitted Affiliate Subordinated Indebtedness or any agreement relating thereto.

6.21 Fiscal Year. The Borrower shall (and shall cause each Borrower Party to) not permit the fiscal year of any Borrower Party to end on a day other than December 31 or change any Borrower Party's method of determining fiscal quarters.

6.22 Small Projects and Power Purchasers. In no event shall the expected aggregate nameplate capacity of all Small Projects that have been allocated Loans and Commitments under this Agreement exceed 10% of the total expected aggregate nameplate capacity of all Projects that have been allocated Loans and Commitments hereunder as of such date; provided, however, that such allowed aggregate nameplate capacity of Small Projects shall be reduced by the applicable percentage of nameplate capacity that is allocated to Projects set forth in the following sentence with respect to Power Purchaser's that are not Investment Grade. In no event shall any Power Purchaser cease to be Investment Grade, except for Power Purchasers' counterparty to Power Purchase Agreements which are allocated, in the aggregate, 10% or less of the total expected aggregate nameplate capacity of all Projects that have been allocated Loans and Commitments hereunder.

6.23 Sanctions and Anti-Corruption Laws. The Borrower will not (and will not permit any Borrower Party to) directly or knowingly use the proceeds of the Loans, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person or entity (x) to fund or facilitate any activities of or business with any Person that, at the time of such funding or facilitation, is the subject or the target of Sanctions, (y) to fund or facilitate any activities of or business in any Sanctioned Country or (z) in any other manner that

will result in a violation by any Person (including any person participating in the transaction, whether as lender or otherwise) of Sanctions or in violation of any Anti-Corruption Laws.

ARTICLE 7.

EVENTS OF DEFAULT; REMEDIES

The occurrence prior to the Final Discharge Date of any of the following events, described in Sections 7.1 through 7.18 inclusive, shall constitute an event of default (individually, an "Event of Default," and collectively, the "Events of Default") hereunder:

7.1 Failure to Make Payments. (a) (i) Any Borrower Party shall fail to pay any principal of any Loan when due in accordance with the terms hereof; or (ii) any Borrower Party shall fail to pay any interest on any Loan, or any other amount payable hereunder or under any other Loan Document, within five (5) Business Days after any such interest or other amount becomes due in accordance with the terms hereof.

7.2 Misrepresentations. Any representation or warranty made or deemed made by any Borrower Party herein or in any other Loan Document, any amendment or modification thereof or waiver thereto or that is contained in any certificate, document or financial or other statement furnished by it or at any time under or in connection with this Agreement or any such other Loan Document shall prove to have been inaccurate in any material respect on or as of the date made or deemed made and, if such misrepresentation is susceptible of cure, (a) the adverse effect of the misrepresentation is not remedied within thirty (30) days of each applicable Borrower Party receiving notice or knowledge thereof or (b) as remedied, would reasonably be expected to have a Material Adverse Effect.

7.3 Breach of Terms of This Agreement, Other Loan Documents.

(a) Any Borrower Party or Pledgor shall default in the observance or performance of any agreement contained in Sections 5.1(e), 5.2(a), 5.4(a) or (b), 5.7, or Article 6 (other than as provided in Section 7.3(d)).

(b) The Equity Investor shall default in the observance or performance of any agreement contained in the Equity Contribution Agreement (giving effect to any cure period provided therein); provided, that the timely observation, performance or cure of the Equity Investor's obligations by the Equity Contributor Guarantor shall be deemed an observance or performance, as the case may be, by the Equity Investor.

(c) The ECCA Parent Guarantor shall (subject to any applicable cure period under the ECCA Parent Guaranty) default in the observance or performance of any agreement contained in the ECCA Parent Guaranty (giving effect to any cure period provided therein).

(d) Any Borrower Party shall default in the observance or performance of any agreement contained in Section 6.2 as a result of non-consensual Permitted Lien failing or ceasing to qualify as a Permitted Lien hereunder and such default shall continue unremedied for a period of fifteen (15) days.

(e) Any Loan Party shall default in the observance or performance of any other agreement contained in this Agreement or any other Loan Document (other than as provided elsewhere in this Article 7), and such default shall continue unremedied for a period of thirty (30) days after notice to each applicable Borrower Party from the Administrative Agent or the Required Lenders; provided, that if such default cannot be cured within such thirty (30) day time period but is susceptible to cure within ninety (90) days, if such Loan Party, as applicable, commences action reasonably designed to cure such default within such thirty (30) day time period and diligently pursues such cure, then such Loan Party, as applicable, shall have an additional time period not to exceed sixty (60) days to cure such default.

7.4 Cross Default. Any Loan Party shall (i) default in making any payment of any principal of any Indebtedness (including any Guarantee obligation, but excluding the Loans) on the due date with respect thereto (after giving effect to available cure periods); or (ii) default in making any payment of any interest on any such Indebtedness beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created; or (iii) default in the observance or performance of any other material agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or beneficiary of such Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause, with the giving of notice if required, such Indebtedness to become due prior to its stated maturity or (in the case of any such Indebtedness constituting a Guarantee obligation) to become payable; provided, that a default, event or condition described in clause (i), (ii) or (iii) above shall not at any time constitute an Event of Default unless, at such time, one or more defaults, events or conditions of the type described in clauses (i), (ii) and (iii) above shall have occurred and be continuing with respect to Indebtedness the outstanding principal amount of which exceeds in the aggregate $1,000,000.

7.5 Bankruptcy; Insolvency. Subject to items (i) through (iii) below, (a) Any Loan Party or any of the Material Project Participants (the "Subject Persons") shall commence any case, proceeding or other action (i) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it if bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (ii) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets; or (b) there shall be commenced against any Subject Persons any case, proceeding or other action of a nature referred to in clause (a) above that (i) results in the entry of an order for relief or any such adjudication or appointment or (ii) remains undismissed or undischarged for a period of sixty (60) days; or (c) there shall be commenced against any Subject Persons any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets that results in the entry of an order for any such relief that shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (d) any Subject Persons shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (a), (b), or (c) above; or (e) any Subject Persons shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they

become due; or (f) any Subject Person shall make a general assignment for the benefit of its creditors; provided, however, that such Event of Default with respect to such Subject Person (except for any Loan Party, the counterparties to the Tax Equity Documents or the Power Purchasers) shall not be deemed to have occurred if (i) such Subject Person has been replaced within sixty (60) days of the occurrence of a Default under this Section 7.5 by any other Person reasonably acceptable to the Required Lenders, (ii) the Material Project Document to which such Subject Person is a party has expired or terminated in accordance with this Agreement (except for the Power Purchase Agreements, Tax Equity Documents, the Interconnection Agreements and any Site Lease Agreement) or been replaced within sixty (60) days of the occurrence of a Default under this Section 7.5 by a replacement Material Project Document in form and substance reasonably acceptable to the Required Lenders, or (iii) the Subject Person is a Material Project Participant (other than the Power Purchasers or counterparties to the Tax Equity Documents) and the applicable event could not reasonably be expected to have a Material Adverse Effect on any Borrower Party or any applicable Project.

7.6 ERISA Events. (a) an ERISA Event shall have occurred, (b) a trustee shall be appointed by a United States district court to administer any Pension Plan, (c) the PBGC shall institute proceedings to terminate any Pension Plan(s), (d) any Loan Party or any of their respective ERISA Affiliates shall have been notified by the sponsor of a Multiemployer Plan that it has incurred or will be assessed Withdrawal Liability to such Multiemployer Plan and such entity does not have reasonable grounds for contesting such Withdrawal Liability or is not contesting such Withdrawal Liability in a timely and appropriate manner; or (e) any other event or condition shall occur or exist with respect to an ERISA Plan, a Foreign Plan or a Foreign Benefit Arrangement; and in each case in clauses (a) through (e) above, such event or condition, together with all other such events or conditions, if any, could, in the sole judgment of the Required Lenders, reasonably be expected to result in a Material Adverse Effect.

7.7 Judgments. One or more judgments or decrees shall be entered against any Loan Party involving in the aggregate a liability (which liability is not paid or is not covered by available insurance as acknowledged in writing by the provider of such insurance or as certified to the Administrative Agent by the Insurance Consultant) of $1,000,000 or more, and all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within thirty (30) days from the entry thereof.

7.8 Security. (a) Any of the Loan Documents shall cease, for any reason, to be in full force and effect (other than as expressly permitted by this Agreement), any Loan Party or any Affiliate thereof shall so assert or (b) any security interest in the Collateral purported to be created by any Security Document shall cease to be, or shall be asserted in writing by any Loan Party not to be, a valid and perfected security interest having the priority required by this Agreement or the relevant Security Document in the securities, assets or properties covered thereby shall be invalidated or otherwise cease to be legal, valid and binding obligations of the parties thereto, enforceable in accordance with their terms.

7.9 Loss of Applicable Permits. Any Applicable Permit necessary for the construction or operation of each applicable Project shall be materially modified in an adverse manner, revoked or cancelled by the issuing agency or other Governmental Authority having jurisdiction or any Borrower Party shall fail to obtain, renew, or maintain or comply in all

respects with any Applicable Permit, if such event, together with all such other events, could, in the reasonable judgment of the Required Lenders, reasonably be expected to result in a Material Adverse Effect (each an "Adverse Permit Event"); provided, however, that an Event of Default with respect to an Applicable Permit shall not be deemed to have occurred if such Applicable Permit has been obtained, modified, renewed, or replaced in form and substance reasonably acceptable to the Required Lenders, or if compliance with such Applicable Permit has been achieved, within sixty (60) days of the occurrence of a Default under this Section 7.9, so long as no Material Adverse Effect shall have occurred during such sixty (60) day period; and provided further that the period set forth in the preceding proviso shall be increased from sixty (60) days to ninety (90) days upon the submission by any applicable Borrower Party of evidence reasonably satisfactory to the Required Lenders that the applicable Borrower Party has asserted in writing pursuant to the applicable EPC Agreement that a Force Majeure Event (as defined in the applicable EPC Agreement) has occurred and the Adverse Permit Event results from such Force Majeure Event or the existence of such Adverse Permit Event has entitled any applicable Borrower Party to assert the existence of such Force Majeure Event under such applicable EPC Agreement.

7.10 Pledgor. Pledgor shall (a) conduct, transact or otherwise engage in, or commit to conduct, transact or otherwise engage in, any business or operations other than those incidental to its ownership of the Capital Stock of the Borrower, (b) incur, create, assume or suffer to exist any Indebtedness or other liabilities or financial obligations, except (i) nonconsensual obligations imposed by operation of law, (ii) obligations pursuant to the Loan Documents to which it is a party and (iii) obligations with respect to its Capital Stock, (c) own, lease, manage or otherwise operate any properties or assets (including cash (other than cash received in connection with dividends made by the Borrower in accordance with Section 6.7) and cash equivalents) other than the ownership of shares of Capital Stock of the Borrower or (d) create, incur, assume or suffer to exist any Lien upon any of its property, except Liens created pursuant to the Loan Documents and any tax Liens, subject to clause (b) of the definition of Permitted Liens.

7.11 Equity Commitment. (a) The Equity Investor shall have failed to fund (either directly or by a draw under Acceptable Credit Support in accordance with the Equity Contribution Agreement) all or any portion of its Equity Commitment as and when required pursuant to the terms of the Equity Contribution Agreement (giving effect to any cure period provided therein) or (b) Acceptable Credit Support shall cease to be in full force and effect for any reason in an amount at least equal to the Equity Requirement in accordance with the Equity Contribution Agreement (unless such Acceptable Credit Support has been fully drawn by the Administrative Agent or the Equity Commitment is cash collateralized or replaced with Acceptable Credit Support as contemplated by the Equity Contribution Agreement in an amount at least equal to the Equity Requirement). Any counterparty to the Tax Equity Documents has failed to fund when the conditions precedent to such funding have been satisfied under the applicable Tax Equity Documents (giving effect to any cure period provided therein); provided, however, that such event shall not be an Event of Default if the Borrower repays the Loans allocated to such Project in an amount determined by the Administrative Agent based on the difference between the Construction Loan Commitment previously allocated to such Project under Annex 2 and the then applicable Construction Loan Commitment to be allocated to such Project based on the debt sizing parameters set forth in Annex 5 (excluding any debt sizing provided for the execution of any Tax Equity Documents), such amount, to be repaid within five

(5) Business Days and Annex 2 shall be amended to reflect the updated Construction Loan Commitment allocated to such Project.

7.12 Change of Control. A Change of Control shall have occurred.

7.13 Abandonment of Project. Any Borrower Party shall have abandoned the development, construction or operation of any applicable Project for a period of at least thirty (30) consecutive days; provided that none of (A) scheduled maintenance of each applicable Project, (B) repairs to each applicable Project, whether or not scheduled or (C) a forced outage or scheduled outage of each applicable Project, shall constitute abandonment or suspension of each applicable Project, so long as the applicable Borrower Party is diligently attempting to end such suspension.

7.14 Breach of Material Project Documents.

(a) Subject to Section 7.15, any Loan Party or any other party thereto shall breach or be in default under any material term, condition, provision, covenant, representation or warranty contained in any Material Project Document and the Required Lenders shall have determined that the effect of such breach or default could be reasonably expected to have a Material Adverse Effect on any Borrower Party or each applicable Project and such breach or default shall continue unremedied for thirty (30) days after notice from the Administrative Agent or Lenders to the applicable Borrower Party; provided, however, that if (i) such breach or default cannot be cured within such thirty (30) day period, (ii) such breach or default is susceptible to cure within ninety (90) days, (iii) such breach or default has not resulted, and could not, with the additional cure time contemplated by this proviso, be reasonably expected to result, in a Material Adverse Effect, and (iv) such other party is proceeding with all requisite diligence and in good faith to cure such failure, then the time within which such failure may be cured shall be extended to such date, not to exceed a total of sixty (60) days after the end of the initial thirty (30) day period, as shall be necessary for such party diligently to cure such failure.

(b) A Material Project Participant has delivered to any Borrower Party a written notice of default pursuant to the relevant Material Project Document (or the occurrence of any default that does not require a notice to affect a termination of such Material Project Document), such default, if not cured, gives such Material Project Participant the right to terminate such Material Project Document, the cure period provided thereunder in respect of such default has expired (or there is no cure period), and such default continues unremedied.

7.15 Loss of Material Project Document. Notwithstanding Section 7.14, any Material Project Document shall cease for any reason to be in full force and effect unless terminated in accordance with its terms and not as a result of a default thereunder; provided, however, that such Event of Default with respect to a Material Project Document (except for the Power Purchase Agreements, the Tax Equity Documents, the Interconnection Agreements and the Site Lease Agreements) shall not be deemed to have occurred if such Material Project Document has been replaced within sixty (60) days of the occurrence of a Default under this Section 7.15 by a replacement Material Project Document in form and substance reasonably acceptable to the Required Lenders.

7.16 Loss of Collateral. Any material portion of any Borrower Party's property is damaged, seized or appropriated without fair value being paid therefor such as to allow replacement of such property and to allow the applicable Borrower Party, in the reasonable judgment of the Administrative Agent, to continue satisfying its obligations hereunder and under the other Operative Documents, in each case after giving effect to any insurance proceeds or cash contributions to the common equity of the applicable Borrower Party (other than pursuant to the Equity Contribution Agreement) made to the applicable Borrower Party after the applicable Initial Project Construction Loan Date for the applicable Project and applied to such replacement.

7.17 [Intentionally Omitted]

7.18 Remedies. Upon the occurrence and during the continuation of (a) an Event of Default specified in Section 7.5 with respect to any Borrower Party, automatically the Commitments shall immediately terminate and the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents shall become immediately due and payable and the Administrative Agent shall be deemed to have made a demand for cash collateral to the full extent permitted under Section 2.16(o), without presentment, demand, protest or other notice of any kind, all of which are expressly waived by each Borrower Party, anything contained herein or in any other Loan Document to the contrary notwithstanding and (b) an Event of Default with respect to any Person other than any applicable Borrower Party or an Event of Default with respect to any Borrower Party other than the Events of Default specified in clause (a) above, either or all of the following actions may be taken: (i) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to any applicable Borrower Party, declare the Commitments to be terminated forthwith, whereupon the Commitments shall immediately terminate, (ii) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, declare the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents to be due and payable forthwith, whereupon the same shall immediately become due and payable, (iii) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, cause the Collateral Agent to draw in whole or in part upon the Acceptable Credit Support, (iv) with the consent of the Issuing Banks, the Administrative Agent may, or upon the request of the Issuing Banks, the Administrative Agent shall, demand cash collateral pursuant to Section 2.16(o), (v) with the consent of the Required Lenders, and after taking action in accordance with clauses (i) or (ii) above, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, upon one (1) Business Day prior notice to any applicable Borrower Party, enter into possession of each applicable Project and perform any and all work and labor necessary to complete each applicable Project substantially according to each applicable EPC Agreement or operate and maintain each applicable Project, and all sums expended by the Administrative Agent in so doing, together with interest on such total amount at the Default Rate, shall be repaid by the applicable Borrower Party to the Administrative Agent upon demand and shall be secured by the Loan Documents, notwithstanding that such expenditures may, together with amounts advanced under this Agreement, exceed the amount of the total Commitments, (v) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, shall, or cause the Collateral Agent to, apply

or execute upon any amounts on deposit in any Collateral Account, any Loss Proceeds or any other moneys of each Borrower Party on deposit with the Agents, any Secured Party or Depositary Bank in the manner provided in the UCC and other relevant statutes and decisions and interpretations thereunder with respect to cash collateral, and (vi) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, or cause the Collateral Agent to, draw upon or make a demand under any Security Document or any Material Project Document collaterally assigned to Collateral Agent by any Borrower Party.

Notwithstanding anything to the contrary contained herein, (i) the Lenders may make disbursements or Loans to or on behalf of each Borrower Party to cure any Event of Default hereunder and to cure any default and render any performance required by any Borrower Party or Pledgor under any Material Project Documents to which it is party as the Lenders in their sole discretion may consider necessary or appropriate, whether to preserve and protect the Collateral or the Lenders' interests therein or for any other reason, and all sums so expended, together with interest on such total amount at the Default Rate (but in no event shall the rate exceed the maximum lawful rate), shall be repaid by the applicable Borrower Party to the Administrative Agent on demand and shall be secured by the Loan Documents, notwithstanding that such expenditures may, together with amounts advanced under this Agreement, exceed the amount of the total Commitments and (ii) the Administrative Agent and the Collateral Agent may exercise any and all rights and remedies available to them under any of the Loan Documents at law or in equity, including judicial or non-judicial foreclosure or public or private sale of any of the Collateral pursuant to the Security Documents.

ARTICLE 8.

ADMINISTRATIVE AGENT AND COLLATERAL AGENT; OTHER AGENTS

8.1 Appointment.

(a) Each Lender hereby irrevocably designates and appoints the Administrative Agent as the agent of such Lender under this Agreement and the other Loan Documents, and each such Lender irrevocably authorizes the Administrative Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent by the terms of this Agreement and the other Loan Documents, together with such other powers as are reasonably incidental thereto.

(b) Each Lender hereby irrevocably designates and appoints the Collateral Agent as the agent of such Lender under this Agreement and the other Loan Documents, and each such Lender irrevocably authorizes the Collateral Agent, in such capacity, to enter into each of the Loan Documents to which it is party, to take such action on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Agreement and the other Loan Documents to which it is party, together with such other powers as are reasonably incidental thereto.

(c) Notwithstanding any provision to the contrary elsewhere in this Agreement, the Agents shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender or Loan Party, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Agents.

8.2 Delegation of Duties. Each of the Agents may execute any of its duties under this Agreement and the other Loan Documents by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. No Agent shall be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

8.3 Exculpatory Provisions. None of the Agents nor any of its respective officers, directors, employees, agents, advisors, attorneys-in-fact or affiliates shall be (i) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement or any other Loan Document (except to the extent that any of the foregoing are found by a final and non-appealable decision of a court of competent jurisdiction to have resulted from its or such Person's own gross negligence or willful misconduct) or (ii) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by such Agent under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party to perform its obligations hereunder or thereunder. The Agents shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party. No Agent shall be responsible for the negligence or misconduct of any other Agent.

8.4 Reliance by Agents. Each of the Agents shall be entitled to rely, and shall be fully protected in relying, upon any instrument, writing, resolution, notice, consent, certificate, affidavit, letter, telecopy or email message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to Pledgor or any Borrower Party), independent accountants and other experts selected by such Agent. Each of the Agents may deem and treat the payee of any Note as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. Each of the Agents shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless such Agent shall first receive such advice or concurrence of the Required Lenders (or, if so specified by this Agreement, all Lenders) in the case of the Administrative Agent, or of the Administrative Agent and Counterparties, if applicable, in the case of the Collateral Agent, as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders and Counterparties, if applicable, against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. The Agents shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Loan Documents in accordance with

a request of the Required Lenders (or, if so specified by this Agreement, all Lenders) in the case of the Administrative Agent, or of the Administrative Agent and the Counterparties, if applicable, in the case of the Collateral Agent, and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and Counterparties, if applicable, and all future holders of the Loans.

8.5 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Administrative Agent has received notice from a Lender, Pledgor or any Borrower Party 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 Administrative Agent receives such a notice, the Administrative Agent shall give notice thereof to the Lenders and the Collateral Agent. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders (or, if so specified by this Agreement, all Lenders); provided that unless and until the Administrative Agent shall have received such directions, the Administrative 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. The Collateral Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Collateral Agent has received the notice from the Administrative Agent referred to above.

8.6 Non-Reliance on the Agents and Other Lenders. Each Lender expressly acknowledges that none of the Administrative Agent, the Collateral Agent nor any of their respective officers, directors, employees, agents, advisors, attorneys-in-fact or affiliates have made any representations or warranties to it and that no act by the Agents hereafter taken, including any review of the affairs of a Loan Party or any of their Affiliates, shall be deemed to constitute any representation or warranty by the Agents to any Lender. Each Lender represents to the Agents that it has, independently and without reliance upon any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their Affiliates and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon the Agents or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their Affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders and Counterparties by the Agents hereunder, the Agents shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any of their Affiliates that may come into the possession of the Agents or any of their officers, directors, employees, agents, advisors, attorneys-in-fact or affiliates.

8.7 Indemnification. The Lenders agree to indemnify each of the Administrative Agent, the Collateral Agent and their officers, directors, employees, affiliates, agents, advisors

and controlling persons (each, an "Agent Indemnitee") (to the extent not reimbursed by the Borrower, any Borrower Party or Pledgor and without limiting the obligation of the Borrower, any Borrower Party or Pledgor to do so), ratably according to their respective pro rata share in effect on the date on which indemnification is sought under this Section (with such pro rata share calculated as such Lender's pro rata share of the aggregate outstanding Loans), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, claims, including Environmental Claims, expenses or disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent Indemnitee in any way relating to or arising out of, the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent Indemnitee under or in connection with any of the foregoing; provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final and non-appealable decision of a court of competent jurisdiction to have resulted from such Agent Indemnitee's gross negligence or willful misconduct. The agreements in this Section shall survive the payment of the Loans and all other amounts payable hereunder, and the resignation or removal of any Agent hereunder.

8.8 Agents in Their Individual Capacity. Each of the Agents and its affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Loan Party as though such Agent were not an Agent. With respect to its Loans made or renewed by it, each of the Agents shall have the same rights and powers under this Agreement and the other Loan Documents as any Lender and may exercise the same as though it were not an Agent, and the terms "Lender" and "Lenders" shall include such Agent in its individual capacity.

8.9 Successor Agents. The Administrative Agent (i) may resign as Administrative Agent upon thirty (30) Business Days' notice to the Lenders and the Borrower or (ii) may be removed at the direction of the Required Lenders. If the Administrative Agent shall resign or be removed as Administrative Agent under this Agreement and the other Loan Documents, then the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent shall (unless an Event of Default with respect to the Borrower shall have occurred and be continuing) be subject to approval by the Borrower (which approval shall not be unreasonably withheld or delayed), whereupon such successor agent shall succeed to the rights, powers and duties of the Administrative Agent, and the term "Administrative Agent" shall mean such successor agent effective upon such appointment and approval, and the former Administrative Agent's rights, powers and duties as Administrative Agent shall be terminated, without any other or further act or deed on the part of such former Administrative Agent or any of the parties to this Agreement or any holders of the Loans. If no successor agent has accepted appointment as Administrative Agent by the date that is thirty (30) Business Days following an Administrative Agent's notice of resignation or the effective date of the Administrative Agent's removal (as determined by the Required Lenders), the Administrative Agent's resignation or removal shall nevertheless thereupon become effective, and the Lenders shall assume and perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. After any Administrative Agent's resignation or removal as Administrative Agent, the provisions of this Article 8 and of Section 9.5 shall continue to inure to its benefit. The Collateral Agent may resign as Collateral

Agent upon thirty (30) days' notice to the Administrative Agent, the Lenders and the Borrower. If the Collateral Agent shall resign as Collateral Agent under this Agreement and the other Loan Documents, then the Required Lenders shall appoint a successor agent for the Lenders, which successor agent shall (unless an Event of Default shall have occurred and be continuing) be subject to approval by the Borrower (which approval shall not be unreasonably withheld or delayed), whereupon such successor agent shall succeed to the rights, powers and duties of the Collateral Agent, and the term "Collateral Agent" shall mean such successor agent effective upon such appointment and approval, and the former Collateral Agent's rights, powers and duties as Collateral Agent shall be terminated, without any other or further act or deed on the part of such former Collateral Agent or any of the parties to this Agreement or any holders of the Loans. If no successor Collateral Agent shall have been appointed by the Required Lenders and shall have accepted such appointment within twenty-five (25) days after the retiring Collateral Agent's giving of notice of resignation or if an Event of Default shall have then occurred and be continuing, then the retiring Collateral Agent may apply to a court of competent jurisdiction to appoint a successor Collateral Agent, which shall be a bank or trust company which (A) has an office in New York, New York, (B)(1) has a combined capital surplus of at least $500,000,000 or (2) has a combined capital surplus of at least $100,000,000 and is a wholly-owned subsidiary of a bank or trust company that has a combined capital surplus of at least $500,000,000 and (C) is reasonably acceptable to the Administrative Agent and the Required Lenders. After any retiring Collateral Agent's resignation as Collateral Agent, the provisions of this Article 8 and of Section 9.5 shall continue to inure to its benefit.

8.10 Agents under Security Documents. Each Lender hereby authorizes the Administrative Agent or Collateral Agent, as applicable, on behalf of and for the benefit of the Secured Parties, to be the agent for and representative of the Lenders and the Counterparties with respect to the Collateral and the Security Documents. For the avoidance of doubt, the Collateral Agent shall receive direction either from the Administrative Agent or from the Administrative Agent on behalf of the Required Lenders.

8.11 Collateral Agent's Duties.

(a) Whenever reference is made in this Agreement or any Security Document to any action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Collateral Agent or to any amendment, waiver or other modification of this Agreement to be executed (or not to be executed) by the Collateral Agent or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction or other exercise of discretion or rights or remedies to be made (or not to be made) by the Collateral Agent, it is understood that in all cases the Collateral Agent shall be acting, giving, withholding, suffering, omitting, making or otherwise undertaking and exercising the same (or shall not be undertaking and exercising the same) as directed by the Administrative Agent in accordance with this Agreement and the Security Documents. Notwithstanding anything in this Agreement or any Security Document to the contrary, the Collateral Agent will in no event be required to take any action which exposes the Collateral Agent to personal liability, which is contrary to this Agreement, the Security Documents or law or with respect to which the Collateral Agent does not receive adequate instructions or full indemnification and/or security to its satisfaction. The Collateral Agent shall not be required to take any such action or give any such approval prior to

receiving such written statements. This provision is intended solely for the benefit of the Collateral Agent and its permitted successors and assigns and is not intended to, and will not, entitle the other parties hereto to any defense, claim or counterclaims under or in relation to any Security Documents, or confer any rights or benefits on any party hereto.

(b) The Collateral Agent is authorized, without further action or direction by the Administrative Agent or the Lenders, to make, complete or confirm any grant of Collateral required by this Agreement or any of the Security Documents and to release (or, if applicable, subordinate or grant non-disturbance rights in respect of) its Lien upon any Collateral (and execute such documents as are reasonably required in connection therewith) that is otherwise permitted to be transferred, sold, encumbered, released, conveyed or otherwise disposed of under the terms of this Agreement and the Security Documents. The Collateral Agent shall be entitled to rely on an Officer's Certificate of any Loan Party that has been countersigned by the Administrative Agent requesting such a release, subordination or non-disturbance, certifying that such release is permitted pursuant to the terms of this Agreement, and making specific reference to the provisions of this Agreement and the other Loan Documents permitting the transfer, sale, encumbrance, release, conveyance or disposition in connection with which the release, subordination or non-disturbance is being requested.

(c) The Collateral Agent shall not be responsible for and makes no representation as to the existence, genuineness, value or protection of any Collateral (provided that the Collateral Agent shall be responsible for the protection of any Collateral being held by it), for the legality, effectiveness or sufficiency of any Security Document, or for the creation, perfection, priority, sufficiency or protection of any liens securing the Obligations.

(d) Nothing herein shall require the Agents to file financing statements or continuation statements, or be responsible for maintaining the security interests purported to be created as described herein (except for the safe custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder or under any other Loan Document) and such responsibility shall be solely that of the Borrower.

(e) The Collateral Agent shall not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility under any Loan Document by reason of any occurrence beyond the control of the Collateral Agent (including but not limited to any present or future Legal Requirement, any act of god or war, civil unrest, local or national disturbance or disaster, any act of terrorism, or the unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility).

(f) In the event that the Collateral Agent is required to acquire title to an asset for any reason, or take any managerial action of any kind in regard thereto, in order to carry out any obligation for the benefit of another, which in the Collateral Agent's sole discretion may cause the Collateral Agent to incur potential liability for any Environmental Claim or arising under any Environmental Law, the Collateral Agent reserves the right, instead of taking such action, to either resign as the Collateral Agent or arrange for the transfer of the title or control of the asset to a court-appointed receiver. The Collateral Agent shall not be liable to the Borrower, the Secured Parties or any other Person for any Environmental Claims or any liability arising under any Environmental Law by reason of the Collateral Agent's actions and conduct as authorized,

empowered and directed under the Loan Documents or relating to the presence, Release or threatened Release of Hazardous Substances.

8.12 Right to Realize on Collateral. Notwithstanding anything to the contrary contained in any of the Loan Documents, the Borrower, the Administrative Agent, the Collateral Agent, 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 Administrative Agent, on behalf of the Secured Parties in accordance with the terms hereof, and all powers, rights and remedies under the Security Documents may be exercised solely by the Collateral Agent, on behalf of the Secured Parties in accordance with the terms hereof, and (ii) in the event of a foreclosure by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Collateral Agent, any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Collateral Agent, as agent for and representative of the Secured Parties (but not any Lender or 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 Collateral Agent at such sale or other disposition.

8.13 Other Agents. None of the Documentation Agent or Lead Arranger shall have any duties or responsibilities hereunder in its capacity as such.

8.14 Financial Liability. No provision of this Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby, the transactions contemplated hereby or thereby shall require the Collateral Agent to (i) expend or risk its own funds or provide indemnities in the performance of any of its duties hereunder or the exercise of any of its rights or power or (ii) otherwise incur any financial liability in the performance of its duties or the exercise of any of its rights or powers if it shall have reasonable grounds for believing repayment of such funds or adequate indemnity against such risk or liability (including an advance of moneys necessary to take the action requested) is not assured to it except for such liability, if any, arising out of the gross negligence or willful misconduct in the performance of its duties hereunder as determined by a final non-appealable judgment of a court of competent jurisdiction.

ARTICLE 9.

MISCELLANEOUS

9.1 Amendments. (a) Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended or modified except in accordance with the provisions of this Section 9.1. The Required Lenders and each Loan Party party to the relevant Loan Document may, or with the written consent of the Required Lenders, the Administrative Agent and each Loan Party party to the relevant Loan Document shall, from time to time (i) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights of the Lenders or of the Loan Parties hereunder or thereunder, provided that (x) with respect to any amendment or supplement that adversely affects the

Collateral Agent, the written consent of the Collateral Agent shall be required and (y) with respect to any amendment or supplement that adversely affects the Depositary Bank, the written consent of the Depositary Bank shall be required or (ii) waive, on such terms and conditions as the Required Lenders or the Administrative Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement or modification shall:

(A) Forgive the principal amount or extend the final scheduled date of maturity of any Loan, reduce the stated rate of any interest or fee payable hereunder (except in connection with the waiver of applicability of any post-default increase in interest rates (which waiver shall be effective with the consent of the Required Lenders)) or extend the scheduled date of any payment thereof, or increase the amount or extend the expiration date of any Lender's Commitment, in each case without the written consent of each Lender directly affected thereby;

(B) eliminate or reduce the voting rights of any Lender under this Section 9.1 without the written consent of such Lender;

(C) (i) consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement and the other Loan Documents, or (ii) release a material portion of the Collateral, including any of the Power Blocks or any of the Material Project Documents or, in each case without the written consent of all Lenders;

(D) amend, modify or waive any provision of Sections 2.17(b), 2.17(c) or 6.22 without the written consent of all Lenders;

(E) reduce the percentage specified in the definition of Required Lenders without the written consent of all Lenders;

(F) amend, modify or waive any provision of Article 8, Section 9.5 or any other provision of any Loan Document that affects the Agents without the written consent of the applicable Agent;

(G) amend, modify or waive any provision of Sections 2.3, 2.5, 2.6, 2.8, 2.9, 2.10 or 2.16 or any other provision of any Loan Document that uniquely affects the Issuing Banks (solely in their capacity as Issuing Bank) without the consent of the applicable Issuing Bank(s) (including an amendment of this Section 9.1);

(H) amend, modify or waive any provision of any Loan Document related to the priority of payment upon an Event of Default without the written consent of the Lenders;

(I) change the provisions of any Loan Document in a manner that by its terms adversely affects the rights in respect of payments due to Lenders holding Loans of one Class differently from the rights of Lenders holding Loans

of any other Class without the prior consent of Lenders holding a majority in interest of the outstanding Loans and unused Commitments of each adversely affected Class; or

(J) amend, modify or waive any provision of the Equity Contribution Agreement or any Acceptable Credit Support without the written consent of all Lenders.

(b) Notwithstanding anything to the contrary contained in this Section 9.1, any Loan Document, this Agreement or any related document may be amended, supplemented or waived with the consent of the Administrative Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment, supplement or waiver is delivered in order (i) to cure omissions, mistakes or defects or (ii) to cause such Loan Document or other document to be consistent with this Agreement and the other Loan Documents.

(c) Notwithstanding anything to the contrary contained in this Section 9.1 or any other Loan Document, neither the Borrower nor any Affiliate of the Borrower shall be included in the determination of Required Lenders or any consent or other direction of the applicable Lenders or Secured Parties as a result of having Obligations or Secured Obligations registered in the name of, or beneficially owned by, the Borrower or any Affiliate of the Borrower, and such Obligations and Secured Obligations will be deemed not to be outstanding for such purpose.

(d) Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of (a) all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders or (b) the Required Lenders may be effected with the consent of 50% or more of the Lenders that are not Defaulting Lenders), except that (A) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (B) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender.

9.2 Addresses. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered, or three (3) Business Days after being deposited in the mail, postage prepaid, or, in the case of telecopy notice, when received, addressed as follows in the case of the Borrower, the Administrative Agent and the Collateral Agent, and as set forth in an administrative questionnaire delivered to the Administrative Agent in the case of the Lenders, or to such other address as may be hereafter notified by the respective parties hereto:

Borrower: 77 Rio Robles
San Jose, California 95134
Telecopy: 510-540-0552
Attention: Legal Department

With a copy to
SunPower Capital Services, LLC
2900 Esperanza Crossing, Floor 2
Austin, TX 78758
Telecopy: (512) 681-0288
Attention: Financing Operations

Administrative Agent:

Mizuho Bank, Ltd.,
as Administrative Agent
1251 Avenue of the Americas
New York, NY 10020
Attention: Francisco Casas
Telecopy: 212-282-3618
Telephone: 212-282-4866

Collateral Agent:

Mizuho Bank (USA),
as Collateral Agent
1251 Avenue of the Americas
New York, NY 10020
Attention: Francisco Casas
Telecopy: 212-282-3618
Telephone: 212-282-4866

provided that any notice, request or demand to or upon the Administrative Agent, the Collateral Agent or the Lenders shall not be effective until received during such recipient's normal business hours.

Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to (x) notices pursuant to Article 2 unless otherwise agreed by the Administrative Agent and the applicable Lender and (y) Goldman Sachs Bank USA shall not be required to issue a Letter of Credit by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

9.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of any Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

9.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Loan Documents and in any document, certificate or statement

delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans and other extensions of credit hereunder.

9.5 Payment of Expenses and Taxes. Whether or not the transactions contemplated hereby shall be consummated, the Borrower agrees (a) to pay or reimburse each of the Agents for all of such Agent's reasonable fees, costs and expenses incurred in connection with the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including the reasonable fees and disbursements of one set of transaction and local counsel to the Administrative Agent on behalf of the Lenders, the reasonable fees and disbursements of the Independent Consultants and filing and recording fees and expenses, the reasonable fees and disbursements of counsel to the Collateral Agent, with statements with respect to the foregoing to be submitted to the Borrower prior to the Signing Date (in the case of amounts to be paid on the Signing Date) and from time to time thereafter on a quarterly basis or such other periodic basis as each such Agent shall deem appropriate, (b) to pay or reimburse each Lender and each Agent for all its costs, fees and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Loan Documents and any such other documents, including the fees and disbursements of counsel (including the allocated fees and expenses of in-house counsel) to each Lender and of counsel to each Agent and the costs and expenses in connection with the establishment and the use of an electronic data room to manage documentation associated with the Loans, (c) to pay, indemnify, and hold each Lender and each Agent harmless from, any and all recording and filing fees and any and all liabilities with respect to, or resulting from any delay in paying, stamp, excise and other Taxes, if any, that may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the other Loan Documents and any such other documents, and (d) to pay, indemnify, and hold each Lender, including for the avoidance of doubt any Issuing Bank, and each Agent and their respective officers, directors, employees, affiliates, agents, advisors and controlling persons (each, an "Indemnitee") harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, fees, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan Documents and any such other documents, including any of the foregoing relating to the use of proceeds of the Loans and Letters of Credit, Acceptable Credit Support, any of the transactions contemplated by the Operative Documents or the non-compliance by any party with the provisions thereof or the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations of any Loan Party or any of the Mortgaged Property and the reasonable fees and expenses of legal counsel in connection with claims (including Environmental Claims), actions or proceedings by any Indemnitee against any Loan Party under any Loan Document (all the foregoing in this clause (d), collectively, the "Indemnified Liabilities"), provided, that the Borrower shall have no obligation hereunder to any Indemnitee with respect to Indemnified Liabilities to the extent such Indemnified Liabilities are found by a final and non-appealable decision of a court of competent jurisdiction to have resulted from (I) to the extent the Indemnitee or the Lender through whom the Indemnitee is making its claim is a Defaulting Lender, a material breach of such Defaulting Lender's obligations under this

Agreement (II) the gross negligence or willful misconduct of such Indemnitee. Without limiting the foregoing, and to the extent permitted by applicable law, the Borrower agrees not to assert, and hereby waives, all rights for contribution or any other rights of recovery with respect to all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, under or related to Environmental Laws, that any of them might have by statute or otherwise against any Indemnitee. All amounts due under this Section 9.5 shall be payable not later than ten (10) days after written demand therefor. The agreements in this Section 9.5 shall survive repayment of the Loans and all other amounts payable hereunder.

9.6 Attorney In Fact.

(a) For the purpose of allowing the Administrative Agent to exercise its rights and remedies provided in Article 7 following the occurrence and during the continuation of any Event of Default, the Borrower (on behalf of itself and each Borrower Party) hereby constitutes and appoints the Administrative Agent its true and lawful attorney-in-fact, with full power of substitution, to complete any part or all of each applicable Project in the name of the Borrower or the applicable Borrower Party, and hereby empowers such attorney or attorneys, following the occurrence and during the continuation of any Event of Default, as follows:

(i) To use any unadvanced proceeds of the Loans for the purpose of completing, operating or maintaining any or all of each applicable Project as required by the applicable Material Project Documents and the applicable Plans and Specifications.

(ii) To employ such contractors, subcontractors, Agents, architects and inspectors as reasonably shall be required for such purposes;

(iii) To pay, settle or compromise all bills and claims which may be or become Liens or security interests against any or all of each applicable Project or the Collateral, or any part thereof, unless a bond or other security satisfactory to the Administrative Agent has been provided;

(iv) To execute applications and certificates in the name of the Borrower which reasonably may be required by the Loan Documents or any other agreement or instrument executed by or on behalf of the Borrower in connection with any or all of each applicable Project;

(v) To prosecute and defend all actions or proceedings in connection with any or all of each applicable Project or the Collateral or any part thereof and to take such action and require such performance as such attorney reasonably deems necessary under any performance and payment bond and the Loan Documents;

(vi) To do any and every lawful act which the might do on its behalf with respect to the Collateral or any part thereof or any or all of each applicable Project and to exercise any or all of the Borrower's (or each Borrower Party's as applicable) rights and remedies under any or all of the Material Project Documents; and

(vii) To use any funds contained in any Collateral Account, to pay interest and principal on the Loans.

(b) This power of attorney shall be deemed to be a power coupled with an interest and shall be irrevocable.

9.7 Successors and Assigns; Participations and Assignments.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (each, an "Assignee") all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent of:

(A) the Borrower (such consent not to be unreasonably withheld or delayed; provided, if Borrower does not respond to such consent request in writing within ten (10) Business Days, the Borrower shall have been deemed to have consented to such request), provided that no consent of the Borrower shall be required (1) for an assignment to a Lender, an affiliate of a Lender or an Approved Fund (as defined below) provided, further that with respect to any assignment of Construction Loan Commitments to an affiliate of a Lender (excluding any assignment by Goldman Sachs Bank USA to Goldman Sachs Lending Partners LLC), (a) such affiliate shall have a combined capital surplus of at least $250,000,000 or (b) such affiliate's obligations shall be fully guaranteed by such Lender or (2) if an Event of Default has occurred and is continuing; and

(B) the Administrative Agent (such consent not to be unreasonably withheld or delayed), provided that no consent of the Administrative Agent shall be required for an assignment to a Lender, an affiliate of a Lender or an Approved Fund (as defined below); provided, further that with respect to any assignment of Construction Loan Commitments to an affiliate of a Lender (excluding any assignment by Goldman Sachs Bank USA to Goldman Sachs Lending Partners LLC), (a) such affiliate shall have a combined capital surplus of at least $250,000,000 or (b) such affiliate's obligations shall be fully guaranteed by such Lender.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitments or Loans, the amount of the Commitments or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000 unless

each of the Borrower and the Administrative Agent otherwise consent, provided that (1) no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing and (2) such amounts shall be aggregated in respect of each Lender and its affiliates or Approved Funds, if any;

(B) (1) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500 payable by the assigning Lender and (2) the assigning Lender shall have paid in full any amounts owing by it to the Administrative Agent;

(C) the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire in which the Assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower and its Affiliates and their related parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws;

(D) no Lender (including any assignee of any Lender) may assign any portion of its Commitment to a new lender if such assignment would result, at the time of such transfer only, in claims made by such new lender for costs pursuant to Section 2.21 hereof in excess of those which could be made by the assigning Lender were it not to make such assignment, unless such new lender waives its right to claim such costs; and

(E) no assignments shall be made to a natural person.

For the purposes of this Section 9.7, "Approved Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an affiliate of a Lender or (c) an entity or an affiliate of an entity that administers or manages a Lender.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) below, from and after the effective date specified in each Assignment and Assumption the Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.19, 2.20, 2.21, and 9.5). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.7 shall be treated for purposes of this

Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an Assignee, the Assignee's completed administrative questionnaire (unless the Assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that (1) requires the consent of each Lender directly affected thereby pursuant to Section 9.1(a) and (2) directly affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.19, 2.20 and 2.21 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.8(b) as though it were a Lender, provided such Participant shall be subject to Section 9.8(a) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register agent on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any

Person (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans, or its other obligations under any Loan Document) except to the extent that such disclosure is necessary to establish that such Commitment, Loan, or other obligation is in registered from under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(ii) A Participant shall not be entitled to receive any greater payment under Sections 2.19 or 2.20 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent or except to the extent such entitlement to receive a greater payment results from a change in law that occurs after the Participant acquired the applicable participation. Any Participant that is a Non-U.S. Lender shall not be entitled to the benefits of Section 2.20 unless such Participant complies with Section 2.20(e). In no event shall the Borrower be responsible for any costs or expenses of any counsel engaged by a Participant.

(d) Any Lender may at any time, without notice, pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or a central bank purporting to have jurisdiction over such Lender, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or Assignee for such Lender as a party hereto.

(e) The Borrower, upon receipt of written notice from the relevant Lender, agrees to issue Notes to any Lender requiring Notes to facilitate transactions of the type described in paragraph (d) above.

(f) Notwithstanding the foregoing, any Conduit Lender may assign any or all of the Loans it may have funded hereunder to its designating Lender without the consent of the Borrower or the Administrative Agent and without regard to the limitations set forth in Section 9.7(b). Each of the Borrower, each Lender and the Administrative Agent hereby confirms that it will not institute against a Conduit Lender or join any other Person in instituting against a Conduit Lender any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding under any state bankruptcy or similar law, for one year and one day after the payment in full of the latest maturing commercial paper note issued by such Conduit Lender; provided, however, that each Lender designating any Conduit Lender hereby agrees to indemnify, save and hold harmless each other party hereto for any loss, cost, damage or expense arising out of its inability to institute such a proceeding against such Conduit Lender during such period of forbearance.

(g) Notwithstanding anything herein to the contrary, any corporation into which the Collateral Agent may be merged or converted or with which it may be consolidated or any corporation resulting from any merger, conversion or consolidation to which the Collateral

Agent shall be a party, or any corporation succeeding to the corporate trust business of the Collateral Agent, shall be the successor of the Collateral Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except where an instrument of transfer or assignment is required by law to effect such succession; provided that the Collateral Agent shall forthwith notify the parties hereto in writing of any such event.

9.8 Adjustments; Set-off.

(a) Except to the extent that this Agreement, any other Loan Document or a court order expressly provides for payments to be allocated to a particular Lender or to the Lenders, if any Lender (a "Benefited Lender") shall receive any payment of all or part of the Obligations owing to it (other than in connection with an assignment made pursuant to Section 9.7), or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 7.5, or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of the Obligations owing to such other Lender, such Benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of the Obligations owing to each such other Lender, or shall provide such other Lenders with the benefits of any such collateral, as shall be necessary to cause such Benefited Lender to share the excess payment or benefits of such collateral ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest; provided, further, that in the event that any Defaulting Lender shall exercise any such right of set-off, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.24 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of set-off.

(b) In addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without notice to the Borrower, any such notice being expressly waived by the Borrower to the extent permitted by applicable law, upon any Obligations becoming due and payable by the Borrower (whether at the stated maturity, by acceleration or otherwise), to apply to the payment of such Obligations, by setoff or otherwise, any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender, any affiliate thereof or any of their respective branches or agencies to or for the credit or the account of the Borrower. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such application made by such Lender, provided that the failure to give such notice shall not affect the validity of such application.

9.9 Independent Consultants. (a) The Administrative Agent and the Required Lenders, in their reasonable discretion, may remove from time to time, any one or more of the

Independent Consultants and appoint replacements reasonably acceptable to the Borrower. Notice of any replacement Independent Consultant shall be given by the Administrative Agent to the Borrower, the Lenders and to the Independent Consultant being replaced. All reasonable fees and expenses of the Independent Consultants (whether the original Independent Consultants or replacements) shall be paid by the Borrower; provided, however, that unless an Event of Default shall have occurred and be continuing, the Administrative Agent shall request that each such Independent Consultant provide the Borrower with its proposed scope of work and proposed budget therefor, and the Administrative Agent shall consult with the Borrower with regard to the matters contained therein.

(b) Each Independent Consultant (other than the Independent Engineer, which consultants were hired directly by the Borrower) shall be contractually obligated to the Administrative Agent to carry out the activities required of it in this Agreement and as otherwise requested by the Administrative Agent and shall be responsible solely to the Administrative Agent for these activities. The Borrower acknowledges that it shall not have any cause of action or claim against any Independent Consultant resulting from any decision made or not made, any action taken or not taken or any advice given by such Independent Consultant in the due performance in good faith of its duties to the Administrative Agent hereunder.

9.10 Entire Agreement. This Agreement and the other Loan Documents represent the entire agreement of Pledgor, the Borrower, the other Loan Parties, the Administrative Agent, the Collateral Agent and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by the Administrative Agent, the Collateral Agent or any Lender relative to the subject matter hereof not expressly set forth or referred to herein or in the other Loan Documents.

9.11 Governing Law. **THIS AGREEMENT, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT, SHALL BE GOVERNED BY, AND CONSTRUED UNDER, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REFERENCE TO CONFLICTS OF LAWS PROVISIONS THEREOF (OTHER THAN SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW).**

9.12

9.13 Submission To Jurisdiction; Waivers. The Borrower hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive (subject to Section 9.12(e)) general jurisdiction of the courts of the State of New York sitting in the Borough of Manhattan, the courts of the United States for the Southern District of New York sitting in the Borough of Manhattan, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or

proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to Pledgor or the Borrower or the applicable Borrower Party, as the case may be at its address set forth in Section 9.2 or at such other address of which the Administrative Agent and the Collateral Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(e) agrees that a non-appealable final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law and that nothing in this Agreement or any other Loan Document shall affect any right that the Arranger, the Agents, the Issuing Banks or the Lenders may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against it or any of its assets in the courts of any jurisdiction.

9.14 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

9.15 Headings. Paragraph headings and a table of contents have been inserted in this Agreement as a matter of convenience for reference only and it is agreed that such paragraph headings are not a part of this Agreement and shall not be used in the interpretation of any provision of this Agreement.

9.16 Acknowledgements. The Borrower hereby acknowledges that:

(a) each Lender and their affiliates may have economic interests that conflict with those of the Borrower;

(b) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents and the Lenders and the Borrower may have conflicting economic interests;

(c) None of the Administrative Agent, the Collateral Agent or any Lender has any fiduciary relationship with or duty to the Borrower arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between Administrative Agent, the Collateral Agent and Lenders, on the one hand, and the Borrower, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(d) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrower and the Lenders.

9.17 Deed of Trust/Security Documents. The Loans and the other Obligations are secured in part by a Deed of Trust encumbering the Project Site for the applicable Project set forth on Schedule 1.1B. Reference is hereby made to each such Deed of Trust and the other Security Documents for the provisions, among others, relating to the nature and extent of the security provided thereunder, the rights, duties and obligations of the Borrower and the rights of the Agents, the Depositary Bank and the Lenders with respect to such security.

9.18 Limitation on Liability. NO CLAIM SHALL BE MADE BY THE BORROWER OR ANY OF ITS AFFILIATES, DIRECTORS, EMPLOYEES, ATTORNEYS OR AGENTS AGAINST ANY OTHER PARTY HERETO OR ANY OF ITS AFFILIATES, DIRECTORS, EMPLOYEES, ATTORNEYS OR AGENTS FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (WHETHER OR NOT THE CLAIM THEREFOR IS BASED ON CONTRACT, TORT, DUTY IMPOSED BY LAW OR OTHERWISE), IN CONNECTION WITH, ARISING OUT OF OR IN ANY WAY RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR THE OTHER OPERATIVE DOCUMENTS OR ANY ACT OR OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH; AND EACH PARTY HEREBY WAIVES, RELEASES AND AGREES NOT TO SUE UPON ANY SUCH CLAIM FOR ANY SUCH SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR.

9.19 Waiver of Jury Trial. THE BORROWER, THE ADMINISTRATIVE AGENT, THE COLLATERAL AGENT AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

9.20 Usury. Nothing contained in this Agreement or the Notes shall be deemed to require the payment of interest or other charges by the Borrower or any other Person in excess of the amount which the holders of the Notes may lawfully charge under any applicable usury laws. In the event that the holders of the Notes shall collect moneys which are deemed to constitute interest which would increase the effective interest rate to a rate in excess of that permitted to be charged by applicable law, all such sums deemed to constitute interest in excess of the legal rate shall, upon such determination, at the option of the holder of the Notes, be returned to the Borrower or credited against the principal balance of the Notes then outstanding.

9.21 Confidentiality. Each of the Agents and each Lender agrees to keep confidential all non-public information provided to it by any Loan Party, any Agent or any Lender pursuant to or in connection with this Agreement that is designated by the provider thereof as confidential; provided that nothing herein shall prevent the Agents or any Lender from disclosing any such information (a) to another Agent, any other Lender or any affiliate thereof, (b) subject to an agreement to comply with the provisions at least as restrictive as the provisions of this Section, to any actual or prospective Transferee, (c) to its employees, directors, agents, attorneys, accountants and other professional advisors or those of any of its affiliates, (d) upon the request or demand of any Governmental Authority, (e) in response to any order of any court or other Governmental Authority or as may otherwise be required pursuant to any Legal Requirement, (f) if requested or required to do so in connection with any litigation or similar proceeding, (g) that

has been publicly disclosed, (h) to the National Association of Insurance Commissioners or any similar organization or any nationally recognized rating agency that requires access to information about a Lender's investment portfolio in connection with ratings issued with respect to such Lender, (i) in connection with the exercise of any remedy hereunder or under any other Loan Document, or (j) if agreed by the Borrower in its sole discretion, to any other Person.

Each Lender acknowledges that information furnished to it pursuant to this Agreement or the other Loan Documents may include material non-public information concerning the Borrower and its Affiliates and their related parties or their respective securities, and confirms that it has developed compliance procedures regarding the use of material non-public information and that it will handle such material non-public information in accordance with those procedures and applicable law, including Federal and state securities laws.

All information, including requests for waivers and amendments, furnished by the Borrower or the Agents pursuant to, or in the course of administering, this Agreement or the other Loan Documents will be syndicate-level information, which may contain material non-public information about the Borrower and its Affiliates and their related parties or their respective securities. Accordingly, each Lender represents to the Borrower and the Agents that it has identified in its administrative questionnaire a credit contact who may receive information that may contain material non-public information in accordance with its compliance procedures and applicable law, including Federal and state securities laws.

9.22 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by email or facsimile transmission shall be effective as delivery of a manually executed counterpart hereof. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

9.23 Third Party Beneficiaries. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, any participants to the extent provided in Section 9.7(c) of this Agreement, and any other Person entitled to indemnification under Section 9.5) any legal or equitable right, remedy, benefit, interest or claim under or by reason of this Agreement.

9.24 Patriot Act Compliance. The Administrative Agent hereby notifies the parties hereto that, pursuant to the requirements of the Patriot Act, it and the Collateral Agent, and any Lender shall be required to obtain, verify and record information that identifies the party, which information includes the names and addresses and other information that will allow it, the Collateral Agent or any Lender to identify the party in accordance with the requirements of the Patriot Act. The party shall promptly deliver information described in the immediately preceding sentence when requested by the Administrative Agent, any other Agent or any Lender in writing pursuant to the requirements of the Patriot Act.

9.25 Limited Recourse. Anything herein to the contrary notwithstanding, the obligations of the Borrower under this Agreement and the other Loan Documents, and any certificate, notice, instrument or document delivered pursuant hereto or thereto are obligations of

the Borrower and do not constitute a debt or obligation of (and no recourse shall be had with respect thereto to) SunPower Corporation or any of its Affiliates, other than the Borrower, each other Borrower Party, and the Pledgor (to the extent set forth in the Pledge Agreement) or any shareholder, partner, member, officer, director or employee of the SunPower Corporation or such Affiliates, other than the Borrower, each Borrower Party and the Pledgor (to the extent set forth in the Pledge Agreement) (collectively, the "Nonrecourse Parties"), except to the extent of the obligations of any such Nonrecourse Parties expressly provided for in any of the Loan Documents. Except as provided in the Loan Documents to which they are a party, no action shall be brought against the Nonrecourse Parties, and no judgment for any deficiency upon the obligations hereunder or under the other Loan Documents, shall be obtainable by any Secured Party against the Nonrecourse Parties; provided, that nothing contained in this Section 9.24 shall be deemed to release any Nonrecourse Party from liability for its own fraudulent actions or willful misconduct.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

SUNPOWER REVOLVER HOLDCO I, LLC

By: /s/ Natalie Jackson
Name: Natalie Jackson
Title: Vice President

[*Signature Page to Credit Agreement*]

MIZUHO BANK, LTD., as Lead Arranger, Lender, Administrative Agent. Issuing Bank and Documentation Agent

By: /s/ Christopher Stolarski
Name: Christopher Stolarski
Title: Deputy General Manager

MIZUHO BANK (USA), as Collateral Agent

By: /s/ Christopher Stolarski
Name: Christopher Stolarski
Title: Deputy General Manager

GOLDMAN SACHS BANK USA, as Lender and Issuing Bank

By: /s/ Rebecca Kratz
Name: Rebecca Kratz
Title: Authorized Signatory

Annex 1		
Lender	**Lending Office**	**Account**
Mizuho Bank, Ltd.	Mizuho Bank, Ltd. 1251 Avenue of the Americas New York, NY 10020 Attention: Barry Liu; Francisco Casas Telecopy: 212-282-3618 Telephone: 212-282-3931; 212-282-4866 Email: barry.liu@mizuhocbus.com; francisco.casas@mizuhocbus.com	Bank Name: MIZUHO BANK, LTD., NEW YORK BRANCH Account Name: LAU ISA Account Number: H79-740-222205 SWIFT: MHCB US33 ABA No.: 026 004 307 Attn: LTFAU / Lois Swain Ref: SunPower Revolver HoldCo I, LLC
Goldman Sachs Bank USA	GOLDMAN SACHS BANK USA 200 West Street New York, NY 10282 Fax: (917)977-3966 Tel: (212)902-1099 Email: gs-sbd-admin-contacts@ny.email.gs.com	BANK NAME: CITIBANK N.A. ENTITY NAME: GOLDMAN SACHS BANK USA A/C #: 30627664 SWIFT CODE: CITIUS33 ABA: 021000089 CITY: NEW YORK REF: SUNPOWER

FINAL FORM

EXHIBIT A-1

FORM OF CONSTRUCTION LOAN NOTICE OF BORROWING

To: Mizuho Bank, Ltd., as Administrative Agent
1251 Avenue of the Americas
New York, NY 10020

Attention: [Francisco Casas]

Fax: [212-282-3618]

__, 20__

Ladies and Gentlemen:

Reference is made to the Credit Agreement, dated as of [_____] (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among SunPower Revolver HoldCo I, LLC (the "Borrower") and Mizuho Bank, Ltd. as the Administrative Agent and Issuing Bank, Mizuho Bank (USA) as the Collateral Agent, the financial institutions from time to time party thereto as Lenders and the other Agents and Persons party thereto. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

The Borrower hereby requests a borrowing of Construction Loans to be made on the terms set forth below:

(A) Borrowing date (the "Borrowing Date") _____

(B) Project _____

(C) Principal amount _____

(D) Type of Loan _____

(E) Interest Period _____[1]]

The Borrower hereby requests that the proceeds of Construction Loans described in this Borrowing Notice be applied in accordance with Section 5.7 of the Credit Agreement and directed to the following Collateral Accounts or Persons, as applicable, in the amounts specified below:

	Person and Account Information	Amount
(1)	[Construction Account [____]	_____]
(2)	[	_____]

[1] NTD: Use Interest Period if LIBOR Loans are requested.

The Borrower hereby represents that:

(a) Each representation and warranty of the Loan Parties set forth in the Loan Documents will be true and correct in all material respects as of the date the Borrowings requested hereby are funded (or, if any representation or warranty is stated to have been made as of a specific date, as of such specific date).

(b) No Default or Event of Default has occurred and is continuing on the Borrowing Date or shall occur as a result of the borrowing of such Construction Loans.

(c) As of the date the Borrowings requested hereby are funded, all other conditions set forth in Sections 3.2 and 3.3 of the Credit Agreement will have been satisfied or waived in accordance with the terms of the Credit Agreement.

SunPower Revolver HoldCo I, LLC, as Borrower

By: _____

Name:
Title:

FINAL FORM

EXHIBIT A-3

FORM OF NOTICE OF CONVERSION OR CONTINUATION

NOTICE OF CONVERSION OR CONTINUATION

Mizuho Bank, Ltd.
251 Avenue of the Americas
New York, NY. 10020
Attn: [Francisco Casas]

Re: SunPower Revolver HoldCo I, LLC

Ladies and Gentlemen:

This Notice of Continuation or Conversion is delivered to you pursuant to Section 2.11[(a)/(b)] of the Credit Agreement, dated as of [_____] (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among SunPower Revolver HoldCo I, LLC (the "Borrower") and Mizuho Bank, Ltd. as the Administrative Agent and Issuing Bank, Mizuho Bank (USA) as the Collateral Agent, the financial institutions from time to time party thereto as Lenders and the other Agents and Persons party thereto. Terms used herein, unless otherwise defined herein, have the meanings provided in the Credit Agreement.

The Borrower hereby requests that on _____ , 20__:

(a) $ _____ of the presently outstanding principal amount of the Loans originally made on _____, 20__, presently being maintained as [Base Rate Loans] [LIBOR Loans],

(b) be [converted into] [continued as],

(c) [LIBOR Loans having an interest Period of [1] [2] [3] [6] month(s)] [Base Rate Loans].

IN WITNESS WHEREOF, the Borrower has caused this Notice of Continuation or Conversion to be executed and delivered, and the certifications and warranties contained herein to be made, by its duly Authorized Officer this ___day of __, 20__.

SunPower Revolver HoldCo I, LLC

By: _____
Name:
Title:

FINAL FORM

EXHIBIT C-1

FORM OF CONSTRUCTION LOAN NOTE

THIS CONSTRUCTION LOAN NOTE ("NOTE") AND THE OBLIGATIONS REPRESENTED HEREBY MAY NOT BE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE TERMS AND PROVISIONS OF THE CREDIT AGREEMENT REFERRED TO BELOW. TRANSFERS OF THIS NOTE AND THE OBLIGATIONS REPRESENTED HEREBY MUST BE RECORDED IN THE REGISTER MAINTAINED BY THE ADMINISTRATIVE AGENT PURSUANT TO THE TERMS OF SUCH CREDIT AGREEMENT.

$[_____]

New York, New York
Date:_____, ____,

FOR VALUE RECEIVED, the undersigned, SUNPOWER REVOLVER HOLDCO I, LLC, a Delaware limited liability company (the "Borrower"), hereby unconditionally promises to pay to [_____] (the "Lender") or its registered assigns at the office specified in the Credit Agreement (as hereinafter defined) in lawful money of the United States and in immediately available funds, on the Construction Loan Maturity Date the principal amount of (a) $[ ], or, if less, (b) the aggregate unpaid principal amount of all Construction Loans made by the Lender under the Credit Agreement. The principal amount shall also be paid in the amounts and on the dates specified in Sections 2.2, 2.7, 2.8, and 2.9 of the Credit Agreement. The Borrower further agrees to pay interest in like money at such office specified in the Credit Agreement on the unpaid principal amount hereof from time to time outstanding at the rates and on the dates specified in Section 2.13 of the Credit Agreement.

The holder of this Note is authorized to endorse on the schedules annexed hereto and made a part hereof or on a continuation thereof which shall be attached hereto and made a part hereof the date, Type and amount of the Construction Loan and the date and amount of each payment or prepayment of principal with respect thereto, each conversion of all or a portion thereof to another Type, each continuation of all or a portion thereof as the same Type and, in the case of LIBOR Loans, the length of each Interest Period with respect thereto. Each such endorsement shall constitute prima facie evidence of the accuracy of the information endorsed. The failure to make any such endorsement or any error in any such endorsement shall not affect the obligations of the Borrower in respect of the Construction Loan.

This Note (a) is one of the promissory notes relating to Construction Loans referred to in the Credit Agreement, dated as of [_____] (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among the Borrower, Mizuho Bank, Ltd. as the Administrative Agent and Issuing Bank, Mizuho Bank (USA) as the Collateral Agent, the financial institutions from time to time party thereto as Lenders and the other Agents and Persons party thereto, (b) is subject to the provisions of the Credit Agreement and (c) is subject to optional and mandatory prepayment in whole or in part as provided in the Credit Agreement. This Note is secured as provided in the Security Documents. Reference is

hereby made to the Security Documents for a description of the properties and assets in which a security interest has been granted, the nature and extent of the security, the terms and conditions upon which the security interests were granted and the rights of the holder of this Note in respect thereof.

Upon the occurrence of any one or more Events of Default, all principal and accrued interest then remaining unpaid on this Note shall become, or may be declared to be, immediately due and payable, all as provided in the Credit Agreement.

All parties now and hereafter liable with respect to this Note, whether maker, principal, surety, guarantor, endorser or otherwise, hereby waive presentment, demand, protest and all other notices of any kind.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN OR IN THE CREDIT AGREEMENT, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT PURSUANT TO AND IN ACCORDANCE WITH THE REGISTRATION AND OTHER PROVISIONS OF SECTION 9.7 OF THE CREDIT AGREEMENT.

THIS AGREEMENT, AND ANY INSTRUMENT OR AGREEMENT REQUIRED HEREUNDER (TO THE EXTENT NOT EXPRESSLY PROVIDED FOR THEREIN), SHALL BE GOVERNED BY, AND CONSTRUED UNDER, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REFERENCE TO CONFLICTS OF LAWS PROVISIONS THEREOF (OTHER THAN SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

SUNPOWER REVOLVER HOLDCO I, LLC

By: _____
Name:
Title:

Schedule A to
Exhibit C

LOANS, CONVERSIONS AND REPAYMENTS OF BASE RATE LOANS

Date	Amount of Base Rate Loans	Amount Converted to Base Rate Loans	Amount of Principal of Base Rate Loans Repaid	Amount of Base Rate Loans Converted to LIBOR Loans	Unpaid Principal Balance of Base Rate Loans	Notation Made By

Schedule B
to Exhibit C

LOANS, CONTINUATIONS, CONVERSIONS AND REPAYMENTS OF LIBOR LOANS

Date	Amount of LIBOR Loans	Amount Converted to LIBOR Loans	Interest Period and LIBOR Rate with Respect Thereto	Amount of Principal of LIBOR Loans Repaid	Amount of LIBOR Loans Converted to Base Rate Loans	Unpaid Principal Balance of LIBOR Loans	Notation Made By

FINAL FORM

EXHIBIT C-2

FORM OF LC LOAN NOTE

THIS LC LOAN NOTE ("NOTE") AND THE OBLIGATIONS REPRESENTED HEREBY MAY NOT BE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE TERMS AND PROVISIONS OF THE CREDIT AGREEMENT REFERRED TO BELOW. TRANSFERS OF THIS NOTE AND THE OBLIGATIONS REPRESENTED HEREBY MUST BE RECORDED IN THE REGISTER MAINTAINED BY THE ADMINISTRATIVE AGENT PURSUANT TO THE TERMS OF SUCH CREDIT AGREEMENT.

$[_____]

New York, New York
Date:_____, ____,

FOR VALUE RECEIVED, the undersigned, SUNPOWER REVOLVER HOLDCO I, LLC, a Delaware limited liability company (the "Borrower"), hereby unconditionally promises to pay to [_____] (the "Lender") or its registered assigns at the office specified in the Credit Agreement (as hereinafter defined) in lawful money of the United States and in immediately available funds, on the LC Loan Maturity Date the principal amount of (a) $[ ], or, if less, (b) the aggregate unpaid principal amount of all LC Loans made by the Lender under the Credit Agreement. The principal amount shall also be paid in the amounts and on the dates specified in Sections 2.2, 2.7, 2.8, and 2.9 of the Credit Agreement. The Borrower further agrees to pay interest in like money at such office specified in the Credit Agreement on the unpaid principal amount hereof from time to time outstanding at the rates and on the dates specified in Section 2.13 of the Credit Agreement.

The holder of this Note is authorized to endorse on the schedules annexed hereto and made a part hereof or on a continuation thereof which shall be attached hereto and made a part hereof the date, Type and amount of the LC Loan and the date and amount of each payment or prepayment of principal with respect thereto, each conversion of all or a portion thereof to another Type, each continuation of all or a portion thereof as the same Type and, in the case of LIBOR Loans, the length of each Interest Period with respect thereto. Each such endorsement shall constitute prima facie evidence of the accuracy of the information endorsed. The failure to make any such endorsement or any error in any such endorsement shall not affect the obligations of the Borrower in respect of the LC Loan.

This Note (a) is one of the promissory notes relating to LC Loans referred to in the Credit Agreement, dated as of [_____] (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among the Borrower, Mizuho Bank, Ltd. as the Administrative Agent and Issuing Bank, Mizuho Bank (USA) as the Collateral Agent, the financial institutions from time to time party thereto as Lenders and the other Agents and Persons party thereto, (b) is subject to the provisions of the Credit Agreement and (c) is subject to optional and mandatory prepayment in whole or in part as provided in the Credit Agreement. This Note is secured as provided in the Security Documents. Reference is hereby made to the Security Documents for a description of the properties and assets in which a security interest has been granted, the nature and extent of the security, the terms and conditions upon

which the security interests were granted and the rights of the holder of this Note in respect thereof.

Upon the occurrence of any one or more Events of Default, all principal and accrued interest then remaining unpaid on this Note shall become, or may be declared to be, immediately due and payable, all as provided in the Credit Agreement.

All parties now and hereafter liable with respect to this Note, whether maker, principal, surety, guarantor, endorser or otherwise, hereby waive presentment, demand, protest and all other notices of any kind.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN OR IN THE CREDIT AGREEMENT, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT PURSUANT TO AND IN ACCORDANCE WITH THE REGISTRATION AND OTHER PROVISIONS OF SECTION 9.7 OF THE CREDIT AGREEMENT.

THIS AGREEMENT, AND ANY INSTRUMENT OR AGREEMENT REQUIRED HEREUNDER (TO THE EXTENT NOT EXPRESSLY PROVIDED FOR THEREIN), SHALL BE GOVERNED BY, AND CONSTRUED UNDER, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REFERENCE TO CONFLICTS OF LAWS PROVISIONS THEREOF (OTHER THAN SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

SUNPOWER REVOLVER HOLDCO I, LLC

By: _____
Name:
Title:

Schedule A to
Exhibit C-2

LOANS, CONVERSIONS AND REPAYMENTS OF BASE RATE LOANS

Date	Amount of Base Rate Loans	Amount Converted to Base Rate Loans	Amount of Principal of Base Rate Loans Repaid	Amount of Base Rate Loans Converted to LIBOR Loans	Unpaid Principal Balance of Base Rate Loans	Notation Made By

Schedule B
to Exhibit C-2

LOANS, CONTINUATIONS, CONVERSIONS AND REPAYMENTS OF LIBOR LOANS

Date	Amount of LIBOR Loans	Amount Converted to LIBOR Loans	Interest Period and LIBOR Rate with Respect Thereto	Amount of Principal of LIBOR Loans Repaid	Amount of LIBOR Loans Converted to Base Rate Loans	Unpaid Principal Balance of LIBOR Loans	Notation Made By

EXHIBIT D

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement dated as of the Effective Date set forth below is entered into by and between *[Insert name of Assignor]* (the "Assignor") and *[Insert name of Assignee]* (the "Assignee"). Capitalized terms used but not defined herein shall have the meaning given to them in the Credit Agreement identified below (as amended, the "Credit Agreement"), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment Agreement as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions set forth in Annex 1 attached hereto and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor's rights and obligations in its capacity as a Lender [(including as an Issuing Bank)] under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the Credit Agreement and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action, and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the "Assigned Interests"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment Agreement, without representation or warranty by the Assignor.

1.	Assignor:	_____
2.	Assignee:	_____ [and as an Affiliate/ Approved Fund of *[identify Lender]*[1]
3.	Borrower:	SunPower Revolver HoldCo I, LLC
4.	Administrative Agent:	Mizuho Bank, Ltd., as the administrative agent under the

1 NTD: Select as Applicable

Credit Agreement (in such capacity, the "Administrative Agent")

5. Credit Agreement: Credit Agreement, dated as of [_____] (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among SunPower Revolver HoldCo I, LLC (the "Borrower") and Mizuho Bank, Ltd. as the Administrative Agent and Issuing Bank, Mizuho Bank (USA) as the Collateral Agent, the financial institutions from time to time party thereto as Lenders and the other Agents and Persons party thereto.

6. Assigned Interest:

Aggregate Amount of Commitment (including Construction Loan Commitments and LC Loan Commitments)/Loans for all Lenders (including Construction Loans and LC Loans)	Amount of Commitment (including Construction Loan Commitments and LC Loan Commitments)/Loans Assigned (including Construction Loans and LC Loans)	Percentage Assigned of Commitment (including Construction Loan Commitments and LC Loan Commitments)/Loans (including Construction Loans and LC Loans)[2]
$	$	$

Effective Date: _____

The Assignee, if it shall not be a Lender, agrees to deliver to the Administrative Agent a completed administrative questionnaire, in the form supplied by the Administrative Agent, in which the Assignee designates one or more contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower and its Affiliates and their related parties or their respective securities) will be made available and who may receive such information in accordance with the Assignee's compliance procedures and applicable laws, including federal and state securities laws.

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[2] NTD: Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

[NAME OF ASSIGNOR] as Assignor

By: _____
Name:
Title:

[NAME OF ASSIGNEE], as Assignee

By: _____
Name:
Title:

[Consented to and][3] Accepted:

SunPower Revolver HoldCo I, LLC
as Borrower

By: _____
Name:
Title:

MIZUHO BANK, LTD.,
as Administrative Agent

By: _____
Name:
Title:

[3] NTD: To be added if consent is required under Section 9.7(b) of the Credit Agreement. Note that consent is required for Affiliates of Lenders under certain circumstances as described in Section 9.7(b) of the Credit Agreement.

ANNEX I TO THE ASSIGNMENT AND ASSUMPTION AGREEMENT:

STANDARD TERMS AND CONDITIONS
FOR ASSIGNMENT AND ASSUMPTION AGREEMENT

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment Agreement and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Documents, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2 Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment Agreement and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received and/or had the opportunity to review a copy of the Credit Agreement to the extent it has in its sole discretion deemed necessary, together with copies of the most recent financial statements delivered pursuant to the Credit Agreement thereof, as applicable and such other documents and information as it has in its sole discretion deemed appropriate to make its own credit analysis and decision to enter into this Assignment Agreement and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) if it is a Non-U.S. Lender, attached to the Assignment Agreement is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees, and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment Agreement may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment Agreement by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment Agreement. THIS ASSIGNMENT AGREEMENT, AND ANY INSTRUMENT OR AGREEMENT REQUIRED HEREUNDER (TO THE EXTENT NOT EXPRESSLY PROVIDED FOR THEREIN), SHALL BE GOVERNED BY, AND CONSTRUED UNDER, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REFERENCE TO CONFLICTS OF LAWS PROVISIONS THEREOF (OTHER THAN SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

EXHIBIT E

FORM OF CONSTRUCTION BUDGET AND SCHEDULE

Budget Item	**Total Lender Approved Budget $ (input)**
Financing	
IDC and Commitment Fees	$
Financing Legal & Other	$
Development	
Project Development	$
Transmission & Interconnection	
Interconnection - Reimbursable	$
Interconnection - Non-Reimbusable	$
EPC & Other	
EPC	$
Contingency	$
Owner Cost During Construction	$
Initial Funded Working Capital	$
Totals	**$**

PROJECT SCHEDULE

Item	Milestone	Date
1	Pile Installation Complete	
2	Mounting System Installation Complete	
3	AC Station Installation Complete	
4	PV Installation Complete	
5	O&M Building Complete (if applicable)	
6	Site Substation Ready to Energize	
7	Array Commissioning Complete	
8	Guaranteed Substantial Completion (EPC)	

EXHIBIT F

Tax Equity Forbearance Terms

The Lenders agree to use commercially reasonable, good faith efforts to agree to customary interparty rights with any Tax Equity Investor for the period between when such Tax Equity Investor funds its 20% investment for a Project and when the Tax Equity Investor funds the remaining 80% of its investment for such Project (subject to the Lenders' receipt of any required credit approvals in respect of such interparty rights). In addition, Collateral granted by any Project Company (and the pledge of the membership interests in such Project Company pledged by the direct owner of such Project Company) will only be released on the applicable Project Discharge Date in accordance with the Credit Agreement. In no event shall any Collateral be released for any Project when the Tax Equity Investor otherwise makes any funding or capital contribution in respect of a Project if the related Project Discharge Date has not occurred as of such date. For the avoidance of doubt, the Lenders and Agents may exercise remedies against the Collateral upon the occurrence of an Event of Default, subject to the first sentence hereof and the immediately succeeding sentence. The purpose of the interparty agreement described in this Exhibit F is to agree with the Tax Equity Investor (i) that the Lenders will not foreclose on the assets or membership interests of a Project once the Tax Equity Investor has made its 20% investment in such Project for defaults under the Credit Agreement related to other Projects, (ii) to provide copies of all notices of Events of Defaults and other material notices delivered to the Borrower under the Credit Agreement by the Administrative Agent to the Tax Equity Investor, and (iii) to provide the Tax Equity Investor with an opportunity to purchase (for a limited, customary time period), during the continuance of an Event of Default, the Borrower's outstanding Obligations under the Credit Agreement in a manner that would cause the Project Discharge Date to occur in respect of the relevant Project owned in part by such Tax Equity Investor and to cure any Events of Defaults under the Loan Documents. It is understood that any such interparty agreement may be combined, for the sake of simplification, with a Forbearance Agreement (as defined below).

In addition, to the extent a Tax Equity Investor makes its final funding for a Project, i.e., the Tax Equity Investor has funded 100% of its required investment for a Project pursuant to the Tax Equity Documents related to such Project (the "100% Funding"), however, the Construction Loan and related Obligations in respect of such Project (including any LC Loans, LC Commitments and Letters of Credit) have not been fully repaid, (i) no Collateral related to such Project (including the membership interests pledged in such Project Company that owns such Project and the assets of such Project) shall be released until the occurrence of the Project Discharge Date for such Project; (ii) the Credit Agreement and the Collateral granted thereunder remains in full force and effect and the Lenders and the Agents may exercise remedies against the Collateral upon the occurrence of an Event of Default; (iii) if required by a Tax Equity Investor, the Collateral Agent and Administrative Agent (acting on the instructions of the Lenders) shall enter into a forbearance agreement ("Forbearance Agreement") with such Tax Equity Investor on mutually agreed terms for the time period from and after when the Tax Equity Investor has made its 100% Funding; (iv) Forbearance Agreements may be entered into for no more than the lesser of (A) three individual Projects and (B) 10% of the total expected aggregate nameplate capacity of all Projects that have been allocated Loans and Commitments hereunder as of the Signing Date; and (v) pursuant to the Forbearance Agreement, from and after the Tax Equity Investor's 100% Funding and prior to the earlier to occur of a Construction Loan Maturity Date and LC Loan Maturity Date, the Collateral Agent (acting on behalf of the Lenders) will agree to (A) not foreclose on the assets of such Project or the membership interests in the Project Company that owns such Project in a manner that will result in recapture of the investment tax credit to such Tax Equity Investor, solely to the extent that a payment related or bankruptcy related default under the Credit Agreement has not occurred, (B) provide copies of

all notices of Events of Default and other material notices delivered to the Borrower under the Credit Agreement by the Administrative Agent and requested by the Tax Equity Investor, in each such case, to the Tax Equity Investors, and (C) provide each Tax Equity Investor with an opportunity to purchase (for a limited, customary time period), during the continuance of an Event of Default, the Borrower's outstanding Obligations under the Credit Agreement, in a manner that would cause the Project Discharge Date to occur in respect of the relevant Project owned in part by such Tax Equity Investor and to cure any Event of Defaults under the Loan Documents.

EXHIBIT G

FORM OF LC ISSUANCE NOTICE

NOTICE OF LC ISSUANCE

Date: _____ __, ____

Mizuho Bank, Ltd.,
as Administrative Agent
1251 Avenue of the Americas
New York, NY 10020
Attention: Francisco Casas
Telecopy: 212-282-3618
Telephone: 212-282-4866

Mizuho Bank, Ltd.,
as Issuing Bank
1251 Avenue of the Americas
New York, NY 10020
Attention: Francisco Casas
Telecopy: 212-282-3618
Telephone: 212-282-4866

[Goldman Sachs Bank USA,
as Issuing Bank
200 West Street
New York, NY 10282
Fax: (917) 977-3966
Tel: (212) 902-1099]

Re: SunPower Revolver HoldCo I, LLC

Ladies and Gentlemen:

Reference is made to the Credit Agreement, dated as of May 4, 2016 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among SunPower Revolver HoldCo I, LLC (the "Borrower"), Mizuho Bank, Ltd., as the Lead Arranger, Administrative Agent, and Documentation Agent, Mizuho Bank (USA), as the Collateral Agent, Mizuho Bank, Ltd. and Goldman Sachs Bank USA, as Issuing Banks, and the financial institutions from time to time party thereto as Lenders. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

1. Request for LC Activity. Pursuant to Section 2.16 of the Credit Agreement, the Borrower hereby requests the issuance of [the DSR Letters of Credit] [a Project Letter of Credit]

in accordance with the applicable terms and conditions of the Credit Agreement on [_____] (the "Credit Event Date").

(a) Date of issuance:
(which is a Business Day) _____

(b) Date of expiration of Letter of Credit[1]: _____

(c) Amount of Letter of Credit: _____

(d) Name of beneficiary of
Letter of Credit: _____

Address of beneficiary of
Letter of Credit: _____
_____
_____

(e) Purpose of Letter of Credit[2]: _____

Upon request, the Borrower will make available any other information as shall be necessary to prepare such Letter of Credit.

2. Certifications. The Borrower hereby certifies to the [DSR Issuing Bank] [and the] [Project LC Issuing Bank] that the following statements are accurate and complete as of the date hereof and shall be accurate and complete as of the proposed Credit Event Date after giving effect to the requested Letter of Credit:

(a) Each representation and warranty of the Loan Parties set forth in the Loan Documents is true and correct in all material respects as if made on such date (unless such representation or warranty relates solely to an earlier date, in which case it shall have been true and correct in all material respects as of such earlier date), except if such representation is already qualified by reference to materiality, Material Adverse Effect, or a similar materiality qualifier, in which case such representation and warranty shall be true and correct without regard to materiality.

(b) All conditions precedent to the issuance of such Letter of Credit in Article 3 of the Credit Agreement have been satisfied as of the date hereof.

(c) No Default or Event of Default has occurred and is continuing or will result from the issuance of such Letter of Credit.

[*Signature page follows*]

1 NTD: If such letter of credit will include automatic renewals, please also indicate the requested final expiration date after giving effect to all such extensions.

2 NTD: Attach requested form.

IN WITNESS WHEREOF, the Borrower has caused this LC Issuance Notice to be duly executed and delivered by a Responsible Officer of the Borrower as of the date first written above.

SUNPOWER REVOLVER HOLDCO I, LLC,
as the Borrower

By: _____
Name: _____
Title: _____

Exhibit G to
Credit Agreement (SunPower Revolver HoldCo I, LLC)

FINAL FORM

EXHIBIT H-1

FORM OF EXEMPTION CERTIFICATE

(FOR NON-U.S. LENDERS THAT ARE NOT PARTNERSHIPS FOR U.S. FEDERAL INCOME TAX PURPOSES)

Reference is made to the Credit Agreement, dated as of [_____] (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among SunPower Revolver HoldCo I, LLC (the "Borrower") and Mizuho Bank, Ltd. as the Administrative Agent and Issuing Bank, Mizuho Bank (USA) as the Collateral Agent, the financial institutions from time to time party thereto as Lenders and the other Agents and Persons party thereto. Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

Pursuant to the provisions of Section 2.20(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code and (v) the interest payments in question are not effectively connected with the undersigned's conduct of a U.S. trade or business.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. person status on Internal Revenue Service Form W-8BEN or, if applicable, an Internal Revenue Service Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[NAME OF LENDER]

By: _____

Name:
Title:

Date: _____

FORM OF EXEMPTION CERTIFICATE

(For Non-U.S. Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is made to the Credit Agreement, dated as of [_____] (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among SunPower Revolver HoldCo I, LLC (the "Borrower") and Mizuho Bank, Ltd. as the Administrative Agent and Issuing Bank, Mizuho Bank (USA) as the Collateral Agent, the financial institutions from time to time party thereto as Lenders and the other Agents and Persons party thereto. Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

Pursuant to the provisions of Section 2.20(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (v) none of its partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (vi) the interest payments in question are not effectively connected with the undersigned's or its partners'/members' conduct of a U.S. trade or business.

The undersigned has furnished the Administrative Agent and the Borrower with Internal Revenue Service Form W-8IMY accompanied by one of the following forms from each of its partners/members claiming the portfolio interest exemption: (i) an Internal Revenue Service Form W-8BEN or, if applicable, an Internal Revenue Service Form W-8BEN-E or (ii) an Internal Revenue Service Form W-8IMY accompanied by an Internal Revenue Service Form W-8BEN or, if applicable, an Internal Revenue Service Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[*Signature page follows*]

[NAME OF LENDER]

By: _____
Name: _____
Title: _____

Date: _____

FORM OF EXEMPTION CERTIFICATE

(For Non-U.S. Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is made to the Credit Agreement, dated as of [_____] (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among SunPower Revolver HoldCo I, LLC (the "Borrower") and Mizuho Bank, Ltd. as the Administrative Agent and Issuing Bank, Mizuho Bank (USA) as the Collateral Agent, the financial institutions from time to time party thereto as Lenders and the other Agents and Persons party thereto. Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

Pursuant to the provisions of Section 2.20(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (v) the interest payments in question are not effectively connected with the undersigned's conduct of a U.S. trade or business.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. person status on Internal Revenue Service Form W-8BEN or, if applicable, an Internal Revenue Service Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[NAME OF PARTICIPANT]

By: _____

Name:
Title:

Date: _____,20[ ]

FINAL FORM

EXHIBIT H-4

FORM OF EXEMPTION CERTIFICATE

(For Non-U.S. Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is made to the Credit Agreement, dated as of [_____] (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among SunPower Revolver HoldCo I, LLC (the "Borrower") and Mizuho Bank, Ltd. as the Administrative Agent and Issuing Bank, Mizuho Bank (USA) as the Collateral Agent, the financial institutions from time to time party thereto as Lenders and the other Agents and Persons party thereto. Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

Pursuant to the provisions of Section 2.20(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (v) none of its partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (vi) the interest payments in question are not effectively connected with the undersigned's or its partners'/members' conduct of a U.S. trade or business.

The undersigned has furnished its participating Lender with Internal Revenue Service Form W-8IMY accompanied by one of the following forms from each of its partners/members claiming the portfolio interest exemption: (i) an Internal Revenue Service Form W-8BEN or, if applicable, an Internal Revenue Service Form W-8BEN-E or (ii) an Internal Revenue Service Form W-8IMY accompanied by an Internal Revenue Service Form W-8BEN or, if applicable, an Internal Revenue Service Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[NAME OF PARTICIPANT]

By: _____
Name:
Title:

Date: _____

EXHIBIT I

INITIAL PROJECT CONSTRUCTION LOAN DATE CERTIFICATE

June [], 2016

I, Natalie Jackson, am the duly elected, qualified and acting President of SunPower Revolver Holdco I, LLC, a Delaware limited liability company (the "Company"). I am delivering this Initial Project Construction Loan Date Certificate pursuant to Section 3.2(o) of the Credit Agreement, dated as of May 4, 2016 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among the Borrower, Mizuho Bank (USA), as the Collateral Agent, Mizuho Bank, Ltd., as the Administrative Agent and Documentation Agent, Mizuho Bank, Ltd. and Goldman Sachs Bank USA, as Issuing Banks, and the financial institutions or entities from time to time parties thereto as Lenders. Capitalized terms not otherwise defined in this Initial Project Construction Loan Date Certificate shall have the meanings set forth in the Credit Agreement.

I hereby certify in my capacity as a representative of the Borrower, and not individually on behalf of the Company as follows:

1. Each representation and warranty set forth in the Loan Documents is true and correct on the Initial Project Construction Loan Date (or, if any representation or warranty is stated to have been made as of a specific date, as of such specific date).

2. No Default or Event of Default has occurred and is continuing on the applicable Initial Project Construction Loan Date or will result from the funding of the initial Construction Loans with respect to the applicable Project on the Initial Project Construction Loan Date for such Project.

3. The Material Project Documents (including any supplements or amendments thereto), available to the Administrative Agent in the SunPower data room provided by or on behalf of the Borrower (the "Data Room") as of June [], 2016 pursuant to Section 3.2(m) of the Credit Agreement in respect of the Projects, are true, complete and correct copies and are in full force and effect as of the date hereof. To the best of my knowledge no party to any Material Project Document is, or but for the passage of time or giving of notice or both will be, in breach of any obligation thereunder which could reasonably be expected to have a Material Adverse Effect. The form of the Material Project Documents (excluding any Tax Equity Document) for the Small Projects that are the subject of the Construction Loan on the date hereof are in the form attached to the Credit Agreement as Exhibit O.

4. The insurance policies required for the construction phase of each Borrower Party's applicable Small Project are in full force and effect, are not subject to cancellation without thirty (30) days' prior notice (ten (10) days for non-payment of premiums) and otherwise materially conform with the insurance requirements set forth in Section 5.4(a) and Schedule 5.4 of the Credit Agreement and the Material Project Documents.

5. All insurance premium payments due and payable as of the date hereof have been paid or will be paid from proceeds of the initial Construction Loan, and the Company's insurance materially complies with the requirements of Section 5.4 of the Credit Agreement, Schedule 5.4 of the Credit Agreement and the Material Project Documents.

6. The Applicable Permits, available to the Administrative Agent in the Data Room as of June [], 2016 pursuant to Section 3.3(i) of the Credit Agreement, are true, complete and correct copies thereof.

7. No Material Adverse Effect and no event, condition or circumstance that would reasonably be expected to constitute a Material Adverse Effect has occurred and is continuing on the date hereof.

8. No action, suit, proceeding or investigation has been instituted or threatened by any Governmental Authority, nor has any rule, regulation, order, judgment or decree been issued or proposed to be issued by any Governmental Authority that, (i) could, if such action, suit, proceeding or investigation were adversely determined, reasonably be expected to have a Material Adverse Effect on any applicable Project or any Loan Party or (ii) solely as a result of the Borrower Party's construction, ownership, leasing or operation of each applicable Project, the sale of electricity therefrom by the applicable Borrower Party, or the applicable Borrower Party's entering into of any Operative Document or any transaction contemplated hereby or thereby, would cause or deem (1) the Administrative Agent or the other Lenders or any Affiliate of any of them to be subject to, or not exempt from, regulation under the FPA, PUHCA 2005 or any financial, organizational or rate regulation as a "public utility" or "electric utility" under applicable state laws and regulations respecting the rates or the financial or organizational regulation of electric utilities, except as set forth in the proviso set forth in Section 4.10(b) of the Credit Agreement; or (2) any Borrower Party to be subject to, or not exempt from, the federal access to books and records provisions of PUHCA 2005 or under any applicable state laws and regulations respecting the rates or the financial or organizational regulation of electric utilities except, with respect to an Affiliate of any Borrower Party, any such state laws or regulations that would not result in a Material Adverse Effect.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned has hereunto signed her name on behalf of the Company as of the date first written above.

Name: Natalie Jackson
Title: President

[Signature Page to Initial Project Construction Loan Certificate SunPower Revolver Holdco I, LLC]

EXHIBIT J

EXECUTION VERSION

PLEDGE AGREEMENT

between

SUNPOWER REVOLVER HOLDCO I PARENT, LLC

and

MIZUHO BANK (USA),
as Collateral Agent

dated as of June [__], 2016

TABLE OF CONTENTS

PLEDGE AGREEMENT

This PLEDGE AGREEMENT (this "Agreement"), dated as of June [ ], 2016, is made by and between SUNPOWER REVOLVER HOLDCO I PARENT, LLC, a Delaware limited liability company (the "Pledgor"), and MIZUHO BANK (USA) as collateral agent for the Secured Parties (in such capacity, together with any successor collateral agent appointed pursuant to Section 8.9 of the Credit Agreement referred to below, the "Collateral Agent").

WITNESSETH:

WHEREAS, SunPower Revolver Holdco I, LLC, a Delaware limited liability company (the "Borrower") proposes to acquire certain subsidiaries and affiliates that will develop, construct, finance and operate various solar photovoltaic power projects (as more fully described in the Credit Agreement, the "Projects");

WHEREAS, in order to finance the costs of the development, construction and ownership of the Projects, the Borrower entered into that certain Credit Agreement, dated as of May 4, 2016, by and among the Borrower, the Administrative Agent, the Collateral Agent, the Issuing Banks, and the financial institutions from time to time party thereto as Lenders (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement");

WHEREAS, the Pledgor owns 100% of the Capital Stock of the Borrower; and

WHEREAS, in order to secure the obligations of the Borrower under the Loan Documents, the Pledgor is willing to pledge and grant a first priority security interest in 100% of the Capital Stock of the Borrower pursuant to this Agreement;

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

AGREEMENT:

ARTICLE I.
DEFINITIONS

Section 1.01 Defined Terms. Each capitalized term used and not otherwise defined herein (including the introductory paragraph and recitals) shall have the meaning assigned to such term (whether directly or by reference to another agreement or document) in the Credit Agreement. In addition to the terms defined in the Credit Agreement, the following terms shall have the meanings specified below:

"Administrative Agent" shall mean Mizuho Bank, Ltd., in its capacity as the Administrative Agent under the Credit Agreement, together with any successor administrative agent appointed pursuant to Section 8.9 of the Credit Agreement.

"Agreement" shall have the meaning given to such term in the introductory paragraph of this Agreement.

"Bankruptcy Code" shall mean Title 11 of the United States Code, as amended from time to time, and any other federal or state insolvency, reorganization, moratorium or similar law for the relief of debtors, or any successor statute.

"Borrower Obligations" shall have the meaning given to the term "Obligations" in the Credit Agreement.

"Collateral Agent" shall have the meaning given to such term in the introductory paragraph of this Agreement.

"Credit Agreement" shall have the meaning given to such term in the recitals to this Agreement.

"Discharge Notice" shall have the meaning given to such term in Section 6.16.

"Financing Statements" shall mean all financing statements, continuation statements, recordings, filings or other instruments of registration necessary or appropriate to perfect a Lien by filing in any appropriate filing or recording office in accordance with the UCC or any other relevant applicable law.

"Insolvency Proceeding" shall mean any proceeding in respect of bankruptcy, insolvency, winding up, receivership, dissolution or assignment for the benefit of creditors, in each of the foregoing events whether under the Bankruptcy Code or similar federal, state or foreign bankruptcy, insolvency, reorganization, receivership or similar law.

"Knowledge" shall mean the actual knowledge of any person listed on Schedule II.

"LLC Interests" shall have the meaning given to such term in Section 2.01(a).

"Operating Agreement" shall mean the Amended and Restated Limited Liability Company Agreement of the Borrower, dated as of May 2, 2016, as amended, amended and restated, supplemented or otherwise modified from time to time.

"Pledged Collateral" shall have the meaning given to such term in Section 2.01.

"Pledgor" shall have the meaning given to such term in the introductory paragraph of this Agreement.

"Pledgor Obligations" shall mean all obligations and liabilities of the Pledgor which may arise under or in connection with this Agreement (including, without limitation, Section 2) or any other Loan Document to which the Pledgor is a party, in each case whether on account of guarantee obligations, reimbursement obligations, fees, indemnities, costs, expenses or otherwise (including, without limitation, all fees and disbursements of counsel to the Administrative Agent, the Collateral Agent or the Lenders that are required to be paid by the Pledgor pursuant to the terms of this Agreement or any other Loan Document).

"Projects" shall have the meaning given to such term in the recitals to this Agreement.

"Secured Obligations" shall mean the collective reference to (a) the Borrower Obligations and (b) the Pledgor Obligations.

"Securities Act" shall mean the Securities Act of 1933, as amended.

Section 1.02 Rules of Interpretation. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the rules of interpretation set forth in Section 1.2 of the Credit Agreement are hereby incorporated by reference, mutatis mutandis, as if fully set forth herein.

Section 1.03 UCC Definitions. All terms defined in the UCC shall have the respective meanings given to those terms in the UCC, except where the context otherwise requires. As used in this Agreement, "proceeds" of Pledged Collateral shall mean (a) all "proceeds" as defined in Article 9 of the UCC, (b) payments or distributions made with respect to any Pledged Collateral and (c) whatever is receivable or received when Pledged Collateral or proceeds are sold, leased, licensed, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary.

ARTICLE II.
PLEDGED COLLATERAL

Section 2.01 Pledge. As collateral security for the prompt and complete payment and performance when due, whether at stated maturity, by acceleration or otherwise, of all of the Secured Obligations, whether now existing or hereafter arising and howsoever evidenced, the Pledgor hereby pledges, grants, assigns, hypothecates, transfers and delivers to the Collateral Agent, for the ratable benefit of the Secured Parties, a first priority security interest in all of the property of the Pledgor identified below, in each case, wherever located and now owned or hereafter acquired by the Pledgor or in which the Pledgor now has or at any time in the future may acquire any right, title or interest (collectively, the "Pledged Collateral"):

(a) all of the Pledgor's limited liability company interests in the Borrower described on Schedule I and all after acquired limited liability company interests in the Borrower (collectively, the "LLC Interests"), and all of the Pledgor's rights to acquire limited liability company interests in the Borrower in addition to or in exchange or substitution for the LLC Interests;

(b) all of the Pledgor's rights, privileges, authority and powers as a member of the Borrower under the Operating Agreement;

(c) all certificates or other documents representing any and all of the foregoing in clauses (a) and (b);

(d) all dividends, distributions, cash, securities, instruments and other property or proceeds of any kind to which the Pledgor may be entitled in its capacity as member of the Borrower by way of distribution, return of capital or otherwise;

(e) without affecting any obligations of the Pledgor or the Borrower under any of the other Loan Documents, in the event of any consolidation or merger in which the Borrower is not the surviving Person, all ownership interests of any class or character in the successor Person formed by or resulting from such consolidation or merger;

(f) any other claim which the Pledgor now has or may in the future acquire in its capacity as member of the Borrower against the Borrower and its property; and

(g) all proceeds, products and accessions of and to any of the property described in the preceding clauses (a) through (f), including all rents, profits, income and benefits and all proceeds of insurance and all condemnation awards and all other compensation for any event of loss with respect to all or any part of the other Pledged Collateral (together with all rights to recover and proceed with respect to the same), and all substitutions for and replacements of all or any part of the other Collateral.

Section 2.02 Delivery of Certificates and Instruments. All certificates and instruments representing or evidencing any of the Pledged Collateral shall be delivered to and be held by or on behalf of the Collateral Agent in accordance with Section 4.07 and shall be in suitable form for transfer by delivery or shall be accompanied by duly executed instruments of transfer or assignment in blank, all in form and substance reasonably satisfactory to the Collateral Agent. The Collateral Agent shall have the right, at any time following the occurrence and during the continuation of an Event of Default, without prior notice to the Pledgor, to transfer to or to register in its name or in the name of any of its nominees any or all of the Pledged Collateral. In the event of such a transfer, the Collateral Agent shall within a reasonable period of time thereafter give the Pledgor notice of such transfer or registration; provided, however, that (a) failure to give such notice shall have no effect on the rights of the Collateral Agent hereunder and (b) the Collateral Agent shall not be required to deliver any such notice if the Pledgor is the subject of an Insolvency Proceeding or the delivery of such notice is otherwise prohibited by applicable law. In addition, the Collateral Agent shall have the right at any time to exchange certificates or instruments representing or evidencing any of the LLC Interests for certificates or instruments of smaller or larger denominations.

Section 2.03 Voting; Distributions.

(a) Unless an Event of Default shall have occurred and be continuing and the Collateral Agent shall have given notice to the Pledgor of the Collateral Agent's intent to exercise its rights under this Section 2.03(a) (it being acknowledged and agreed that the Collateral Agent shall not be required to deliver any such notice if the Pledgor is the subject of an Insolvency Proceeding, which in the case of an involuntary proceeding has not been dismissed within sixty (60) days of its filing), the Pledgor shall be entitled to exercise all voting and other rights with respect to the Pledged Collateral; provided, however, that no vote with respect to the Pledged Collateral shall be cast, right exercised or other action taken which would be inconsistent with, or result in any violation of, any provision of any of this Agreement or any other Loan Documents. Upon the occurrence and during the continuation of an Event of Default and after notice thereof from the Collateral Agent to the Pledgor (it being acknowledged and agreed that the Collateral Agent shall not be required to deliver any such notice if the Pledgor is the subject of an Insolvency Proceeding, which in the case of an

involuntary proceeding has not been dismissed within sixty (60) days of its filing), all voting and other rights of the Pledgor with respect to the Pledged Collateral which the Pledgor would otherwise be entitled to exercise pursuant to the terms of this Agreement or otherwise shall cease, and all such rights shall be vested in the Collateral Agent which shall thereupon have the sole right to exercise such rights.

(b) Distributions. Any and all distributions paid in respect of the LLC Interests shall be paid only to the extent permitted, and then strictly in accordance with, the Loan Documents. To the extent that such distributions and payments are made in accordance with the terms of the Loan Documents, the further distribution or payment of such monies shall not give rise to any claims or causes of action on the part of any of the Secured Parties against the Borrower or the Pledgor seeking the return or disgorgement of any such distributions or other payments unless the distributions or payments involve or result from the fraud or willful misconduct of the Borrower or the Pledgor. Upon the occurrence and during the continuation of an Event of Default, all rights of the Pledgor to receive and retain any such distributions shall cease, and all such rights shall be vested in the Collateral Agent, which shall thereupon have the sole right to exercise such rights.

(c) Turnover. All distributions and other amounts which are received by the Pledgor contrary to the provisions of this Agreement shall be received in trust for the benefit of the Collateral Agent on behalf of the Secured Parties, shall be segregated from other funds of the Pledgor, and shall be forthwith paid over to the Collateral Agent as Pledged Collateral in the same form as so received (with any necessary endorsement).

(d) Authorization. At any time after the occurrence and during the continuance of an Event of Default, the Pledgor hereby authorizes the Borrower to (i) comply with any instructions received by it from the Collateral Agent in writing that (A) state that an Event of Default has occurred and is continuing and (B) are otherwise in accordance with the terms of this Agreement, without any other or further instructions from the Pledgor, and (ii) unless otherwise expressly permitted hereby, pay any distribution or other payments in respect of the Pledged Collateral directly to the Collateral Agent.

Section 2.04 Secured Parties Not Liable.

(a) Notwithstanding any other provision contained in this Agreement, the Pledgor shall remain liable under the Operating Agreement to observe and perform all of the conditions and obligations to be observed and performed by the Pledgor thereunder. None of the Collateral Agent, any other Secured Party or any of their respective directors, officers, employees, Affiliates or agents shall have any obligations or liability under or with respect to any Pledged Collateral by reason of or arising out of this Agreement, except as set forth in Section 9-207(a) of the UCC, nor shall any of the Collateral Agent, any other Secured Party or any of their respective directors, officers, employees, Affiliates or agents be obligated in any manner to (i) perform any of the obligations of the Pledgor under or pursuant to the Operating Agreement or any other agreement to which the Pledgor is a party, (ii) make any payment or inquire as to the nature or sufficiency of any payment or performance with respect to any Pledged Collateral, (iii) present or file any claim or collect the payment of any amounts or take

any action to enforce any performance with respect to the Pledged Collateral or (iv) take any other action whatsoever with respect to the Pledged Collateral.

(b) Notwithstanding any other provision contained in this Agreement, (i) the Pledgor shall remain liable under each of the Loan Documents to which it is a party to the extent set forth therein to perform all of its duties and obligations thereunder to the same extent as if this Agreement had not been executed and (ii) the exercise by the Collateral Agent or the other Secured Parties (or any of their respective directors, officers, employees, Affiliates or agents) of any of their rights, remedies or powers hereunder shall not release the Pledgor from any of its duties or obligations under any of the Loan Documents to which it is a party.

Section 2.05 Attorney-in-Fact.

(a) Without limiting any rights or powers granted by this Agreement to the Collateral Agent, the Pledgor hereby appoints the Collateral Agent, on behalf of the Secured Parties, or any Person, officer or agent whom the Collateral Agent may designate, as its true and lawful attorney-in-fact and proxy, with full irrevocable power and authority in the place and stead of the Pledgor and in the name of the Pledgor or in its own name, at the Pledgor's sole cost and expense, from time to time to take any action and to execute any instrument which may be necessary or reasonably advisable to enforce its rights under this Agreement upon and during the continuation of an Event of Default. This appointment as attorney-in-fact is irrevocable and coupled with an interest. Without limiting the generality of the foregoing, the Pledgor hereby gives the Collateral Agent the power and right, on behalf of the Pledgor, without notice to or assent by the Pledgor, upon the occurrence and during the continuation of an Event of Default, (i) to ask, demand, collect, sue for, recover, receive and give receipt and discharge for amounts due and to become due under and in respect of all or any part of the Pledged Collateral, (ii) to file any claims or take any action or proceeding that the Collateral Agent may deem necessary or advisable for the collection of all or any part of the Pledged Collateral, (iii) to execute, in connection with any sale or disposition of the Pledged Collateral under Article V, any endorsements, assignments or other instruments of conveyance or transfer with respect to all or any part of the Pledged Collateral, (iv) direct any party liable for any payment under any Pledged Collateral to make payment of any monies due or to become due thereunder directly to the Collateral Agent or as the Collateral Agent shall direct, (v) commence and prosecute any suit, action or proceeding at law or in equity in any court of competent jurisdiction to collect any Pledged Collateral and to enforce any other right in respect of any Pledged Collateral, (vi) defend any suit, action or proceeding brought against the Pledgor with respect to any Pledged Collateral, (vii) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the Collateral Agent may deem appropriate, and (viii) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any Pledged Collateral as fully and completely as though the Collateral Agent were the absolute owner thereof for all purposes, and do, at the Collateral Agent's option and the Pledgor's expense, at any time, or from time to time, all acts and things that the Collateral Agent reasonably deems necessary to protect, preserve or realize upon the Pledged Collateral and the Collateral Agent's and the other Secured Parties' Liens thereon and to effect the intent of this Agreement, all as fully and effectively as the Pledgor might do.

(b) The Pledgor hereby ratifies all that said attorney shall lawfully do or cause to be done by virtue hereof, in each case pursuant to the powers granted hereunder. The Pledgor hereby acknowledges and agrees that the Collateral Agent shall have no fiduciary duties to the Pledgor in acting pursuant to this power-of-attorney and the Pledgor hereby waives any claims or rights of a beneficiary of a fiduciary relationship hereunder.

Section 2.06 Performance by Collateral Agent. If the Pledgor fails to perform any agreement contained herein after receipt of a written request to do so from the Collateral Agent, the Collateral Agent (acting at the direction of the Administrative Agent on behalf of the Required Lenders) may (but shall not be obligated to) cause performance of such agreement, and the reasonable and documented fees and expenses of the Collateral Agent, including such fees and expenses of its outside counsel, incurred in connection therewith shall be payable by the Pledgor; provided, however, that if an Insolvency Proceeding shall have occurred with respect to the Pledgor, the written request described in this Section 2.06 shall not be required.

Section 2.07 Reasonable Care.

(a) The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of the Pledged Collateral in its possession if the Pledged Collateral is accorded treatment substantially equivalent to that which the Collateral Agent accords its own property of the type of which the Pledged Collateral consists, it being understood that the Collateral Agent shall have no responsibility for (i) ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Pledged Collateral, whether or not the Collateral Agent has or is deemed to have knowledge of such matters, (ii) taking any necessary steps to preserve rights against any parties with respect to any Pledged Collateral (except, in the case of clauses (i) and (ii), to the extent the same constitutes gross negligence or willful misconduct on the part of the Collateral Agent) or (iii) filing any Financing Statements or recording any documents or maintaining the perfection of any security interests in the Pledged Collateral.

(b) The Collateral Agent shall not be responsible for (i) the existence, genuineness or value of any of the Pledged Collateral, (ii) the validity, perfection, priority or enforceability of the Liens in any of the Pledged Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder (except to the extent such action or omission constitutes gross negligence or willful misconduct on the part of the Collateral Agent), (iii) the validity or sufficiency of the Pledged Collateral or any agreement or assignment contained therein, (iv) the validity of the title of the Pledgor to the Pledged Collateral, (v) insuring the Pledged Collateral, (vi) the payment of taxes, charges, assessments or Liens upon the Pledged Collateral or (vii) any other maintenance of the Pledged Collateral.

Section 2.08 Security Interest Absolute; Waivers.

(a) To the maximum extent permitted by law, all rights and security interests of the Collateral Agent purported to be granted hereunder and all obligations of the Pledgor hereunder shall be absolute and unconditional irrespective of:

(i) any lack of validity or enforceability of any of the Loan Documents or any other agreement or instrument relating thereto;

(ii) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations or any other amendment or waiver of or any consent to any departure from the Loan Documents or any other agreement or instrument relating thereto; provided that no such amendment shall increase any obligations of the Pledgor without its consent;

(iii) any exchange, release or non-perfection of any other collateral or any release (excluding any release pursuant to Section 6.16), amendment or waiver of, or consent to any departure from, any guaranty for, all or any of the Secured Obligations;

(iv) any judicial or non-judicial foreclosure or sale of, or other election of remedies with respect to, any interest in real property or other collateral serving as security for all or any part of the Secured Obligations, even though such foreclosure, sale or election of remedies may impair the subrogation rights of the Borrower or the Pledgor or may preclude the Borrower or the Pledgor from obtaining reimbursement, contribution, indemnification or other recovery from the Borrower or the Pledgor and even though the Borrower or the Pledgor may or may not, as a result of such foreclosure, sale or election of remedies, be liable for any deficiency;

(v) any act or omission of the Collateral Agent or any other Person (other than payment of the Secured Obligations) that directly or indirectly results in or aids the discharge or release of the Pledgor or any part of the Secured Obligations or any security or guarantee (including any letter of credit) for all or any part of the Secured Obligations by operation of law or otherwise;

(vi) the election by the Collateral Agent, in any bankruptcy proceeding of any Person, of the application or non-application of Section 1111(b)(2) of the U.S. Bankruptcy Code;

(vii) any extension of credit or the grant of any Lien under Section 364 of the U.S. Bankruptcy Code;

(viii) any use of cash collateral under Section 363 of the U.S. Bankruptcy Code;

(ix) any agreement or stipulation with respect to the provision of adequate protection in any bankruptcy proceeding of any Person;

(x) the avoidance of any Lien in favor of the Collateral Agent for any reason;

(xi) any Insolvency Proceeding in respect of any Person, including any discharge of, or bar or stay against collecting, all or any part of the Secured Obligations

(or any interest on all or any part of the Secured Obligations) in or as a result of any such proceeding; or

(xii) any other circumstance which might otherwise constitute a defense available to, or a discharge of, the Pledgor, except as otherwise provided herein.

(b) The Pledgor hereby expressly waives, to the maximum extent permitted by law, (i) promptness, diligence, presentment, demand for payment or performance and protest, (ii) filing of claims with any court, (iii) any proceeding to enforce any provision of the Loan Documents, (iv) notice of acceptance of and reliance on this Agreement by any Secured Party, (v) notice of the creation of any Secured Obligations, and (except with respect to any notice required by the Loan Documents relating to the Secured Obligations) any other notice whatsoever, (vi) any requirement that the Collateral Agent exhaust any right, power or remedy, or proceed or take any other action against the Pledgor under any Loan Document to which the Pledgor is a party or any Lien on, or any claim of payment against, any property of the Pledgor or any other agreement or instrument referred to therein, or any other Person under any guarantee of, or Lien securing, or claim for payment of, any of the Secured Obligations, (vii) any right to require a proceeding by the Collateral Agent first against the Borrower, whether to marshal any assets or to exhaust any right or take any action against the Borrower or any other Person or any collateral or otherwise, or any diligence in collection or protection for realization upon any Secured Obligations, (viii) any obligation hereunder or any collateral security for any of the foregoing, (ix) any claims of waiver, release, surrender, alteration or compromise, and (x) all other defenses, set-offs counterclaims, recoupments, reductions, limitations, impairments or terminations, whether arising hereunder or otherwise. The Pledgor further waives (A) any requirement that any other Person be joined as a party to any proceeding for the enforcement by the Collateral Agent of any Secured Obligations and (B) the filing of claims by the Collateral Agent in the event of an Insolvency Proceeding in respect of the Borrower or the Pledgor.

(c) The Pledgor hereby expressly waives, to the maximum extent permitted by applicable law:

(i) any claim that, as to any part of the Pledged Collateral, a public sale is, in and of itself, not a commercially reasonable method of sale for the Pledged Collateral;

(ii) the right to assert in any action or proceeding between it and the Collateral Agent any offsets or counterclaims that it may have;

(iii) except as otherwise provided in this Agreement, NOTICE OR JUDICIAL HEARING IN CONNECTION WITH THE COLLATERAL AGENT TAKING POSSESSION OF, OR DISPOSITION OF, ANY OF THE PLEDGED COLLATERAL INCLUDING ANY AND ALL PRIOR NOTICE AND HEARING FOR ANY PREJUDGMENT REMEDY OR REMEDIES AND ANY SUCH RIGHT THAT THE PLEDGOR WOULD OTHERWISE HAVE UNDER THE CONSTITUTION OR ANY STATUTE OF THE UNITED STATES OR OF ANY STATE, AND ALL OTHER REQUIREMENTS AS TO THE TIME, PLACE AND TERMS OF SALE OR OTHER

REQUIREMENTS WITH RESPECT TO THE ENFORCEMENT OF THE COLLATERAL AGENT'S RIGHTS HEREUNDER;

(iv) all rights of redemption, appraisement, valuation, stay and extension or moratorium; and

(v) all other rights the exercise of which would, directly or indirectly, prevent, delay or inhibit the enforcement of any of the rights or remedies of the Collateral Agent and the other Secured Parties under this Agreement or the absolute sale of the Pledged Collateral, now or hereafter in force under any applicable law, and the Pledgor, for itself and all who may claim under it, insofar as it or they now or hereafter lawfully may, hereby waives the benefit of all such laws and rights.

Section 2.09 Financing Statements. The Pledgor authorizes the Collateral Agent to file (but the Collateral Agent shall not be so obligated to file) such Financing Statements in such offices as are or shall be necessary or appropriate to create, perfect and establish the priority of the Liens granted by this Agreement in any and all of the Pledged Collateral, to preserve the validity, perfection or priority of the Liens granted by this Agreement in any and all of the Pledged Collateral or to enable the Collateral Agent to exercise its remedies, rights, powers and privileges under this Agreement.

ARTICLE III.
REPRESENTATIONS AND WARRANTIES

The Pledgor represents and warrants to the Collateral Agent, for the benefit of the Secured Parties, as follows, which representations and warranties shall survive the execution and delivery of this Agreement:

Section 3.01 Organization; Power and Authority. The Pledgor (a) is duly formed, validly existing and in good standing under the laws of the State of Delaware, (b) has all requisite limited liability company power and authority to own its property and assets and to carry on its business as now conducted, (c) is qualified to do business and is in good standing in each other jurisdiction where such qualification is required for the Pledgor to grant the Liens on the Pledged Collateral intended to be granted hereby or otherwise perform its obligations hereunder, and (d) has the limited liability company power and authority to execute, deliver and perform its obligations under this Agreement and to grant the Liens on the Pledged Collateral intended to be granted hereunder.

Section 3.02 Authorization; No Conflict. The execution, delivery and performance by the Pledgor of this Agreement and the granting of the Liens on the Pledged Collateral intended to be granted hereunder (a) have been duly authorized by all limited liability company action required to be taken or obtained by the Pledgor and (b) will not (i) violate (A) any provision of any Legal Requirement or of the operating agreement or any other constitutive documents of the Pledgor, or (B) any applicable order of any court or any rule, regulation or order of any Governmental Authority, (ii) be in conflict with, violate, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under, give rise to a right of, or result in any cancellation or acceleration of any right or obligation (including any payment) or to a loss of a

material benefit under any indenture, lease, agreement or other instrument to which the Pledgor is a party or by which it or any of its property is or may be bound, or (iii) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by the Pledgor, other than the Liens intended to be granted hereunder.

Section 3.03 Enforceability. This Agreement has been duly executed and delivered by the Pledgor and constitutes a legal, valid and binding obligation of the Pledgor enforceable against the Pledgor in accordance with its terms, subject to (a) the effects of bankruptcy, insolvency, moratorium, reorganization, fraudulent conveyance or other similar laws affecting creditors' rights generally, (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and (c) implied covenants of good faith and fair dealing.

Section 3.04 Valid Security Interest. Subject to the immediately following sentence, upon the proper filing thereof by or on behalf of the Collateral Agent of forms of UCC-1 in the office of the Secretary of State of the State of Delaware, all filings, registrations and recordings necessary to create, preserve, protect and perfect the Liens granted to the Collateral Agent hereby in respect of the Pledged Collateral shall have been accomplished. Possession by the Collateral Agent of the notes, certificates or instruments representing Pledged Collateral and possession of the proceeds thereof are the only actions necessary to perfect or protect the Collateral Agent's Liens (for the benefit of the Secured Parties) in the Pledged Collateral represented by such notes, certificates or instruments and the proceeds thereof under the UCC, and upon delivery to the Collateral Agent of the certificate evidencing the LLC Interests described on Schedule I, together with an instrument of transfer duly endorsed in blank, the Liens granted to the Collateral Agent pursuant to this Agreement in and to the Pledged Collateral constitute valid and enforceable perfected security interests therein superior and prior to the rights of all other Persons therein and, in each case, subject to no other Liens, sales, assignments, conveyances, settings over or transfers other than Liens permitted under Section 6.2 of the Credit Agreement which arise by operation of law and the Liens to be created pursuant to this Agreement.

Section 3.05 Title. The Pledgor is the sole beneficial owner of the property in which the Pledgor purports to grant a Lien pursuant to this Agreement.

Section 3.06 Other Financing Statements. There is no Financing Statement (or similar statement or instrument of registration under the law of any jurisdiction) covering or purporting to cover any interest of any kind in the Pledged Collateral, except Financing Statements filed or to be filed in respect of and covering the Liens granted hereby by the Pledgor.

Section 3.07 Consents. No consent, authorization, approval or other action by, and no notice to or filing with, any Governmental Authority or any other Person is required either (a) for the pledge by the Pledgor of the Pledged Collateral pursuant to this Agreement or for the due execution, delivery or performance of this Agreement by the Pledgor or (b) for the exercise by the Collateral Agent of the voting or other rights provided for in this Agreement or of the remedies in respect of the Pledged Collateral pursuant to this Agreement, except (i) in each case, such as have been made or obtained and are in full force and effect and (ii) in the case of clause (b), such as may be required in connection with the sale, transfer or other disposition of the Pledged Collateral by laws affecting the offering and sale of securities generally.

Section 3.08 Chief Executive Office, Etc.

(a) The chief executive office of the Pledgor and the office where the Pledgor keeps its records concerning the Pledged Collateral is located at:

SunPower Revolver Holdco I Parent, LLC
c/o SunPower Corporation
77 Rio Robles
San Jose, CA 95134

(b) The Pledgor has not, since its date of formation, (i) changed its location (as defined in Section 9-307(a) of the UCC), (ii) changed its name or (iii) become a "new debtor" (as defined in Section 9-102(a)(56) of the UCC).

Section 3.09 LLC Interests.

(a) The LLC Interests identified on Schedule I comprise 100% of the authorized, issued and outstanding Capital Stock of the Borrower; such LLC Interests are duly authorized, validly existing, fully paid and non-assessable; and no transfer of those LLC Interests in the manner contemplated by this Agreement is subject to any contractual restriction, including any restriction under the limited liability company agreement of the Pledgor or the Operating Agreement.

(b) The LLC Interests are "certificated securities" as such term is defined in Article 8 of the UCC.

Section 3.10 Litigation. There are no actions, suits, investigations or proceedings at law or in equity or by or on behalf of any Governmental Authority or in arbitration now pending against, or, to the Knowledge of the Pledgor, threatened in writing against or affecting, the Pledgor or any business, property or rights of the Pledgor which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect or a material adverse effect on the Pledgor's ability to grant the Liens on the Pledged Collateral intended to be granted hereby or otherwise perform its obligations hereunder.

Section 3.11 Investment Company Act. The Pledgor is not an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended.

Section 3.12 Indebtedness. The Pledgor does not have outstanding any Indebtedness which is or purports to be senior in priority to the Pledgor's obligations under this Agreement.

Section 3.13 Regulation. The business activities of the Pledgor are not subject to any special or industry-specific regulation or governmental oversight or review, other than the Delaware Limited Liability Company Act.

Section 3.14 Loan Documents. The Pledgor has reviewed and is familiar with the terms of the Loan Documents that are material to its obligations hereunder. Pledgor confirms the representations and warranties contained in Article 4 of the Credit Agreement relating to Pledgor

as if made herein as of the date hereof, which representations and warranties are incorporated herein by reference as if fully set forth herein for the benefit of the Collateral Agent.

ARTICLE IV.
COVENANTS

The Pledgor hereby covenants and agrees from and after the Closing Date until the termination of this Agreement in accordance with the provisions of Section 6.16:

Section 4.01 Maintenance of Existence. Except as otherwise expressly permitted by this Agreement, the Pledgor shall (a)(i) maintain and preserve its existence as a Delaware limited liability company in good standing and (ii) maintain its qualification to do business in each other jurisdiction where such qualification is necessary to perform its obligations hereunder and (b) engage only in businesses consistent with the Loan Documents.

Section 4.02 Sale of Pledged Collateral. The Pledgor shall not, without the prior written consent of the Collateral Agent (acting at the direction of the Administrative Agent acting at the direction of the Required Lenders), sell or otherwise dispose of, or grant any option or warrant with respect to, any of the Pledged Collateral, except to the extent such disposition remains subject to the pledge in favor of the Collateral Agent hereunder.

Section 4.03 No Other Liens. The Pledgor shall not create, incur or permit to exist, shall defend the Pledged Collateral against and shall take such other action as is reasonably necessary to remove, any Lien or claim on or to the Pledged Collateral, other than Liens which arise by operation of law and the Liens created pursuant to this Agreement, and shall defend the right, title and interest of the Collateral Agent and the other Secured Parties in and to the Pledged Collateral against the claims and demands of all Persons whomsoever.

Section 4.04 Chief Executive Office, Etc.

(a) The Pledgor shall promptly notify the Collateral Agent of any new location for its chief executive office or at which the records concerning the Pledged Collateral are kept. The Pledgor shall clearly describe such new location and shall take all action necessary in connection therewith to maintain the Liens of the Collateral Agent in the Pledged Collateral intended to be granted hereby at all times fully perfected and in full force and effect.

(b) The Pledgor shall not change its name until (i) it has given to the Collateral Agent not less than ten (10) days' prior written notice of its intention to do so, clearly specifying such new name, and (ii) with respect to such new name, it shall have taken all action necessary to maintain the Liens of the Collateral Agent in the Pledged Collateral intended to be granted hereby at all times fully perfected and in full force and effect.

Section 4.05 Supplements; Further Assurances. The Pledgor shall at any time and from time to time, at its own cost and expense, promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Collateral Agent may reasonably request in writing, in order to perfect and protect any Lien granted or purported to be granted hereby or to enable the Collateral Agent to exercise and enforce its rights and remedies hereunder with respect to any Pledged Collateral.

Section 4.06 Termination or Amendment of Operating Agreement. Unless otherwise expressly permitted by the terms of the Loan Documents, the Pledgor shall not, without the prior written consent of the Collateral Agent (acting at the direction of the Administrative Agent on behalf of the Required Lenders), agree to or permit the amendment (other than immaterial amendments), cancellation or termination of the Operating Agreement.

Section 4.07 Certificates and Instruments.

(a) The Pledgor shall deliver all certificates or other documents representing the Pledged Collateral to the Collateral Agent with all necessary and appropriate instruments of transfer or assignment duly endorsed in blank on the Closing Date. In the event the Pledgor obtains possession of any certificates or any securities or instruments forming a part of the Pledged Collateral, the Pledgor shall promptly deliver the same to the Collateral Agent together with all necessary and appropriate instruments of transfer or assignment duly endorsed in blank. Prior to any such delivery, any Pledged Collateral in the Pledgor's possession shall be held by the Pledgor in trust for the Collateral Agent.

(b) The Pledgor shall at all times cause the LLC Interests to be "certificated securities" as such term is defined in Article 8 of the UCC.

Section 4.08 Records; Statements and Schedules. The Pledgor shall keep and maintain, at its own cost and expense, records of the Pledged Collateral owned by it, including records of all payments received with respect thereto, and it shall make the same available to the Collateral Agent for inspection at the Pledgor's chief executive office, at the Pledgor's cost and expense, upon reasonable notice (except after the occurrence and during the continuance of an Event of Default), at any time during normal business hours. The Pledgor shall furnish to the Collateral Agent from time to time statements and schedules further identifying and describing the Pledged Collateral and such other reports in connection with the Pledged Collateral as the Collateral Agent may reasonably request in writing, all in reasonable detail.

Section 4.09 Improper Distributions. Notwithstanding any other provision contained in this Agreement, the Pledgor shall not accept any distributions, dividends or other payments (or any collateral in lieu thereof) in respect of the Pledged Collateral, except to the extent the same are expressly permitted by the terms of this Agreement and the other Loan Documents.

Section 4.10 Taxes. The Pledgor shall pay, or cause to be paid, as and when due and prior to delinquency, all taxes, assessments and governmental charges of any kind that may at any time be lawfully assessed or levied against or with respect to the Pledgor, the Borrower or the LLC Interests except to the extent non-compliance could not reasonably be expected to have a Material Adverse Effect; provided, however, that the Pledgor may contest or cause to be contested in good faith any such taxes, assessments and other charges and, in such event, may permit the taxes, assessments or other charges so contested to remain unpaid during any period, including appeals, when the Pledgor is in good faith contesting or causing to be contested the same by appropriate proceedings, so long as (a) reserves consistent with GAAP have been established on the Pledgor's books in an amount sufficient to pay any such taxes, assessments or other charges, accrued interest thereon and potential penalties or other costs relating thereto, or other provision for the payment thereof reasonably satisfactory to the Administrative Agent shall

have been made, (b) enforcement of the contested tax, assessment or other charge is effectively stayed for the entire duration of such contest and (c) any tax, assessment or other charge determined to be due, together with any interest or penalties thereon, is immediately paid after resolution of such contest.

Section 4.11 Notices. Promptly upon the Pledgor obtaining Knowledge of (a) any action, suit or proceeding at law or in equity by or before any Governmental Authority, arbitral tribunal or other body pending or threatened against the Pledgor which could reasonably be expected to result in a Material Adverse Effect or a material adverse effect on the Pledgor's ability to grant the Liens on the Pledged Collateral intended to be granted hereby or otherwise perform its obligations hereunder, (b) the occurrence of any other circumstance, act or condition (including the adoption, amendment or repeal of any Legal Requirement or notice (whether formal or informal, written or oral) of the failure to comply with the terms and conditions of any Legal Requirement) which could reasonably be expected to result in a Material Adverse Effect or a material adverse effect on the Pledgor's ability to grant the Liens on the Pledged Collateral intended to be granted hereby or otherwise perform its obligations hereunder, or (c) the occurrence of any Event of Default relating solely to the Pledgor, in each case the Pledgor shall furnish to the Collateral Agent a notice of such event describing the same in reasonable detail and, together with such notice or as soon thereafter as possible, a written description of the action that the Pledgor has taken or proposes to take with respect thereto.

Section 4.12 Filing Fees. The Pledgor shall pay any applicable filing fees and related expenses in connection with any filing made by the Collateral Agent in accordance with Section 2.09.

Section 4.13 Bankruptcy; Dissolution. The Pledgor shall not authorize or permit the Borrower to:

(a) except upon compliance with the requirements of the Operating Agreement as in effect on the date hereof, (i) commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to the Borrower or the Borrower's debts under the Bankruptcy Code now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Borrower or any substantial part of the Borrower's property, (ii) consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against the Borrower or (iii) make a general assignment for the benefit of the Borrower's creditors;

(b) commence or join with any other Person (other than the Collateral Agent and the other Secured Parties) in commencing any proceeding against the Borrower under the Bankruptcy Code or any other statute now or hereafter in effect in any jurisdiction; or

(c) except as permitted by the Loan Documents, liquidate, wind-up or dissolve, or sell or lease or otherwise transfer or dispose of all or any substantial part of its property, assets or business or combine, merge or consolidate with or into any other entity, or change its legal form, or implement any material acquisition or purchase of assets from any Person.

Section 4.14 Compliance with Operating Agreement. The Pledgor shall comply in all material respects with the terms of the Operating Agreement.

Section 4.15 Compliance with Laws. The Pledgor shall comply with all applicable Legal Requirements, except such non-compliance as would not reasonably be expected to have a material adverse effect on the ability of the Pledgor to perform its obligations hereunder.

Section 4.16 No Merger or Consolidation. The Pledgor shall not (a) liquidate, wind-up or dissolve, or (b) combine, merge or consolidate with or into any other entity, unless, if applicable, the transferee or surviving Person assumes all of its obligations hereunder by operation of law or otherwise.

Section 4.17 Separate Existence. The Pledgor shall (a) maintain entity records and books of account separate from those of the Borrower; (b) not commingle its funds or assets with those of the Borrower; and (c) provide that its board of directors or other analogous governing body will hold all appropriate meetings (or take such other actions permitted under its organizational documents) to authorize and approve the Pledgor's actions, which meetings will be separate from those of the Borrower.

Section 4.18 Access and Inspection. The Pledgor hereby grants to the Collateral Agent all rights of access to and inspection and use, at reasonable times during business hours, of all books, correspondence, credit files, records, invoices, tapes, cards, computer runs and files and other papers and documents in connection with, but only to the extent relating to, any of the Pledged Collateral in the possession of or under the control of the Pledgor after reasonable prior written notice to the Pledgor (and subject to reasonable requirements of confidentiality, safety requirements and other requirements imposed by law or by contract); provided that the costs and expense of any such visit shall be governed by the provisions of Section 5.6 of the Credit Agreement.

Section 4.19 Additional Pledgor Covenants. The Pledgor shall not (a) conduct, transact or otherwise engage in, or commit to conduct, transact or otherwise engage in, any business or operations other than those incidental to its ownership of the Capital Stock of the Borrower, (b) incur, create, assume or suffer to exist any Indebtedness or other liabilities or financial obligations, except (i) nonconsensual obligations imposed by operation of law, (ii) obligations pursuant to the Loan Documents to which it is a party and (iii) obligations with respect to its Capital Stock, (c) own, lease, manage or otherwise operate any properties or assets (including cash (other than cash received in connection with distributions made by the Borrower in accordance with Section 6.7 of the Credit Agreement) and cash equivalents) other than the ownership of shares of Capital Stock of the Borrower, (d) create, incur, assume or suffer to exist any Lien upon any of its property, except Liens created pursuant to the Loan Documents, (e) make any Investments other than Permitted Investments, or (f) create, form or acquire any Subsidiary or enter into any partnership or joint venture. Pledgor agrees to observe and perform each of the covenants specified to be applicable to Pledgor in the Loan Documents and the other documents to which any other Secured Obligation is incurred, as applicable, and each such covenant and agreement is hereby incorporated by reference in this Agreement, *mutatis mutandis*, as a direct obligation, covenant and agreement of Pledgor with respect to itself.

ARTICLE V.
REMEDIES

Section 5.01 Remedies Generally.

(a) Upon the occurrence and during the continuation of an Event of Default, the Collateral Agent may (but shall not be obligated to), without notice to the Pledgor (except as required by applicable law) and at such times as the Collateral Agent in its sole judgment may determine, exercise any or all of the Pledgor's rights in, to and under, or in any way connected to, the Pledged Collateral, and the Collateral Agent shall otherwise have and may (but shall not be obligated to) exercise all of the rights, powers, privileges and remedies of a secured party under the UCC (whether or not the UCC is in effect in the jurisdiction where the rights, powers, privileges and remedies are asserted) with respect to the Pledged Collateral and such additional rights, powers, privileges and remedies to which a Secured Party is entitled under the laws in effect in any jurisdiction where any rights, powers, privileges and remedies hereunder may be asserted, including the right, to the maximum extent permitted by applicable law, to exercise all voting, consensual and other powers of ownership pertaining to the Pledged Collateral as if the Collateral Agent were the sole and absolute owner thereof (and the Pledgor agrees to take all such action as may be appropriate to give effect to such right).

(b) Without limiting the generality of the foregoing, upon the occurrence and during the continuation of an Event of Default:

(i) the Collateral Agent in its discretion may require the Pledgor to, and the Pledgor shall, assemble the Pledged Collateral owned by it at such place or places, reasonably convenient to both the Collateral Agent and the Pledgor, designated in the Collateral Agent's request; and

(ii) the Collateral Agent in its discretion may, to the fullest extent provided by law, have a court having jurisdiction appoint a receiver, which receiver shall take charge and possession of and protect, preserve and replace the Pledged Collateral or any part thereof, and manage and operate the same, and receive and collect all income, receipts, royalties, revenues, issues and profits therefrom (it being agreed that the Pledgor irrevocably consents and shall be deemed to have hereby irrevocably consented to the appointment thereof, and upon such appointment, the Pledgor shall immediately deliver possession of such Pledged Collateral to such receiver).

Section 5.02 Sale of Pledged Collateral.

(a) Without limiting the generality of Section 5.01, if an Event of Default shall have occurred and be continuing, the Collateral Agent may, without notice except as specified below, sell the Pledged Collateral or any part thereof in one or more parcels at public or private sale or at any of the Collateral Agent's corporate trust offices or elsewhere, for cash, on credit or for future delivery and at such price or prices and upon such other terms as are commercially reasonable, irrespective of the impact of any such sale on the market price of the Pledged Collateral at any such sale. Each purchaser at any such sale shall hold the property sold absolutely, free from any claim or right on the part of the Pledgor, and the Pledgor hereby waives

(to the extent permitted by law) all rights of redemption, stay or appraisal which it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. The Pledgor agrees that at least ten (10) days' notice to the Pledgor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Collateral Agent shall not be obligated to make any sale of Pledged Collateral regardless of notice of sale having been given. The Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefore and such sale may, without further notice, be made at the time and place to which it was so adjourned. The Collateral Agent shall incur no liability as a result of the sale of the Pledged Collateral, or any part thereof, at any public or private sale. The Pledgor hereby waives any claims against the Collateral Agent arising by reason of the fact that the price at which any Pledged Collateral may have been sold at such a private sale, if commercially reasonable, was less than the price which might have been obtained at a public sale, even if the Collateral Agent accepts the first offer received and does not offer the Pledged Collateral to more than one offeree.

(b) The Pledgor recognizes that, if an Event of Default shall have occurred and be continuing, the Collateral Agent may elect to sell all or any part of the Pledged Collateral to one or more purchasers in privately negotiated transactions in which the purchasers will be obligated to agree, among other things, to acquire the Pledged Collateral for their own account, for investment and not with a view to the distribution or resale thereof. The Pledgor acknowledges that any such private sales may be at prices and on terms less favorable than those obtainable through a public sale (including a public offering made pursuant to a registration statement under the Securities Act) and the Pledgor and the Collateral Agent agree that such private sales shall be made in a commercially reasonable manner and that the Collateral Agent has no obligation to engage in public sales and no obligation to delay sale of any Pledged Collateral to permit the issuer thereof to register the Pledged Collateral for a form of public sale requiring registration under the Securities Act. If the Collateral Agent exercises its right to sell any or all of the Pledged Collateral, upon written request the Pledgor shall, from time to time, furnish to the Collateral Agent all such information as is necessary in order to determine the LLC Interests, any other interests in the Pledged Collateral and any other instruments included in the Pledged Collateral which may be sold by the Collateral Agent as exempt transactions under the Securities Act and rules of the United States Securities and Exchange Commission thereunder, as the same are from time to time in effect.

Section 5.03 Purchase of Pledged Collateral. The Collateral Agent or any other Secured Party may be a purchaser of the Pledged Collateral or any part thereof or any right or interest therein at any sale thereof, whether pursuant to foreclosure, power of sale or otherwise hereunder and the Collateral Agent may apply the purchase price to the payment of the Secured Obligations. Any purchaser of all or any part of the Pledged Collateral shall, upon any such purchase, acquire good title to the Pledged Collateral so purchased, free of the security interests created by this Agreement.

Section 5.04 Application of Proceeds; Deficiency. The Collateral Agent shall apply any proceeds from time to time held by it and the net proceeds of any collection, recovery, receipt, appropriation, realization or sale with respect to the Pledged Collateral to the payment of the Secured Obligations in the following order:

First, to pay incurred and unpaid fees and expenses of the Agents under the Loan Documents, pro rata among the Agents according to the amount of the unpaid fees and expenses then due and owing and remaining unpaid to the Agents;

Second, to the Administrative Agent, for application by it towards payment of amounts then due and owing and remaining unpaid in respect of the Secured Obligations, pro rata among the Secured Parties according to the amounts of the Secured Obligations then due and owing and remaining unpaid to the Secured Parties;

Third, to the Administrative Agent, for application by it towards prepayment of the Secured Obligations, pro rata among the Secured Parties according to the amounts of the Secured Obligations then held by the Secured Parties; and

Fourth, any balance remaining after the Secured Obligations shall have been paid in full and the Commitments shall have terminated shall be paid over to the Pledgor or to whomsoever may be lawfully entitled to receive the same.

For the avoidance of doubt, it is understood that the Borrower and the Pledgor shall remain liable to the extent of any deficiency between the amount of proceeds of the Pledged Collateral and the aggregate amount of the Borrower Obligations or Pledgor Obligations, respectively, in accordance with the Loan Documents.

Section 5.05 Notice. The Collateral Agent shall give the Pledgor notice of any action taken under this Article V within a reasonable period of time thereafter; provided, however, that (a) failure to give such notice shall have no effect on the rights of the Collateral Agent hereunder and (b) the Collateral Agent shall not be required to deliver any such notice if the Pledgor is the subject of an Insolvency Proceeding or if the delivery of such notice is otherwise prohibited by applicable law.

Section 5.06 Enforcement Expenses. The Pledgor agrees to pay or reimburse the Collateral Agent and each Secured Party for all its fees and documented out-of-pocket expenses (including reasonable and documented legal fees, charges and disbursements) incurred by the Collateral Agent or such Secured Party, as applicable, in connection with the enforcement and protection of its rights under this Agreement.

ARTICLE VI.
MISCELLANEOUS

Section 6.01 No Waiver; Remedies Cumulative. Neither the Collateral Agent nor any Secured Party shall by any act (except by a written instrument pursuant to Section 5.05), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced to any Default or Event of Default. No failure to exercise, nor any delay in exercising, on the part of the Collateral Agent or any Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Collateral Agent or any Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Collateral Agent or such Secured Party would otherwise have on any future

occasion. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

Section 6.02 Notices. All notices, requests and other communications provided for herein (including any modifications of, or waivers or consents under, this Agreement) shall be given or made in writing in the manner set out in Section 9.2 of the Credit Agreement. Unless changed in accordance with the Credit Agreement by the respective parties hereto, all notices, requests and other communications to each party hereto shall be sent to the address of such party set forth in Section 9.2 of the Credit Agreement. Notices to the Pledgor shall be sent to the following address:

SunPower Revolver Holdco I Parent, LLC
c/o SunPower Corporation
77 Rio Robles
San Jose, CA 95134
Attn: General Counsel
Facsimile No.: (510) 540-0552

Section 6.03 Amendments and Waivers. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except in accordance with Section 9.1 of the Credit Agreement.

Section 6.04 Successors and Assigns. This Agreement shall be binding upon the successors and assigns of the Pledgor and shall inure to the benefit of the Collateral Agent and the Secured Parties and their successors and assigns; provided that (a) the Pledgor may not assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of the Collateral Agent, (b) the Collateral Agent shall only transfer or assign its rights under this Agreement in connection with a resignation or removal of such Person from its capacity as "Collateral Agent" in accordance with the terms of this Agreement and the Credit Agreement and (c) the Collateral Agent may delegate certain of its responsibilities and powers under this Agreement as contemplated by Section 6.08 below and Section 8.2 of the Credit Agreement. Notwithstanding anything herein to the contrary, any corporation into which the Collateral Agent may be merged or converted or with which it may be consolidated or any corporation resulting from any merger, conversion or consolidation to which the Collateral Agent shall be a party, or any corporation succeeding to the corporate trust business of the Collateral Agent, shall be the successor of the Collateral Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except where an instrument of transfer or assignment is required by law to effect such succession; provided that the Collateral Agent shall forthwith notify the Pledgor in writing in reasonable advance of any such event.

Section 6.05 Survival; Reliance. The representations and warranties of the Pledgor set out in this Agreement or contained in any documents delivered to the Collateral Agent or any other Secured Party pursuant to this Agreement shall be considered to have been relied upon by the Secured Parties in entering into the Loan Documents and extending the credit or otherwise performing the transactions thereunder, notwithstanding any investigation on their respective parts.

Section 6.06 Effectiveness; Continuing Nature of this Agreement. This Agreement shall become effective as of the date set forth in the preamble. This is a continuing agreement and any Secured Party may continue, at any time and without notice to any other Person, to extend credit and other financial accommodations and lend monies to or for the benefit of the Pledgor or the Borrower constituting Secured Obligations in reliance hereof. The terms of this Agreement shall survive, and shall continue in full force and effect, in any Insolvency Proceeding. All references to the Pledgor shall include the Pledgor as debtor and debtor-in-possession and any receiver or trustee for the Pledgor (as the case may be) in any Insolvency Proceeding.

Section 6.07 Entire Agreement. This Agreement constitutes the entire contract between the parties relative to the subject matter hereof. Any previous agreement among or representations from the parties or their Affiliates with respect to the subject matter hereof is superseded by this Agreement.

Section 6.08 Agents, Etc. The Collateral Agent may employ agents, experts and attorneys-in-fact in connection herewith and shall not be responsible for the negligence or misconduct of any such agents, experts or attorneys-in-fact selected by it with reasonable care.

Section 6.09 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 6.10 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by telecopy or PDF), and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

Section 6.11 Headings. Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

Section 6.12 Governing Law. THIS AGREEMENT, AND ANY INSTRUMENT OR AGREEMENT REQUIRED HEREUNDER (TO THE EXTENT NOT EXPRESSLY PROVIDED FOR THEREIN), SHALL BE GOVERNED BY, AND CONSTRUED UNDER, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REFERENCE TO CONFLICTS OF LAWS PROVISIONS THEREOF (OTHER THAN SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

Section 6.13 Jurisdiction; Consent to Service of Process. The Pledgor hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and

enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any courts thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to the Pledgor at its address referred to in Section 9.2 of the Credit Agreement or at such other address of which the Collateral Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

Section 6.14 Waiver of Jury Trial. THE PLEDGOR HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

Section 6.15 Specific Performance. The Collateral Agent may demand specific performance of this Agreement. The Collateral Agent and the Pledgor hereby irrevocably waive any defense based on the adequacy of a remedy at law and any other defense which might be asserted to bar the remedy of specific performance in any action which may be brought by the Collateral Agent or any other Secured Parties.

Section 6.16 Release; Termination. Upon the occurrence of the Final Discharge Date, the Administrative Agent shall provide notice to the Collateral Agent that the Borrower Obligations have been paid in full and that no Commitments or Letters of Credit remain outstanding (the "Discharge Notice"). Immediately upon delivery of the Discharge Notice, all Liens created pursuant to this Agreement shall automatically be released and the Collateral Agent, at the sole cost and expense of the Pledgor, (a) shall promptly return to the Pledgor the original certificates or instruments representing or evidencing the LLC Interests, (b) authorizes the Pledgor to prepare and file UCC termination statements terminating all of the Financing Statements filed in connection herewith and (c) agrees, at the request of the Pledgor, to execute and deliver such documents, instruments, certificates, notices or further assurances as the Pledgor may reasonably furnish as necessary or desirable to effect or evidence such termination and release, including the execution of a customary pay-off letter.

Section 6.17 Reinstatement. This Agreement and the Liens created hereunder shall automatically be reinstated if and to the extent that for any reason any payment by or on behalf

of the Pledgor or the Borrower in respect of the Secured Obligations is rescinded or must otherwise be restored by any Secured Party, whether as a result of any Insolvency Proceeding or reorganization or otherwise, and the Pledgor shall indemnify the Collateral Agent, each other Secured Party and their respective employees, officers and agents on demand for all reasonable and documented fees, costs and expenses (including reasonable fees, costs and expenses of counsel) incurred by the Collateral Agent, such other Secured Party or its respective employees, officers or agents in connection with such reinstatement, rescission or restoration.

Section 6.18 No Third Party Beneficiaries. This Agreement and the rights and benefits hereof shall inure to the benefit of each of the parties hereto and its respective successors and assigns and shall inure to the benefit of the Collateral Agent and the other Secured Parties. Nothing in this Agreement shall impair, as between the Pledgor and the Borrower, on the one hand, and the Collateral Agent and the other Secured Parties, on the other hand, the obligations of the Pledgor and the Borrower to pay principal, interest, fees and other amounts as provided in the Loan Documents.

Section 6.19 Collateral Agent. Notwithstanding any other provision contained in this Agreement, the Collateral Agent shall be afforded all of the rights, powers, immunities and indemnities of the Collateral Agent set forth in the Loan Documents, as if such rights, powers, immunities and indemnities were specifically set forth herein. The Pledgor hereby acknowledges the appointment of the Collateral Agent pursuant to the Credit Agreement. The rights, privileges, protections and benefits given to the Collateral Agent, including its right to be indemnified, are extended to, and shall be enforceable by, the Collateral Agent in its capacity hereunder, and to each agent, custodian and other Person employed by the Collateral Agent in accordance herewith to act hereunder.

Section 6.20 Independent Security. The security provided for in this Agreement shall be in addition to and shall be independent of every other security which the Secured Parties may at any time hold for any of the Secured Obligations hereby secured, whether or not under the Loan Documents. The execution of any other Loan Document shall not modify or supersede the security interest or any rights or obligations contained in this Agreement and shall not in any way affect, impair or invalidate the effectiveness and validity of this Agreement or any term or condition hereof. The Pledgor hereby waives its right to plead or claim in any court that the execution of any other Loan Document is a cause for extinguishing, invalidating, impairing or modifying the effectiveness and validity of this Agreement or any term or condition contained herein. The Collateral Agent shall be at liberty to accept further security from the Pledgor or from any third party and/or release such security without notifying the Pledgor and without affecting in any way the obligations of the Pledgor or the Borrower under the other Loan Documents. The Collateral Agent (acting at the direction of the Required Lenders) shall determine if any security conferred upon the Secured Parties under the Loan Documents shall be enforced by the Collateral Agent as well as the sequence of securities to be so enforced.

Section 6.21 Independent Obligations. The obligations of the Pledgor under this Agreement are independent of those of the Borrower. The Collateral Agent may bring a separate action against the Pledgor without first proceeding against the Borrower or any other Person or any other security held by the Collateral Agent and without pursuing any other remedy.

Section 6.22 Subrogation. Notwithstanding any payment or payments made by the Pledgor or the exercise by the Collateral Agent of any of the remedies provided under this Agreement or any other Loan Document, until the Loans and the Secured Obligations shall have been paid in full and the Commitments have been terminated, the Pledgor shall not have any claim (as defined in 11 U.S.C. § 101(5)) of subrogation to any of the rights of the Collateral Agent against the Borrower, the Pledged Collateral or any guaranty held by the Collateral Agent for the satisfaction of any of the Secured Obligations, nor shall the Pledgor have any claims (as defined in 11 U.S.C. § 101(5)) for reimbursement, indemnity, exoneration or contribution from the Borrower in respect of payments made by the Pledgor hereunder. Notwithstanding the foregoing, if any amount shall be paid to the Pledgor on account of such subrogation, reimbursement, indemnity, exoneration or contribution rights at any time, such amount shall be held by the Pledgor in trust for the Collateral Agent segregated from other funds of the Pledgor, and shall be turned over to the Collateral Agent in the exact form received by the Pledgor (duly endorsed by the Pledgor to the Collateral Agent if required) to be applied against the Secured Obligations in such amounts and in such order as the Collateral Agent may elect.

Section 6.23 Enforcement Expenses; Indemnification.

(a) The Pledgor agrees to pay or reimburse each Secured Party and the Collateral Agent for all its fees, costs and expenses incurred in collecting against the Pledgor or otherwise enforcing or preserving any rights under this Agreement and the other Loan Documents to which the Pledgor is a party, including, without limitation, the fees and disbursements of counsel (including the allocated fees and expenses of in-house counsel) to each Secured Party and of counsel to the Collateral Agent.

(b) The Pledgor agrees to pay, and to save the Collateral Agent and the Secured Parties harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any and all stamp, excise, sales or other taxes which may be payable or determined to be payable with respect to any of the Collateral or in connection with any of the transactions contemplated by this Agreement.

(c) The Pledgor agrees to pay, and to save the Collateral Agent and the Secured Parties harmless from, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement.

(d) The agreements in this Section 6.23 shall survive repayment of the Obligations and all other amounts payable under the Credit Agreement and the other Loan Documents, and any resignation or removal of the Collateral Agent.

Section 6.24 Acknowledgements. The Pledgor hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents to which it is a party;

(b) neither the Collateral Agent nor any Secured Party has any fiduciary relationship with or duty to the Pledgor arising out of or in connection with this Agreement or

any of the other Loan Documents, and the relationship between the Pledgor, on the one hand, and the Collateral Agent and Secured Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Secured Parties or among the Pledgor and the Secured Parties.

Section 6.25 Patriot Act Documentation. The parties hereto acknowledge that in accordance with Section 326 of the USA Patriot Act and other similar laws and regulations in any other applicable jurisdiction, the Collateral Agent is required to obtain, verify and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Collateral Agent. The parties to this Agreement agree that they will provide the Collateral Agent with such information as it may reasonably request in order for the Collateral Agent to satisfy such requirements.

(Signature pages follow)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first written above.

SUNPOWER REVOLVER HOLDCO I PARENT, LLC

By: _____
Name:
Title:

MIZUHO BANK (USA), not in its individual capacity but solely as Collateral Agent

By: _____
Name:
Title:

SCHEDULE I

INTERESTS

500 Units (equal to 100% of the limited liability company membership interests) of SunPower Revolver HoldCo I, LLC, a Delaware limited liability company, represented by Certificate Number 1.

SCHEDULE II

KNOWLEDGE PARTIES

Brooks Friedeman
Christopher Lafley
Jim Parker
Scott Piscitello
Bill Kelly

EXHIBIT K

Execution Version

SECURITY AGREEMENT

between

SUNPOWER REVOLVER HOLDCO I, LLC, as borrower,

and

MIZUHO BANK (USA), as collateral agent

Dated as of June [ ], 2016

TABLE OF CONTENTS

SECURITY AGREEMENT

This SECURITY AGREEMENT, dated as of June [ ], 2016 (this "Agreement"), is made by and between SUNPOWER REVOLVER HOLDCO I, LLC, a Delaware limited liability company (the "Borrower"), MIZUHO BANK (USA), not in its individual capacity but as collateral agent for the Secured Parties (in such capacity, together with any successor collateral agent appointed pursuant to Section 8.9 of the Credit Agreement referred to below, the "Collateral Agent").

WITNESSETH:

WHEREAS, the Borrower proposes to own subsidiaries that are in the business of developing, constructing, and operating Projects;

WHEREAS, in order to finance a portion of the costs of the development and construction of the Projects, the Borrower is entering into that certain Credit Agreement, dated as of May 4, 2016 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among the Borrower, the Administrative Agent, the Collateral Agent, the Issuing Banks, and the financial institutions from time to time party thereto as Lenders;

WHEREAS, in order to secure its obligations under the Loan Documents, the Borrower is granting a first priority security interest in the Collateral (as defined herein) pursuant to this Agreement to the Collateral Agent for the benefit of the Secured Parties.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT:

ARTICLE I DEFINITIONS

Section 1.1 Defined Terms. Except as set forth in Section 1.3, each capitalized term used and not otherwise defined herein (including the introductory paragraph and recitals) shall have the meaning assigned to such term (whether directly or by reference to another agreement or document) in the Credit Agreement. In addition to the terms defined in the Credit Agreement, the following terms shall have the meanings specified below:

"Administrative Agent" shall mean Mizuho Bank, Ltd., not in its individual capacity but as administrative agent under the Credit Agreement (in such capacity, together with any successor administrative agent appointed pursuant to Section 8.9 of the Credit Agreement.

"Agreement" shall have the meaning given to such term in the introductory paragraph of this Agreement.

"Assigned Agreements" shall mean all agreements, contracts and documents, including the Equity Contribution Agreement and the ECCA Guaranty and each Material Project

Document to which the Borrower is a party (including all exhibits and schedules thereto), as each such agreement, contract and document may be amended, supplemented or modified and in effect from time to time, including (i) all rights of the Borrower to receive moneys due and to become due under or pursuant to the Assigned Agreements, (ii) all rights of the Borrower to receive proceeds of any insurance, bond, indemnity, warranty, letter of credit or guaranty with respect to the Assigned Agreements, (iii) all claims of the Borrower for damages arising out of or for breach of or default under the Assigned Agreements and (iv) all rights of the Borrower to terminate, amend, supplement, modify or waive performance under the Assigned Agreements, to perform thereunder and to compel performance and otherwise to exercise all remedies thereunder.

"Bankruptcy Code" shall mean Title 11 of the United States Code, as amended from time to time, and any other federal or state insolvency, reorganization, moratorium or similar law for the relief of debtors, or any successor statute.

"Borrower" shall have the meaning given to such term in the introductory paragraph of this Agreement.

"Collateral" shall have the meaning given to such term in Section 3.1(a).

"Collateral Agent" shall have the meaning given to such term in the introductory paragraph of this Agreement.

"Copyright Licenses" shall mean any written agreement naming the Borrower as licensor or licensee, granting any right under any Copyright, including, without limitation, the grant of rights to manufacture, distribute, exploit and sell materials derived from any Copyright.

"Copyrights" shall mean (i) all copyrights arising under the laws of the United States, any other country or any political subdivision thereof, whether registered or unregistered and whether published or unpublished, all registrations and recordings thereof, and all applications in connection therewith, including, without limitation, all registrations, recordings and applications in the United States Copyright Office, and (ii) the right to obtain all renewals thereof.

"Credit Agreement" shall have the meaning given to such term in the recitals to this Agreement.

"Deposit Account" shall have the meaning as defined in the UCC of any applicable jurisdiction and, in any event, including, without limitation, any demand, time, savings, passbook or like account maintained with a depositary institution.

"Equity Collateral" has the meaning assigned to that term in Section 3.1(xvii).

"Excluded Assets" shall mean any property to the extent that a grant of a security interest in such property is prohibited by any Legal Requirements of a Governmental Authority, requires a consent not obtained of any Governmental Authority pursuant to such Legal Requirements or is prohibited by, or constitutes a breach or default under or results in the termination of, or grants any Person (other than the Borrower) the right to terminate its obligations thereunder, or constitutes or results in the abandonment, invalidation or unenforceability of any right, title or

interest of the Borrower therein, or requires any consent not obtained under, any lease, contract, Permit, license, agreement, instrument or other document evidencing or giving rise to such property, except to the extent that such Legal Requirements or the term in such lease, contract, Permit, license, agreement, instrument or other document providing for such prohibition, breach, default or termination or requiring such consent is ineffective under applicable law (including, without limitation, pursuant to Section 9-406, 9-407, 9-408 or 9-409 of the UCC); provided that any such property shall constitute an Excluded Asset only to the extent and for so long as the consequences specified above shall exist and shall cease to be an Excluded Asset and shall become subject to the Lien of the Security Documents immediately and automatically, at such time as such consequence shall no longer exist.

"Financing Statements" shall mean all financing statements, continuation statements, recordings, filings or other instruments of registration necessary or appropriate to perfect a Lien by filing in any appropriate filing or recording office in accordance with the New York UCC or any other relevant applicable law.

"Insolvency Proceeding" shall mean any proceeding in respect of bankruptcy, insolvency, winding up, receivership, dissolution or assignment for the benefit of creditors, in each of the foregoing events whether under the Bankruptcy Code or similar federal, state or foreign bankruptcy, insolvency, reorganization, receivership or similar law.

"Intellectual Property" shall mean the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including, without limitation, the Copyrights, the Copyright Licenses, the Patents, the Patent Licenses, the Trademarks and the Trademark Licenses, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

"Investment Property" shall mean the collective reference to (i) all "investment property" as such term is defined in Section 9-102(a)(49) of the New York UCC and (ii) whether or not constituting "investment property" as so defined, (x) all promissory notes issued to or held by the Borrower and (y) all Capital Stock owned by the Borrower, together with any other shares, stock certificates, options, interests or rights of any nature whatsoever in respect of the Capital Stock of any Person that may be issued or granted to, or held by, the Borrower while this Agreement is in effect.

"New York UCC" shall mean the Uniform Commercial Code as from time to time in effect in the State of New York.

"Non-Delivered Instruments" shall have the meaning given to such term in Section 2.3.

"Patent Licenses" shall mean all agreements, whether written or oral, providing for the grant by or to the Borrower of any right to manufacture, use or sell any invention covered in whole or in part by a Patent.

"Patents" shall mean (i) all letters patent of the United States, any other country or any political subdivision thereof, all reissues and extensions thereof and all goodwill associated

therewith, (ii) all applications for letters patent of the United States or any other country and all divisions, continuations and continuations-in-part thereof, and (iii) all rights to obtain any reissues or extensions of the foregoing.

"Proceeds" shall mean all "proceeds" as such term is defined in Section 9-102(a)(64) of the New York UCC and, in any event, shall include, without limitation, all dividends or other income from the Investment Property and any other Collateral, collections thereon or distributions or payments with respect thereto, and whatever is receivable or received when Collateral or proceeds are sold, leased, licensed, exchanged, collected or otherwise disposed of, whether such disposition is voluntary or involuntary.

"Project" shall have the meaning given to such term in the recitals of this Agreement.

"Receivable" shall mean any right to payment for goods sold or leased or for services rendered, whether or not such right is evidenced by an Instrument or Chattel Paper and whether or not it has been earned by performance (including, without limitation, any Account).

"Secured Obligations" shall have the meaning given to the term "Obligations" in the Credit Agreement.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Trademark License" shall mean any agreement, whether written or oral, providing for the grant by or to the Borrower of any right to use any Trademark.

"Trademarks" shall mean (i) all trademarks, trade names, domain names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers, and all goodwill associated therewith, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all applications in connection therewith, whether in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof, or otherwise, and all common-law rights related thereto, and (ii) the right to obtain all renewals thereof.

Section 1.2 Rules of Interpretation. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the rules of interpretation set forth in Section 1.2 of the Credit Agreement are hereby incorporated by reference, mutatis mutandis, as if fully set forth herein.

Section 1.3 UCC Definitions. All terms defined in the New York UCC shall have the respective meanings given to those terms in the New York UCC, except where the context otherwise requires, including the following terms: Accounts, Certificated Security, Chattel Paper, Commercial Tort Claims, Documents, Equipment, Fixtures, General Intangibles, Instruments, Inventory, Letter-of-Credit Rights and Supporting Obligations.

ARTICLE II REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Collateral Agent, for the benefit of the Secured Parties, as follows, which representations and warranties shall survive the execution and delivery of this Agreement:

Section 2.1 Inventory and Equipment. All existing Inventory and Equipment owned by the Borrower (other than such Inventory and Equipment in transit or in the possession of third parties in the ordinary course of business) is located at the addresses set forth in Schedule 3 or at the Project.

Section 2.2 Location; Records. The place of business or, if there is more than one place of business, the chief executive office of the Borrower is located at the Borrower's address for notices set forth in Section 9.2 of the Credit Agreement, and the Borrower has no books and records concerning the Collateral at any location other than at the address set forth on Schedule 4 of this Agreement. The Borrower is duly organized as a Delaware limited liability company and is not organized under the laws of any other jurisdiction.

Section 2.3 Certificated Securities and Instruments; Receivables. The Borrower has delivered to the Collateral Agent, on the date hereof, without exception, all (a) Collateral that is represented by Certificated Securities, including the Equity Collateral; (b) Collateral that consists of Instruments or Chattel Paper (other than Instruments and Chattel Paper deposited or to be deposited for collection (collectively, "Non- Delivered Instruments")), including any Receivable that is evidenced by any Instrument or Chattel Paper. No obligor on any Receivables with a value in excess of $100,000 is a Governmental Authority except as notified in writing to the Collateral Agent. All Collateral consisting of Instruments, Chattel Paper or Certificated Securities (other than Non-Delivered Instruments) and owned by the Borrower as of the Effective Date, to the actual knowledge of the Borrower, is listed on Schedule 1 hereto.

Section 2.4 Changes in Circumstances. Since the date of its formation, the Borrower has not (i) changed its jurisdiction of formation, (ii) changed its name or (iii) become a "new debtor" (as defined in Section 9-102(a)(56) of the UCC).

Section 2.5 Intellectual Property. The Borrower owns no material Copyrights, Patents or Trademarks in its own name.

Section 2.6 Commercial Tort Claims. As of the Effective Date, except to the extent listed in Schedule 2, the Borrower has no rights in any Commercial Tort Claim with potential value in excess of $100,000.

Section 2.7 Equity Collateral. The Equity Collateral identified in Schedule 5 (as it may be updated from time to time) is, and all other Equity Collateral in which the Borrower shall hereafter grant a security interest pursuant to this Agreement will be, duly authorized, validly existing, fully paid and nonassessable, and is owned by the Borrower free and clear of all Liens (subject to no other Liens except Permitted Liens; provided that no such Permitted Liens shall have a higher priority than or equal priority to the liens granted pursuant to this Agreement, except as and to the extent any such Permitted Lien is entitled to a higher priority pursuant to

applicable law) than or equal priority to the liens granted by this Agreement), and none of the Equity Collateral is or will be subject to any contractual restriction, or any restriction under the organizational documents of any Project Company, as applicable, upon the transfer of such Equity Collateral (except for any such restriction contained in the Loan Documents).

(a) The Equity Collateral identified in Schedule 5 constitutes all of the issued and outstanding equity interests or other interests of any class or character in each Project Company (whether or not registered in the name of such Project Company, as applicable), and Schedule 5 correctly identifies the Equity Collateral and the respective number (and registered owners) of the interests identified therein.

(b) No Person other than the Borrower is the registered owner of the Equity Collateral.

ARTICLE III COLLATERAL

Section 3.1 Grants of Security Interests.

(a) Collateral. The Borrower hereby assigns and transfers to the Collateral Agent, and hereby grants to the Collateral Agent, for the ratable benefit of the Secured Parties, a security interest in, all of the following property now owned or at any time hereafter acquired by the Borrower or in which the Borrower now has or at any time in the future may acquire any right, title or interest, in each case to the extent of the Borrower's full right, title and interest therein (collectively, the "Collateral"), as collateral security for the prompt and complete payment and performance when due (whether at stated maturity, by acceleration or otherwise) of the Secured Obligations:

(i) all Accounts;

(ii) all Assigned Agreements;

(iii) all Chattel Paper;

(iv) all Deposit Accounts;

(v) all Documents;

(vi) all Equipment;

(vii) all Fixtures;

(viii) all General Intangibles;

(ix) all Instruments;

(x) all Intellectual Property;

(xi) all Inventory;

(xii) all Investment Property;

(xiii) all Letter-of-Credit Rights;

(xiv) all Permits now or hereafter held in the name, or for the benefit of, the Borrower;

(xv) all Commercial Tort Claims listed on Schedule 2;

(xvi) all books and records pertaining to the Collateral;

(xvii) all membership interests in each Project Company identified in Schedule 5 and all other membership interests of whatever class or character of such Project Company, now or hereafter owned by the Borrower, and all certificates evidencing the same, if any (the "Equity Collateral"), together with:

(A) all membership interests, securities, moneys or property representing a dividend on any of the Equity Collateral, or representing a distribution or return of capital upon or in respect of the Equity Collateral, or resulting from a split-up, revision, reclassification or other like change of the Equity Collateral or otherwise received in exchange therefore, and any subscription, warrants, rights or options issued to the holders of, or otherwise in respect of the Equity Collateral; and

(B) without affecting the obligations of the Borrower under any provision prohibiting such action hereunder or under any Loan Document or other document pursuant to which any other Secured Obligation is incurred, as applicable, in the event of any consolidation or merger in which such Project Company, as applicable, is not the surviving entity, all ownership interests of any class or character of the successor entity (unless that successor entity is the Borrower itself), formed by or resulting from that consolidation or merger (the Equity Collateral, together with all other certificates, shares, securities, properties or moneys as may from time to time be pledged hereunder pursuant to this clause (B) and clause (A) above.

(xviii) to the extent not otherwise included above, all other personal property relating to any of the foregoing (other than any property specifically excluded from any clause in this section above, and any property specifically excluded from any defined term used in any clause of this section above); and

(xix) to the extent not otherwise included above, all Proceeds, Supporting Obligations and products of any and all of the foregoing and all collateral security and guarantees given by any Person with respect to any of the foregoing;

provided that in no event shall the Collateral include (i) any Excluded Assets or (ii) any right, title or interest in any of the items in Section 3.1(a)(i) – (xix) that have been released from the Liens created hereunder pursuant to Section 4.16 or Section 5.19 hereof.

(b) Certain Limitations. The Borrower and the Collateral Agent hereby acknowledge and agree that the Liens created hereby in the Collateral are not, in and of themselves, to be construed as a grant of a fee interest (as opposed to a Lien) in any Intellectual Property.

(c) Security for Secured Obligations. This Agreement, and the Liens granted and created herein in the Collateral, secure the payment and the performance of all Secured Obligations now or hereafter in effect, whether direct or indirect, absolute or contingent, and including all amounts that constitute part of the Secured Obligations and would be owed by the Borrower but for the fact that they are unenforceable or not allowed due to a pending Insolvency Proceeding.

Section 3.2 Performance of Obligations.

(a) Notwithstanding anything herein to the contrary, (i) the Borrower shall remain liable for all obligations under and in respect of the Collateral and nothing contained herein is intended or shall be a delegation of duties to the Collateral Agent or any other Secured Party, (ii) the Borrower shall remain liable under each of the contracts and agreements included in the Collateral, including the Assigned Agreements, to perform all of the obligations undertaken by it thereunder all in accordance with and pursuant to the terms and provisions thereof and neither the Collateral Agent nor any other Secured Party shall have any obligation or liability under any of such contracts and agreements by reason of or arising out of this Agreement or any other document related hereto nor shall the Collateral Agent or any other Secured Party have any obligation to make any inquiry as to the nature or sufficiency of any payment received by it or have any obligation to take any action to collect or enforce any rights under any contract or agreement included in the Collateral, including the Assigned Agreements, and (iii) the exercise by the Collateral Agent of any of its rights hereunder shall not release the Borrower from any of its duties or obligations under the contracts and agreements included in the Collateral, including the Assigned Agreements.

(b) Notwithstanding anything herein to the contrary, (i) the Borrower shall remain liable under each of the Loan Documents to which it is a party to the extent set forth therein to perform all of its duties and obligations thereunder to the same extent as if this Agreement had not been executed and (ii) the exercise by the Collateral Agent or the other Secured Parties (or any of their respective directors, officers, employees, affiliates or agents) of any of their rights, remedies or powers hereunder shall not release the Borrower from any of its duties or obligations under each of the Loan Documents to which it is a party.

ARTICLE IV CERTAIN ASSURANCES; REMEDIES

In furtherance of the grant of the Liens on the Collateral pursuant to Section 3.1, the Borrower agrees with the Collateral Agent (for the benefit of the Secured Parties) as follows:

Section 4.1 Delivery and Other Perfection Activities. The Borrower shall:

(a) deliver to the Collateral Agent any and all Instruments and Chattel Paper (other than the Non-Delivered Instruments), and Certificated Securities (including the Equity

Collateral), endorsed and/or accompanied by instruments of assignment and transfer in such form and substance as the Collateral Agent may reasonably request; provided that so long as no Event of Default shall have occurred and be continuing, the Collateral Agent shall, promptly upon request of the Borrower and approval of the Administrative Agent, make appropriate arrangements for making any Instrument or Chattel Paper pledged by the Borrower and held by the Collateral Agent available to the Borrower for purposes of presentation, collection or renewal (any such arrangement to be effected, to the extent requested by the Collateral Agent, against trust receipt or like document);

(b) maintain the Liens created by this Agreement as a perfected security interest having at least the priority described in Section 4.33 of the Credit Agreement and, at the sole cost and expense of the Borrower, (i) give, execute, deliver, file and/or record any Financing Statement (A) to create, preserve, perfect or validate and maintain the Liens granted pursuant hereto or (B) to enable the Collateral Agent to exercise and enforce its rights hereunder with respect to such Liens; provided that notices to account debtors in respect of any Accounts or Instruments shall be subject to the provisions of clause (d), and (ii) in the case of Investment Property, Deposit Accounts, Letter-of-Credit Rights and any other relevant Collateral, take any actions necessary to enable the Collateral Agent to obtain "control" (within the meaning of the applicable Uniform Commercial Code) with respect thereto;

(c) promptly notify the Collateral Agent upon the acquisition after the date hereof by the Borrower of any Equipment covered by a warehouse receipt (other than Equipment with a fair market value of $250,000 or less individually), and upon the request of the Collateral Agent (acting at the direction of the Administrative Agent), cause the Collateral Agent to be listed as the lienholder on such warehouse receipt and within sixty (60) days of the acquisition thereof deliver evidence of the same to the Collateral Agent;

(d) upon request of the Collateral Agent (upon the occurrence and during the continuation of any Event of Default and acting at the direction of the Administrative Agent), promptly notify (and the Borrower hereby authorizes the Collateral Agent so to notify) each account debtor in respect of any Accounts or Instruments that such Collateral has been assigned to the Collateral Agent hereunder, and that any payments due or to become due in respect of such Collateral are to be made directly to the Collateral Agent, with a copy of such notice to the Borrower; and

(e) upon request of the Collateral Agent (acting at the direction of the Administrative Agent) upon the occurrence and during the continuation of any Event of Default, furnish to the Collateral Agent from time to time statements and schedules further identifying and describing the assets and properties of the Borrower and such other reports in connection therewith that the Collateral Agent may reasonably request, all in reasonable detail.

Section 4.2 Intellectual Property. Whenever the Borrower, either by itself or through any agent, employee, licensee or designee, shall file an application for the registration of any Intellectual Property with the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency in any other country or any political subdivision thereof, and the loss of such Intellectual Property could reasonably be expected to have a Material Adverse Effect, the Borrower shall report such filing to the Collateral Agent within

thirty (30) Business Days after the last day of the fiscal quarter in which such filing occurs. Subject to Sections 4.16 and 5.19, at the request of the Collateral Agent (at the direction of the Administrative Agent on behalf of the Required Lenders), the Borrower shall execute and deliver, and have recorded, any and all agreements, instruments, documents, and papers as the Collateral Agent may request to evidence the Collateral Agent's and the Secured Parties' security interest in any Copyright, Patent or Trademark and the goodwill and general intangibles of the Borrower relating thereto or represented thereby.

Section 4.3 Commercial Tort Claims. If the Borrower shall obtain an interest in any Commercial Tort Claim with a potential value in excess of $100,000, the Borrower shall within thirty (30) days of obtaining such interest sign and deliver documentation acceptable to the Collateral Agent (acting at the direction of the Administrative Agent) granting a security interest under the terms and provisions of this Agreement in and to such Commercial Tort Claim.

Section 4.4 Other Financing Statements and Liens. Except with respect to Liens permitted under Section 6.2 of the Credit Agreement, without the prior written consent of the Collateral Agent (acting at the direction of the Administrative Agent on behalf of the Required Lenders), the Borrower shall not file or authorize to be filed in any jurisdiction, any effective Financing Statement or like instrument with respect to the Collateral in which the Collateral Agent is not named as the sole secured party for the benefit of the Secured Parties.

Section 4.5 Preservation of Rights. The Collateral Agent shall not be required to take any steps to preserve any rights against prior parties to any of the Collateral.

Section 4.6 Special Provisions Relating to Certain Collateral.

(a) Adverse Claims. The Borrower shall defend, all at its own cost and expense, the Borrower's title and the existence, perfection and priority of the Collateral Agent's (for the benefit of the Secured Parties) security interests in the Collateral against all adverse claims (subject to any Liens permitted under Section 6.2 of the Credit Agreement).

(b) Assigned Agreements.

(i) Upon the request of the Collateral Agent (acting at the direction of the Administrative Agent) at any time after the occurrence and the continuance of an Event of Default, the Borrower shall notify the parties to any Assigned Agreement that is not subject to a Consent or a consent to collateral assignment entered into pursuant to Section 6.10 of the Credit Agreement that such Assigned Agreement has been assigned to the Collateral Agent for the benefit of the Secured Parties and that payments in respect thereof shall be made directly to the Collateral Agent.

(ii) In the event of a default by the Borrower in the performance of any of its obligations under any Assigned Agreement, or upon the occurrence or non-occurrence of any event or condition under any such Assigned Agreement that would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable another party of such Assigned Agreement to terminate or suspend its performance under such Assigned Agreement, the Collateral Agent (acting at the

direction of the Administrative Agent acting at the direction of the Required Secured Parties) may (but shall not be obligated to), with prior written notice to the Borrower (it being acknowledged and agreed that the Collateral Agent shall not be required to deliver any such notice if the Borrower is the subject of an Insolvency Proceeding or if the delivery of such notice is otherwise prohibited by applicable law), cause the performance of such obligations (to the extent contemplated by the applicable Consent or consent referred to above, if any), and the reasonable and documented fees, costs and expenses (including fees and expenses of outside counsel) of the Collateral Agent incurred in connection therewith shall be payable by or on behalf of the Borrower.

(c) Intellectual Property.

(i) For the purpose of enabling the Collateral Agent to exercise rights and remedies under Section 4.10 at such time as the Collateral Agent shall be lawfully entitled to exercise such rights and remedies (for the avoidance of doubt, only during the continuation of an Event of Default), and for no other purpose, the Borrower hereby grants to the Collateral Agent, to the extent assignable, an irrevocable, non-exclusive world-wide license (exercisable without payment of royalty or other compensation to the Borrower) to use, assign, license or sublicense any of the Intellectual Property now owned or hereafter acquired by the Borrower, wherever the same may be located, including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout thereof.

(ii) Notwithstanding anything herein to the contrary, but subject to the provisions of the Loan Documents that limit the rights of the Borrower to dispose of its property, so long as no instruction by the Required Lenders has been delivered in connection with an Event of Default that has occurred and is continuing, the Borrower will be permitted to exploit, use, enjoy, protect, license, sublicense, assign, sell, dispose of or take other actions with respect to the Intellectual Property in the ordinary course of the business of the Borrower. In furtherance of the foregoing, so long as no instruction by the Required Lenders has been delivered in connection with an Event of Default that has occurred and is continuing, the Collateral Agent shall from time to time, upon the request and at the sole cost and expense of the Borrower, execute and deliver any instruments, certificates or other documents, in the form so requested, that the Borrower shall have certified are appropriate (in its judgment) to allow it to take any action permitted above. Further, upon the release of the Collateral Agent's Liens on the Collateral pursuant to Section 4.16 or 5.19, the Collateral Agent shall transfer to the Borrower the license granted pursuant to clause (i) immediately above. The exercise of rights and remedies under Sections 4.8 and 4.9 by the Collateral Agent shall not terminate the rights of the holders of any licenses or sublicenses theretofore granted by the Borrower in accordance with the first sentence of this clause (ii).

(iii) Upon the occurrence and during the continuance of an Event of Default, the Borrower shall, upon the request of the Collateral Agent (acting at the direction of the Administrative Agent), deliver to the Collateral Agent a schedule listing

all then existing Intellectual Property and take such other action as the Collateral Agent shall deem necessary to perfect the Liens created hereunder in all such Collateral.

(d) Special Provisions Relating to Equity Collateral.

(i) The Borrower shall cause the Equity Collateral to constitute at all times 100% of the total number of shares, partnership, membership or other ownership interests of each Project Company then outstanding and owned by the Borrower.

(ii) So long as no Event of Default has occurred and is continuing and the Collateral Agent shall have given notice to the Borrower of the Collateral Agent's intent to exercise its rights under this Section 4.6(d) (it being acknowledged and agreed that the Collateral Agent shall not be required to deliver any such notice if the Borrower is the subject of an Insolvency Proceeding, which in the case of an involuntary proceeding has not been dismissed within sixty (60) days of its filing), the Borrower shall have the right to exercise all voting, consensual and other powers of ownership pertaining to the Equity Collateral for all purposes not inconsistent with the terms of any Loan Document or other document pursuant to which any other Secured Obligations is incurred; provided, however, that the Borrower shall not vote the Equity Collateral in any manner that is inconsistent with the terms of any Loan Document or other document pursuant to which any other Secured Obligation is incurred, as applicable. The Collateral Agent shall, at the Borrower's expense, execute and deliver to the Borrower or cause to be executed and delivered to the Borrower all such proxies, powers of attorney, dividend and other orders and other instruments, without recourse, as the Borrower may reasonably request for the purpose of enabling the Borrower to exercise the rights and powers that it is entitled to exercise pursuant to this Section 4.6(d).

(iii) If an Event of Default has occurred and is continuing and the Collateral Agent shall have given notice to the Borrower of the Collateral Agent's intent to exercise its rights under Section 4.6(d) (it being acknowledged and agreed that the Collateral Agent shall not be required to deliver any such notice if the Borrower is the subject of an Insolvency Proceeding, which in the case of an involuntary proceeding has not been dismissed within sixty (60) days of its filing), all voting and other rights of the Borrower with respect to the Equity Collateral that the Borrower would otherwise be entitled to exercise pursuant to the terms of this Agreement or otherwise shall cease, and all such rights shall be vested in the Collateral Agent, which shall thereupon have the sole right to exercise such rights.

(iv) So long as no Event of Default has occurred and is continuing, the Borrower shall be entitled to receive and retain any and all dividends and distributions on the Equity Collateral, received in accordance with the Loan Documents.

(v) If any Event of Default has occurred and is continuing, and whether or not the Collateral Agent or any Secured Party exercises any available right to declare any Secured Obligation due and payable or seeks or pursues any other right, remedy, power or privilege available to it under applicable law, this Agreement or any other Loan Document or any other document pursuant to which any other Secured

Obligation is incurred, as applicable, all dividends and other distributions on the Equity Collateral shall be paid directly to the Collateral Agent and retained by it as part of the Equity Collateral, subject to the terms of this Agreement, and, if the Collateral Agent so requests, the Borrower shall execute and deliver to the Collateral Agent appropriate additional dividend, distribution and other orders and instruments to that end.

(vi) The Borrower, as the sole member of each Project Company and as the owner of all of the issued and outstanding membership interests of such Project Company, hereby irrevocably consents (for all purposes under the limited liability company agreement of such Project Company and notwithstanding anything to the contrary set forth in such limited liability company agreement) to the transfer of the Equity Collateral to any Person upon exercise by the Collateral Agent of its remedies hereunder.

Section 4.7 Custody and Preservation.

(a) Subject to applicable law, the Collateral Agent's obligation to use reasonable care in the custody and preservation of the Collateral shall be satisfied if it uses the same care as it uses in the custody and preservation of its own property. Beyond the exercise of reasonable care in the custody thereof, the Collateral Agent shall have no duty as to any of the Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto, and the Collateral Agent shall not be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security interest in the Collateral.

(b) The Collateral Agent shall not be responsible for (i) the existence, genuineness or value of any of the Collateral, (ii) the validity, perfection, priority or enforceability of the Liens on any of the Collateral, whether impaired by the operation of law or by reason of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes gross negligence or willful misconduct on the part of the Collateral Agent, (iii) the validity or sufficiency of the Collateral or any agreement or assignment contained therein, (iv) the validity of the title of the Borrower to the Collateral, (v) insuring the Collateral, (vi) the payment of taxes, charges, assessments or Liens upon the Collateral or (vii) any other maintenance of the Collateral.

Section 4.8 Rights to Preserve and Protect.

After the occurrence and during the continuation of an Event of Default, the Collateral Agent (acting at the direction of the Administrative Agent on behalf of the Required Lenders) may, but shall not be obligated to, pay or secure payment of any overdue tax or other claim that may be secured by or result in a Lien on any Collateral. After the occurrence and during the continuation of an Event of Default, the Collateral Agent (acting at the direction of the Administrative Agent on behalf of the Required Lenders) may, but shall not be obligated to, do or cause to be done any other thing that is necessary or desirable to preserve, protect or maintain the Collateral. The Borrower shall promptly reimburse the Collateral Agent or any other Secured Party for any reasonable and documented fee, payment or expense (including reasonable fees and

expenses of outside counsel) that the Collateral Agent or such other Secured Party may incur pursuant to this Section 4.8.

Section 4.9 Remedies Generally.

(a) Upon the occurrence and during the continuation of an Event of Default:

(i) the Borrower shall, at the request of the Collateral Agent, assemble movable Collateral owned by it (and not otherwise in the possession of the Collateral Agent), if any, at such place or places, reasonably convenient to both the Collateral Agent and the Borrower, designated in such request;

(ii) the Collateral Agent (acting at the direction of the Required Secured Parties) may (but shall not be obligated to), without notice to the Borrower (except as required by applicable law) and at such times as the Collateral Agent in its sole judgment may determine, exercise any or all of the Borrower's rights in, to and under, or in any way connected to, the Collateral (including the performance of the Borrower's obligations, and the exercise of the Borrower's rights and remedies, under the Assigned Agreements), and the Collateral Agent shall otherwise have and may (but shall not be obligated to) exercise all of the rights, powers, privileges and remedies with respect to the Collateral of a secured party under the UCC (whether or not the UCC is in effect in the jurisdiction where the rights, powers, privileges and remedies are asserted) and such additional rights, powers, privileges and remedies to which a secured party is entitled under the laws or equity in effect in any jurisdiction where any rights, powers, privileges and remedies hereunder may be asserted, including the right, to the maximum extent permitted by applicable law, to exercise all voting, consensual and other powers of ownership pertaining to the Collateral as if the Collateral Agent were the sole and absolute owner thereof (and the Borrower agrees to take all such action as may be appropriate to give effect to such right);

(iii) the Collateral Agent may (but shall not be obligated to) make any reasonable compromise or settlement it deems desirable with respect to any of the Collateral and may (but shall not be obligated to) extend the time of payment, arrange for payment in installments, or otherwise modify the terms, of all or any part of the Collateral;

(iv) the Collateral Agent may (but shall not be obligated to), in its name or in the name of the Borrower or otherwise, demand, sue for, collect or receive any money or property at any time payable or receivable on account of or in exchange for any of the Collateral;

(v) (A) the Collateral Agent may (but shall not be obligated to) sell, lease, assign or otherwise dispose of all or any part of the Collateral, at such place or places as the Required Secured Parties deem reasonable, and for cash or for credit or for future delivery (without thereby assuming any credit risk), at public or private sale, without demand of performance or notice of intention to effect any such disposition or of the time or place thereof (except such notice as is required by applicable statute and

cannot be waived); (B) if any notice of a proposed sale or other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least ten (10) days before such sale or other disposition; (C) the Collateral Agent or any other Secured Party or anyone else may be the purchaser, lessee, assignee or recipient of any or all of the Collateral so disposed of at any public sale (or, to the maximum extent permitted by applicable law, at any private sale) and thereafter hold the same absolutely, free from any claim or right of whatsoever kind, including any right or equity of redemption (statutory or otherwise), of the Borrower, any such demand, notice and right or equity being hereby expressly waived and released to the maximum extent permitted by applicable law; and (D) the Collateral Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for the sale, and such sale may be made at any time or place to which the sale may be so adjourned; and

(vi) the Collateral Agent may (but shall not be obligated to), to the full extent provided by law, have a court having jurisdiction appoint a receiver, which receiver shall take charge and possession of and protect, preserve and replace the Collateral or any part thereof, and manage and operate the same, and receive and collect all income, receipts, royalties, revenues, issues and profits therefrom (it being agreed that the Borrower irrevocably consents and shall be deemed to have hereby irrevocably consented to the appointment thereof, and upon such appointment, it shall immediately deliver possession of such Collateral to such receiver).

(b) The proceeds of each collection, sale or other disposition under this Agreement shall be applied in accordance with Section 4.13.

(c) The Borrower recognizes that, if an Event of Default shall have occurred and be continuing, the Collateral Agent may elect to sell all or any part of the Collateral to one or more purchasers in privately negotiated transactions in which the purchasers will be obligated to agree, among other things, to acquire the Collateral for their own account, for investment and not with a view to the distribution or resale thereof. The Borrower acknowledges that any such private sales may be at prices and on terms less favorable than those obtainable through a public sale (including a public offering made pursuant to a registration statement under the Securities Act) and the Borrower and the Collateral Agent agree that such private sales shall be made in a commercially reasonable manner and that the Collateral Agent has no obligation to engage in public sales and no obligation to delay sale of any Collateral to permit the issuer thereof to register the Collateral for a form of public sale requiring registration under the Securities Act. If the Secured Parties exercise their right to sell any or all of the Collateral, upon written request the Borrower shall, from time to time, furnish to the Collateral Agent all such information as is necessary in order to determine the Collateral and any other instruments included in the Collateral that may be sold by the Collateral Agent as exempt transactions under the Securities Act and rules of the United States Securities and Exchange Commission thereunder, as the same are from time to time in effect.

(d) The Collateral Agent shall within a reasonable period of time thereafter give the Borrower notice of any action taken under this Section 4.9; provided, however, that (i) failure to give such notice shall have no effect on the rights of the Collateral Agent hereunder

and (ii) the Collateral Agent shall not be required to deliver any such notice if the Borrower is the subject of an Insolvency Proceeding or if the delivery of such notice is otherwise prohibited by applicable law.

Section 4.10 Deficiency. If the proceeds of sale, collection or other realization of or upon the Collateral by virtue of the exercise of remedies under Section 4.9 are insufficient to cover the costs and expenses of such realization and the payment in full of the Secured Obligations, the Collateral Agent shall retain all rights and remedies under the Loan Documents, and the Borrower, subject to Section 4.16 and 5.19, shall remain liable with respect to any deficiency to the extent the Borrower is obligated under this Agreement and the other Loan Documents.

Section 4.11 Change of Name or Location. Without at least thirty (30) days' prior written notice to the Collateral Agent, the Borrower shall not change its organizational name from the name shown on the signature pages hereto or its jurisdiction of formation from the State of Delaware. The Borrower shall not affect any such name change or change in jurisdiction of organization until all necessary steps have been taken to maintain the perfection and priority of the Liens granted herein or in any other Security Document.

Section 4.12 Private Sale. The Collateral Agent and the other Secured Parties shall incur no liability as a result of the sale of the Collateral, or any part thereof, at any private sale pursuant to Section 4.9(c) conducted in a commercially reasonable manner. Subject to and without limitation of the preceding sentence, the Borrower hereby waives, to the maximum extent permitted under applicable law, any claims against the Collateral Agent or any other Secured Party arising by reason of the fact that the price at which the Collateral may have been sold at such a private sale to an unrelated third party was less than the price that might have been obtained at a public sale or was less than the aggregate amount of the Secured Obligations, even if the Collateral Agent accepts the first offer received and does not offer the Collateral to more than one offeree.

Section 4.13 Application of Proceeds.

(a) Application of Proceeds. The proceeds of any collection, sale or other realization of all or any part of the Collateral pursuant hereto, and any other cash at the time held by the Collateral Agent under this Article IV with respect to the Collateral, shall be held by the Collateral Agent as Collateral hereunder and shall be applied by the Collateral Agent to the payment of the Secured Obligations in the following order:

(i) First, to pay incurred and unpaid fees and expenses of the Agents under the Loan Documents, pro rata among the Agents according to the amounts of such unpaid fees and expenses then due and owing and remaining unpaid to the Agents;

(ii) Second, to the Administrative Agent, for application by it towards payment of amounts then due and owing and remaining unpaid in respect of the Secured Obligations, pro rata among the Secured Parties according to the amounts of the Secured Obligations then due and owing and remaining unpaid to the Secured Parties;

(iii) Third, to the Administrative Agent, for application by it towards prepayment of the Secured Obligations, pro rata among the Secured Parties according to the amounts of the Secured Obligations then held by the Secured Parties; and

(iv) Fourth, any balance remaining after the Secured Obligations shall have been paid in full and the Commitments shall have terminated shall be paid over to the Borrower or to whomsoever may be lawfully entitled to receive the same.

(b) Company Remains Obligated. No sale or other disposition of all or any part of the Collateral pursuant to Section 4.9 shall be deemed to relieve the Borrower of its obligations under any Loan Document except to the extent the proceeds thereof are applied to the payment of such obligations.

(c) Purchase of Collateral. The Collateral Agent or any other Secured Party may be a purchaser of the Collateral or any part thereof or any right or interest therein at any sale thereof, whether pursuant to foreclosure, power of sale or otherwise hereunder and the Collateral Agent may apply the purchase price to the payment of the applicable Secured Obligations. Any purchaser of all or any part of the Collateral shall, upon any such purchase, acquire good title to the Collateral so purchased, free of the Liens created by this Agreement.

Section 4.14 Attorney-in-Fact.

(a) Subject to Section 4.16 and 5.19, without limiting any rights or powers granted by this Agreement to the Collateral Agent, the Borrower hereby irrevocably constitutes and appoints the Collateral Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the Borrower and in the name of the Borrower or in its own name, at the Borrower's sole cost and expense, for the purpose of carrying out the provisions of this Agreement upon the occurrence and during the continuation of an Event of Default, or otherwise as contemplated by Sections 4.6 and 5.1, to (a) take any appropriate action and to execute any document or instrument that may be necessary or desirable to accomplish the purposes of this Agreement (including taking actions under any Consent or other consent referred to in Section 4.6(b)(i)), (b) preserve the validity, perfection and priority of the Liens granted by this Agreement and (c) exercise its rights, remedies, powers and privileges under this Agreement (including taking actions under any Consent or other consent referred to in Section 4.6(b)(i)). Subject to Section 4.16 and 5.19, this appointment as attorney-in-fact is irrevocable and coupled with an interest. Subject to Section 4.16 and 5.19, without limiting the generality of the foregoing, the Borrower hereby gives the Collateral Agent the power and right, on behalf of the Borrower, without notice to or assent by the Borrower, upon the occurrence and during the continuation of an Event of Default (or as otherwise provided in Section 4.6 or 5.1) to:

(i) ask, demand, collect, sue for, recover, receive and give receipt and discharge for amounts due and to become due under and in respect of all or any part of the Collateral,

(ii) in the name of the Borrower or its own name or otherwise, take possession of, receive and indorse and collect any check, Account, Chattel Paper, draft,

note, acceptance or other Instrument for the payment of moneys due under any Account or general intangible,

(iii) file any claims or take any other action that the Collateral Agent may deem necessary or advisable for the collection of all or any part of the Collateral,

(iv) execute, in connection with any sale or disposition of the Collateral under this Agreement, any endorsements, assignments, bills of sale or other instruments of conveyance or transfer with respect to all or any part of the Collateral,

(v) in the case of any Intellectual Property, execute and deliver, and have recorded, any agreement, instrument, document or paper as the Collateral Agent may request to evidence the Collateral Agent's security interest in such Intellectual Property and the goodwill and general intangibles of the Borrower relating thereto or represented thereby,

(vi) pay or discharge Taxes and Liens levied or placed on or threatened against the Collateral (other than Liens permitted under Section 6.2 of the Credit Agreement), effect any repair or pay or discharge any insurance called for by the terms of this Agreement or the other Loan Documents (including all or any part of the premiums therefor and the costs thereof),

(vii) direct any party liable for any payment under any Collateral to make payment of any moneys due or to become due thereunder directly to the Collateral Agent or as the Collateral Agent shall direct,

(viii) sign and indorse any invoice, freight or express bill, bill of lading, storage or warehouse receipt, draft against debtors, assignment, verification, notice or other document in connection with any Collateral,

(ix) commence and prosecute any suit, action or proceeding at law or in equity in any court of competent jurisdiction to collect any Collateral and to enforce any other right in respect of any Collateral,

(x) defend any suit, action or proceeding brought against the Borrower with respect to any Collateral,

(xi) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the Collateral Agent may deem appropriate,

(xii) assign any Copyright, Patent or Trademark (along with the goodwill of the business to which any such Trademark pertains) throughout the world for such term or terms, on such conditions and in such manner as the Collateral Agent shall in its sole discretion determine, including the execution and filing of any document necessary to effectuate or record such assignment,

(xiii) cure any default by the Borrower under any Assigned Agreement, and

(xiv) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any Collateral as fully and completely as though the Collateral Agent were the absolute owner thereof for all purposes, and do, at the Collateral Agent's option and the Borrower's expense, at any time, or from time to time, all acts and things that the Collateral Agent reasonably deems necessary to protect, preserve or realize upon the Collateral and the Collateral Agent's and the other Secured Parties' Liens thereon and to effect the intent of this Agreement, all as fully and effectively as the Borrower might do.

(b) The Borrower hereby ratifies all that said attorney-in-fact shall lawfully do or cause to be done by virtue hereof, in each case pursuant to the powers granted hereunder. Upon the occurrence and during the continuation of an Event of Default (or as otherwise provided in Section 4.6 or 5.1), the Borrower hereby acknowledges and agrees that, subject to Section 4.16 and 5.19, the Collateral Agent shall have no fiduciary duties to the Borrower in acting pursuant to this power of attorney and the Borrower hereby waives any claims or rights of a beneficiary of a fiduciary relationship hereunder.

Section 4.15 Perfection. Without relieving it of its obligations under Section 4.1 or otherwise under the Loan Documents, the Borrower authorizes the Collateral Agent to file (but the Collateral Agent shall not be so obligated to file) such Financing Statements in such offices as are or shall be necessary or appropriate to create, perfect and establish the priority of the Liens granted by this Agreement in any and all of the Collateral, to preserve the validity, perfection or priority of the Liens granted by this Agreement in any and all of the Collateral or to enable the Collateral Agent to exercise its remedies, rights, powers and privileges under this Agreement. Such Financing Statements may describe the Collateral in the same manner as described herein or may contain an indication or description of collateral that describes the Collateral in any other manner as the Collateral Agent may determine, as directed by the Administrative Agent, is necessary, advisable or prudent to ensure the perfection of the security interests in the Collateral granted to the Collateral Agent hereunder, including describing such property as "all assets whether now owned or hereafter acquired," "all assets of the Debtor" or "all personal property whether now owned or hereafter acquired." Copies of any such Financing Statement or amendment thereto shall promptly be delivered to the Borrower.

Section 4.16 Release of Liens.

(a) If any of the Collateral shall be sold or disposed of to any Person in a transaction consented to pursuant to, or contemplated by, the Loan Documents, such Collateral shall be automatically released from the Liens created hereunder.

(b) Upon the release of all of the Collateral Agent's Liens on all of the Collateral of the Borrower pursuant to this Section 4.16 and Section 5.19, this Agreement shall terminate, all rights to the Collateral shall revert to the Borrower, and the Collateral Agent shall (at the written request and sole cost and expense of the Borrower) promptly cause to be transferred and delivered, against receipt but without any recourse, warranty or representation

whatsoever, any remaining Collateral and money received in respect thereof, to or on the order of the Borrower and to be released and cancelled all licenses and rights referred to in Section 4.6. The Collateral Agent shall also (at the written request and sole cost and expense of the Borrower) promptly execute and deliver to the Borrower upon such termination such UCC termination statements and such other documentation and take such other action as shall be reasonably requested by the Borrower to effect the termination and release, including the execution of a customary pay-off letter, of the Liens on the Collateral.

ARTICLE V MISCELLANEOUS

Section 5.1 Collateral Agent's Right to Perform on the Borrower's Behalf. Subject to Section 4.16 and 5.19, if the Borrower shall fail to observe or perform any of the terms, conditions, covenants and agreements to be observed or performed by it under this Agreement, the Collateral Agent (at the direction of the Administrative Agent on behalf of the Required Lenders) may (but shall not be obligated to), upon reasonable notice to the Borrower, cause such terms, conditions, covenants and agreements to be done or performed or observed by experts, agents or attorneys, with reasonable care at the sole cost and expense of the Borrower, either in the Collateral Agent's name or in the name and on behalf of the Borrower, and the Borrower hereby authorizes the Collateral Agent so to do.

Section 5.2 Set-Off. Subject to Section 4.16 and 5.19, in addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without notice to the Borrower, any such notice being expressly waived by the Borrower to the extent permitted by applicable law, upon any Secured Obligations becoming due and payable by the Borrower (whether at the stated maturity, by acceleration or otherwise), to apply to the payment of such Secured Obligations, by setoff or otherwise, any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender, any affiliate thereof or any of their respective branches or agencies to or for the credit or the account of the Borrower. Each Lender agrees promptly to notify the Borrower and the Collateral Agent after any such application made by such Lender; provided that the failure to give such notice shall not affect the validity of such application.

Section 5.3 No Waiver; Remedies Cumulative. Neither the Collateral Agent nor any Secured Party shall by any act (except by a written instrument pursuant to Section 5.5), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default. No failure to exercise, nor any delay in exercising, on the part of the Collateral Agent or any Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Collateral Agent or any Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy that the Collateral Agent or such Secured Party would otherwise have on any future occasion. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

Section 5.4 Notices. All notices, requests and demands to or upon the Collateral Agent or the Borrower hereunder shall be effected in the manner provided for in Section 9.2 of the Credit Agreement; provided that any such notice, request or demand to or upon the Borrower shall be addressed to the Borrower at its notice address set forth in Section 9.2 of the Credit Agreement.

Section 5.5 Amendments, Etc. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except in accordance with Section 9.1 of the Credit Agreement.

Section 5.6 Successors and Assigns. Subject to Section 4.16 and 5.19, this Agreement shall be binding upon the successors and assigns of the Borrower and shall inure to the benefit of the Collateral Agent and the Secured Parties and their successors and assigns; provided that (a) the Borrower may not assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of the Collateral Agent, (b) the Collateral Agent shall only transfer or assign its rights under this Agreement in connection with a resignation or removal of such Person from its capacity as "Collateral Agent" in accordance with the terms of this Agreement and the Credit Agreement and (c) the Collateral Agent may delegate certain of its responsibilities and powers under this Agreement as contemplated by Section 5.10 below and Section 8.2 of the Credit Agreement. Notwithstanding anything herein to the contrary, any corporation into which the Collateral Agent may be merged or converted or with which it may be consolidated or any corporation resulting from any merger, conversion or consolidation to which the Collateral Agent shall be a party, or any corporation succeeding to the corporate trust business of the Collateral Agent, shall be the successor of the Collateral Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except where an instrument of transfer or assignment is required by law to effect such succession; provided that the Collateral Agent shall forthwith notify the parties hereto in writing in reasonable advance of any such event.

Section 5.7 Survival; Reliance. The representations and warranties of the Borrower set out in this Agreement or contained in any documents delivered to the Collateral Agent or any other Secured Party pursuant to this Agreement shall be considered to have been relied upon by the Secured Parties in entering into the Loan Documents and extending the credit or otherwise performing the transactions thereunder, notwithstanding any investigation on their respective parts.

Section 5.8 Effectiveness; Continuing Nature of this Agreement. This Agreement shall become effective when executed and delivered by the parties hereto. This is a continuing agreement and any Secured Party may continue, at any time and without notice to any other Person, to extend credit and other financial accommodations and lend monies to or for the benefit of the Borrower constituting Secured Obligations in reliance hereof. The terms of this Agreement shall survive, and shall continue in full force and effect, in any Insolvency Proceeding. All references to the Borrower shall include the Borrower as debtor and debtor-in-possession and any receiver or trustee for the Borrower (as the case may be) in any Insolvency Proceeding.

Section 5.9 Integration. This Agreement and the other Loan Documents represent the agreement of the Borrower, the Collateral Agent and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by the Collateral Agent or any Lender relative to subject matter hereof and thereof not expressly set forth or referred to herein or in the other Loan Documents.

Section 5.10 Agents, Etc. The Collateral Agent may employ agents, experts and attorneys-in-fact in connection herewith and shall not be responsible for the negligence or misconduct of any such agents, experts or attorneys-in-fact selected by it with reasonable care.

Section 5.11 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties shall endeavor in good faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 5.12 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by telecopy or PDF), and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

Section 5.13 Headings. Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

Section 5.14 Governing Law. THIS AGREEMENT, AND ANY INSTRUMENT OR AGREEMENT REQUIRED HEREUNDER (TO THE EXTENT NOT EXPRESSLY PROVIDED FOR THEREIN), SHALL BE GOVERNED BY, AND CONSTRUED UNDER, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REFERENCE TO CONFLICTS OF LAWS PROVISIONS THEREOF (OTHER THAN SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

Section 5.15 Submission To Jurisdiction; Waivers. The Borrower hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any courts thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or

proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to the Borrower at its address referred to in Section 9.2 of the Credit Agreement or at such other address of which the Administrative Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 5.15 any special, exemplary, punitive or consequential damages.

Section 5.16 Acknowledgements. The Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents to which it is a party;

(b) neither the Collateral Agent nor any Lender has any fiduciary relationship with or duty to the Borrower arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between the Borrower, on the one hand, and the Collateral Agent and Lenders, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrower and the Lenders.

Section 5.17 Waiver of Jury Trial. **THE BORROWER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.**

Section 5.18 Security Interest Absolute. To the maximum extent permitted by applicable law, but subject to Section 4.16 and 5.19, the rights and remedies of the Collateral Agent hereunder, the Liens created hereby, and the obligations of the Borrower under this Agreement are absolute, irrevocable and unconditional and will remain in full force and effect without regard to, and will not be released, suspended, discharged, terminated or otherwise affected by, any circumstance or occurrence whatsoever (other than pursuant to Section 4.16 and 5.19), including:

(a) any renewal, extension, amendment or modification of, or addition or supplement to or deletion from, any of the Loan Documents or any other instrument or agreement referred to therein, or any assignment or transfer of any thereof;

(b) any waiver of, consent to or departure from, extension, indulgence or other action or inaction under or in respect of any of the Secured Obligations, this Agreement, any other Loan Document or other instrument or agreement relating thereto, or any exercise or non-exercise of any right, remedy, power or privilege under or in respect of the Secured Obligations, this Agreement, any other Loan Document or any such other instrument or agreement relating thereto;

(c) any furnishing of any additional security for the Secured Obligations or any part thereof to the Collateral Agent or any other Person or any acceptance thereof by the Collateral Agent or any other Person or any substitution, sale, exchange, release, surrender or realization of or upon any such security by the Collateral Agent or any other Person or the failure to create, preserve, validate, perfect or protect any other Lien granted to, or purported to be granted to, or in favor of, the Collateral Agent or any other Secured Party;

(d) any invalidity, irregularity or unenforceability of all or any part of the Secured Obligations, any other Loan Document or any other agreement or instrument relating thereto or any security therefor;

(e) the acceleration of the maturity of any of the Secured Obligations or any other modification of the time of payment thereof;

(f) any judicial or nonjudicial foreclosure or sale of, or other election of remedies with respect to, any interest in real property or other collateral serving as security for all or any part of the Secured Obligations, even though such foreclosure, sale or election of remedies may impair the subrogation rights of the Borrower or may preclude the Borrower from obtaining reimbursement, contribution, indemnification or other recovery and even though the Borrower may or may not, as a result of such foreclosure, sale or election of remedies, be liable for any deficiency;

(g) any act or omission of the Collateral Agent or any other Person (other than payment of the Secured Obligations) that directly or indirectly results in or aids the discharge or release of the Borrower or any part of the Secured Obligations or any security or guarantee (including any letter of credit) for all or any part of the Secured Obligations by operation of law or otherwise;

(h) the election by the Collateral Agent, in any bankruptcy proceeding of any Person, of the application or non-application of Section 1111 (b)(2) of the U. S. Bankruptcy Code;

(i) any extension of credit or the grant of any Lien under Section 364 of the U.S. Bankruptcy Code;

(j) any use of cash collateral under Section 363 of the U. S. Bankruptcy Code;

(k) any agreement or stipulation with respect to the provision of adequate protection in any bankruptcy proceeding of any Person;

(l) the avoidance of any Lien in favor of the Collateral Agent for any reason;

(m) any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, liquidation or dissolution proceeding commenced by or against any Person, including any discharge of, or bar or stay against collecting, all or any part of the Secured Obligations (or any interest on all or any part of the Secured Obligations) in or as a result of any such proceeding; or

(n) any other event or circumstance whatsoever that might otherwise constitute a legal or equitable discharge of a surety or a guarantor, it being the intent of this Section 5.18 that the obligations of the Borrower hereunder shall be absolute, irrevocable and unconditional under any and all circumstances.

Section 5.19 Release; Termination.

(a) Upon the occurrence of the Project Discharge Date for any Project, the Administrative Agent shall provide notice to the Collateral Agent of such payment in full and termination of the Commitments to the extent that they relate to such Project, and (i) all Equity Collateral in such Project Company shall be automatically released from the Liens created hereunder and all rights in respect thereof and shall automatically revert to the Borrower, (ii) all powers of attorney and rights of setoff granted hereunder by the Borrower with respect to the Equity Collateral in such Project Company shall automatically terminate, (iii) the Collateral Agent, at the sole cost and expense of the Borrower, shall (A) execute and deliver all documentation, UCC termination statements and instruments as are furnished by the Borrower to release the Liens created with respect to such Equity Collateral pursuant to this Agreement, (B) upon written notice, authorize the Borrower to prepare and file UCC termination statements terminating all of the Financing Statements filed solely in connection with such Equity Collateral, as applicable, (C) agrees, at the request of the Borrower, to furnish, execute and deliver such documents, instruments, certificates, notices or further assurances as the Borrower may reasonably request, at the sole cost and expense of the Borrower, as necessary or desirable to effect such release and partial termination, and (D) except as set forth elsewhere in this Agreement, shall return all certificates, instruments, and documents evidencing the Equity Collateral in such Project.

(b) Upon the occurrence of the Final Discharge Date, the Administrative Agent shall provide notice to the Collateral Agent of such payment in full and termination of all Commitments and the Collateral Agent, at the sole cost and expense of the Borrower, shall (i) execute and deliver all documentation, UCC termination statements and instruments as are furnished by the Borrower to release the Liens created pursuant to this Agreement, (ii) upon written notice, authorizes the Borrower to prepare and file UCC termination statements terminating all of the Financing Statements filed in connection herewith, (iii) agrees, at the request of the Borrower, to furnish, execute and deliver such documents, instruments, certificates, notices or further assurances as the Borrower may reasonably request as necessary or desirable to effect such release and partial termination, including the execution of a customary pay-off letter, and (vi) except as set forth elsewhere in this Agreement, upon release and termination under this Agreement, shall return all certificates, instruments, and documents evidencing the Collateral.

Section 5.20 Reinstatement. This Agreement and the Liens created hereunder shall automatically be reinstated if and to the extent that for any reason any payment by or on behalf of the Borrower in respect of the Secured Obligations is rescinded or must otherwise be restored by any Secured Party, whether as a result of any Insolvency Proceeding or reorganization or otherwise, and the Borrower shall indemnify the Collateral Agent, each other Secured Party and its respective employees, officers and agents on demand for all reasonable fees, costs and expenses (including reasonable fees, costs and expenses of counsel) incurred by the Collateral Agent, such other Secured Party or their respective employees, officers or agents in connection with such reinstatement, rescission or restoration.

Section 5.21 No Third Party Beneficiaries. This Agreement and the rights and benefits hereof shall inure to the benefit of each of the parties hereto and its respective successors and assigns and shall inure to the benefit of the Collateral Agent and the other Secured Parties. Nothing in this Agreement shall impair, as between the Borrower and the Collateral Agent and the other Secured Parties, the obligations of the Borrower to pay principal, interest, fees and other amounts as provided in the Loan Documents.

Section 5.22 Enforcement Expenses; Indemnification.

(a) The Borrower agrees to pay or reimburse each Secured Party and the Collateral Agent for all its fees, costs and expenses incurred in collecting against the Borrower or otherwise enforcing or preserving any rights under this Agreement and the other Loan Documents to which the Borrower is a party, including, without limitation, the fees and disbursements of counsel (including the allocated fees and expenses of in-house counsel) to each Secured Party and of counsel to the Collateral Agent.

(b) The Borrower agrees to pay, and to save the Collateral Agent and the Secured Parties harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any and all stamp, excise, sales or other taxes that may be payable or determined to be payable with respect to any of the Collateral or in connection with any of the transactions contemplated by this Agreement.

(c) The Borrower agrees to pay, and to save the Collateral Agent and the Secured Parties harmless from, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement to the extent the Borrower would be required to do so pursuant to Section 9.5 of the Credit Agreement.

(d) The agreements in this Section 5.22 shall survive repayment of the Secured Obligations and all other amounts payable under the Credit Agreement and the other Loan Documents, and any resignation or removal of the Collateral Agent.

Section 5.23 Collateral Agent. Notwithstanding anything herein to the contrary, the Collateral Agent shall be afforded all of the rights, powers, immunities and indemnities of the Collateral Agent set forth in the Loan Documents, as if such rights, powers, immunities and indemnities were specifically set forth herein. The Borrower hereby acknowledges the

appointment of the Collateral Agent pursuant to the Credit Agreement. The rights, privileges, protections and benefits given to the Collateral Agent, including its right to be indemnified, are extended to, and shall be enforceable by, the Collateral Agent in its capacity hereunder, and to each agent, custodian and other Person employed by the Collateral Agent in accordance herewith to act hereunder.

Section 5.24 Specific Performance. The Collateral Agent may demand specific performance of this Agreement. The Collateral Agent and the Borrower hereby irrevocably waive any defense based on the adequacy of a remedy at law and any other defense that might be asserted to bar the remedy of specific performance in any action that may be brought by the Collateral Agent or any other Secured Parties.

(Signature pages follow)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first written above.

SUNPOWER REVOLVER HOLDCO I, LLC, as Borrower

By: _____
Name:
Title:

MIZUHO BANK (USA), not in its individual capacity, but solely as Collateral Agent

By: _____
Name:
Title:

SCHEDULE 1
INSTRUMENT, CHATTEL PAPER AND CERTIFICATED SECURITIES

[None]

SCHEDULE 2
COMMERCIAL TORT CLAIMS

[None]

SCHEDULE 3
LOCATION OF INVENTORY AND EQUIPMENT

[N/A]

SCHEDULE 4
LOCATION OF BOOKS AND RECORDS

SunPower Revolver HoldCo I, LLC
c/o SunPower Corporation
77 Rio Robles
San Jose, CA 95134

SCHEDULE 5
EQUITY COLLATERAL

Issuer:

- SunPower Revolver Holdco I, LLC

Equity Collateral:

- 100% of the membership interests in Solar Star Arizona XIII, LLC, which represents all of the membership interests owned by the Borrower in Solar Star Arizona XIII, LLC. The Borrower is the registered owner of such membership interests.

- 100% of the membership interests in Northstar Macys US West 2016, LLC, which represents all of the membership interests owned by the Borrower in Northstar Macys US West 2016, LLC. The Borrower is the registered owner of such membership interests.

EXHIBIT L

SUNPOWER®

Monthly Solar Portfolio Report

Customer Name March 2016

Report Contents

Monthly Solar Portfolio Report

Customer Name

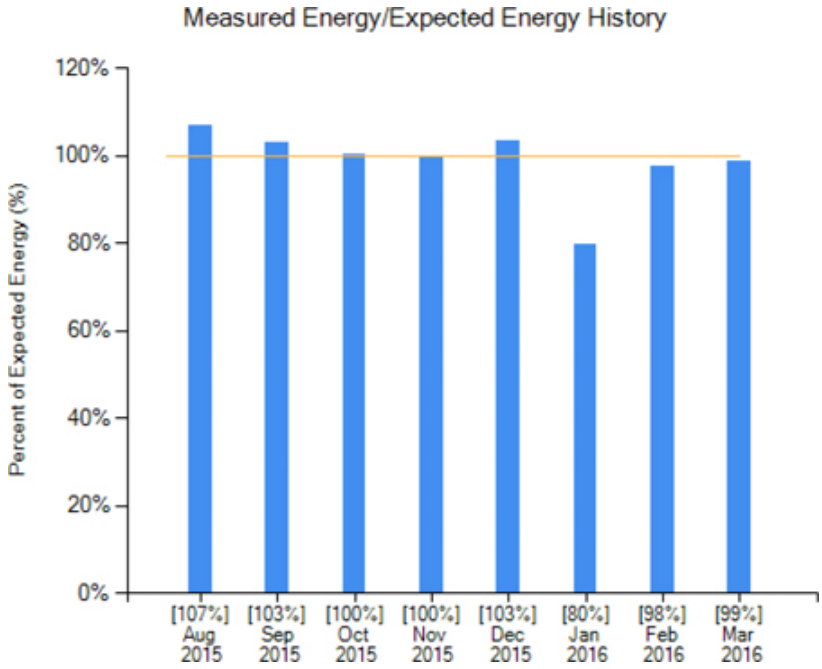
March 2016

Portfolio Summary

Important Metrics at a Glance

Energy Production (kWh)

	Energy (kWh)	% of Expected	% of Typical
Current Month			
Year to Date			
Past 12 Months			



SUNPOWER®

Monthly Solar Portfolio Report

Customer Name

March 2016

Availability (%)

	Availability	Customer Name
Current Month		
Year to Date		
Past 12 Months		

Environmental Benefits

	Pounds of CO2 Offset	Homes Powered for a Year	Miles not Driven	Trees Planted
Current Month				
Year to Date				
Past 12 Months				

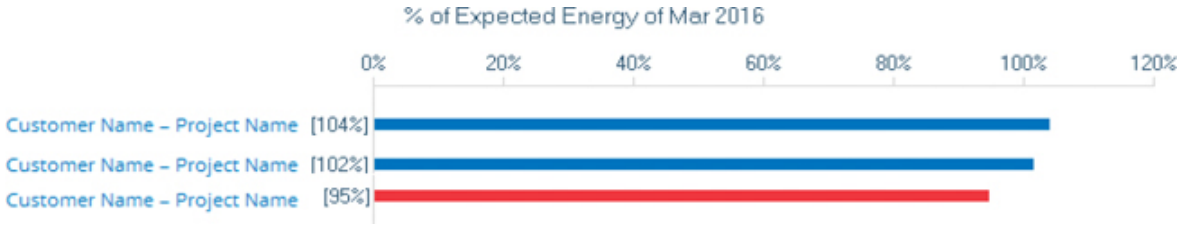
Calculation Notes:
Pounds of CO2 Offset: Production in kWh x 152.02 pounds of CO2 per 100 kWh generated
Home Powered: Production in kWh / 12069 kWh generated per Home
Miles Not Driven: Production in kWh * 166 miles not driven per 100 kWh generated
Trees Planted: Production in kWh * 1.768 trees grown per 100 kWh generated

Conversions taken from: http://www.epa.gov/energy/ghg-equivalencies-calculator-calculations-and-references

Sub-Portfolio Statistical Summaries

Customer Name_2015

Expected Energy

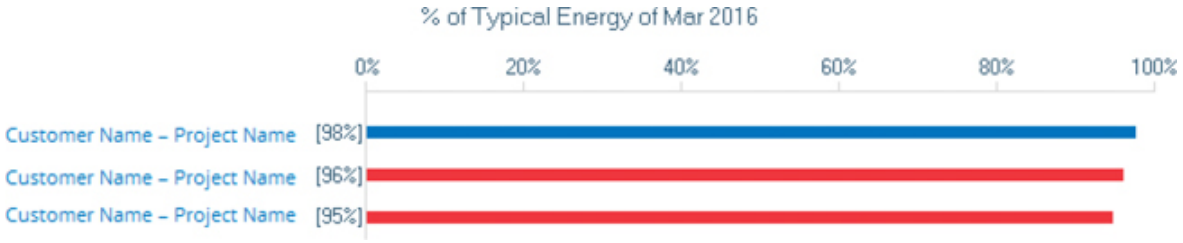


Site	Aug 2015	Sep 2015	Oct 2015	Nov 2015	Dec 2015	Jan 2016	Feb 2016	Mar 2016	Trailing Year
Customer Name – Project Name									
Customer Name - Project Name									
Customer Name - Project Name									
Sub-Portfolio Avg									

Monthly Energy Production (MWh)

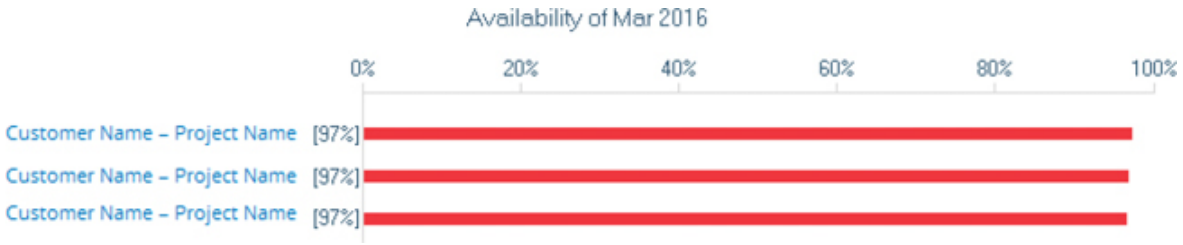
Site	Aug 2015	Sep 2015	Oct 2015	Nov 2015	Dec 2015	Jan 2016	Feb 2016	Mar 2016	Trailing Year
Customer Name – Project Name									
Customer Name - Project Name									
Customer Name - Project Name									
Sub-Portfolio Avg									

Typical Energy



Site	Aug 2015	Sep 2015	Oct 2015	Nov 2015	Dec 2015	Jan 2016	Feb 2016	Mar 2016	Trailing Year
Customer Name – Project Name									
Customer Name - Project Name									
Customer Name - Project Name									
Sub-Portfolio Avg									

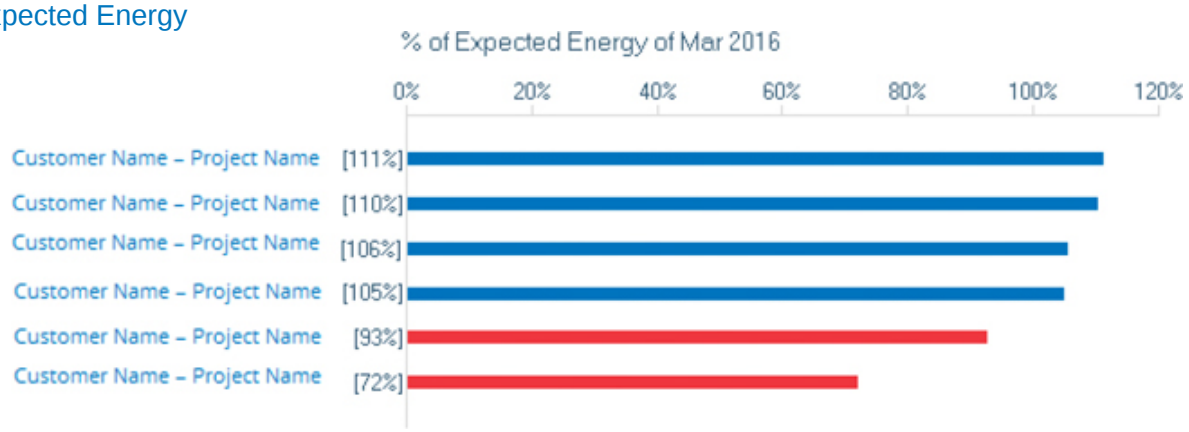
Availability



Site	Aug 2015	Sep 2015	Oct 2015	Nov 2015	Dec 2015	Jan 2016	Feb 2016	Mar 2016	Trailing Year
Customer Name – Project Name									
Customer Name - Project Name									
Customer Name - Project Name									
Sub-Portfolio Avg									

Customer Name_2016

Expected Energy



Site	Feb 2016	Mar 2016	Trailing Year
Customer Name - Project Name			
Customer Name - Project Name			
Customer Name - Project Name			
Customer Name - Project Name			
Customer Name - Project Name			
Customer Name - Project Name			
Sub-Portfolio Avg			

Monthly Energy Production (MWh)

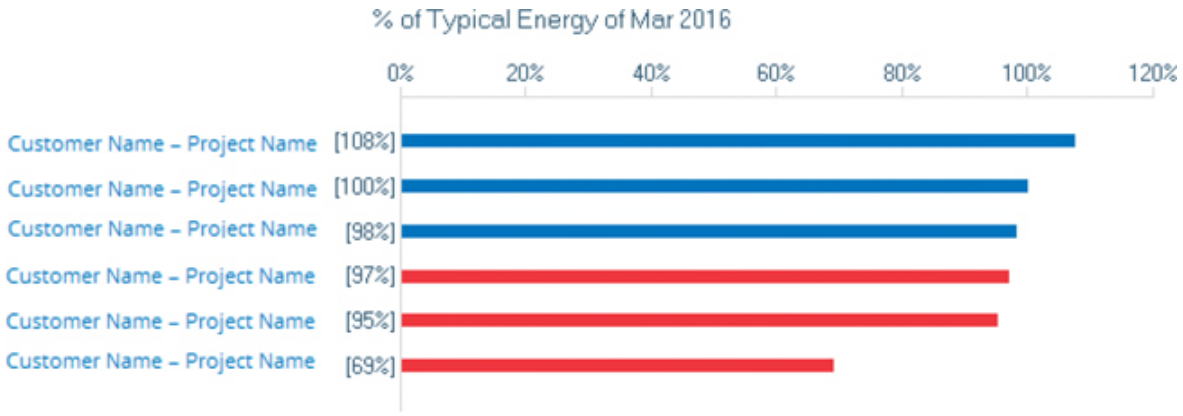
Site	Feb 2016	Mar 2016	Trailing Year
Customer Name - Project Name			
Customer Name - Project Name			
Customer Name - Project Name			
Customer Name - Project Name			
Customer Name - Project Name			
Customer Name - Project Name			
Sub-Portfolio Avg			

Monthly Solar Portfolio Report

Customer Name

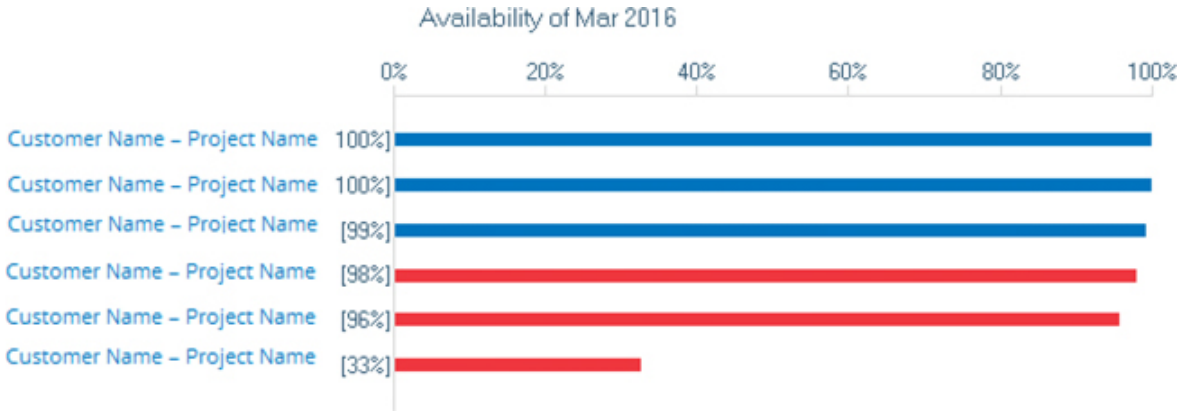
March 2016

Typical Energy



Site	Feb 2016	Mar 2016	Trailing Year
Customer Name - Project Name			
Customer Name - Project Name			
Customer Name - Project Name			
Customer Name - Project Name			
Customer Name - Project Name			
Customer Name - Project Name			
Sub-Portfolio Avg			

Availability



Site	Feb 2016	Mar 2016	Trailing Year
Customer Name - Project Name			
Customer Name - Project Name			
Customer Name - Project Name			
Customer Name - Project Name			
Customer Name - Project Name			

Customer Name - Project Name
Sub-Portfolio Avg

SUNPOWER SERVICES
1414 Harbour Way South
Richmond, CA 94804

24 Hour Customer Service Hotline
1.800.251.9728

Comments

Footnotes

EXHIBIT M

MONTHLY INDEPENDENT ENGINEER REPORT

The Independent Engineer ("IE") shall provide an IE Monthly Project Report ("IE MPR"), based on the monthly reports provided by the Contractor and Owner, and the observations made by the IE during the monthly site visit. The IE MPR is to communicate to the Lenders, the Owner, and Contractor's progress during the prior month's performance of the Work. The IE MPR should include a narrative of what activities occurred during the previous month.

The IE MPR shall be presented in a form similar to the outline below:

- Project Scope and Executive Summary
- Current Project Status
- Engineering
- Procurement
- Construction
- Commissioning
- Electrical Interconnection
- Environmental (including Permitting as applicable and only applicable to Large Projects)
- Schedule
- Project Budget Status and Change Orders
- Miscellaneous
- Project Photographs

The IE MPR shall address the following information as applicable:

- Procurement planned versus actual materials received.
- Engineering planned versus actual
- Planned versus actual quantities of Work completed by activity.
- Equipment on Site.
- Target critical milestone dates (achievement or extension)
- Schedule update as per the scheduling reporting requirements and opinion of achievement Substantial Completion by the Date Certain.
- Construction budget versus actual spent
- Change Order log.
- Issues of concern both current and foreseeable.
- Permitting and environmental update / status (only applicable for Large Projects)
- Commissioning / startup schedule and activities

Exhibit O

Form of Pre-Approved Project Contracts for Small Projects

Material Project Documents for Small Projects shall be deemed pre-approved if they conform to the respective precedents listed below, all of which are available for review in the "Macy's" folder in the data room for this transaction, and the Borrower certifies to such conformity in accordance with Section 3.2(m) of the Agreement:

1. Engineering, Procurement and Construction Agreement, dated as of April 22, 2016, by and between Northstar Macys US West 2016, LLC and SunPower Corporation, Systems [single Project / site]

2. Engineering, Procurement and Construction Agreement, dated as of November 10, 2015, by and between Northstar Macys US West 2016, LLC and SunPower Corporation, Systems [multiple Projects / sites]

3. Operations & Maintenance Agreement, dated as of June 30, 2016, by and between Northstar Macys US West 2016, LLC and SunPower Corporation, Systems

4. Management Agreement, dated as of June 30, 2016, by and between Northstar Macys US West 2016, LLC and SunPower Capital Services, LLC

5. Performance Guaranty Agreement, dated as of June 30, 2016, by and between Northstar Macys US West 2016, LLC and SunPower Corporation, Systems

6. Guaranty Agreement [EPC Agreement], dated as of June 30, 2016, by SunPower Corporation and SunPower Corporation, Systems in favor of Northstar Macys US West 2016, LLC

7. Guaranty Agreement [O&M Agreement], dated as of June 30, 2016, by SunPower Corporation in favor of Northstar Macys US West 2016, LLC

Exhibit 10.62

AMENDED AND RESTATED CREDIT SUPPORT AGREEMENT

This AMENDED AND RESTATED CREDIT SUPPORT AGREEMENT (together with any Exhibits and Schedules attached hereto, as the same may be amended from time to time in accordance with the terms hereof, this "***Agreement***"), dated as of June 29, 2016, is entered into by and between SunPower Corporation, a Delaware corporation (the "***Company***"), and Total S.A., a société anonyme organized under the laws of the Republic of France (the "***Guarantor***").

RECITALS

WHEREAS, the Company and the Guarantor previously have entered into that Credit Support Agreement dated April 28, 2011, as amended June 7, 2011, December 12, 2011 and December 14, 2012 (as heretofore amended, restated, supplemented or otherwise modified, the "***Existing Agreement***");

WHEREAS, the Company and the Guarantor have agreed to amend and restate in their entirety the agreements contained in the Existing Agreement;

WHEREAS, the Company wishes to secure one or more letter of credit facilities that provide for the issuance of letters of credit denominated in Dollars, Euros or such other freely-convertible currency as the Guarantor may reasonably approve ("***L/Cs***") by one or more financial institutions (each such financial institution, a "***Bank***") in support of the Company's UPP and LComm (each as defined below) businesses (whether issued for the account of the Company or a wholly-owned Subsidiary of the Company (a "***Wholly-Owned Subsidiary***")), as well as for other purposes permitted by this Agreement (collectively, the "***Letter of Credit Facilities***"), and as to which L/Cs the Company has either the primary obligation to reimburse draws or is the guarantor of a Wholly-Owned Subsidiary's primary obligation to reimburse draws;

WHEREAS, to obtain more favorable terms under the Letter of Credit Facilities, the Company has requested that the Guarantor agree to enter into a Guaranty Agreement (each a "***Guaranty***" and collectively, the "***Guaranties***") with respect to one or more Letter of Credit Facilities, pursuant to which the Guarantor will guarantee the payment to the applicable Bank (such payment to be made after the Bank has notified the Company that an L/C has been drawn and the Company has not repaid the Bank within the period of time agreed in the Letter of Credit Facility) of the Company's obligation to reimburse a draw on an L/C and pay interest thereon in accordance with the Letter of Credit Facility between such Bank and the Company;

WHEREAS, the Company expects that this Agreement will improve the Company's access to Non-Guaranteed Facilities which include more favorable terms than it would otherwise be able to obtain, including no collateral or guaranty requirements, minimum cash balance requirements or other restrictions on the Company's cash or liquidity;

WHEREAS, through an affiliate, the Guarantor acquired a portion of the equity interests in the Company and both the Guarantor and its affiliate derive substantial direct and indirect benefit from the Guarantor providing Guaranties that support the Company's ability to obtain Letter of Credit Facilities on favorable terms;

WHEREAS, in order to induce the Guarantor to enter into this Agreement and each Guaranty, the Company has agreed to undertake certain obligations as more fully set forth below; and

WHEREAS, the Company and the Guarantor each restates, ratifies and reaffirms each and every term and condition set forth in the Existing Agreement, as amended and restated hereby, effective as of the date hereof.

NOW, THEREFORE, in consideration of the above recitals and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Company and the Guarantor hereby agree as follows:

AGREEMENT

Section 1. **Definitions**. Capitalized terms used in this Agreement, including in its preamble and recitals, shall have the following meanings:

(a) "***Affiliation Agreement***" means the Affiliation Agreement, dated April 28, 2011, as amended June 7, 2011, December 23, 2011, February 28, 2012 and August 10, 2012, between Total Energies Nouvelles Activités USA, SAS (formerly known as Total Gas & Power USA, SAS), and the Company, as amended, restated supplemented or otherwise modified from time to time.

(b) "***Aggregate L/C Amount***" means, as of any time, the sum, calculated on a Dollar-Equivalent Basis, of (i) the aggregate amount then-available to be drawn under all L/Cs issued under any Guaranteed Facility, (ii) the then-remaining amount of L/Cs available to be issued under any Guaranteed Facility (based on the maximum aggregate amount of L/Cs that could from time to time in the future be issued under any such Guaranteed Facility), and (iii) the aggregate amount of draws (including accrued but unpaid interest thereon) on any L/Cs issued under any Guaranteed Facility that have not yet been reimbursed by the Company to either (x) the applicable Bank or (y) the Guarantor (following a payment by the Guarantor to the Bank pursuant to a Guaranty).

(c) "***Agreement***" has the meaning given in the Preamble.

(d) "***Annual Operating Plan***" means, for any fiscal year, the projected income statement, cash flow statement and balance sheet of the Company broken out by quarter for such fiscal year and approved by the Company's Board of Directors following its review of supporting material such as operational metrics (including regional MW, ASPs and COGS) and credit support requirements.

(e) "***Assignment Fee***" means a fee, equal to $10 million as of the date hereof and reduced by $1 million per calendar quarter until such Assignment Fee is reduced to zero. As an example, the Assignment Fee that would be payable in connection with an assignment that occurred on October 15, 2016 would be $8 million.

(f) "***Available Facility Amount***" means, at any time, the Maximum L/C Amount in effect at such time, less the Aggregate L/C Amount at such time.

(g) "***Bank***" has the meaning given in the Recitals.

(h) "***Business Day***" means a day of the year other than (i) Saturdays, (ii) Sundays or (iii) any day on which banks are required or authorized by law to close in either or both of New York or Paris, France; provided that, when used in connection with the determination of LIBOR, the term "Business Day" shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

(i) "***Commission Fee***" means the annual fees payable by the Company to a Bank on the issued amount of an L/C under a Letter of Credit Facility.

(j) "***Commitment Fee***" means the annual fees payable by the Company to a Bank on the committed (but not issued) amount of an L/C under a Letter of Credit Facility.

(k) "***Company***" has the meaning given in the Preamble.

(l) "***Credit Rating***" means, for any proposed assignee, the credit rating of such assignee's long-term unsecured, unsubordinated debt as of the proposed assignment date after taking into account the totality of the transactions pursuant to which such assignee is acquiring the voting power or voting stock of the Company and assuming the rights and obligations of the Guarantor under this Agreement and if such assignee had a Credit Rating by S&P and/or Moody's immediately prior to such proposed assignment, as evidenced by confirmation of rating issued by S&P and/or Moody's, as applicable, setting forth such Credit Rating on a prospective basis after giving effect to such transactions. In any reference to a Credit Rating in this Agreement, the first Credit Rating is the S&P Credit Rating and the second Credit Rating is the Moody's Credit Rating.

(m) "***CSA Leverage Benchmark***" initially means 4.5 to 1.0. If at any time prior to the Termination Date, Section 5.02 of the Revolving Credit Agreement is amended to increase or decrease the minimum leverage covenant above or below 4.5 to 1.0, the CSA Leverage Benchmark shall be increased or decreased correspondingly.

(n) "***CSA Leverage Ratio***" means the defined term "Leverage Ratio" as set forth in Section 1.01 (entitled "Defined Terms") of the Revolving Credit Agreement, which is incorporated into this Agreement by reference.

(o) "***CVSR Project***" means the California Valley Solar Ranch in San Luis Obispo County, California.

(p) "***Dollar***" and "***$***" mean lawful money of the United States of America.

(q) "***Dollar-Equivalent Basis***" means, for any date of determination, that amounts denominated in a currency other than Dollars are converted into the equivalent amount of Dollars based on the "Euro foreign exchange reference rate" and such other foreign exchange reference rate published by the European Central Bank as may be necessary to convert the applicable currency from such currency to Euros (if necessary) and from Euros to Dollars.

(r) "***Effective Date***" means the date of this Agreement.

(s) "***Equity Securities***" of any Person means (i) all common stock, preferred stock, participations, shares, partnership interests or other equity interests in and of such Person (regardless of how designated and whether or not voting or non-voting) and (ii) all warrants, options and other rights to acquire any of the foregoing.

(t) "***Euro***" and "***€***" mean the official currency of the European Union.

(u) "***Examination Period***" means any period during which (a) 10% or more of the initial face amount of all then-outstanding L/Cs issued under the Guaranteed Facilities has been drawn during the preceding twelve (12) consecutive months and (b) such drawn L/Cs relate to three (3) or more projects that are developed or owned by at least three (3) unrelated sponsors; provided, that an Examination Period shall be deemed not to be in effect if, following the satisfaction of the preceding conditions, (x) the Company has undertaken an executive-level analysis of the reasons that the L/Cs were drawn upon, (y) the Company has proposed a course of action responding to the reasons for the draws on the L/Cs that, in the reasonable opinion of the Guarantor's Authorized Officer, will prevent the occurrence of an Examination Period in the future, and (z) the Company has implemented such course of action to the reasonable satisfaction of the Guarantor's Authorized Officer; and provided, further, that the first L/C that is drawn upon shall not be considered for purposes of the foregoing determination of whether an Examination Period is in effect if, after the draw on such L/C, (x) the Company has undertaken an executive-level analysis of the reasons that such L/C was drawn upon, (y) the Company has proposed a course of action responding to the reasons for the draw on such L/C that, in the reasonable opinion of the Guarantor's Authorized Officer, will prevent the occurrence of similar draws on L/Cs in the future, and (z) the Company has implemented such course of action to the reasonable satisfaction of the Guarantor's Authorized Officer.

(v) "***Existing Agreement***" has the meaning given in the Preamble.

(w) "***GAAP***" means generally accepted accounting principles in the United States of America.

(x) "***Guarantee Fee***" has the meaning given in Section 3(b).

(y) "***Guaranteed Facility***" means a Letter of Credit Facility that is guaranteed by the Guarantor pursuant to a Guaranty.

(z) "***Guarantor***" has the meaning given in the Preamble.

(aa) "***Guarantor Commitment Fee***" has the meaning given in Section 3(a).

(bb) "***Guarantor's Authorized Officer***" means the Guarantor's Senior Vice President Affiliates Financial Operations.

(cc) "***Guaranty***" or "***Guaranties***" has the meaning given in the Recitals.

(dd) "***Indebtedness***" means and includes the aggregate amount of, without duplication (i) all obligations for borrowed money, (ii) all obligations evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations to pay the deferred purchase price of property or

services (other than accounts payable and accrued expenses incurred in the ordinary course of business determined in accordance with GAAP), (iv) all obligations with respect to capital leases, (v) all obligations created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person, (vi) all non-contingent reimbursement and other payment obligations, contingent or otherwise, in respect of letters of credit and similar surety instruments (including construction performance bonds), (vii) the face amount of any letter of credit issued under the Revolving Credit Agreement for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings (but only to the extent such letter of credit has not been cash collateralized), (viii) the face amount of any financial letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings (but only to the extent such letter of credit has not been cash collateralized), (ix) any obligations with respect to tax equity or similar financing arrangements, and (x) (1) the direct or indirect guaranty, endorsement (other than for collection or deposit in the ordinary course of business), co-making, discounting with recourse or sale with recourse by such Person of the obligation of another, (2) any obligation of such Person the primary purpose or intent of which is to provide assurance to an obligee that the obligation of the obligor thereof will be paid or discharged, or any agreement relating thereto will be complied with, or the holders thereof will be protected (in whole or in part) against loss in respect thereof, and (3) any liability (contingent or otherwise) of such Person for an obligation of another Person with respect to Indebtedness listed in clauses (i) through (x) above, including any agreement (a) to purchase, repurchase or otherwise acquire such obligation or any security therefor, or to provide funds for the payment or discharge of such obligation (whether in the form of loans, advances, stock purchases, capital contributions or otherwise) or (b) to maintain the solvency or any balance sheet item, level of income or financial condition of such other Person.

(ee) "***Interpolated Rate***" means, with respect to LIBOR for any Interest Period, a rate per annum which results from interpolating on a linear basis between (i) the applicable Screen Rate for the longest maturity for which a Screen Rate is available that is shorter than such Interest Period and (ii) the applicable Screen Rate for the shortest maturity for which a Screen Rate is available that is longer than such Interest Period, in each case at approximately 11:00 a.m., London time, on the date that is two Business Days prior to the commencement of such Interest Period.

(ff) "***L/Cs***" has the meaning given in the Recitals.

(gg) "***L/C Threshold***" means one or more L/Cs for a single Proposed Project with an aggregate stated amount of $10,000,000.

(hh) "***LComm***" means the large commercial portion of the distributed generation business segment of the Company with projects sold directly to a commercial end-user and not via a dealer.

(ii) "***Letter of Credit Facilities***" has the meaning given in the Recitals.

(jj) "***LIBOR***" means, as of any date of determination, the London interbank offered rate as administered by the ICE Benchmark Administration (or any other Person that takes over the administration of such rate for Dollars) for a period equal six months (an "***Interest Period***")

as displayed on the Reuters screen page that displays such rate (currently page LIBOR01) or, in the event such rate does not appear on a page of the Reuters screen, on the appropriate page of such other information service that publishes such rate as shall be selected by the Agent from time to time in its reasonable discretion (in each case, the "***Screen Rate***"), at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period; provided, that if the Screen Rate shall not be available at such time for such Interest Period with respect to Dollars, then LIBOR shall be the Interpolated Rate. If LIBOR (as determined pursuant to the foregoing provisions of this definition) for any Interest Period is below zero, then LIBOR for such Interest Period shall be deemed to be zero.

(kk) "***Lien***" means any lien, mortgage, pledge, security interest, or encumbrance of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, and any lease in the nature thereof) and any option, trust or other preferential arrangement having the practical effect of any of the foregoing.

(ll) "***Make-Whole Amount***" means the amount, if any, actually paid by the Company to the Banks that are party to Guaranteed Facilities and Non-Guaranteed Facilities and to lenders in any revolving credit facility permitted under this Agreement in increased costs to the Company as a result of Total S.A.'s assignment of its rights and obligations under this Agreement (as certified to the Guarantor by the Company's Chief Financial Officer in connection with each invoice for payment before the Termination Date), calculated as follows:

Increased L/C Costs + Increased Revolver Costs = Make-Whole Amount payable for such quarter, where

"***Increased L/C Costs***" means, with respect to L/Cs eligible for a Guaranty under this Agreement, Non-Guaranteed Facilities and Guaranteed Facilities the repayment of which is not guaranteed by Total S.A. under this Agreement (but in each case that would have been permitted under this Agreement), the positive number, if any, that is the difference between (x) the sum of all Commission Fees and Guaranty Fees paid by the Company for such calendar quarter under such facilities less (y) the aggregate amount of all Commission Fees and Guaranty Fees that the Company would have paid for such calendar quarter based on the weighted average Commission Fees and Guaranty Fees that were payable by the Company over the six-month period immediately prior to the assignment date.

"***Increased Revolver Costs***" means, with respect to revolving credit facilities up to a maximum of $200,000,000 and otherwise permitted under this Agreement, the positive number, if any, that is the difference between (x) interest amounts paid by the Company for such calendar quarter less (y) interest amounts that the Company would have paid pursuant to its revolving credit facility in effect immediately prior to the assignment date (based in each case on actual borrowings during such calendar quarter and solely due to a difference in the margin-over-base rate charged before and after the assignment date); provided, that Increased Revolver Costs will only be paid until the Termination Date.

(mm) "***Material Adverse Effect***" means a material adverse effect on (i) the business, assets, operations or financial or other condition of the Company and its Subsidiaries (including

the joint venture with AU Optronics Corp.), when taken as a whole, (ii) the ability of the Company to pay or perform the Obligations in accordance with the terms of this Agreement, (iii) the rights and remedies of the Guarantor under this Agreement, or (iv) the validity or enforceability of this Agreement or the rights and remedies of the Guarantor hereunder.

(nn) "***Maximum L/C Amount***" means $500 million, calculated non-cumulatively and on a Dollar-Equivalent Basis;

provided, that (a) in the event that the Company's Board of Directors approves an Annual Operating Plan for any period that provides for credit support requirements for the Company's UPP and LComm businesses in excess of the amounts specified above for such period, the Guarantor, may, in its sole discretion, increase the Maximum L/C Amount for such period up to an amount equal to the credit support requirements set forth in such Annual Operating Plan, or (b) in the event that the Company's Board of Directors, by Supermajority Board Approval (as defined in the Affiliation Agreement), approves an Annual Operating Plan for any period that provides for credit support requirements for the Company's UPP and LComm businesses in amounts less than 90% of those specified above for such period, the Maximum L/C Amount for such period shall be automatically reduced to an amount equal to the credit support requirements set forth in such Annual Operating Plan (such reduced amount the "***Reduced Maximum Amount***");

provided, further, that if following a reduction in the Maximum L/C Amount to the Reduced Maximum Amount, the Company's management approves UPP and LComm projects that, together with the existing credit support requirements for the Company's UPP and LComm businesses, require credit support requirements up to, but not exceeding, 110% of the Reduced Maximum Amount, then the Reduced Maximum Amount will automatically be increased (without approval by the Guarantor or the Company's Board of Directors) to such higher amount (but not to exceed the Maximum L/C Amount for such period as in effect prior to any reduction);

provided, further, that if following a reduction in the Maximum L/C Amount to the Reduced Maximum Amount (and without limiting the provisions of the immediately preceding proviso), the Company's Board of Directors approves UPP and LComm projects that, together with the existing credit support requirements for the Company's UPP and LComm businesses, require credit support requirements in excess of the Reduced Maximum Amount, then the Reduced Maximum Amount will automatically be increased (without approval by the Guarantor) to such higher amount (but not to exceed the Maximum L/C Amount for such period as in effect prior to any reduction); and

provided, further, that notwithstanding anything herein to the contrary, at no time may the Maximum L/C Amount exceed $500 million.

(oo) "***Moody's***" means Moody's Investors Service, Inc.

(pp) "***Non-Guaranteed Facility***" means a Letter of Credit Facility that provides for the issuance of L/Cs without the benefit of a Guaranty or collateral or any required minimum cash balance or other restrictions on the Company's cash or liquidity.

(qq) "***Non-Recourse Indebtedness***" means Indebtedness of the Company or any of its Project Finance Subsidiaries, including front and back leverage, securitizations, tax equity financings (including inverted lease, partnership flip and Sale and Lease Back Transactions) and other similar financing structures, and as to which the holders of such Indebtedness have recourse only to such Project Finance Subsidiaries and any other Project Finance Subsidiaries, including such Project Finance Subsidiaries' assets, but without recourse to the Company, other than Permitted Project Recourse.

(rr) "***Obligations***" means and includes all liabilities and obligations arising in connection with this Agreement and the issuance of, maintenance of or payment by the Guarantor under any Guaranty, owed by the Company to the Guarantor of every kind and description (whether or not evidenced by any note or instrument and whether or not for the payment of money), now existing or hereafter arising, including all interest, fees, charges, expenses, attorneys' fees and costs and accountants' fees and costs chargeable to and payable by the Company hereunder, in each case, whether direct or indirect, absolute or contingent, due or to become due, and whether or not arising after the commencement of a proceeding under Title 11 of the United States Code (11 U.S.C. § 101 et seq.), as amended from time to time (including post-petition interest) and whether or not allowed or allowable as a claim in any such proceeding.

(ss) "***Other Permitted Purposes***" means (i) development obligations or guaranties of the Company or a Wholly-Owned Subsidiary with respect to project development obligations such as transmission reservations and land options for the Company's UPP and LComm businesses, (ii) remediation work, landscaping and other related obligations or guarantees of the Company or a Wholly-Owned Subsidiary in favor of government entities for reparation of land and surrounding environment after construction for the Company's UPP and LComm businesses, (iii) obligations or guarantees of the Company or a Wholly-Owned Subsidiary with respect to obligations to local tax authorities relating to doing business in that locality with respect to the Company's UPP or LComm businesses, and (iv) obligations or guarantees of the Company or a Wholly-Owned Subsidiary with respect to bid for projects or power purchase agreements in the Company's UPP and LComm businesses, so long as such L/C is returned upon failure of award or upon award and replaced by an L/C that is otherwise permitted under this Agreement, subject to the Guarantor's prior consent for any new L/C issuance which would increase or leave the aggregate face amount of the L/Cs issued under this clause (iv), outstanding at any time, beyond $10,000,000.

(tt) "***Permitted Assignee***" means a Person that (i) is a subsidiary of Total S.A. and (ii) has a Credit Rating of BBB+/Baa1 or better or, if such Person does not have a Credit Rating from S&P or Moody's, would have a Credit Rating of at least BBB+/Baa1 if it were rated by S&P or Moody's, as determined by a leading investment bank in a letter to the Guarantor (a copy of which shall be delivered to the Company at the time that the Guarantor provides initial notice of the proposed assignment); provided, that, in event that such Person has a Credit Rating from both S&P and Moody's and has a Credit Rating of BBB+ or better by S&P or Baa1 or better by Moody's, but not both, such Person shall satisfy the requirements of clause (ii) if the S&P and Moody's Credit Ratings do not differ by more than one rating (for example, if the S&P Credit Rating is BBB+ and the Moody's Credit Rating is Baa2, such Person would satisfy the requirements of clause (b), but if the S&P Credit Rating is BBB+ and the Moody's Credit Rating is Baa3, such Person would not satisfy the requirements of clause (ii)); provided, further, that,

in the case of a proposed assignee that does not have a Credit Rating from S&P or Moody's, the Company shall have the option to retain a second leading investment bank to confirm that the proposed assignee's Credit Rating, if it were rated by S&P or Moody's, would be at least BBB+/Baa1, by delivering written notice to the Guarantor within ten (10) Business Days of the Company's receipt of the initial notice of the proposed assignment and such second leading investment bank shall be provided with the same information used by the initial leading investment bank in making its initial determination of such Credit Rating, including information (including financial projections) from the proposed assignee, and in the event that such second leading investment bank issues a letter, within thirty (30) days of the second leading investment bank's receipt of the required information described above, advising the Company that the proposed assignee's Credit Rating, if it were rated by S&P or Moody's, would not be at least BBB+/Baa1, representatives of each of the Guarantor and the Company shall confer to resolve the discrepancy between the two leading investment banks (which may include retaining a third mutually acceptable leading investment bank to resolve such discrepancy).

(uu) "***Permitted Project Recourse***" means (i) limited guarantees and side letters from the Company or any of its Subsidiaries which are not Project Finance Subsidiaries in respect of any Indebtedness of any Project Financing Subsidiary which do not guarantee obligations for borrowed money (including notes, bonds and other similar instruments), operating lease obligations, capital lease obligations or reimbursement or other payment obligations in respect of letters of credit (including, without limitation, equipment, procurement and construction, operations and maintenance, asset management, liquidated damages and managing member and tax indemnity undertakings), and (ii) pledges of equity interests in Project Finance Subsidiaries (or direct or indirect owners of Project Finance Subsidiaries) or other limited guarantees or side letters provided that the holders of such Indebtedness have acknowledged that they will not have any recourse to the assets or equity interests (other than as specified in this clause (ii)) of the Company or any of its Subsidiaries which are not Project Finance Subsidiaries.

(vv) "***Permitted Secured Indebtedness***" means:

(i) Indebtedness existing on the date hereof and listed on Schedule IV hereto;

(ii) Indebtedness of any Person who becomes a Subsidiary after the Effective Date so long as such Indebtedness exists at the time such Person becomes a Subsidiary and is not created in contemplation of or in connection with such Person becoming a Subsidiary and is secured solely by the assets and equity of such Subsidiary;

(iii) Indebtedness that represents an extension, refinancing or renewal of any of the Indebtedness described in clauses (i) and (ii); provided, that such extension, refinancing or renewal may not increase the amount of such Indebtedness or secure such Indebtedness with collateral additional to the collateral securing such Indebtedness immediately prior to such extension, refinancing or renewal;

(iv) Non-Recourse Indebtedness;

(v) Indebtedness to customers and suppliers incurred in connection with the purchase of equipment, supplies and inventory from such suppliers and customers under supply agreements, secured only by liens on such equipment, supplies and inventory;

(vi) Indebtedness with respect to letters of credit (which shall include any extensions, renewals or replacements thereof) issued with respect to a project for which the Guarantor has not given its approval under Section 2(c), so long as the aggregate undrawn amount of such letters of credit (when combined with letters of credit described in clause (vii) below) does not exceed $125,000,000;

(vii) Indebtedness with respect to letters of credit (which shall include any extensions, renewals or replacements thereof) that, at the time of the issuance thereof, could not be issued under a Guaranteed Facility or a Non-Guaranteed Facility, so long as the aggregate undrawn amount of such letters of credit (when combined with letters of credit described in clause (vi) above) does not exceed $125,000,000; and

(viii) other Indebtedness in an aggregate outstanding principal amount not to exceed $50,000,000.

(ww) "***Person***" shall mean and include an individual, a partnership, a corporation (including a business trust), a joint stock company, a limited liability company, an unincorporated association, a joint venture or other entity or a governmental authority.

(xx) "***Potential Trigger Event***" means any event or condition that, with the giving of notice or the passage of time, or both, would be a Trigger Event.

(yy) "***Project Finance Subsidiary***" means a limited purpose Subsidiary established in connection with the construction of a solar project, or the sale of solar equipment and/or energy.

(zz) "***Proposed Facility***" has the meaning given in Section 2(a).

(aaa) ***"Proposed Project"*** means a solar project with a single purchaser under one or more power purchase agreements and owned by a single Project Finance Subsidiary.

(bbb) "***Revolving Credit Agreement***" means the Revolving Credit Agreement dated as of July 3, 2013 among the Company, Credit Agricole Corporate and Investment Bank, as agent (the "***Agent***"), and the lenders party thereto, as amended by (i) the First Amendment to Credit Agreement dated August 26, 2014 among the Company, the Agent and the lenders party thereto, (ii) the Second Amendment to Revolving Credit Agreement dated February 17, 2016 among the Company, the Agent and the lenders party thereto, and (iii) the Third Amendment to Revolving Credit Agreement dated March 18, 2016 among the Company, the Agent and the lenders party thereto, as amended, restated supplemented or otherwise modified from time to time.

(ccc) "***S&P***" means Standard & Poor's Financial Services LLC, a subsidiary of the McGraw-Hill Companies, Inc.

(ddd) "***Sale and Lease Back Transaction***" means any operating lease obligations or capital lease obligations, of any property (whether real, personal or mixed), whether now owned or hereafter acquired, (i) that the Company or any of its Subsidiaries has sold or transferred or is to sell or transfer to any other Person (other than the Company or any of its Subsidiaries) or (ii) that the Company or any of its Subsidiaries intends to use for substantially the same purpose as any other property that has been or is to be sold or transferred by the Company or any of its Subsidiaries to any Person (other than the Company or any of its Subsidiaries) in connection with any lease.

(eee) "***Subsidiary***" means (i) any corporation of which at least 50% of the issued and outstanding Equity Securities having ordinary voting power to elect a majority of the board of directors of such corporation is at the time directly or indirectly owned or controlled by the Company, (ii) any partnership, joint venture, or other association of which at least 50% of the equity interest having the power to vote, direct or control the management of such partnership, joint venture or other association is at the time directly or indirectly owned and controlled by the Company, or (iii) any other entity included in the financial statements of the Company on a consolidated basis; provided, that the joint venture with AU Optronics Corp. will not be considered a Subsidiary for purposes of this Agreement, unless specifically stated otherwise or included in the financial statements of the Company on a consolidated basis.

(fff) "***Termination Date***" means December 31, 2018.

(ggg) "***Trigger Event***" has the meaning given in Section 7(a).

(hhh) "***Upfront Fee***" means the fees payable by the Company to a Bank upon the issuance of an L/C under a Letter of Credit Facility.

(iii) "***UPP***" means the utility and power plant business segment of the Company, which includes power plant project development, construction and project sales, turn-key engineering, procurement and construction services for power plant construction, and power plant operations and maintenance services, but excludes component sales.

(jjj) "***Wholly-Owned Subsidiary***" has the meaning given in the Recitals.

Section 2. **Guaranty**.

(a) Request for Guaranty. At any time from the Effective Date until the Termination Date, the Company may present to the Guarantor a written request for the Guarantor to provide a Guaranty in support of the Company's payment obligations with respect to a Letter of Credit Facility (the "***Proposed Facility***"), which request shall include copies of all proposed documents relating to the Proposed Facility. For the avoidance of doubt, the Proposed Facility may be a Letter of Credit Facility that was in effect as of the Effective Date pursuant to which the Company proposes to arrange for L/Cs to be issued after the Effective Date that are guaranteed by a Guaranty.

(b) Conditions to Issuance of Guaranty. The Guarantor shall issue and enter into a Guaranty and such other documents as may be reasonably requested by the applicable Bank relating to the Proposed Facility (to the extent reasonably acceptable to the Guarantor) as soon as

reasonably practicable after its receipt of the documentation relating to the Proposed Facility and in light of the Company's timing needs with respect to the L/Cs to be issued under such Proposed Facility (and in any event within ten (10) Business Days after its receipt of such documentation); provided, that the following conditions are either satisfied or waived by the Guarantor:

(i) after giving effect to such requested Guaranty and such Proposed Facility, the Aggregate L/C Amount will not exceed the Maximum L/C Amount in effect at such time;

(ii) such Proposed Facility requires the Company to reimburse the Bank for any drawn L/Cs within five (5) Business Days;

(iii) such Proposed Facility does not permit issuance of L/Cs after the Termination Date or with an expiration date after 15 months after the Termination Date;

(iv) such Proposed Facility does not permit the issuance of L/Cs for any obligations of the Company or a Wholly-Owned Subsidiary other than (A) performance guarantees (for a period of up to two (2) years after completion of the applicable project) and completion guarantees (until completion of the applicable project) of the Company or such Wholly-Owned Subsidiary with respect to engineering, procurement and construction services provided in connection with the Company's UPP and LComm businesses (including replacing unguaranteed L/Cs in existence as of the Effective Date for such purposes with new L/Cs to be issued under such Proposed Facility), (B) performance guarantees for engineered hardware packages not including engineering, procurement and construction services for UPP projects for a period of up to two (2) years after completion of the applicable project, (C) the Other Permitted Purposes for a period of up to two (2) years, and (D) letters of credit or demand guarantees that relate to the CVSR Project and are listed on Schedule V attached hereto, including any renewals or replacements thereof, in an aggregate amount outstanding at any time not to exceed $149,768,161; provided, that, notwithstanding anything to the contrary in this Section 2(b)(iv), the Company will be permitted to have outstanding at any one time during the period described in Section 2(b)(iii) letters of credit for the purposes described in clauses (A) and (B) above with a period of between two (2) and three (3) years and for an aggregate initial face amount of up to fifteen per cent (15%) of the then-applicable Maximum L/C Amount;

(v) no Trigger Event has occurred and is continuing, or would result from the Company entering into such Proposed Facility and all other documents contemplated by such Proposed Facility; and

(vi) the Guaranty required to be provided by the Guarantor in connection with the Proposed Facility is substantially in the form of Exhibit A hereto or such other form as the Guarantor may agree with the applicable Bank (it being understood that the Guarantor will negotiate the form of Guaranty with such Bank in good faith), which Guaranty shall, in any case, include (A) a right of the Guarantor to direct such Bank to suspend the issuance of any additional L/Cs upon the occurrence and during the

continuation of a Trigger Event or following the reduction of the Maximum L/C Amount pursuant to this Agreement and (B) an obligation of such Bank to notify the Guarantor in writing of each issuance or drawdown of an L/C under the Letter of Credit Facility (including making a copy thereof available to the Guarantor upon request).

(c) L/C Threshold.

(i) Until the L/C Threshold is exceeded for any Proposed Project, the Company will not need the consent of the Guarantor before requesting the issuance of an L/C under a Guaranteed Facility.

(ii) Once the L/C Threshold is exceeded for any Proposed Project:

(A) the Company and the Guarantor will review the forecast of L/Cs for such Proposed Project and the Company will follow the consent process provided in clause (iv) below with respect to all L/Cs required for the project; and

(B) if the L/Cs for such Proposed Project exceed the forecast that was approved by the Guarantor by an amount equal to or in excess of the lesser of (x) the L/C Threshold and (y) 10% of the aggregate amount of L/Cs approved in the forecast, the Company will follow the consent process provided in clause (iv) below with respect to all L/Cs required for the project once again.

(iii) Before the issuance of the final L/C for any Proposed Project subject to this Section 2(c), the Company and the Guarantor will review the final forecast of L/Cs for such Proposed Project and the Company will follow the consent process provided in clause (iv) below once again.

(iv) In reviewing any Proposed Project subject to this Section 2(c), (A) the Guarantor will endeavor to provide its response to any request for its consent in connection with any L/C within two (2) weeks after receiving appropriate due diligence documentation relating to such project, and (B) the Guarantor will be deemed to have consented to the issuance of such an L/C if it has not responded to any request for its consent within four (4) weeks after receiving all documentation reasonably requested by the Guarantor in order to evaluate the proposed L/C issuance (it being understood if the Guarantor objects to such proposed issuance of an L/C within four (4) weeks after receiving all documentation reasonably requested by the Guarantor in order to evaluate the proposed L/C issuance, the Company shall (subject to clause (vi) of the definition of Permitted Secured Indebtedness) be permitted to obtain an L/C for such purpose under a Letter of Credit Facility that is not the subject of a Guaranty pursuant to this Agreement, such Letter of Credit Facility may be secured without the requirement to grant the Guarantor a Lien, and any L/Cs issued thereunder shall not count toward the calculation of the Aggregate L/C Amount or Maximum L/C Amount for purposes of this Agreement).

Section 3. **Fees, Expenses and Interest**. In consideration for the Guarantor's commitment set forth in this Agreement and for entering into the Guaranties, the Company hereby agrees to make the following payments to the Guarantor:

(a) Guarantor Commitment Fee. Within thirty (30) days after the last day of each calendar quarter, the Company shall pay to the Guarantor a commitment fee (the "***Guarantor Commitment Fee***") equal to 0.50% times the average daily Available Facility Amount for the preceding calendar quarter.

(b) Guarantee Fee. Within thirty (30) days after the last day of each calendar quarter, the Company shall pay to the Guarantor a guarantee fee (the "***Guarantee Fee***") for each L/C that was the subject of a Guaranty and was outstanding for all or any part of the preceding calendar quarter calculated as follows:

X times Y times (Z/365)

where:

(i) X is (A) the undrawn amount of such L/C plus (B) the amount drawn on such L/C that has not yet been reimbursed either by the Company to the applicable Bank or by the Guarantor to the applicable Bank under the Guaranty;

(ii) Y is the percentage rate set forth in the following table opposite the applicable CSA Leverage Ratio determined in accordance with such table; and

CSA Leverage Ratio is:	Fee percentage rate applicable by tier on each outstanding L/C amount ($000,000) during a certain number of days:			
	Less than 200	Equal to or more than 200 and less than 300	Equal to or more than 300 and less than 400	Equal to or more than 400 and less than or equal to 500
Less than or equal to the CSA Leverage Benchmark	2.35%	2.35%	2.35%	2.35%
Greater than the CSA Leverage Benchmark	2.35%	4.50%	6.50%	8.00%

(iii) Z is the number of days during such calendar quarter that the L/C was outstanding.

Sample illustrative calculations of the Guarantee are set forth on Schedule VI hereto.

(c) Repayment. Within thirty (30) days after the date on which the Guarantor makes any payment to a Bank under a Guaranty and the Company's receipt of written or electronic notice of such payment from the Guarantor, the Company shall pay to the Guarantor (i) the full amount of such payment made by the Guarantor plus (ii) interest on such amount, for the period from and including the date of payment by the Guarantor to the Bank to and including the date of payment by the Company to the Guarantor, at a rate per annum equal to LIBOR as in effect as of the date of the payment by the Guarantor to the Bank plus 3.00%. Notwithstanding the fact that the Company may have a Bank issue L/Cs for the account of a Wholly-Owned Subsidiary, the Company shall remain liable to such Bank for repayments under any such L/Cs (whether as a primary obligor or as a guarantor of such Wholly-Owned Subsidiary's repayment obligations) and the Company's obligations under this Section 3(b) apply to payments under Guaranties that relate to L/Cs issued for the account of any such Wholly-Owned Subsidiary.

(d) Expenses.

(i) The Company shall pay and reimburse the Guarantor for all reasonable out-of-pocket expenses incurred by the Guarantor after the Effective Date in the performance of its services under this Agreement. The Guarantor will provide the Company with a good faith estimate of any such expenses to be incurred in connection with a Proposed Facility and will deliver to the Company invoices for such expenses. All such expenses for which invoices were delivered to the Company during a fiscal quarter of the Company are due and payable within 15 days after the end of such fiscal quarter.

(ii) The Company shall pay all reasonable out-of-pocket attorneys' fees and expenses incurred by the Guarantor in connection with (A) the payment to a Bank under a Guaranty or (B) any enforcement or attempt to enforce any of the obligations of the Company under this Agreement.

(e) Interest on Overdue Amounts. Any payment obligations of the Company to the Guarantor that are not paid when due shall accrue interest at a rate equal to LIBOR as in effect as of the time such payment was due plus 5.00% per annum.

(f) Bank Fees. For the avoidance of doubt, all fees and amounts (other than L/C draw reimbursement obligations and interest thereon), including but not limited to Commission Fees, Commitment Fees and Upfront Fees, required to be paid by the Company to a Bank pursuant to a Guaranteed Facility are solely the obligations of the Company and will not be payable by the Guarantor pursuant to a Guaranty or otherwise.

Section 4. **Representations and Warranties**.

(a) Company Representations and Warranties. On and as of the date of this Agreement, the Company represents and warrants to the Guarantor that:

(i) Due Incorporation, Qualification, etc. The Company is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation or formation and has the requisite corporate power and authority to conduct its business as it is presently being conducted.

(ii) Authority. The execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby (A) are within the corporate power and authority of the Company and (B) have been duly authorized by all necessary corporate actions on the part of the Company.

(iii) Enforceability. This Agreement has been duly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as limited by bankruptcy, insolvency or other laws of general application relating to or affecting the enforcement of creditors' rights generally and general principles of equity.

(iv) Non-Contravention. The execution and delivery by the Company of this Agreement and the performance and consummation of the transactions contemplated hereby do not and will not (A) violate the articles or certificate of incorporation or bylaws of the Company, (B) violate any judgment, order, writ, decree, statute, rule or regulation applicable to the Company, (C) violate any provision of, or result in the breach or the acceleration of, or entitle any other person to accelerate (whether after the giving of notice or lapse of time or both), any material mortgage, indenture, agreement, instrument or contract to which the Company is a party or by which it is bound, or (D) result in the creation or imposition of any Lien upon any property or asset of the Company (other than those in favor of the Guarantor), except, in the case of each of clauses (B), (C) and (D) above, for such violations, or breaches or Liens that could not reasonably be expected to (1) have a Material Adverse Effect or (2) materially impede or delay the Company's performance of its obligations under this Agreement.

(v) Approvals. Other than those already obtained, no consent, approval, order or authorization of, or registration, declaration or filing with, any governmental authority or other person or entity (including, without limitation, the shareholders of the Company) is required in connection with the execution and delivery by the Company of this Agreement and the performance and consummation by the Company of the transactions contemplated hereby and thereby.

(vi) Litigation. There are no actions, suits, proceedings or investigations pending against the Company or its properties, nor has the Company received notice of any threat thereof, and the Company is not a party or to its knowledge subject to the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality, that question the validity of this Agreement, or the right of the Company to enter into this Agreement, or to consummate the transactions contemplated hereby, or that could reasonably be expected to have a Material Adverse Effect or result in any change in the current equity ownership of the Company, nor is the Company aware that there is any basis for any of the foregoing.

(vii) Full Disclosure. Neither this Agreement, the exhibits hereto, nor any other document delivered by the Company to the Guarantor or its attorneys or agents in connection herewith or therewith or with the transactions contemplated hereby or thereby, contains any untrue statement of a material fact nor omits to state a material fact necessary in order to make the statements contained herein or therein not misleading in light of the circumstances under which such statements were made.

(b) Guarantor Representations and Warranties. On and as of the date of this Agreement, the Guarantor represents and warrants to the Company that:

(i) Due Incorporation, Qualification, etc. The Guarantor is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or formation and has requisite power and authority to conduct its business as it is presently being conducted.

(ii) Authority. The execution, delivery and performance by the Guarantor of this Agreement and the consummation of the transactions contemplated hereby (A) are within the corporate power and authority of the Guarantor and (B) have been duly authorized by all necessary corporate actions on the part of the Guarantor.

(iii) Enforceability. This Agreement has been duly executed and delivered by the Guarantor and constitutes a legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms, except as limited by bankruptcy, insolvency or other laws of general application relating to or affecting the enforcement of creditors' rights generally and general principles of equity.

(iv) Non-Contravention. The execution and delivery by the Guarantor of this Agreement and the performance and consummation of the transactions contemplated hereby do not and will not violate the formative or governing documents of the Guarantor or any material judgment, order, writ, decree, statute, rule or regulation applicable to the Guarantor.

(v) Approvals. Other than those already obtained, no consent, approval, order or authorization of, or registration, declaration or filing with, any governmental authority or other person or entity is required in connection with the execution and delivery by the Guarantor of this Agreement and the performance and consummation by the Guarantor of the transactions contemplated hereby and thereby.

(vi) Litigation. There are no actions, suits, proceedings or investigations pending against the Guarantor, nor has the Guarantor received notice of any threat thereof, and the Guarantor is not a party or to its knowledge subject to the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality, that question the validity of this Agreement, or the right of the Guarantor to enter into this Agreement, or to consummate the transactions contemplated hereby, nor is the Guarantor aware that there is any basis for any of the foregoing.

Section 5. **Covenants of the Company**.

(a) Affirmative Covenants. The Company agrees:

(i) to give the Guarantor prompt written notice of any Trigger Event under this Agreement or any event of default under any Guaranteed Facility;

(ii) within ten (10) days after the last day of each calendar quarter, to give the Guarantor written notice of each L/C is issued under a Guaranteed Facility (including making a copy of the applicable L/C available upon request);

(iii) to ensure that the payment obligations of the Company to the Guarantor under this Agreement rank at least equal in right of payment with all other present and future Indebtedness of the Company other than Permitted Secured Indebtedness; and

(iv) to follow the consent procedures described in Section 2(c) for the issuance of any L/C under a Guaranteed Facility that would exceed the L/C Threshold.

(b) Negative Covenants. From and after the Effective Date, the Company agrees that, without the prior written consent of the Guarantor (such consent to be given or withheld by the Guarantor's Authorized Officer and such decision not to be unreasonably delayed), it will not:

(i) request, during the continuance of an Examination Period, the issuance of an L/C under a Guaranteed Facility if the Aggregate L/C Amount, after giving effect to the issuance of such L/C, would be greater than the greater of (A) the Aggregate L/C Amount immediately prior to the issuance of such L/C plus 25% of the Available Facility Amount immediately prior to the issuance of such L/C and (B) 50% of the then-applicable Maximum L/C Amount (it being agreed that at any time during the continuance of an Examination Period, the Guarantor may, after prior notice to the Company, notify the Banks under Guaranteed Facilities of the reduced Available Facility Amount as provided above);

(ii) request the issuance of an L/C under a Guaranteed Facility if any Potential Trigger Event or Trigger Event described in Section 7(a)(i), (iv), (vi) or (vii) has occurred and is continuing;

(iii) amend any agreements related to any Guaranteed Facility;

(iv) grant any Lien to secure any Indebtedness (other than Permitted Secured Indebtedness) unless (A) an identical lien is granted to the Guarantor to secure the Company's obligations under this Agreement pursuant to such agreements, instruments and other documents as are reasonably satisfactory to the Guarantor and (B) such other Lien is at all times equal or subordinate to the priority of the Lien granted to the Guarantor under clause (A) above pursuant to an intercreditor agreement in form and substance reasonably satisfactory to the Guarantor; and

(v) make any dividend distributions for so long as it has any outstanding repayment obligation to the Guarantor under this Agreement resulting from a draw on an L/C that is the subject of a Guaranty.

(c) Reporting Requirements. The Company agrees to deliver to the Guarantor as of and after the Effective Date:

(i) not later than fifteen (15) days prior to the beginning of each fiscal year of the Company, a draft Annual Operating Plan for such fiscal year that includes the aggregate amount of L/Cs anticipated to be issued under Letter of Credit Facilities and guaranteed pursuant to this Agreement during such fiscal year and promptly when an Annual Operating Plan for a fiscal year is approved by the Company's Board of Directors, a copy of such Annual Operating Plan together with copies of all supporting materials reviewed by the Company's Board of Directors in connection with such Annual Operating Plan (including regional MW, ASPs and COGS) and a report substantially in the form of Schedule I hereto, certified by the Chief Financial Officer of the Company;

(ii) within ten (10) days after the last day of each calendar quarter, a report substantially in the form of Schedule II hereto, detailing the terms of all Guaranteed Facilities then in effect, certified by the Chief Financial Officer of the Company;

(iii) promptly upon learning of a draw under an L/C, written notice of such draw, and within five (5) Business Days of such draw a report substantially in the form of Schedule III hereto, detailing the number and amounts of all draws on L/Cs over the preceding twelve (12) months;

(iv) within ten (10) days after the last day of each calendar quarter, a report or electronic file detailing the terms of the parent company guarantees issued by the Company and its Subsidiaries then in effect, certified by the Chief Financial Officer of the Company;

(v) not later than fifteen (15) days after the filing by the Company of a Form 10-K or Form 10-Q with the United States Securities and Exchange Commission, a report detailing in the form of Schedule VII hereto the terms of all outstanding Indebtedness of the Company, certified by the Chief Financial Officer of the Company;

(vi) not later than fifteen (15) days after the filing by the Company of a Form 10-K with the United States Securities and Exchange Commission, a report detailing all outstanding Non-Recourse Indebtedness, certified by the Chief Financial Officer of the Company;

(vii) not later than fifteen (15) days after the filing by the Company of a Form 10-K or Form 10-Q with the United States Securities and Exchange Commission, a report detailing in the calculation of the CSA Leverage Ratio and evidencing the amount of available cash, as of the last day of any fiscal quarter, together with a reminder of similar information as of the last day of each of the preceding four (4) fiscal quarters and a forecast as of the last day of each of the following four (4) fiscal quarters, certified by the Chief Financial Officer of the Company; and

(viii) such additional information and documents (including documents relating to Permitted Secured Indebtedness) as may be requested by the Guarantor for the purpose of verifying the Company's compliance with its obligations under this Agreement.

Section 6. **Covenants of the Guarantor**.

(a) The Guarantor acknowledges that any Liens granted to the Guarantor as provided for in Section 5(b)(iv) shall at all times be junior and subordinate to the priority of the Liens granted to the holders of Permitted Secured Indebtedness and the Guarantor agrees to enter into intercreditor agreements with the holders of Permitted Secured Indebtedness to effectuate the foregoing.

(b) On the Effective Date, the Guarantor will notify the Company of the name and contact information for the Guarantor's Authorized Officer and from time to time thereafter will promptly notify the Company of the name and contact information for any replacement thereof.

Section 7. **Trigger Events and Remedies**.

(a) Trigger Events. Each of the following events occurring as of or after the Effective Date shall constitute a "***Trigger Event***" for purposes of this Agreement:

(i) the Company defaults with respect to (A) its reimbursement obligations under Section 3(c) or (B) any other payment obligation hereunder if such obligation remains unpaid thirty (30) days after the due date therefor and the Guarantor's written demand therefor;

(ii) any representation or warranty made by the Company in this Agreement or as an inducement to the Guarantor to enter into any Guaranty is false, incorrect, incomplete or misleading in any material respect when made and the Company has failed to cure such misrepresentation within fifteen (15) days after notice thereof from the Guarantor;

(iii) the Company fails to observe or perform any other material covenant, obligation, condition or agreement contained in this Agreement and such failure continues for fifteen (15) days;

(iv) the Company defaults in the observance or performance of any agreement, term or condition contained in any Guaranteed Facility that would constitute an event of default or similar event thereunder (other than an obligation to pay any amount the payment of which is guaranteed by the Guarantor pursuant to a Guaranty), up to or beyond any grace period provided in the Guaranteed Facility; provided, that if the applicable Bank waives the Company's failure to observe or perform its obligations under a Guaranteed Facility, and if the Company wishes the Guarantor to waive the Trigger Event described in this clause (iv) based on the Bank's waiver, then the Company shall notify the Guarantor's Authorized Officer of the Bank's waiver and the Guarantor's Authorized Officer, on behalf of the Guarantor, shall promptly consider in good faith whether to waive the Trigger Event described in this clause (iv) on the basis that the Company's default of its obligations under the Guaranteed Facility is immaterial to the

Company's performance of its obligations under this Agreement and the Guarantor's rights under this Agreement;

(v) the Company or any of its Subsidiaries defaults in the observance or performance of any other agreement, term or condition contained in any bond, debenture, note or other evidence of Indebtedness (other than any Guaranteed Facility), and the effect of such failure or default is to cause, or permit the holder or holders of such Indebtedness thereof to cause, Indebtedness in an aggregate amount for all such collective defaults of $25 million or more to become due prior to its stated date of maturity;

(vi) the Company or any of its Subsidiaries (A) applies for or consents to the appointment of a receiver, trustee, liquidator or custodian of itself or of all or a substantial part of its property, (B) is unable, or admits in writing its inability, to pay its debts generally as they mature, (C) makes a general assignment for the benefit of its or any of its creditors, (D) is dissolved or liquidated, (E) becomes insolvent (as such term may be defined or interpreted under any applicable statute), (F) commences a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or consent to any such relief or to the appointment of or taking possession of its property by any official in an involuntary case or other proceeding commenced against it, or (G) takes any action for the purpose of effecting any of the foregoing; provided, that to the extent that any of the foregoing applies only to one or more Subsidiaries of the Company and not to the Company itself, then a Trigger Event shall be deemed to have occurred only if such event or occurrence could reasonably be expected to have a Material Adverse Effect; and

(vii) proceedings are commenced (and such proceedings are not dismissed within sixty (60) days of such commencement) for the appointment of a receiver, trustee, liquidator or custodian of the Company, or of all or a substantial part of its property or any of its Subsidiaries, or an involuntary case or other proceeding seeking liquidation, reorganization or other relief with respect to the Company or any of its Subsidiaries or its or their debts under any bankruptcy, insolvency or other similar law now or hereafter in effect; provided, that to the extent that any of the foregoing applies only to one or more Subsidiaries of the Company and not to the Company itself, then a Trigger Event shall be deemed to have occurred only if such event or occurrence could reasonably be expected to have a Material Adverse Effect.

(b) Action Following a Trigger Event.

(i) Following the occurrence of a Trigger Event and during its continuation, the Guarantor may:

(A) elect not to enter into any additional Guaranties;

(B) by written notice to the Company, declare all or any portion of the outstanding amounts owed by the Company to the Guarantor

hereunder to be due and payable, whereupon the full unpaid amount of such amounts shall be and become immediately due and payable, without further notice, demand or presentment;

(C) after providing prior written notice to the Company, direct each Bank to immediately halt all issuances of any additional L/Cs under any Guaranteed Facility;

(D) access and inspect the Company's relevant financial records and other documents upon reasonable notice to the Company and make extracts from and copies of such financial records and other documents; and

(E) exercise all other rights of the Guarantor under applicable law.

(ii) Any declaration made by the Guarantor pursuant to Section 8(b) may be rescinded by written notice to the Company or a Bank, as applicable; provided, that no such rescission or annulment shall extend to or affect any subsequent Trigger Event or impair any right consequent thereon.

(iii) For the avoidance of doubt, the occurrence of a Trigger Event will not affect the Guarantor's obligations to a Bank under any Guaranty that is then in effect.

Section 8. **Termination**. This Agreement shall terminate following the later of (a) the payment in full of all Obligations and (b) the termination or expiration of each Guaranty provided hereunder following the Termination Date.

Section 9. **Miscellaneous**.

(a) Notices. Except as otherwise provided herein, all notices, requests, demands, consents, instructions or other communications to or upon the Company and the Guarantor under this Agreement shall be in writing and delivered by facsimile, hand delivery, overnight courier service or certified mail, return receipt requested, to each party at the address set forth below (or to such other address most recently provided by such party to the other party). All such notices and communications shall be effective (i) when sent by Federal Express or other overnight service of recognized standing, on the Business Day following the deposit with such service, (ii) when mailed, by registered or certified mail, first class postage prepaid and addressed as aforesaid through the United States Postal Service, upon receipt, (iii) when delivered by hand, upon delivery, and (iv) when faxed, upon confirmation of receipt.

The Guarantor:

Total S.A.
2, place Jean Millier
92400 Courbevoie
France
Attention: Jean-Luc Guiziou, Senior Vice President Affiliates Financial Operations
Telephone: +33 1 47 44 26 95
Facsimile: + 33 1 47 44 50 95
Email: jean-luc.guiziou@total.com

With a copy to:

Total S.A.
2, place Jean Millier
92400 Courbevoie
France
Attention: Jean-Marc Lievens, Vice President Corporate and Project Finance New Energies
Telephone: +33 1 47 44 71 25
Facsimile: +33 1 47 44 47 92
Email: jean-marc.lievens@total.com

With a copy to:

Total S.A.
2, place Jean Millier
92400 Courbevoie
France
Attention: Isabelle Salhorgne, Vice President, Legal Director Mergers, Acquisitions & Finance
Telephone: +33 (0) 1 47 44 28 24
Facsimile: +33 (0)1 47 44 43 05
Email: isabelle.salhorgne@total.com

The Company:

SunPower Corporation
77 Rio Robles
San Jose, CA 95134
Attention: Charles D. Boynton, Executive Vice President and Chief Financial Officer
Telephone: 408-457-2333
Facsimile: 408-240-5400
E-mail: charles.boynton@sunpowercorp.com

With a copy to:

SunPower Corporation
77 Rio Robles
San Jose, CA 95134
Attention: Ada Kwan, Treasurer
Telephone: 408-457-2748
Facsimile: 408-240-5400
E-mail: ada.kwan@sunpowercorp.com

With a copy to:

SunPower Corporation
77 Rio Robles
San Jose, CA 95134
Attention: Christopher Jaap, Vice President, Deputy General Counsel and Assistant Secretary
Telephone: 510-260-8343
Facsimile: 408-240-5404
E-mail: christopher.jaap@sunpowercorp.com

(b) Nonwaiver. No failure or delay on the Guarantor's part in exercising any right hereunder shall operate as a waiver thereof or of any other right nor shall any single or partial exercise of any such right preclude any other further exercise thereof or of any other right.

(c) Amendments and Waivers. This Agreement may not be amended or modified, nor may any of its terms be waived, except by written instruments signed by the Company and the Guarantor. Each waiver or consent under any provision hereof shall be effective only in the specific instances for the purpose for which given.

(d) Assignments.

(i) Assignment by Company. This Agreement may not be assigned by the Company without the prior written consent of the Guarantor, which may be withheld in the Guarantor's sole discretion.

(ii) Assignment by Guarantor.

(A) Total S.A., as the initial Guarantor (but not any assignee of Total S.A.), may assign its rights and obligations under this Agreement with prior notice to and without consent of the Company to any Permitted Assignee. For the avoidance of doubt, no assignee of Total S.A. may assign its rights and obligations under this Agreement without the prior written consent of the Company.

(B) Any assignment by the Guarantor of its rights and obligations under this Agreement will not release such assigning Guarantor from its obligations to guarantee L/Cs issued pursuant to a Guaranteed Facility and outstanding as of the date of such

assignment, so long as the Company continues to pay the Guaranty Fee relating to such L/Cs. The Company agrees that the Guarantor may, in connection with any assignment of its rights and obligations under this Agreement, notify the Banks that have issued such outstanding L/Cs of the continuing guaranty of such L/Cs as well as that no new L/Cs may be issued under Guaranteed Facilities and guaranteed by such assigning Guarantor. In addition, the Company agrees not to renew or extend any of such outstanding L/Cs in a manner that could cause the assigning Guarantor's guaranty of such L/Cs to be extended beyond the initial stated expiration of such L/Cs.

(C) In connection with any assignment to an assignee that is rated lower than A/A2, the Guarantor may either (1) pay to the Company an Assignment Fee on the assignment date or (2) agree to pay the Company the Make-Whole Amount at the end of each calendar quarter (pro-rated for partial quarters) from the assignment date through the Termination Date.

(D) In connection with any assignment at any time by Total S.A. of its rights and obligations under this Agreement, Total S.A. and the Company agree that, prior to such assignment, this Agreement will be amended and restated in its entirety so as to (1) delete Section 5(b)(i) if at such time no L/C issued under a Guaranteed Facility has been drawn upon, and (2) delete this Section 9(d)(ii)(D), in each case together with all definitions and Schedules associated therewith that are not otherwise used or referred to in other provisions of this Agreement.

(iii) Successors and Assigns. No assignment of this Agreement shall be valid until all of the obligations of the assignor hereunder shall have been assumed by the assignee by written agreement delivered to the other party. This Agreement shall be binding upon and inure to the benefit of the Guarantor and the Company and their respective successors and permitted assigns.

(e) Cumulative Rights, etc. The rights, powers and remedies of the Guarantor under this Agreement shall be in addition to all rights, powers and remedies given to the Guarantor by virtue of any applicable law, rule or regulation of any governmental authority or any other agreement, all of which rights, powers, and remedies shall be cumulative and may be exercised successively or concurrently without impairing the Guarantor's rights hereunder.

(f) Partial Invalidity; Reinstatement. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law or any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby. If claim is ever made upon the Guarantor for rescission, repayment, recovery or restoration of any amount or amounts received by the

Guarantor in payment or on account of any of the Obligations and the Guarantor repays all or part of said amount by reason of any judgment, decree or order of any court or administrative body having jurisdiction over the Guarantor or any of its property, then and in such event (A) the Company shall be and remain liable to the Guarantor hereunder for the amount so repaid or otherwise recovered or restored to the same extent as if such amount had never originally been received by the Guarantor, and (B) this Agreement shall continue to be effective or be reinstated, as the case may be, all as if such repayment or other recovery had not occurred.

(g) Entire Agreement. This Agreement constitutes and contains the entire agreement of the Company and the Guarantor with respect to the subject matter hereof and supersedes any and all prior agreements, negotiations, correspondence, understandings and communications among the parties, whether written or oral, respecting the subject matter hereof.

(h) Applicable Law; Jurisdiction; Etc.

(i) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA, WITHOUT REFERENCE TO CONFLICTS OF LAWS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

(ii) SUBMISSION TO JURISDICTION. THE COMPANY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER FINANCING DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER FINANCING DOCUMENT SHALL AFFECT ANY RIGHT THAT ANY PARTY HERETO MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER FINANCING DOCUMENT AGAINST ANY OTHER PARTY HERETO OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(iii) WAIVER OF VENUE. EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY

NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY COURT REFERRED TO IN SECTION 10(h)(ii). EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(iv) WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (i) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (ii) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER FINANCING DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10(h).

(i) Counterparts and Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The facsimile, email or other electronically delivered signatures of the parties shall be deemed to constitute original signatures, and facsimile or electronic copies hereof shall be deemed to constitute duplicate originals.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Amended and Restated Credit Support Agreement to be executed as of the day and year first written above.

SUNPOWER CORPORATION,
as the Company

By: /s/ Charles Boynton
Name: Charles Boynton
Title: Executive Vice President and Chief Financial Officer

TOTAL S.A.,
as the Guarantor

By: /s/ Patrick de La Chevardière
Name: Patrick de La Chevardière
Title: Chief Financial Officer

Exhibit A

Form of Guaranty

This **GUARANTY** (the "Guaranty"), dated _____, ___ is between Total S.A., a société anonyme organized under the laws of the Republic of France (the "Guarantor"), and **[BANK],** a _____, having its registered office at _____ (the "Bank").

RECITALS

A. SunPower Corporation (the "Obligor") wishes to enter into a Letter of Credit Facility Agreement (the "Contract") with the Bank, the form of which Contract has been provided to the Obligor and to the Guarantor.

B. It is a condition precedent to the Bank's extension of credit under the Contract that the Guarantor guarantee the payment to the Bank of the Obligor's payment obligations under the Contract with respect to the reimbursement of draws on letters of credit and interest thereon.

C. Guarantor owns a portion of the equity interest in the Obligor and will receive direct and indirect benefits from the Bank's performance of the Contract.

AGREEMENT

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties hereby agree as follows:

1. Guaranty. (a) Guarantor unconditionally guarantees and promises to pay to the Bank, in accordance with the payment instructions contained in the Contract, on demand after the default by the Obligor in the performance of its payment obligations under the Contract, in lawful money of the United States, any and all Obligations (as hereinafter defined) consisting of payments due to the Bank. For purposes of this Guaranty, the term "Obligations" means and includes the obligations of the Obligor to reimburse to the Bank the amount of any draw on any letter of credit issued pursuant to the Contract and all interest accrued on such reimbursement obligation from the date of such reimbursement until the date paid. For the avoidance of doubt, the term "Obligations" does not include fees, expenses or other amounts payable by the Obligor to the Bank.

(b) This Guaranty is absolute, unconditional, continuing and irrevocable, constitutes an independent guaranty of payment and is in no way conditioned on or contingent upon any attempt to enforce in whole or in part any of the Obligor's Obligations to the Bank, the existence or continuance of the Obligor as a legal entity, the consolidation or merger of the Obligor with or into any other entity, the sale, lease or disposition by the Obligor of all or substantially all of its assets to any other entity, or the bankruptcy or insolvency of the Obligor, the admission by the Obligor of its inability to pay its debts as they mature, or the making by the Obligor of a general assignment for the benefit of, or entering into a composition or arrangement with, creditors. If the Obligor fails to pay or perform any Obligations to the Bank that are subject to this Guaranty as and when they are due, the Guarantor shall forthwith pay to the Bank all such liabilities or obligations in immediately available funds. Each failure by the Obligor to pay any Obligations shall give rise to a separate cause of action, and separate suits may be brought hereunder as each cause of action arises.

(c) The Bank may, at any time and from time to time, without the consent of or notice to the Guarantor, except such notice as may be required by applicable statute that cannot be waived, without incurring responsibility to the Guarantor, and without impairing or releasing the obligations of the Guarantor hereunder, (i) exercise or refrain from exercising any rights against the Obligor or others (including the Guarantor) or otherwise act or refrain from acting, (ii) settle or compromise any Obligations hereby guaranteed and/or any other obligations and liabilities (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any obligations and liabilities which may be due to the Bank or others, and (iii) sell, exchange, release, surrender, realize upon or otherwise deal with in any manner or in any order any property pledged or mortgaged by anyone to secure or in any manner securing the Obligations hereby guaranteed.

(d) The Bank may not, without the prior written consent of the Guarantor, (i) change the manner, place and terms of payment or change or extend the time of payment of, renew, or alter any Obligation hereby guaranteed, or in any manner modify, amend or supplement the terms of the Contract or any documents, instruments or agreements executed in connection therewith, (ii) take and hold security or additional security for any or all of the obligations or liabilities covered by this Guaranty, or (iii) assign its rights and interests under this Guaranty, in whole or in part.

(e) No invalidity, irregularity or unenforceability of the Obligations hereby guaranteed shall affect, impair, or be a defense to this Guaranty. This is a continuing Guaranty for which Guarantor receives continuing consideration and all obligations to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon and this Guaranty is therefore irrevocable without the prior written consent of the Bank.

2. Representations and Warranties. The Guarantor represents and warrants to the Bank that (a) the Guarantor is a société anonyme duly organized, validly, existing and in good standing under the laws of its jurisdiction of incorporation or formation, (b) the execution, delivery and performance by the Guarantor of this Guaranty are within the power of the Guarantor and have been duly authorized by all necessary actions on the part of the Guarantor, (c) this Guaranty has been duly executed and delivered by the Guarantor and constitutes a legal, valid and binding obligation of the Guarantor, enforceable against it in accordance with its terms, except as limited by bankruptcy, insolvency or other laws of general application relating to or affecting the enforcement of creditors' rights generally, (d) the execution, delivery and performance of this Guaranty do not (i) violate any law, rule or regulation of any governmental authority, or (ii) result in the creation or imposition of any material lien, charge, security interest or encumbrance upon any property, asset or revenue of the Guarantor, (e) no consent, approval, order or authorization of, or registration, declaration or filing with, any governmental authority or other person (including, without limitation, the shareholders of the Guarantor) is required in connection with the execution, delivery and performance of this Guaranty, except such consents, approvals, orders, authorizations, registrations, declarations and filings that are so required and which have been obtained and are in full force and effect, (f) the Guarantor is not in violation of any law, rule or regulation other than those the consequences of which cannot reasonably be expected to have material adverse effect on the ability of the Guarantor to perform its obligations under this Guaranty, and (g) no litigation, investigation or proceeding of any court or other governmental tribunal is pending or, to the knowledge of the Guarantor, threatened against the

Guarantor which, if adversely determined, could reasonably be expected to have a material adverse effect on the ability of the Guarantor to perform its obligations under this Guaranty.

3. Waivers. (a) The Guarantor, to the extent permitted under applicable law, hereby waives any right to require Bank to (i) proceed against the Obligor or any other guarantor of the Obligor's obligations under the Contract, (ii) proceed against or exhaust any security received from the Obligor or any other guarantor of the Obligor's Obligations under the Contract, or (iii) pursue any other right or remedy in the Bank's power whatsoever.

(b) The Guarantor further waives, to the extent permitted by applicable law, (i) any defense resulting from the absence, impairment or loss of any right of reimbursement, subrogation, contribution or other right or remedy of the Guarantor against the Obligor, any other guarantor of the Obligations or any security, (ii) any setoff or counterclaim of the Obligor or any defense which results from any disability or other defense of the Obligor or the cessation or stay of enforcement from any cause whatsoever of the liability of the Obligor (including, without limitation, the lack of validity or enforceability of the Contract), (iii) any right to exoneration of sureties that would otherwise be applicable, (iv) any right of subrogation or reimbursement and, if there are any other guarantors of the Obligations, any right of contribution, and right to enforce any remedy that the Bank now has or may hereafter have against the Obligor, and any benefit of, and any right to participate in, any security now or hereafter received by Bank, (v) all presentments, demands for performance, notices of non-performance, notices delivered under the Contract, protests, notice of dishonor, and notices of acceptance of this Guaranty and of the existence, creation or incurring of new or additional Obligations and notices of any public or private foreclosure sale, (vi) the benefit of any statute of limitations, (vii) any appraisement, valuation, stay, extension, moratorium redemption or similar law or similar rights for marshalling, and (viii) any right to be informed by the Bank of the financial condition of the Obligor or any other guarantor of the Obligations or any change therein or any other circumstances bearing upon the risk of nonpayment or nonperformance of the Obligations. The Guarantor has the ability to and assumes the responsibility for keeping informed of the financial condition of the Obligor and any other guarantors of the Obligations and of other circumstances affecting such nonpayment and nonperformance risks.

4. Notice of Issuance of Letters of Credit and Draws Thereon; Block Notice.

(a) Notice of Issuance of Letter of Credit and Draws Thereon. Within ten (10) days after each issuance of a letter of credit under the Contract, the Bank will notify the Guarantor of (i) the amount of such letter of credit (including a copy thereof) and (ii) the aggregate amount of letters of credit that are outstanding under the Contract, after giving effect to such issuance. In addition the Bank will notify the Guarantor of any draw on any letter of credit (including the date and amount of such draw) issued pursuant to the Contract within two business days of such draw, even if such draw is reimbursed by the Obligor to the Bank prior to the delivery of such notice.

(b) Right of Guarantor to Block Issuances of Letters of Credit.

(i) Delivery of Block Notice. The Guarantor may (A) suspend the right of the Obligor to obtain additional issuances of letters of credit under the Contract that are subject to this Guaranty at any time following the occurrence and during the continuance of a Trigger Event (as defined in the Amended and Restated Credit Support Agreement, dated June 29, 2016, between the Obligor and the Guarantor) or (B) limit the aggregate undrawn amount of letters of credit that are subject to this Guaranty at any time following a reduction of the

Maximum L/C Amount or Available Facility Amount pursuant to such Credit Support Agreement, in each case by delivering to the Bank a written notice to such effect (a "Notice of Block"). Such Notice of Block shall be made and shall be deemed effective when properly given in the manner specified in Section 5(a) of this Guaranty. The Bank will have no duty to investigate or make any determination with respect to any Notice of Block received by it and will comply with any Notice of Block given by the Guarantor. The Bank may rely upon any instructions from any person that it reasonably believes to be an authorized representative of the Guarantor.

(ii) Compliance with Notice. From and after the date a Notice of Block is delivered to the Bank pursuant to and in accordance with the provisions of clause (i) above, and until either (A) the Guarantor delivers to the Bank a written notice rescinding such Notice of Block or (B) this Guaranty is terminated, no additional letters of credit may be issued by the Bank for the benefit of the Obligor pursuant to the Contract without the prior written consent of the Guarantor.

5. Miscellaneous.

Notices. All notices, requests, demands and other communications that are required or may be given under this Guaranty shall be in writing and shall be personally delivered or sent by certified or registered mail. If personally delivered, notices, requests, demands and other communications will be deemed to have been duly given at time of actual receipt. If delivered by certified or registered mail, deemed receipt will be at time evidenced by confirmation of receipt with return receipt requested. In each case notice shall be sent:

if to the Bank, to: _____

_____

_____

Attention: _____

if to the Guarantor, to: _____

_____

_____

Attention: _____

or to such other place and with such other copies as the Bank or the Guarantor may designate as to itself by written notice to the other pursuant to this Section 5(a).

(b) Nonwaiver. No failure or delay on the Bank's part in exercising any right hereunder shall operate as a waiver thereof or of any other right nor shall any single or partial exercise of any such right preclude any other further exercise thereof or of any other right.

(c) Amendments and Waivers. This Guaranty may not be amended or modified, nor may any of its terms be waived, except by written instruments signed by the Guarantor and the Bank. Each waiver or consent under any provision hereof shall be effective only in the specific instances for the purpose for which given.

(d) Assignments. This Guaranty shall be binding upon and inure to the benefit of the Bank and the Guarantor and their respective successors and permitted assigns. This Guaranty may not be assigned by the Guarantor without the express written approval of the Bank, which may not be unreasonably withheld, conditioned or delayed.

(e) Cumulative Rights, etc. The rights, powers and remedies of the Bank under this Guaranty shall be in addition to all rights, powers and remedies given to the Bank by virtue of any applicable law, rule or regulation, the Contract or any other agreement, all of which rights, powers, and remedies shall be cumulative and may be exercised successively or concurrently without impairing the Bank's rights hereunder.

(f) Partial Invalidity. If at any time any provision of this Guaranty is or becomes illegal, invalid or unenforceable in any respect under the law or any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Guaranty nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

(g) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA, WITHOUT REFERENCE TO CONFLICTS OF LAWS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

(h) JURISDICTION. EACH PARTY (A) IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF AND (B) WAIVES ANY OBJECTION WHICH SUCH PARTY MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY SUCH COURT.

(i) Jury Trial. EACH OF THE GUARANTOR AND THE BANK, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AS TO ANY ISSUE RELATING HERETO IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS GUARANTY.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Guaranty to be executed as of the day and year first written above.

TOTAL S.A.

By _____
Name:
Title:

[BANK]

By _____
Name:
Title:

Exhibit 10.63

Deutsche Bank 

For Bank Use Only For Committed Facility.
Insert Applicant Name:
SunPower Corporation

CONTINUING AGREEMENT FOR STANDBY LETTERS OF CREDIT AND DEMAND GUARANTEES

June 29, 2016
(*Date*)

Deutsche Bank AG New York Branch
and
Deutsche Bank Trust Company Americas
60 Wall Street
New York, New York 10005
Attention: _____

To induce each of you, during the Commitment Period (as defined below) and subject to the terms and conditions set forth herein, to issue one or more irrevocable letters of credit or demand guarantees at the request of Applicant (as defined below), in substantially such form as Applicant shall request, Applicant unconditionally and irrevocably agrees with you, including as to each Credit (as defined below), as follows:

1. ***Defined Terms***. As used in this agreement (as amended, supplemented or otherwise modified from time to time, including the application for the Credit, this "**Agreement**"), the following terms have the respective meanings specified below, unless the context requires otherwise:

"**Adherence Agreement**" means an agreement substantially in the form of Exhibit A hereto, pursuant to which Applicant may designate any of its subsidiaries as a Subsidiary Applicant in accordance with Section 4(g).

"**Applicant**" means the party signing below, and in the case of a request for issuance of a demand guarantee under the URDG includes such party in its role as the Instructing Party.

"**Base Rate**" means, for any day (or, if such day is not a Business Day, the immediately preceding Business Day), a rate per annum equal to the greater of (a) the Overnight Federal Funds Rate for such day plus 1/2 of 1% or (b) the Prime Lending Rate for such day.

"**Beneficiary**" means, at any time, the beneficiary(ies) of the Credit, including any second or substitute beneficiary(ies) or transferee(s) under a transferable Credit and any successor of a beneficiary by operation of law.

"**Board**" means the Board of Governors of the Federal Reserve System of the United States of America.

"**Business Day**" means any day that is not a Saturday, Sunday or other day on which commercial banks are authorized or required to close in New York City or at such other place where Issuer is obligated to honor a presentation or otherwise act under the Credit, this Agreement or any other Loan Document.

"**Change in Control**" means (a) the Parent has ceased to own at least 50.1% of the Voting Stock of the Applicant; and (b) in the case of a Subsidiary Applicant, (i) a sale (whether of stock or other assets), merger or other transaction or series of related transactions involving such Subsidiary Applicant, as a result of which those Persons who held 100% of the Voting Stock of such Subsidiary Applicant immediately prior to such transaction do not hold (either directly or indirectly) more than 50% of the Voting Stock of such Subsidiary Applicant (or the surviving or resulting entity thereof) after giving effect to such transaction, or (ii) the sale of all or substantially all of the assets of a Subsidiary Applicant in a transaction or series of related transactions.

"**Change in Law**" means (a) the adoption of any treaty, international agreement, law, rule or regulation after the date of this Agreement, (b) any change in any treaty, international agreement, law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by Issuer with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement.

"**Code**" means the Internal Revenue Code of 1986, as amended from time to time.

"**Commitment Period**" means the period from the Effective Date through and including the Final Termination Date.

"**counter-guarantee**" has the meaning assigned thereto under the URDG.

"**Credit**" means each letter of credit or demand guarantee referred to in the introductory paragraph hereof (including any bid bond, performance bond or similar undertaking issued or undertaken by Issuer), and includes any amendment or replacement thereof authorized by its terms or by consent of Applicant and, at Issuer's option, any pre-advice thereof.

"**Default**" means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

"**demand guarantee**" has the meaning assigned thereto under the URDG, and unless the context requires otherwise includes a counter-guarantee.

"**Deposits**" means any and all deposits (whether general or special, time or demand, provisional or final) at any time held, and any other indebtedness at any time owing, by Issuer or any of its affiliates to or for the credit or the account of Applicant, excluding any deposit where the account title expressly indicates that such deposit does not secure any Obligations or that Applicant is not holding such deposit for itself.

"**Dollars**" or "**$**" mean, at any time, the lawful currency of the United States of America.

"**Effective Date**" means the date on which the conditions specified in Section 2(a) are satisfied (or waived in accordance with Section 23).

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

"**ERISA Affiliate**" means any trade or business (whether or not incorporated) that, together with Applicant, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

"**ERISA Event**" means (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the existence with respect to any Plan of an "accumulated funding deficiency" (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(d) of the Code or Section 303(d) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by Applicant or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by Applicant or any ERISA Affiliate from the Pension Benefit Guaranty Corporation or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by Applicant or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; or (g) the receipt by Applicant or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from Applicant or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

"**Event of Default**" has the meaning provided in Section 17.

"**Exchange Act**" means the United States Securities Exchange Act of 1934.

"**Financial Credit**" means any Credit that is not a Performance Credit.

"**Final Termination Date**" has the meaning provided in Section 25(b).

"**Governmental Authority**" means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"**Indemnified Party**" means Issuer and each officer, director, affiliate, employee and agent thereof.

"**Instructing Party**" has the meaning assigned to such term under the URDG.

"**ISP**" means the International Standby Practices 1998, International Chamber of Commerce Publication No. 590.

"**Issuer**" means Deutsche Bank AG New York Branch and Deutsche Bank Trust Company Americas, including each as "guarantor" or "counter-guarantor," as applicable, within the meaning of the URDG, but with respect to any particular Credit, means whichever one of them issued such Credit.

"**Issuer's Office**" means Issuer's address for notices under this Agreement.

"**Letter of Credit Exposure**" means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Credits issued by Issuer hereunder at such time (including any pending drawings made prior to expiration and any scheduled increases in accordance with the terms of any Credit) plus (b) the aggregate amount of all payments made by Issuer pursuant to any such Credit issued hereunder that have not yet been reimbursed by or on behalf of Applicant at such time (including any and all acceptances and deferred payment undertakings incurred under any Credit providing for acceptances or deferred payment undertakings, as applicable).

"**Loan Documents**" means this Agreement, each request by Applicant for a Credit and each other instrument or agreement made or entered into by Applicant with Issuer in connection with the transactions contemplated hereby or thereby, and any supplements or amendments to or waivers of any of the foregoing executed and delivered from time to time.

"**Material Adverse Effect**" means a material adverse effect on (A) the business, financial condition, operations or properties of the Applicant and its subsidiaries, taken as a whole, (B) the ability of the Applicant to perform the obligations, taken as a whole, under this Agreement or the other Loan Documents, or (C) the validity or enforceability of this Agreement or any of the other Loan Documents.

"**Maximum Commitment Amount**" means, at any time of determination, $50,000,000 or if Applicant reduces the Maximum Commitment Amount in accordance with Section 25(a), such reduced amount.

"**Multiemployer Plan**" means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"**Notice of Termination**" means a notice substantially in the form of Exhibit B hereto, which Applicant may execute and deliver to Issuer in accordance with Section 4(g).

"**Obligations**" means all present and future obligations of Applicant under this Agreement or in respect of the Credits, whether absolute or contingent, joint, several or independent, including interest accruing at the rate provided in this Agreement on or after the commencement of any bankruptcy or insolvency proceeding, whether or not allowed or allowable.

"**Overnight Federal Funds Rate**" means, at any time, the rate per annum at which Issuer, in its sole discretion, can acquire Federal funds in the interbank overnight federal funds market including through brokers of recognized standing.

"**Performance Credit**" means a Credit used directly or indirectly to cover a default in the performance of any non-financial or commercial obligations of Applicant or any Subsidiary Account Party under specific contracts, and any Credit issued in favor of a bank or other surety who in connection therewith issues a demand guarantee or similar undertaking, performance bond, surety bond or other similar instrument that covers a default of any such performance obligations, that is classified as a performance standby Credit by the Board or by the Office of the Comptroller of the Currency of the United States.

"**Person**" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, government (including any subdivision, agency, court, central bank, or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government) or other entity.

"**Plan**" means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which Applicant or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"**Practices**" has the meaning provided in Section 26(b).

"**Prime Lending Rate**" means the rate of interest Issuer announces from time to time as Issuer's prime lending rate for unsecured commercial loans within the United States of America (but is not intended to be the lowest rate of interest Issuer charges in connection with extensions of credit to borrowers).

"**Scheduled Termination Date**" means the date two years from the Effective Date.

"**Solvent**" means, when used with respect to any Person, as of any date of determination, (a) the amount of the then "present fair saleable value" of the assets of such Person, as of such date, exceeds the amount of all "liabilities of such Person, contingent or otherwise", as of such date, as such quoted terms are determined in accordance with applicable requirements of law governing determinations of the insolvency of debtors, (b) the present fair saleable value of the assets of such Person, as of such date, is greater than the amount that will be required to pay the anticipated liability of such Person on its debts as such debts become absolute and matured, (c) such Person does not have, as of such date, an unreasonably small amount of capital with which to conduct its business, and (d) such Person is able to pay its debts as they mature. For purposes of this definition, (i) "debt" means liability on a "claim," and (ii) "claim" means any (x) right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured or (y) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured or unmatured, disputed, undisputed, secured or unsecured.

"**Subsidiary Account Party**" means any direct or indirect subsidiary of Applicant (a) listed on Schedule I hereto and approved as a Subsidiary Account Party hereunder by Issuer's signing Schedule I in its sole discretion or (b) that Applicant may from time to time list on a supplement to Schedule I with the written approval of Issuer in its sole discretion.

"**Subsidiary Applicant**" means (a) each direct or indirect subsidiary of Applicant that has executed and delivered this Agreement as a "Subsidiary Applicant" in the space provided below and (b) each other direct or indirect subsidiary of Applicant from time to time approved in writing by Issuer as a Subsidiary Applicant in accordance with Section 4(g), in each case other than any such subsidiary that has ceased to be a "Subsidiary Applicant" pursuant to Section 4(g).

"**Taxes**" means all present and future taxes, levies, imposts, deductions, charges, withholdings and related liabilities, excluding income and franchise taxes imposed by the jurisdiction of Issuer's head office or the office issuing the Credit or any of its political subdivisions.

"**UCC**" means the Uniform Commercial Code, as in effect from time to time in the applicable jurisdiction.

"**UCP**" means the Uniform Customs and Practice for Documentary Credits, 2007 Revision, International Chamber of Commerce Publication No. 600.

"**URDG**" means the Uniform Rules for Demand Guarantees, 2010 Revision, International Chamber of Commerce Publication No. 758.

"**Voting Stock**" means shares of capital stock issued by a corporation (or equivalent interests in any other Person), the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even if the right so to vote has been suspended by the happening of such a contingency.

"**Withdrawal Liability**" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

2. ***Conditions to Issuance; Interest on Deposited Amount; Issuance; Reimbursement***.

(a) Effective Date. Issuer's obligation to issue any Credit hereunder shall not become effective until the date when each of the following conditions is satisfied (or waived in accordance with Section 23):

(i) Issuer shall have received from each party hereto a counterpart of this Agreement signed on behalf of such party;

(ii) *[Reserved];*

(iii) *[Reserved];*

(iv) Issuer shall have received a favorable written opinion (addressed to Issuer and dated the Effective Date) from the counsel to Applicant, covering good standing, power and authority, due authorization, execution and delivery, enforceability, non-contravention, and perfection of security interests, such opinions to be rendered under both (i) New York State and United States Federal law and (ii) the jurisdiction of organization of the Applicant and covering such other matters relating to Applicant, its organizational documents, the Loan Documents, or the transactions contemplated hereby as Issuer shall reasonably request;

(v) Issuer shall have received all fees and other amounts due and payable on or prior to the Effective Date, and, to the extent invoiced, reimbursement or payment of all expenses required to be reimbursed or paid by Applicant hereunder or under another agreement;

(vi) Issuer shall have received such documents and certificates as Issuer or its counsel may reasonably request relating to the organization, existence and good standing of Applicant, the authorization of the transactions contemplated hereby, and any other matters relevant hereto, all in form and substance reasonably satisfactory to Issuer;

(vii) Applicant shall have received all consents and approvals (including, without limitation, under any applicable credit facility or indenture) required in connection with the execution and delivery by Applicant of the Loan Documents or in connection with the consummation of the transactions contemplated hereby and thereby, and Issuer, upon request, shall have received satisfactory evidence of the same; and

(viii) All other documents and legal matters in connection with the transactions contemplated by this Agreement shall have been delivered, executed, or recorded and shall be in form and substance satisfactory to Issuer.

(b) Each Credit Event. Issuer's obligation to issue, amend, renew or extend any Credit hereunder is subject to the satisfaction of the following conditions:

(i) Issuer shall have received a signed and completed application for such Credit substantially in the form attached hereto and otherwise in form and substance reasonably satisfactory to it;

(ii) *[Reserved];*

(iii) Such Credit, or proposed amendment, shall be in form and substance reasonably satisfactory to Issuer and, with respect to any issuance of a Credit, such Credit may include a statement to the effect that it is being issued to replace an existing letter of credit;

(iv) Issuer shall have received payment of all fees contemplated hereby in connection with any such issuance, amendment, renewal or extension;

(v) At the time of and immediately after giving effect to the issuance, amendment, renewal or extension of such Credit, the total Letter of Credit Exposure will not exceed the Maximum Commitment Amount;

(vi) No Default shall have occurred and be continuing immediately before or after giving effect to the issuance, amendment, renewal or extension of such Credit;

(vii) The representations and warranties of Applicant contained in this Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the date of issuance, amendment, renewal or extension of such Credit, both before and immediately after giving effect to the issuance, amendment, renewal or extension of such Credit, other than any such representation or warranty that, by its terms, refers to a specific date other than the date of such issuance, amendment, renewal or extension, in which case as of such specific date;

(viii) No Change in Law shall have occurred, no order, judgment or decree of any Governmental Authority shall have been issued, and no litigation shall be pending or threatened, which enjoins, prohibits or restrains (or with respect to any litigation seeks to enjoin, prohibit or restrain), the reimbursement of Issuer contemplated hereunder, the issuance of any Credit, or the consummation of any of the other transactions contemplated hereby or the use of proceeds of the Credit permitted hereunder;

(ix) *[Reserved];*

(x) Issuer, in its sole discretion, shall have determined that the issuance of such Credit does not negatively impact the group sustainability principles or reputation of the Issuer;

(xi) Issuer, in its sole discretion, shall have determined that the issuance of such Credit shall not cause any negative compliance implications or resulting sanctions to be brought upon Issuer;

(xii) Such Credit shall be issued during the Commitment Period; and

(xiii) After giving effect to the issuance, amendment, renewal or extension of such Credit, such Credit shall not have an expiration date occurring after the earlier of (A) one year after the date of such issuance, amendment, renewal or extension and (B) the Scheduled Termination Date, provided that any Credit with a one-year tenor may provide for the extension thereof for additional one-year periods (which shall in no event extend beyond the Scheduled Termination Date),

(c) *[Reserved].*

(d) Notwithstanding anything herein to the contrary, the obligation to issue Credits hereunder shall, subject to all terms and conditions herein, be solely that of Deutsche Bank AG New York Branch; provided that Deutsche

Bank Trust Company Americas may, with Applicant's consent, also issue Credits hereunder, and all terms and exculpations hereunder shall apply to Deutsche Bank Trust Company Americas in respect of any such Credit. Applicant will reimburse Issuer the amount of each payment Issuer makes under the Credit within five (5) Business Days of the date Issuer notifies Applicant of such payment; provided that if the Credit provides for acceptance of a time draft or incurrence of a deferred payment obligation, and if Issuer notifies Applicant of such acceptance or incurrence at least one Business Day in advance of its maturity, reimbursement shall be due sufficiently in advance of its maturity to enable Issuer to arrange for its cover in same day funds to reach the place where it is payable no later than the date of its maturity. Each reimbursement shall be without prejudice to Applicant's rights under Section 8(b).

3. ***Fees, Costs and Expenses***.

Applicant will pay to Issuer (a) fees in respect of the Maximum Commitment Amount and the Credit at such rates and times as Applicant and Issuer agree in writing (including, if applicable, issuance fees, maintenance fees, amendment fees, drawing fees, transfer fees, and assignment of proceeds fees), and (b) all reasonable out-of-pocket costs and expenses (including reasonable and documented attorney's fees and disbursements) that Issuer incurs in connection with the Credit, this Agreement or any other Loan Document, including (i) in enforcing this Agreement or any other Loan Document, (ii) all reasonable costs and expenses in complying with any governmental exchange, currency control or other law, rule or regulation of any country now or hereafter applicable to the purchase or sale of, or dealings in, foreign currency in connection with the Credit, this Agreement or any other Loan Document, (iii) any stamp tax, recording tax, or similar tax or fee payable in connection with the Credit, this Agreement or any other Loan Document, and (iv) any adviser's, confirmer's, or other nominated person's fees and expenses with respect to the Credit that are chargeable to Applicant or Issuer (if the application for the Credit requested or authorized such advice, confirmation or other nomination, as applicable).

4. ***Payments; Currency; Interest; Computations; Designation of Subsidiary Applicants***

(a) All amounts due from Applicant under this Agreement shall be paid to Issuer at Issuer's Office without defense, setoff, or counterclaim, in Dollars and in immediately available funds; provided that if the amount due is based upon Issuer's payment in a currency other than Dollars, Applicant will pay the equivalent of such amount in Dollars computed at Issuer's selling rate for cable transfers to the place where and in the currency in which Issuer paid, or, at Issuer's option, Applicant will pay in such other currency, place, and manner as Issuer reasonably specifies in writing. Applicant's obligation to make payments in any currency (the "**Specified Currency**") shall not be discharged or satisfied by any tender, or any recovery pursuant to any judgment or otherwise, which is expressed in or converted into any currency other than the Specified Currency, except to the extent that such tender or recovery results in the actual receipt by Issuer at Issuer's Office of the full amount of the Specified Currency payable under this Agreement. Applicant shall indemnify Issuer for any shortfall and Applicant's obligation to make payments in the Specified Currency shall be enforceable as an alternative or additional cause of action to the extent that such actual receipt is less than the full amount of the Specified Currency expressed to be payable hereunder, and shall not be affected by judgment being obtained for other sums due hereunder.

(b) If Applicant fails to fully reimburse Issuer on the date of any payment under the Credit, then Applicant will pay interest to Issuer on such unreimbursed amount at a variable interest rate equal to (i) until the date reimbursement is due under Section 2(d), the Base Rate, and (ii) thereafter, the rate provided in the following sentence. Without limiting Applicant's obligation to make all payments hereunder when due, Applicant will pay to Issuer, on demand, interest on all overdue amounts hereunder from the due date through the payment date at a variable interest rate equal to the sum of two percent (2%) per annum plus the Base Rate from time to time. Any change in the interest rate resulting from a change in the Base Rate shall take effect on the date of such change in the Base Rate. If any payment shall be due on a day that is not a Business Day, such payment shall be made on the next Business Day and interest shall be paid for each additional day elapsed.

(c) Each Credit shall be denominated in Dollars or another currency that Issuer has determined is available to it in the place where payment is supposed to be made and is readily exchangeable to and from Dollars.

(d) All computations of interest under this Agreement shall be based on a 365-day or, if applicable, 366-day year for the actual number of days elapsed. All computations of fees under this Agreement shall be based on a 360-day year for the actual number of days elapsed. All computations of fees based upon the available or face amount of the Credit at any time shall be calculated by reference to the greatest amount for which Issuer may be contingently liable under any circumstances under the Credit at such time or thereafter, giving effect to any scheduled increases in accordance with the terms of the Credit.

(e) Issuer shall make the determination as to whether a Credit is a Performance Credit or a Financial Credit, and each such determination by Issuer shall be conclusive absent manifest error.

(f) Any application that Applicant may make for the issuance of a Credit may be made by any Subsidiary Applicant for the account of such Subsidiary Applicant, and thereafter such Subsidiary Applicant may also make any application for the extension of the term or increase in the amount of such Credit or any other amendment thereto or waiver of discrepancies thereunder. Applicant and the applicable Subsidiary Applicant shall be jointly and severally liable to Issuer for all the reimbursement, indemnification and other obligations, representations, warranties and other agreements of Applicant under this Agreement in respect of any Credit requested by such Subsidiary Applicant. Applicant and the applicable Subsidiary Applicant represent and warrant that at the time of issuance of any Credit for the account of such Subsidiary Applicant (or of any increase or extension thereof), such Subsidiary Applicant is a direct or indirect majority-owned subsidiary of Applicant.

(g) Subject to Issuer's written consent in its sole discretion, Applicant from time to time may designate any direct or indirect majority-owned subsidiary of Applicant as a Subsidiary Applicant by (i) delivering to Issuer an Adherence Agreement executed by such proposed Subsidiary Applicant and countersigned by Applicant and Issuer, (ii) taking such further actions as Issuer may reasonably request, including executing and delivering other instruments, documents, and agreements corresponding to those obtained in respect of Applicant, all in form and substance reasonably satisfactory to Issuer, and (iii) providing Issuer with a reasonable opportunity to perform any due diligence concerning such proposed Subsidiary Applicant, including any new customer intake procedures imposed by applicable law or regulation or by internal policy of Issuer (such as OFAC and "know your customer" checks and obtaining evidence of corporate organization and existence and due authorization and incumbency of signatories). Upon such delivery and the taking of such further actions, such subsidiary shall for all purposes of this Agreement be a Subsidiary Applicant hereunder and a party to this Agreement, until Applicant shall have executed and delivered to Issuer a Notice of Termination in respect of such subsidiary, whereupon such subsidiary shall cease to be a Subsidiary Applicant. Notwithstanding the preceding sentence, no such Notice of Termination will become effective as to any Subsidiary Applicant at a time when any Obligations of such Subsidiary Applicant shall be outstanding hereunder or any Credit issued at the request of such Subsidiary Applicant shall be outstanding; provided that such Notice of Termination shall be effective to terminate such Subsidiary Applicant's right to request the issuance of any new Credits hereunder or any increase in the amount of any other Credit.

5. ***Capital Adequacy; Additional Costs*****.** If Issuer determines that a Change in Law affects the amount of capital, insurance or reserves (including special deposits, deposit insurance or similar requirements) to be maintained by Issuer or any corporation controlling Issuer, or otherwise increases the costs of, or reduces the amount received or receivable by, Issuer or any corporation controlling Issuer, and Issuer determines that the amount of such capital, insurance or reserve or other increased cost or reduction, as the case may be, is increased or reduced by or based upon the existence of the Credit, this Agreement or any other Loan Document, then Applicant shall pay to Issuer, within 15 Business Days after demand from time to time, such additional amounts as Issuer may demand to compensate for the increase or reduction, as the case may be; provided that such demand shall include a statement of the basis for such demand and a calculation in reasonable detail of the amount demanded and Issuer computes all amounts due under this paragraph on a reasonable basis.

6. ***Taxes*****.** All payments to Issuer hereunder shall be made free and clear of and without deduction for any Taxes. If any Taxes shall be required to be deducted from any sum payable under this Agreement, then: (a) the sum payable under this Agreement shall be increased so that after making all required deductions Issuer receives an amount equal to the sum Issuer would have received had no such deductions been required; (b) Applicant shall be responsible for payment of the amount to the relevant taxing authority; (c) Applicant shall indemnify Issuer for any such Taxes imposed on or paid by Issuer and any liability (including penalties, interest and expenses) arising from its payment or in respect of such Taxes within thirty days from the date Issuer makes written demand therefor; and (d) Upon request, Applicant shall provide to Issuer within thirty days of any payment to a taxing authority the original or a certified copy of the receipt evidencing each Tax payment.

7. ***Indemnification*****.** Applicant will indemnify and hold harmless each Indemnified Party from and against any and all claims, liabilities, losses, damages, costs and expenses (including reasonable attorney's fees and disbursements) that arise out of or in connection with: (a) the Credit, any demand for payment, other presentation or request under the Credit, or the transaction(s) supported by the Credit, (b) any payment or other action taken or omitted to be taken in connection with the Credit, this Agreement or any other Loan Document, (c) the enforcement of this Agreement or any other Loan Document or any rights or remedies under or in connection with the Credit, (d) any act or omission, whether rightful or wrongful, of any present or future de jure or de facto government or Governmental Authority with respect to the Credit, this Agreement or any other Loan Document or any other cause beyond Issuer's control, or (e) any indemnity or other undertaking that Applicant requests or authorizes Issuer to issue to induce any other financial institution (including any branch or affiliate of Issuer) to issue its own letter of credit, demand guarantee, or other undertaking in connection with any Credit, except in each case to the extent such liability, loss, damage, cost or expense is found in a final, non-appealable

judgment by a court of competent jurisdiction to have resulted directly from such Indemnified Party's gross negligence or willful misconduct. Applicant will pay within fifteen Business Days after demand from time to time all amounts owing under this Section.

8. ***Obligations Absolute; Claims Against Issuer; Exculpations; Limitations of Liability.***

(a) Applicant's Obligations shall be absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement, irrespective of: (i) if any other Person shall at any time have guaranteed or otherwise agreed to be liable for any of the Obligations or granted any security therefor, any change in the time, manner or place of payment of or any other term of the obligations of such other Person, (ii) any exchange, change, waiver or release of any collateral for, or any other Person's guarantee of or other liability for, any of the Obligations, (iii) the existence of any claim, setoff, defense or other right that Applicant or any other Person may at any time have against any Beneficiary, any assignee of proceeds of the Credit, Issuer or any other Person, (iv) any presentation under the Credit being forged or fraudulent or any statement therein being untrue or inaccurate, or (v) any other circumstance that might, but for the provisions of this Section, constitute a legal or equitable discharge of or defense to any or all of the Obligations.

(b) The foregoing shall not excuse Issuer from liability to Applicant in any independent action or proceeding that is brought by Applicant against Issuer following reimbursement by Applicant to Issuer to the extent of any direct damages suffered by Applicant that were caused by Issuer's gross negligence or willful misconduct; provided that (i) Issuer shall be deemed to have acted with reasonable care if it acts in accordance with standard letter of credit practice or standard demand guarantee practice, as applicable, of commercial banks located in New York City; and (ii) Applicant's aggregate remedies against Issuer for wrongfully honoring a presentation or wrongfully retaining honored documents shall not exceed the aggregate amount paid by Applicant to Issuer with respect to the honored presentation, plus interest.

(c) Without limiting any other provision of this Agreement, Issuer: (i) may rely upon any oral, telephonic, facsimile, electronic, written or other communication reasonably believed to have been authorized by Applicant, (ii) shall not be responsible for errors, omissions, interruptions or delays in transmission or delivery of any message, advice or document in connection with the Credit, whether transmitted by courier, mail, telex, any other telecommunication, or otherwise (whether or not they be encrypted), or for errors in interpretation of technical terms or in translation (and Issuer may transmit Credit terms without translating them), (iii) may honor any presentation under the Credit that appears on its face to substantially comply with the terms and conditions of the Credit, (iv) may honor a demand for payment under a demand guarantee or counter-guarantee that is issued subject to the URDG even where (A) in the case of a demand guarantee other than a counter-guarantee, such demand for payment is not supported by a statement indicating in what respect Applicant is in breach of its obligations under any underlying agreement or transaction, unless the demand guarantee expressly requires presentation of such supporting statement and regardless of whether such demand guarantee expressly excludes any requirement for such a supporting statement or (B) in the case of a counter-guarantee, such demand is not supported by a statement by the party to whom such counter-guarantee was issued indicating that such party has received a complying demand under the demand guarantee or counter-guarantee issued by such party, unless the counter-guarantee expressly requires presentation of such supporting statement and regardless of whether the related counter-guarantee expressly excludes the requirement for such a supporting statement, (v) in the case of a demand for payment under a demand guarantee that is issued subject to the URDG, shall be deemed (A) to have timely paid if it pays within one Business Day after determining that such demand is complying or (B) to have timely refused to pay if it gives notice of rejection of such demand not later than the close of the fifth Business Day following the day of presentation of such demand, (vi) may replace a purportedly lost, stolen or destroyed original Credit, waive a requirement for its presentation, or provide a replacement copy to any Beneficiary, (vii) if no form of draft is attached as an exhibit to the Credit, may accept as a draft any written or electronic demand or request for payment under the Credit, and may disregard any requirement that such draft bear any particular reference to the Credit, (viii) unless the Credit specifies the means of payment, may make any payment under the Credit by any means it chooses, including by wire transfer of immediately available funds, (ix) may select any branch or affiliate of Issuer or any other bank to act as advising, transferring, confirming and/or nominated bank under the law and practice of the place where it is located (if the application for the Credit requested or authorized advice, transfer, confirmation and/or nomination, as applicable), (x) may amend the Credit to reflect any change of address or other contact information of any Beneficiary, (xi) shall not be obligated to examine, and may disregard for purposes of determining compliance of any presentation with the terms and conditions of the Credit, (A) any presented document not called for by the terms and conditions of the Credit and (B) that portion, if any, of any presented document called for by the terms and conditions of the Credit that contains data not called for by the terms and conditions of the Credit regardless of whether such data conflicts with data in the Credit or any other presented document, (xii) in the case of a demand guarantee that is issued subject to the URDG, shall be deemed to have timely informed the Instructing Party of any demand for payment thereunder and of any request, as an alternative, to extend the expiry of such demand guarantee if it so informs the Instructing Party within three Business Days following the Business Day upon which Issuer receives such demand or request, and (xiii) shall not be responsible for any other action or inaction taken or suffered by Issuer under or in

connection with the Credit, if required or permitted under any applicable domestic or foreign law or letter of credit or demand guarantee practice. None of the circumstances described in this Section 8(c) shall impair Issuer's rights and remedies against Applicant or place Issuer under any liability to Applicant.

(d) Applicant will notify Issuer in writing of any objection Applicant may have to Issuer's issuance or amendment of the Credit, Issuer's honor or dishonor of any presentation under the Credit, or any other action or inaction taken by Issuer under or in connection with the Credit, this Agreement or any other Loan Document. Applicant's notice of objection must be delivered to Issuer within 15 Business Days after Applicant receives notice of the action or inaction it objects to. Applicant's failure to give notice of objection within such period shall automatically waive Applicant's objection. Applicant's acceptance or retention beyond such period of any original documents presented under the Credit, or of any property for which title is conveyed by such documents, shall ratify Issuer's honor of the applicable presentation(s).

(e) Issuer shall not be liable in contract, tort, or otherwise for any punitive, exemplary, consequential, indirect or special damages (including for any consequences of forgery or fraud by any Beneficiary or any other Person).

9. ***Applicant Responsibility, Etc.*** Applicant's ultimate responsibility for the final text of the Credit shall not be affected by any assistance Issuer may provide such as drafting or recommending text. Issuer may, without incurring any liability to Applicant or impairing its entitlement to payment under this Agreement, honor the Credit despite notice from Applicant of, and without any duty to inquire into, any purported defense to honor or any claim against any Beneficiary or any other Person. Issuer shall have no duty to seek any waiver of discrepancies from Applicant, nor any duty to grant any waiver of discrepancies which Applicant approves or requests.

10. ***Transfers.*** If the Credit is issued in transferable form, Issuer shall have no duty to determine the identity of anyone appearing in any transfer request, draft or other document as transferee, or the validity or correctness of any transfer made pursuant to documents that appear on their face to be substantially in accordance with the terms and conditions of the Credit.

11. ***Extensions and Modifications; Waivers of Discrepancies.*** This Agreement shall be binding upon Applicant with respect to any replacement, extension or modification of the Credit or waiver of discrepancies authorized by Applicant. Except as may be provided in the Credit or otherwise agreed to in writing by Issuer in its sole discretion, Issuer shall have no duty to (a) issue or refrain from issuing notice of (i) its election not to extend the Credit, (ii) if the Credit by its terms permits it to do so, its election to terminate the Credit prior to its stated expiration date, or (iii) if the Credit by its terms permits it to do so, its election not to reinstate the amount of any drawing under the Credit or (b) otherwise amend or modify the Credit.

12. ***[Reserved].***

13. ***Additional Bond or Collateral.***

If Applicant or any other Person seeks to restrain any presentation under or honor of the Credit or takes any other action that has a similar effect or if any court shall do any of the foregoing or extend the term of the Credit, then, in each case, Applicant shall, at Issuer's request, provide Issuer with a bond or other collateral of a type and value reasonably satisfactory to Issuer as security for the Obligations.

14. ***[Reserved]***.

15. ***Covenants of Applicant.***

(a) Affirmative Covenants. Applicant will (i) comply, and cause each of its subsidiaries (to the extent such subsidiaries are deemed Subsidiary Applicants hereunder) to comply, with all applicable laws, rules and regulations now or hereafter applicable to Applicant, its properties, the Credit or transactions related to the Credit, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect, (ii) deliver to Issuer, upon request from time to time, reasonably satisfactory evidence of compliance with this Agreement and the other Loan Documents and, unless Applicant timely files (without giving effect to any extension), regular annual and quarterly financial statements with the U.S. Securities and Exchange Commission (or any successor thereto) pursuant to the Exchange Act, financial statements and such other information concerning Applicant's financial condition, business and prospects as Issuer may reasonably request, (iii) keep, and will cause each of its subsidiaries (to the extent such subsidiaries are deemed Subsidiary Applicants hereunder) to keep, adequate books of record and account; and will permit representatives of Issuer to visit and inspect (on one Business Day's notice) any of its properties, to examine and make abstracts from any of its books and records and to discuss its affairs, finances and accounts with its officers, employees and independent public accountants, all during normal business hours and as often as reasonably requested, (iv) promptly upon obtaining knowledge of the occurrence of any Default, notify Issuer thereof in writing, specifying the nature thereof and

the action Applicant proposes to take with respect thereto, (v) provide Issuer not less than 30 days' prior written notice of any change in Applicant's legal name, Federal tax identification number (if applicable), state or type of organization or any organization number, (vi) pay and discharge, and cause each of its subsidiaries to pay and discharge, before the same shall become delinquent, all of its respective material obligations and liabilities, including any obligation pursuant to any agreement by which it or any of its properties is bound and any tax liabilities, except where (A) the validity or amount thereof is being contested in good faith by appropriate proceedings diligently pursued, (B) Applicant or such subsidiary (to the extent such subsidiary is deemed a Subsidiary Applicant hereunder) has set aside on its books adequate reserves with respect thereto in accordance with generally accepted accounting principles, consistently applied, and (C) the failure to make such payment pending such contest could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (vii) keep and maintain, and cause each of its subsidiaries (to the extent such subsidiaries are deemed Subsidiary Applicants hereunder) to keep and maintain, all property useful and necessary in its business in good working order and condition, ordinary wear and tear excepted, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, (viii) maintain, and cause each of its subsidiaries to maintain, with financially sound and reputable insurers, insurance in such amounts and against such risks as are customarily maintained by similarly situated companies under similar circumstances, (ix) engage only in business of the type contemplated by its organizational documents as in effect on the Effective Date, (x) do or cause to be done, and cause each of its subsidiaries to do or cause to be done, all things necessary to preserve and keep in full force and effect its legal existence and the rights, licenses, permits, privileges, authorizations, qualifications and accreditations material to the conduct of its business, in each case if the failure to do so, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect, (xi) use all proceeds, if any, of the Credits for working capital and general purposes of Applicant, in accordance with Applicant's organizational documents and this Agreement; and (xii) maintain each Plan in compliance in all material respects with the applicable provisions of ERISA, the Code and other federal or state law.

(b) Negative Covenants. Applicant will not enter into any material agreement that would be violated or breached by the performance of any Obligations where such violation or breach would result in a Material Adverse Effect.

16. ***Representations and Warranties; Subsidiary Account Parties*.**

(a) Applicant represents and warrants as of the date of this Agreement and also as of the date of issuance of each Credit (or of any increase or extension thereof) that: (i) it is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization with the power and authority to carry on its business; (ii) its execution, delivery and performance of this Agreement, the other Loan Documents and any underlying agreement or transaction, (A) are within its powers, (B) have been duly authorized, (C) do not contravene any charter provision, by-law, resolution, contract or other undertaking binding on it or any of its properties, which could reasonably be expected to have a Material Adverse Effect, (D) do not violate any domestic or foreign law, rule or regulation, or any order, writ, judgment, decree, award or permit of any arbitration tribunal, court or other Governmental Authority applicable to it or any of its properties, which, could reasonably be expected to have a Material Adverse Effect, and (E) do not require any notice, filing or other action to or by any Governmental Authority (other than those that have been made or obtained and are in full force and effect); (iii) each of this Agreement and the other Loan Documents is its legal, valid and binding obligation, enforceable against it in accordance with its terms; (iv) the consolidated balance sheet and statements of income, shareholders' equity and cash flows as of and for the fiscal year ended January 3, 2016 for the Applicant present fairly, in all material respects, the financial condition and results of operations and cash flows of the Applicant and its consolidated subsidiaries as of such date and for such periods, in accordance with generally accepted accounting principles, consistently applied; (v) except as disclosed in the Applicant's filings with the SEC, there is no pending or threatened action or investigation which could reasonably be expected to have a Material Adverse Effect or which purports to affect the validity or enforceability of this Agreement, the other Loan Documents or any other agreement supporting or securing the Credit, this Agreement, the other Loan Documents or any transaction related to the Credit; (vi) neither its granting of any collateral security for the Obligations, nor Issuer's issuance of the Credit (or any increase or extension thereof), nor the making of any payment thereunder or the use of any proceeds thereof, constitutes or will constitute, or be part of, a fraudulent transfer or conveyance by Applicant to anyone (including Issuer and any Beneficiary) under any applicable law, or exceed (alone or together with any other payments or credit support for any transaction(s) supported by the Credit) the maximum amount that would be allowed for any claim against Applicant under any applicable subsection of United States Bankruptcy Code Section 502(b) if Applicant were the subject of any proceeding thereunder; (vii) it is not an investment company within the meaning of the Investment Company Act of 1940 or, directly or indirectly, controlled by or acting on behalf of any party which is such an investment company; (viii) immediately after giving effect to the issuance of the Credit (or any increase or extension thereof), no Default has occurred and is continuing; (ix) *[Reserved]*; (x) *[Reserved]*; (xi) no other information furnished by it to Issuer is or shall be materially false or misleading when furnished, provided that, with respect to projected financial information, Applicant represents only that such information was prepared in good faith based upon

assumptions believed to be reasonable at the time and Issuer recognizes and acknowledges that such projected financial information is not to be viewed as facts and that actual results during the period or periods covered by such projections may differ from the projected results and such differences may be material; (xii) on the Effective Date and the date of the issuance, amendment, renewal or extension of each Credit, after giving effect to the transactions contemplated by the Loan Documents occurring on such date, Applicant will be Solvent; (xiii) neither Applicant nor any subsidiary thereof is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any margin stock (within the meaning of Regulation U of the Board), and neither the issuance, amendment, renewal or extension of any Credit nor the use of the proceeds thereof will violate or be inconsistent with the provisions of Regulations T, U or X of the Board; (xiv); its execution, delivery and performance hereof constitute private rather than public or government acts; and neither it nor any of its property has any immunity from jurisdiction of any court or from set-off or any legal process under the laws of the State of New York or the laws of its jurisdiction of organization; and (xv) as of the date hereof, no ERISA Event has occurred.

(b) Without limiting any Obligations of Applicant hereunder, Applicant represents, warrants and agrees as to any Credit issued to support obligations of a Subsidiary Account Party that: (i) Applicant is duly authorized to act for and bind such Subsidiary Account Party with respect to such Credit and this Agreement; (ii) such Subsidiary Account Party shall be jointly and severally liable with Applicant for the reimbursement, indemnification and other obligations, representations, warranties and agreements of Applicant hereunder in respect of such Credit, but not for the reimbursement, indemnification or other obligations, representations, warranties or agreements of Applicant hereunder in respect of any Credit not issued to support obligations of such Subsidiary Account Party; (iii) such Subsidiary Account Party has consented to its being referred to as the "applicant", "account party", "client", "customer" or "instructing party" at whose request or on whose behalf or for whose account such Credit is issued; (iv) such Subsidiary Account Party has consented to its not having any rights under this Agreement (including any right to request that Issuer issue or amend such Credit or that Issuer dispose of any documents presented under such Credit (or any goods represented thereby) in any particular manner) and to Issuer's treating Applicant as the sole Person entitled to exercise such rights with respect to such Credit; (v) such Subsidiary Account Party is a direct or indirect majority-owned subsidiary of Applicant at the time of issuance of such Credit (or of any increase or extension thereof); (vi) such Subsidiary Account Party is bound by all the limitations of liability and exculpations in Issuer's favor contained herein and subject to all the rights and remedies in Issuer's favor referred to herein as if it were Applicant; and (vii) Issuer shall not be required to send any notice hereunder to such Subsidiary Account Party, but if Issuer in its sole discretion chooses to do so, Issuer may send such notice as provided herein care of Applicant and such notice shall be effective as if given to such Subsidiary Account Party.

17. ***Events of Default.*** Each of the following shall be an "**Event of Default**" hereunder: (a) other than as a result of administrative or technical error and so long as such error is corrected within three Business Days of notification to Applicant of such error, Applicant's failure to pay any reimbursement Obligation in respect of any drawing under any Credit within five Business Days after the same becomes due, (b) Applicant's failure to pay any other Obligation within 10 Business Days after the date when due, (c) Applicant's failure to perform or observe any term or covenant of this Agreement or any other Loan Document (not otherwise an Event of Default) for more than 30 days after Issuer notifies Applicant in writing of such failure, except where such default cannot be reasonably cured within 30 days but can be cured within 60 days, Applicant has (A) during such 30-day period commenced and is diligently proceeding to cure the same and (B) such default is cured within 60 days after the earlier of becoming aware of such failure and receipt of notice to Applicant from Issuer specifying such failure, (d) Applicant's breach in any material respect of any representation or warranty made in this Agreement, any other Loan Document or any document delivered by Applicant under or in connection with this Agreement, and such inaccuracy is not remedied within 30 days after receipt of notice to Applicant from Issuer specifying such inaccuracy, (e) (i) Applicant's failure to pay when due (whether at scheduled maturity, upon acceleration, or otherwise) and beyond the applicable grace period, any payment in respect of any indebtedness or other obligation (other than the Obligations) of Applicant to Issuer or another having an aggregate principal amount greater than $50,000,000 (or the equivalent in any foreign currency), or (ii) the acceleration of the final stated maturity of such indebtedness or other obligation, (f) Applicant's repudiation of, or assertion of the unenforceability of, this Agreement, any other Loan Document or any separate security agreement or other agreement or undertaking supporting this Agreement, or any court or other Governmental Authority shall issue any order, ruling or determination that this Agreement, any other Loan Document or such other agreement or undertaking is not in full force and effect, (g) Applicant's dissolution or termination, (h) Applicant's (i) merger or consolidation with any third party unless Applicant is the survivor, (ii) sale, lease or other conveyance of all or substantially all of its assets or business or (iii) agreement to do any of the foregoing, (i) institution by Applicant of any proceeding under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or seeking or consenting to the appointment of a liquidator, conservator, custodian, receiver, rehabilitator, trustee or other similar official for Applicant or for any substantial part of its property, or consent by Applicant to the institution of, or failure to contest in a timely and appropriate manner, any proceeding described in Section 17(j), or filing by Applicant of an answer admitting the material allegations of a petition filed against it in any proceeding described in

Section 17(j), or Applicant shall take any action for the purpose of effecting any of the foregoing, (j) institution against Applicant of any proceeding under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or seeking the appointment of a liquidator, conservator, custodian, receiver, rehabilitator, trustee or other similar official for Applicant or for any substantial part of its property, and any such proceeding or case shall be unstayed and in effect for more than 90 days, or an order for relief shall be entered therein, (k) Applicant's making an assignment for the benefit of creditors, (l) Applicant's insolvency or inability generally to pay its debts as they become due, (m) any actual seizure, vesting or intervention by or under authority of a government by which Applicant's management is displaced or its authority or control of its business is curtailed, (n) entry of one or more final judgments having an aggregate amount greater than $50,000,000 (or the equivalent in any foreign currency) against Applicant which remains unstayed and unsatisfied for more than 30 days, (o) [*Reserved*], (p) any Change in Control, (q) an ERISA Event occurs which results in the imposition or granting of security, or the incurring of a liability that individually or in the aggregate has or would have a Material Adverse Effect; (r) any event, act or condition occurs and is continuing on or after giving effect to the issuance, amendment, renewal or extension of the Credit which has had or will have a Material Adverse Effect, or (s) the occurrence of any of the above events with respect to any Person (including any Subsidiary Account Party) other than Applicant that is liable for or has guaranteed or provided any collateral security for any Obligations.

18. ***Remedies*.** If any Event of Default shall have occurred and be continuing, Issuer may take any one or more of the following actions: (a) declare the amount of the Credit and any other Obligations then outstanding or accrued due and payable by Applicant immediately (provided that if the Event of Default is described in Section 17(i), (j) or (k), then such amount of the Credit and all other Obligations then outstanding or accrued shall become due and payable immediately and automatically), in which case Applicant shall pay such amount to Issuer to be applied to pay any matured Obligations and held as cash collateral in a non-interest bearing account for any contingent Obligations, (b) require Applicant to (and Applicant agrees that it shall) use its best efforts to cause Issuer to be promptly released from all its obligations under the Credit, (c) by notice to Applicant, declare the obligation of Issuer to issue (or extend, increase or otherwise amend) Credits to be terminated, whereupon the same shall forthwith terminate, and (d) exercise any and all other rights and remedies available at law, in equity, or otherwise to secure, collect, enforce or satisfy the Obligations.

19. ***Set-off*.** To the fullest extent permitted by law, if any Event of Default shall have occurred and be continuing, Issuer may set off and apply any and all Deposits against any and all of the Obligations, irrespective of whether such Deposits or Obligations may be unmatured or contingent or payable at different places or in different currencies. Issuer shall promptly thereafter notify Applicant of any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff or application.

20. ***Waiver of Immunity*.** Applicant acknowledges that this Agreement is, and the Credit will be, entered into for commercial purposes of Applicant. To the extent that Applicant or any of its assets has or hereafter acquires any right of sovereign or other immunity from or in respect of any legal proceedings to enforce or collect upon any Obligation or any other agreement relating to the transactions contemplated herein, Applicant hereby irrevocably waives any such immunity and agrees not to assert any such right or claim in any such proceeding.

21. ***Notices; Multiple Applicants; Applicant Status; Interpretation; Severability; Multiple Roles*.**

(a) All notices and other communications under this Agreement shall be sent, if to Applicant or a Subsidiary Applicant that is a party to this Agreement on the date hereof, to its address or fax number indicated on its signature page to this Agreement, if to any Subsidiary Applicant that after the date hereof becomes a party to this Agreement, at its address specified in the Adherence Agreement pursuant to which it became a Subsidiary Applicant, and, if to Issuer, to its address shown above, Attention: Letter of Credit Department, or by fax to (212) 797-0780, or as to any of the foregoing, to such other address or fax number as it may notify to the other parties hereto in writing. No such notice shall be effective until actually received by Issuer's Letter of Credit Department or by Applicant or Subsidiary Applicant, as applicable, unless the intended recipient fails to maintain, or fails to notify, the other parties of any relevant change of its name, address or number(s), in which case such notice shall be effective when sent in accordance with this Agreement. Notices and other communications hereunder, including a signed application for a Credit, may also be delivered or furnished by other methods of electronic communications such as email; provided that, unless otherwise agreed in writing by Applicant, Subsidiary Applicants, if any, and Issuer, the recipient thereof shall have the option in its sole discretion whether or not to treat it as received and effective under this Agreement.

(b) If this Agreement is signed by two or more Persons as "Applicants", (i) each shall be deemed an "Applicant" hereunder and be jointly and severally liable for all the Obligations, (ii) the release, waiver, instruction or consent of any Applicant shall be sufficient to bind each Applicant with respect to this Agreement, the Credit or any claims arising under or in connection with this Agreement or the Credit, (iii) any Event of Default, regardless of fault, shall be deemed an Event of Default as to all Applicants, (iv) delivery by Issuer of any document, notice or other communication to any Applicant shall be deemed delivery to each Applicant, and (v) the liability of any Applicant hereunder may from time

to time, in whole or in part, be extended, modified, released or reduced by Issuer without affecting or releasing any liability of any other Applicant. Each Applicant agrees that its obligations hereunder are primary, waives all discharge defenses available to a secondary obligor, and forgoes negotiation of a separate guaranty and security agreement providing for secondary liability to Issuer.

(c) Issuer may treat each Person that signs this Agreement and each other Person authorized to act generally for Applicant or specifically in the matter as actually authorized to act for Applicant in amending this Agreement, in authorizing Issuer to issue or amend the Credit, waive any discrepancy, pay or otherwise act under the Credit, in receiving any notice (including service of process) in connection with this Agreement, and in agreeing to indemnify Issuer for any action or inaction taken or proposed. Any change in the identity of Persons authorized to act for Applicant shall be ineffective until notified in writing to Issuer.

(d) Each Person identified in this Agreement as an Applicant represents and warrants that (i) it acts for itself in requesting issuance of the Credit for its account, or it acts for a Subsidiary Account Party in requesting issuance of the Credit for such Subsidiary Account Party, and (ii) it may be identified in the Credit as an "applicant", "account party", "client", "customer" or "instructing party" at whose request and on whose behalf or for whose account the Credit is issued.

(e) In this Agreement: (i) headings are included only for convenience and are not interpretative; (ii) the term "including" means "including without limitation"; (iii) references to actions Issuer "may" take or omit to take mean "may in its sole discretion"; (iv) unless the context requires otherwise, references herein to Sections shall be construed to refer to Sections of this Agreement; and (v) references to any laws or rules include any amendments thereto or successor or replacement laws or rules.

(f) If any provision of this Agreement is held illegal or unenforceable, the validity of the remaining provisions shall not be affected.

(g) Applicant acknowledges and agrees that (i) Issuer and its affiliates offer a wide range of financial and related services, which may at any time include back-office processing services on behalf of financial institutions, letter of credit beneficiaries, and other customers; (ii) some of these customers may be Applicant's counter-parties or competitors; and (iii) Issuer and its affiliates may perform more than one role in relation to the Credit.

22. ***Successors and Assigns; Etc.*** This Agreement shall be binding upon Applicant and its successors and assigns, and shall inure to the benefit of and be enforceable by Issuer and its successors and assigns. Applicant agrees that delivery of a signed copy or signature page of this Agreement by any electronic means that reproduce an image of the signed signature page shall be as effective as delivery of a manually signed original of this Agreement. Applicant shall not transfer or otherwise assign any of its rights or obligations under this Agreement without Issuer's prior written consent. Issuer may transfer or otherwise assign its rights and obligations under this Agreement, in whole or in part, with the prior written consent of Applicant (which shall not be unreasonably withheld); provided that if an Event of Default has occurred and is continuing, the consent of Applicant shall not be required. Issuer may grant participations in its rights and obligations under this Agreement or the Credit, in whole or in part, without the consent of Applicant, provided that (i) Issuer's obligations under this Agreement and the other Loan Documents shall remain unchanged, (ii) Issuer shall remain solely responsible to Applicant for the performance of such obligations and (iii) Applicant shall continue to deal solely and directly with Issuer in connection with Issuer's rights and obligations under this Agreement and the other Loan Documents. Applicant acknowledges that information pertaining to Applicant as it relates to the Credit, this Agreement or any other Loan Document may be disclosed to actual or prospective participants, transferees or assignees. This Agreement shall not be construed to confer any right or benefit upon any Person other than Issuer, the Indemnified Parties and Applicant and their respective successors and permitted assigns, and no such Person shall be deemed a third-party beneficiary hereof, except that Applicant's obligations under Sections 5 and 19 may be enforced directly against Applicant by a participant; provided that such enforcement shall not increase the amount of the Obligations.

23. ***Modification; No Waiver*****.** None of the terms of this Agreement may be waived, terminated or amended orally, by course of dealing, or otherwise, except in a writing signed by the party against whose interest the term is waived, terminated or amended; provided that the signature of the undersigned Applicant shall also be binding upon each of its affiliates that at any time is bound by any of the provisions of this Agreement. Forbearance, failure or delay by Issuer in the exercise of a right or remedy shall not constitute a waiver, nor shall any exercise or partial exercise of any right or remedy preclude any further exercise of that or any other right or remedy. Any waiver or consent by Issuer shall be effective only in the specific instance and for the specific purpose for which it is given.

24. ***Entire Agreement; Remedies Cumulative*****.** This Agreement constitutes the entire agreement between the parties hereto concerning the subject matter hereof and supersedes all prior or simultaneous agreements, written or oral, with respect to the subject matter hereof. All rights and remedies of Issuer and all obligations of Applicant under or in

connection with this Agreement and any other documents delivered in connection with this Agreement are cumulative and in addition to those provided or available at equity or under any applicable law.

25. ***Reduction of Maximum Commitment Amount; Continuing Agreement; Termination*.**

(a) Upon at least three Business Days' prior written notice, Applicant shall have the right, at any time or from time to time, without premium or penalty, to terminate this Agreement or partially reduce the Maximum Commitment Amount; provided that (i) any partial reduction pursuant to this Section 25(a) shall be in an amount of at least $5,000,000 or, if greater, in integral multiples of $1,000,000 and (ii) Applicant shall not terminate this Agreement or reduce the Maximum Commitment Amount if, after giving effect thereto and any concurrent payment of Obligations made by Applicant, the total Letter of Credit Exposure would exceed the Maximum Commitment Amount.

(b) This is a continuing agreement and shall remain in full effect until the earliest (such earliest date, the "**Final Termination Date**") of (i) the Scheduled Termination Date, (ii) delivery by each Issuer to Applicant of a written notice of termination specifically referring to this Agreement as a result of the occurrence of an Event of Default in accordance with Section 18 and (iii) Applicant's delivery to Issuer of a written notice of termination specifically referring to this Agreement in accordance with Section 25(a). Termination shall not release Applicant from any liability for Obligations existing on such date, or resulting from or incidental to a Credit issued on or before such date or issued pursuant to any Issuer commitment existing on such date. Upon termination of this Agreement, (i) Applicant shall cease to request the issuance of any further Credit hereunder or any increase or extension of any outstanding Credit hereunder and (ii) Issuer shall have all the rights and remedies provided in Section 18. Provisions of this Agreement relating to Taxes, indemnities, payment of costs and expenses, exculpations and limitations on liability, waivers of immunity, jurisdiction, and waiver of trial by jury shall survive any termination of this Agreement, expiration of the Credit, and irrevocable and final payment of all the Obligations.

26. ***Governing Law; Practice; UCP; ISP; URDG*.**

(a) **This Agreement and the rights and obligations of the parties under or in connection with this Agreement shall be governed by and subject to the laws of the State of New York applicable to contracts made and to be performed in such State (including New York General Obligations Law Section 5-1401) and applicable federal laws of the United States of America. In the event that the Credit expressly chooses a state or country law other than the State of New York, Applicant shall be obligated to reimburse Issuer for payments made under the Credit if such payment is justified under New York law or such other law.**

(b) **Unless Applicant specifies otherwise in its application for the Credit, Issuer at its option may issue the Credit subject to the UCP, the ISP or the URDG, or such later supplement to or revision of any thereof as is in effect at the time of issuance of the Credit (collectively, the "Practices"). Issuer's rights and remedies under the Practices shall be in addition to, and not in limitation of, those expressly provided herein.**

(c) **To the extent permitted by applicable law, (i) this Agreement shall prevail in case of conflict with the Practices or the UCC and (ii) the Practices shall prevail in case of conflict between the Practices and the UCC.**

27. ***Jurisdiction; Service of Process; Enforcement*.**

(a) **Applicant consents and submits to the non-exclusive jurisdiction of any state or federal court sitting in New York County, in the State of New York, for itself and in respect of any of its property, in any action or proceeding arising under or in connection with the Credit, this Agreement or any other Loan Document. If the law of any jurisdiction other than the State of New York has been chosen to govern the Credit or governs in the absence of an express choice of governing law, Applicant also consents and submits to the non-exclusive jurisdiction of any court sitting in such jurisdiction, in any action or proceeding arising under or in connection with this Agreement or the Credit. Applicant agrees not to bring any action or proceeding against Issuer that arises under or in connection with the Credit, this Agreement or any other Loan Document in any court or other forum not described in the first sentence of this paragraph. Applicant waives any objection to venue or any claim of forum non conveniens with respect to any action or proceeding in any court described in this paragraph.**

(b) **Applicant agrees that any service of process may be served upon it by Issuer by mail or hand delivery if sent to the address for notices to Applicant under this Agreement or to the Person designated on the signature page(s) of this Agreement as** "**Applicant's Authorized Agent,**" **which Person Applicant now designates as its authorized agent for the service of process.**

(c) **Nothing in this Agreement shall affect Issuer's right to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against Applicant in any other**

jurisdiction. Applicant agrees that final judgment against it in any action or proceeding shall be enforceable in any other jurisdiction within or outside the United States of America by suit on the judgment, a certified copy of which shall be conclusive evidence of the judgment.

[SIGNATURE PAGE FOLLOWS]

28. ***JURY TRIAL WAIVER*. EACH OF APPLICANT AND ISSUER WAIVES ANY RIGHT IT MAY HAVE TO A JURY TRIAL OF ANY CLAIM, COUNTERCLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THE CREDIT, THIS AGREEMENT, ANY OTHER LOAN DOCUMENT, OR ANY DEALINGS WITH ONE ANOTHER RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT.**

Very truly yours,

Applicant:

SunPower Corporation
(*Print Name of Applicant*)

By: /s/ Ada Kwan
(*Signature of Authorized Signer*)
Ada Kwan
(*Print Name of Authorized Signer*)
Treasurer
(*Title of Authorized Signer*)

Address for notices, etc. to Applicant:

77 Rio Robles
San Jose, CA 95134
Attention: Ada Kwan
Telephone number: 408-240-5500
Fax number: 408-240-5400

Applicant's jurisdiction of organization, organization type & organizational number (*if applicable*): Delaware; Corporation; State File No. 3808702

Applicant's Social Security or Federal tax identification number (*if applicable*):##-#######

Applicant's Authorized Agent (for service of process per Section 27(b)):

Print Name: The Corporation Trust Center

Complete Address: Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801, United States
(*which must be in the State of New York)*

Subsidiary Applicant:

SunPower Corporation, Systems
(*Print Name of Subsidiary Applicant*)

By: /s/ Ada Kwan
(*Signature of Authorized Signer*)
Ada Kwan
(*Print Name of Authorized Signer*)
Treasurer
(*Title of Authorized Signer*)

Address for notices, etc. to Subsidiary Applicant:

77 Rio Robles
San Jose, CA 95134
Attention: Ada Kwan
Telephone number: 408-240-5500
Fax number: 408-240-5400

ACCEPTED AND AGREED TO:

DEUTSCHE BANK AG
NEW YORK BRANCH

By: /s/ Prashant Mehra
Name: Prashant Mehra
Title: Director

By: /s/ Christopher J. Shaw
Name: Christopher J. Shaw
Title: Vice President

ACCEPTED AND AGREED TO:

DEUTSCHE BANK
TRUST COMPANY AMERICAS

By: /s/ Prashant Mehra
Name: Prashant Mehra
Title: Director

By: /s/ Christopher J. Shaw
Name: Christopher J. Shaw
Title: Vice President

EXHIBIT A to Continuing Agreement for Standby Letters of Credit and Demand Guarantees dated June 29, 2016 made by SunPower Corporation (and, if applicable, one or more other parties) in favor of Deutsche Bank AG New York Branch and Deutsche Bank Trust Company Americas

ADHERENCE AGREEMENT FOR SUBSIDIARY APPLICANTS

Deutsche Bank AG New York Branch and
Deutsche Bank Trust Company Americas
60 Wall Street
New York, New York 10005-2858

_____
(insert date)

Re: Continuing Agreement for Standby Letters of Credit and Demand Guarantees dated June 29, 2016 among *(insert Applicant's name)* SunPower Corporation (and, if applicable, one or more other parties), Deutsche Bank AG New York Branch and Deutsche Bank Trust Company Americas (as amended, supplemented or otherwise modified from time to time, the "**Agreement**")

Ladies and Gentlemen:

Capitalized terms used but not otherwise defined herein shall have the respective meanings assigned thereto in the Agreement.

We hereby agree to be a Subsidiary Applicant upon the terms and subject to the conditions set forth in the Agreement, including, without limitation, that pursuant to Section 4(f) of the Agreement we shall be jointly and severally liable with Applicant to Issuer for all the reimbursement, indemnification and other obligations, representations, warranties and other agreements of Applicant in respect of any Credit requested by us.

Except as expressly modified by this letter, all provisions of the Agreement remain in full force and effect. This letter shall be governed by the laws of the State of New York, without regard to principles of conflict of laws. This letter shall become effective as of the date hereof.

Very truly yours,

_____
(*Name of Subsidiary Applicant*)

By: _____
Name:
Title:

Address:

_____
Attention: _____
Telephone: _____
Facsimile: _____

ACCEPTED AND AGREED:

_____
(Name of Applicant)

By: _____
Name:
Title:

DEUTSCHE BANK AG NEW YORK BRANCH

By: _____
Name:
Title:

By: _____
Name:
Title:

DEUTSCHE BANK TRUST COMPANY AMERICAS

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT B to Continuing Agreement for Standby Letters of Credit and Demand Guarantees dated June 29, 2016 made by SunPower Corporation (and, if applicable, one or more other parties) in favor of Deutsche Bank AG New York Branch and Deutsche Bank Trust Company Americas

NOTICE OF TERMINATION

Reference is made to the Continuing Agreement for Standby Letters of Credit and Demand Guarantees dated June 29, 2016 among *(insert Applicant's name)* SunPower Corporation (and, if applicable, one or more other parties), Deutsche Bank AG New York Branch and Deutsche Bank Trust Company Americas (as amended, supplemented or otherwise modified from time to time, the "**Continuing Agreement**"; capitalized terms used but not otherwise defined herein shall have the respective meanings assigned thereto in the Continuing Agreement).

Applicant hereby notifies Issuer that *(insert applicable Subsidiary Applicant's name)* _____ (the "**Terminating Subsidiary Applicant**") shall cease to be a "Subsidiary Applicant" under the Continuing Agreement.

Applicant acknowledges and agrees that notwithstanding the preceding sentence, this Notice of Termination will not become effective until such time as all Obligations of Terminating Subsidiary Applicant shall have been paid in full in cash and all Credits issued at the request of Terminating Subsidiary Applicant shall have expired without any pending drawing or terminated; provided that this Notice of Termination shall be effective as of the date hereof to terminate Terminating Subsidiary Applicant's right to request the issuance of any new Credits under the Continuing Agreement or any increase in the amount of any other Credit.

Dated as of: _____, 20__

_____
(*Name of Applicant*)

By: _____
Name:
Title:

Deutsche Bank

Letter of Credit or Demand Guarantee number: _____

APPLICATION FOR IRREVOCABLE STANDBY LETTER OF CREDIT OR DEMAND GUARANTEE
UNDER CONTINUING AGREEMENT FOR STANDBY LETTERS OF CREDIT AND DEMAND GUARANTEES

Applicant (*Full name and address*)**:**	**Issuing Bank:** Deutsche Bank AG New York Branch or Deutsche Bank Trust Company Americas 60 Wall Street New York, New York 10005
Date of Application:	**Expiry Date:** **Place of Expiry:**
☐ Issue by (air) mail ☐ with brief advice by teletransmission ☐ Issue by teletransmission ☐ Issue by courier ☐ Applicant to arrange pick-up ☐ Issue by other (*specify*): **Name and Jurisdiction of Organization of any Subsidiary Account Party for this Credit *(or specify "None")*:**	**Beneficiary** (*Full name and address*):
Confirmation of the Credit: ☐ not requested ☐ requested ☐ authorized if requested by Beneficiary ☐ Credit to be issued with the terms and conditions set forth in the attached specimen.	**Currency and Amount in Figures and Words** (*Please use ISO Currency Codes*):

Credit available against the document(s) detailed herein:
☐ Beneficiary's sight draft(s) drawn on Issuing Bank

☐ Original Credit and any and all amendments to the Credit

☐ Beneficiary's signed and dated statement, reading as follows:

☐ Other documents (*specify issuer(s) and data content*):

Credit to be issued subject to (*check one*):
☐ International Standby Practices 1998, International Chamber of Commerce Publication No. 590 (ISP98), or such later revision thereof as may be in effect when the Credit is issued.
☐ Uniform Customs and Practice for Documentary Credits, 2007 Revision, International Chamber of Commerce Publication No. 600 (UCP 600), or such later revision thereof as may be in effect when the Credit is issued.
☐ Uniform Rules for Demand Guarantees, 2010 Revision, International Chamber of Commerce Publication No. 758.

☐ See attached for additional instructions	☐ Check if only a single drawing for all or a portion of the amount of the Credit is permitted

The undersigned requests you to issue your irrevocable letter of credit, demand guarantee or similar undertaking (herein called the "**Credit**"), substantially in accordance with these instructions (*marked (x) where appropriate*). The undersigned agrees to be bound in respect of the Credit by the terms and conditions of the Continuing Agreement for Standby Letters of Credit and Demand Guarantees dated _____, as amended, supplemented or otherwise modified from time to time, made by the undersigned (and, if applicable, one or more other parties) to Deutsche Bank AG New York Branch and Deutsche Bank Trust Company Americas (which Agreement you may have received by fax transmission). The undersigned represents and warrants to you that (i) no Event of Default (as defined in such Agreement) or other event that with notice or lapse of time or both would constitute such an Event of Default has occurred and is continuing or would result from the issuance of the requested Credit and (ii) all representations and warranties contained in such Agreement are true and correct in all material respects as of the date hereof and shall be true and correct in all material respects immediately after issuance of the requested Credit.

Applicant or Subsidiary Applicant's Name:

By: _____
Print Name:
Title:

THIS IS AN IMPORTANT LEGAL DOCUMENT. CONSULT WITH YOUR LEGAL COUNSEL.

Exhibit 10.64

EXECUTION VERSION

LETTER OF CREDIT FACILITY AGREEMENT

dated as of June 29, 2016

among

SUNPOWER CORPORATION,

SUNPOWER CORPORATION, SYSTEMS,

TOTAL S.A.,

the SUBSIDIARY APPLICANTS parties hereto from time to time,

and

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.

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LETTER OF CREDIT FACILITY AGREEMENT

This LETTER OF CREDIT FACILITY AGREEMENT (this "Agreement") dated as of June 29, 2016 is made by and among SunPower Corporation, a Delaware corporation (the "Company"), SunPower Corporation, Systems, a Delaware corporation ("Systems"), Total S.A., a société anonyme organized under the laws of the Republic of France (the "Parent Guarantor"), the Subsidiary Applicants parties hereto from time to time, and The Bank of Tokyo-Mitsubishi UFJ, Ltd. (acting out of any of its branches, the "Bank").

The Company has requested that the Bank provide a letter of credit facility to the Company and the other Applicants, and the Bank is willing to do so on the terms and subject to the conditions set forth herein.

In consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

1.01 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Adherence Agreement" means an agreement substantially in the form of **Exhibit C** among a Subsidiary, the Company and the Bank, pursuant to which such Subsidiary becomes a Subsidiary Applicant hereunder.

"Affiliate" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"Agreement" has the meaning given thereto in the preamble.

"Alternate Currency" means any currency (other than dollars) that is freely tradable and exchangeable into dollars in the London market and approved in writing as an Alternate Currency by the Company and the Bank, in their reasonable discretion.

"Alternate Currency Exposure" means, at any time, the Dollar Equivalent of the sum (without duplication) at such time of (a) the aggregate outstanding amount of all Alternate Currency LOC Disbursements, (b) the aggregate Available Amounts of all Alternate Currency LOCs, and (c) the aggregate Available Amounts of all Alternate Currency LOCs that have been requested by the Applicants to be issued hereunder but have not yet been so issued.

"Alternate Currency LOC" means an LOC denominated in an Alternate Currency.

"Applicant" means each of the Company, Systems and each other Subsidiary Applicant.

"Assignment and Assumption" means an assignment and assumption entered into by the Bank and an Eligible Assignee in accordance with **Section 7.06** and in substantially the form of **Exhibit A** or any other form approved by the Bank.

"Available Amount" means, at any time with respect to any LOC, the maximum amount available to be drawn under such LOC under any circumstance at such time or thereafter, giving effect to any scheduled increases in accordance with the terms of such LOC, including any amount that has been the subject of a drawing by the applicable Beneficiary prior to the expiration or termination of such LOC but has not yet been paid or refused by the Bank.

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"Bail-In Legislation" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"Bankruptcy Law" means Title 11, U.S. Code, as amended from time to time, and any successor statute or statutes, or any similar foreign, federal, or state law for the relief of debtors.

"Bank" has the meaning given thereto in the preamble.

"Base Rate" means a fluctuating interest rate per annum equal at any time to the higher of (a) the sum of the Federal Funds Rate plus 0.5% or (b) the "Prime Rate" as announced from time to time in the so called money rates section of the United States Edition of The Wall Street Journal. Each change in such Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

"Beneficiary" means, at any time, any beneficiary of any LOC, including any second or substitute beneficiary or transferee under a transferable LOC and any successor of a beneficiary by operation of law.

"Block Notice" means a Notice of Block (as defined in the Parent Guaranty) delivered by the Parent Guarantor pursuant to the Parent Guaranty suspending the right of the Company or a Subsidiary Applicant to obtain LOCs hereunder.

"Business Day" means a day of the year on which banks are authorized by law to be open for business (other than a Saturday or Sunday) in New York, New York and Paris, France.

"Calculation Date" means (a) each date on which an Alternate Currency LOC is issued or is increased, renewed, or extended by amendment and (b) the first Business Day of each calendar month.

"Change in Law" means (a) the adoption of any treaty, international agreement, law, rule, or regulation after the date of this Agreement, (b) any change in any treaty, international agreement, law, rule, or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement, or (c) compliance by the Bank (or, for purposes of **Section 2.06(b)**, by any Lending Office of the Bank or by the corporation controlling the Bank, if any) with any request, guideline, or directive (whether or not having the force of law) of any Governmental Authority (provided that compliance with such request, guideline, or directive is in accordance with the general practice of the Bank) made or issued after the date of this Agreement; provided, however, that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all

requests, rules, regulations, guidelines or directives thereunder or issued in connection therewith or in implementation thereof and (ii) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case referred to in clause (i) or (ii) be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Closing Date" means the first date on which the conditions set forth in **Article III** shall have been satisfied (or waived in accordance with **Section 7.01**).

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and any references to any Code section shall include references to the Treasury Regulations promulgated thereunder.

"Commitment" means the commitment of the Bank to issue LOCs hereunder in an amount equal to the Commitment Amount.

"Commitment Amount" means, at any time of determination, $75,000,000, as such amount may be reduced at or prior to such time pursuant to **Section 2.04**.

"Commitment Fee" means the unused commitment fee, which shall accrue during the period from and including the Closing Date to but excluding the date on which such Commitment terminates at the rate of six (6) basis points (0.06%) per annum on the then applicable daily unused Commitment Amount of the Bank.

"Company" has the meaning given thereto in the preamble.

"Confidential Information" means all information that the Company or any Affiliate thereof furnishes to the Bank that is identified as confidential, but does not include any such information that is or becomes generally available to the public other than as a result of a breach by the Bank of its obligations hereunder or that is or becomes available to the Bank from a source other than the Company or an Affiliate thereof that is not, to the best of the Bank's knowledge, acting in violation of a confidentiality agreement with the Company or any Affiliate thereof.

"Constituent Documents" means, with respect to any entity, its constituent, governing, or organizational documents, including (a) in the case of a limited partnership, its certificate of limited partnership and its limited partnership agreement, (b) in the case of a limited liability company, its certificate of formation or organization and its operating agreement or limited liability company agreement, as applicable, and (c) in the case of a corporation, its articles or certificate of incorporation and its by-laws and any shareholders agreement, as applicable.

"Credit Exposure" means, at any time, the Dollar Equivalent of the sum (without duplication) at such time of (a) the aggregate outstanding amount of all LOC Disbursements, (b) the aggregate Available Amounts of all LOCs, and (c) the aggregate Available Amounts of all LOCs that have been requested by the Applicants to be issued hereunder but have not yet been so issued.

"Credit Parties" means, collectively, the Applicants and the Company.

"CVSR Project" means the California Valley Solar Ranch in San Luis Obispo County, California.

"Dollar Equivalent" means, on any date of determination, (a) with respect to any amount in dollars, such amount, and (b) with respect to any amount in an Alternate Currency, the equivalent amount of dollars of such amount based on the "Euro foreign exchange reference rate" and such other foreign exchange reference rate published by the European Central Bank as may be necessary to convert the applicable currency from such currency to euros (if necessary) and from euros to dollars determined by the Bank pursuant to **Section 1.05(b)** using the Exchange Rate with respect to such Alternate Currency at the time in effect under the provisions of such Section.

"dollars" or "$" refers to lawful money of the United States of America.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Eligible Assignee" means (a) an Affiliate of the Bank, or (b) a commercial bank, a savings bank, or other financial institution that, so long as there then exists no Event of Default, is approved by the Company (such approval not to be unreasonably withheld); provided that neither the Company nor any Affiliate thereof shall qualify as an Eligible Assignee.

"Equity Interests" means shares of capital stock, general or limited partnership interests, membership interests in a limited liability company, beneficial interests in a trust, or other equity ownership interests in a Person, and any warrants, options, or other rights entitling the holder thereof to purchase or acquire any such equity interest.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"euro" means the official currency of the European Union.

"Event of Default" has the meaning specified in **Section 6.01**.

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

"Exchange Rate" means on any day, with respect to any Alternate Currency, the rate at which such Alternate Currency may be exchanged into dollars, as set forth at approximately 11:00 a.m. (New York City time) on such day based on the "Euro foreign exchange reference rate" and such other foreign exchange reference rate published by the European Central Bank. In the event that such rate does not appear on such website, the Exchange Rate shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon in writing by the Bank and the Company, or, in the absence of such agreement, such Exchange Rate shall instead be the arithmetic

average of the spot rates of exchange of the Bank in the market where its Alternate Currency exchange operations in respect of such Alternate Currency are then being conducted, at or about 11:00 a.m., local time, on such date for the purchase of dollars for delivery two (2) Business Days later; provided that if at the time of any such determination, for any reason, no such spot rate is being quoted, the Bank, after consultation with the Company, may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

"Existing Facility" means the letter of credit facility established pursuant to the Letter of Credit Facility Agreement dated as of August 9, 2011 among the Company, the Parent Guarantor, the subsidiary applicants parties thereto from time to time, the banks parties thereto from time to time, and Deutsche Bank AG New York Branch, as issuing bank and as administrative agent.

"Existing LOCs" means the letters of credit described on **Schedule III**.

"Facility" means the letter of credit facility established pursuant to this Agreement.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), and any regulations or official interpretations thereof.

"Federal Funds Rate" means, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Bank from three (3) federal funds brokers of recognized standing selected by the Company.

"Final LOC Expiration Date" means March 31, 2020.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States of America.

"Governmental Authority" means any supra-national body, the government of the United States of America, any other nation or any political subdivision of any thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Indemnified Party" has the meaning specified in **Section 7.04(b)**.

"Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended from time to time, and any successor statute or statutes.

"IRS" means the United States Internal Revenue Service.

"Judgment Currency" has the meaning specified in **Section 2.11(b)**.

"Judgment Currency Conversion Date" has the meaning specified in **Section 2.11(b)**.

"LComm" means the large commercial portion of the distributed generation business segment of the Company with projects sold directly to a commercial end-user and not via a dealer.

"Lending Office" means the office of the Bank that is to make and receive payments hereunder as specified to the Bank from time to time.

"Loan Documents" means, collectively, this Agreement, the Parent Guaranty, each LOC Request and each other instrument or agreement made or entered into by the Company or any other Applicant with or in favor of the Bank in connection with this Agreement or the transactions contemplated hereby, and any supplements or amendments to or waivers of any of the foregoing executed and delivered from time to time.

"LOC" means each standby letter of credit issued hereunder in such form as the Bank may approve in its reasonable discretion and each Existing LOC.

"LOC Disbursement" means the making of any payment by the Bank under an LOC in the amount of such payment.

"LOC Fee" means, as to the Bank, a participation fee with respect to its participations in LOCs which shall accrue at the rate of twenty (20) basis points (0.20%) per annum for LOCs with a tenor of less than two years and (ii) twenty-five (25) basis points (0.25%) per annum for LOCs with a tenor of greater than or equal to two years, in each case on the Dollar Equivalent of the actual amount of the Bank's Credit Exposure for each day during the period from and including the Closing Date through and including the later of the date on which the Bank's Commitment terminates and the date on which the Bank ceases to have any Credit Exposure.

"LOC Related Documents" means, collectively, any Loan Document, any LOC Request, any LOC, or any other agreement or instrument relating thereto.

"LOC Request" means a written request substantially in the form of **Exhibit B**.

"Material Adverse Effect" means a material adverse effect on (a) the business, financial condition, operations or properties of the Company and its Subsidiaries, taken as a whole, (b) the validity or enforceability of any of the Loan Documents, or (c) the ability of the Company or any other Applicant to perform their obligations, taken as a whole, under the Loan Documents.

"Non-Controlled Subsidiary" means, at any time, any Subsidiary not controlled by the Company. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Obligations" means all obligations, liabilities, and Indebtedness of every nature of each Applicant from time to time owing to the Bank under or in connection with this Agreement or any other Loan Document, in each case whether primary, secondary, direct, indirect, contingent (including the undrawn amount of each LOC), fixed or otherwise, including the obligation to provide cash collateral pursuant to any Loan Document and including interest accruing at the rate provided in the applicable Loan Document on or after the commencement of the Bankruptcy or insolvency proceeding, whether or not allowed or allowable.

"OFAC" means the U.S. Department of the Treasury's Office of Foreign Assets Control, and any successor thereto.

"Other Connection Taxes" means Taxes imposed as a result of a present or former connection between the Bank and the jurisdiction imposing such Tax (other than connections arising from the Bank having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

"Other Permitted Purposes" means (a) development obligations or guaranties of the Company or a Wholly-Owned Subsidiary with respect to project development obligations such as transmission reservations and land options for the Company's UPP and LComm businesses, (b) remediation work, landscaping and other related obligations or guarantees of the Company or a Wholly-Owned Subsidiary in favor of government entities for reparation of land and surrounding environment after construction for the Company's UPP and LComm businesses, (c) obligations or guarantees of the Company or a Wholly-Owned Subsidiary with respect to obligations to local tax authorities relating to doing business in that locality with respect to the Company's UPP or LComm businesses, and (d) obligations or guarantees of the Company or a Wholly-Owned Subsidiary with respect to bids for projects or power purchase agreements in the Company's UPP or LComm businesses.

"Other Taxes" means any present or future stamp, documentary, excise, property or similar taxes, charges or levies that arise from any payment made hereunder or from the execution, delivery or registration of, performance under, or otherwise with respect to, this Agreement or any other Loan Document.

"Parent Guarantor" has the meaning given thereto in the preamble.

"Parent Guaranty" means the Guaranty of even date herewith by the Parent in respect of the Repayment Obligations substantially in the form of **Exhibit D**.

"Patriot Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act, Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

"Permitted LOCs" means LOCs that are classified as a performance standby letters of credit by the Board of Governors of the Federal Reserve System or by the Office of the Comptroller of the Currency of the United States and constitute (a) performance guarantees (for a period of up to two (2) years after completion of the applicable project) and completion guarantees (until completion of the applicable project) of the Company or such Wholly-Owned Subsidiary with respect to engineering, procurement and construction services provided in connection with the Company's UPP and LComm businesses (including replacing Existing LOCs), (b) performance guarantees for engineered hardware packages not including engineering, procurement and construction services for UPP projects for a period of up to two (2) years after completion of the applicable project, (c) the Other Permitted Purposes for a period of up to two (2) years, (d) letters of credit or demand guarantees that relate to the CVSR Project, including any renewals or replacements thereof, and (e) the Existing LOCs; provided, that, notwithstanding anything to the contrary in this definition but subject to the other terms and conditions of this Agreement, the Company will be permitted to have LOCs outstanding at any one time until the Termination Date for the purposes described in clauses (a) and (b) above with an expiry of between two (2) and three (3) years from the date of issuance thereof and for an aggregate initial face amount of up to fifteen per cent (15%) of the then-applicable "Maximum L/C Amount" as such term is defined in Section

1(nn) of the Amended and Restated Credit Support Agreement dated as of June 29, 2016 by and between the Company and the Parent Guarantor.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority, or other entity.

"Repayment Obligations" means the obligations of a Credit Party (with respect to the Company, for itself or as guarantor) now existing or hereafter arising under **Section 2.03(a)** to reimburse to the Bank the amount of any draw on any LOC issued hereunder (with respect to the Company, for itself or for an Applicant) and all interest accrued on such reimbursement obligation from the date of such reimbursement until the date paid. For the avoidance of doubt, "Repayment Obligations" does not include fees, expenses or other amounts payable by any Credit Party to the Bank.

"Responsible Officer" means, (a) in the case of the Company or any other Applicant, its president, chief executive officer, chief financial officer, principal accounting officer, treasurer or controller (and, in any case where two Responsible Officers are acting on behalf of such Person the second such Responsible Officer may also be its Secretary or an Assistant Secretary), and (b) in the case of any other Person, its manager, general partner, or a senior or executive officer of such other Person or of its managing member or general partner, as applicable.

"Sanctioned Country" means a country or territory which is itself the subject or target of comprehensive countrywide or territory-wide Sanctions (including, without limitation, as of the date hereof, Cuba, Iran, North Korea, Sudan and Syria).

"Sanctioned Person" means (a) any Person that is the target or subject of Sanctions or listed in any Sanctions-related list of designated Persons maintained by the U.S. government (including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State) or by the United Nations Security Council, the European Union or any European Union member state, (b) any Person located, organized or resident in a Sanctioned Country, or (c) any Person Controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

"Sanctions" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, (b) the United Nations Security Council, the European Union, any European Union member state or Her Majesty's Treasury of the United Kingdom, or (c) other relevant sanctions authorities to the extent compliance with the sanctions imposed by such other authorities would not entail a violation of applicable law.

"SEC" means the United States Securities and Exchange Commission (or any successor Governmental Authority).

"Specified Currency" means any currency in which any Applicant is obligated to make payments hereunder.

"subsidiary" means, with respect to any Person (the "parent") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than fifty percent (50%) of the equity or more than fifty percent (50%) of the ordinary

voting power or, in the case of a partnership, more than fifty percent (50%) of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"Subsidiary" means any subsidiary of any Applicant.

"Subsidiary Account Party" means (a) each Wholly-Owned Subsidiary listed on **Schedule I** and (b) each other Wholly-Owned Subsidiary from time to time approved in writing as a Subsidiary Account Party by the Bank at the written request of the Company substantially in the form of **Exhibit E**.

"Subsidiary Applicant" means (a) Systems, (b) each other Wholly-Owned Subsidiary that is a party to this Agreement and is listed on **Schedule II** and (c) each other Wholly-Owned Subsidiary from time to time approved in writing as a Subsidiary Applicant pursuant to an Adherence Agreement executed and delivered by such Subsidiary, the Company and the Bank, in each case other than any such Subsidiary that has ceased to be a Subsidiary Applicant pursuant to **Section 2.12**.

"Taxes" means any present or future taxes, levies, imposts, deductions, charges, or withholdings, and all liabilities with respect thereto, excluding (i) (x) taxes that are imposed on (or measured by) its overall net income by the United States and taxes that are imposed on its overall net income (and franchise taxes imposed in lieu thereof) by the state or foreign jurisdiction under the laws of which the Bank is organized or any political subdivision thereof or (y) Other Connection Taxes, (ii) any branch profits tax or any similar tax that is imposed by any jurisdiction described in clause (i) above, (iii) (x) any United States federal withholding tax imposed under a law that is in effect at the time the Bank acquires the interest hereunder in respect of which it is claiming under **Section 2.08** (or designates a new Lending Office) except to the extent that the Bank (or its assignor, if any) was entitled, immediately prior to the time of designation of a new Lending Office (or assignment), to receive additional amounts from a Credit Party with respect to any withholding tax pursuant to **Section 2.08(a)** and (y) any withholding tax that is attributable to the Bank's failure to comply with **Section 2.08(e)** and, in the case of the Bank, taxes that are imposed on its overall net income (and franchise taxes imposed in lieu thereof) by the state or foreign jurisdiction of the Bank's Lending Office or any political subdivision thereof, and (iv) any United States federal withholding taxes imposed by FATCA.

"Termination Date" means December 31, 2018.

"UPP" means the utility and power plant business segment of the Company, which includes power plant project development, construction and project sales, turnkey engineering, procurement and construction services for power plant construction, and power plant operations and maintenance services, but excludes component sales.

"U.S. Person" has the meaning specified in Section 2.08(d).

"U.S. Tax Certificate" has the meaning specified in Section 2.08(f)(iv).

"Wholly-Owned Subsidiary" means a direct or indirect wholly-owned Subsidiary of the Company.

"Withholding Agent" means each Applicant and the Bank.

"Write-Down and Conversion Powers" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In

Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

1.02 Computation of Time Periods. In this Agreement and the other Loan Documents in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding", in each case except as otherwise expressly provided herein.

1.03 Other Definitional Provisions. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". The words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof. Except as otherwise expressly provided herein, any definition of or reference to (a) an agreement, instrument, or other document shall mean such agreement, instrument, or other document as amended, supplemented, or otherwise modified from time to time (subject to any restrictions on such amendments, supplements or modifications set forth herein); (b) a law shall mean such law as amended, supplemented, or otherwise modified from time to time (including any successor thereto) and all rules, regulations, guidelines, and decisions interpreting or implementing such law; (c) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement; (d) a time of day shall mean such time in New York, New York; and (e) any reference herein to any Person shall be construed to include such Person's successors and assigns.

1.04 Accounting Terms and Determinations. Unless otherwise specified herein, all financial statements required to be delivered hereunder shall be prepared in accordance with GAAP, applied on a basis consistent with the most recent audited consolidated financial statements of the Company and its Subsidiaries delivered to the Bank.

1.05 Exchange Rates.

(a) Not later than 12:00 noon, New York City time, three (3) Business Days prior to each Calculation Date, beginning with the date that is three (3) Business Days prior to the date on which the initial Alternate Currency LOC is issued, the Bank shall determine the Exchange Rate as of such Calculation Date with respect to each Alternate Currency. The Exchange Rates so determined shall become effective on the relevant Calculation Date, shall remain effective until the next succeeding Calculation Date, and shall for all purposes of this Agreement (other than **Section 2.01**, **Section 2.11**, or any other provision expressly requiring the use of a current Exchange Rate) be the Exchange Rates employed in converting any amounts between dollars and any Alternate Currency.

(b) Not later than 5:00 p.m., New York City time, on each Calculation Date, the Bank shall determine the Alternate Currency Exposure. The Bank shall determine the aggregate amount of the Dollar Equivalent of all amounts denominated in an Alternate Currency at the applicable time and in the manner provided for by this Agreement.

ARTICLE II

AMOUNTS AND TERMS OF LETTERS OF CREDIT

2.01 The Letters of Credit. The Bank agrees, on the terms and subject to the conditions herein set forth, to issue LOCs, and amend the expiry, amount or operative language of LOCs, for the account of any Applicant on any Business Day from time to time during the period from the Closing Date to the Termination Date; provided that:

(a) the Bank shall not have any obligation to issue or amend the expiry, amount or language of any LOC if (i) the aggregate Credit Exposure (after giving effect to such issuance, extension, or increase) would exceed the Commitment Amount, or (ii) such issuance or amendment would conflict with or cause the Bank to exceed any limit imposed by applicable law or any applicable requirement hereof;

(b) each LOC shall be denominated in dollars or in an Alternate Currency and shall be in a face amount not less than the Dollar Equivalent of $25,000 (or such lesser amount as the Bank may agree);

(c) each LOC shall be payable only against sight drafts or demands for payment at sight (and not provide for acceptance of time drafts or incurrence of deferred payment undertakings);

(d) no LOC shall have a scheduled expiration date (including all rights of the applicable Applicant or the Beneficiary to require extension thereof) later than the earlier of (i) three (3) years from the date of issuance thereof, and (ii) the Final LOC Expiration Date; provided that any LOC may by its terms be automatically extendible annually for additional one-year periods (provided that the Bank shall not permit any such extension to take effect that extends the expiration date of such LOC beyond the Final LOC Expiration Date); provided, further that the Bank shall not permit any such automatic extension if it has determined that such extension would not be permitted, or the Bank would have no obligation, at such time to issue such LOC as extended under the terms hereof, in which case the Bank shall notify the Beneficiary thereof of its election not to extend such LOC (which the Bank agrees to do on and subject to the terms of **Section 2.02(c)**), and

(e) each LOC shall be a Permitted LOC.

At the request of any Applicant, LOCs may be issued in accordance with this Agreement to support obligations of any Subsidiary Account Party that is a Subsidiary of such Applicant; provided that such Applicant represents, warrants and agrees, without limiting any Obligations of such Applicant hereunder, that: (i) such Subsidiary Account Party has consented to its being referred to in such LOC or otherwise as the “applicant”, “account party”, “client”, or “customer” at whose request or for whose account such LOC is issued; (ii) such Subsidiary Account Party has consented to its not having any rights under this Agreement (including any right to request that the Bank issue or amend such LOC or that the Bank dispose of any documents presented under such LOC (or any goods represented thereby) in any particular manner) and to the Bank’s treating such Applicant as the sole Person entitled to exercise such rights with respect to such LOC; (iii) such Subsidiary Account Party is a direct or indirect majority-owned subsidiary of the Company at the time of issuance of such LOC (or of any increase or extension thereof); (iv) such Subsidiary Account Party is bound by all the limitations of liability and exculpations in the Bank’s favor contained herein and subject to all the rights and remedies in the Bank’s favor referred to herein as if it were such Applicant; and (v) the Bank shall not be required to send any notice hereunder to such Subsidiary Account Party, but if the Bank in its sole discretion chooses to do so, the Bank

may send such notice as provided herein care of such Applicant and such notice shall be effective as if given to such Subsidiary Account Party.

2.02 Issuance; Extensions; Etc.

(a) Request for Issuance. An Applicant may from time to time request, upon at least three (3) Business Days' notice (given not later than 11:00 a.m. New York City time), that the Bank issue an LOC by delivering to the Bank (i) an LOC Request specifying the date on which such LOC is to be issued (which shall be a Business Day), a summary of the arrangement to which such LOC pertains, the expiration date thereof, the currency thereof (whether dollars or an Alternate Currency), the Available Amount thereof, and the name and address of the Beneficiary thereof; and (ii) such other documents and agreements as may be required pursuant to the Bank's customary practices for the issuance of letters of credit (and in the event of a conflict between the terms of this Agreement and the terms of such other documents or agreements, the terms of this Agreement shall govern). The applicable Applicant agrees to promptly deliver to the Parent Guarantor a copy of each request made by it pursuant to the foregoing sentence. If the requirements set forth in the first sentence of **Section 2.01** and in **Article III** are satisfied, the Bank shall issue the applicable LOC on the date requested in such LOC Request. Upon the issuance of an LOC, the Bank shall (A) deliver the original of such LOC to the Beneficiary thereof or as the applicable Applicant shall otherwise direct and (B) promptly notify the Bank thereof and furnish a copy thereof to the applicable Applicant and the Parent Guarantor.

(b) Request for Extension or Increase. The applicable Applicant may from time to time request, upon at least three (3) Business Days' notice (given not later than 11:00 a.m. New York City time), that the Bank amend the expiration date of an outstanding LOC, the Available Amount of an outstanding LOC or the language of an outstanding LOC by delivering to the Bank (with a copy to the Parent Guarantor) a written request therefor. Any such request for an extension or increase shall for all purposes hereof (including for purposes of **Section 2.02(a)**) be treated as though such Applicant had requested issuance of a replacement LOC (except that the Bank may, if it elects, issue a notice of extension or increase in lieu of issuing a new LOC in substitution for the outstanding LOC).

(c) Automatic Extensions. If any LOC shall provide for the automatic extension of the expiry date thereof unless the Bank gives notice that such expiry date shall not be extended, then the Bank shall allow such LOC to be extended unless such extended expiration date would conflict with **Section 2.01(d)** or unless the Bank shall have received, at least five (5) Business Days prior to the date on which such notice of non-extension must be delivered under such LOC (or such shorter period acceptable to the Bank), (i) notice from the applicable Applicant directing the Bank not to permit the extension of such LOC, unless an Event of Default has occurred and is continuing (and the Bank shall not permit any LOC to be automatically extended if it has received a timely notice, or (ii) a Block Notice from the Parent Guarantor.

(d) LOC Reports. The Bank will furnish to the Company and the Parent Guarantor prompt written notice of each (i) issuance or amendment of the expiry, amount or language of an LOC (including the Available Amount and expiration date thereof), (ii) other amendment to an LOC, (iii) cancellation of an LOC, and (iv) payment on an LOC. The Bank will furnish to the Applicant and the Parent Guarantor promptly upon request and, in any case, prior to the fifteenth Business Day of each calendar quarter a written report summarizing issuance and amendment of LOCs issued or amended during the preceding calendar quarter and payments and reductions in Available Amounts during such calendar quarter on all LOCs.

(e) ISP and UCP. Subject to the exculpations, limitations on liability, and other provisions of this Agreement, unless otherwise expressly agreed in writing by the Bank and the applicable

Applicant when a LOC is issued and subject to applicable laws, performance under LOCs by the Bank will be governed by (i) either (x) the rules of the "International Standby Practices 1998" (ISP98) (or such later revision as may be published by the Institute of International Banking Law & Practice on any date any LOC may be issued) or (y) the rules of the "Uniform Customs and Practices for Documentary Credits" (2007 Revision), International Chamber of Commerce Publication No. 600 (or such later revision as may be published by the International Chamber of Commerce on any date any LOC may be issued) and (ii) to the extent not inconsistent therewith, the governing law of this Agreement as set forth in **Section 7.13**.

2.03 Reimbursement Obligations.

(a) Each Applicant agrees to reimburse the Bank (by making payment to the Bank in accordance with **Section 2.07**) in the amount of each LOC Disbursement made by the Bank under each LOC issued at the request of such Applicant, such reimbursement to be made within five (5) Business Days of the date the Bank notifies such Applicant of such LOC Disbursement. Such reimbursement obligation shall be payable without further notice, protest or demand, all of which are hereby waived, and an action therefor shall immediately accrue. To the extent such payment by such Applicant is not timely made in accordance with the terms hereof, such unpaid reimbursement obligation shall be treated as a matured loan extended to such Applicant under this Agreement in respect of which interest shall accrue and be payable. Such Applicant agrees to pay to the Bank, on demand, interest (at a rate per annum equal to the Base Rate plus 1.00%) for each day from the date of such LOC Disbursement to the date such obligation is paid in full. For the avoidance of doubt, the payment by such Applicant of interest pursuant to this **Section 2.03(a)** shall not affect the calculation of fees under the Loan Documents.

(b) The obligation of the applicable Applicant to reimburse the Bank for any LOC Disbursement made by the Bank shall be unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement, the applicable LOC Request and any other applicable agreement or instrument under all circumstances, including the following circumstances:

(i) any lack of validity or enforceability of any LOC Related Document or any term or provision thereof;

(ii) any change in the time, manner, or place of payment of, or in any other term of, any obligation of the Company, any other Applicant, or any other Person in respect of any LOC Related Document or any other amendment or waiver of or any consent to departure from any LOC Related Document;

(iii) the existence of any claim, set-off, defense, or other right that the Company, any other Applicant, or any other Person may have at any time against any Beneficiary (or any Person for which any such Beneficiary may be acting), the Bank or any other Person, whether in connection with the transactions contemplated by the LOC Related Documents or any unrelated transaction;

(iv) any statement or any other document presented under an LOC being forged, fraudulent, invalid, or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(v) payment by the Bank under an LOC against presentation of a draft or other document that does not strictly comply with the terms of such LOC; or

(vi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Company or any other Applicant.

The foregoing provisions of this **Section 2.03(b)** shall not excuse the Bank from liability to the applicable Applicant against the Bank following reimbursement of each LOC Disbursement in full by such Applicant to the extent of any direct (but not consequential) damages suffered by the applicable Applicant that are caused by the Bank's gross negligence or willful misconduct; provided that (i) the Bank shall be deemed to have acted with reasonable care if it acts in accordance with standard letter of credit practice of commercial banks located in New York City and (ii) the applicable Applicant's aggregate remedies against the Bank for wrongfully honoring a presentation shall not exceed the aggregate amount paid by such Applicant to the Bank with respect to the honored presentation, plus interest.

(c) Without limiting any other provision of this Agreement, the Bank: (i) may rely upon any oral, telephonic, facsimile, electronic, written, or other communication reasonably believed to have been authorized by any Applicant, (ii) shall not be responsible for errors, omissions, interruptions, or delays in transmission or delivery of any message, advice or document in connection with any LOC, whether transmitted by courier, mail, telex, any other telecommunication, or otherwise (whether or not they be encrypted), or for errors in interpretation of technical terms or in translation (and the Bank may transmit any LOC terms without translating them), (iii) may honor any presentation under any LOC that appears on its face to substantially comply with the terms and conditions of such LOC, (iv) may replace a purportedly lost, stolen, or destroyed original LOC, waive a requirement for its presentation, or provide a replacement copy to any Beneficiary, (v) if no form of draft is attached as an exhibit to an LOC, may accept as a draft any written or electronic demand or request for payment under such LOC, and may disregard any requirement that such draft bear any particular reference to such LOC, (vi) unless an LOC specifies the means of payment, may make any payment under such LOC by any means it chooses, including by wire transfer of immediately available funds, (vii) may select any branch or affiliate of the Bank or any other bank or financial institution to act as advising, transferring, confirming, and/or nominated bank under the law and practice of the place where it is located (if the applicable LOC Request or LOC Related Documents requested or authorized advice, transfer, confirmation and/or nomination, as applicable), (viii) may amend any LOC to reflect any change of address or other contact information of any Beneficiary, and (ix) shall not be responsible for any other action or inaction taken or suffered by the Bank under or in connection with any LOC, if required or permitted under any applicable domestic or foreign law or letter of credit practice. None of the circumstances described in this **Section 2.03(c)** shall impair the Bank's rights and remedies against any Applicant or place the Bank under any liability to any Applicant.

(d) The applicable Applicant will notify the Bank in writing of any objection such Applicant may have to the Bank's issuance or amendment of any LOC, the Bank's honor or dishonor of any presentation under any LOC, or any other action or inaction taken by the Bank under or in connection with this Agreement or any LOC. The applicable Applicant's notice of objection must be delivered to the Bank within fifteen (15) Business Days after such Applicant receives notice of the action or inaction it objects to.

2.04 Termination or Reduction of Commitment. The Company may at any time, upon at least three (3) Business Days' notice to the Bank, terminate the Commitment in whole or reduce in part the unused portion of the Commitment Amount; provided that each partial reduction shall be in an aggregate amount of $5,000,000 or a higher integral multiple of $1,000,000. The Commitment Amount shall be permanently reduced to zero on the Termination Date if not sooner reduced to zero. Each notice delivered by the Company pursuant to this paragraph shall be irrevocable; provided that a notice of termination of the Commitment delivered by the Company may state that such notice is conditioned upon

the effectiveness of other credit facilities, in which case such notice may be revoked by the Company (by notice to the Bank on or prior to the specified effective date) if such condition is not satisfied. Except as specifically provided in this Agreement, no fees or expenses shall be payable by any Credit Party or Subsidiary Applicant in respect of any such termination.

2.05 Fees.

(a) The Company agrees to pay to the Bank the Upfront Fee and the Commitment Fee. Accrued Commitment Fees shall be payable in arrears on the last day of March, June, September, and December of each year, and on the date on which the Commitments terminate, commencing on the first such date to occur after the date hereof. All Commitment Fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Company agrees to pay to the Bank an LOC Fee with respect to its participations in LOCs. LOC Fees accrued to but excluding the last day of March, June, September and December of each year shall be payable on such last day, commencing on the first such date to occur after the Closing Date; provided that all such accrued and unpaid fees shall also be payable on the Termination Date, and any such fees accruing after the Termination Date shall be payable on demand. All LOC Fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day and the last day).

(c) All fees payable hereunder shall be paid on the dates due, in dollars, in immediately available funds, to the Bank. Other than amounts erroneously paid as the result of administrative or technical errors, fees paid shall not be refundable under any circumstances. The Commitment Fee due to the Bank shall cease to accrue on the date on which the Commitment shall expire or be terminated as provided herein.

2.06 Increased Costs and Capital Adequacy.

(a) If, due to any Change in Law, there shall be any increase in the cost to the Bank by an amount the Bank reasonably determines to be material of agreeing to issue or of issuing or maintaining or participating in LOCs or the making of LOC Disbursements (excluding, for purposes of this Section, any such increased costs resulting from (i) Taxes or Other Taxes (as to which **Section 2.08** shall exclusively govern), (ii) changes in the basis of taxation of overall net income or overall gross income by the United States or by the foreign jurisdiction or state under the laws of which the Bank is organized or has its Lending Office or any political subdivision thereof, (iii) any increased cost in respect of which the Bank is entitled to compensation under any other provision of this Agreement, (iv) any payment to the extent that it is attributable to the requirement of any Governmental Authority which regulates the Bank or its holding company which is imposed by reason of the quality of the Bank's assets or those of its holding company and not generally imposed on all entities of the same kind regulated by the same authority, or (v) any increased cost arising by reason of the Bank voluntarily breaching any lending limit or other similar restriction imposed by any provision of any relevant law or regulation after the introduction thereof), then the Company agrees to pay, from time to time, within fifteen (15) days after demand by the Bank, which demand shall include a statement of the basis for such demand and a calculation in reasonable detail of the amount demanded, to the Bank for the account of the Bank additional amounts sufficient to compensate the Bank for such increased cost. A certificate as to the amount of such increased cost, submitted to the Company by the Bank, shall be conclusive and binding for all purposes, absent manifest error of which the Company has notified the Bank promptly after receipt of such certificate.

(b) If, due to any Change in Law, there shall be any increase in the amount of capital or liquidity required or expected to be maintained by the Bank or any corporation controlling the Bank as a result of or based upon the existence of the Bank's commitment to extend credit hereunder and other commitments of such type pursuant hereto that has or would have the effect of reducing the rate of return on the Bank's (or the Bank's parent corporation's) capital or liquidity to a level below that which the Bank (or the Bank's parent corporation) could have achieved but for such Change in Law (excluding, for purposes of this Section, any such increased costs resulting from any change to the extent that it is attributable to the requirement of any Governmental Authority which regulates the Bank or its holding company which is imposed by reason of the quality of the Bank's assets or those of its holding company and not generally imposed on all entities of the same kind regulated by the same authority) then, within fifteen (15) days after demand by the Bank or such corporation, which demand shall include a statement of the basis for such demand and a calculation in reasonable detail of the amount demanded, the Company agrees to pay to the Bank, from time to time as specified by the Bank, additional amounts sufficient to compensate the Bank in the light of such circumstances, to the extent that the Bank reasonably determines such increase in capital or liquidity to be allocable to the existence of the Bank's commitment to issue or participate in LOCs hereunder or to the issuance or maintenance of or participation in any LOC. A certificate as to such amounts submitted to the Company by the Bank shall be conclusive and binding for all purposes, absent manifest error of which the Company has notified the Bank promptly after receipt of such certificate.

(c) Promptly after an officer with responsibility for its participation in the Facility becomes aware of the relevant circumstances and their results, the Bank shall promptly notify the Company of any event of which will result in, and will use reasonable commercial efforts available to it (and not, in the Bank's good faith judgment, otherwise materially disadvantageous to the Bank) to mitigate or avoid, any obligation of the Company to pay any amount pursuant to **Section 2.06(a)** or **2.06(b)** above or pursuant to **Section 2.08** (and, if the Bank has given notice of any such event and thereafter such event ceases to exist, the Bank shall promptly so notify the Company). Without limiting the foregoing, the Bank will designate a different Lending Office if such designation will avoid (or reduce the cost to the Company of) any event described in the preceding sentence and such designation will not, in the Bank's good faith judgment, be otherwise materially disadvantageous to the Bank.

(d) Notwithstanding the provisions of **Section 2.06(a)**, **2.06(b)** or **2.08** (and without limiting **Section 2.06(c)** above), if the Bank fails to notify the Company of any event or circumstance that will entitle the Bank to compensation pursuant to **Section 2.06(a)**, **2.06(b)** or **2.08** within 180 days after the Bank obtains actual knowledge of such event or circumstance, then the Bank shall not be entitled to compensation from the Company for any amount arising prior to the date that is 180 days before the date on which the Bank notifies the Company of such event or circumstance; provided that, if the event or circumstance giving rise to such entitlement to compensation is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

2.07 Payments and Computations.

(a) The applicable Applicant shall make each payment hereunder irrespective of any right of counterclaim or set-off not later than 2:00 p.m. (New York City time) on the day when due, in dollars, to the Bank at its office at 1251 Avenue of the Americas, New York, New York 10020 (or to such other office as the Bank shall direct from time to time) and at such account as the Bank shall direct from time to time in immediately available funds, with payments being received by the Bank after such time being deemed to have been received on the next succeeding Business Day; provided that if any amount due hereunder is based upon the Bank's payment in an Alternate Currency, the applicable Applicant will pay the Dollar Equivalent of such amount.

(b) If at any time insufficient funds are received by and available to the Bank to pay fully all amounts of principal, unreimbursed LOC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, and (ii) second, towards payment of principal and unreimbursed LOC Disbursements then due hereunder.

(c) All computations of interest on LOC Disbursements for the Base Rate shall be made by the Bank on the basis of a year of 365 or, if applicable, 366 days; all other computations of interest shall be made by the Bank on the basis of a year of 360 days. All such computations of interest shall be made for the actual number of days (including the first day but excluding the last day) occurring in the period for which such interest is payable.

(d) Whenever any payment hereunder shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall be included in the computation of any payment of interest or fees.

2.08 Taxes.

(a) All payments by the applicable Applicant hereunder shall be made, in accordance with **Section 2.07**, free and clear of and without deduction for any Taxes. If any Withholding Agent determines, in its sole discretion exercised in good faith, that it is required by law to deduct any taxes, levies, imposts, deductions, charges, or withholdings, and all liabilities with respect thereto, from or in respect of any sum payable hereunder to the Bank, (i) the sum payable by the applicable Applicant shall be increased as may be necessary so that after such Withholding Agent has made all required deductions (including deductions applicable to additional sums payable under this **Section 2.08**) the Bank receives an amount equal to the sum it would have received had no such deductions been made, (ii) such Withholding Agent shall make all such deductions, and (iii) such Withholding Agent shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law.

(b) In addition, the applicable Applicant shall pay any Other Taxes in accordance with applicable law.

(c) The applicable Applicant shall indemnify the Bank and hold it harmless against the full amount of Taxes and Other Taxes, and for the full amount of taxes of any kind imposed by any jurisdiction on amounts payable under this **Section 2.08**, imposed on or paid by the Bank and any liability (including penalties, additions to tax, interest and expenses) arising therefrom or with respect thereto. Any such indemnification payment shall be made within thirty (30) days from the date the Bank makes written demand therefor.

(d) Within thirty (30) days after the date of any payment of Taxes, the applicable Applicant shall furnish to the Bank, at its address referred to in **Section 7.02**, the original or a certified copy of a receipt evidencing such payment. In the case of any payment hereunder by or on behalf of such Applicant through an account or branch outside the United States or by or on behalf of such Applicant by a payor that is not a United States person, if such Applicant determines that no Taxes are payable in respect thereof, such Applicant shall furnish, or shall cause such payor to furnish, to the Bank, at such address, an opinion of counsel reasonably acceptable to the Bank stating that such payment is exempt from Taxes. For purposes of this **Section 2.08(d)** and **Section 2.08(f)**, (i) the terms “United States” and “United States person” shall have the meanings specified in Sections 7701(a)(9) and 7701(a)(30) of the Code, respectively, and (ii) a “Foreign Lender” means a person that is not a “United States person.”

(e) If the Bank is entitled to an exemption from or reduction of withholding Tax with respect to payments under any Loan Document, it shall deliver to the Company, at the time or times as

reasonably requested by the Company, such properly completed and executed documentation as reasonably requested by the Company as will permit such payments to be made without withholding or at a reduced rate.

(f) Without limiting the generality of the foregoing, the Bank (and any Eligible Assignee on or prior to the date on which it becomes a party hereto) shall, if it is legally eligible to do so, deliver to the Company, two duly signed, properly completed copies of whichever of the following is applicable:

(i) if the Bank (or Eligible Assignee) is not a Foreign Lender, IRS Form W 9;

(ii) if the Bank (or Eligible Assignee) is a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (1) with respect to payments of interest under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "interest" article of such tax treaty and (2) with respect to any other applicable payments under any Loan Document, IRS Form W 8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from U.S. Federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(iii) if the Bank (or Eligible Assignee) is a Foreign Lender for whom payments under any Loan Document constitute income that is effectively connected with such Foreign Lender's conduct of a trade or business in the United States, IRS Form W-8ECI;

(iv) if the Bank (or Eligible Assignee) is a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code both (1) IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, and (2) a certificate (a "U.S. Tax Certificate") to the effect that such Lender is not (a) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (b) a "10 percent shareholder" of the Company within the meaning of Section 881(c)(3)(B) of the Code and (c) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code;

(v) if the Bank (or Eligible Assignee) is a Foreign Lender that is not the beneficial owner of payments made under any Loan Document (including a partnership or a participant) (1) an IRS Form W-8IMY on behalf of itself and (2) the relevant forms prescribed in subsections (i), (ii), (iii) or (iv) of this paragraph (f) that would be required of each such beneficial owner or partner of such partnership if such beneficial owner or partner were a lender; provided, however, that if the Lender is a partnership and one or more of its partners are claiming the exemption for portfolio interest under Section 881(c) of the Code, such Lender may provide a U.S. Tax Certificate on behalf of such partners;

(vi) if a payment made to a Foreign Lender under any Loan Document would be subject to any withholding Taxes as a result of such Foreign Lender's failure to comply with the requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code), at the time or times prescribed by law and at such time or times reasonably requested by the Withholding Agent, such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Withholding Agent as may be necessary for the Withholding Agent to comply with its obligations under FATCA, to determine that such Foreign Lender has or has not complied with such Foreign Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment; or

(vii) any other form prescribed by law as a basis for claiming exemption from, or a reduction of, U.S. Federal withholding Tax together with such supplementary documentation necessary to enable the Company to determine the amount of Tax (if any) required by law to be withheld.

(g) Thereafter and from time to time, each Foreign Lender shall, if it is legally eligible to do so, (i) promptly submit to the Company (with a copy to the Withholding Agent) such additional duly completed and signed copies of one or more of the forms or certificates described in Section 2.08(f)(i), (ii), (iii), (iv) or (v) above (or such successor forms or certificates as shall be adopted from time to time by the relevant United States taxing authorities) as may then be available under then current United States laws and regulations to avoid, or such evidence as is reasonably satisfactory to the Company of any available exemption from, or reduction of, United States withholding Taxes in respect of all payments to be made to such Foreign Lender by the Company pursuant to this Agreement, or any other Loan Document, in each case, (1) after the occurrence of any event requiring a change in the most recent form, certificate or evidence previously delivered by it to the Company and (2) from time to time thereafter if reasonably requested by the Company, and (ii) promptly notify the Company of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(h) For any period with respect to which the Bank that may lawfully do so has failed to provide the Company with the appropriate form described in **Section 2.08(f)** above (other than if such failure is due to a change in law occurring after the date on which a form originally was required to be provided or if such form otherwise is not required under **Section 2.08(f)** above), the Bank shall not be entitled to indemnification under **Sections 2.08(a)** or **2.08(c)** with respect to Taxes imposed by the United States by reason of such failure; provided that should the Bank become subject to Taxes because of its failure to deliver a form required hereunder, the Company shall take such steps as the Bank shall reasonably request to assist the Bank to recover such Taxes.

(i) The Bank represents and warrants to each Applicant and the Parent Guarantor that, as of the date the Bank becomes a party to this Agreement, the Bank is entitled to receive payments hereunder from such Applicant and the Parent Guarantor without deduction or withholding for or on account of any Taxes.

(j) If the Bank determines, in its reasonable discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Company, the Parent Guarantor or any Applicant or with respect to which such Applicant has paid additional amounts pursuant to this **Section 2.08** or the Parent Guarantor pursuant to the Parent Guaranty, it shall reimburse to such Applicant or the Parent Guarantor, as the case may be, such amount as the Bank determines to be the proportion of such refund as will leave the Bank (after that reimbursement) in no better or worse position in respect of the worldwide liabilities for Taxes and Other Taxes of the Bank (including in each case its Affiliates) than it would have been if no such indemnity had been required under this **Section 2.08**. This **Section 2.08(j)** shall not be construed to require the Bank to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Company or any other Person.

2.09 Use of Letters of Credit. The Company and each other Applicant covenants and agrees with the Bank that the LOCs shall be used for the purposes set out in the definition of "Permitted LOCs" in **Section 1.01**.

2.10 Certain Provisions Relating to the Bank as Issuer of LOCs.

(a) LOC Requests. The representations, warranties, and covenants by each Applicant under, and the rights and remedies of the Bank under, any LOC Request or any documents or agreements delivered to the Bank pursuant to **Section 2.02(a)(i)** relating to any LOC are in addition to,

and not in limitation or derogation of, representations, warranties, and covenants by such Applicant under, and rights and remedies of the Bank under, this Agreement and applicable law. Each Applicant acknowledges and agrees that all rights of the Bank under any LOC Request or any such other documents or agreements shall inure to the benefit of the Bank to the extent of its LOC Participating Interest in and LOC Disbursements in connection with the applicable LOC as fully as if the Bank were a party to such LOC Request or any such other documents or agreements. In the event of any inconsistency between the terms of this Agreement and any LOC Request or any such other documents or agreements, this Agreement shall prevail.

(b) No Liability of the Bank. Each Applicant assumes all risks of the acts or omissions of any Beneficiary of any LOC with respect to its use of such LOC. Neither the Bank nor any of its officers, directors, employees, Affiliates, or agents shall be liable or responsible for: (a) the use that may be made of any LOC or any acts or omissions of any Beneficiary in connection therewith; (b) the validity, sufficiency, or genuineness of documents, or of any endorsement thereon, even if such documents should prove to be in any or all respects invalid, insufficient, fraudulent or forged; or (c) payment by the Bank against presentation of documents that strictly or substantially comply with the terms of an LOC, including failure of any documents to bear any reference or adequate reference to the LOC. In furtherance and not in limitation of the foregoing, the Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary.

2.11 Currency Indemnity.

(a) Each Credit Party's obligation to make payments hereunder in any Specified Currency shall not be discharged or satisfied by any tender, or any recovery pursuant to any judgment or otherwise, which is expressed in or converted into any currency other than the Specified Currency, except to the extent that such tender or recovery results in the actual receipt by the Bank of the full amount of the Specified Currency payable under this Agreement. Each Credit Party shall indemnify the Bank for any shortfall and such Credit Party's obligation to make payments in the Specified Currency shall be enforceable as an alternative or additional cause of action to the extent that such actual receipt is less than the full amount of the Specified Currency expressed to be payable hereunder, and shall not be affected by judgment being obtained for other sums due hereunder.

(b) If, for the purpose of obtaining or enforcing judgment against any Credit Party in any court or in any jurisdiction, it becomes necessary to convert into or from any currency other than the Specified Currency (such other currency being hereinafter referred to as the "Judgment Currency") an amount due in the Specified Currency, the conversion shall be made at the Dollar Equivalent of such amount, in each case, as of the date immediately preceding the day on which the judgment is given (such Business Day being hereinafter referred to as the "Judgment Currency Conversion Date"). If there is a change in the rate of exchange prevailing between the Judgment Currency Conversion Date and the date of actual payment of the amount due, the applicable Credit Party obligated in respect thereof covenants and agrees to pay, or cause to be paid, such additional amounts, if any (but in any event not a lesser amount), as may be necessary to ensure that the amount paid in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of the Specified Currency which could have been purchased with the amount of Judgment Currency stipulated in the judgment or judicial award at the rate of exchange prevailing on the Judgment Currency Conversion Date.

2.12 Subsidiary Applicants. The Company from time to time may designate any Subsidiary as a Subsidiary Applicant by (i) delivering to the Bank an Adherence Agreement executed by such Subsidiary, the Company and the Bank and (ii) taking such further actions as the Bank may reasonably request, including executing and delivering other instruments, documents, and agreements corresponding

to those obtained in respect of the Company, all in form and substance reasonably satisfactory to the Bank; provided, that no Subsidiary shall become a party hereto or a Subsidiary Applicant hereunder if the Bank reasonably believes that it would violate any applicable law or regulation for any LOCs to be issued at such proposed Subsidiary Applicant's request or that the Bank would be subject to any unindemnified withholding taxes. Upon such delivery and the taking of such further actions such Subsidiary shall for all purposes of this Agreement be a Subsidiary Applicant and a party to this Agreement until the Company shall have executed and delivered to the Bank a "Notice of Termination" (as defined in the applicable Adherence Agreement) in respect of such Subsidiary, whereupon such Subsidiary shall cease to be a Subsidiary Applicant. Notwithstanding the preceding sentence, no such Notice of Termination will become effective as to any Subsidiary Applicant at a time when any Obligations of such Subsidiary Applicant shall be outstanding hereunder or any LOC issued at the request of such Subsidiary Applicant shall be outstanding (which shall not have been cash collateralized in a manner satisfactory to the Bank in its sole discretion); provided that such Notice of Termination shall be effective to terminate such Subsidiary Applicant's right to request LOCs hereunder. The Subsidiary Applicants as of the Closing Date are set forth on **Schedule II**.

2.13 Parent Guaranty. Payment of the Repayment Obligations by the Company is guaranteed by the Parent Guarantor pursuant to the Parent Guaranty. Subject to (a) the Parent Guarantor's obligations under the Parent Guaranty and (b) **Section 2.15**, the obligations of each Credit Party under this Agreement are several and not joint and no Credit Party shall be responsible for the obligations of any other Credit Party under this Agreement.

2.14 Cash Collateralization. If, at any time, the Dollar Equivalent of the Credit Exposure exceeds the Commitment Amount (including by reason of fluctuations in exchange rates), then one or more of the Applicants shall, within five (5) Business Days after notice thereof from the Bank, cash collateralize any outstanding LOCs in a manner satisfactory to the Bank in its sole discretion and/or pay or reimburse any other amounts then due and payable under the Facility, in each case in an amount sufficient to eliminate such excess; provided, however, that no Applicant shall be required to cash collateralize any amounts attributable to an LOC issued at the request of any other Applicant.

2.15 Company Guaranty.

(a) The Company hereby irrevocably and unconditionally guarantees to the Bank the due and punctual payment of all Repayment Obligations of each of the other Credit Parties (the "Guaranteed Obligations"). The Company agrees that the Guaranteed Obligations may be extended or renewed, in whole or in part, without notice to or further assent from it, and that it will remain bound upon its guarantee notwithstanding any extension or renewal of any Guaranteed Obligations. Each and every default in payment or performance on any Guaranteed Obligation shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder as each cause of action arises.

(b) To the fullest extent permitted by applicable law, the Company waives presentment to, demand of payment from, and protest to the applicable Applicant or to any other guarantor of any of the Guaranteed Obligations, and also waives notice of acceptance of its guarantee and notice of protest for nonpayment. To the fullest extent permitted by applicable law, the obligations of the Company hereunder shall not be affected by (i) the failure of the Bank to assert any claim or demand or to enforce or exercise any right or remedy against any Applicant or any other Person under the provisions of the Loan Documents or otherwise; (ii) any rescission, waiver, amendment or modification of, or any release of any Person from any of the terms or provisions of any Loan Document or any other agreement; (iii) the failure or delay of the Bank for any reason whatsoever to exercise any right or remedy against the Parent Guarantor under the Parent Guaranty; (iv) any default, failure or delay, willful or otherwise, in the performance of any Repayment Obligations; or (v) any other act, omission or delay to do any other act

which may or might in any manner or to any extent vary the risk of the Company under this **Section 2.15** or otherwise operate as a discharge or exoneration of the Company as a matter of law or equity or which would impair or eliminate any right of the Company to subrogation.

(c) The Company agrees that its guarantee hereunder constitutes a guarantee of payment when due and not of collection, that such guarantee may be enforced at any time and from time to time, on one or more occasions, during the continuance of any Event of Default, without any prior demand or enforcement in respect of any Guaranteed Obligations, and that the Company waives any right to require that any resort be had by the Bank to any other guarantee. The obligations of the Company hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason (other than the payment in full in cash of the Guaranteed Obligations), including any claim of waiver, release, surrender, amendment, modification, alteration or compromise of any of the Guaranteed Obligations or of any collateral security or guarantee or other accommodation in respect thereof, and shall not be subject to any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of the Guaranteed Obligations or any Loan Document or any provision thereof (or of this Agreement or any provision hereof) or otherwise. The obligations of the Company hereunder shall extend to all Repayment Obligations of the other Applicants without limitation of amount.

(d) To the fullest extent permitted by applicable law, the Company waives any defense based on or arising out of any defense of any Applicant or any other guarantor or the unenforceability of the Guaranteed Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any Applicant, other than the final payment in full in cash of the Guaranteed Obligations. The Bank may, at its election, compromise or adjust any part of the Guaranteed Obligations, make any other accommodation with any Applicant or any other Person or exercise any other right or remedy available to them against any Applicant or any other Person, without affecting or impairing in any way the liability of the Company hereunder except to the extent the Guaranteed Obligations have been fully and finally paid. To the fullest extent permitted by applicable law, the Company waives any defense arising out of any such election even though such election operates, pursuant to applicable law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of the Company against any Applicant or any other Person, as the case may be. The Company agrees that (i) the maturity of the Guaranteed Obligations guaranteed hereby may be accelerated for the purposes of the Company's guarantee herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration as to any Applicant in respect of the Guaranteed Obligations (other than any notices and cure periods expressly granted to an Applicant in this Agreement or any other Loan Document evidencing or securing the Obligations of such Applicant), and (ii) in the event of any such acceleration of such Guaranteed Obligations, such Guaranteed Obligations (whether or not due and payable) shall forthwith become due and payable in full by the Company for purposes of this Agreement.

(e) In furtherance of the foregoing and not in limitation of any other right that the Bank has at law or in equity against the Company by virtue hereof, upon the failure of any Applicant to pay (after the giving of any required notice and the expiration of any cure period expressly granted to such Applicant in this Agreement) any Guaranteed Obligation when and as the same shall become due, whether at maturity, upon mandatory prepayment, by acceleration, after notice of prepayment or otherwise, the Company hereby promises to and will forthwith pay, or cause to be paid, to the Bank in cash the amount of such unpaid Guaranteed Obligation. Upon payment by the Company of any sums as provided above, all rights of the Company against the applicable Applicant or any other Person arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior payment in full in cash of all the Guaranteed Obligations. If any amount shall erroneously be paid to the Company on account of (i) such subrogation, contribution, reimbursement, indemnity, or similar right, or (ii) any such indebtedness of any

Applicant, such amount shall be held in trust for the benefit of the Bank and shall be paid to the Bank to be credited against the payment of the Guaranteed Obligations, whether matured or unmatured.

(f) The Company further agrees that its obligations hereunder shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Guaranteed Obligation is rescinded or must otherwise be restored by the Bank upon the bankruptcy or reorganization of any Applicant or otherwise. Nothing shall discharge or satisfy the liability of the Company hereunder except the full and final performance and payment in cash of the Guaranteed Obligations.

ARTICLE III

CONDITIONS

3.01 Conditions Precedent to Closing Date. The occurrence of the Closing Date, and the obligation of the Bank to issue any LOC, is subject to the satisfaction (or waiver in accordance with **Section 7.01**) of the following conditions precedent:

(a) The Bank shall have received from each party hereto or thereto either (i) a counterpart of this Agreement and the Parent Guaranty signed on behalf of such party or (ii) written evidence satisfactory to the Bank (which may include electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement and the Parent Guaranty.

(b) The Bank shall have received from the Company a signed certificate, dated as of the Closing Date and signed by a Responsible Officer of the Company on behalf of the Company, certifying as to (i) the truth in all material respects of the representations and warranties contained in the Loan Documents as though made on and as of the Closing Date and (ii) the absence of any Event of Default.

(c) The Bank shall have received documents and certificates relating to the organization, existence, and good standing of each Credit Party, and the authorization of the transactions contemplated hereby, all in form reasonably satisfactory to the Bank, including (i) certified copies of the resolutions (or comparable evidence of authority) of each Credit Party approving the transactions contemplated by the Loan Documents and (ii) a certification as to the names and true signatures of the officers of each Credit Party that are authorized to sign the Loan Documents and the other documents to be delivered hereunder.

(d) The Bank shall have received evidence, reasonably satisfactory to it, that the Existing Facility has been terminated on or prior to the date hereof.

(e) Patriot Act. The Bank shall have received all documentation and other information reasonably requested by it that is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act.

(f) The Bank shall have received all fees and other amounts due and payable on or prior to the Closing Date and, to the extent invoiced, reimbursement or payment of all expenses required to be reimbursed or paid by any Applicant hereunder, including the previously agreed fees and disbursements of special counsel (if any) to the Bank.

3.02 Conditions Precedent to Each Issuance, Extension or Increase of an LOC. In addition to the conditions to issuance or amendment set forth in **Section 2.01**, the obligation of the Bank to issue or

amend the expiry, amount or language of an LOC (including any issuance on the Closing Date) shall be subject to the further conditions precedent that on the date of such issuance or amendment:

(a) the representations and warranties contained in each Loan Document are true and correct in all material respects on and as of such date, before and after giving effect to such issuance, extension (other than any automatic extension of an LOC), or increase, as though made on and as of such date, other than any such representation or warranty that, by its terms, refers to a specific date other than the date of such issuance, extension or increase, in which case as of such specific date, unless waived in accordance with **Section 7.01**;

(b) no Block Notice is in effect;

(c) no Event of Default, or event or condition that would constitute an Event of Default described in **Section 6.01(a)**, **Section 6.01(f)**, or **Section 6.01(g)** but for the requirement that notice be given or time elapse or both, has occurred and is continuing or would result from such issuance, extension, or increase;

(d) the Parent Guarantor shall not have repudiated, or asserted the unenforceability of the Parent Guaranty and the Parent Guaranty shall continue to be in full force and effect; and

(e) in the case of the issuance, extension or increase of the amount of any LOC denominated in an Alternate Currency, there shall not have occurred any change in national or international financial, political, or economic conditions or currency exchange rates or exchange controls which in the reasonable opinion of the Bank would make it impracticable for such LOC to be issued, extended or increased in such Alternate Currency.

Each request for issuance, extension, or increase of an LOC and each automatic extension permitted pursuant to **Section 2.02(c)** shall be deemed to be a representation and warranty by the applicable Applicant that both on the date of such request and on the date of such issuance, extension, or increase or automatic extension the foregoing statements are true and correct.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

The Company represents and warrants as follows:

4.01 Existence, Etc. Each Credit Party (i) is duly organized or formed, validly existing, and in good standing under the laws of the jurisdiction of its incorporation or formation, (ii) is duly qualified and in good standing as a foreign corporation or other entity in each other jurisdiction in which it owns or leases property or in which the conduct of its business requires it to so qualify or be licensed except where the failure to so qualify or be licensed could not reasonably be expected to have a Material Adverse Effect, and (iii) has all requisite power and authority (including all governmental licenses, permits and other approvals) to own or lease and operate its properties and to carry on its business as now conducted and as proposed to be conducted, except where the failure to have any license, permit or other approval could not reasonably be expected to have a Material Adverse Effect.

4.02 Authority and Authorization. The execution, delivery, and performance by each Credit Party of each Loan Document to which such Credit Party is party, and the consummation of the transactions contemplated thereby, are within the organizational powers of such Credit Party, have been duly authorized by all necessary organizational action, and do not (i) contravene the Constituent

Documents of such Credit Party, or (ii) violate any law, rule, regulation (including Regulation X of the Board of Governors of the Federal Reserve System), order, writ, judgment, injunction, decree, determination or award, or (iii) conflict with or result in the breach of, or constitute a default under, any contract, loan agreement, indenture, mortgage, deed of trust, lease or other instrument binding on or affecting such Credit Party or its properties, which, in the case of any violation, conflict, breach or default under clause (ii) or (iii) could reasonably be expected to have a Material Adverse Effect. No Credit Party is in violation of any such law, rule, regulation, order, writ, judgment, injunction, decree, determination or award or in breach of any such contract, loan agreement, indenture, mortgage, deed of trust, lease or other instrument, the violation or breach of which could reasonably be expected to have a Material Adverse Effect.

4.03 Approvals. No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or any other third party is required for the due execution, delivery, or performance by any Credit Party of any Loan Document to which it is party or the consummation of the transactions contemplated thereby, other than has been obtained and is in full force and effect as of the Closing Date.

4.04 Enforceability. This Agreement has been, and each other Loan Document to which a Credit Party is a party, has been or when delivered hereunder will have been, duly executed and delivered by such Credit Party. This Agreement is, and each other Loan Document to which a Credit Party is a party, is or when delivered hereunder will be, the legal, valid, and binding obligation of such Credit Party, enforceable against it in accordance with the terms thereof, subject to bankruptcy, insolvency, and similar laws of general application relating to creditors' rights and to general principles of equity.

4.05 Litigation. Except as disclosed in the Company's filings with the SEC from time to time, there is no action, suit, investigation, litigation or proceeding affecting the Company pending or, to the knowledge of the Company, threatened in writing before any Governmental Authority that could reasonably be expected to have a Material Adverse Effect.

4.06 Compliance with Certain Acts. Each Credit Party is in compliance in all material respects with the Patriot Act. No part of any payment under any LOC will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended from time to time, and any successor statute or statutes. Neither any Credit Party nor any of its directors, officers, managers or principal employees is on the list of Specially Designated Nationals and Blocked Persons issued by OFAC.

4.07 Investment Company Act. No Credit Party is an "investment company", or an "affiliated person" of, or "promoter" or "principal underwriter" for, an "investment company", as such terms are defined in the United States Investment Company Act of 1940, as amended from time to time, and any successor statute or statutes. Neither the making of any LOC Disbursements, nor the issuance of any LOC, nor the application of the proceeds or repayment thereof, nor the consummation of the other transactions contemplated by the Loan Documents, will violate any provision of such Act or any rule, regulation, or order of the SEC thereunder.

4.08 Compliance with Laws and Agreements. Each Credit Party is in compliance with all laws, regulations, and orders of any Governmental Authority applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No Credit Party is in default in any material respect beyond any applicable grace period under or

with respect to any of its Constituent Documents or any indenture, agreement, instrument or undertaking to which it is a party or by which it or any of its property is bound, the existence of which default has not been waived in writing and which, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

4.09 Anti-Corruption Laws and Sanctions. Each Credit Party and each Subsidiary is in compliance, in all material respects, with Anti-Corruption Laws and Sanctions and are not engaged in any activity that would reasonably be expected to result in the Credit Parties being designated as a Sanctioned Person. Policies and procedures the Company believes are designed to ensure compliance by the Credit Parties, their respective Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions have been implemented, and are maintained in effect, by the Credit Parties or otherwise on behalf of their Subsidiaries. None of (a) any Credit Party, any Subsidiary of a Credit Party or any of their respective directors, officers or employees (except any director, officer or employee of a Non-Controlled Subsidiary appointed by a Person that is not an Affiliate of any Credit Party), or (b) to the knowledge of any Credit Party, any director, officer or employee of any Non-Controlled Subsidiary (to the extent appointed by a Person that is not an Affiliate of any Credit Party, is a Sanctioned Person. No LOC will violate any Anti-Corruption Laws or applicable Sanctions.

4.10 No Event of Default. No Event of Default has occurred and is continuing.

ARTICLE V

COVENANTS

Until the Commitment has expired or been terminated and the principal of and interest on each LOC Disbursement and all fees payable hereunder shall have been paid in full in cash and all LOCs shall have expired without any pending drawing or terminated, the Company covenants and agrees with the Bank that:

5.01 Information. The Company will furnish to the Bank:

(a) within ninety (90) days after the end of each fiscal year of the Company, its audited consolidated balance sheet and related statements of earnings, shareholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by independent public accountants of recognized national standing and reasonably acceptable to the Bank (without a "going concern" explanatory note or any similar qualification or exception or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly, in all material respects, the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP;

(b) within forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year of the Company, its consolidated balance sheet and related statements of earnings, shareholders' equity and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly, in all material respects, the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP, subject to normal year-end audit adjustments and the absence of footnotes; and

(c) written notice of the occurrence of an Event of Default, which notice shall be given within five (5) Business Days after the actual knowledge of an officer of the Company of such occurrence, specifying the nature and extent thereof and, if continuing, the action the Company or relevant Credit Party is taking or proposes to take in respect thereof.

The Parent Guarantor shall promptly (and not later than three (3) Business Days after the occurrence thereof) notify the Company of any Event of Default occurring under **Section 6.01(d)**, **(e)**, **(f)**, or **(g)** and relating to the Parent Guarantor.

Anything required to be delivered pursuant to **Section 5.01(a)** or **(b)** above (to the extent any such financial statements or reports are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which the Company posts such reports, or provides a link thereto, on the Company's website on the Internet, or on the date on which such reports are filed with the SEC and become publicly available.

5.02 Existence. Each Credit Party shall do or cause to be done all things necessary to preserve and keep in full force and effect its legal existence and the rights, licenses, permits, privileges, authorizations, qualifications and accreditations material to the conduct of its business, in each case if the failure to do so, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, consolidation or other transaction expressly permitted hereunder.

5.03 Compliance with Laws. Each Credit Party will comply with all applicable laws, ordinances, rules, regulations, and requirements of Governmental Authorities except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

5.04 Inspection of Property, Books and Records. Each Credit Party will keep, and will cause each of its Subsidiaries to keep, adequate books of record and account, and will permit representatives of the Bank to visit and inspect (upon one (1) Business Day's notice) any of its properties, to examine and make abstracts from any of its books and records and to discuss its affairs, finances and accounts with its officers, employees and independent public accountants, all during regular business hours and as often as reasonably requested (provided, however, that unless an Event of Default shall have occurred and be continuing, such inspection right shall be limited to one occurrence per Bank in any 12-month period).

5.05 Anti-Corruption Laws and Sanctions. Policies and procedures will be maintained and enforced by or on behalf of each Credit Party that the Company believes are designed to promote and achieve compliance, in all material respects by each Credit Party and each of its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions. No Credit Party will directly or indirectly, use the proceeds of the LOCs, or lend, contribute or otherwise make available such proceeds to any direct or indirect subsidiary of such Credit Party, joint venture partner or other Person, (i) to fund any activities or business of or with any Sanctioned Person, or in any Sanctioned Country, or (ii) in any other manner that would result in such Credit Party or the Bank being in violation of Sanctions.

ARTICLE VI

EVENTS OF DEFAULT

6.01 Events of Default and Their Effect. If any of the following events (each an "Event of Default") shall occur and be continuing:

(a) Any Applicant shall, other than as a result of administrative or technical error so long as such error is corrected within three (3) Business Days of notification to such Applicant of such error, fail to pay any reimbursement obligation in respect of any LOC Disbursement made by the Bank pursuant to an LOC, any Applicant shall fail to deposit cash collateral when and as the same shall become due and payable, or any Credit Party shall fail to pay any other amount payable by such Credit Party under any Loan Document, in each case within five (5) Business Days after the same becomes due and payable with respect to a payment required to be made pursuant to **Section 2.03** or ten (10) Business Days after the same becomes due and payable with respect to any other payment required to be made hereunder;

(b) Any representation or warranty made by any Credit Party (or any of its officers or other representatives) under or in connection with any Loan Document shall prove to have been incorrect in any material respect when made or deemed to have been made and such inaccuracy is not remedied within thirty (30) days after receipt of notice to the applicable Credit Party and the Parent Guarantor from the Bank specifying such inaccuracy;

(c) Any Credit Party shall fail to perform or observe any term, covenant, or agreement contained herein on its part to be performed or observed if such failure shall remain unremedied for thirty (30) days after written notice thereof shall have been given to the Company by the Bank, except where such default cannot be reasonably cured within 30 days but can be cured within 60 days, the Credit Party has (i) during such 30-day period commenced and is diligently proceeding to cure the same and (ii) such default is cured within 60 days after the earlier of becoming aware of such failure and receipt of notice to the applicable Credit Party and the Parent Guarantor from the Bank specifying such failure;

(d) The Parent Guarantor shall fail to pay any indebtedness for borrowed money pursuant to a loan agreement or noncontingent payment obligation pursuant to a letter of credit agreement of similar nature to this Agreement, individually or in the aggregate, in excess of the Dollar Equivalent of $200,000,000, when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such indebtedness, provided, however, that a written waiver of such failure by the Person to whom such Indebtedness is owed shall be a written waiver of the Event of Default resulting pursuant to this subclause from such failure; or the maturity of such indebtedness is accelerated, provided, however, that a written waiver of such failure by the Person to whom such indebtedness is owed shall be a written waiver of the Event of Default resulting pursuant to this subclause from such failure;

(e) The Parent Guarantor shall repudiate, or assert the unenforceability of the Parent Guaranty, or the Parent Guaranty shall for any reason not be in full force and effect or the Company shall repudiate, or assert the unenforceability of this Agreement;

(f) The entry by a court having jurisdiction in the premises of (i) a decree or order for relief in respect of the Parent Guarantor, the Company or any other Credit Party in an involuntary case or proceeding under any applicable United States federal, state, or foreign bankruptcy, insolvency, reorganization, or other similar law or (ii) a decree or order adjudging the Parent Guarantor, the Company or any other Credit Party bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Parent Guarantor, the Company or any other Credit Party under any applicable United States federal, state, or foreign law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Parent Guarantor, the Company or any other Credit Party or any substantial part of the property of the Parent Guarantor or the Company, or ordering the winding up or liquidation of the affairs of the Parent

Guarantor, the Company or any other Credit Party, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of ninety (90) consecutive days; or

(g) The commencement by the Parent Guarantor, the Company or any other Credit Party of a voluntary case or proceeding under any applicable United States federal, state, or foreign bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated the Bankrupt or insolvent, or the consent by the Parent Guarantor, the Company or any other Credit Party to the entry of a decree or order for relief in respect of the Company or any other Credit Party in an involuntary case or proceeding under any applicable United States federal, state, or foreign bankruptcy, insolvency, reorganization, or other similar law or to the commencement of the Bankruptcy or insolvency case or proceeding against it, or the filing by the Parent Guarantor, the Company or any other Credit Party of a petition or answer or consent seeking reorganization or relief under any applicable United States federal, state, or foreign law, or the consent by the Parent Guarantor, the Company or any other Credit Party to the filing of such petition or the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator, or similar official of the Parent Guarantor, the Company or any other Credit Party or of any substantial part of the property of, or the making by the Parent Guarantor, the Company or any other Credit Party of an assignment for the benefit of creditors, or the admission by the Parent Guarantor, the Company or any other Credit Party in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Parent Guarantor, the Company or any other Credit Party in furtherance of any such action;

then, and in any such event, the Bank (i) may, by notice to the Company, declare the obligation of the Bank to issue or amend the expiry, amount or language of any LOC to be terminated, whereupon the same shall forthwith terminate, and/or (ii) may, by notice to the Company, declare all amounts payable under this Agreement and the other Loan Documents to be forthwith due and payable, whereupon all such amounts shall become and be forthwith due and payable, without presentment, demand, protest, or further notice of any kind, all of which are hereby expressly waived by each Credit Party, and/or (iii) may require the Beneficiary of any LOC to draw the entire amount available to be drawn under such LOC in accordance with (and to the extent permitted by) such LOC and/or (iv) require the applicable Applicant to use best efforts to cause the Bank to be released from all its obligations under each LOC, and/or (v) exercise any and all other remedies available at law, in equity or otherwise, to secure, collect, enforce or satisfy any Obligations of any of the Credit Parties; provided that in the event of an actual or deemed entry of an order for relief with respect to any Applicant under the Bankruptcy Law, (x) the obligation of the Bank to issue, amend, or amend the expiry, amount or language of any LOC shall automatically terminate, (y) all such amounts shall automatically become due and payable, without presentment, demand, protest, or any notice of any kind, all of which are hereby expressly waived by each Applicant, and (z) the obligation of each Applicant to provide cash collateral under **Section 6.02** shall automatically become effective.

6.02 Actions in Respect of the Letters of Credit upon Event of Default. If any Event of Default shall have occurred and be continuing, the Bank may, whether before or after taking any of the actions described in **Section 6.01**, demand that the Company and each other Applicant, and forthwith upon such demand the Company and each other Applicant will, without duplication of any other cash collateral provide to the Bank, remit as cash collateral to the Bank in immediately available funds an aggregate amount not less than the sum of (i) one hundred percent (100%) of the Available Amount at such time of all LOCs denominated in dollars plus (ii) one hundred five percent (105%) of the Available Amount at such time of all LOCs denominated in Alternate Currencies. If at any time during the continuance of an Event of Default the Bank determines that such funds are subject to any right or claim of any Person other than the Bank or that the total amount of such funds is less than the aggregate Available Amount at such time of all LOCs, the Company and each other Applicant will, forthwith upon

demand by the Bank, remit to the Bank, as additional cash collateral, an amount equal to the excess of (a) such aggregate Available Amount over (b) the total amount of funds, if any, that the Bank determines to be free and clear of any such right and claim. Notwithstanding the two preceding sentences, no Applicant other that the Company shall be required to cash collateralize any amounts attributable to an LOC issued at the request of any other Applicant. Upon the drawing of any LOC, such funds shall be applied to reimburse the Bank, to the extent permitted by applicable law.

ARTICLE VII

MISCELLANEOUS

7.01 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document (other than with respect to an increase in the Commitment Amount pursuant to **Section 2.04(b)** or any agreement or agreements executed and delivered thereunder), nor consent to any departure by any Credit Party therefrom, shall in any event be effective unless the same shall be in writing the Bank and the Company, and then any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

7.02 Notices, Etc. All notices and other communications provided for hereunder shall be in writing (including facsimile or e-mail) and mailed or sent to the applicable party at its address set forth below its signature hereto (or, in the case of an assignee pursuant to **Section 7.06** that is not a party hereto on the Closing Date, at its address specified in the Assignment and Assumption pursuant to which it becomes the Bank and in the case of any Subsidiary Applicant that is not a party hereto on the Closing Date, at its address specified in the Adherence Agreement pursuant to which it becomes a Subsidiary Applicant) or at such other address as shall be designated by such party in a written notice to the other parties. All such notices and communications shall be effective (a) if mailed, three Business Days after the date deposited in the mail, (b) if sent by messenger or courier, when delivered, or (c) if sent by facsimile or e-mail, when the sender receives electronic confirmation of receipt, except that (i) notices and communications to the Bank pursuant to **Article II**, shall not be effective until received by such Person; and (ii) any notice or other communication received at a time when the recipient is not open for its regular business shall be deemed received one hour after such recipient is again open for its regular business.

7.03 No Waiver; Remedies. No failure on the part of the Bank to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

7.04 Costs and Expenses.

(a) Each Credit Party agrees to pay on demand all reasonable and documented costs and expenses of the Bank (including the legal fees and disbursements of special counsel (if any) to the Bank to the extent previously agreed) in connection with the preparation, execution and delivery of the Loan Documents; provided, however, that no Applicant shall be obligated to pay any costs and expenses to the extent attributable to any LOC issued at the request of any other Applicant.

(b) Each Credit Party agrees to indemnify and hold harmless the Bank and each of its Affiliates and the officers, directors, employees, agents and advisors of any of the foregoing (each an "Indemnified Party") from and against all claims, damages, losses, liabilities and expenses (including reasonable and documented fees and expenses of counsel) of any kind or nature whatsoever that may be incurred by or asserted or awarded against any Indemnified Party arising out of or in connection with or

by reason of (including in connection with any investigation, litigation, or proceeding or preparation of a defense in connection therewith) (i) the enforcement of this Agreement or any other Loan Document or (ii) any adviser's confirmer's, or other nominated person's fees and expenses with respect to any LOC that are chargeable to any Applicant or the Bank (if the applicable LOC Request or any LOC Related Document requested or authorized such advice, confirmation, or other nomination, as applicable), except to the extent such claim, damage, loss, liability or expense shall have resulted from the negligence, willful misconduct or fraud of such Indemnified Party. Each Credit Party also agrees not to assert any claim against any Indemnified Party on any theory of liability for, and no Indemnified Party shall be liable in contract, tort, or otherwise for, special, indirect, consequential, exemplary, or punitive damages arising out of or otherwise relating to this Agreement, any other Loan Document, any transaction contemplated hereby or thereby or the actual or proposed use of the LOC Disbursements or any LOC (including for any consequences of forgery or fraud by any Beneficiary or any other Person).

(c) Without prejudice to the survival of any other agreement of any Credit Party hereunder or under any other Loan Document, the agreements and obligations of each Credit Party contained in **Section 2.06**, **Section 2.08**, and this **Section 7.04** shall survive the payment in full of principal, interest, and all other amounts payable hereunder and under any other Loan Document, the expiration or termination of the Commitments, and the expiration without any pending drawing or termination of all LOCs.

7.05 Binding Effect. This Agreement shall become effective when it shall have been executed by each Credit Party and the Bank and thereafter shall be binding upon and inure to the benefit of each Credit Party and the Bank and their respective successors and assigns, except that no Credit Party shall have the right to assign its rights hereunder or any interest herein without the prior written consent of the Bank (such consent not to be unreasonably withheld).

7.06 Assignments and Participations.

(a) The Bank may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment, its LOC Participating Interests and the LOC Disbursements owing to it); provided that (i) each such assignment shall be of a uniform, and not a varying, percentage of all rights and obligations of the Bank hereunder, (ii) except in the case of an assignment to a Person that, immediately prior to such assignment, was (x) the Bank or an Affiliate of the Bank, the aggregate amount of the Commitment being assigned to such Eligible Assignee pursuant to such assignment (determined as of the date of the Assignment and Assumption with respect to such assignment) shall in no event be less than $25,000,000 unless it is an assignment of the entire amount of such assignor's Commitment, or (y) not the Bank or an Affiliate of the Bank, the aggregate amount of the Commitment being assigned to such Eligible Assignee pursuant to such assignment (determined as of the date of the Assignment and Assumption with respect to such assignment) shall in no event be less than $5,000,000 unless it is an assignment of the entire amount of such assignor's Commitment, (iii) each such assignment shall be to an Eligible Assignee, (iv) as a result of such assignment, the Company shall not be subject to additional amounts under **Section 2.06** or **2.08**, and (vii) the parties to each such assignment shall execute and deliver an Assignment and Assumption.

(b) The Bank may sell participations to one or more Persons (other than the Company or any of its Affiliates) in or to all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment, its LOC Participating Interests and the LOC Disbursements owing to it; provided that (i) the Bank's obligations under this Agreement (including its Commitment and its LOC Participating Interests) shall remain unchanged, (ii) the Bank shall remain solely responsible to the other parties hereto for the performance of

such obligations, (iii) the Company and the other Applicants shall continue to deal solely and directly with the Bank in connection with the Bank's rights and obligations under this Agreement, (iv) so long as there then exists no Event of Default, such participation is consented to and approved by the Company (not to be unreasonably withheld), and (v) no participant under any such participation shall have any right to approve any amendment or waiver of any provision of any Loan Document, or any consent to any departure by the Company therefrom, except to the extent that such amendment, waiver or consent would reduce the principal of, or interest on, reimbursement obligations or any fees or other amounts payable hereunder, or postpone any date fixed for any payment thereof, in each case to the extent subject to such participation.

(c) The Bank may, in connection with any assignment or participation or proposed assignment or participation pursuant to this **Section 7.06**, disclose to the assignee or participant or proposed assignee or participant any information relating to the Company or any of its Subsidiaries furnished to the Bank by or on behalf of the Company or any such Subsidiary; provided that, prior to any such disclosure, the assignee or participant or proposed assignee or participant shall agree to preserve the confidentiality of any Confidential Information received by it from the Bank.

(d) Notwithstanding any other provision set forth in this Agreement, the Bank may at any time create a security interest in all or any portion of its rights under this Agreement (including the LOC Disbursements owing to it) in favor of any Federal Reserve Bank in accordance with Regulation A of the Board of Governors of the Federal Reserve System.

7.07 Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement (or any related agreement, including any amendment hereto or waiver hereunder) by facsimile or e-mail (in a pdf or similar file) shall be effective as delivery of an original executed counterpart of this Agreement (or such related agreement).

7.08 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

7.09 Confidentiality. The Bank shall not disclose any Confidential Information to any Person without the consent of the Company, other than (a) to the Bank's Affiliates and their officers, directors, employees, agents and advisors with a need to know, to actual or prospective Eligible Assignees and participants, and to any direct, indirect, actual or prospective counterparty (and its advisor) to any swap, derivative or securitization transaction related to the obligations under this Agreement, and in each case then only on a confidential basis (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such information and instructed to keep such information confidential), (b) as required by any law, rule or regulation or judicial process, (c) as requested or required by any state, federal or foreign authority or examiner regulating the Bank or pursuant to any request of any self-regulatory body having or claiming authority to regulate or oversee any aspect of the Bank's business or that of any of its Affiliates, and (d) to any rating agency when required by it; provided that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Confidential Information relating to the Company and its Subsidiaries received by it from the Bank. Each Credit Party agrees and consents to the Bank's disclosure of information relating to this transaction to

Gold Sheets and other similar bank trade publications. Such information will consist of deal terms and other information customarily found in such publications.

7.10 Patriot Act. The Bank is required to obtain, verify, and record information that identifies the Company and each other Credit Party, which information includes the name and address of the Company and each other Credit Party and their respective direct and indirect beneficial owners and other information that will allow the Bank to identify the Company and each other Credit Party and their respective direct and indirect beneficial owners in accordance with the Patriot Act.

7.11 Waiver of Immunity. Each Credit Party acknowledges that this Agreement and each other Loan Document is, and each LOC will be, entered into for commercial purposes of the applicable Applicant. To the extent that any Credit Party or any of its assets has or hereafter acquires any right of sovereign or other immunity from or in respect of any legal proceedings to enforce or collect upon any Obligation or any other agreement relating to the transactions contemplated herein, such Credit Party hereby irrevocably waives any such immunity and agrees not to assert any such right or claim in any such proceeding.

7.12 Jurisdiction, Etc.

(a) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any New York state court sitting in New York County or the United States District Court for the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any of the other Loan Documents. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(b) Each of the parties hereto irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any of the other Loan Documents to which it is a party in any New York state or federal court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court sitting in New York County.

(c) Each of the parties hereto, to the fullest extent permitted by applicable law, hereby irrevocably waives all right to trial by jury as to any action or proceeding arising out of or relating to this Agreement or any of the other Loan Documents.

(d) Each Credit Party hereby agrees that service of process in any such action or proceeding may be made on such Applicant by the mailing of copies thereof by express or overnight mail or courier, postage prepaid, to such Applicant at its address referred to in **Section 7.02**.

(e) Nothing in this Agreement shall affect any right that any party may otherwise have to serve process in any other manner.

7.13 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York. If any LOC expressly chooses a state or country law other than the State of New York, the applicable Applicant shall be obligated to reimburse the Bank for payments made under such LOC if such payment is justified under New York law or such other law.

7.14 Acknowledgement and Consent to Bail-In of EEA Financial Institutions.
Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Letter of Credit Facility Agreement to be duly executed and delivered by their respective officers thereunto duly authorized, as of the date first above written.

SUNPOWER CORPORATION

By: /s/ Ada Kwan
Name: Ada Kwan
Title: Treasurer

Address: 77 Rio Robles
San Jose, CA 95134
Attention: Ada Kwan
Telephone: 408-240-5500
Facsimile: 408-240-5400
E-mail: ada.kwan@sunpowercorp.com

SUNPOWER CORPORATION, SYSTEMS

By: /s/ Ada Kwan
Name: Ada Kwan
Title: Treasurer

Address: 77 Rio Robles
San Jose, CA 95134
Attention: Ada Kwan
Telephone: 408-240-5500
Facsimile: 408-240-5400
E-mail: ada.kwan@sunpowercorp.com

TOTAL S.A.

By: /s/ Patrick de La Chevière
Name: Patrick de La Chevière
Title: Chief Financial Officer

Address: 2, place Jean Millier
La Défense 6
92400 Courbevoie
France
Attention: Jean-Luc Guiziou
Telephone: + 33 1 47 44 26 95
Facsimile: + 33 1 47 44 50 95
E-mail: jean-luc.guiziou@total.com

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.

By: /s/ Fumito Kobayashi
Name: Fumito Kobayashi
Title: General Manager

Address: 18 rue du Quatre Septembre
75002 Paris, France
Attention: Jean-Claude Caffardo
Telephone: +33 1 44 77 48 32
E-mail: jean-claude.caffardo@fr.mufg.jp

Address: 1251 Avenue of the Americas
New York, New York 10020
Attention: Bret Douglas
Telephone: 212-782-5732
E-mail: bdouglas@us.mufg.jp

EXHIBIT A

[FORM OF]
ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the "Assignment and Assumption") is dated as of the Effective Date set forth below and is entered into by and between [Insert name of Assignor] (the "Assignor") and [Insert name of Assignee] (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Letter of Credit Facility Agreement identified below (as amended, supplemented, or otherwise modified from time to time, the "Facility Agreement"), receipt of a copy of which (and any other Loan Documents requested by the Assignee) is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Facility Agreement, as of the Effective Date inserted by the Bank as contemplated below (i) all of the Assignor's rights and obligations under the Facility Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the facility identified below and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor against any Person, whether known or unknown, arising under or in connection with the Facility Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: _____

2. Assignee: _____
[and is an Affiliate of [identify Bank]]

3. [Company / Applicants]: _____

4. Facility Agreement: The $75,000,000 Letter of Credit Facility Agreement dated as of June 29, 2016 among SunPower Corporation, Total S.A., SunPower Corporation, Systems, the Subsidiary Applicants parties thereto from time to time, and The Bank of Tokyo-Mitsubishi UFJ, Ltd.

5. Assigned Interest:

Facility Assigned	Aggregate Commitment Amounts / Credit Exposure for all Banks	Amount of Commitment / Credit Exposure Assigned	Percentage Assigned of Commitment/Credit Exposure[1]
Letter of Credit Facility	$_____	$_____	_____%

Effective Date: _____ ___, 20___ [TO BE INSERTED BY BANK AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By:
Name:
Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By:
Name:
Title:

[Consented to:] [2]

[NAME OF RELEVANT PARTY]

By
Title:

---

1 Set forth, to at least 9 decimals, as a percentage of the Commitment / Credit Exposure of all Banks thereunder.

2 To be added only if the consent of the Company [and/or other Applicants] is required by the terms of the Facility Agreement.

EXHIBIT B

[FORM OF]
LOC REQUEST

APPLICATION FOR **STANDBY** LETTER OF CREDIT

The Bank of Tokyo-Mitsubishi UFJ, Ltd.,

Office: The Bank of Tokyo-Mitsubishi UFJ, LTD., New York Branch

Attn: IOD Standby LC Section

FOR BANK USE ONLY		
IRREVOCABLE CREDIT NO.		
MGR	LCD	A/O

Date:

Gentlemen,

Please issue an irrevocable Standby Letter of Credit as set forth below and forward same to your correspondent/beneficiary for delivery to the beneficiary by
[ ] Airmail [ ] Full cable

ADVISING BANK (If Correspondent Bank)	AMOUNT
FOR ACCOUNT OF (Applicant Name/Address)	IN FAVOR OF (Beneficiary of SB LC)(Full Name/Address)
Drafts must be presented to drawee on or before (Expiration Date):	

Available by draft(s) at sight drawn at your option on you or any of your correspondents accompanied by the following documents:
(TEXT OF SBLC WORDING/FORMAT/TERMS AND CONDITIONS MUST BE STATED OR ATTACHED HERE WITH)

SPECIAL INSTRUCTIONS:

All Banking Charges outside of U.S.A. are for **( ) Beneficiary's Account** **( ) Applicant's Account**

SIGNATURE VERIFICATION

(AUTHORIZED SIGNATURE)

_____

THIS CREDIT WILL BE SUBJECT TO [INSERT EITHER ISP98 OR UCP 600]

This Application is made subject to the Letter of Credit Facility Agreement heretofore executed by us and delivered to you, the provisions of which are hereby made applicable to this Application and the Credit.

FOR BANK USE ONLY **INTERNAL BOOK ONLY**

Y/N____(If "Y" indicate reserved LC Number)

Customer Code_____ C/A.# _____ Cost Center _____

Part Bought Code

_____ PBLC.# _____ Cert # and Date_____

FOR P/S DETAILS ATTACH FORM SBLC3

Affil Y/N____ Synd Y/N____ Agent Bank Y/N_____ Agent Bank ID_____

FOR STANDBY COMM ATTACH FORM SBLC2

Evergreen Y/N____ _ No. of Days_____ G/L Category_____

Facility Code_____ Guaranteed Y/N _____ _ _____ Funds Avail Y/N_____ Purpose_____

Appr. # _____ Grade Date_____ Review Date_____ Class_____

SPECIAL INSTRUCTIONS

Similar L/C (if any): (A duly approved copy of similar LC wording must be attached if applicable)

EXHIBIT C

[FORM OF]
ADHERENCE AGREEMENT

ADHERENCE AGREEMENT (this "Agreement") dated as of _____ among _____, a _____, which is a new Subsidiary Applicant (the "New Subsidiary Applicant"), SunPower Corporation, a Delaware corporation, the direct or indirect parent of the New Subsidiary Applicant (the "Company"), SunPower Corporation, Systems, a Delaware corporation ("Systems"), Total S.A., a société anonyme organized under the laws of the Republic of France, and The Bank of Tokyo-Mitsubishi UFJ, Ltd. (the "Bank").

Reference is made to the Letter of Credit Facility Agreement dated as of June 29, 2016, among the Company, Systems, the Subsidiary Applicants parties thereto from time to time, and the Bank (as amended, supplemented, or otherwise modified from time to time, the "Facility Agreement"). Unless the context requires otherwise, terms used herein as defined terms and not otherwise defined herein shall have the meanings given thereto in the Facility Agreement.

Section 2.12 of the Facility Agreement provides that, subject to the satisfaction of certain conditions, the undersigned New Subsidiary Applicant may become a party to, and a "Subsidiary Applicant" under, the Facility Agreement by entering into an agreement in the form of this Agreement.

Accordingly, and for other good and lawful consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. In accordance with Section 2.12 of the Facility Agreement, the New Subsidiary Applicant by its signature below becomes a "Subsidiary Applicant" under the Facility Agreement with the same force and effect as if originally named therein as a Subsidiary Applicant. The New Subsidiary Applicant hereby (a) agrees to all of the terms and provisions of the Facility Agreement applicable to it as a Subsidiary Applicant thereunder and (b) represents and warrants that it satisfies all of the requirements under the Facility Agreement for becoming a Subsidiary Applicant and that the representations and warranties relating to it contained in the Facility Agreement are true and correct in all material respects on and as of the date hereof (except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct in all material respects as of such earlier date). The Facility Agreement is hereby incorporated herein by reference.

2. Hereinafter, each reference to the "Subsidiary Applicants" in the Facility Agreement shall be deemed to include the New Subsidiary Applicant until such time as the Company executes and delivers to the Bank a notice of termination in substantially the form of **Annex A** hereto or such other form acceptable to the Bank (a "Notice of Termination"), whereupon the New Subsidiary Applicant shall cease to be a Subsidiary Applicant. Notwithstanding the preceding sentence, no such Notice of Termination will become effective at a time when any Obligations of the New Subsidiary Applicant shall be outstanding thereunder or any LOC issued at the request of the New Subsidiary Applicant shall be outstanding (which shall not have been cash collateralized in a manner satisfactory to the Bank in its sole discretion); provided that such Notice of Termination shall be effective to terminate the New Subsidiary Applicant's right to request LOCs under the Facility Agreement.

3. The New Subsidiary Applicant hereby agrees to be liable under the Facility Agreement, with respect to each Existing LOC listed on Schedule III to the Facility Agreement as being issued at its request, as though such Existing LOC were issued as an LOC pursuant to the Facility Agreement.

4. Each of the New Subsidiary Applicant, Systems and the Company represents and warrants to the Bank that this Agreement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally.

5. Each of the New Subsidiary Applicant, Systems and the Company represents and warrants that no Event of Default has occurred and is continuing immediately after giving effect to the execution and delivery of this Agreement.

6. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which, when taken together, shall constitute but one agreement. This Agreement shall become effective when the Bank shall have received counterparts of this Agreement that bear the signatures of the New Subsidiary Applicant, the Company, Systems and the Bank. Delivery of an executed counterpart of a signature page of this Agreement by electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

7. Each of the New Subsidiary Applicant and the Company agrees to furnish to the Bank such information as the Bank shall reasonably request in connection with the New Subsidiary Applicant or the Company.

8. Except as expressly supplemented hereby, the Facility Agreement shall remain in full force and effect.

9. **THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

10. If any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and in any other Loan Document shall not in any way be affected or impaired.

11. All communications and notices hereunder shall be in writing and given as provided in Section 7.02 of the Facility Agreement. All communications and notices hereunder to the New Subsidiary Applicant shall be given to it at the address set forth under its signature hereto.

12. Neither this Agreement nor any provision hereof may be waived, amended, or modified except as provided in Section 7.01 of the Facility Agreement.

13. The New Subsidiary Applicant agrees to reimburse the Bank for its reasonable expenses incurred in connection with this Agreement, including the reasonable fees, disbursements, and other charges of counsel.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Adherence Agreement to be duly executed and delivered as of the day and year first above written.

Address:

_____
_____
_____
_____

[NEW SUBSIDIARY APPLICANT]

By: _____
Name:
Title:

SUNPOWER CORPORATION

By: _____
Name:
Title:

SUNPOWER CORPORATION, SYSTEMS

By: _____
Name:
Title:

TOTAL S.A.

By: _____
Name:
Title:

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.

By: _____
Name:
Title:

EXHIBIT D

[FORM OF]
PARENT GUARANTY

GUARANTY

This **GUARANTY** (the "Guaranty"), dated as of June 29, 2016 is between Total S.A., a société anonyme organized under the laws of the Republic of France (the "Guarantor"), and The Bank of Tokyo-Mitsubishi UFJ, Ltd., a bank organized under the laws of Japan, having an office at 1251 Avenue of the Americas, New York, New York 10020 (the "Bank").

RECITALS

A. SunPower Corporation (the "Obligor") wishes to enter into a Letter of Credit Facility Agreement (the "Contract") with the Bank, the form of which Contract has been provided to the Obligor and to the Guarantor.

B. It is a condition precedent to the Bank's extension of credit under the Contract that the Guarantor guarantee the payment to the Bank of the Obligor's payment obligations under the Contract as described herein.

C. Guarantor owns a portion of the equity interest in the Obligor and will receive direct and indirect benefits from the Bank's performance of the Contract.

AGREEMENT

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties hereby agree as follows:

1. Guaranty. (a) Guarantor unconditionally guarantees and promises to pay to the Bank, in accordance with the payment instructions contained in the Contract, on demand after the default by the Obligor in the performance of its payment obligations under the Contract, in lawful money of the United States, any and all Obligations (as hereinafter defined) consisting of payments due to the Bank. For purposes of this Guaranty, the term "Obligations" means and includes the obligations of the Obligor to reimburse to the Bank: (a) the amount of any draw on any letter of credit issued pursuant to the Contract and all interest accrued on such reimbursement obligation from the date of such reimbursement until the date paid and (b) reasonable fees, expenses or other amounts payable by the Obligor to the Bank under the Contract; provided, however, that with respect to the Obligations described in clause (b), the Guarantor's aggregate liability shall not exceed $250,000.

(b) This Guaranty is absolute, unconditional, continuing and irrevocable, constitutes an independent guaranty of payment and is in no way conditioned on or contingent upon any attempt to enforce in whole or in part any of the Obligor's Obligations to the Bank, the existence or continuance of the Obligor as a legal entity, the consolidation or merger of the Obligor with or into any other entity, the sale, lease or disposition by the Obligor of all or substantially all of its assets to any other entity, or the bankruptcy or insolvency of the Obligor,

the admission by the Obligor of its inability to pay its debts as they mature, or the making by the Obligor of a general assignment for the benefit of, or entering into a composition or arrangement with, creditors. If the Obligor fails to pay or perform any Obligations to the Bank that are subject to this Guaranty as and when they are due, the Guarantor shall forthwith pay to the Bank all such liabilities or obligations in immediately available funds. Each failure by the Obligor to pay any Obligations shall give rise to a separate cause of action, and separate suits may be brought hereunder as each cause of action arises.

(c) The Bank may at any time and from time to time, without the consent of or notice to the Guarantor, except such notice as may be required by applicable statute that cannot be waived, without incurring responsibility to the Guarantor, and without impairing or releasing the obligations of the Guarantor hereunder, (i) exercise or refrain from exercising any rights against the Obligor or others (including the Guarantor) or otherwise act or refrain from acting, (ii) settle or compromise any Obligations hereby guaranteed and/or any other obligations and liabilities (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any obligations and liabilities which may be due to the Bank or others, and (iii) sell, exchange, release, surrender, realize upon or otherwise deal with in any manner or in any order any property pledged or mortgaged by anyone to secure or in any manner securing the Obligations hereby guaranteed.

(d) The Bank may not, without the prior written consent of the Guarantor, (i) change the manner, place and terms of payment or change or extend the time of payment of, renew, or alter any Obligation hereby guaranteed, or in any manner modify, amend or supplement the terms of the Contract or any documents, instruments or agreements executed in connection therewith, (ii) take and hold security or additional security for any or all of the obligations or liabilities covered by this Guaranty, or (iii) assign its rights and interests under this Guaranty, in whole or in part.

(e) No invalidity, irregularity or unenforceability of the Obligations hereby guaranteed shall affect, impair, or be a defense to this Guaranty. This is a continuing Guaranty for which Guarantor receives continuing consideration and all obligations to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon and this Guaranty is therefore irrevocable without the prior written consent of the Bank.

2. Representations and Warranties. The Guarantor represents and warrants to the Bank that (a) the Guarantor is a société anonyme duly organized, validly, existing and in good standing under the laws of its jurisdiction of incorporation or formation, (b) the execution, delivery and performance by the Guarantor of this Guaranty are within the power of the Guarantor and have been duly authorized by all necessary actions on the part of the Guarantor, (c) this Guaranty has been duly executed and delivered by the Guarantor and constitutes a legal,

valid and binding obligation of the Guarantor, enforceable against it in accordance with its terms, except as limited by bankruptcy, insolvency or other laws of general application relating to or affecting the enforcement of creditors' rights generally, (d) the execution, delivery and performance of this Guaranty do not (i) violate any law, rule or regulation of any governmental authority, or (ii) result in the creation or imposition of any material lien, charge, security interest or encumbrance upon any property, asset or revenue of the Guarantor, (e) no consent, approval, order or authorization of, or registration, declaration or filing with, any governmental authority or other person (including, without limitation, the shareholders of the Guarantor) is required in connection with the execution, delivery and performance of this Guaranty, except such consents, approvals, orders, authorizations, registrations, declarations and filings that are so required and which have been obtained and are in full force and effect, (f) the Guarantor is not in violation of any law, rule or regulation other than those the consequences of which cannot reasonably be expected to have material adverse effect on the ability of the Guarantor to perform its obligations under this Guaranty, and (g) no litigation, investigation or proceeding of any court or other governmental tribunal is pending or, to the knowledge of the Guarantor, threatened against the Guarantor which, if adversely determined, could reasonably be expected to have a material adverse effect on the ability of the Guarantor to perform its obligations under this Guaranty.

3. Waivers. (a) The Guarantor, to the extent permitted under applicable law, hereby waives any right to require Bank to (i) proceed against the Obligor or any other guarantor of the Obligor's obligations under the Contract, (ii) proceed against or exhaust any security received from the Obligor or any other guarantor of the Obligor's Obligations under the Contract, or (iii) pursue any other right or remedy in the Bank's power whatsoever.

(b) The Guarantor further waives, to the extent permitted by applicable law, (i) any defense resulting from the absence, impairment or loss of any right of reimbursement, subrogation, contribution or other right or remedy of the Guarantor against the Obligor, any other guarantor of the Obligations or any security, (ii) any setoff or counterclaim of the Obligor or any defense which results from any disability or other defense of the Obligor or the cessation or stay of enforcement from any cause whatsoever of the liability of the Obligor (including, without limitation, the lack of validity or enforceability of the Contract), (iii) any right to exoneration of sureties that would otherwise be applicable, (iv) any right of subrogation or reimbursement and, if there are any other guarantors of the Obligations, any right of contribution, and right to enforce any remedy that the Bank now has or may hereafter have against the Obligor, and any benefit of, and any right to participate in, any security now or hereafter received by Bank, (v) all presentments, demands for performance, notices of non-performance, notices delivered under the Contract, protests, notice of dishonor, and notices of acceptance of this Guaranty and of the existence, creation or incurring of new or additional Obligations and notices of any public or private foreclosure sale, (vi) the benefit of any statute of limitations, (vii) any appraisement, valuation, stay, extension, moratorium redemption or similar law or similar rights for marshalling, and (viii) any right to be informed by the Bank of the financial condition of the

Obligor or any other guarantor of the Obligations or any change therein or any other circumstances bearing upon the risk of nonpayment or nonperformance of the Obligations. The Guarantor has the ability to and assumes the responsibility for keeping informed of the financial condition of the Obligor and any other guarantors of the Obligations and of other circumstances affecting such nonpayment and nonperformance risks.

4. Notice of Issuance of Letters of Credit and Draws Thereon; Block Notice.

(a) Notice of Issuance of Letter of Credit and Draws Thereon. The Bank will furnish to the Guarantor prompt written notice of each (i) issuance or amendment of the expiry, amount or language of letter of credit, (ii) other amendment to a letter credit, (iii) cancellation of a letter credit, and (iv) payment on letter credit. The Bank will furnish to Guarantor promptly upon request and, in any case, prior to the fifteenth business day of each calendar quarter a written report summarizing issuance and amendment of letter of crdeit issued or amended during the preceding calendar quarter and payments and reductions in Available Amounts (as defined in the Contract) during such calendar quarter on all letters of credit.

(b) Right of Guarantor to Block Issuances of Letters of Credit.

(i) Delivery of Block Notice. The Guarantor may (A) suspend the right of the Obligor to obtain additional issuances of letters of credit under the Contract that are subject to this Guaranty at any time following the occurrence and during the continuance of a Trigger Event (as defined in the Amended and Restated Credit Support Agreement, dated June 29, 2016, between the Obligor and the Guarantor) or (B) limit the aggregate undrawn amount of letters of credit that are subject to this Guaranty at any time following a reduction of the Maximum L/C Amount or Available Facility Amount pursuant to such Credit Support Agreement, in each case by delivering to the Bank a written notice to such effect (a "Notice of Block"). Such Notice of Block shall be made and shall be deemed effective when properly given in the manner specified in Section 5(a) of this Guaranty. The Bank will have no duty to investigate or make any determination with respect to any Notice of Block received by it and will comply with any Notice of Block given by the Guarantor. The Bank may rely upon any instructions from any person that it reasonably believes to be an authorized representative of the Guarantor.

(ii) Compliance with Notice. From and after the date a Notice of Block is delivered to the Bank pursuant to and in accordance with the provisions of clause (i) above, and until either (A) the Guarantor delivers to the Bank a written notice rescinding such Notice of Block or (B) this Guaranty is terminated, no additional letters of credit may be issued by the Bank for the benefit of the Obligor pursuant to the Contract without the prior written consent of the Guarantor.

5. Miscellaneous.

Notices. All notices, requests, demands and other communications that are required or may be given under this Guaranty shall be in writing and shall be personally delivered or sent by certified or registered mail. If personally delivered, notices, requests, demands and other communications will be deemed to have been duly given at time of actual receipt. If delivered by certified or registered mail, deemed receipt will be at time evidenced by confirmation of receipt with return receipt requested. In each case notice shall be sent:

if to the Bank, to: 1251 Avenue of the Americas
New York, New York 10020
Attention: Bret Douglas
Telephone: 212-782-5732
E-mail: bdouglas@us.mufg.jp

18 rue du Quatre Septembre
75002 Paris, France
Attention: Jean-Claude Caffardo
Telephone: +33 1 44 77 48 32
E-mail: jean-claude.caffardo@fr.mufg.jp

if to the Guarantor, to: Total SA
2 place Jean Miller – La Defense 6
92078 Paris La Défense Cedex, France
Attention: Jean-Luc Guiziou
Telephone: +33 1 47 44 26 95
E-mail: jean-luc.guiziou@total.com

or to such other place and with such other copies as the Bank or the Guarantor may designate as to itself by written notice to the other pursuant to this Section 5(a).

(b) Nonwaiver. No failure or delay on the Bank's part in exercising any right hereunder shall operate as a waiver thereof or of any other right nor shall any single or partial exercise of any such right preclude any other further exercise thereof or of any other right.

(c) Amendments and Waivers. This Guaranty may not be amended or modified, nor may any of its terms be waived, except by written instruments signed by the Guarantor and the Bank. Each waiver or consent under any provision hereof shall be effective only in the specific instances for the purpose for which given.

(d) Assignments. This Guaranty shall be binding upon and inure to the benefit of the Bank and the Guarantor and their respective successors and permitted assigns. This Guaranty may not be assigned by the Guarantor without the express written approval of the Bank, which may not be unreasonably withheld, conditioned or delayed.

(e) Cumulative Rights, etc. The rights, powers and remedies of the Bank under this Guaranty shall be in addition to all rights, powers and remedies given to the Bank by virtue of any applicable law, rule or regulation, the Contract or any other agreement, all of which rights, powers, and remedies shall be cumulative and may be exercised successively or concurrently without impairing the Bank's rights hereunder.

(f) Partial Invalidity. If at any time any provision of this Guaranty is or becomes illegal, invalid or unenforceable in any respect under the law or any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Guaranty nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

(g) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA, WITHOUT REFERENCE TO CONFLICTS OF LAWS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

(h) JURISDICTION. EACH PARTY (A) IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF AND (B) WAIVES ANY OBJECTION WHICH SUCH PARTY MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY SUCH COURT.

(i) Jury Trial. EACH OF THE GUARANTOR AND THE BANK, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AS TO ANY ISSUE RELATING HERETO IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS GUARANTY.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Guaranty to be executed as of the day and year first written above.

TOTAL S.A.

By _____
Name:
Title:

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.

By _____
Name:
Title:

EXHIBIT E

[FORM OF]
REQUEST RE SUBSIDIARY ACCOUNT PARTY

SUNPOWER CORPORATION

Date

To the Bank referred to in the Facility
Agreement referred to below

Re: Request to Approve "[ ]" as a "Subsidiary Account Party"

Reference is made to the Letter of Credit Facility Agreement, dated as of June 29, 2016 (as it may be amended, supplemented or otherwise modified from time to time, the "Facility Agreement"), among SunPower Corporation (the "Company"), SunPower Corporation, Systems, Total S.A., the Subsidiary Applicants parties thereto from time to time, and The Bank of Tokyo-Mitsubishi UFJ, Ltd. (the "Bank"). Capitalized terms used herein without definition shall have the meanings given to such terms in the Facility Agreement.

The Company hereby requests that the Bank approve [ ], an [ ]limited liability company ("[ ]"), as a Subsidiary Account Party under the Facility Agreement. In connection therewith, the Company hereby represents and warrants to the Bank that [ ] is an [direct/indirect] Subsidiary of the Company.

Kindly sign this consent in the space provided below to approve [ ] as a Subsidiary Account Party as provided herein.

This approval to treat [ ] as a Subsidiary Account Party shall not become effective until each party hereto shall have executed and delivered this approval or a separate approval to the same effect. This approval may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page to this approval by facsimile or e-mail (in a pdf or similar file) shall be effective as delivery of an original executed counterpart of this approval. This approval constitutes one of the Loan Documents referred to in the Facility Agreement. This approval shall be governed by, and construed in accordance with, the law of the State of New York.

Very truly yours,

SUNPOWER CORPORATION

By: _____
Name:
Title:

THE FOREGOING REQUEST TO APPROVE
[ ]
AS A “SUBSIDIARY ACCOUNT PARTY” IS HEREBY
APPROVED:

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.,
as the Bank

By: _____
Name:
Title:

Exhibit 10.65

EXECUTION VERSION

LETTER OF CREDIT FACILITY AGREEMENT

dated as of June 29, 2016

among

SUNPOWER CORPORATION,

SUNPOWER CORPORATION, SYSTEMS,

TOTAL S.A.,

the SUBSIDIARY APPLICANTS parties hereto from time to time,

and

CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK

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LETTER OF CREDIT FACILITY AGREEMENT

This LETTER OF CREDIT FACILITY AGREEMENT (this "Agreement") dated as of June 29, 2016, is made by and among SunPower Corporation, a Delaware corporation (the "Company"), SunPower Corporation, Systems, a Delaware corporation ("Systems"), Total S.A., a société anonyme organized under the laws of the Republic of France (the "Parent Guarantor"), the Subsidiary Applicants (as defined below) parties hereto from time to time, and Crédit Agricole Corporate and Investment Bank (the "Bank").

The Company has requested that the Bank provide a letter of credit facility to the Company and the other Applicants (as defined below), and the Bank is willing to do so on the terms and subject to the conditions set forth herein.

In consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

1.01 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Adherence Agreement" means an agreement substantially in the form of **Exhibit D** among a Subsidiary, the Company and the Bank, pursuant to which such Subsidiary becomes a Subsidiary Applicant hereunder.

"Affiliate" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"Agent" has the meaning specified in **Section 7.16**.

"Agreement" has the meaning given thereto in the preamble.

"Alternate Currency" means any currency (other than dollars) that is freely tradable and exchangeable into dollars in the London market and approved in writing as an Alternate Currency by the Company and the Bank, each in their respective reasonable discretion.

"Alternate Currency Exposure" means, at any time, the Dollar Equivalent of the sum (without duplication) at such time of (a) the aggregate outstanding amount of all Alternate Currency LOC Disbursements, (b) the aggregate Available Amounts of all Alternate Currency LOCs, and (c) the aggregate Available Amounts of all Alternate Currency LOCs that have been requested by the Applicants to be issued hereunder but have not yet been so issued.

"Alternate Currency LOC" means an LOC denominated in an Alternate Currency.

"Applicant" means each of the Company, Systems and each other Subsidiary Applicant.

"Assignment and Assumption" means an assignment and assumption entered into by the Bank and an Eligible Assignee in accordance with **Section 7.06** and in substantially the form of **Exhibit A** or any other form approved by the Bank.

"Available Amount" means, at any time with respect to any LOC, the maximum amount available to be drawn under such LOC under any circumstance at such time or thereafter, giving effect to any scheduled increases in accordance with the terms of such LOC, including any amount that has been the subject of a drawing by the applicable Beneficiary prior to the expiration or termination of such LOC but has not yet been paid or refused by the Bank.

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"Bail-In Legislation" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"Bankruptcy Law" means Title 11, U.S. Code, as amended from time to time, and any successor statute or statutes, or any similar foreign, federal, or state law for the relief of debtors.

"Bank" has the meaning given thereto in the preamble.

"Base Rate" means a fluctuating interest rate per annum equal at any time to the higher of (a) the sum of the Federal Funds Rate plus 0.5% or (b) the "Prime Rate" as announced from time to time in the so called money rates section of the United States Edition of The Wall Street Journal. Each change in such Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

"Beneficiary" means, at any time, any beneficiary of any LOC, including any second or substitute beneficiary or transferee under a transferable LOC and any successor of a beneficiary by operation of law.

"Block Notice" means a Notice of Block (as defined in the Parent Guaranty) delivered by the Parent Guarantor pursuant to the Parent Guaranty suspending the right of the Company or a Subsidiary Applicant to obtain LOCs hereunder.

"Business Day" means a day of the year on which banks are authorized by law to be open for business (other than a Saturday or Sunday) in New York, New York and Paris, France.

"Calculation Date" means (a) each date on which an Alternate Currency LOC is issued or is increased, renewed, or extended by amendment and (b) the first Business Day of each calendar month.

"Change in Control" means that the Parent Guarantor shall at any time fail, directly or indirectly, to own fifty percent (50.0%) or more of the economic and voting interest in the issued and outstanding equity interests in the Company.

"Change in Law" means (a) the adoption of any treaty, international agreement, law, rule, or regulation after the date of this Agreement, (b) any change in any treaty, international agreement, law, rule, or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement, or (c) compliance by the Bank (or, for purposes of **Section 2.06(b)**, by any Lending Office of the Bank or by the corporation controlling the Bank, if any) with any request,

guideline, or directive (whether or not having the force of law) of any Governmental Authority (provided that compliance with such request, guideline, or directive is in accordance with the general practice of the Bank) made or issued after the date of this Agreement; provided, however, that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines or directives thereunder or issued in connection therewith or in implementation thereof and (ii) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case referred to in clause (i) or (ii) be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Closing Date" means the first date on which the conditions set forth in **Article III** shall have been satisfied (or waived in accordance with **Section 7.01**).

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and any references to any Code section shall include references to the Treasury Regulations promulgated thereunder.

"Commitment" means the commitment of the Bank to issue LOCs hereunder in an amount equal to the Commitment Amount.

"Commitment Amount" means, at any time of determination, $75,000,000, as such amount may be reduced at or prior to such time pursuant to **Section 2.04**. At no time shall the aggregate Commitment Amount exceed the Maximum LOC Amount.

"Commitment Fee" means the unused commitment fee, which shall accrue during the period from and including the Closing Date to but excluding the date on which such Commitment terminates at the rate of six (6) basis points (0.06%) per annum on the then applicable daily unused Commitment Amount of the Bank.

"Company" has the meaning given thereto in the preamble.

"Confidential Information" means all information that the Company or any Affiliate thereof furnishes to the Bank that is identified as confidential, but does not include any such information that is or becomes generally available to the public other than as a result of a breach by the Bank of its obligations hereunder or that is or becomes available to the Bank from a source other than the Company or an Affiliate thereof that is not, to the best of the Bank's knowledge, acting in violation of a confidentiality agreement with the Company or any Affiliate thereof.

"Constituent Documents" means, with respect to any entity, its constituent, governing, or organizational documents, including (a) in the case of a limited partnership, its certificate of limited partnership and its limited partnership agreement, (b) in the case of a limited liability company, its certificate of formation or organization and its operating agreement or limited liability company agreement, as applicable, and (c) in the case of a corporation, its articles or certificate of incorporation and its by-laws and any shareholders agreement, as applicable.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meaning correlative thereto.

"Credit Exposure" means, at any time, the Dollar Equivalent of the sum (without duplication) at such time of (a) the aggregate outstanding amount of all LOC Disbursements, (b) the aggregate Available Amounts of all LOCs, and (c) the aggregate Available Amounts of all LOCs that have been requested by the Applicants to be issued hereunder but have not yet been so issued.

"Credit Parties" means, collectively, the Applicants and the Company.

"CVSR Project" means the California Valley Solar Ranch in San Luis Obispo County, California.

"Dollar Equivalent" means, on any date of determination, (a) with respect to any amount in dollars, such amount, and (b) with respect to any amount in an Alternate Currency, the equivalent amount of dollars of such amount based on the "Euro foreign exchange reference rate" and such other foreign exchange reference rate published by the European Central Bank as may be necessary to convert the applicable currency from such currency to euros (if necessary) and from euros to dollars determined by the Bank pursuant to **Section 1.05(b)** using the Exchange Rate with respect to such Alternate Currency at the time in effect under the provisions of such Section.

"dollars" or "$" refers to lawful money of the United States of America.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Eligible Assignee" means (a) an Affiliate of the Bank, or (b) a commercial bank, a savings bank, or other financial institution that, so long as there then exists no Event of Default, is approved by the Company (such approval not to be unreasonably withheld); provided that neither the Company nor any Affiliate thereof shall qualify as an Eligible Assignee.

"Equity Interests" means shares of capital stock, general or limited partnership interests, membership interests in a limited liability company, beneficial interests in a trust, or other equity ownership interests in a Person, and any warrants, options, or other rights entitling the holder thereof to purchase or acquire any such equity interest.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"euro" means the official currency of the European Union.

"Event of Default" has the meaning specified in **Section 6.01**.

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

"Exchange Rate" means on any day, with respect to any Alternate Currency, the rate at which such Alternate Currency may be exchanged into dollars, as set forth at approximately 11:00 a.m. (New York City time) on such day based on the "Euro foreign exchange reference rate" and such other foreign exchange reference rate published by the European Central Bank. In the event that such rate does not appear on such website, the Exchange Rate shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon in writing by the Bank and the Company, or, in the absence of such agreement, such Exchange Rate shall instead be the arithmetic average of the spot rates of exchange of the Bank in the market where its Alternate Currency exchange operations in respect of such Alternate Currency are then being conducted, at or about 11:00 a.m., local time, on such date for the purchase of dollars for delivery two (2) Business Days later; provided that if at the time of any such determination, for any reason, no such spot rate is being quoted, the Bank, after consultation with the Company, may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

"Existing Facility" means the letter of credit facility established pursuant to the Letter of Credit Facility Agreement dated as of August 9, 2011 among the Company, the Parent Guarantor, the subsidiary applicants parties thereto from time to time, the banks parties thereto from time to time, and Deutsche Bank AG New York Branch, as issuing bank and as administrative agent.

"Existing LOCs" means the letters of credit described on **Schedule III**.

"Facility" means the letter of credit facility established pursuant to this Agreement.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), and any regulations or official interpretations thereof.

"Federal Funds Rate" means, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Bank from three (3) federal funds brokers of recognized standing selected by the Company.

"Final LOC Expiration Date" means in respect of any LOC, March 31, 2020 or such earlier date as the Obligations shall mature, whether by reason of acceleration or otherwise.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States of America.

"Governmental Authority" means any supra-national body, the government of the United States of America, any other nation or any political subdivision of any thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Indemnified Party" has the meaning specified in **Section 7.04(b)**.

"Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended from time to time, and any successor statute or statutes.

"IRS" means the United States Internal Revenue Service.

"Judgment Currency" has the meaning specified in **Section 2.11(b)**.

"Judgment Currency Conversion Date" has the meaning specified in **Section 2.11(b)**.

"LComm" means the large commercial portion of the distributed generation business segment of the Company with projects sold directly to a commercial end-user and not via a dealer.

"Lending Office" means the office of the Bank that is to make and receive payments hereunder as specified to the Bank from time to time.

"Loan Documents" means, collectively, this Agreement, the Parent Guaranty, each LOC Request and each other instrument or agreement made or entered into by the Company or any other Applicant with or in favor of the Bank in connection with this Agreement or the transactions contemplated hereby, and any supplements or amendments to or waivers of any of the foregoing executed and delivered from time to time.

"LOC" means each standby letter of credit issued hereunder in such form as the Bank may approve in its reasonable discretion and each Existing LOC.

"LOC Disbursement" means the making of any payment by the Bank under an LOC in the amount of such payment.

"LOC Fee" means, as to the Bank, a participation fee with respect to its participations in LOCs which shall accrue at the rate of twenty (20) basis points (0.20%) per annum on the Dollar Equivalent of the actual amount of the Bank's Credit Exposure for each day during the period from and including the Closing Date through and including the later of the date on which the Bank's Commitment terminates and the date on which the Bank ceases to have any Credit Exposure.

"LOC Related Documents" means, collectively, any Loan Document, any LOC Request, any LOC, or any other agreement or instrument relating thereto.

"LOC Request" means a written request substantially in the form of **Exhibit B**.

"Material Adverse Effect" means a material adverse effect on (a) the business, financial condition, operations or properties of the Company and its Subsidiaries, taken as a whole, (b) the validity or enforceability of any of the Loan Documents, or (c) the ability of the Company or any other Applicant to perform their obligations, taken as a whole, under the Loan Documents.

"Maximum LOC Amount" means, on a Dollar-Equivalent basis, $500,000,000.

"Non-Controlled Subsidiary" means, at any time, any Subsidiary not controlled by the Company. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities,

by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Obligations" means all obligations, liabilities, and indebtedness of every nature of each Applicant from time to time owing to the Bank under or in connection with this Agreement or any other Loan Document, in each case whether primary, secondary, direct, indirect, contingent (including the undrawn amount of each LOC), fixed or otherwise, including the obligation to provide cash collateral pursuant to any Loan Document and including interest accruing at the rate provided in the applicable Loan Document on or after the commencement of the Bankruptcy or insolvency proceeding, whether or not allowed or allowable.

"OFAC" means the U.S. Department of the Treasury's Office of Foreign Assets Control, and any successor thereto.

"Other Connection Taxes" means Taxes imposed as a result of a present or former connection between the Bank and the jurisdiction imposing such Tax (other than connections arising from the Bank having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

"Other Permitted Purposes" means (a) development obligations or guaranties of the Company or a Wholly-Owned Subsidiary with respect to project development obligations such as transmission reservations and land options for the Company's UPP and LComm businesses, (b) remediation work, landscaping and other related obligations or guarantees of the Company or a Wholly-Owned Subsidiary in favor of government entities for reparation of land and surrounding environment after construction for the Company's UPP and LComm businesses, (c) obligations or guarantees of the Company or a Wholly-Owned Subsidiary with respect to obligations to local tax authorities relating to doing business in that locality with respect to the Company's UPP or LComm businesses, and (d) obligations or guarantees of the Company or a Wholly-Owned Subsidiary with respect to bids for projects or power purchase agreements in the Company's UPP or LComm businesses.

"Other Taxes" means any present or future stamp, documentary, excise, property or similar taxes, charges or levies that arise from any payment made hereunder or from the execution, delivery or registration of, performance under, or otherwise with respect to, this Agreement or any other Loan Document.

"Parent Guarantor" has the meaning given thereto in the preamble.

"Parent Guaranty" means the Guaranty of even date herewith by the Parent in respect of the Repayment Obligations substantially in the form of **Exhibit E**.

"Patriot Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act, Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

"Permitted LOCs" means LOCs that are classified as a performance standby letters of credit by the Board of Governors of the Federal Reserve System or by the Office of the Comptroller of the Currency of the United States and constitute (a) performance guarantees (for a period of up to two (2) years after completion of the applicable project) and completion guarantees (until completion of the applicable project) of the Company or such Wholly-Owned Subsidiary with respect to engineering, procurement and construction services provided in connection with the Company's UPP and LComm

businesses (including replacing Existing LOCs), (b) performance guarantees for engineered hardware packages not including engineering, procurement and construction services for UPP projects for a period of up to two (2) years after completion of the applicable project, (c) the Other Permitted Purposes for a period of up to two (2) years, (d) letters of credit or demand guarantees that relate to the CVSR Project, including any renewals or replacements thereof, and (e) the Existing LOCs; provided, that, notwithstanding anything to the contrary in this definition but subject to the other terms and conditions of this Agreement, the Company will be permitted to have LOCs outstanding at any one time until the Termination Date for the purposes described in clauses (a) and (b) above with an expiry of between two (2) and three (3) years from the date of issuance thereof and for an aggregate initial face amount of up to fifteen per cent (15%) of the then-applicable Maximum LOC Amount.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority, or other entity.

"Repayment Obligations" means the obligations of a Credit Party (with respect to the Company, for itself or as guarantor) now existing or hereafter arising under **Section 2.03(a)** to reimburse to the Bank the amount of any draw on any LOC issued hereunder (with respect to the Company, for itself or for an Applicant) and all interest accrued on such reimbursement obligation from the date of such reimbursement until the date paid. For the avoidance of doubt, "Repayment Obligations" does not include fees, expenses or other amounts payable by any Credit Party to the Bank.

"Responsible Officer" means, (a) in the case of the Company or any other Applicant, its president, chief executive officer, chief financial officer, principal accounting officer, treasurer or controller (and, in any case where two Responsible Officers are acting on behalf of such Person the second such Responsible Officer may also be its Secretary or an Assistant Secretary), and (b) in the case of any other Person, its manager, general partner, or a senior or executive officer of such other Person or of its managing member or general partner, as applicable.

"Sanctioned Country" means a country or territory which is (a) itself the subject or target of comprehensive countrywide or territory-wide Sanctions (including, without limitation, Cuba, Iran, North Korea, Sudan and Syria) or (b) otherwise identified on the Sanctions List.

"Sanctions List" means any list of OFAC, the Financial Action Task Force on Money Laundering or any control list of a similar nature of any Governmental Authority.

"Sanctioned Person" means (a) any Person that is the target or subject of Sanctions or listed in any Sanctions-related list of designated Persons maintained by the U.S. government (including, without limitation, OFAC or the U.S. Department of State) or by the United Nations, the European Union or any European Union member state, (b) any Person located, organized or resident in a Sanctioned Country, or (c) any Person Controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

"Sanctions" means any applicable laws, rules and regulations relating to economic or financial sanctions or trade embargoes, terrorism, bribery, corruption or money laundering, including without limitation any regulations or sanctions programs imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State or (b) the United Nations, the European Union, any European Union member state, Her Majesty's Treasury of the United Kingdom or any other applicable authority.

"SEC" means the United States Securities and Exchange Commission (or any successor Governmental Authority).

"Specified Currency" means any currency in which any Applicant is obligated to make payments hereunder.

"subsidiary" means, with respect to any Person (the "parent") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than fifty percent (50%) of the equity or more than fifty percent (50%) of the ordinary voting power or, in the case of a partnership, more than fifty percent (50%) of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"Subsidiary" means any subsidiary of any Applicant.

"Subsidiary Account Party" means (a) each Wholly-Owned Subsidiary listed on **Schedule I** and (b) each other Wholly-Owned Subsidiary from time to time approved in writing as a Subsidiary Account Party by the Bank at the written request of the Company substantially in the form of **Exhibit F**.

"Subsidiary Applicant" means (a) Systems, (b) each other Wholly-Owned Subsidiary that is a party to this Agreement and is listed on **Schedule II** and (c) each other Wholly-Owned Subsidiary from time to time approved in writing as a Subsidiary Applicant pursuant to an Adherence Agreement executed and delivered by such Subsidiary, the Company and the Bank, in each case other than any such Subsidiary that has ceased to be a Subsidiary Applicant pursuant to **Section 2.12**.

"Systems" has the meaning given thereto in the preamble.

"Taxes" means any present or future taxes, levies, imposts, deductions, charges, or withholdings, and all liabilities with respect thereto, excluding (i) (x) taxes that are imposed on (or measured by) its overall net income by the United States and taxes that are imposed on its overall net income (and franchise taxes imposed in lieu thereof) by the state or foreign jurisdiction under the laws of which the Bank is organized or any political subdivision thereof or (y) Other Connection Taxes, (ii) any branch profits tax or any similar tax that is imposed by any jurisdiction described in clause (i) above, (iii) (x) any United States federal withholding tax imposed under a law that is in effect at the time the Bank acquires the interest hereunder in respect of which it is claiming under **Section 2.08** (or designates a new Lending Office) except to the extent that the Bank (or its assignor, if any) was entitled, immediately prior to the time of designation of a new Lending Office (or assignment), to receive additional amounts from a Credit Party with respect to any withholding tax pursuant to **Section 2.08(a)** and (y) any withholding tax that is attributable to the Bank's failure to comply with **Section 2.08(e)** and, in the case of the Bank, taxes that are imposed on its overall net income (and franchise taxes imposed in lieu thereof) by the state or foreign jurisdiction of the Bank's Lending Office or any political subdivision thereof, and (iv) any United States federal withholding taxes imposed by FATCA.

"Termination Date" means the earlier of December 31, 2018 and the date of termination of this Agreement pursuant to Article VI.

"Transfer Agreement" means the Transfer Agreement dated as of June 29, 2016 among the Company, the Parent Guarantor, SunPower Corporation Systems, as subsidiary applicant, the banks parties thereto from time to time, and Deutsche Bank AG New York Branch, as administrative agent.

"Upfront Fee" means a fee, which shall be payable by the Company on the Closing Date to the Bank of $50,000.

"UPP" means the utility and power plant business segment of the Company, which includes power plant project development, construction and project sales, turnkey engineering, procurement and construction services for power plant construction, and power plant operations and maintenance services, but excludes component sales.

"U.S. Person" has the meaning specified in Section 2.08(d).

"U.S. Tax Certificate" has the meaning specified in Section 2.08(f)(iv).

"Wholly-Owned Subsidiary" means a direct or indirect wholly-owned Subsidiary of the Company.

"Withholding Agent" means each Applicant and the Bank.

"Write-Down and Conversion Powers" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

1.02 Computation of Time Periods. In this Agreement and the other Loan Documents in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding", in each case except as otherwise expressly provided herein.

1.03 Other Definitional Provisions. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". The words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof. Except as otherwise expressly provided herein, any definition of or reference to (a) an agreement, instrument, or other document shall mean such agreement, instrument, or other document as amended, supplemented, or otherwise modified from time to time (subject to any restrictions on such amendments, supplements or modifications set forth herein); (b) a law shall mean such law as amended, supplemented, or otherwise modified from time to time (including any successor thereto) and all rules, regulations, guidelines, and decisions interpreting or implementing such law; (c) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement; (d) a time of day shall mean such time in New York, New York; and (e) any reference herein to any Person shall be construed to include such Person's successors and assigns.

1.04 Accounting Terms and Determinations. Unless otherwise specified herein, all financial statements required to be delivered hereunder shall be prepared in accordance with GAAP, applied on a basis consistent with the most recent audited consolidated financial statements of the Company and its Subsidiaries delivered to the Bank.

1.05 Exchange Rates.

(a) Not later than 12:00 noon, New York City time, three (3) Business Days prior to each Calculation Date, beginning with the date that is three (3) Business Days prior to the date on which the initial Alternate Currency LOC is issued, the Bank shall determine the Exchange Rate as of such Calculation Date with respect to each Alternate Currency. The Exchange Rates so determined shall become effective on the relevant Calculation Date, shall remain effective until the next succeeding Calculation Date, and shall for all purposes of this Agreement (other than **Section 2.01**, **Section 2.11**, or any other provision expressly requiring the use of a current Exchange Rate) be the Exchange Rates employed in converting any amounts between dollars and any Alternate Currency.

(b) Not later than 5:00 p.m., New York City time, on each Calculation Date, the Bank shall determine the Alternate Currency Exposure. The Bank shall determine the aggregate amount of the Dollar Equivalent of all amounts denominated in an Alternate Currency at the applicable time and in the manner provided for by this Agreement.

ARTICLE II

AMOUNTS AND TERMS OF LETTERS OF CREDIT

2.01 The Letters of Credit. The Bank agrees, on the terms and subject to the conditions herein set forth, to issue LOCs, and amend the expiry, amount or operative language of LOCs, for the account of any Applicant on any Business Day from time to time during the period from the Closing Date to the Termination Date; provided that:

(a) the Bank shall not have any obligation to issue or amend the expiry, amount or language of any LOC if (i) the aggregate Credit Exposure (after giving effect to such issuance, extension, or increase) would exceed the Commitment Amount, or (ii) such issuance or amendment would conflict with or cause the Bank to exceed any limit imposed by applicable law or any applicable requirement hereof;

(b) each LOC shall be denominated in dollars or in an Alternate Currency and shall be in a face amount not less than the Dollar Equivalent of $25,000 (or such lesser amount as the Bank may agree);

(c) each LOC shall be payable only against sight drafts or demands for payment at sight (and not provide for acceptance of time drafts or incurrence of deferred payment undertakings);

(d) no LOC shall have a scheduled expiration date (including all rights of the applicable Applicant or the Beneficiary to require extension thereof) later than the earlier of (i) three (3) years from the date of issuance thereof, and (ii) the Final LOC Expiration Date; provided that any LOC may by its terms be automatically extendible annually for additional one-year periods (provided that the Bank shall not permit any such extension to take effect that extends the expiration date of such LOC beyond the Final LOC Expiration Date); provided, further that the Bank shall not permit any such automatic extension if it has determined that such extension would not be permitted, or the Bank would have no obligation, at such time to issue such LOC as extended under the terms hereof, in which case the Bank shall notify the Beneficiary thereof of its election not to extend such LOC (which the Bank agrees to do on and subject to the terms of **Section 2.02(c)**), and

(e) each LOC shall be a Permitted LOC.

At the request of any Applicant, LOCs may be issued in accordance with this Agreement to support obligations of any Subsidiary Account Party that is a Subsidiary of such Applicant;

provided that such Applicant represents, warrants and agrees, without limiting any Obligations of such Applicant hereunder, that: (i) such Subsidiary Account Party has consented to its being referred to in such LOC or otherwise as the "applicant", "account party", "client", or "customer" at whose request or for whose account such LOC is issued; (ii) such Subsidiary Account Party has consented to its not having any rights under this Agreement (including any right to request that the Bank issue or amend such LOC or that the Bank dispose of any documents presented under such LOC (or any goods represented thereby) in any particular manner) and to the Bank's treating such Applicant as the sole Person entitled to exercise such rights with respect to such LOC; (iii) such Subsidiary Account Party is a direct or indirect majority-owned subsidiary of the Company at the time of issuance of such LOC (or of any increase or extension thereof); (iv) such Subsidiary Account Party is bound by all the limitations of liability and exculpations in the Bank's favor contained herein and subject to all the rights and remedies in the Bank's favor referred to herein as if it were such Applicant; and (v) the Bank shall not be required to send any notice hereunder to such Subsidiary Account Party, but if the Bank in its sole discretion chooses to do so, the Bank may send such notice as provided herein care of such Applicant and such notice shall be effective as if given to such Subsidiary Account Party.

2.02 Issuance; Extensions; Etc.

(a) Request for Issuance. An Applicant may from time to time request, upon at least three (3) Business Days' notice (given not later than 11:00 a.m. New York City time), that the Bank issue an LOC by delivering to the Bank (i) an LOC Request specifying the date on which such LOC is to be issued (which shall be a Business Day), a summary of the arrangement to which such LOC pertains, the expiration date thereof, the currency thereof (whether dollars or an Alternate Currency), the Available Amount thereof, and the name and address of the Beneficiary thereof; and (ii) such other documents and agreements as may be required pursuant to the Bank's customary practices for the issuance of letters of credit (and in the event of a conflict between the terms of this Agreement and the terms of such other documents or agreements, the terms of this Agreement shall govern). The applicable Applicant agrees to promptly deliver to the Parent Guarantor a copy of each request made by it pursuant to the foregoing sentence. If the requirements set forth in the first sentence of **Section 2.01** and in **Article III** are satisfied, the Bank shall issue the applicable LOC on the date requested in such LOC Request. Upon the issuance of an LOC, the Bank shall (A) deliver the original of such LOC to the Beneficiary thereof or as the applicable Applicant shall otherwise direct and (B) promptly notify the Bank thereof and furnish a copy thereof to the applicable Applicant and the Parent Guarantor.

(b) Request for Extension or Increase. The applicable Applicant may from time to time request, upon at least three (3) Business Days' notice (given not later than 11:00 a.m. New York City time), that the Bank amend the expiration date of an outstanding LOC, the Available Amount of an outstanding LOC or the language of an outstanding LOC by delivering to the Bank (with a copy to the Parent Guarantor) a written request therefor. Any such request for an extension or increase shall for all purposes hereof (including for purposes of **Section 2.02(a)**) be treated as though such Applicant had requested issuance of a replacement LOC (except that the Bank may, if it elects, issue a notice of extension or increase in lieu of issuing a new LOC in substitution for the outstanding LOC).

(c) Automatic Extensions. If any LOC shall provide for the automatic extension of the expiry date thereof unless the Bank gives notice that such expiry date shall not be extended, then the Bank shall allow such LOC to be extended unless such extended expiration date would conflict with **Section 2.01(d)** or unless the Bank shall have received, at least five (5) Business Days prior to the date on which such notice of non-extension must be delivered under such LOC (or such shorter period acceptable to the Bank), (i) notice from the applicable Applicant directing the Bank not to permit the extension of such LOC, unless an Event of Default has occurred and is continuing (and the Bank shall not permit any

LOC to be automatically extended if it has received a timely notice, or (ii) a Block Notice from the Parent Guarantor.

(d) LOC Reports. The Bank will furnish to the Company and the Parent Guarantor prompt written notice of each (i) issuance or amendment of the expiry, amount or language of an LOC (including the Available Amount and expiration date thereof), (ii) other amendment to an LOC, (iii) cancellation of an LOC, and (iv) payment on an LOC. The Bank will furnish to the Applicant and the Parent Guarantor promptly upon request and, in any case, prior to the fifteenth Business Day of each calendar quarter a written report summarizing issuance and amendment of LOCs issued or amended during the preceding calendar quarter and payments and reductions in Available Amounts during such calendar quarter on all LOCs.

(e) ISP and UCP. Subject to the exculpations, limitations on liability, and other provisions of this Agreement, unless otherwise expressly agreed in writing by the Bank and the applicable Applicant when a LOC is issued and subject to applicable laws, performance under LOCs by the Bank will be governed by (i) either (x) the rules of the "International Standby Practices 1998" (ISP98) (or such later revision as may be published by the Institute of International Banking Law & Practice on any date any LOC may be issued) or (y) the rules of the "Uniform Customs and Practices for Documentary Credits" (2007 Revision), International Chamber of Commerce Publication No. 600 (or such later revision as may be published by the International Chamber of Commerce on any date any LOC may be issued) and (ii) to the extent not inconsistent therewith, the governing law of this Agreement as set forth in **Section 7.13**.

2.03 Reimbursement Obligations.

(a) Each Applicant agrees to reimburse the Bank (by making payment to the Bank in accordance with **Section 2.07**) in the amount of each LOC Disbursement made by the Bank under each LOC issued at the request of such Applicant, such reimbursement to be made within five (5) Business Days of the date the Bank notifies such Applicant of such LOC Disbursement. Such reimbursement obligation shall be payable without further notice, protest or demand, all of which are hereby waived, and an action therefor shall immediately accrue. To the extent such payment by such Applicant is not timely made in accordance with the terms hereof, such unpaid reimbursement obligation shall be treated as a matured loan extended to such Applicant under this Agreement in respect of which interest shall accrue and be payable. Such Applicant agrees to pay to the Bank, on demand, interest (at a rate per annum equal to the Base Rate plus 1.00%) for each day from the date of such LOC Disbursement to the date such obligation is paid in full. For the avoidance of doubt, the payment by such Applicant of interest pursuant to this **Section 2.03(a)** shall not affect the calculation of fees under the Loan Documents.

(b) The obligation of the applicable Applicant to reimburse the Bank for any LOC Disbursement made by the Bank shall be unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement, the applicable LOC Request and any other applicable agreement or instrument under all circumstances, including the following circumstances:

(i) any lack of validity or enforceability of any LOC Related Document or any term or provision thereof;

(ii) any change in the time, manner, or place of payment of, or in any other term of, any obligation of the Company, any other Applicant, or any other Person in respect of any LOC Related Document or any other amendment or waiver of or any consent to departure from any LOC Related Document;

(iii) the existence of any claim, set-off, defense, or other right that the Company, any other Applicant, or any other Person may have at any time against any Beneficiary (or any Person for which any such Beneficiary may be acting), the Bank or any other Person, whether in connection with the transactions contemplated by the LOC Related Documents or any unrelated transaction;

(iv) any statement or any other document presented under an LOC being forged, fraudulent, invalid, or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(v) payment by the Bank under an LOC against presentation of a draft or other document that does not strictly comply with the terms of such LOC; or

(vi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Company or any other Applicant.

The foregoing provisions of this **Section 2.03(b)** shall not excuse the Bank from liability to the applicable Applicant against the Bank following reimbursement of each LOC Disbursement in full by such Applicant to the extent of any direct (but not consequential) damages suffered by the applicable Applicant that are caused by the Bank's gross negligence or willful misconduct; provided that (i) the Bank shall be deemed to have acted with reasonable care if it acts in accordance with standard letter of credit practice of commercial banks located in New York City and (ii) the applicable Applicant's aggregate remedies against the Bank for wrongfully honoring a presentation shall not exceed the aggregate amount paid by such Applicant to the Bank with respect to the honored presentation, plus interest.

(c) Without limiting any other provision of this Agreement, the Bank: (i) may rely upon any oral, telephonic, facsimile, electronic, written, or other communication reasonably believed to have been authorized by any Applicant, (ii) shall not be responsible for errors, omissions, interruptions, or delays in transmission or delivery of any message, advice or document in connection with any LOC, whether transmitted by courier, mail, telex, any other telecommunication, or otherwise (whether or not they be encrypted), or for errors in interpretation of technical terms or in translation (and the Bank may transmit any LOC terms without translating them), (iii) may honor any presentation under any LOC that appears on its face to substantially comply with the terms and conditions of such LOC, (iv) may replace a purportedly lost, stolen, or destroyed original LOC, waive a requirement for its presentation, or provide a replacement copy to any Beneficiary, (v) if no form of draft is attached as an exhibit to an LOC, may accept as a draft any written or electronic demand or request for payment under such LOC, and may disregard any requirement that such draft bear any particular reference to such LOC, (vi) unless an LOC specifies the means of payment, may make any payment under such LOC by any means it chooses, including by wire transfer of immediately available funds, (vii) may select any branch or affiliate of the Bank or any other bank or financial institution to act as advising, transferring, confirming, and/or nominated bank under the law and practice of the place where it is located (if the applicable LOC Request or LOC Related Documents requested or authorized advice, transfer, confirmation and/or nomination, as applicable), (viii) may amend any LOC to reflect any change of address or other contact information of any Beneficiary, and (ix) shall not be responsible for any other action or inaction taken or suffered by the Bank under or in connection with any LOC, if required or permitted under any applicable domestic or foreign law or letter of credit practice. None of the circumstances described in this **Section 2.03(c)** shall impair the Bank's rights and remedies against any Applicant or place the Bank under any liability to any Applicant.

(d) The applicable Applicant will notify the Bank in writing of any objection such Applicant may have to the Bank's issuance or amendment of any LOC, the Bank's honor or dishonor of any presentation under any LOC, or any other action or inaction taken by the Bank under or in connection with this Agreement or any LOC. The applicable Applicant's notice of objection must be delivered to the Bank within fifteen (15) Business Days after such Applicant receives notice of the action or inaction it objects to. The applicable Applicant's acceptance or retention beyond such fifteen (15) Business Day period of any original documents presented under the applicable LOC, or of any property for which title is conveyed by such documents, shall ratify the Bank's honor of the applicable presentation(s).

2.04 Termination or Reduction of Commitment. The Company may at any time, upon at least three (3) Business Days' notice to the Bank, terminate the Commitment in whole or reduce in part the unused portion of the Commitment Amount; provided that each partial reduction shall be in an aggregate amount of $5,000,000 or a higher integral multiple of $1,000,000. The Commitment Amount shall be permanently reduced to zero on the Termination Date if not sooner reduced to zero. Each notice delivered by the Company pursuant to this paragraph shall be irrevocable; provided that a notice of termination of the Commitment delivered by the Company may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Company (by notice to the Bank on or prior to the specified effective date) if such condition is not satisfied. Except as specifically provided in this Agreement, no fees or expenses shall be payable by any Credit Party or Subsidiary Applicant in respect of any such termination.

2.05 Fees.

(a) The Company agrees to pay to the Bank the Upfront Fee and the Commitment Fee. Accrued Commitment Fees shall be payable in arrears on the last day of March, June, September, and December of each year, and on the date on which the Commitments terminate, commencing on the first such date to occur after the date hereof. All Commitment Fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Company agrees to pay to the Bank an LOC Fee with respect to its participations in LOCs. LOC Fees accrued to but excluding the last day of March, June, September and December of each year shall be payable on such last day, commencing on the first such date to occur after the Closing Date; provided that all such accrued and unpaid fees shall also be payable on the Termination Date, and any such fees accruing after the Termination Date shall be payable on demand. All LOC Fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day and the last day).

(c) All fees payable hereunder shall be paid on the dates due, in dollars, in immediately available funds, to the Bank. Other than amounts erroneously paid as the result of administrative or technical errors, fees paid shall not be refundable under any circumstances. The Commitment Fee due to the Bank shall cease to accrue on the date on which the Commitment shall expire or be terminated as provided herein.

2.06 Increased Costs and Capital Adequacy.

(a) If, due to any Change in Law, there shall be any increase in the cost to the Bank by an amount the Bank reasonably determines to be material of agreeing to issue or of issuing or maintaining or participating in LOCs or the making of LOC Disbursements (excluding, for purposes of this Section, any such increased costs resulting from (i) Taxes or Other Taxes (as to which **Section 2.08** shall exclusively govern), (ii) changes in the basis of taxation of overall net income or overall gross

income by the United States or by the foreign jurisdiction or state under the laws of which the Bank is organized or has its Lending Office or any political subdivision thereof, (iii) any increased cost in respect of which the Bank is entitled to compensation under any other provision of this Agreement, (iv) any payment to the extent that it is attributable to the requirement of any Governmental Authority which regulates the Bank or its holding company which is imposed by reason of the quality of the Bank's assets or those of its holding company and not generally imposed on all entities of the same kind regulated by the same authority, or (v) any increased cost arising by reason of the Bank voluntarily breaching any lending limit or other similar restriction imposed by any provision of any relevant law or regulation after the introduction thereof), then the Company agrees to pay, from time to time, within fifteen (15) days after demand by the Bank, which demand shall include a statement of the basis for such demand and a calculation in reasonable detail of the amount demanded, to the Bank for the account of the Bank additional amounts sufficient to compensate the Bank for such increased cost. A certificate as to the amount of such increased cost, submitted to the Company by the Bank, shall be conclusive and binding for all purposes, absent manifest error of which the Company has notified the Bank promptly after receipt of such certificate.

(b) If, due to any Change in Law, there shall be any increase in the amount of capital required or expected to be maintained by the Bank or any corporation controlling the Bank as a result of or based upon the existence of the Bank's commitment to extend credit hereunder and other commitments of such type pursuant hereto that has or would have the effect of reducing the rate of return on the Bank's (or the Bank's parent corporation's) capital to a level below that which the Bank (or the Bank's parent corporation) could have achieved but for such Change in Law (excluding, for purposes of this Section, any such increased costs resulting from any change to the extent that it is attributable to the requirement of any Governmental Authority which regulates the Bank or its holding company which is imposed by reason of the quality of the Bank's assets or those of its holding company and not generally imposed on all entities of the same kind regulated by the same authority) then, within fifteen (15) days after demand by the Bank or such corporation, which demand shall include a statement of the basis for such demand and a calculation in reasonable detail of the amount demanded, the Company agrees to pay to the Bank, from time to time as specified by the Bank, additional amounts sufficient to compensate the Bank in the light of such circumstances, to the extent that the Bank reasonably determines such increase in capital to be allocable to the existence of the Bank's commitment to issue or participate in LOCs hereunder or to the issuance or maintenance of or participation in any LOC. A certificate as to such amounts submitted to the Company by the Bank shall be conclusive and binding for all purposes, absent manifest error of which the Company has notified the Bank promptly after receipt of such certificate.

(c) As soon as possible after an officer with responsibility for its participation in the Facility obtains actual knowledge of the relevant circumstances and their results, the Bank shall promptly notify the Company of any such event and will use reasonable commercial efforts available to it (and not, in the Bank's good faith judgment, otherwise materially disadvantageous to the Bank) to mitigate or avoid, any obligation of the Company to pay any amount pursuant to **Section 2.06(a)** or **2.06(b)** above or pursuant to **Section 2.08** (and, if the Bank has given notice of any such event and thereafter such event ceases to exist, the Bank shall promptly so notify the Company). Without limiting the foregoing, the Bank will designate a different Lending Office if such designation will avoid (or reduce the cost to the Company of) any event described in the preceding sentence and such designation will not, in the Bank's good faith judgment, be otherwise materially disadvantageous to the Bank.

(d) Notwithstanding the provisions of **Section 2.06(a)**, **2.06(b)** or **2.08** (and without limiting **Section 2.06(c)** above), if the Bank fails to notify the Company of any event or circumstance that will entitle the Bank to compensation pursuant to **Section 2.06(a)**, **2.06(b)** or **2.08** within 180 days after the Bank obtains actual knowledge of such event or circumstance, then the Bank shall not be entitled to compensation from the Company for any amount arising prior to the date that is 180 days before the date

on which the Bank notifies the Company of such event or circumstance; provided that, if the event or circumstance giving rise to such entitlement to compensation is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

2.07 Payments and Computations.

(a) The applicable Applicant shall make each payment hereunder irrespective of any right of counterclaim or set-off not later than 2:00 p.m. (New York City time) on the day when due, in dollars, to the Bank at its office at 1301 Avenue of the Americas, New York, New York 10019 (or to such other office as the Bank shall direct from time to time) and at such account as the Bank shall direct from time to time in immediately available funds, with payments being received by the Bank after such time being deemed to have been received on the next succeeding Business Day; provided that if any amount due hereunder is based upon the Bank's payment in an Alternate Currency, the applicable Applicant will pay the Dollar Equivalent of such amount.

(b) If at any time insufficient funds are received by and available to the Bank to pay fully all amounts of principal, unreimbursed LOC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, and (ii) second, towards payment of principal and unreimbursed LOC Disbursements then due hereunder.

(c) All computations of interest on LOC Disbursements for the Base Rate shall be made by the Bank on the basis of a year of 365 or, if applicable, 366 days; all other computations of interest shall be made by the Bank on the basis of a year of 360 days. All such computations of interest shall be made for the actual number of days (including the first day but excluding the last day) occurring in the period for which such interest is payable. Each determination by the Bank of an interest rate hereunder shall be conclusive and binding for all purposes, absent manifest error.

(d) Whenever any payment hereunder shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall be included in the computation of any payment of interest or fees.

2.08 Taxes.

(a) All payments by the applicable Applicant hereunder shall be made, in accordance with **Section 2.07**, free and clear of and without deduction for any Taxes. If any Withholding Agent determines, in its sole discretion exercised in good faith, that it is required by law to deduct any taxes, levies, imposts, deductions, charges, or withholdings, and all liabilities with respect thereto, from or in respect of any sum payable hereunder to the Bank, (i) the sum payable by the applicable Applicant shall be increased as may be necessary so that after such Withholding Agent has made all required deductions (including deductions applicable to additional sums payable under this **Section 2.08**) the Bank receives an amount equal to the sum it would have received had no such deductions been made, (ii) such Withholding Agent shall make all such deductions, and (iii) such Withholding Agent shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law.

(b) In addition, the applicable Applicant shall pay any Other Taxes in accordance with applicable law.

(c) The applicable Applicant shall indemnify the Bank and hold it harmless against the full amount of Taxes and Other Taxes, and for the full amount of taxes of any kind imposed by any jurisdiction on amounts payable under this **Section 2.08**, imposed on or paid by the Bank and any liability (including penalties, additions to tax, interest and expenses) arising therefrom or with respect thereto.

Any such indemnification payment shall be made within thirty (30) days from the date the Bank makes written demand therefor.

(d) Within thirty (30) days after the date of any payment of Taxes, the applicable Applicant shall furnish to the Bank, at its address referred to in **Section 7.02**, the original or a certified copy of a receipt evidencing such payment. In the case of any payment hereunder by or on behalf of such Applicant through an account or branch outside the United States or by or on behalf of such Applicant by a payor that is not a United States person, if such Applicant determines that no Taxes are payable in respect thereof, such Applicant shall furnish, or shall cause such payor to furnish, to the Bank, at such address, an opinion of counsel reasonably acceptable to the Bank stating that such payment is exempt from Taxes. For purposes of this **Section 2.08(d)** and **Section 2.08(f)**, (i) the terms "United States" and "United States person" shall have the meanings specified in Sections 7701(a)(9) and 7701(a)(30) of the Code, respectively, and (ii) a "Foreign Lender" means a person that is not a "United States person."

(e) If the Bank is entitled to an exemption from or reduction of withholding Tax with respect to payments under any Loan Document, it shall deliver to the Company, at the time or times as reasonably requested by the Company, such properly completed and executed documentation as reasonably requested by the Company as will permit such payments to be made without withholding or at a reduced rate.

(f) Without limiting the generality of the foregoing, the Bank (and any Eligible Assignee on or prior to the date on which it becomes a party hereto) shall, if it is legally eligible to do so, deliver to the Company, two duly signed, properly completed copies of whichever of the following is applicable:

(i) if the Bank (or Eligible Assignee) is not a Foreign Lender, IRS Form W 9;

(ii) if the Bank (or Eligible Assignee) is a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (1) with respect to payments of interest under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "interest" article of such tax treaty and (2) with respect to any other applicable payments under any Loan Document, IRS Form W 8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from U.S. Federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(iii) if the Bank (or Eligible Assignee) is a Foreign Lender for whom payments under any Loan Document constitute income that is effectively connected with such Foreign Lender's conduct of a trade or business in the United States, IRS Form W-8ECI;

(iv) if the Bank (or Eligible Assignee) is a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code both (1) IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, and (2) a certificate (a "U.S. Tax Certificate") to the effect that such Lender is not (a) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (b) a "10 percent shareholder" of the Company within the meaning of Section 881(c)(3)(B) of the Code and (c) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code;

(v) if the Bank (or Eligible Assignee) is a Foreign Lender that is not the beneficial owner of payments made under any Loan Document (including a partnership or a participant) (1) an IRS Form W-8IMY on behalf of itself and (2) the relevant forms prescribed in subsections (i), (ii), (iii) or (iv) of this paragraph (f) that would be required of each such beneficial owner or partner of such

partnership if such beneficial owner or partner were a lender; provided, however, that if the Lender is a partnership and one or more of its partners are claiming the exemption for portfolio interest under Section 881(c) of the Code, such Lender may provide a U.S. Tax Certificate on behalf of such partners;

(vi) if a payment made to a Foreign Lender under any Loan Document would be subject to any withholding Taxes as a result of such Foreign Lender's failure to comply with the requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code), at the time or times prescribed by law and at such time or times reasonably requested by the Withholding Agent, such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Withholding Agent as may be necessary for the Withholding Agent to comply with its obligations under FATCA, to determine that such Foreign Lender has or has not complied with such Foreign Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment; or

(vii) any other form prescribed by law as a basis for claiming exemption from, or a reduction of, U.S. Federal withholding Tax together with such supplementary documentation necessary to enable the Company to determine the amount of Tax (if any) required by law to be withheld.

(g) Thereafter and from time to time, each Foreign Lender shall, if it is legally eligible to do so, (i) promptly submit to the Company (with a copy to the Withholding Agent) such additional duly completed and signed copies of one or more of the forms or certificates described in Section 2.08(f)(i), (ii), (iii), (iv) or (v) above (or such successor forms or certificates as shall be adopted from time to time by the relevant United States taxing authorities) as may then be available under then current United States laws and regulations to avoid, or such evidence as is reasonably satisfactory to the Company of any available exemption from, or reduction of, United States withholding Taxes in respect of all payments to be made to such Foreign Lender by the Company pursuant to this Agreement, or any other Loan Document, in each case, (1) after the occurrence of any event requiring a change in the most recent form, certificate or evidence previously delivered by it to the Company and (2) from time to time thereafter if reasonably requested by the Company, and (ii) promptly notify the Company of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(h) For any period with respect to which the Bank that may lawfully do so has failed to provide the Company with the appropriate form described in **Section 2.08(f)** above (other than if such failure is due to a change in law occurring after the date on which a form originally was required to be provided or if such form otherwise is not required under **Section 2.08(f)** above), the Bank shall not be entitled to indemnification under **Sections 2.08(a)** or **2.08(c)** with respect to Taxes imposed by the United States by reason of such failure; provided that should the Bank become subject to Taxes because of its failure to deliver a form required hereunder, the Company shall take such steps as the Bank shall reasonably request to assist the Bank to recover such Taxes.

(i) The Bank represents and warrants to each Applicant and the Parent Guarantor that, as of the date the Bank becomes a party to this Agreement, the Bank is entitled to receive payments hereunder from such Applicant and the Parent Guarantor without deduction or withholding for or on account of any Taxes.

(j) If the Bank determines, in its reasonable discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Company, the Parent Guarantor or any Applicant or with respect to which such Applicant has paid additional amounts pursuant to this **Section 2.08** or the Parent Guarantor pursuant to the Parent Guaranty, it shall reimburse to such Applicant or the Parent Guarantor, as the case may be, such amount as the Bank determines to be the proportion of such refund as will leave the Bank (after that reimbursement) in no better or worse position in respect of

the worldwide liabilities for Taxes and Other Taxes of the Bank (including in each case its Affiliates) than it would have been if no such indemnity had been required under this **Section 2.08**. This **Section 2.08(j)** shall not be construed to require the Bank to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Company or any other Person.

2.09 Use of Letters of Credit. The Company and each other Applicant covenants and agrees with the Bank that the LOCs shall be used for the purposes set out in the definition of "Permitted LOCs" in **Section 1.01**.

2.10 Certain Provisions Relating to the Bank as Issuer of LOCs.

(a) LOC Requests. The representations, warranties, and covenants by each Applicant under, and the rights and remedies of the Bank under, any LOC Request or any documents or agreements delivered to the Bank pursuant to **Section 2.02(a)(i)** relating to any LOC are in addition to, and not in limitation or derogation of, representations, warranties, and covenants by such Applicant under, and rights and remedies of the Bank under, this Agreement and applicable law. Each Applicant acknowledges and agrees that all rights of the Bank under any LOC Request or any such other documents or agreements shall inure to the benefit of the Bank to the extent of its LOC Participating Interest in and LOC Disbursements in connection with the applicable LOC as fully as if the Bank were a party to such LOC Request or any such other documents or agreements. In the event of any inconsistency between the terms of this Agreement and any LOC Request or any such other documents or agreements, this Agreement shall prevail.

(b) No Liability of the Bank. Each Applicant assumes all risks of the acts or omissions of any Beneficiary of any LOC with respect to its use of such LOC. Neither the Bank nor any of its officers, directors, employees, Affiliates, or agents shall be liable or responsible for: (a) the use that may be made of any LOC or any acts or omissions of any Beneficiary in connection therewith; (b) the validity, sufficiency, or genuineness of documents, or of any endorsement thereon, even if such documents should prove to be in any or all respects invalid, insufficient, fraudulent or forged; or (c) payment by the Bank against presentation of documents that strictly or substantially comply with the terms of an LOC, including failure of any documents to bear any reference or adequate reference to the LOC. In furtherance and not in limitation of the foregoing, the Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary.

(c) Administration. In carrying out its duties under this Section 2.10, the Bank may rely upon any notice or other communication of any nature (written, electronic or oral, including telephone conversations and transmissions through the Bank's remote access system, whether or not such notice or other communication is made in a manner permitted or required by this Agreement or any other Loan Document) purportedly made by a Responsible Officer or on behalf of a Responsible Officer of the proper party or parties, and the Bank shall not have any duty to verify the identity or authority of a Responsible Officer giving such notice or other communication. The Bank may consult with legal counsel (including its in-house counsel or in-house or other counsel for any Applicant), independent public accountants and any other experts selected by it. Whenever the Bank shall deem it necessary or desirable that a matter be proved or established with respect to any Applicant, such matter may be established by a certificate of such Applicant, and the Bank may conclusively rely upon such certificate.

2.11 Currency Indemnity.

(a) Each Credit Party's obligation to make payments hereunder in any Specified Currency shall not be discharged or satisfied by any tender, or any recovery pursuant to any judgment or

otherwise, which is expressed in or converted into any currency other than the Specified Currency, except to the extent that such tender or recovery results in the actual receipt by the Bank of the full amount of the Specified Currency payable under this Agreement. Each Credit Party shall indemnify the Bank for any shortfall and such Credit Party's obligation to make payments in the Specified Currency shall be enforceable as an alternative or additional cause of action to the extent that such actual receipt is less than the full amount of the Specified Currency expressed to be payable hereunder, and shall not be affected by judgment being obtained for other sums due hereunder.

(b) If, for the purpose of obtaining or enforcing judgment against any Credit Party in any court or in any jurisdiction, it becomes necessary to convert into or from any currency other than the Specified Currency (such other currency being hereinafter referred to as the "Judgment Currency") an amount due in the Specified Currency, the conversion shall be made at the Dollar Equivalent of such amount, in each case, as of the date immediately preceding the day on which the judgment is given (such Business Day being hereinafter referred to as the "Judgment Currency Conversion Date"). If there is a change in the rate of exchange prevailing between the Judgment Currency Conversion Date and the date of actual payment of the amount due, the applicable Credit Party obligated in respect thereof covenants and agrees to pay, or cause to be paid, such additional amounts, if any (but in any event not a lesser amount), as may be necessary to ensure that the amount paid in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of the Specified Currency which could have been purchased with the amount of Judgment Currency stipulated in the judgment or judicial award at the rate of exchange prevailing on the Judgment Currency Conversion Date.

2.12 Subsidiary Applicants. The Company from time to time may designate any Subsidiary as a Subsidiary Applicant by (i) delivering to the Bank an Adherence Agreement executed by such Subsidiary, the Company and the Bank and (ii) taking such further actions as the Bank may reasonably request, including executing and delivering other instruments, documents, and agreements corresponding to those obtained in respect of the Company, all in form and substance reasonably satisfactory to the Bank; provided, that no Subsidiary shall become a party hereto or a Subsidiary Applicant hereunder if the Bank reasonably believes that it would violate any applicable law or regulation for any LOCs to be issued at such proposed Subsidiary Applicant's request or that the Bank would be subject to any unindemnified withholding taxes. Upon such delivery and the taking of such further actions such Subsidiary shall for all purposes of this Agreement be a Subsidiary Applicant and a party to this Agreement until the Company shall have executed and delivered to the Bank a "Notice of Termination" (as defined in the applicable Adherence Agreement) in respect of such Subsidiary, whereupon such Subsidiary shall cease to be a Subsidiary Applicant. Notwithstanding the preceding sentence, no such Notice of Termination will become effective as to any Subsidiary Applicant at a time when any Obligations of such Subsidiary Applicant shall be outstanding hereunder or any LOC issued at the request of such Subsidiary Applicant shall be outstanding (which shall not have been cash collateralized in a manner satisfactory to the Bank in its sole discretion); provided that such Notice of Termination shall be effective to terminate such Subsidiary Applicant's right to request LOCs hereunder. The Subsidiary Applicants as of the Closing Date are set forth on **Schedule II**.

2.13 Parent Guaranty. Payment of the Repayment Obligations by the Company is guaranteed by the Parent Guarantor pursuant to the Parent Guaranty. Subject to (a) the Parent Guarantor's obligations under the Parent Guaranty and (b) **Section 2.15**, the obligations of each Credit Party under this Agreement are several and not joint and no Credit Party shall be responsible for the obligations of any other Credit Party under this Agreement.

2.14 Cash Collateralization. If, at any time, the Dollar Equivalent of the Credit Exposure exceeds the Commitment Amount (including by reason of fluctuations in exchange rates), then one or more of the Applicants shall, within five (5) Business Days after notice thereof from the Bank, cash

collateralize any outstanding LOCs in a manner satisfactory to the Bank in its sole discretion and/or pay or reimburse any other amounts then due and payable under the Facility, in each case in an amount sufficient to eliminate such excess; provided, however, that no Applicant shall be required to cash collateralize any amounts attributable to an LOC issued at the request of any other Applicant.

2.15 Company Guaranty.

(a) The Company hereby irrevocably and unconditionally guarantees to the Bank the due and punctual payment of all Repayment Obligations of each of the other Credit Parties (the "Guaranteed Obligations"). The Company agrees that the Guaranteed Obligations may be extended or renewed, in whole or in part, without notice to or further assent from it, and that it will remain bound upon its guarantee notwithstanding any extension or renewal of any Guaranteed Obligations. Each and every default in payment or performance on any Guaranteed Obligation shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder as each cause of action arises.

(b) To the fullest extent permitted by applicable law, the Company waives presentment to, demand of payment from, and protest to the applicable Applicant or to any other guarantor of any of the Guaranteed Obligations, and also waives notice of acceptance of its guarantee and notice of protest for nonpayment. To the fullest extent permitted by applicable law, the obligations of the Company hereunder shall not be affected by (i) the failure of the Bank to assert any claim or demand or to enforce or exercise any right or remedy against any Applicant or any other Person under the provisions of the Loan Documents or otherwise; (ii) any rescission, waiver, amendment or modification of, or any release of any Person from any of the terms or provisions of any Loan Document or any other agreement; (iii) the failure or delay of the Bank for any reason whatsoever to exercise any right or remedy against the Parent Guarantor under the Parent Guaranty; (iv) the failure of the Bank to assert any claim or demand or to enforce any remedy under any Loan Document, any guarantee or any other agreement or instrument, (v) any default, failure or delay, willful or otherwise, in the performance of any Repayment Obligations; or (vi) any other act, omission or delay to do any other act which may or might in any manner or to any extent vary the risk of the Company under this **Section 2.15** or otherwise operate as a discharge or exoneration of the Company as a matter of law or equity or which would impair or eliminate any right of the Company to subrogation.

(c) The Company agrees that its guarantee hereunder constitutes a guarantee of payment when due and not of collection, that such guarantee may be enforced at any time and from time to time, on one or more occasions, during the continuance of any Event of Default, without any prior demand or enforcement in respect of any Guaranteed Obligations, and that the Company waives any right to require that any resort be had by the Bank to any other guarantee. The obligations of the Company hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason (other than the payment in full in cash of the Guaranteed Obligations), including any claim of waiver, release, surrender, amendment, modification, alteration or compromise of any of the Guaranteed Obligations or of any collateral security or guarantee or other accommodation in respect thereof, and shall not be subject to any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of the Guaranteed Obligations or any Loan Document or any provision thereof (or of this Agreement or any provision hereof) or otherwise. Without limiting the generality of the foregoing, the obligations of Company hereunder shall not be discharged or impaired or otherwise affected by any change of location, form or jurisdiction of any Applicant or any other Person, any merger, consolidation, or amalgamation of any Applicant or any other Person into or with any other Person, any sale, lease or transfer of any of the assets of any Applicant or any other Person to any other Person, any other change of form, structure, or status under any law in respect of any Applicant or any other Person, or any other occurrence, circumstance, happening or event whatsoever, whether similar or dissimilar to the foregoing, whether foreseen or unforeseen, that might otherwise constitute a legal or

equitable defense, release, exoneration, or discharge or that might otherwise limit recourse against any Applicant, the Company or any other Person. The obligations of the Company hereunder shall extend to all Repayment Obligations of the Applicants without limitation of amount, and the Company agrees that it shall be obligated to honor its guarantee hereunder whether or not any other guarantor or any Person that has provided any collateral or that is the obligor in respect of any obligation that constitutes collateral for any Obligations of any Applicant (i) has been called to honor its guarantee or provide such collateral or honor any such obligation or, (ii) having been so called has failed to do so in whole or in part, or (iii) has been released for any reason whatsoever from any such obligation.

(d) To the fullest extent permitted by applicable law, the Company waives any defense based on or arising out of any defense of any Applicant or any other guarantor or the unenforceability of the Guaranteed Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any Applicant, other than the final payment in full in cash of the Guaranteed Obligations. The Bank may, at its election, compromise or adjust any part of the Guaranteed Obligations, make any other accommodation with any Applicant or any other Person or exercise any other right or remedy available to them against any Applicant or any other Person, without affecting or impairing in any way the liability of the Company hereunder except to the extent the Guaranteed Obligations have been fully and finally paid. To the fullest extent permitted by applicable law, the Company waives any defense arising out of any such election even though such election operates, pursuant to applicable law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of the Company against any Applicant or any other Person, as the case may be. The Company agrees that (i) the maturity of the Guaranteed Obligations guaranteed hereby may be accelerated for the purposes of the Company's guarantee herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration as to any Applicant in respect of the Guaranteed Obligations (other than any notices and cure periods expressly granted to an Applicant in this Agreement or any other Loan Document evidencing or securing the Obligations of such Applicant), and (ii) in the event of any such acceleration of such Guaranteed Obligations, such Guaranteed Obligations (whether or not due and payable) shall forthwith become due and payable in full by the Company for purposes of this Agreement.

(e) In furtherance of the foregoing and not in limitation of any other right that the Bank has at law or in equity against the Company by virtue hereof, upon the failure of any Applicant to pay (after the giving of any required notice and the expiration of any cure period expressly granted to such Applicant in this Agreement) any Guaranteed Obligation when and as the same shall become due, whether at maturity, upon mandatory prepayment, by acceleration, after notice of prepayment or otherwise, the Company hereby promises to and will forthwith pay, or cause to be paid, to the Bank in cash the amount of such unpaid Guaranteed Obligation. Upon payment by the Company of any sums as provided above, all rights of the Company against the applicable Applicant or any other Person arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior payment in full in cash of all the Guaranteed Obligations. If any amount shall erroneously be paid to the Company on account of (i) such subrogation, contribution, reimbursement, indemnity, or similar right, or (ii) any such indebtedness of any Applicant, such amount shall be held in trust for the benefit of the Bank and shall be paid to the Bank to be credited against the payment of the Guaranteed Obligations, whether matured or unmatured.

(f) The Company further agrees that its obligations hereunder shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Guaranteed Obligation is rescinded or must otherwise be restored by the Bank upon the bankruptcy or reorganization of any Applicant or otherwise. Nothing shall discharge or satisfy the liability of the Company hereunder except the full and final performance and payment in cash of the Guaranteed Obligations.

ARTICLE III

CONDITIONS

3.01 Conditions Precedent to Closing Date. The occurrence of the Closing Date, and the obligation of the Bank to issue any LOC, is subject to the satisfaction (or waiver in accordance with **Section 7.01**) of the following conditions precedent:

(a) The Bank shall have received from each party hereto or thereto either (i) a counterpart of this Agreement, the Transfer Agreement and the Parent Guaranty signed on behalf of such party or (ii) written evidence satisfactory to the Bank (which may include electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement and the Parent Guaranty.

(b) The Bank shall have received from the Company a signed certificate, dated as of the Closing Date and signed by a Responsible Officer of the Company on behalf of the Company, certifying as to (i) the truth in all material respects of the representations and warranties contained in the Loan Documents as though made on and as of the Closing Date and (ii) the absence of any Event of Default.

(c) The Bank shall have received documents and certificates relating to the organization, existence, and good standing of each Credit Party, and the authorization of the transactions contemplated hereby, all in form reasonably satisfactory to the Bank, including (i) certified copies of the resolutions (or comparable evidence of authority) of each Credit Party approving the transactions contemplated by the Loan Documents and (ii) a certification as to the names and true signatures of the officers of each Credit Party that are authorized to sign the Loan Documents and the other documents to be delivered hereunder.

(d) The Bank shall have received evidence, reasonably satisfactory to it, that the Existing Facility has been terminated on or prior to the date hereof.

(e) There shall exist no action, suit, investigation, litigation or proceeding affecting any Credit Party pending or threatened in writing before any Governmental Authority that (x) could be reasonably expected to have a Material Adverse Effect or (y) could reasonably be expected to materially adversely affect the legality, validity, or enforceability of any Loan Document or the transactions contemplated hereby.

(f) No development or change shall have occurred after January 3, 2016, and no information shall have become known after such date, that has had or could reasonably be expected to have a Material Adverse Effect.

(g) The Bank shall have received a written opinion (addressed to the Bank and dated the Closing Date) of counsel to the Company covering the matters set forth in Exhibit C-1 and of in-house counsel to the Parent Guarantor covering the matters set forth in Exhibit C-2, in each case in form and substance reasonably satisfactory to the Bank.

(h) The Bank shall have received all documentation and other information reasonably requested by it that is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act.

(i) The Bank shall have received all fees and other amounts due and payable on or prior to the Closing Date and, to the extent invoiced, reimbursement or payment of all expenses required to be reimbursed or paid by any Applicant hereunder.

3.02 Conditions Precedent to Each Issuance or Amendment of an LOC. In addition to the conditions to issuance or amendment set forth in **Section 2.01**, the obligation of the Bank to issue or amend the expiry, amount or language of an LOC (including any issuance on the Closing Date) shall be subject to the further conditions precedent that on the date of such issuance or amendment:

(a) the representations and warranties contained in each Loan Document are true and correct in all material respects on and as of such date, before and after giving effect to such issuance or amendment (other than any automatic extension of an LOC), as though made on and as of such date, other than any such representation or warranty that, by its terms, refers to a specific date other than the date of such issuance, extension or increase, in which case as of such specific date, unless waived in accordance with **Section 7.01**;

(b) no Block Notice is in effect;

(c) no Event of Default, or event or condition that would constitute an Event of Default described in **Section 6.01(a)**, **Section 6.01(f)**, or **Section 6.01(g)** but for the requirement that notice be given or time elapse or both, has occurred and is continuing or would result from such issuance, extension, or increase;

(d) the Parent Guarantor shall not have repudiated, or asserted the unenforceability of the Parent Guaranty and the Parent Guaranty shall continue to be in full force and effect; and

(e) in the case of the issuance or amendment of the expiry, amount or language of any LOC denominated in an Alternate Currency, there shall not have occurred any change in national or international financial, political, or economic conditions or currency exchange rates or exchange controls which in the reasonable opinion of the Bank would make it impracticable for such LOC to be issued or amended in such Alternate Currency.

Each request for issuance or amendment of an LOC and each automatic extension permitted pursuant to **Section 2.02(c)** shall be deemed to be a representation and warranty by the applicable Applicant that both on the date of such request and on the date of such issuance or amendment or automatic extension the foregoing statements are true and correct.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

The Company represents and warrants as follows:

4.01 Existence, Etc. Each Credit Party (i) is duly organized or formed, validly existing, and in good standing under the laws of the jurisdiction of its incorporation or formation, (ii) is duly qualified and in good standing as a foreign corporation or other entity in each other jurisdiction in which it owns or leases property or in which the conduct of its business requires it to so qualify or be licensed except where the failure to so qualify or be licensed could not reasonably be expected to have a Material Adverse Effect, and (iii) has all requisite power and authority (including all governmental licenses, permits and other approvals) to own or lease and operate its properties and to carry on its business as now conducted

and as proposed to be conducted, except where the failure to have any license, permit or other approval could not reasonably be expected to have a Material Adverse Effect.

4.02 Authority and Authorization. The execution, delivery, and performance by each Credit Party of each Loan Document to which such Credit Party is party, and the consummation of the transactions contemplated thereby, are within the organizational powers of such Credit Party, have been duly authorized by all necessary organizational action, and do not (i) contravene the Constituent Documents of such Credit Party, or (ii) violate any law, rule, regulation (including Regulation X of the Board of Governors of the Federal Reserve System), order, writ, judgment, injunction, decree, determination or award, or (iii) conflict with or result in the breach of, or constitute a default under, any contract, loan agreement, indenture, mortgage, deed of trust, lease or other instrument binding on or affecting such Credit Party or its properties, which, in the case of any violation, conflict, breach or default under clause (ii) or (iii) could reasonably be expected to have a Material Adverse Effect. No Credit Party is in violation of any such law, rule, regulation, order, writ, judgment, injunction, decree, determination or award or in breach of any such contract, loan agreement, indenture, mortgage, deed of trust, lease or other instrument, the violation or breach of which could reasonably be expected to have a Material Adverse Effect.

4.03 Approvals. No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or any other third party is required for the due execution, delivery, or performance by any Credit Party of any Loan Document to which it is party or the consummation of the transactions contemplated thereby, other than has been obtained and is in full force and effect as of the Closing Date.

4.04 Enforceability. This Agreement has been, and each other Loan Document to which a Credit Party is a party, has been or when delivered hereunder will have been, duly executed and delivered by such Credit Party. This Agreement is, and each other Loan Document to which a Credit Party is a party, is or when delivered hereunder will be, the legal, valid, and binding obligation of such Credit Party, enforceable against it in accordance with the terms thereof, subject to bankruptcy, insolvency, and similar laws of general application relating to creditors' rights and to general principles of equity.

4.05 Litigation. Except as disclosed in the Company's filings with the SEC from time to time, there is no action, suit, investigation, litigation or proceeding affecting the Company pending or, to the knowledge of the Company, threatened in writing before any Governmental Authority that (i) could reasonably be expected to have a Material Adverse Effect or (ii) could reasonably be expected to affect the legality, validity, or enforceability of any Loan Document or the transactions contemplated by the Loan Documents.

4.06 Compliance with Certain Acts. Each Credit Party and each Subsidiary of a Credit Party is in compliance in all material respects with the Patriot Act. No part of any payment under any LOC will be used, and no actions in furtherance of an offer, payment, promise to pay, or authorization or approval of the payment or giving of money, property, gifts or anything else of value have been taken, by any Credit Party and each Subsidiary of a Credit Party nor to their knowledge any of their respective directors, officers, or employees, directly or indirectly, (a) to finance any transaction relating to a client, customer, importer, exporter or any other Person who appears on Sanctions Lists or in violation of any Sanctions or (b) 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; and each Credit Party and each Subsidiary of a Credit Party has conducted its businesses in compliance with Sanctions and have instituted and maintain and will continue to maintain policies and procedures designed to promote and achieve compliance with such laws and with the representations and warranties contained herein. Neither any Credit Party nor any of its

directors, officers, managers or principal employees is on the list of Specially Designated Nationals and Blocked Persons issued by OFAC.

4.07 Investment Company Act. No Credit Party is an "investment company", or an "affiliated person" of, or "promoter" or "principal underwriter" for, an "investment company", as such terms are defined in the United States Investment Company Act of 1940, as amended from time to time, and any successor statute or statutes. Neither the making of any LOC Disbursements, nor the issuance of any LOC, nor the application of the proceeds or repayment thereof, nor the consummation of the other transactions contemplated by the Loan Documents, will violate any provision of such Act or any rule, regulation, or order of the SEC thereunder.

4.08 Compliance with Laws and Agreements. Each Credit Party is in compliance with all laws, regulations, and orders of any Governmental Authority applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No Credit Party is in default in any material respect beyond any applicable grace period under or with respect to any of its Constituent Documents or any indenture, agreement, instrument or undertaking to which it is a party or by which it or any of its property is bound, the existence of which default has not been waived in writing and which, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

4.09 Anti-Corruption Laws and Sanctions. Each Credit Party and each Subsidiary of a Credit Party is in compliance with Sanctions and is not engaged, directly or, to each of its respective knowledge, indirectly, in any activity that would result in the Credit Parties or any Subsidiaries of the Credit Parties being designated as a Sanctioned Person and is not directly conducting business or engaged in any transaction with any Sanctioned Persons. Policies and procedures are designed to ensure compliance by the Credit Parties, their respective Subsidiaries and their respective directors, officers, employees and agents with applicable Sanctions have been implemented, and are maintained in effect, by the Credit Parties or otherwise on behalf of their Subsidiaries. None of (a) any Credit Party, any Subsidiary of a Credit Party or any of their respective directors, officers or employees (except any director, officer or employee of a Non-Controlled Subsidiary appointed by a Person that is not an Affiliate of any Credit Party), or (b) to the knowledge of any Credit Party, any director, officer or employee of any Non-Controlled Subsidiary (to the extent appointed by a Person that is not an Affiliate of any Credit Party), is a Sanctioned Person or is directly conducting business or engaged in any transaction with any Sanctioned Person. No LOC will violate any applicable Sanctions.

4.10 No Event of Default. No Event of Default has occurred and is continuing.

4.11 Subsidiaries. Each Credit Party other than the Company is a Subsidiary of the Company.

4.12 No Margin Stock. No Applicant is engaged, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System) or extending credit for the purpose of purchasing or carrying margin stock.

4.13 Pari Passu Ranking. Each Credit Party's obligations under or in respect of each Loan Document rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for the claims that are preferred by any bankruptcy, insolvency, liquidation, or other similar laws of general application.

ARTICLE V

COVENANTS

Until the Commitment has expired or been terminated and the principal of and interest on each LOC Disbursement and all fees payable hereunder shall have been paid in full in cash and all LOCs shall have expired without any pending drawing or terminated, the Company covenants and agrees with the Bank that:

5.01 Information. The Company will furnish to the Bank:

(a) within ninety (90) days after the end of each fiscal year of the Company, its audited consolidated balance sheet and related statements of earnings, shareholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by independent public accountants of recognized national standing and reasonably acceptable to the Bank (without a "going concern" explanatory note or any similar qualification or exception or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly, in all material respects, the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP;

(b) within forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year of the Company, its consolidated balance sheet and related statements of earnings, shareholders' equity and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly, in all material respects, the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP, subject to normal year-end audit adjustments and the absence of footnotes;

(c) written notice of the occurrence of an Event of Default, which notice shall be given within five (5) Business Days after the actual knowledge of an officer of the Company of such occurrence, specifying the nature and extent thereof and, if continuing, the action the Company or relevant Credit Party is taking or proposes to take in respect thereof; and

(d) reasonably promptly following any request therefor, such additional information regarding any Applicant or any Subsidiary or compliance with the terms of this Agreement or the other Loan Documents as the Bank may reasonably request.

The Parent Guarantor shall promptly (and not later than three (3) Business Days after the occurrence thereof) notify the Company of any Event of Default occurring under **Section 6.01(d)**, **(e)**, **(f)**, **(g) or (h)** and relating to the Parent Guarantor.

Anything required to be delivered pursuant to **Section 5.01(a)** or **(b)** above (to the extent any such financial statements or reports are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which the Company posts such reports, or provides a link thereto, on the Company's website on the Internet, or on the date on which such reports are filed with the SEC and become publicly available.

5.02 Existence. Each Credit Party shall do or cause to be done all things necessary to preserve and keep in full force and effect its legal existence and the rights, licenses, permits, privileges, authorizations, qualifications and accreditations material to the conduct of its business, in each case if the failure to do so, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, consolidation or other transaction expressly permitted hereunder.

5.03 Compliance with Laws. Each Credit Party will comply with all applicable laws, ordinances, rules, regulations, and requirements of Governmental Authorities except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

5.04 Inspection of Property, Books and Records. Each Credit Party will keep, and will cause each of its Subsidiaries to keep, adequate books of record and account, and will permit representatives of the Bank to visit and inspect (upon one (1) Business Day's notice) any of its properties, to examine and make abstracts from any of its books and records and to discuss its affairs, finances and accounts with its officers, employees and independent public accountants, all during regular business hours and as often as reasonably requested (provided, however, that unless an Event of Default shall have occurred and be continuing, such inspection right shall be limited to one occurrence per Bank in any 12-month period).

5.05 Compliance with Sanctions. Each Credit Party and each Subsidiary of a Credit Party shall comply with, and will not act in any manner that would result in a violation by any Person (including the Bank) of, Sanctions.

5.06 Consolidation, Merger and Sale of Assets. No Credit Party shall (i) enter into any merger or consolidation, unless it is the surviving entity and no Event of Default exists after giving effect thereto, (ii) liquidate, wind up or dissolve (or suffer any liquidation, winding up or dissolution), terminate, or discontinue its business, or (iii) except to a Subsidiary, sell, assign, lease, or otherwise transfer, in one transaction or a series of transactions, all or substantially all of its business or property, whether now or hereafter acquired.

5.07 Margin Stock. No Applicant shall use the proceeds of any LOC, whether directly or directly, and whether immediately, incidentally, or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System) or in a manner that will violate or be inconsistent with Regulation T, U, or X of the Board of Governors of the Federal Reserve System.

5.08 Pari Passu Ranking. Without derogating from the Company's obligations under the Loan Documents, each Credit Party will ensure that at all times the claims of the Bank against it under the Loan Documents will rank at least pari passu with the claims of all of its other unsecured and unsubordinated creditors, except for claims that are preferred by any bankruptcy, insolvency, liquidation or other similar laws of general application.

ARTICLE VI

EVENTS OF DEFAULT

6.01 Events of Default and Their Effect. If any of the following events (each an "Event of Default") shall occur and be continuing:

(a) Any Applicant shall, other than as a result of administrative or technical error so long as such error is corrected within three (3) Business Days of notification to such Applicant of such error, fail to pay any reimbursement obligation in respect of any LOC Disbursement made by the Bank pursuant to an LOC, any Applicant shall fail to deposit cash collateral when and as the same shall become due and payable, or any Credit Party shall fail to pay any other amount payable by such Credit Party under any Loan Document, in each case within five (5) Business Days after the same becomes due and payable with respect to a payment required to be made pursuant to **Section 2.03** or ten (10) Business Days after the same becomes due and payable with respect to any other payment required to be made hereunder;

(b) Any representation or warranty made by any Credit Party (or any of its officers or other representatives) under or in connection with any Loan Document shall prove to have been incorrect in any material respect when made or deemed to have been made and such inaccuracy is not remedied within thirty (30) days after receipt of notice to the applicable Credit Party and the Parent Guarantor from the Bank specifying such inaccuracy;

(c) Any Credit Party shall fail to perform or observe any term, covenant, or agreement contained herein (other than those specified in clause (a) and (b) above) on its part to be performed or observed if such failure shall remain unremedied for thirty (30) days after written notice thereof shall have been given to the Company by the Bank, except where such default cannot be reasonably cured within 30 days but can be cured within 60 days, the Credit Party has (i) during such 30-day period commenced and is diligently proceeding to cure the same and (ii) such default is cured within 60 days after the earlier of becoming aware of such failure and receipt of notice to the applicable Credit Party and the Parent Guarantor from the Bank specifying such failure;

(d) The Parent Guarantor shall fail to pay any indebtedness for borrowed money pursuant to a loan agreement or noncontingent payment obligation pursuant to a letter of credit agreement of similar nature to this Agreement, individually or in the aggregate, in excess of the Dollar Equivalent of $200,000,000, when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such indebtedness, provided, however, that a written waiver of such failure by the Person to whom such Indebtedness is owed shall be a written waiver of the Event of Default resulting pursuant to this subclause from such failure; or the maturity of such indebtedness is accelerated, provided, however, that a written waiver of such failure by the Person to whom such indebtedness is owed shall be a written waiver of the Event of Default resulting pursuant to this subclause from such failure;

(e) The Parent Guarantor shall repudiate, or assert the unenforceability of the Parent Guaranty, or the Parent Guaranty shall for any reason not be in full force and effect or the Company shall repudiate, or assert the unenforceability of this Agreement;

(f) The entry by a court having jurisdiction in the premises of (i) a decree or order for relief in respect of the Parent Guarantor, the Company or any other Credit Party in an involuntary case or proceeding under any applicable United States federal, state, or foreign bankruptcy, insolvency, reorganization, or other similar law or (ii) a decree or order adjudging the Parent Guarantor, the Company or any other Credit Party bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Parent Guarantor, the Company or any other Credit Party under any applicable United States federal, state, or foreign law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Parent Guarantor, the Company or any other Credit Party or any substantial part of the property of the Parent Guarantor or the Company, or ordering the winding up or liquidation of the affairs of the Parent

Guarantor, the Company or any other Credit Party, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of ninety (90) consecutive days;

(g) The commencement by the Parent Guarantor, the Company or any other Credit Party of a voluntary case or proceeding under any applicable United States federal, state, or foreign bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated the Bankrupt or insolvent, or the consent by the Parent Guarantor, the Company or any other Credit Party to the entry of a decree or order for relief in respect of the Company or any other Credit Party in an involuntary case or proceeding under any applicable United States federal, state, or foreign bankruptcy, insolvency, reorganization, or other similar law or to the commencement of the Bankruptcy or insolvency case or proceeding against it, or the filing by the Parent Guarantor, the Company or any other Credit Party of a petition or answer or consent seeking reorganization or relief under any applicable United States federal, state, or foreign law, or the consent by the Parent Guarantor, the Company or any other Credit Party to the filing of such petition or the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator, or similar official of the Parent Guarantor, the Company or any other Credit Party or of any substantial part of the property of, or the making by the Parent Guarantor, the Company or any other Credit Party of an assignment for the benefit of creditors, or the admission by the Parent Guarantor, the Company or any other Credit Party in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Parent Guarantor, the Company or any other Credit Party in furtherance of any such action; or

(h) A Change in Control shall occur;

then, and in any such event, the Bank (i) may, by notice to the Company, declare the obligation of the Bank to issue or amend the expiry, amount or language of any LOC to be terminated, whereupon the same shall forthwith terminate, and/or (ii) may, by notice to the Company, declare all amounts payable under this Agreement and the other Loan Documents to be forthwith due and payable, whereupon all such amounts shall become and be forthwith due and payable, without presentment, demand, protest, or further notice of any kind, all of which are hereby expressly waived by each Credit Party, and/or (iii) may require the Beneficiary of any LOC to draw the entire amount available to be drawn under such LOC in accordance with (and to the extent permitted by) such LOC and/or (iv) require the applicable Applicant to use best efforts to cause the Bank to be released from all its obligations under each LOC, and/or (v) exercise any and all other remedies available at law, in equity or otherwise, to secure, collect, enforce or satisfy any Obligations of any of the Credit Parties; provided that in the event of an actual or deemed entry of an order for relief with respect to any Applicant under the Bankruptcy Law, (x) the obligation of the Bank to issue, amend, or amend the expiry, amount or language of any LOC shall automatically terminate, (y) all such amounts shall automatically become due and payable, without presentment, demand, protest, or any notice of any kind, all of which are hereby expressly waived by each Applicant, and (z) the obligation of each Applicant to provide cash collateral under **Section 6.02** shall automatically become effective.

6.02 Actions in Respect of the Letters of Credit upon Event of Default. If any Event of Default shall have occurred and be continuing, the Bank may, whether before or after taking any of the actions described in **Section 6.01**, demand that the Company and each other Applicant, and forthwith upon such demand the Company and each other Applicant will, without duplication of any other cash collateral provide to the Bank, remit as cash collateral to the Bank in immediately available funds an aggregate amount not less than the sum of (i) one hundred percent (100%) of the Available Amount at such time of all LOCs denominated in dollars plus (ii) one hundred five percent (105%) of the Available Amount at such time of all LOCs denominated in Alternate Currencies. If at any time during the continuance of an Event of Default the Bank determines that such funds are subject to any right or claim

of any Person other than the Bank or that the total amount of such funds is less than the aggregate Available Amount at such time of all LOCs, the Company and each other Applicant will, forthwith upon demand by the Bank, remit to the Bank, as additional cash collateral, an amount equal to the excess of (a) such aggregate Available Amount over (b) the total amount of funds, if any, that the Bank determines to be free and clear of any such right and claim. Notwithstanding the two preceding sentences, no Applicant other that the Company shall be required to cash collateralize any amounts attributable to an LOC issued at the request of any other Applicant. Upon the drawing of any LOC, such funds shall be applied to reimburse the Bank, to the extent permitted by applicable law.

ARTICLE VII

MISCELLANEOUS

7.01 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document, nor consent to any departure by any Credit Party therefrom, shall in any event be effective unless the same shall be in writing and signed by the Bank (and in the case of an amendment) the Company, and then any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

7.02 Notices, Etc. All notices and other communications provided for hereunder shall be in writing (including facsimile or e-mail) and mailed or sent to the applicable party at its address set forth below its signature hereto (or, in the case of an assignee pursuant to **Section 7.06** that is not a party hereto on the Closing Date, at its address specified in the Assignment and Assumption pursuant to which it becomes the Bank and in the case of any Subsidiary Applicant that is not a party hereto on the Closing Date, at its address specified in the Adherence Agreement pursuant to which it becomes a Subsidiary Applicant) or at such other address as shall be designated by such party in a written notice to the other parties. All such notices and communications shall be effective (a) if mailed, three Business Days after the date deposited in the mail, (b) if sent by messenger or courier, when delivered, or (c) if sent by facsimile or e-mail, when the sender receives electronic confirmation of receipt, except that (i) notices and communications to the Bank pursuant to **Article II**, shall not be effective until received by such Person; and (ii) any notice or other communication received at a time when the recipient is not open for its regular business shall be deemed received one hour after such recipient is again open for its regular business.

7.03 No Waiver; Remedies. No failure on the part of the Bank to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

7.04 Costs and Expenses.

(a) Each Credit Party agrees to pay on demand all reasonable and documented costs and expenses of the Bank in connection with the preparation, execution and delivery of the Loan Documents; provided, however, that no Applicant shall be obligated to pay any costs and expenses to the extent attributable to any LOC issued at the request of any other Applicant.

(b) Each Credit Party agrees to indemnify and hold harmless the Bank and each of its Affiliates and the officers, directors, employees, agents and advisors of any of the foregoing (each an "Indemnified Party") from and against all claims, damages, losses, liabilities and expenses (including reasonable and documented fees and expenses of counsel) of any kind or nature whatsoever that may be incurred by or asserted or awarded against any Indemnified Party arising out of or in connection with or

by reason of (including in connection with any investigation, litigation, or proceeding or preparation of a defense in connection therewith) (i) the enforcement of this Agreement or any other Loan Document or (ii) any adviser's confirmer's, or other nominated person's fees and expenses with respect to any LOC that are chargeable to any Applicant or the Bank (if the applicable LOC Request or any LOC Related Document requested or authorized such advice, confirmation, or other nomination, as applicable), except to the extent such claim, damage, loss, liability or expense shall have resulted from the negligence, willful misconduct or fraud of such Indemnified Party. Each Credit Party also agrees not to assert any claim against any Indemnified Party on any theory of liability for, and no Indemnified Party shall be liable in contract, tort, or otherwise for, special, indirect, consequential, exemplary, or punitive damages arising out of or otherwise relating to this Agreement, any other Loan Document, any transaction contemplated hereby or thereby or the actual or proposed use of the LOC Disbursements or any LOC (including for any consequences of forgery or fraud by any Beneficiary or any other Person).

(c) Without prejudice to the survival of any other agreement of any Credit Party hereunder or under any other Loan Document, the agreements and obligations of each Credit Party contained in **Section 2.06**, **Section 2.08**, and this **Section 7.04** shall survive the payment in full of principal, interest, and all other amounts payable hereunder and under any other Loan Document, the expiration or termination of the Commitments, and the expiration without any pending drawing or termination of all LOCs.

7.05 Binding Effect. This Agreement shall become effective when it shall have been executed by each Credit Party and the Bank and thereafter shall be binding upon and inure to the benefit of each Credit Party and the Bank and their respective successors and assigns, except that no Credit Party shall have the right to assign its rights hereunder or any interest herein without the prior written consent of the Bank (such consent not to be unreasonably withheld).

7.06 Assignments and Participations.

(a) The Bank may, and so long as no Event of Default shall have occurred and be continuing, if demanded by the Company pursuant to **Section 2.11** upon at least five (5) Business Days' notice to the Bank, will, assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment, its LOC Participating Interests and the LOC Disbursements owing to it); provided that (i) each such assignment shall be of a uniform, and not a varying, percentage of all rights and obligations of the Bank hereunder, (ii) except in the case of an assignment to a Person that, immediately prior to such assignment, was (x) the Bank or an Affiliate of the Bank, the aggregate amount of the Commitment being assigned to such Eligible Assignee pursuant to such assignment (determined as of the date of the Assignment and Assumption with respect to such assignment) shall in no event be less than $25,000,000 unless it is an assignment of the entire amount of such assignor's Commitment, or (y) not the Bank or an Affiliate of the Bank, the aggregate amount of the Commitment being assigned to such Eligible Assignee pursuant to such assignment (determined as of the date of the Assignment and Assumption with respect to such assignment) shall in no event be less than $5,000,000 unless it is an assignment of the entire amount of such assignor's Commitment, (iii) each such assignment shall be to an Eligible Assignee, (iv) each assignment made as a result of a demand by the Company pursuant to **Section 2.11** shall be arranged by the Company after consultation with the Bank, and shall be either an assignment of all of the rights and obligations of the assigning Bank under this Agreement or an assignment of a portion of such rights and obligations made concurrently with another such assignment or other such assignments that together cover all of the rights and obligations of the assigning Bank under this Agreement, (v) the Bank shall be obligated to make any such assignment as a result of a demand by the Company pursuant to **Section 2.11** unless and until the Bank shall have received one or more payments from either the Company or other Eligible Assignees in an aggregate amount at least equal to the aggregate outstanding principal amount of

the LOC Disbursements made by the Bank, together with accrued interest thereon to the date of payment of such principal amount and all other amounts payable to the Bank under this Agreement, (vi) as a result of such assignment, the Company shall not be subject to additional amounts under **Section 2.06** or **2.08**, and (vii) the parties to each such assignment shall execute and deliver an Assignment and Assumption.

(b) The Bank may sell participations to one or more Persons (other than the Company or any of its Affiliates) in or to all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment, its LOC Participating Interests and the LOC Disbursements owing to it; provided that (i) the Bank's obligations under this Agreement (including its Commitment and its LOC Participating Interests) shall remain unchanged, (ii) the Bank shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) the Company and the other Applicants shall continue to deal solely and directly with the Bank in connection with the Bank's rights and obligations under this Agreement, (iv) so long as there then exists no Event of Default, such participation is consented to and approved by the Company (not to be unreasonably withheld), and (v) no participant under any such participation shall have any right to approve any amendment or waiver of any provision of any Loan Document, or any consent to any departure by the Company therefrom, except to the extent that such amendment, waiver or consent would reduce the principal of, or interest on, reimbursement obligations or any fees or other amounts payable hereunder, or postpone any date fixed for any payment thereof, in each case to the extent subject to such participation.

(c) The Bank may, in connection with any assignment or participation or proposed assignment or participation pursuant to this **Section 7.06**, disclose to the assignee or participant or proposed assignee or participant any information relating to the Company or any of its Subsidiaries furnished to the Bank by or on behalf of the Company or any such Subsidiary; provided that, prior to any such disclosure, the assignee or participant or proposed assignee or participant shall agree to preserve the confidentiality of any Confidential Information received by it from the Bank.

(d) Notwithstanding any other provision set forth in this Agreement, the Bank may at any time create a security interest in all or any portion of its rights under this Agreement (including the LOC Disbursements owing to it) in favor of any Federal Reserve Bank in accordance with Regulation A of the Board of Governors of the Federal Reserve System.

7.07 Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement (or any related agreement, including any amendment hereto or waiver hereunder) by facsimile or e-mail (in a pdf or similar file) shall be effective as delivery of an original executed counterpart of this Agreement (or such related agreement).

7.08 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

7.09 Confidentiality. The Bank shall not disclose any Confidential Information to any Person without the consent of the Company, other than (a) to the Bank's Affiliates and their officers, directors, employees, agents and advisors with a need to know, to actual or prospective Eligible Assignees and participants, and to any direct, indirect, actual or prospective counterparty (and its advisor) to any swap,

derivative or securitization transaction related to the obligations under this Agreement, and in each case then only on a confidential basis (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such information and instructed to keep such information confidential), (b) as required by any law, rule or regulation or judicial process, (c) as requested or required by any state, federal or foreign authority or examiner regulating the Bank or pursuant to any request of any self-regulatory body having or claiming authority to regulate or oversee any aspect of the Bank's business or that of any of its Affiliates, and (d) to any rating agency when required by it; provided that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Confidential Information relating to the Company and its Subsidiaries received by it from the Bank. Each Credit Party agrees and consents to the Bank's disclosure of information relating to this transaction to Gold Sheets and other similar bank trade publications. Such information will consist of deal terms and other information customarily found in such publications.

7.10 Patriot Act. The Bank is required to obtain, verify, and record information that identifies the Company and each other Credit Party, which information includes the name and address of the Company and each other Credit Party and other information that will allow the Bank to identify the Company and each other Credit Party in accordance with the Patriot Act.

7.11 Waiver of Immunity. Each Credit Party acknowledges that this Agreement and each other Loan Document is, and each LOC will be, entered into for commercial purposes of the applicable Applicant. To the extent that any Credit Party or any of its assets has or hereafter acquires any right of sovereign or other immunity from or in respect of any legal proceedings to enforce or collect upon any Obligation or any other agreement relating to the transactions contemplated herein, such Credit Party hereby irrevocably waives any such immunity and agrees not to assert any such right or claim in any such proceeding.

7.12 Jurisdiction, Etc.

(a) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any New York state court sitting in New York County or the United States District Court for the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any of the other Loan Documents. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(b) Each of the parties hereto irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any of the other Loan Documents to which it is a party in any New York state or federal court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court sitting in New York County.

(c) Each of the parties hereto, to the fullest extent permitted by applicable law, hereby irrevocably waives all right to trial by jury as to any action or proceeding arising out of or relating to this Agreement or any of the other Loan Documents.

(d) Each Credit Party hereby agrees that service of process in any such action or proceeding may be made on such Applicant by the mailing of copies thereof by express or overnight mail or courier, postage prepaid, to such Applicant at its address referred to in **Section 7.02**.

(e) Nothing in this Agreement shall affect any right that any party may otherwise have to serve process in any other manner.

7.13 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York. If any LOC expressly chooses a state or country law other than the State of New York, the applicable Applicant shall be obligated to reimburse the Bank for payments made under such LOC if such payment is justified under New York law or such other law.

7.14 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

7.15 Reserved.

7.16 Process Agent. Following the Closing Date, but in no event later than thirty (30) days after the Closing Date, the Parent Guarantor will appoint and agent for service of process in the State of New York to receive and forward on its behalf service of all necessary processes in any action, suit, or proceeding arising under the Parent Guaranty that may be brought against it in any court (including federal courts) in the state of New York (the "Agent"). Such service of process or notice received thereof by the Agent will have the same force and effect as if served upon it. The Parent Guarantor will promptly notify the Bank in writing of such appointment. The Parent Guarantor shall maintain such appointment of the Agent during the term of the Parent Guaranty and for a period of two (2) years from its date of expiration or termination. The Parent Guarantor authorizes and directs the Agent to accept such service, and the Parent Guarantor represents and warrants that the Agent has agreed to act as said Agent for service of process. The Parent Guarantor agrees to take any and all action that may be necessary to continue appointment of the Agent in full force and effect as aforesaid or to replace said Agent, if necessary, with a process agent acceptable to the Bank. If for any reason the Agent ceases to be able to act as such or no longer has an address in New York, New York, the Parent Guarantor irrevocably agrees to appoint a substitute process agent acceptable to the Bank and to deliver to the Bank copies of such substitute agent's written acceptance of that appointment, within thirty (30) days thereof.

7.17 Transfer Agreement. The Credit Parties have requested, and the Bank agrees that those certain Existing LOCs identified on Annex 1 to the Transfer Agreement (as such Annex 1 may be amended, supplemented or otherwise modified from time to time in the Bank's sole discretion) are deemed to have been issued under this Agreement and not under the Existing Facility. Each Existing LOC issued, as set forth on Annex 1 to the Transfer Agreement, shall be deemed to be a LOC hereunder. To the extent of the total aggregate "LOC Amount" set forth on Annex 1 to the Transfer Agreement, the Commitment Amount shall be deemed to be reduced with respect to the amount available for other LOCs to be issued under this Agreement.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Letter of Credit Facility Agreement to be duly executed and delivered by their respective officers thereunto duly authorized, as of the date first above written.

SUNPOWER CORPORATION

By: /s/ Ada Kwan
Name: Ada Kwan
Title: Treasurer

Address: 77 Rio Robles
San Jose, CA 95134
Attention: Ada Kwan
Telephone: 408-240-5500
Facsimile: 408-240-5400
E-mail: ada.kwan@sunpowercorp.com

SUNPOWER CORPORATION, SYSTEMS

By: /s/ Ada Kwan
Name: Ada Kwan
Title: Treasurer

Address: 77 Rio Robles
San Jose, CA 95134
Attention: Ada Kwan
Telephone: 408-240-5500
Facsimile: 408-240-5400
E-mail: ada.kwan@sunpowercorp.com

TOTAL S.A.

By: /s/ Patrick de La Chevardière
Name: Patrick de La Chevardière
Title: Chief Financial Officer

Address: 2, place Jean Millier
La Défense 6
92400 Courbevoie
France
Attention: Jean-Luc Guiziou
Telephone: + 33 1 47 44 26 95
Facsimile: + 33 1 47 44 50 95
E-mail: jean-luc.guiziou@total.com

CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK

By: /s/ Frederic Bambuck
Name: Frederic Bambuck
Title: Director

By: /s/ Javier Sanchez-Asiain
Name: Javier Sanchez-Asiain
Title: Managing Director
Head CBT Americas

Address: 1301 Avenue of the Americas, New York, New York 10019
Attention: Frederic Bambuck
Telephone: +1 212 261 3481

E-mail: Frederic.bambuck@ca-cib.com

EXHIBIT A

[FORM OF]

ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the "Assignment and Assumption") is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the "Assignor") and [*Insert name of Assignee*] (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Letter of Credit Facility Agreement identified below (as amended, supplemented, or otherwise modified from time to time, the "Facility Agreement"), receipt of a copy of which (and any other Loan Documents requested by the Assignee) is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Facility Agreement, as of the Effective Date inserted by the Bank as contemplated below (i) all of the Assignor's rights and obligations under the Facility Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the facility identified below and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor against any Person, whether known or unknown, arising under or in connection with the Facility Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: _____

2. Assignee: _____
   [and is an Affiliate of [*identify Bank*]]

3. [Company / Applicants]: _____

4. Facility Agreement: The $75,000,000 Letter of Credit Facility Agreement dated as of June 29, 2016 among SunPower Corporation, Total S.A., SunPower Corporation, Systems, the Subsidiary Applicants parties thereto from time to time, and Crédit Agricole Corporate and Investment Bank

5. Assigned Interest:

Facility Assigned	Aggregate Commitment Amounts / Credit Exposure for all Banks	Amount of Commitment / Credit Exposure Assigned	Percentage Assigned of Commitment/Credit Exposure[1]
Letter of Credit Facility	$_____	$_____	_____%

Effective Date: _____ ___, 20___ [TO BE INSERTED BY BANK AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: _____
Name:
Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By: _____
Name:
Title:

1 Set forth, to at least 9 decimals, as a percentage of the Commitment / Credit Exposure of all Banks thereunder.

[Consented to:][2]

[NAME OF RELEVANT PARTY]

By _____
Title:

2 To be added only if the consent of the Company [and/or other Applicants] is required by the terms of the Facility Agreement.

EXHIBIT B

[FORM OF]
LOC REQUEST

[*See attached.*]

CRÉDIT AGRICOLE CIB

APPLICATION AND AGREEMENT FOR
IRREVOCABLE STANDBY LETTER OF CREDIT
(this "**Application and Agreement**")

To: Crédit Agricole Corporate and Investment Bank ("**Crédit Agricole CIB**" or "**you**") Date:_____
Issuing Office:_____

Application is hereby by the undersigned ("**Applicant**") made for the issuance by you of your irrevocable standby letter of credit (the "**Credit**") in conformity with your practices and procedures and, to the extent not inconsistent therewith, in accordance with the following instructions:

(***Complete Each Section Fully or Indicate "Not Applicable"***)

Please send the Credit to the Beneficiary by your customary means as follows:

_____ Directly to the Beneficiary.
_____ Through the Advising Bank specified below.
_____ Through your Correspondent.

Name and address of the Beneficiary: _____

Name and address of the Advising Bank: _____

Name and address of each Applicant to be named as an "Account Party": _____

Amount of the Credit: _____ Currency: _____

The Credit shall expire at your counters on _____

Automatic Renewal Clause: _____Yes. _____No. – Cancellation Period (check one): ____ 30 Days ____ 90 Days ____ 120 Days, Other:_____

Amounts under the Credit shall be available as follows:

_____ In accordance with the terms and conditions set forth in the attachment hereto (the "Attachment"). (In the event the Attachment sets forth information in conflict with that appearing on this page, the information on this page shall prevail.)

Partial Drawings under the Credit: _____Are permitted. _____Are not permitted.

Special Instructions

CRÉDIT AGRICOLE CIB

In order to induce you to issue the Credit as provided herein, each Applicant hereby expressly agrees to be bound by the terms and conditions set forth on the following pages of this Application and Agreement, including, without limitation, the obligation to reimburse and indemnify you in accordance therewith.

[Applicant]_____ [Applicant]_____

By:_____ By:_____

Name:_____ Name:_____

Title:_____ Title:_____

Address: Address:

For Office Use Only

No. of Credit:_____ Approved by:_____

EXHIBIT C-1

MATTERS TO BE COVERED IN OPINION OF COUNSEL TO THE CREDIT PARTIES

The following matters will be addressed in the opinion of counsel to the Company and the Subsidiary Applicants, subject to (a) customary and appropriate assumptions, qualifications, limitations and exclusions, (b) reliance on certificates of officers of the Company and public officials and agencies, and (c) such other matters as such counsel deems necessary or appropriate in the preparation and delivery of the opinion.

---

1. The Company is a corporation duly incorporated and existing in good standing under the laws of the State of Delaware and is authorized or qualified to do business and in good standing as a foreign corporation in the State of California. Each Subsidiary Applicant is a [corporation duly incorporated][limited liability company duly formed] and existing in good standing under the laws of the jurisdiction of its organization. Each Credit Party has the corporate or limited liability company power and authority, as applicable, (i) to conduct its business substantially as described in [an officer's certificate of such Credit Party], and (ii) to enter into and to incur and perform its obligations under the Letter of Credit Facility Agreement (the "Facility Agreement") and the Transfer Agreement (the "Transfer Agreement").

2. The execution and delivery to the Bank by each Credit Party of the Facility Agreement and the Transfer Agreement and the performance by each Credit Party of its respective obligations thereunder:

    a. have been authorized by all necessary corporate action by the Company and all necessary [corporate][limited liability company] action respectively;

    b. do not require under present law or present regulation of any governmental agency or authority of the State of New York or the United States of America any filing or registration by any Credit Party with, or approval or consent to such Credit Party of, any governmental agency or authority of the State of New York or the United States of America that has not been made or obtained except (i) those required in the ordinary course of business in connection with the performance by the Credit Parties of their respective obligations under certain covenants contained in the Facility Agreement and the Transfer Agreement, (ii) filings under securities laws, and (iii) filings, registrations, consents or approvals in each case not required to be made or obtained by the date hereof;

    c. do not contravene any provision of the Certificate of Incorporation or By-laws of the Company or, in the case of each Subsidiary Applicant, its [describe charter documents];

    d. do not violate (i) any present law, or present regulation of any governmental agency or authority, of the State of New York or the United States of America applicable to such Credit Party or its property or (ii) any of the "Material Agreements" to which they are a party or that is applicable to their properties or any court decree or order binding upon any of them that is listed on Annex I to the [officer's certificate]; and

    e. will not result in or require the creation or imposition of any security interest or lien upon any of its properties pursuant to the provisions of any Material Agreement.

---

3. The Facility Agreement and the Transfer Agreement have been duly executed and delivered on behalf of the Company and each Subsidiary Applicant and constitute a valid and binding obligation of each such person, enforceable against each such person in accordance with its terms.

4. The application of the proceeds of the Letters of Credit thereof as provided in the Facility Agreement will not be used to purchase or carry any margin stock and will not violate Regulation T, U or X of the Board of Governors of the Federal Reserve System.

5. The Company is not required to register as an "investment company" under, and as defined in, the Investment Company Act of 1940, as amended (the "1940 Act") and is not a company controlled by a company required to register as such under the 1940 Act.

EXHIBIT C-2

MATTERS TO BE COVERED IN OPINION OF COUNSEL TO THE PARENT GUARANTOR

The following matters will be addressed in the opinion of counsel to the Parent Guarantor under the laws of the Republic of France, subject to (a) customary and appropriate assumptions, qualifications, limitations and exclusions, (b) reliance on certificates of officers of the Parent Guarantor and public officials and agencies, and (c) such other matters as such counsel deems necessary or appropriate in the preparation and delivery of the opinion.

1. The Parent Guarantor is duly incorporated, validly existing as a société anonyme and in good standing under the law of France and has the corporate power to enter into the Letter of Credit Facility Agreement (the "Facility Agreement") and the Parent Guaranty and to exercise its rights and perform its obligations thereunder, and has duly executed and delivered each of the Facility Agreement and the Parent Guaranty.

2. The Parent Guarantor is not entitled to claim for itself or its assets or revenues immunity from suit, judgment or enforcement of any judgment.

3. The Parent Guarantor is validly bound pursuant to its signing of the Facility Agreement and the Parent Guaranty, and the terms of the Facility Agreement and the Parent Guaranty constitute legal, valid, binding and enforceable obligations of the Parent Guarantor.

4. No authorizations, approvals, licenses, exemptions, notarizations or consents are required under the laws of the Republic of France for the execution and delivery by the Parent Guarantor of the Facility Agreement or the Parent Guaranty, or performance by the Parent Guarantor of its obligations under the Facility Agreement or the Parent Guaranty.

5. No further acts, conditions or things are required by French law to be done, fulfilled or performed in France in order to enable the Parent Guarantor lawfully to enter into, exercise its rights or perform its obligations under the Facility Agreement and the Parent Guaranty.

6. The execution, delivery and performance of the obligations of the Parent Guarantor under the Facility Agreement and the Parent Guaranty will not contravene any existing applicable French law, statute or published rule or regulation or any judgment, decree or permit to which the Parent Guarantor is subject nor will it contravene the Parent Guarantor's constitutive documents.

7. Each of [ ] in his capacity as Chief Financial Officer of the Parent Guarantor and [ ] in his capacity of Treasurer of the Parent Guarantor are duly authorized to execute the Facility Agreement and the Parent Guaranty on its behalf.

8. No stay of legal action or proceedings prior to a procédure de conciliation or mandat ad hoc or safeguard proceeding (procédure de sauvegarde) has been granted to Total and that no notice of judicial reorganisation (redressement judiciaire), judicial liquidation (liquidation judiciaire) or voluntary liquidation has been filed with the Registre du Commerce et des Sociétés, or any other governmental authority or agency thereof.

9. On the basis of French domestic tax law, interest payable by the Parent Guarantor under the Facility Agreement and the Parent Guaranty is payable without deductions or withholdings on account of any present or future tax, levy, impost, duty, charge, fee, deduction or withholding of

any nature and whatever called, by whomsoever, on whomsoever and wherever imposed, levied, collected, withheld or assessed.

10. It is not necessary in order to ensure the validity, effectiveness, performance and enforceability of the Facility Agreement or the Parent Guaranty that either of them be filed or registered in any public office or that any other instrument relating thereto be executed, delivered, filed or registered except that the admissibility in evidence of the Facility Agreement and the Parent Guaranty in the French Courts is subject to the production of a translation thereof into French by an officially sworn translator.

11. No registration taxes, documentary taxes, income taxes, withholdings or other similar tax, imposition or duty of any kind is payable under the laws of France in connection with the admissibility in evidence in the Republic of France of the Facility Agreement and the Parent Guaranty or the activities or obligations to be performed by the Parent Guarantor thereunder.

12. The submission by the Parent Guarantor in the Facility Agreement and the Parent Guaranty to the jurisdiction of the courts the State of New York sitting in New York County and of the United States District Court for the Southern District of New York, and any appellate court from any thereof (assuming it to be effective in such courts) is binding on the Parent Guarantor. The choice of New York law to govern the Facility Agreement and the Parent Guaranty is valid and would be given effect in any proceedings brought against the Parent Guarantor in the French courts, provided that the relevant content of New York law is duly proven and not held to be contrary to French Ordre Public International. The provisions of the Facility Agreement and the Parent Guaranty are not in my opinion contrary to French Ordre Public International.

13. A final judgment for a sum of money in relation to the Facility Agreement and/or the Parent Guaranty obtained against the Parent Guarantor in New York courts would be recognized and enforceable against the Parent Guarantor by the French courts subject to and in accordance with the Regulation EC N°. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters.

14. Clause 7.16 (“Process Agent”) of the Facility Agreement and Clause 5(n) (“Process Agent”) of the Parent Guaranty which refer to the appointment of a process agent are binding on the Parent Guarantor.

EXHIBIT D

[FORM OF]
ADHERENCE AGREEMENT

ADHERENCE AGREEMENT (this "Agreement") dated as of _____ among _____, a _____, which is a new Subsidiary Applicant (the "New Subsidiary Applicant"), SunPower Corporation, a Delaware corporation, the direct or indirect parent of the New Subsidiary Applicant (the "Company"), SunPower Corporation, Systems, a Delaware corporation ("Systems"),Total S.A., a société anonyme organized under the laws of the Republic of France, and Crédit Agricole Corporate and Investment Bank (the "Bank").

Reference is made to the Letter of Credit Facility Agreement dated as of June 29, 2016, among the Company, Systems, the Subsidiary Applicants parties thereto from time to time, and the Bank (as amended, supplemented, or otherwise modified from time to time, the "Facility Agreement"). Unless the context requires otherwise, terms used herein as defined terms and not otherwise defined herein shall have the meanings given thereto in the Facility Agreement.

Section 2.12 of the Facility Agreement provides that, subject to the satisfaction of certain conditions, the undersigned New Subsidiary Applicant may become a party to, and a "Subsidiary Applicant" under, the Facility Agreement by entering into an agreement in the form of this Agreement.

Accordingly, and for other good and lawful consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. In accordance with Section 2.12 of the Facility Agreement, the New Subsidiary Applicant by its signature below becomes a "Subsidiary Applicant" under the Facility Agreement with the same force and effect as if originally named therein as a Subsidiary Applicant. The New Subsidiary Applicant hereby (a) agrees to all of the terms and provisions of the Facility Agreement applicable to it as a Subsidiary Applicant thereunder and (b) represents and warrants that it satisfies all of the requirements under the Facility Agreement for becoming a Subsidiary Applicant and that the representations and warranties relating to it contained in the Facility Agreement are true and correct in all material respects on and as of the date hereof (except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct in all material respects as of such earlier date). The Facility Agreement is hereby incorporated herein by reference.

2. Hereinafter, each reference to the "Subsidiary Applicants" in the Facility Agreement shall be deemed to include the New Subsidiary Applicant until such time as the Company executes and delivers to the Bank a notice of termination in substantially the form of **Annex A** hereto or such other form acceptable to the Bank (a "Notice of Termination"), whereupon the New Subsidiary Applicant shall cease to be a Subsidiary Applicant. Notwithstanding the preceding sentence, no such Notice of Termination will become effective at a time when any Obligations of the New Subsidiary Applicant shall be outstanding thereunder or any LOC issued at the request of the New Subsidiary Applicant shall be outstanding (which shall not have been cash collateralized in a manner satisfactory to the Bank in its sole discretion); provided that such Notice of Termination shall be effective to terminate the New Subsidiary Applicant's right to request LOCs under the Facility Agreement.

3. The New Subsidiary Applicant hereby agrees to be liable under the Facility Agreement, with respect to each Existing LOC listed on Schedule III to the Facility Agreement as being issued at its request, as though such Existing LOC were issued as an LOC pursuant to the Facility Agreement.

4. Each of the New Subsidiary Applicant, Systems and the Company represents and warrants to the Bank, that this Agreement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally.

5. Each of the New Subsidiary Applicant, Systems and the Company represents and warrants that no Event of Default has occurred and is continuing immediately after giving effect to the execution and delivery of this Agreement.

6. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which, when taken together, shall constitute but one agreement. This Agreement shall become effective when the Bank shall have received counterparts of this Agreement that bear the signatures of the New Subsidiary Applicant, the Company, Systems and the Bank. Delivery of an executed counterpart of a signature page of this Agreement by electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

7. Each of the New Subsidiary Applicant and the Company agrees to furnish to the Bank such information as the Bank shall reasonably request in connection with the New Subsidiary Applicant or the Company.

8. Except as expressly supplemented hereby, the Facility Agreement shall remain in full force and effect.

9. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

10. If any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and in any other Loan Document shall not in any way be affected or impaired.

11. All communications and notices hereunder shall be in writing and given as provided in Section 7.02 of the Facility Agreement. All communications and notices hereunder to the New Subsidiary Applicant shall be given to it at the address set forth under its signature hereto.

12. Neither this Agreement nor any provision hereof may be waived, amended, or modified except as provided in Section 7.01 of the Facility Agreement.

13. The New Subsidiary Applicant agrees to reimburse the Bank for its reasonable expenses incurred in connection with this Agreement, including the reasonable fees, disbursements, and other charges of counsel.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Adherence Agreement to be duly executed and delivered as of the day and year first above written.

Address:

_____
_____
_____
_____

[NEW SUBSIDIARY APPLICANT]

By: _____
Name:
Title:

SUNPOWER CORPORATION

By: _____
Name:
Title:

SUNPOWER CORPORATION, SYSTEMS

By: _____
Name:
Title:

TOTAL S.A.

By: _____
Name:
Title:

CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT E

[FORM OF]
PARENT GUARANTY

GUARANTY

This **GUARANTY** (the "Guaranty"), dated as of June 29, 2016 is between Total S.A., a société anonyme organized under the laws of the Republic of France (the "Guarantor"), and Crédit Agricole Corporate and Investment Bank, having its registered office at 1301 Avenue of the Americas 10019 (the "Bank").

RECITALS

A. SunPower Corporation (the "Obligor") wishes to enter into a Letter of Credit Facility Agreement (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Contract") to be dated on or about the date hereof with the Bank, the form of which Contract has been provided to the Obligor and to the Guarantor to allow the Company and the other Applicants (as defined in the Contract) access to a letter of credit facility.

B. It is a condition precedent to the Bank's extension of credit under the Contract that the Guarantor guarantee the payment to the Bank of the Obligor's payment obligations under the Contract with respect to the reimbursement of draws on letters of credit and interest thereon.

C. Guarantor owns a portion of the equity interest in the Obligor and will receive direct and indirect benefits from the Bank's performance of the Contract.

AGREEMENT

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties hereby agree as follows:

1. Guaranty. (a) Guarantor unconditionally guarantees and promises to pay to the Bank, in accordance with the payment instructions contained in the Contract, on demand after the default by the Obligor in the performance of its payment obligations under the Contract, in immediately available funds and lawful money of the United States at the place expressly agreed to under the Contract or any LOC, as applicable, irrespective of and without giving effect to any law, order, decree or regulation in effect from time to time, any and all Obligations (as hereinafter defined) consisting of payments due to the Bank. For purposes of this Guaranty, the term "Obligations" means and includes the obligations of the Obligor (including as guarantor) now or hereafter arising to reimburse to the Bank the amount of any draw on any LOC (as defined in the Contract) issued pursuant to the Contract (including any LOCs issued on the request of or for any Subsidiary Applicant) and all interest accrued on such reimbursement obligation from the date of such reimbursement until the date paid, including without limitation interest accruing at the rate provided in the applicable Loan Document on or after the commencement of any bankruptcy or insolvency proceeding, whether or not allowed or

allowable. For the avoidance of doubt, the term “Obligations” does not include fees, expenses or other amounts payable by the Obligor to the Bank.

(b) This Guaranty is absolute, unconditional, continuing and irrevocable, constitutes an independent guaranty of payment and not of collection and is in no way conditioned on or contingent upon any attempt to enforce in whole or in part any of the Obligor’s Obligations to the Bank, the existence or continuance of the Obligor as a legal entity or any other change to the Obligor’s corporate existence, structure or ownership, the consolidation or merger of the Obligor with or into any other entity, the sale, lease or disposition by the Obligor of all or substantially all of its assets to any other entity, or the bankruptcy, insolvency or reorganization or other similar proceeding of the Obligor or resulting in release or discharge of any Obligation, the admission by the Obligor of its inability to pay its debts as they mature, or the making by the Obligor of a general assignment for the benefit of, or entering into a composition or arrangement with, creditors. If the Obligor fails to pay or perform any Obligations to the Bank that are subject to this Guaranty as and when they are due, whether upon maturity or by acceleration the Guarantor shall forthwith pay to the Bank all such liabilities or obligations in immediately available funds. Each failure by the Obligor to pay any Obligations shall give rise to a separate cause of action, and separate suits may be brought hereunder as each cause of action arises.

(c) The Bank may at any time and from time to time, without the consent of or notice to the Guarantor, except such notice as may be required by applicable statute that cannot be waived, without incurring responsibility to the Guarantor, and without impairing or releasing the obligations of the Guarantor hereunder, (i) exercise or refrain from exercising any rights against the Obligor or others (including the Guarantor) or otherwise act or refrain from acting, (ii) settle or compromise any Obligations hereby guaranteed and/or any other obligations and liabilities (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any obligations and liabilities which may be due to the Bank or others, and (iii) sell, exchange, release, surrender, realize upon or otherwise deal with in any manner or in any order any property pledged or mortgaged by anyone to secure or in any manner securing the Obligations hereby guaranteed.

(d) The Bank may not, without the prior written consent of the Guarantor, (i) alter (except as expressly permitted by the Contract) any Obligation hereby guaranteed, or in any manner modify, amend or supplement the terms of the Contract (other than the addition of a Subsidiary Applicant or Subsidiary Account Party or the termination of a Subsidiary Applicant or Subsidiary Account Party pursuant to the terms and conditions of the Contract) (ii) take and hold security or additional security for any or all of the obligations or liabilities covered by this Guaranty, or (iii) except as provided in the Contract, assign its rights and interests under this Guaranty, in whole or in part.

(e) No invalidity, irregularity or unenforceability of the Obligations hereby guaranteed shall affect, impair, or be a defense to this Guaranty, including without limitation any law, rule, or regulation of any jurisdiction or any other event affecting any term of any of the Obligations. This is a continuing Guaranty for which Guarantor receives continuing consideration and all obligations to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon and this Guaranty is therefore irrevocable without the prior written consent of the Bank.

(f) All payments by the Guarantor hereunder shall be made free and clear of and without deduction for any Taxes. If the Guarantor shall be required by law to deduct any Taxes from or in respect of any sum payable hereunder to the Bank, (i) the sum payable shall be increased as may be necessary so that after the Guarantor and the Bank have made all required deductions the Bank receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Guarantor shall make all such deductions, and (iii) the Guarantor shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law.

2. Representations and Warranties. The Guarantor represents and warrants to the Bank that (a) the Guarantor is a société anonyme duly organized, validly, existing and in good standing under the laws of its jurisdiction of incorporation or formation, (b) the execution, delivery and performance by the Guarantor of this Guaranty are within the power of the Guarantor and have been duly authorized by all necessary actions on the part of the Guarantor, (c) this Guaranty has been duly executed and delivered by the Guarantor and constitutes a legal, valid and binding obligation of the Guarantor, enforceable against it in accordance with its terms, except as limited by bankruptcy, insolvency or other laws of general application relating to or affecting the enforcement of creditors' rights generally, (d) the execution, delivery and performance of this Guaranty do not (i) violate any law, rule or regulation of any governmental authority, or (ii) result in the creation or imposition of any material lien, charge, security interest or encumbrance upon any property, asset or revenue of the Guarantor, (e) no consent, approval, order or authorization of, or registration, declaration or filing with, any governmental authority or other person (including, without limitation, the shareholders of the Guarantor) is required in connection with the execution, delivery and performance of this Guaranty, except such consents, approvals, orders, authorizations, registrations, declarations and filings that are so required and which have been obtained and are in full force and effect, (f) the Guarantor is not in violation of any law, rule or regulation other than those the consequences of which cannot reasonably be expected to have material adverse effect on the ability of the Guarantor to perform its obligations under this Guaranty, and (g) no litigation, investigation or proceeding of any court or other governmental tribunal is pending or, to the knowledge of the Guarantor, threatened against the Guarantor which, if adversely determined, could reasonably be expected to have a material adverse effect on the ability of the Guarantor to perform its obligations under this Guaranty.

3. Waivers. (a) The Guarantor, to the extent permitted under applicable law, hereby waives any right to require Bank to (i) proceed against the Obligor or any other guarantor of the Obligor's obligations under the Contract, (ii) proceed against or exhaust any security received from the Obligor or any other guarantor of the Obligor's Obligations under the Contract, or (iii) pursue any other right or remedy in the Bank's power whatsoever.

(b) The Guarantor further waives, to the extent permitted by applicable law, (i) any defense resulting from the absence, impairment or loss of any right of reimbursement, subrogation, contribution or other right or remedy of the Guarantor against the Obligor, any other guarantor of the Obligations or any security, (ii) any setoff, claim or counterclaim of the Obligor or any defense which results from any disability or other defense of the Obligor or the cessation or stay of enforcement from any cause whatsoever of the liability of the Obligor (including, without limitation, the lack of validity or enforceability of the Contract), (iii) any right to exoneration of sureties that would otherwise be applicable, (iv) any right of subrogation or reimbursement and, if there are any other guarantors of the Obligations, any right of contribution, and right to enforce any remedy that the Bank now has or may hereafter have against the Obligor, and any benefit of, and any right to participate in, any security now or hereafter received by Bank, (v) all presentments, demands for performance, notices of non-performance, notices delivered under the Contract, protests, notice of dishonor, and notices of acceptance of this Guaranty and of the existence, creation or incurring of new or additional Obligations and notices of any public or private foreclosure sale, (vi) the benefit of any statute of limitations, (vii) any appraisement, valuation, stay, extension, moratorium redemption or similar law or similar rights for marshalling, and (viii) any right to be informed by the Bank of the financial condition of the Obligor or any other guarantor of the Obligations or any change therein or any other circumstances bearing upon the risk of nonpayment or nonperformance of the Obligations. The Guarantor has the ability to and assumes the responsibility for keeping informed of the financial condition of the Obligor and any other guarantors of the Obligations and of other circumstances affecting such nonpayment and nonperformance risks.

4. Notice of Issuance of Letters of Credit and Draws Thereon; Notice of Block.

(a) Notice of Issuance of Letter of Credit and Draws Thereon. Within ten (10) days after after the Bank receives notice of each issuance of a letter of credit under the Contract, the Bank will notify the Guarantor of (i) the amount of such letter of credit (including a copy thereof) and (ii) the aggregate amount of letters of credit that are outstanding under the Contract, after giving effect to such issuance. In addition the Bank will notify the Guarantor of any draw on any letter of credit (including the date and amount of such draw) issued pursuant to the Contract within two business days of such draw, even if such draw is reimbursed by the Obligor to the Bank prior to the delivery of such notice. Any failure to furnish any notice required under this paragraph shall not affect the obligations of the Guarantor hereunder regarding any outstanding letter of credit.

(b) Right of Guarantor to Block Issuances of Letters of Credit.

(i) Delivery of Notice of Block. The Guarantor may (A) suspend the right of the Obligor to obtain additional issuances of letters of credit under the Contract that are subject to this Guaranty at any time following the occurrence and during the continuance of a Trigger Event (as defined in the Amended and Restated Credit Support Agreement, dated June 29, 2016, between the Obligor and the Guarantor) or (B) limit the aggregate undrawn amount of letters of credit that are subject to this Guaranty at any time following a reduction of the Maximum L/C Amount or Available Facility Amount pursuant to such Credit Support Agreement, in each case by delivering to the Bank a written notice to such effect (a "Notice of Block"). Such Notice of Block shall be made and shall be deemed effective when properly given in the manner specified in Section 5(a) of this Guaranty. The Bank will have no duty to investigate or make any determination with respect to any Notice of Block received by it and will comply with any Notice of Block given by the Guarantor. The Bank may rely upon any instructions from any person that it reasonably believes to be an authorized representative of the Guarantor. Notwithstanding any other provision herein, the Guarantor acknowledges and agrees that it shall remain liable in accordance with the terms hereof in respect of all Obligations arising out of or in connection with any issued and outstanding letter of credit that was requested under the Contract prior to the Bank's receipt of a Notice of Block.

(ii) Compliance with Notice. From and after the date a Notice of Block is delivered to the Bank pursuant to and in accordance with the provisions of clause (i) above, and until either (A) the Guarantor delivers to the Bank a written notice rescinding such Notice of Block or (B) this Guaranty is terminated, no additional letters of credit may be issued by the Bank for the benefit of the Obligor pursuant to the Contract without the prior written consent of the Guarantor.

5. Miscellaneous.

(a) Notices. All notices, requests, demands and other communications that are required or may be given under this Guaranty shall be in writing and shall be personally delivered or sent by certified or registered mail. If personally delivered, notices, requests, demands and other communications will be deemed to have been duly given at time of actual receipt. If delivered by certified or registered mail, deemed receipt will be at time evidenced by confirmation of receipt with return receipt requested. In each case notice shall be sent:

if to the Bank, to: 1301 Avenue of the Americas
New York, New York 10019

Attention: Frederic Bambuck
Telephone: (212) 261-3481
E-mail: Frederic.Bambuck@ca-cib.com

if to the Guarantor, to: Total SA
2 place Jean Miller – La Defense 6
92078 Paris La Défense Cedex, France
Attention: Jean-Luc Guiziou
Telephone: +33 1 47 44 26 95
E-mail: jean-luc.guiziou@total.com

or to such other place and with such other copies as the Bank or the Guarantor may designate as to itself by written notice to the other pursuant to this Section 5(a).

(b) Nonwaiver. No failure or delay on the Bank's part in exercising any right hereunder shall operate as a waiver thereof or of any other right nor shall any single or partial exercise of any such right preclude any other further exercise thereof or of any other right.

(c) Amendments and Waivers. This Guaranty may not be amended or modified, nor may any of its terms be waived, except by written instruments signed by the Guarantor and the Bank. Each waiver or consent under any provision hereof shall be effective only in the specific instances for the purpose for which given.

(d) Assignments. This Guaranty shall be binding upon and inure to the benefit of the Bank and the Guarantor and their respective successors and permitted assigns. This Guaranty may not be assigned by the Guarantor without the express written approval of the Bank, which may not be unreasonably withheld, conditioned or delayed.

(e) Cumulative Rights, etc. The rights, powers and remedies of the Bank under this Guaranty shall be in addition to all rights, powers and remedies given to the Bank by virtue of any applicable law, rule or regulation, the Contract or any other agreement, all of which rights, powers, and remedies shall be cumulative and may be exercised successively or concurrently without impairing the Bank's rights hereunder.

(f) Partial Invalidity. If at any time any provision of this Guaranty is or becomes illegal, invalid or unenforceable in any respect under the law or any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Guaranty nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

(g) Reinstatement. This Guaranty will continue to be effective or be reinstated, as the case may be, if at any time any payment of any Obligation is rescinded or must

otherwise be returned by the Bank upon the insolvency, bankruptcy or reorganization of the Obligor or otherwise, all as though such payment had not been made.

(h) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA, WITHOUT REFERENCE TO CONFLICTS OF LAWS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

(i) JURISDICTION. EACH PARTY (A) IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF AND (B) WAIVES ANY OBJECTION WHICH SUCH PARTY MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY SUCH COURT.

(j) Jury Trial. EACH OF THE GUARANTOR AND THE BANK, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AS TO ANY ISSUE RELATING HERETO IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS GUARANTY.

(k) Judgment Currency. If, for the purpose of obtaining or enforcing judgment against the Guarantor in any court or in any jurisdiction, it becomes necessary to convert into or from any currency other than the Specified Currency (such other currency being hereinafter referred to as the "Judgment Currency") an amount due in the Specified Currency, the conversion shall be made at the Dollar Equivalent (as defined in the Contract) of such amount, in each case, as of the date immediately preceding the day on which the judgment is given (such Business Day being hereinafter referred to as the "Judgment Currency Conversion Date"). If there is a change in the rate of exchange prevailing between the Judgment Currency Conversion Date and the date of actual payment of the amount due, the Guarantor covenants and agrees to pay, or cause to be paid, such additional amounts, if any (but in any event not a lesser amount), as may be necessary to ensure that the amount paid in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of the Specified Currency which could have been purchased with the amount of Judgment Currency stipulated in the judgment or judicial award at the rate of exchange prevailing on the Judgment Currency Conversion Date.

(l) Process Agent. Following the Closing Date, but in no event later than thirty (30) days after the Closing Date, the Guarantor will appoint and agent for service of process in the State of New York to receive and forward on its behalf service of all necessary

processes in any action, suit, or proceeding arising under this Guaranty that may be brought against it in any court (including federal courts) in the state of New York (the "Agent"). Such service of process or notice received thereof by the Agent will have the same force and effect as if served upon it. The Guarantor will promptly notify the Bank in writing of such appointment. The Guarantor shall maintain such appointment of the Agent during the term of this Guaranty and for a period of two (2) years from its date of expiration or termination. The Guarantor authorizes and directs the Agent to accept such service, and the Guarantor represents and warrants that the Agent has agreed to act as said Agent for service of process. The Guarantor agrees to take any and all action that may be necessary to continue appointment of the Agent in full force and effect as aforesaid or to replace said Agent, if necessary, with a process agent acceptable to the Bank. If for any reason the Agent ceases to be able to act as such or no longer has an address in New York, New York, the Guarantor irrevocably agrees to appoint a substitute process agent acceptable to the Bank and to deliver to the Bank copies of such substitute agent's written acceptance of that appointment, within thirty (30) days thereof.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Guaranty to be executed as of the day and year first written above.

TOTAL S.A.

By _____
Name:
Title:

CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK

By _____
Name:
Title:

By _____
Name:
Title:

EXHIBIT F

[FORM OF]
REQUEST RE SUBSIDIARY ACCOUNT PARTY

SUNPOWER CORPORATION

Date

To the Bank referred to in the Facility Agreement referred to below

Re: Request to Approve "[ ]" as a "Subsidiary Account Party"

Reference is made to the Letter of Credit Facility Agreement, dated as of June 29, 2016 (as it may be amended, supplemented or otherwise modified from time to time, the "Facility Agreement"), among SunPower Corporation (the "Company"), SunPower Corporation, Systems, Total S.A., the Subsidiary Applicants parties thereto from time to time, and Crédit Agricole Corporate and Investment Bank (the "Bank"). Capitalized terms used herein without definition shall have the meanings given to such terms in the Facility Agreement.

The Company hereby requests that the Bank approve [ ], an [ ]limited liability company ("[ ]"), as a Subsidiary Account Party under the Facility Agreement. In connection therewith, the Company hereby represents and warrants to the Bank that [ ] is an [direct/indirect] Subsidiary of the Company.

Kindly sign this consent in the space provided below to approve [ ] as a Subsidiary Account Party as provided herein.

This approval to treat [ ] as a Subsidiary Account Party shall not become effective until each party hereto shall have executed and delivered this approval or a separate approval to the same effect. This approval may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page to this approval by facsimile or e-mail (in a pdf or similar file) shall be effective as delivery of an original executed counterpart of this approval. This approval constitutes one of the Loan Documents referred to in the Facility Agreement. This approval shall be governed by, and construed in accordance with, the law of the State of New York.

Very truly yours,

SUNPOWER CORPORATION

By: _____
Name:
Title:

THE FOREGOING REQUEST TO APPROVE

[ ]
AS A “SUBSIDIARY ACCOUNT PARTY” IS HEREBY APPROVED:

CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK,
as the Bank

By: _____
Name:
Title:

By: _____
Name:
Title:

Exhibit 10.66

EXECUTION VERSION

LETTER OF CREDIT FACILITY AGREEMENT

dated as of June 29, 2016

among

SUNPOWER CORPORATION,

SUNPOWER CORPORATION, SYSTEMS,

TOTAL S.A.,

the SUBSIDIARY APPLICANTS parties hereto from time to time,

and

HSBC BANK USA, NATIONAL ASSOCIATION

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LETTER OF CREDIT FACILITY AGREEMENT

This LETTER OF CREDIT FACILITY AGREEMENT (this "Agreement") dated as of June 29, 2016, is made by and among SunPower Corporation, a Delaware corporation (the "Company"), SunPower Corporation, Systems, a Delaware corporation ("Systems"), Total S.A., a société anonyme organized under the laws of the Republic of France (the "Parent Guarantor"), the Subsidiary Applicants parties hereto from time to time, and HSBC Bank USA, National Association (the "Bank").

The Company has requested that the Bank provide a letter of credit facility to the Company and the other Applicants, and the Bank is willing to do so on the terms and subject to the conditions set forth herein.

In consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

1.01 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Adherence Agreement" means an agreement substantially in the form of **Exhibit D** among a Subsidiary, the Company and the Bank, pursuant to which such Subsidiary becomes a Subsidiary Applicant hereunder.

"Affiliate" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"Agreement" has the meaning given thereto in the preamble.

"Alternate Currency" means any currency (other than dollars) that is freely tradable and exchangeable into dollars in the London market and approved in writing as an Alternate Currency by both the Company and the Bank, each in their respective reasonable discretion.

"Alternate Currency Exposure" means, at any time, the Dollar Equivalent of the sum (without duplication) at such time of (a) the aggregate outstanding amount of all Alternate Currency LOC Disbursements, (b) the aggregate Available Amounts of all Alternate Currency LOCs, and (c) the aggregate Available Amounts of all Alternate Currency LOCs that have been requested by the Applicants to be issued hereunder but have not yet been so issued.

"Alternate Currency LOC" means an LOC denominated in an Alternate Currency.

"Anti-Corruption Laws" means any applicable Laws relating to corruption, including the United States Foreign Corrupt Practices Act of 1977 (15 U.S.C. §§ 78dd-1, *et seq*.) and the United Kingdom Bribery Act of 2010, and the rules and regulations related thereto, and other Laws pertaining to unlawful 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.

"Anti-Terrorism Laws" means any applicable Laws relating to terrorism or money laundering, including Executive Order No. 13224, the PATRIOT Act, the applicable Laws comprising or implementing the Bank Secrecy Act, the applicable Laws administered by OFAC.

"Applicant" means each of the Company, Systems and each other Subsidiary Applicant.

"Assignment and Assumption" means an assignment and assumption entered into by the Bank and an Eligible Assignee in accordance with **Section 7.06** and in substantially the form of **Exhibit A** or any other form approved by the Bank.

"Available Amount" means, at any time with respect to any LOC, the maximum amount available to be drawn under such LOC under any circumstance at such time or thereafter, giving effect to any scheduled increases in accordance with the terms of such LOC, including any amount that has been the subject of a drawing by the applicable Beneficiary prior to the expiration or termination of such LOC but has not yet been paid or refused by the Bank.

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"Bail-In Legislation" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"Bankruptcy Code" means the Federal Bankruptcy Reform Act of 1978 (11 U.S.C. §§ 101 *et seq*.), and the Bankruptcy Rules promulgated thereunder.

"Bank" has the meaning given thereto in the preamble.

"Base Rate" means, for any day, the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Rate for such day plus one-half of one percent (0.50%) or (c) the Daily One Month LIBOR Rate for such day (determined on a daily basis as set forth below) plus one percent (1.0%). As used in this definition of "Base Rate", the "Daily One Month LIBOR Rate" means, with respect to any interest rate calculation at the Base Rate, the rate per annum determined by the Bank based on the rate for dollar deposits for delivery of funds for one month as reported on Reuters Screen LIBOR01 page (or any successor page) at approximately 11:00 a.m., London time, or, for any day that is not a London Business Day, the immediately preceding London Business Day (or if not so reported, then as determined by the Bank from another recognized source or interbank quotation); provided that if the Daily One Month LIBOR Rate, as determined above with respect to any interest rate calculation, shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement. Each determination by the Bank pursuant to this definition will be conclusive absent manifest error.

"Beneficiary" means, at any time, any beneficiary of any LOC, including any second or substitute beneficiary or transferee under a transferable LOC and any successor of a beneficiary by operation of law.

"Block Notice" means a Notice of Block (as defined in the Parent Guaranty) delivered by the Parent Guarantor pursuant to the Parent Guaranty suspending the right of the Company or a Subsidiary Applicant to obtain LOCs hereunder.

"Business Day" means a day of the year on which banks are authorized by law to be open for business (other than a Saturday or Sunday) in New York, New York and Paris, France; provided that for purposes of determining the Daily One Month LIBOR Rate, as set forth in the definition of "Base Rate", "London Banking Day" means any day on which dealings in dollar deposits are conducted by and between banks in the London interbank Eurodollar market.

"Calculation Date" means (a) each date on which an Alternate Currency LOC is issued or is increased, renewed, or extended by amendment and (b) the first Business Day of each calendar month.

"Cash Collateralize" means to pledge and deposit with or deliver to the Bank, as collateral for the Obligations, cash or deposit account balances or, if the Bank shall agree in its sole discretion, other credit support, in each case to be received and held or maintain in the control and dominion of the Bank within the United States pursuant to documentation in form and substance satisfactory to the Bank. "Cash Collateral" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"Change in Law" means (a) the adoption of any treaty, international agreement, law, rule, or regulation after the date of this Agreement, (b) any change in any treaty, international agreement, law, rule, or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement, or (c) compliance by the Bank (or, for purposes of **Section 2.06(b)**, by any Lending Office of the Bank or by the corporation controlling the Bank, if any) with any request, guideline, or directive (whether or not having the force of law) of any Governmental Authority (provided that compliance with such request, guideline, or directive is in accordance with the general practice (if any) of the Bank) made or issued after the date of this Agreement; provided, however, that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines or directives thereunder or issued in connection therewith or in implementation thereof and (ii) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case referred to in clause (i) or (ii) be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Closing Date" means the first date on which the conditions set forth in **Article III** shall have been satisfied (or waived in accordance with **Section 7.01**).

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and any references to any Code section shall include references to the Treasury Regulations promulgated thereunder.

"Commitment" means the commitment of the Bank to issue LOCs hereunder in an amount equal to the Commitment Amount.

"Commitment Amount" means, at any time of determination, $175,000,000, as such amount may be reduced at or prior to such time pursuant to **Section 2.04**. At no time shall the aggregate Commitment Amount exceed the Maximum LOC Amount.

"Commitment Fee" means the unused commitment fee, which shall accrue during the period from and including the Closing Date to but excluding the date on which such Commitment terminates at the rate of six (6) basis points (0.06%) per annum on the then applicable daily unused Commitment Amount of the Bank.

"Company" has the meaning given thereto in the preamble.

"Confidential Information" means all information that the Company or any Affiliate thereof furnishes to the Bank that is identified as confidential, but does not include any such information that is or becomes generally available to the public other than as a result of a breach by the Bank of its obligations hereunder or that is or becomes available to the Bank from a source other than the Company or an Affiliate thereof that is not, to the best of the Bank's knowledge, acting in violation of a confidentiality agreement with the Company or any Affiliate thereof.

"Constituent Documents" means, with respect to any entity, its constituent, governing, or organizational documents, including (a) in the case of a limited partnership, its certificate of limited partnership and its limited partnership agreement, (b) in the case of a limited liability company, its certificate of formation or organization and its operating agreement or limited liability company agreement, as applicable, and (c) in the case of a corporation, its articles or certificate of incorporation and its by-laws and any shareholders agreement, as applicable.

"Credit Exposure" means, at any time, the Dollar Equivalent of the sum (without duplication) at such time of (a) the aggregate outstanding amount of all LOC Disbursements, (b) the aggregate Available Amounts of all LOCs, and (c) the aggregate Available Amounts of all LOCs that have been requested by the Applicants to be issued hereunder but have not yet been so issued.

"Credit Parties" means, collectively, the Applicants and the Company.

"Credit Support Agreement" means the Amended and Restated Credit Support Agreement dated as of June 29, 2016, together with all exhibits and schedules thereto, between the Company and Parent Guarantor.

"CVSR Project" means the California Valley Solar Ranch in San Luis Obispo County, California.

"Debtor Relief Laws" means the Bankruptcy Code and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

"Dollar Equivalent" means, on any date of determination, (a) with respect to any amount in dollars, such amount, and (b) with respect to any amount in an Alternate Currency, the equivalent amount of dollars of such amount based on the "Euro foreign exchange reference rate" and such other foreign exchange reference rate published by the European Central Bank as may be necessary to convert the applicable currency from such currency to euros (if necessary) and from euros to dollars determined by the Bank pursuant to **Section 1.05(b)** using the Exchange Rate with respect to such Alternate Currency at the time in effect under the provisions of such Section.

"dollars" or "$" refers to lawful money of the United States of America.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Eligible Assignee" means (a) an Affiliate of the Bank, or (b) a commercial bank, a savings bank, or other financial institution that, so long as there then exists no Event of Default, is approved by the Company (such approval not to be unreasonably withheld, provided that the Company will be deemed to have consented to any such assignment unless it objects thereto by written notice to the Bank within ten (10) Business Days after having received notice thereof); provided that neither the Company nor any Affiliate thereof shall qualify as an Eligible Assignee.

"Equity Interests" means shares of capital stock, general or limited partnership interests, membership interests in a limited liability company, beneficial interests in a trust, or other equity ownership interests in a Person, and any warrants, options, or other rights entitling the holder thereof to purchase or acquire any such equity interest.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"euro" means the official currency of the European Union.

"Event of Default" has the meaning specified in **Section 6.01**.

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

"Exchange Rate" means on any day, with respect to any Alternate Currency, the rate at which such Alternate Currency may be exchanged into dollars, as set forth at approximately 11:00 a.m. (New York City time) on such day based on the "Euro foreign exchange reference rate" and such other foreign exchange reference rate published by the European Central Bank. In the event that such rate does not appear on such website, the Exchange Rate shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon in writing by the Bank and the Company, or, in the absence of such agreement, such Exchange Rate shall instead be the arithmetic average of the spot rates of exchange of the Bank in the market where its Alternate Currency exchange operations in respect of such Alternate Currency are then being conducted, at or about 11:00 a.m., local time, on such date for the purchase of dollars for delivery two (2) Business Days later; provided that if at the time of any such determination, for any reason, no such spot rate is being quoted, the Bank, after consultation with the Company, may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to the Bank: (a) (i) Taxes that are imposed on (or measured by) its overall net income by the United States and Taxes that are imposed on its overall net income (and franchise taxes imposed in lieu thereof) by the state or foreign jurisdiction under the Laws of which the Bank is organized or any political subdivision thereof or (ii) Other Connection Taxes, (b) any branch profits tax or any similar tax that is imposed by any jurisdiction described in clause (a) above, (c) (i) any United States federal withholding tax imposed under a law that is in effect at the time the Bank acquires the interest hereunder in respect of which it is claiming under **Section 2.08** (or designates a new Lending Office) except to the extent that the Bank (or its assignor, if

any) was entitled, immediately prior to the time of designation of a new Lending Office (or assignment), to receive additional amounts from a Credit Party with respect to any withholding tax pursuant to **Section 2.08(a)** and (ii) any withholding tax that is attributable to the Bank's failure to comply with **Section 2.08(f)** and, in the case of the Bank, taxes that are imposed on its overall net income (and franchise taxes imposed in lieu thereof) by the state or foreign jurisdiction of the Bank's Lending Office or any political subdivision thereof, and (d) any United States federal withholding taxes imposed by FATCA.

"Existing Facility" means the letter of credit facility established pursuant to the Letter of Credit Facility Agreement dated as of August 9, 2011 among the Company, the Parent Guarantor, the subsidiary applicants parties thereto from time to time, the banks parties thereto from time to time, and Deutsche Bank AG New York Branch, as issuing bank and as administrative agent.

"Existing LOCs" means the letters of credit described on **Schedule III**.

"Facility" means the letter of credit facility established pursuant to this Agreement.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), and any regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Code.

"Federal Funds Rate" means, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Bank from three (3) federal funds brokers of recognized standing selected by the Company.

"Final LOC Expiration Date" means the earlier to occur of (a) the 455th day following the Termination Date and (b) March 31, 2020.

"FRB" means the Board of Governors of the Federal Reserve System of the United States.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States of America.

"Governmental Authority" means any supra-national body, the government of the United States of America, any other nation or any political subdivision of any thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Indemnified Party" has the meaning specified in **Section 7.04(b)**.

"Indemnified Taxes" means Taxes other than Excluded Taxes.

"Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended from time to time, and any successor statute or statutes.

"IRS" means the United States Internal Revenue Service.

"Judgment Currency" has the meaning specified in **Section 2.11(b)**.

"Judgment Currency Conversion Date" has the meaning specified in **Section 2.11(b)**.

"Laws" means, collectively, all international, foreign, federal, state and local statutes, treaties, ordinances, codes and administrative or judicial precedents or authorities, including any rules, guidelines or regulations of any Governmental Authority, and including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"LComm" means the large commercial portion of the distributed business segment of the Company with projects sold directly to a commercial end-user and not via a dealer.

"Lending Office" means the office of the Bank that is to make and receive payments hereunder as specified to the Bank from time to time.

"Loan Documents" means, collectively, this Agreement, the Parent Guaranty, each LOC Request and each other instrument or agreement made or entered into by the Company or any other Applicant with or in favor of the Bank in connection with this Agreement or the transactions contemplated hereby, and any supplements or amendments to or waivers of any of the foregoing executed and delivered from time to time.

"LOC" means each standby letter of credit issued hereunder in such form as the Bank may approve in its reasonable discretion and each Existing LOC.

"LOC Disbursement" means the making of any payment by the Bank under an LOC in the amount of such payment.

"LOC Fee" means, as to the Bank, a participation fee with respect to its participations in LOCs which shall accrue at the rate of twenty (20) basis points (0.20%) per annum on the Dollar Equivalent of the actual amount of the Bank's Credit Exposure for each day during the period from and including the Closing Date through and including the later of the date on which the Bank's Commitment terminates and the date on which the Bank ceases to have any Credit Exposure.

"LOC Related Documents" means, collectively, any Loan Document, any LOC Request, any LOC, or any other agreement or instrument relating thereto.

"LOC Request" means a written request substantially in the form of **Exhibit B**.

"Material Adverse Effect" means a material adverse effect on (a) the business, financial condition, operations or properties of the Company and its Subsidiaries, taken as a whole, (b) the validity or enforceability of any of the Loan Documents, or (c) the ability of the Company or any other Applicant to perform their obligations, taken as a whole, under the Loan Documents.

"Maximum LOC Amount" means, on a Dollar-Equivalent basis, $500,000,000.

"Non-Controlled Subsidiary" means, at any time, any Subsidiary not Controlled by the Company. The term "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "Controlling" and "Controlled" have meanings correlative to the foregoing.

"Obligations" means all obligations, liabilities, and Indebtedness of every nature of each Applicant from time to time owing to the Bank under or in connection with this Agreement or any other Loan Document, in each case whether primary, secondary, direct, indirect, contingent (including the undrawn amount of each LOC), fixed or otherwise, including the obligation to provide cash collateral pursuant to any Loan Document and including interest accruing at the rate provided in the applicable Loan Document on or after the commencement of the Bankruptcy or insolvency proceeding, whether or not allowed or allowable.

"OCC" means the Office of the Comptroller of the Currency of the United States.

"OFAC" means the U.S. Department of the Treasury's Office of Foreign Assets Control, and any successor thereto.

"Other Connection Taxes" means Taxes imposed as a result of a present or former connection between the Bank and the jurisdiction imposing such Tax (other than connections arising from the Bank having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

"Other Permitted Purposes" means (a) development obligations or guaranties of the Company or a Wholly-Owned Subsidiary with respect to project development obligations such as transmission reservations and land options for the Company's UPP and LComm businesses, (b) remediation work, landscaping and other related obligations or guarantees of the Company or a Wholly-Owned Subsidiary in favor of government entities for reparation of land and surrounding environment after construction for the Company's UPP and LComm businesses, and (c) obligations or guarantees of the Company or a Wholly-Owned Subsidiary with respect to bids for projects or power purchase agreements in the Company's UPP or LComm businesses.

"Other Taxes" means any present or future stamp, documentary, excise, property or similar taxes, charges or levies that arise from any payment made hereunder or from the execution, delivery or registration of, performance under, or otherwise with respect to, this Agreement or any other Loan Document.

"Parent Guarantor" has the meaning given thereto in the preamble.

"Parent Guaranty" means the Guaranty of even date herewith by the Parent in respect of the Repayment Obligations substantially in the form of **Exhibit E**.

"Patriot Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act, Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

"Performance LOC" means a letter of credit used directly or indirectly to cover a default in the performance of any non-financial or commercial obligations of a Person under specific contracts, and any letter of credit issued in favor of a bank or other surety who in connection therewith issues a guarantee or

similar undertaking, performance bond, surety bond or other similar instrument that covers a default of any such performance obligations, that is classified as a performance standby letter of credit by the FRB or by the OCC or any other applicable regulatory authority.

"Permitted LOC" means a standby letter of credit that is a Performance LOC and not a financial standby letter of credit, as determined or confirmed by the Bank in its sole discretion, in each case that constitutes (a) a performance guarantee (for a period of up to two (2) years after completion of the applicable project) and completion guarantees (until completion of the applicable project) of the Company or such Wholly-Owned Subsidiary with respect to engineering, procurement and construction services provided in connection with the Company's UPP and LComm businesses (including replacing Existing LOCs), (b) a performance guarantee for engineered hardware packages not including engineering, procurement and construction services for UPP projects for a period of up to two (2) years after completion of the applicable project, (c) Other Permitted Purposes for a period of up to two (2) years, (d) a letter of credit or demand guarantee that relates to the CVSR Project, including any renewals or replacements thereof, or (e) an Existing LOC; provided, that, notwithstanding anything to the contrary in this definition but subject to the other terms and conditions of this Agreement, the Company will be permitted to have LOCs outstanding at any one time until the Termination Date for the purposes described in clauses (a) and (b) above with an expiry of between two (2) and three (3) years from the date of issuance thereof and for an aggregate initial face amount of up to fifteen per cent (15%) of the then-applicable Maximum LOC Amount.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority, or other entity.

"Prime Rate" means the per annum rate of interest in effect for such day as publicly announced from time to time by HSBC as its "Prime Rate," such rate being the rate of interest most recently announced within HSBC at its principal office in New York, New York as its "Prime Rate," with the understanding that HSBC's "Prime Rate" is one of HSBC's base rates and serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto, and is evidenced by the recording thereof after its announcement in such internal publication or publications as HSBC may designate. HSBC's "Prime Rate" is not intended to be the lowest rate of interest charged by HSBC in connection with extensions of credit to borrowers. Any change in HSBC's "Prime Rate" as announced by HSBC will take effect at the opening of business on the day specified in the public announcement of such change.

"Repayment Obligations" means the obligations of a Credit Party (with respect to the Company, for itself or as guarantor) now existing or hereafter arising under **Section 2.03(a)** to reimburse to the Bank the amount of any draw on any LOC issued hereunder (with respect to the Company, for itself or for an Applicant) and all interest accrued on such reimbursement obligation from the date of such reimbursement until the date paid. For the avoidance of doubt, "Repayment Obligations" does not include fees, expenses or other amounts payable by any Credit Party to the Bank.

"Responsible Officer" means, (a) in the case of the Company or any other Applicant, its president, chief executive officer, chief financial officer, principal accounting officer, treasurer or controller (and, in any case where two Responsible Officers are acting on behalf of such Person the second such Responsible Officer may also be its Secretary or an Assistant Secretary), and (b) in the case of any other Person, its manager, general partner, or a senior or executive officer of such other Person or of its managing member or general partner, as applicable.

"Sanctioned Country" means a country or territory which is itself the subject or target of comprehensive countrywide or territory-wide Sanctions (including, as of the Closing Date, the Crimea

region, Cuba, Iran, North Korea, Sudan and Syria (for the avoidance of doubt, the preceding list is intended to be illustrative only as of the Closing Date; the comprehensive list of Designated Jurisdictions is subject to change from time to time in accordance with the Sanctions then in effect)).

"Sanctioned Person" means (a) any Person that is the target or subject of Sanctions or listed in any Sanctions-related list of designated Persons maintained by the U.S. government (including the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State) or by the United Nations Security Council, the European Union or any European Union member state, (b) any Person located, organized or resident in a Sanctioned Country, or (c) any Person Controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

"Sanctions" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State or (b) the United Nations Security Council, the European Union, any European Union member state, Her Majesty's Treasury of the United Kingdom, the Hong Kong Monetary Authority or other applicable sanctions authority.

"SEC" means the United States Securities and Exchange Commission (or any successor Governmental Authority).

"Specified Currency" means any currency in which any Applicant is obligated to make payments hereunder.

"subsidiary" means, with respect to any Person (the "parent") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than fifty percent (50%) of the equity or more than fifty percent (50%) of the ordinary voting power or, in the case of a partnership, more than fifty percent (50%) of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"Subsidiary" means any subsidiary of any Applicant.

"Subsidiary Account Party" means (a) each Wholly-Owned Subsidiary listed on **Schedule I** and (b) each other Wholly-Owned Subsidiary from time to time approved in writing as a Subsidiary Account Party by the Bank at the written request of the Company substantially in the form of **Exhibit F**.

"Subsidiary Applicant" means (a) Systems, (b) each other Wholly-Owned Subsidiary that is a party to this Agreement and is listed on **Schedule II** and (c) each other Wholly-Owned Subsidiary from time to time approved in writing as a Subsidiary Applicant pursuant to an Adherence Agreement executed and delivered by such Subsidiary, the Company and the Bank, in each case other than any such Subsidiary that has ceased to be a Subsidiary Applicant pursuant to **Section 2.12**.

"Taxes" means any present or future taxes, levies, imposts, deductions, charges, or withholdings (including backup withholdings), assessments, fees or other charges imposed by any Governmental Authority, and all liabilities with respect thereto, including any interest, additions to tax or penalties applicable thereto.

"Termination Date" means the earlier to occur of (a) the expiration or termination of the Credit Support Agreement or (b) December 31, 2018.

"Upfront Fee" means a fee, which shall be payable by the Company on the Closing Date to the Bank of $87,500.

"UPP" means the utility and power plant business segment of the Company, which includes power plant project development, construction and project sales, turnkey engineering, procurement and construction services for power plant construction, and power plant operations and maintenance services, but excludes component sales.

"U.S. Person" has the meaning specified in **Section 2.08(d).**

"U.S. Tax Certificate" has the meaning specified in **Section 2.08(f)(iv).**

"Wholly-Owned Subsidiary" means a direct or indirect wholly-owned Subsidiary of the Company.

"Withholding Agent" means each Applicant and the Bank.

"Write-Down and Conversion Powers" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

1.02 Computation of Time Periods. In this Agreement and the other Loan Documents in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding", in each case except as otherwise expressly provided herein.

1.03 Other Definitional Provisions. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". The words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof. Except as otherwise expressly provided herein, any definition of or reference to (a) an agreement, instrument, or other document shall mean such agreement, instrument, or other document as amended, supplemented, or otherwise modified from time to time (subject to any restrictions on such amendments, supplements or modifications set forth herein); (b) a law shall mean such law as amended, supplemented, or otherwise modified from time to time (including any successor thereto) and all rules, regulations, guidelines, and decisions interpreting or implementing such law; (c) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement; (d) a time of day shall mean such time in New York, New York; and (e) any reference herein to any Person shall be construed to include such Person's successors and assigns.

1.04 Accounting Terms and Determinations. Unless otherwise specified herein, all financial statements required to be delivered hereunder shall be prepared in accordance with GAAP, applied on a basis consistent with the most recent audited consolidated financial statements of the Company and its Subsidiaries delivered to the Bank.

1.05 Exchange Rates.

(a) Not later than 12:00 noon, New York City time, three (3) Business Days prior to each Calculation Date, beginning with the date that is three (3) Business Days prior to the date on which the initial Alternate Currency LOC is issued, the Bank shall determine the Exchange Rate as of such Calculation Date with respect to each Alternate Currency. The Exchange Rates so determined shall become effective on the relevant Calculation Date, shall remain effective until the next succeeding Calculation Date, and shall for all purposes of this Agreement (other than **Section 2.01**, **Section 2.11**, or any other provision expressly requiring the use of a current Exchange Rate) be the Exchange Rates employed in converting any amounts between dollars and any Alternate Currency.

(b) Not later than 5:00 p.m., New York City time, on each Calculation Date, the Bank shall determine the Alternate Currency Exposure. The Bank shall determine the aggregate amount of the Dollar Equivalent of all amounts denominated in an Alternate Currency at the applicable time and in the manner provided for by this Agreement.

ARTICLE II

AMOUNTS AND TERMS OF LETTERS OF CREDIT

2.01 The Letters of Credit. The Bank agrees, on the terms and subject to the conditions herein set forth, to issue LOCs, and amend the expiry, amount or operative language of LOCs, for the account of any Applicant on any Business Day from time to time during the period from the Closing Date to the Termination Date; provided that:

(a) the Bank shall not have any obligation to issue or amend the expiry, amount or language of any LOC if (i) the aggregate Credit Exposure (after giving effect to such issuance, extension, or increase) would exceed the Commitment Amount, or (ii) such issuance or amendment would conflict with or cause the Bank to exceed any limit imposed by applicable law or any applicable requirement hereof;

(b) each LOC shall be denominated in dollars or in an Alternate Currency and shall be in a face amount not less than the Dollar Equivalent of $25,000 (or such lesser amount as the Bank may agree);

(c) each LOC shall be payable only against sight drafts or demands for payment at sight (and not provide for acceptance of time drafts or incurrence of deferred payment undertakings);

(d) no LOC shall have a scheduled expiration date (including all rights of the applicable Applicant or the Beneficiary to require extension thereof) later than the earlier of (i) twenty-four (24) months from the date of issuance thereof and (ii) the Final LOC Expiration Date; provided that any LOC may by its terms be automatically extendible annually for additional twelve (12) month periods (provided that the Bank shall not permit any such extension to take effect that extends the expiration date of such LOC beyond the Final LOC Expiration Date); provided, further that the Bank shall not permit any such automatic extension if it has determined that such extension would not be permitted, or the Bank would have no obligation, at such time to issue such LOC as extended under the terms hereof, in which case the Bank shall notify the Beneficiary thereof of its election not to extend such LOC (which the Bank agrees to do on and subject to the terms of **Section 2.02(c)**);

(e) (i) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the Bank from issuing such LOC; (ii) any

Law applicable to the Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the Bank shall prohibit, or request that the Bank refrain from, the issuance of letters of credit generally or such LOC in particular or shall impose upon the Bank with respect to such LOC any restriction, reserve or capital requirement (for which the Bank is not otherwise compensated hereunder) not in effect on the Closing Date; or (iii) the issuance of such LOC would violate or one or more policies of the Bank applicable to letters of credit generally; and

(f) each LOC shall be a Permitted LOC.

At the request of any Applicant, LOCs may be issued in accordance with this Agreement to support obligations of any Subsidiary Account Party that is a Subsidiary of such Applicant; provided that such Applicant represents, warrants and agrees, without limiting any Obligations of such Applicant hereunder, that: (i) such Subsidiary Account Party has consented to its being referred to in such LOC or otherwise as the "applicant", "account party", "client", or "customer" at whose request or for whose account such LOC is issued; (ii) such Subsidiary Account Party has consented to its not having any rights under this Agreement (including any right to request that the Bank issue or amend such LOC or that the Bank dispose of any documents presented under such LOC (or any goods represented thereby) in any particular manner) and to the Bank's treating such Applicant as the sole Person entitled to exercise such rights with respect to such LOC; (iii) such Subsidiary Account Party is a direct or indirect majority-owned subsidiary of the Company at the time of issuance of such LOC (or of any increase or extension thereof); (iv) such Subsidiary Account Party is bound by all the limitations of liability and exculpations in the Bank's favor contained herein and subject to all the rights and remedies in the Bank's favor referred to herein as if it were such Applicant; and (v) the Bank shall not be required to send any notice hereunder to such Subsidiary Account Party, but if the Bank in its sole discretion chooses to do so, the Bank may send such notice as provided herein care of such Applicant and such notice shall be effective as if given to such Subsidiary Account Party.

2.02 Issuance; Extensions; Etc.

(a) Request for Issuance. An Applicant may from time to time request, upon at least three (3) Business Days' notice (given not later than 11:00 a.m. New York City time), that the Bank issue an LOC by delivering to the Bank (i) an LOC Request specifying the date on which such LOC is to be issued (which shall be a Business Day), a summary of the arrangement to which such LOC pertains (including the purpose and nature of the LOC), the expiration date thereof, the currency thereof (whether dollars or an Alternate Currency), the Available Amount thereof, the name and address of the Beneficiary thereof, any required text to be contained in the LOC (together with full text of any certificate to be presented by the Beneficiary in case of any drawing thereunder), the delivery instructions, and such other matters as the Bank may reasonably require (including, if such LOC is to be issued on the Bank's HSBC*net* platform and as applicable, a completed and signed E-Channels Master Agreement and HSBC*net* Services Amendment Form); and (ii) such other documents and agreements as may be required pursuant to the Bank's customary practices for the issuance of letters of credit (and in the event of a conflict between the terms of this Agreement and the terms of such other documents or agreements, the terms of this Agreement shall govern). The applicable Applicant agrees to promptly deliver to the Parent Guarantor a copy of each request made by it pursuant to the foregoing sentence. If the requirements set forth in the first sentence of **Section 2.01** and in **Article III** are satisfied, the Bank shall issue the applicable LOC on the date requested in such LOC Request. Upon the issuance of an LOC, the Bank shall (A) deliver the original of such LOC to the Beneficiary thereof or as the

applicable Applicant shall otherwise direct and (B) promptly notify the Bank thereof and furnish a copy thereof to the applicable Applicant and the Parent Guarantor.

(b) Request for Extension or Increase. The applicable Applicant may from time to time request, upon at least three (3) Business Days' notice (given not later than 11:00 a.m. New York City time), that the Bank amend the expiration date of an outstanding LOC, the Available Amount of an outstanding LOC or the language of an outstanding LOC by delivering to the Bank (with a copy to the Parent Guarantor) a written request therefor. Any such request for an extension or increase shall for all purposes hereof (including for purposes of **Section 2.02(a)**) be treated as though such Applicant had requested issuance of a replacement LOC (except that the Bank may, if it elects, issue a notice of extension or increase in lieu of issuing a new LOC in substitution for the outstanding LOC).

(c) Automatic Extensions. If any LOC shall provide for the automatic extension of the expiry date thereof unless the Bank gives notice that such expiry date shall not be extended, then the Bank shall allow such LOC to be extended unless such extended expiration date would conflict with **Section 2.01(d)** or unless the Bank shall have received, at least five (5) Business Days prior to the date on which such notice of non-extension must be delivered under such LOC (or such shorter period acceptable to the Bank), (i) notice from the applicable Applicant directing the Bank not to permit the extension of such LOC, unless an Event of Default has occurred and is continuing (and the Bank shall not permit any LOC to be automatically extended if it has received a timely notice, or (ii) a Block Notice from the Parent Guarantor.

(d) LOC Reports. The Bank will furnish to the Company and the Parent Guarantor prompt written notice of each (i) issuance or amendment of the expiry, amount or language of an LOC (including the Available Amount and expiration date thereof), (ii) other amendment to an LOC, (iii) cancellation of an LOC, and (iv) payment on an LOC. The Bank will furnish to the Applicant and the Parent Guarantor promptly upon request and, in any case, prior to the fifteenth Business Day of each calendar quarter a written report summarizing issuance and amendment of LOCs issued or amended during the preceding calendar quarter and payments and reductions in Available Amounts during such calendar quarter on all LOCs.

(e) ISP and UCP. Subject to the exculpations, limitations on liability, and other provisions of this Agreement, unless otherwise expressly agreed in writing by the Bank and the applicable Applicant when a LOC is issued and subject to applicable laws, performance under LOCs by the Bank will be governed by (i) either (x) the rules of the "International Standby Practices 1998" (ISP98) (or such later revision as may be published by the Institute of International Banking Law & Practice on any date any LOC may be issued) or (y) the rules of the "Uniform Customs and Practices for Documentary Credits" (2007 Revision), International Chamber of Commerce Publication No. 600 (or such later revision as may be published by the International Chamber of Commerce on any date any LOC may be issued) and (ii) to the extent not inconsistent therewith, the governing law of this Agreement as set forth in **Section 7.13**.

2.03 Reimbursement Obligations.

(a) Each Applicant agrees to reimburse the Bank (by making payment to the Bank in accordance with **Section 2.07**) in the amount of each LOC Disbursement made by the Bank under each LOC issued at the request of such Applicant, such reimbursement to be made within five (5) Business Days of the date the Bank notifies such Applicant of such LOC Disbursement. Such reimbursement obligation shall be payable without further notice, protest or demand, all of which are hereby waived, and an action therefor shall immediately accrue. To the extent such payment by such Applicant is not timely made in accordance with the terms hereof, such unpaid reimbursement obligation shall be treated as a

matured loan extended to such Applicant under this Agreement in respect of which interest shall accrue and be payable. Such Applicant agrees to pay to the Bank, on demand, interest (at a rate per annum equal to the Base Rate plus 1.00%) for each day from the date of such LOC Disbursement to the date such obligation is paid in full. For the avoidance of doubt, the payment by such Applicant of interest pursuant to this **Section 2.03(a)** shall not affect the calculation of fees under the Loan Documents.

(b) The obligation of the applicable Applicant to reimburse the Bank for any LOC Disbursement made by the Bank shall be unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement, the applicable LOC Request and any other applicable agreement or instrument under all circumstances, including the following circumstances:

(i) any lack of validity or enforceability of any LOC Related Document or any term or provision thereof;

(ii) any change in the time, manner, or place of payment of, or in any other term of, any obligation of the Company, any other Applicant, or any other Person in respect of any LOC Related Document or any other amendment or waiver of or any consent to departure from any LOC Related Document;

(iii) the existence of any claim, set-off, defense, or other right that the Company, any other Applicant, or any other Person may have at any time against any Beneficiary (or any Person for which any such Beneficiary may be acting), the Bank or any other Person, whether in connection with the transactions contemplated by the LOC Related Documents or any unrelated transaction;

(iv) any statement or any other document presented under an LOC being forged, fraudulent, invalid, or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(v) payment by the Bank under an LOC against presentation of a draft or other document that does not strictly comply with the terms of such LOC; or

(vi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Company or any other Applicant.

The foregoing provisions of this **Section 2.03(b)** shall not excuse the Bank from liability to the applicable Applicant against the Bank following reimbursement of each LOC Disbursement in full by such Applicant to the extent of any direct (but not consequential) damages suffered by the applicable Applicant that are caused by the Bank's gross negligence or willful misconduct; provided that (i) the Bank shall be deemed to have acted with reasonable care if it acts in accordance with standard letter of credit practice of commercial banks located in New York City and (ii) the applicable Applicant's aggregate remedies against the Bank for wrongfully honoring a presentation shall not exceed the aggregate amount paid by such Applicant to the Bank with respect to the honored presentation, plus interest.

(c) Without limiting any other provision of this Agreement, the Bank: (i) may rely upon any oral, telephonic, facsimile, electronic, written, or other communication reasonably believed to have been authorized by any Applicant, (ii) shall not be responsible for errors, omissions, interruptions, or delays in transmission or delivery of any message, advice or document in connection with any LOC, whether transmitted by courier, mail, telex, any other telecommunication or electronic communication, or otherwise (whether or not they be encrypted), or for errors in interpretation of technical terms or in

translation (and the Bank may transmit any LOC terms without translating them), (iii) may honor any presentation under any LOC that appears on its face to substantially comply with the terms and conditions of such LOC, (iv) may replace a purportedly lost, stolen, or destroyed original LOC, waive a requirement for its presentation, or provide a replacement copy to any Beneficiary, (v) if no form of draft is attached as an exhibit to an LOC, may accept as a draft any written or electronic demand or request for payment under such LOC, and may disregard any requirement that such draft bear any particular reference to such LOC, (vi) unless an LOC specifies the means of payment, may make any payment under such LOC by any means it chooses, including by wire transfer of immediately available funds, (vii) may select any branch or affiliate of the Bank or any other bank or financial institution to act as advising, transferring, confirming, and/or nominated bank under the law and practice of the place where it is located (if the applicable LOC Request or LOC Related Documents requested or authorized advice, transfer, confirmation and/or nomination, as applicable), (viii) may amend any LOC to reflect any change of address or other contact information of any Beneficiary, and (ix) shall not be responsible for any other action or inaction taken or suffered by the Bank under or in connection with any LOC, if required or permitted under any applicable domestic or foreign law or letter of credit practice. None of the circumstances described in this **Section 2.03(c)** shall impair the Bank's rights and remedies against any Applicant or place the Bank under any liability to any Applicant.

(d) The applicable Applicant will notify the Bank in writing of any objection such Applicant may have to the Bank's issuance or amendment of any LOC, the Bank's honor or dishonor of any presentation under any LOC, or any other action or inaction taken by the Bank under or in connection with this Agreement or any LOC. The applicable Applicant's notice of objection must be delivered to the Bank within fifteen (15) Business Days after such Applicant receives notice of the action or inaction it objects to.

2.04 Termination or Reduction of Commitment. The Company may at any time, upon at least three (3) Business Days' notice to the Bank, terminate the Commitment in whole or reduce in part the unused portion of the Commitment Amount; provided that each partial reduction shall be in an aggregate amount of $10,000,000 or a higher integral multiple of $1,000,000. The Commitment Amount shall be permanently reduced to zero on the Termination Date if not sooner reduced to zero. Each notice delivered by the Company pursuant to this paragraph shall be irrevocable; provided that a notice of termination of the Commitment delivered by the Company may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Company (by notice to the Bank on or prior to the specified effective date) if such condition is not satisfied. Except as specifically provided in this Agreement, no fees or expenses shall be payable by any Credit Party or Subsidiary Applicant in respect of any such termination.

2.05 Fees.

(a) The Company agrees to pay to the Bank the Upfront Fee and the Commitment Fee. Accrued Commitment Fees shall be payable in arrears on the last day of March, June, September, and December of each year, and on the date on which the Commitments terminate, commencing on the first such date to occur after the date hereof. All Commitment Fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Company agrees to pay to the Bank an LOC Fee with respect to its participations in LOCs. LOC Fees accrued to but excluding the last day of March, June, September and December of each year shall be payable on such last day, commencing on the first such date to occur after the Closing Date; provided that all such accrued and unpaid fees shall also be payable on the Termination Date, and any such fees accruing after the Termination Date shall be payable on demand. All LOC Fees

shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day and the last day).

(c) In addition, the Company agrees to pay to the Bank the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the Bank relating to letters of credit and bank undertakings as from time to time in effect, in dollars. Such customary fees and standard costs and charges are due and payable on the demand of the Bank**.**

(d) All fees payable hereunder shall be paid on the dates due, in dollars, in immediately available funds, to the Bank. Other than amounts erroneously paid as the result of administrative or technical errors, fees paid shall not be refundable under any circumstances. The Commitment Fee due to the Bank shall cease to accrue on the date on which the Commitment shall expire or be terminated as provided herein.

2.06 Increased Costs and Capital Adequacy.

(a) If, due to any Change in Law, there shall be any increase in the cost to the Bank by an amount the Bank reasonably determines to be material of agreeing to issue or of issuing or maintaining or participating in LOCs or the making of LOC Disbursements (excluding, for purposes of this Section, any such increased costs resulting from (i) Taxes (other than Indemnified Taxes or Other Taxes, as to which **Section 2.08** shall exclusively govern), (ii) changes in the basis of taxation of overall net income or overall gross income by the United States or by the foreign jurisdiction or state under the laws of which the Bank is organized or has its Lending Office or any political subdivision thereof, (iii) any increased cost in respect of which the Bank is entitled to compensation under any other provision of this Agreement, (iv) any payment to the extent that it is attributable to any requirement of any Governmental Authority which regulates the Bank or its holding company and which is imposed by reason of the amount, nature or quality of the Bank's assets or those of its holding company and not generally imposed on all entities of the same kind regulated by the same authority, or (v) any increased cost arising by reason of the Bank voluntarily breaching any lending limit or other similar restriction imposed by any provision of any relevant law or regulation after the introduction thereof), then the Company agrees to pay, from time to time, within fifteen (15) days after demand by the Bank, which demand shall include a statement of the basis for such demand and a calculation in reasonable detail of the amount demanded, to the Bank for the account of the Bank additional amounts sufficient to compensate the Bank for such increased cost. A certificate as to the amount of such increased cost, submitted to the Company by the Bank, shall be conclusive and binding for all purposes, absent manifest error of which the Company has notified the Bank promptly after receipt of such certificate.

(b) If, due to any Change in Law, there shall be any increase in the amount of capital required or expected to be maintained by the Bank or any corporation controlling the Bank as a result of or based upon the existence of the Bank's commitment to extend credit hereunder and other commitments of such type pursuant hereto that has or would have the effect of reducing the rate of return on the Bank's (or the Bank's parent corporation's) capital to a level below that which the Bank (or the Bank's parent corporation) could have achieved but for such Change in Law (excluding, for purposes of this Section, any such increased costs resulting from any change to the extent that it is attributable to the requirement of any Governmental Authority which regulates the Bank or its holding company which is imposed by reason of the quality of the Bank's assets or those of its holding company and not generally imposed on all entities of the same kind regulated by the same authority) then, within fifteen (15) days after demand by the Bank or such corporation, which demand shall include a statement of the basis for such demand and a calculation in reasonable detail of the amount demanded, the Company agrees to pay to the Bank, from time to time as specified by the Bank, additional amounts sufficient to compensate the Bank in the light of such circumstances, to the extent that the Bank reasonably determines such increase in capital to

be allocable to the existence of the Bank's commitment to issue or participate in LOCs hereunder or to the issuance or maintenance of or participation in any LOC. A certificate as to such amounts submitted to the Company by the Bank shall be conclusive and binding for all purposes, absent manifest error of which the Company has notified the Bank promptly after receipt of such certificate.

(c) Promptly after an officer with responsibility for its participation in the Facility becomes aware of the relevant circumstances and their results, the Bank shall promptly notify the Company of any event of which will result in, and will use reasonable commercial efforts available to it (and not, in the Bank's good faith judgment, otherwise materially disadvantageous to the Bank) to mitigate or avoid, any obligation of the Company to pay any amount pursuant to **Section 2.06(a)** or **2.06(b)** above or pursuant to **Section 2.08** (and, if the Bank has given notice of any such event and thereafter such event ceases to exist, the Bank shall promptly so notify the Company). Without limiting the foregoing, the Bank will designate a different Lending Office if such designation will avoid (or reduce the cost to the Company of) any event described in the preceding sentence and such designation will not, in the Bank's good faith judgment, be otherwise materially disadvantageous to the Bank.

(d) Notwithstanding the provisions of **Section 2.06(a)**, **2.06(b)** or **2.08** (and without limiting **Section 2.06(c)** above), if the Bank fails to notify the Company of any event or circumstance that will entitle the Bank to compensation pursuant to **Section 2.06(a)**, **2.06(b)** or **2.08** within 180 days after the Bank obtains actual knowledge of such event or circumstance, then the Bank shall not be entitled to compensation from the Company for any amount arising prior to the date that is 180 days before the date on which the Bank notifies the Company of such event or circumstance; provided that, if the event or circumstance giving rise to such entitlement to compensation is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

2.07 Payments and Computations.

(a) The applicable Applicant shall make each payment hereunder irrespective of any right of counterclaim or set-off not later than 2:00 p.m. (New York City time) on the day when due, in dollars, to the Bank at its office at HSBC BANK USA, N.A., 2 Hanson Place, 14th Floor, Brooklyn, New York 11217 (or to such other office as the Bank shall direct from time to time) and at such account as the Bank shall direct from time to time in immediately available funds, with payments being received by the Bank after such time being deemed to have been received on the next succeeding Business Day; provided that if any amount due hereunder is based upon the Bank's payment in an Alternate Currency, the applicable Applicant will pay the Dollar Equivalent of such amount.

(b) If at any time insufficient funds are received by and available to the Bank to pay fully all amounts of principal, unreimbursed LOC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, and (ii) second, towards payment of principal and unreimbursed LOC Disbursements then due hereunder.

(c) All computations of interest on LOC Disbursements for the Base Rate shall be made by the Bank on the basis of a year of 365 or, if applicable, 366 days; all other computations of interest shall be made by the Bank on the basis of a year of 360 days. All such computations of interest shall be made for the actual number of days (including the first day but excluding the last day) occurring in the period for which such interest is payable.

(d) Whenever any payment hereunder shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall be included in the computation of any payment of interest or fees.

2.08 Taxes.

(a) All payments by the applicable Applicant hereunder shall be made, in accordance with **Section 2.07**, free and clear of and without reduction, withholding or other deduction for any Taxes. If any Withholding Agent determines, in its sole discretion exercised in good faith, that it is required by law to deduct any Taxes (including both U.S. federal backup withholding and withholding taxes) from or in respect of any sum payable hereunder to the Bank, (i) the sum payable by the applicable Applicant shall be increased as may be necessary so that after such Withholding Agent has made all required deductions (including deductions applicable to additional sums payable under this **Section 2.08**) the Bank receives an amount equal to the sum it would have received had no such deductions been made, (ii) such Withholding Agent shall make all such deductions, and (iii) such Withholding Agent shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable Law.

(b) In addition, the applicable Applicant shall pay any Other Taxes in accordance with applicable Law.

(c) The applicable Applicant shall indemnify the Bank and hold it harmless against the full amount of all Indemnified Taxes and Other Taxes, and for the full amount of taxes of any kind imposed by any jurisdiction on amounts payable under this **Section 2.08**, imposed on or paid by the Bank and any liability (including penalties, additions to tax, interest and expenses) arising therefrom or with respect thereto. Any such indemnification payment shall be made within thirty (30) days from the date the Bank makes written demand therefor.

(d) Within thirty (30) days after the date of any payment of Taxes, the applicable Applicant shall furnish to the Bank, at its address referred to in **Section 7.02**, the original or a certified copy of a receipt evidencing such payment. In the case of any payment hereunder by or on behalf of such Applicant through an account or branch outside the United States or by or on behalf of such Applicant by a payor that is not a United States person, if such Applicant determines that no Taxes are payable in respect thereof, such Applicant shall furnish, or shall cause such payor to furnish, to the Bank, at such address, an opinion of counsel reasonably acceptable to the Bank stating that such payment is exempt from Taxes. For purposes of this **Section 2.08(d)** and **Section 2.08(f)**, (i) the terms “United States” and “United States person” shall have the meanings specified in Sections 7701(a)(9) and 7701(a)(30) of the Code, respectively, and (ii) a “Foreign Lender” means a person that is not a “United States person.”

(e) If the Bank is entitled to an exemption from or reduction of withholding Tax with respect to payments under any Loan Document, it shall deliver to the Company, at the time or times as reasonably requested by the Company, such properly completed and executed documentation as reasonably requested by the Company as will permit such payments to be made without withholding or at a reduced rate.

(f) Without limiting the generality of **Section 2.08(e),** the Bank (and any Eligible Assignee on or prior to the date on which it becomes a party hereto) shall, if it is legally eligible to do so, deliver to the Company, two (2) duly signed, properly completed copies of whichever of the following is applicable:

(i) if the Bank (or Eligible Assignee) is not a Foreign Lender, IRS Form W 9;

(ii) if the Bank (or Eligible Assignee) is a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (1) with respect to payments of interest under any Loan Document, IRS Form W-8BEN-E, establishing an exemption from, or reduction

of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (2) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN-E establishing an exemption from U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(iii) if the Bank (or Eligible Assignee) is a Foreign Lender for whom payments under any Loan Document constitute income that is effectively connected with such Foreign Lender's conduct of a trade or business in the United States, IRS Form W-8ECI;

(iv) if the Bank (or Eligible Assignee) is a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code both (1) IRS Form W-8BEN-E and (2) a certificate (a "U.S. Tax Certificate") to the effect that such Lender is not (a) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (b) a "10 percent shareholder" of the Company within the meaning of Section 881(c)(3)(B) of the Code and (c) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code;

(v) if the Bank (or Eligible Assignee) is a Foreign Lender that is not the beneficial owner of payments made under any Loan Document (including a partnership or a participant) (1) an IRS Form W-8IMY on behalf of itself and (2) the relevant forms prescribed in subsections (i), (ii), (iii) or (iv) of this paragraph (f) that would be required of each such beneficial owner or partner of such partnership if such beneficial owner or partner were a lender; provided, however, that if the Lender is a partnership and one or more of its partners are claiming the exemption for portfolio interest under Section 881(c) of the Code, such Lender may provide a U.S. Tax Certificate on behalf of such partners;

(vi) if a payment made to a Foreign Lender under any Loan Document would be subject to any withholding Taxes as a result of such Foreign Lender's failure to comply with the requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code), at the time or times prescribed by law and at such time or times reasonably requested by the Withholding Agent, such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Withholding Agent as may be necessary for the Withholding Agent to comply with its obligations under FATCA, to determine that such Foreign Lender has or has not complied with such Foreign Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment; or

(vii) any other form prescribed by law as a basis for claiming exemption from, or a reduction of, U.S. federal withholding Tax together with such supplementary documentation necessary to enable the Company to determine the amount of Tax (if any) required by law to be withheld.

(g) Thereafter and from time to time, each Foreign Lender shall, if it is legally eligible to do so, (i) promptly submit to the Company (with a copy to the Withholding Agent) such additional duly completed and signed copies of one or more of the forms or certificates described in **Section 2.08(f)(i), (ii), (iii), (iv)** or **(v)** (or such successor forms or certificates as shall be adopted from time to time by the relevant United States taxing authorities) as may then be available under then current United States laws and regulations to avoid, or such evidence as is reasonably satisfactory to the Company of any available exemption from, or reduction of, United States withholding Taxes in respect of all payments to be made to such Foreign Lender by the Company pursuant to this Agreement, or any other Loan Document, in each case, (1) after the occurrence of any event requiring a change in the most recent form, certificate or evidence previously delivered by it to the Company and (2) from time to time thereafter if reasonably requested by the Company, and (ii) promptly notify the Company of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(h) For any period with respect to which the Bank that may lawfully do so has failed to provide the Company with the appropriate form described in **Section 2.08(f)** above (other than if such failure is due to a change in law occurring after the date on which a form originally was required to be provided or if such form otherwise is not required under **Section 2.08(f)** above), the Bank shall not be entitled to indemnification under **Sections 2.08(a)** or **2.08(c)** with respect to Taxes imposed by the United States by reason of such failure; provided that should the Bank become subject to Taxes because of its failure to deliver a form required hereunder, the Company shall take such steps as the Bank shall reasonably request to assist the Bank to recover such Taxes.

(i) The Bank represents and warrants to each Applicant and the Parent Guarantor that, as of the date the Bank becomes a party to this Agreement, the Bank is entitled to receive payments hereunder from such Applicant and the Parent Guarantor without deduction or withholding for or on account of any Taxes.

(j) If the Bank determines, in its reasonable discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Company, the Parent Guarantor or any Applicant or with respect to which such Applicant has paid additional amounts pursuant to this **Section 2.08** or the Parent Guarantor pursuant to the Parent Guaranty, it shall reimburse to such Applicant or the Parent Guarantor, as the case may be, such amount as the Bank determines to be the proportion of such refund as will leave the Bank (after that reimbursement) in no better or worse position in respect of the worldwide liabilities for Taxes and Other Taxes of the Bank (including in each case its Affiliates) than it would have been if no such indemnity had been required under this **Section 2.08**. This **Section 2.08(j)** shall not be construed to require the Bank to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Company or any other Person.

2.09 Use of Letters of Credit. The Company and each other Applicant covenants and agrees with the Bank that the LOCs shall be used for the purposes set out in the definition of "Permitted LOCs" in **Section 1.01**.

2.10 Certain Provisions Relating to the Bank as Issuer of LOCs.

(a) LOC Requests. The representations, warranties, and covenants by each Applicant under, and the rights and remedies of the Bank under, any LOC Request or any documents or agreements delivered to the Bank pursuant to **Section 2.02(a)(i)** relating to any LOC are in addition to, and not in limitation or derogation of, representations, warranties, and covenants by such Applicant under, and rights and remedies of the Bank under, this Agreement and applicable law. Each Applicant acknowledges and agrees that all rights of the Bank under any LOC Request or any such other documents or agreements shall inure to the benefit of the Bank to the extent of its LOC Participating Interest in and LOC Disbursements in connection with the applicable LOC as fully as if the Bank were a party to such LOC Request or any such other documents or agreements. In the event of any inconsistency between the terms of this Agreement and any LOC Request or any such other documents or agreements, this Agreement shall prevail.

(b) No Liability of the Bank. Each Applicant assumes all risks of the acts or omissions of any Beneficiary of any LOC with respect to its use of such LOC. Neither the Bank nor any of its officers, directors, employees, Affiliates, or agents shall be liable or responsible for: (a) the use that may be made of any LOC or any acts or omissions of any Beneficiary in connection therewith; (b) the validity, sufficiency, or genuineness of documents, or of any endorsement thereon, even if such documents should prove to be in any or all respects invalid, insufficient, fraudulent or forged; or (c) payment by the Bank against presentation of documents that strictly or substantially comply with the terms of an LOC, including failure of any documents to bear any reference or adequate reference to the

LOC. In furtherance and not in limitation of the foregoing, the Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary.

2.11 Currency Indemnity.

(a) Each Credit Party's obligation to make payments hereunder in any Specified Currency shall not be discharged or satisfied by any tender, or any recovery pursuant to any judgment or otherwise, which is expressed in or converted into any currency other than the Specified Currency, except to the extent that such tender or recovery results in the actual receipt by the Bank of the full amount of the Specified Currency payable under this Agreement. Each Credit Party shall indemnify the Bank for any shortfall and such Credit Party's obligation to make payments in the Specified Currency shall be enforceable as an alternative or additional cause of action to the extent that such actual receipt is less than the full amount of the Specified Currency expressed to be payable hereunder, and shall not be affected by judgment being obtained for other sums due hereunder.

(b) If, for the purpose of obtaining or enforcing judgment against any Credit Party in any court or in any jurisdiction, it becomes necessary to convert into or from any currency other than the Specified Currency (such other currency being hereinafter referred to as the "Judgment Currency") an amount due in the Specified Currency, the conversion shall be made at the Dollar Equivalent of such amount, in each case, as of the date immediately preceding the day on which the judgment is given (such Business Day being hereinafter referred to as the "Judgment Currency Conversion Date"). If there is a change in the rate of exchange prevailing between the Judgment Currency Conversion Date and the date of actual payment of the amount due, the applicable Credit Party obligated in respect thereof covenants and agrees to pay, or cause to be paid, such additional amounts, if any (but in any event not a lesser amount), as may be necessary to ensure that the amount paid in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of the Specified Currency which could have been purchased with the amount of Judgment Currency stipulated in the judgment or judicial award at the rate of exchange prevailing on the Judgment Currency Conversion Date.

2.12 Subsidiary Applicants. The Company from time to time may designate any Subsidiary as a Subsidiary Applicant by (i) delivering to the Bank an Adherence Agreement executed by such Subsidiary, the Company and the Bank and (ii) taking such further actions as the Bank may reasonably request, including executing and delivering other instruments, documents, and agreements corresponding to those obtained in respect of the Company, all in form and substance reasonably satisfactory to the Bank; provided, that no Subsidiary shall become a party hereto or a Subsidiary Applicant hereunder if the Bank reasonably believes that it would violate any applicable Law for any LOCs to be issued at such proposed Subsidiary Applicant's request or that the Bank would be subject to any unindemnified withholding taxes. Upon such delivery and the taking of such further actions such Subsidiary shall for all purposes of this Agreement be a Subsidiary Applicant and a party to this Agreement until the Company shall have executed and delivered to the Bank a "Notice of Termination" (as defined in the applicable Adherence Agreement) in respect of such Subsidiary, whereupon such Subsidiary shall cease to be a Subsidiary Applicant. Notwithstanding the preceding sentence, no such Notice of Termination will become effective as to any Subsidiary Applicant at a time when any Obligations of such Subsidiary Applicant shall be outstanding hereunder or any LOC issued at the request of such Subsidiary Applicant shall be outstanding (which shall not have been cash collateralized in a manner satisfactory to the Bank in its sole discretion); provided that such Notice of Termination shall be effective to terminate such Subsidiary Applicant's right to request LOCs hereunder. The Subsidiary Applicants as of the Closing Date are set forth on **Schedule II**.

2.13 Parent Guaranty. Payment of the Repayment Obligations by the Company is guaranteed by the Parent Guarantor pursuant to the Parent Guaranty. Subject to (a) the Parent Guarantor's obligations under the Parent Guaranty and (b) **Section 2.15**, the obligations of each Credit Party under this Agreement are several and not joint and no Credit Party shall be responsible for the obligations of any other Credit Party under this Agreement.

2.14 Cash Collateralization. If, at any time, the Dollar Equivalent of the Credit Exposure exceeds the Commitment Amount (including by reason of fluctuations in exchange rates), then one or more of the Applicants shall, within five (5) Business Days after notice thereof from the Bank, Cash Collateralize any outstanding LOCs in a manner satisfactory to the Bank in its sole discretion and/or pay or reimburse any other amounts then due and payable under the Facility, in each case in an amount sufficient to eliminate such excess; provided, however, that no Applicant shall be required to Cash Collateralize any amounts attributable to an LOC issued at the request of any other Applicant.

2.15 Company Guaranty.

(a) The Company hereby irrevocably and unconditionally guarantees to the Bank the due and punctual payment of all Repayment Obligations of each of the other Credit Parties (the "Guaranteed Obligations"). The Company agrees that the Guaranteed Obligations may be extended or renewed, in whole or in part, without notice to or further assent from it, and that it will remain bound upon its guarantee notwithstanding any extension or renewal of any Guaranteed Obligations. Each and every default in payment or performance on any Guaranteed Obligation shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder as each cause of action arises.

(b) To the fullest extent permitted by applicable Law, the Company waives presentment to, demand of payment from, and protest to the applicable Applicant or to any other guarantor of any of the Guaranteed Obligations, and also waives notice of acceptance of its guarantee and notice of protest for nonpayment. To the fullest extent permitted by applicable Law, the obligations of the Company hereunder shall not be affected by (i) the failure of the Bank to assert any claim or demand or to enforce or exercise any right or remedy against any Applicant or any other Person under the provisions of the Loan Documents or otherwise; (ii) any rescission, waiver, amendment or modification of, or any release of any Person from any of the terms or provisions of any Loan Document or any other agreement; (iii) the failure or delay of the Bank for any reason whatsoever to exercise any right or remedy against the Parent Guarantor under the Parent Guaranty; (iv) any default, failure or delay, willful or otherwise, in the performance of any Repayment Obligations; or (v) any other act, omission or delay to do any other act which may or might in any manner or to any extent vary the risk of the Company under this **Section 2.15** or otherwise operate as a discharge or exoneration of the Company as a matter of law or equity or which would impair or eliminate any right of the Company to subrogation.

(c) The Company agrees that its guarantee hereunder constitutes a guarantee of payment when due and not of collection, that such guarantee may be enforced at any time and from time to time, on one or more occasions, during the continuance of any Event of Default, without any prior demand or enforcement in respect of any Guaranteed Obligations, and that the Company waives any right to require that any resort be had by the Bank to any other guarantee. The obligations of the Company hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason (other than the payment in full in cash of the Guaranteed Obligations), including any claim of waiver, release, surrender, amendment, modification, alteration or compromise of any of the Guaranteed Obligations or of any collateral security or guarantee or other accommodation in respect thereof, and shall not be subject to any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of the Guaranteed Obligations or any Loan Document or any provision thereof (or of this Agreement or any provision hereof) or otherwise. The obligations of the

Company hereunder shall extend to all Repayment Obligations of the other Applicants without limitation of amount.

(d) To the fullest extent permitted by applicable Law, the Company waives any defense based on or arising out of any defense of any Applicant or any other guarantor or the unenforceability of the Guaranteed Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any Applicant, other than the final payment in full in cash of the Guaranteed Obligations. The Bank may, at its election, compromise or adjust any part of the Guaranteed Obligations, make any other accommodation with any Applicant or any other Person or exercise any other right or remedy available to them against any Applicant or any other Person, without affecting or impairing in any way the liability of the Company hereunder except to the extent the Guaranteed Obligations have been fully and finally paid. To the fullest extent permitted by applicable Law, the Company waives any defense arising out of any such election even though such election operates, pursuant to applicable law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of the Company against any Applicant or any other Person, as the case may be. The Company agrees that (i) the maturity of the Guaranteed Obligations guaranteed hereby may be accelerated for the purposes of the Company's guarantee herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration as to any Applicant in respect of the Guaranteed Obligations (other than any notices and cure periods expressly granted to an Applicant in this Agreement or any other Loan Document evidencing or securing the Obligations of such Applicant), and (ii) in the event of any such acceleration of such Guaranteed Obligations, such Guaranteed Obligations (whether or not due and payable) shall forthwith become due and payable in full by the Company for purposes of this Agreement.

(e) In furtherance of the foregoing and not in limitation of any other right that the Bank has at law or in equity against the Company by virtue hereof, upon the failure of any Applicant to pay (after the giving of any required notice and the expiration of any cure period expressly granted to such Applicant in this Agreement) any Guaranteed Obligation when and as the same shall become due, whether at maturity, upon mandatory prepayment, by acceleration, after notice of prepayment or otherwise, the Company hereby promises to and will forthwith pay, or cause to be paid, to the Bank in cash the amount of such unpaid Guaranteed Obligation. Upon payment by the Company of any sums as provided above, all rights of the Company against the applicable Applicant or any other Person arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior payment in full in cash of all the Guaranteed Obligations. If any amount shall erroneously be paid to the Company on account of (i) such subrogation, contribution, reimbursement, indemnity, or similar right, or (ii) any such indebtedness of any Applicant, such amount shall be held in trust for the benefit of the Bank and shall be paid to the Bank to be credited against the payment of the Guaranteed Obligations, whether matured or unmatured.

(f) The Company further agrees that its obligations hereunder shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Guaranteed Obligation is rescinded or must otherwise be restored by the Bank upon the bankruptcy or reorganization of any Applicant or otherwise. Nothing shall discharge or satisfy the liability of the Company hereunder except the full and final performance and payment in cash of the Guaranteed Obligations.

ARTICLE III

CONDITIONS

3.01 Conditions Precedent to Closing Date. The occurrence of the Closing Date, and the obligation of the Bank to issue any LOC, is subject to the satisfaction (or waiver in accordance with **Section 7.01**) of the following conditions precedent:

(a) The Bank shall have received from each party hereto or thereto either (i) a counterpart of this Agreement, the Parent Guaranty and the Credit Support Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Bank (which may include electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement and the Parent Guaranty.

(b) The Bank shall have received from the Company a signed certificate, dated as of the Closing Date and signed by a Responsible Officer of the Company on behalf of the Company, certifying as to (i) the truth in all material respects of the representations and warranties contained in the Loan Documents as though made on and as of the Closing Date and (ii) the absence of any Event of Default.

(c) The Bank shall have received documents and certificates relating to the organization, existence, and good standing of each Credit Party, and the authorization of the transactions contemplated hereby, all in form reasonably satisfactory to the Bank, including (i) certified copies of the resolutions (or comparable evidence of authority) of each Credit Party approving the transactions contemplated by the Loan Documents, (ii) a certification as to the names and true signatures of the officers of each Credit Party that are authorized to sign the Loan Documents and the other documents to be delivered hereunder, and (iii) an electronic instruction document authorizing the Bank to act upon instructions received from such Credit Party by facsimile or electronic mail.

(d) The Bank shall have received a written opinion (addressed to the Bank and dated the Closing Date) of counsel to the Company covering the matters set forth in Exhibit C-1 and of in-house counsel to the Parent Guarantor covering the matters set forth in Exhibit C-2, in each case in form and substance reasonably satisfactory to the Bank. Each of the Company and the Parent Guarantor hereby requests such counsel to deliver such opinion, which may be delivered by electronic transmission to the Bank with the signed original(s) to follow within ten (10) days after the Closing Date.

(e) The Bank shall have received evidence, reasonably satisfactory to it, that the Existing Facility has been terminated on or prior to the date hereof.

(f) Patriot Act. The Bank shall have received all documentation and other information reasonably requested by it that is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act.

(g) The Bank shall have received all fees and other amounts due and payable on or prior to the Closing Date and, to the extent invoiced, reimbursement or payment of all expenses required to be reimbursed or paid by any Applicant hereunder, including the reasonable fees and out-of-pocket disbursements of Sheppard Mullin Richter & Hampton LLP, as special counsel to the Bank.

3.02 Conditions Precedent to Each Issuance, Extension or Increase of an LOC. In addition to the conditions to issuance or amendment set forth in **Section 2.01**, the obligation of the Bank to issue or

amend the expiry, amount or language of an LOC (including any issuance on the Closing Date) shall be subject to the further conditions precedent that on the date of such issuance or amendment:

(a) the representations and warranties contained in each Loan Document are true and correct in all material respects on and as of such date, before and after giving effect to such issuance, extension (other than any automatic extension of an LOC), or increase, as though made on and as of such date, other than any such representation or warranty that, by its terms, refers to a specific date other than the date of such issuance, extension or increase, in which case as of such specific date, unless waived in accordance with **Section 7.01**;

(b) no Block Notice is in effect;

(c) no Event of Default, or event or condition that would constitute an Event of Default described in **Section 6.01(a)**, **Section 6.01(f)**, or **Section 6.01(g)** but for the requirement that notice be given or time elapse or both, has occurred and is continuing or would result from such issuance, extension, or increase;

(d) the Parent Guarantor shall not have repudiated, or asserted the unenforceability of the Parent Guaranty and the Parent Guaranty shall continue to be in full force and effect; and

(e) in the case of the issuance, extension or increase of the amount of any LOC denominated in an Alternate Currency, there shall not have occurred any change in national or international financial, political, or economic conditions or currency exchange rates or exchange controls which in the reasonable opinion of the Bank would make it impracticable for such LOC to be issued, extended or increased in such Alternate Currency.

Each request for issuance, extension, or increase of an LOC and each automatic extension permitted pursuant to **Section 2.02(c)** shall be deemed to be a representation and warranty by the applicable Applicant that both on the date of such request and on the date of such issuance, extension, or increase or automatic extension the foregoing statements are true and correct.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

The Company represents and warrants as follows:

4.01 Existence, Etc. Each Credit Party (i) is duly organized or formed, validly existing, and in good standing under the laws of the jurisdiction of its incorporation or formation, (ii) is duly qualified and in good standing as a foreign corporation or other entity in each other jurisdiction in which it owns or leases property or in which the conduct of its business requires it to so qualify or be licensed except where the failure to so qualify or be licensed could not reasonably be expected to have a Material Adverse Effect, and (iii) has all requisite power and authority (including all governmental licenses, permits and other approvals) to own or lease and operate its properties and to carry on its business as now conducted and as proposed to be conducted, except where the failure to have any license, permit or other approval could not reasonably be expected to have a Material Adverse Effect.

4.02 Authority and Authorization. The execution, delivery, and performance by each Credit Party of each Loan Document to which such Credit Party is party, and the consummation of the transactions contemplated thereby, are within the organizational powers of such Credit Party, have been duly authorized by all necessary organizational action, and do not (i) contravene the Constituent

Documents of such Credit Party, or (ii) violate any Law (including Regulation X of the FRB), order, writ, judgment, injunction, decree, determination or award, or (iii) conflict with or result in the breach of, or constitute a default under, any contract, loan agreement, indenture, mortgage, deed of trust, lease or other instrument binding on or affecting such Credit Party or its properties, which, in the case of any violation, conflict, breach or default under clause (ii) or (iii) could reasonably be expected to have a Material Adverse Effect. No Credit Party is in violation of any such Law, order, writ, judgment, injunction, decree, determination or award or in breach of any such contract, loan agreement, indenture, mortgage, deed of trust, lease or other instrument, the violation or breach of which could reasonably be expected to have a Material Adverse Effect.

4.03 Approvals. No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or any other third party is required for the due execution, delivery, or performance by any Credit Party of any Loan Document to which it is party or the consummation of the transactions contemplated thereby, other than has been obtained and is in full force and effect as of the Closing Date.

4.04 Enforceability. This Agreement has been, and each other Loan Document to which a Credit Party is a party, has been or when delivered hereunder will have been, duly executed and delivered by such Credit Party. This Agreement is, and each other Loan Document to which a Credit Party is a party, is or when delivered hereunder will be, the legal, valid, and binding obligation of such Credit Party, enforceable against it in accordance with the terms thereof, subject to bankruptcy, insolvency, and similar laws of general application relating to creditors' rights and to general principles of equity.

4.05 Litigation. Except as disclosed in the Company's filings with the SEC from time to time, there is no action, suit, investigation, litigation or proceeding affecting the Company pending or, to the knowledge of the Company, threatened in writing before any Governmental Authority that could reasonably be expected to have a Material Adverse Effect.

4.06 Margin Regulations; Investment Company Act.

(a) The Company is not engaged, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock.]

(b) No Credit Party is required to be registered as an "investment company" under the Investment Company Act of 1940.

4.07 Compliance with Laws and Agreements. Each Credit Party is in compliance with all Laws applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No Credit Party is in default in any material respect beyond any applicable grace period under or with respect to any of its Constituent Documents or any indenture, agreement, instrument or undertaking to which it is a party or by which it or any of its property is bound, the existence of which default has not been waived in writing and which, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

4.08 Anti-Corruption Laws, Anti-Terrorism Laws and Sanctions.

(a) Each Credit Party and each Subsidiary is in compliance, in all material respects, with all applicable Anti-Corruption Laws, Anti-Terrorism Laws and Sanctions and are not engaged in any

activity that would reasonably be expected to result in any Credit Party or any Subsidiary being designated as a Sanctioned Person.

(b) Policies and procedures the Company believes are designed to ensure compliance by the Credit Parties, their respective Subsidiaries and their respective directors, officers, employees and agents with applicable Anti-Corruption Laws, Anti-Terrorism Laws and Sanctions have been implemented, and are maintained in effect, by the Credit Parties or otherwise on behalf of their Subsidiaries.

(c) No Credit Party is, nor is any Subsidiary of a Credit Party or any of their respective directors, officers or employees or, to the knowledge of any Credit Party, any agent or Affiliate of any Credit Party, with the exception of Total S.A. and its subsidiaries (not including the Credit Parties or any of their respective Subsidiaries) (covered in Section 4.08(d) below) (1) the subject of any Sanctions (2) located, organized or resident in a Sanctioned Country or (3) aware of or has taken any action, directly or indirectly, that would result in a violation by such Person of any applicable Anti-Corruption Law.

(d) Total S.A. and its subsidiaries (not including the Credit Parties or any of their respective Subsidiaries) are not the subject of any Sanctions and are in compliance with all applicable Sanctions. Total S.A. and its subsidiaries are not engaged in any activity that would result in any Credit Party or any Subsidiary being designated as a Sanctioned Person.

(e) No LOC has been or will be issued, and no proceeds from any LOC have been or will be, directly or indirectly, used, loaned, contributed or otherwise made available to any subsidiary, joint venture partner or other Person, in any case, (i) to fund any activities or business of or with any Person, or in any country or territory, that, at the time of such funding, is, or whose government is, the subject of Sanctions, (ii) in any other manner that would result in a violation of Sanctions by any Person (including any Person participating in any LOC, whether as underwriter, advisor, investor, or otherwise), or (iii) to fund any payment that could constitute a violation of any applicable Anti-Corruption Law.

4.09 No Event of Default. No Event of Default has occurred and is continuing.

ARTICLE V

COVENANTS

Until the Commitment has expired or been terminated and the principal of and interest on each LOC Disbursement and all fees payable hereunder shall have been paid in full in cash and all LOCs shall have expired without any pending drawing or terminated, the Company covenants and agrees with the Bank that:

5.01 Information. The Company will furnish to the Bank:

(a) within ninety (90) days after the end of each fiscal year of the Company, its audited consolidated balance sheet and related statements of earnings, shareholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by independent public accountants of recognized national standing and reasonably acceptable to the Bank (without a "going concern" explanatory note or any similar qualification or exception or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly, in all material respects, the financial condition and results of

operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP;

(b) within forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year of the Company, its consolidated balance sheet and related statements of earnings, shareholders' equity and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly, in all material respects, the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP, subject to normal year-end audit adjustments and the absence of footnotes; and

(c) written notice of the occurrence of an Event of Default, which notice shall be given within five (5) Business Days after the actual knowledge of an officer of the Company of such occurrence, specifying the nature and extent thereof and, if continuing, the action the Company or relevant Credit Party is taking or proposes to take in respect thereof.

The Parent Guarantor shall promptly (and not later than three (3) Business Days after the occurrence thereof) notify the Company of any Event of Default occurring under **Section 6.01(d)**, **(e)**, **(f)**, **(g), (h)** or **(i)** and relating to the Parent Guarantor.

Anything required to be delivered pursuant to **Section 5.01(a)** or **(b)** above (to the extent any such financial statements or reports are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which the Company posts such reports, or provides a link thereto, on the Company's website on the Internet, or on the date on which such reports are filed with the SEC and become publicly available.

5.02 Existence. Each Credit Party shall do or cause to be done all things necessary to preserve and keep in full force and effect its legal existence and the rights, licenses, permits, privileges, authorizations, qualifications and accreditations material to the conduct of its business, in each case if the failure to do so, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, consolidation or other transaction expressly permitted hereunder.

5.03 Compliance with Laws. Each Credit Party will comply with all applicable laws, ordinances, rules, regulations, and requirements of Governmental Authorities except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

5.04 Inspection of Property, Books and Records. Each Credit Party will keep, and will cause each of its Subsidiaries to keep, adequate books of record and account, and will permit representatives of the Bank to visit and inspect (upon one (1) Business Day's notice) any of its properties, to examine and make abstracts from any of its books and records and to discuss its affairs, finances and accounts with its officers, employees and independent public accountants, all during regular business hours and as often as reasonably requested (provided, however, that unless an Event of Default shall have occurred and be continuing, such inspection right shall be limited to one occurrence per Bank in any twelve (12) month period).

5.05 Anti-Corruption Laws, and Terrorism Laws and Sanctions. Each Credit Party shall, and shall cause their Subsidiaries to, conduct their businesses in compliance with applicable Anti-Corruption

Laws, Anti-Terrorism Laws and Sanctions and maintain policies and procedures designed to promote and achieve compliance with such Laws.

ARTICLE VI

EVENTS OF DEFAULT

6.01 Events of Default and Their Effect. If any of the following events (each an "Event of Default") shall occur and be continuing:

(a) Any (i) Applicant shall, other than as a result of administrative or technical error so long as such error is corrected within three (3) Business Days of notification to such Applicant of such error, fail to pay any reimbursement obligation in respect of any LOC Disbursement made by the Bank pursuant to an LOC, (ii) Applicant shall fail to deposit Cash Collateral when and as the same shall become due and payable, or (iii) Credit Party shall fail to pay any other amount payable by such Credit Party under any Loan Document, in each case within five (5) Business Days after the same becomes due and payable with respect to a payment required to be made pursuant to **Section 2.03** or ten (10) Business Days after the same becomes due and payable with respect to any other payment required to be made hereunder;

(b) Any representation or warranty made by any Credit Party (or any of its officers or other representatives) under or in connection with any Loan Document shall prove to have been incorrect in any material respect when made or deemed to have been made and such inaccuracy is not remedied within thirty (30) days after receipt of notice to the applicable Credit Party and the Parent Guarantor from the Bank specifying such inaccuracy;

(c) Any Credit Party shall fail to perform or observe any term, covenant, or agreement contained herein on its part to be performed or observed if such failure shall remain unremedied for thirty (30) days after written notice thereof shall have been given to the Company by the Bank, except where such default cannot be reasonably cured within 30 days but can be cured within sixty (60) days, the Credit Party has (i) during such 30-day period commenced and is diligently proceeding to cure the same and (ii) such default is cured within 60 days after the earlier of becoming aware of such failure and receipt of notice to the Company and the Parent Guarantor from the Bank specifying such failure;

(d) The Parent Guarantor shall fail to pay any indebtedness for borrowed money pursuant to a loan agreement or noncontingent payment obligation pursuant to a letter of credit agreement of similar nature to this Agreement, individually or in the aggregate, in excess of the Dollar Equivalent of $200,000,000, when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such indebtedness, provided, however, that a written waiver of such failure by the Person to whom such Indebtedness is owed shall be a written waiver of the Event of Default resulting pursuant to this clause (d) from such failure; or the maturity of such indebtedness is accelerated, provided, however, that a written waiver of such failure by the Person to whom such indebtedness is owed shall be a written waiver of the Event of Default resulting pursuant to this subclause from such failure;

(e) The Parent Guarantor shall repudiate, or assert the unenforceability of the Parent Guaranty, or the Parent Guaranty shall for any reason not be in full force and effect or the Company shall repudiate, or assert the unenforceability of this Agreement;

(f) The entry by a court having jurisdiction in the premises of (i) a decree or order for relief in respect of the Parent Guarantor, the Company or any other Credit Party in an involuntary case or proceeding under the Bankruptcy Code or any other applicable Debtor Relief Laws or (ii) a decree or order adjudging the Parent Guarantor, the Company or any other Credit Party bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Parent Guarantor, the Company or any other Credit Party under the Bankruptcy Code or any other applicable Debtor Relief Laws, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Parent Guarantor, the Company or any other Credit Party or any substantial part of the property of the Parent Guarantor or the Company, or ordering the winding up or liquidation of the affairs of the Parent Guarantor, the Company or any other Credit Party, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of ninety (90) consecutive days;

(g) The commencement by the Parent Guarantor, the Company or any other Credit Party of a voluntary case or proceeding under the Bankruptcy Code or any other applicable Debtor Relief Laws, or of any other case or proceeding to be adjudicated bankrupt or insolvent, or the consent by the Parent Guarantor, the Company or any other Credit Party to the entry of a decree or order for relief in respect of the Company or any other Credit Party in an involuntary case or proceeding under the Bankruptcy Code or any other applicable Debtor Relief Laws or to the commencement of a bankruptcy or insolvency case or proceeding against it, or the filing by the Parent Guarantor, the Company or any other Credit Party of a petition or answer or consent seeking reorganization or relief under any applicable Debtor Relief Laws, or the consent by the Parent Guarantor, the Company or any other Credit Party to the filing of such petition or the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator, or similar official of the Parent Guarantor, the Company or any other Credit Party or of any substantial part of the property of, or the making by the Parent Guarantor, the Company or any other Credit Party of an assignment for the benefit of creditors, or the admission by the Parent Guarantor, the Company or any other Credit Party in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Parent Guarantor, the Company or any other Credit Party in furtherance of any such action; or

(h) Parent Guarantor shall at any time fail, directly or indirectly, to Control and to own greater than fifty percent (50.0%) of the economic interest in the issued and outstanding equity interests in the Company;

then, and in any such event, the Bank (i) may, by notice to the Company, declare the obligation of the Bank to issue or amend the expiry, amount or language of any LOC to be terminated, whereupon the same shall forthwith terminate, and/or (ii) may, by notice to the Company, declare all amounts payable under this Agreement and the other Loan Documents to be forthwith due and payable, whereupon all such amounts shall become and be forthwith due and payable, without presentment, demand, protest, or further notice of any kind, all of which are hereby expressly waived by each Credit Party, and/or (iii) may require the Beneficiary of any LOC to draw the entire amount available to be drawn under such LOC in accordance with (and to the extent permitted by) such LOC and/or (iv) require the applicable Applicant to use best efforts to cause the Bank to be released from all its obligations under each LOC, and/or (v) exercise any and all other remedies available at law, in equity or otherwise, to secure, collect, enforce or satisfy any Obligations of any of the Credit Parties; provided that in the event of an actual or deemed entry of an order for relief (or comparable order under the Debtor Relief Laws of a country other than the United States) of with respect to any Applicant under the Bankruptcy Code (or other applicable Debtor Relief Laws), (x) the obligation of the Bank to issue, amend, or amend the expiry, amount or language of any LOC shall automatically terminate, (y) all such amounts shall automatically become due and payable, without presentment, demand, protest, or any notice of any kind, all of which are hereby expressly waived

by each Applicant, and (z) the obligation of each Applicant to provide Cash Collateral under **Section 6.02** shall automatically become effective.

6.02 Actions in Respect of the Letters of Credit upon Event of Default. If any Event of Default shall have occurred and be continuing, the Bank may, whether before or after taking any of the actions described in **Section 6.01**, demand that the Company and each other Applicant, and forthwith upon such demand the Company and each other Applicant will, without duplication of any other Cash Collateral provide to the Bank, remit as Cash Collateral to the Bank in immediately available funds an aggregate amount not less than the sum of (i) one hundred percent (100%) of the Available Amount at such time of all LOCs denominated in dollars plus (ii) one hundred five percent (105%) of the Available Amount at such time of all LOCs denominated in Alternate Currencies. If at any time during the continuance of an Event of Default the Bank determines that such funds are subject to any right or claim of any Person other than the Bank or that the total amount of such funds is less than the aggregate Available Amount at such time of all LOCs, the Company and each other Applicant will, forthwith upon demand by the Bank, remit to the Bank, as additional Cash Collateral, an amount equal to the excess of (a) such aggregate Available Amount over (b) the total amount of funds, if any, that the Bank determines to be free and clear of any such right and claim. Notwithstanding the two preceding sentences, no Applicant other that the Company shall be required to Cash Collateralize any amounts attributable to an LOC issued at the request of any other Applicant. Upon the drawing of any LOC, such funds shall be applied to reimburse the Bank, to the extent permitted by applicable law.

ARTICLE VII

MISCELLANEOUS

7.01 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document (other than with respect to an increase in the Commitment Amount pursuant to **Section 2.04(b)** or any agreement or agreements executed and delivered thereunder), nor consent to any departure by any Credit Party therefrom, shall in any event be effective unless the same shall be in writing the Bank and the Company, and then any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

7.02 Notices, Etc. All notices and other communications provided for hereunder shall be in writing (including facsimile or electronic mail) and mailed or sent to the applicable party at its address set forth below its signature hereto (or, in the case of an assignee pursuant to **Section 7.06** that is not a party hereto on the Closing Date, at its address specified in the Assignment and Assumption pursuant to which it becomes the Bank and in the case of any Subsidiary Applicant that is not a party hereto on the Closing Date, at its address specified in the Adherence Agreement pursuant to which it becomes a Subsidiary Applicant) or at such other address as shall be designated by such party in a written notice to the other parties. All such notices and communications shall be effective (a) if mailed, three (3) Business Days after the date deposited in the mail, (b) if sent by messenger or courier, when delivered, or (c) if sent by facsimile or electronic mail, when the sender receives electronic confirmation of receipt, except that (i) notices and communications to the Bank pursuant to **Article II**, shall not be effective until received by such Person; and (ii) any notice or other communication received at a time when the recipient is not open for its regular business shall be deemed received one hour after such recipient is again open for its regular business.

7.03 No Waiver; Remedies. No failure on the part of the Bank to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by Law.

7.04 Costs and Expenses.

(a) Each Credit Party agrees to pay on demand all reasonable and documented costs and expenses of the Bank (including the reasonable legal fees and out-of-pocket disbursements of Sheppard Mullin Richter & Hampton LLP, as special counsel to the Bank to the extent previously agreed) in connection with the preparation, execution and delivery of the Loan Documents; provided, however, that no Applicant shall be obligated to pay any costs and expenses to the extent attributable to any LOC issued at the request of any other Applicant.

(b) Each Credit Party agrees to indemnify and hold harmless the Bank and each of its Affiliates and the officers, directors, employees, agents and advisors of any of the foregoing (each an "Indemnified Party") from and against all claims, damages, losses, liabilities and expenses (including reasonable and documented fees and expenses of counsel) of any kind or nature whatsoever that may be incurred by or asserted or awarded against any Indemnified Party arising out of or in connection with or by reason of (including in connection with any investigation, litigation, or proceeding or preparation of a defense in connection therewith) (i) the enforcement of this Agreement or any other Loan Document or (ii) any adviser's confirmer's, or other nominated person's fees and expenses with respect to any LOC that are chargeable to any Applicant or the Bank (if the applicable LOC Request or any LOC Related Document requested or authorized such advice, confirmation, or other nomination, as applicable), except to the extent such claim, damage, loss, liability or expense shall have resulted from the gross negligence, willful misconduct or fraud of such Indemnified Party. Each Credit Party also agrees not to assert any claim against any Indemnified Party on any theory of liability for, and no Indemnified Party shall be liable in contract, tort, or otherwise for, special, indirect, consequential, exemplary, or punitive damages arising out of or otherwise relating to this Agreement, any other Loan Document, any transaction contemplated hereby or thereby or the actual or proposed use of the LOC Disbursements or any LOC (including for any consequences of forgery or fraud by any Beneficiary or any other Person).

(c) Without prejudice to the survival of any other agreement of any Credit Party hereunder or under any other Loan Document, the agreements and obligations of each Credit Party contained in **Section 2.06**, **Section 2.08**, and this **Section 7.04** shall survive the payment in full of principal, interest, and all other amounts payable hereunder and under any other Loan Document, the expiration or termination of the Commitments, and the expiration without any pending drawing or termination of all LOCs.

7.05 Binding Effect. This Agreement shall become effective when it shall have been executed by each Credit Party and the Bank and thereafter shall be binding upon and inure to the benefit of each Credit Party and the Bank and their respective successors and assigns, except that no Credit Party shall have the right to assign its rights hereunder or any interest herein without the prior written consent of the Bank (such consent not to be unreasonably withheld).

7.06 Assignments and Participations.

(a) The Bank may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment, its LOC Participating Interests and the LOC Disbursements owing to it); provided that (i) each such assignment shall be of a uniform, and not a varying, percentage of all rights and obligations of the Bank hereunder, (ii) except in the case of an assignment to a Person that, immediately prior to such assignment, was (x) the Bank or an Affiliate of the Bank, the aggregate amount of the Commitment being assigned to such Eligible Assignee pursuant to such assignment (determined as of the date of the Assignment and Assumption with respect to such assignment) shall in no event be less than $25,000,000 unless it is an assignment of the entire amount of such assignor's Commitment, or (y) not the Bank or an

Affiliate of the Bank, the aggregate amount of the Commitment being assigned to such Eligible Assignee pursuant to such assignment (determined as of the date of the Assignment and Assumption with respect to such assignment) shall in no event be less than $5,000,000 unless it is an assignment of the entire amount of such assignor's Commitment, (iii) each such assignment shall be to an Eligible Assignee, (iv) as a result of such assignment, the Company shall not be subject to additional amounts under **Section 2.06** or **2.08**, and (v) the parties to each such assignment shall execute and deliver an Assignment and Assumption. In the event the Bank shall at any time assign to one or more Eligible Assignees less than one hundred percent (100%) of its Commitment, its LOC Participating Interests and the LOC Disbursements owing to it, each of the parties to this Agreement agree to cooperate in good faith to negotiate and enter into such amendments and modifications of this Agreement and the other Loan Documents as the Bank and such Eligible Assignee(s) may reasonably request, consistent, to the extent reasonably applicable, with then prevailing customary syndicated credit market documentation, to reflect that the Commitment, the LOC Participating Interests and the LOC Disbursements then owing have been allocated among, and held by, two or more Persons.

(b) The Bank may sell participations to one or more Persons (other than the Company or any of its Affiliates) in or to all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment, its LOC Participating Interests and the LOC Disbursements owing to it; provided that (i) the Bank's obligations under this Agreement (including its Commitment and its LOC Participating Interests) shall remain unchanged, (ii) the Bank shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) the Company and the other Applicants shall continue to deal solely and directly with the Bank in connection with the Bank's rights and obligations under this Agreement, (iv) so long as there then exists no Event of Default, such participation is consented to and approved by the Company (not to be unreasonably withheld), (v) no participant under any such participation shall have any right to approve any amendment or waiver of any provision of any Loan Document, or any consent to any departure by the Company therefrom, except to the extent that such amendment, waiver or consent would reduce the principal of, or interest on, reimbursement obligations or any fees or other amounts payable hereunder, or postpone any date fixed for any payment thereof, in each case to the extent subject to such participation, and (vi) the Bank shall, acting solely for this purpose as an non-fiduciary agent of the Credit Parties (and such agency being solely for tax purposes), maintain a register on which it enters the name and address of each participant and the principal amounts of each participant's interest in any LOC Disbursement.

(c) The Bank may, in connection with any assignment or participation or proposed assignment or participation pursuant to this **Section 7.06**, disclose to the assignee or participant or proposed assignee or participant any information relating to the Company or any of its Subsidiaries furnished to the Bank by or on behalf of the Company or any such Subsidiary; provided that, prior to any such disclosure, the assignee or participant or proposed assignee or participant shall agree to preserve the confidentiality of any Confidential Information received by it from the Bank.

(d) Notwithstanding any other provision set forth in this Agreement, the Bank may at any time create a security interest in all or any portion of its rights under this Agreement (including the LOC Disbursements owing to it) in favor of any Federal Reserve Bank in accordance with Regulation A of the FRB.

7.07 Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement (or any related agreement, including any amendment hereto or waiver hereunder) by facsimile or electronic mail (in a pdf

or similar file) shall be effective as delivery of an original executed counterpart of this Agreement (or such related agreement).

7.08 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

7.09 Confidentiality. The Bank shall not disclose any Confidential Information to any Person without the consent of the Company, other than (a) to the Bank's Affiliates and their officers, directors, employees, agents and advisors with a need to know, to actual or prospective Eligible Assignees and participants, and to any direct, indirect, actual or prospective counterparty (and its advisor) to any swap, derivative or securitization transaction related to the obligations under this Agreement, and in each case then only on a confidential basis (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such information and instructed to keep such information confidential), (b) as required by any law, rule or regulation or judicial process, (c) as requested or required by any state, federal or foreign authority or examiner regulating the Bank or pursuant to any request of any self-regulatory body having or claiming authority to regulate or oversee any aspect of the Bank's business or that of any of its Affiliates, (d) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, and (e) to any rating agency when required by it; provided that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Confidential Information relating to the Company and its Subsidiaries received by it from the Bank. Each Credit Party agrees and consents to the Bank's disclosure of information relating to this transaction to Gold Sheets and other similar bank trade publications. Such information will consist of deal terms and other information customarily found in such publications.

7.10 Patriot Act. The Bank is required to obtain, verify, and record information that identifies the Company and each other Credit Party, which information includes the name and address of the Company and each other Credit Party and other information that will allow the Bank to identify the Company and each other Credit Party in accordance with the Patriot Act.

7.11 Matters Relating to HSBC. By executing this Agreement, each Credit Party acknowledges and agrees that:

(a) the Bank, HSBC Holdings plc, its affiliates and subsidiaries (together "HSBC Group"), and HSBC Group's service providers are required to act in accordance with the Laws of various jurisdictions, including those which relate to Sanctions and the prevention of money laundering, terrorist financing, bribery, corruption and tax evasion;

(b) the Bank may take, and may instruct other members of the HSBC Group to take, to the extent it or such member is legally permitted to do so under the laws of its jurisdiction, any action (a "Compliance Action") that the Bank or any other member, in its sole discretion, considers appropriate to act in accordance with Sanctions or domestic and foreign laws and regulations (for the avoidance of doubt, such Compliance Action may include the interception and investigation of any payment, communication or instruction, the making of further enquiries as to whether a person or entity is subject to any Sanctions, and the refusal to issue, pay, renew, extend or transfer an LOC or to process any transaction or instruction that does not conform with Sanctions; and

(c) neither the Bank nor any member of HSBC Group will be liable for any loss, damage, delay, or a failure of the Bank to perform its duties under this Agreement or any of the other Loan Documents arising out of or relating to any Compliance Action taken by the Bank, its service providers, or any HSBC Group member in its sole discretion.

7.12 Waiver of Immunity. Each Credit Party acknowledges that this Agreement and each other Loan Document is, and each LOC will be, entered into for commercial purposes of the applicable Applicant. To the extent that any Credit Party or any of its assets has or hereafter acquires any right of sovereign or other immunity from or in respect of any legal proceedings to enforce or collect upon any Obligation or any other agreement relating to the transactions contemplated herein, such Credit Party hereby irrevocably waives any such immunity and agrees not to assert any such right or claim in any such proceeding.

7.13 JURISDICTION, ETC.

(a) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF ANY NEW YORK STATE COURT SITTING IN NEW YORK COUNTY OR THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(b) EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS TO WHICH IT IS A PARTY IN ANY NEW YORK STATE OR FEDERAL COURT. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT SITTING IN NEW YORK COUNTY.

(c) EACH OF THE PARTIES HERETO, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AS TO ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS.

(d) EACH CREDIT PARTY HEREBY AGREES THAT SERVICE OF PROCESS IN ANY SUCH ACTION OR PROCEEDING MAY BE MADE ON SUCH APPLICANT BY THE MAILING OF COPIES THEREOF BY EXPRESS OR OVERNIGHT MAIL OR COURIER, POSTAGE PREPAID, TO SUCH APPLICANT AT ITS ADDRESS REFERRED TO IN **SECTION** 7**.02**.

(e) NOTHING IN THIS AGREEMENT SHALL AFFECT ANY RIGHT THAT ANY PARTY MAY OTHERWISE HAVE TO SERVE PROCESS IN ANY OTHER MANNER.

(f) IF ANY ACTION OR PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY

OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, THE COURT SHALL, AND IS HEREBY DIRECTED TO, MAKE A GENERAL REFERENCE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638 TO A REFEREE (WHO SHALL BE A SINGLE ACTIVE OR RETIRED JUDGE) TO HEAR AND DETERMINE ALL OF THE ISSUES IN SUCH ACTION OR PROCEEDING (WHETHER OF FACT OR OF LAW) AND TO REPORT A STATEMENT OF DECISION, PROVIDED THAT AT THE OPTION OF ANY PARTY TO SUCH PROCEEDING, ANY SUCH ISSUES PERTAINING TO A "PROVISIONAL REMEDY" AS DEFINED IN CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 1281.8 SHALL BE HEARD AND DETERMINED BY THE COURT.

7.14 GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. IF ANY LOC EXPRESSLY CHOOSES A STATE OR COUNTRY LAW OTHER THAN THE STATE OF NEW YORK, THE APPLICABLE APPLICANT SHALL BE OBLIGATED TO REIMBURSE THE BANK FOR PAYMENTS MADE UNDER SUCH LOC IF SUCH PAYMENT IS JUSTIFIED UNDER NEW YORK LAW OR SUCH OTHER LAW.

7.15 Acknowledgement and Consent to Bail-In of EEA Financial Institutions.

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Letter of Credit Facility Agreement to be duly executed and delivered by their respective officers thereunto duly authorized, as of the date first above written.

SUNPOWER CORPORATION

By: /s/ Ada Kwan
Name: Ada Kwan
Title: Treasurer

Address: 77 Rio Robles
San Jose, CA 95134
Attention: Ada Kwan
Telephone: 408-240-5500
Facsimile: 408-240-5400
E-mail: ada.kwan@sunpowercorp.com

SUNPOWER CORPORATION, SYSTEMS

By: /s/ Ada Kwan
Name: Ada Kwan
Title: Treasurer

Address: 77 Rio Robles
San Jose, CA 95134
Attention: Ada Kwan
Telephone: 408-240-5500
Facsimile: 408-240-5400
E-mail: ada.kwan@sunpowercorp.com

TOTAL S.A.

By: /s/ Patrick de La Chevardière
Name: Patrick de La Chevardière
Title: Chief Financial Officer

Address: 2, place Jean Millier
92400 Courbevoie
France
Attention: Jean-Luc Guiziou
Telephone: +33 1 47 44 26 95
Facsimile: + 33 1 47 44 50 95
E-mail: jean-luc.guiziou@total.com

HSBC BANK USA, NATIONAL ASSOCIATION

By: /s/ Thomas Lo
Name: Thomas Lo
Title: Director, Global Banking – Multinationals

Thomas Lo
ID # 19387

Address: HSBC Bank USA, National Association
601 Montgomery St., Suite 1500
San Francisco, CA 94111
Attention: Thomas Lo
Telephone: (415) 678-3877
E-mail: thomas.lo@us.hsbc.com.

EXHIBIT A

[FORM OF]
ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the "Assignment and Assumption") is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the "Assignor") and [*Insert name of Assignee*] (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Letter of Credit Facility Agreement identified below (as amended, supplemented, or otherwise modified from time to time, the "Facility Agreement"), receipt of a copy of which (and any other Loan Documents requested by the Assignee) is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Facility Agreement, as of the Effective Date inserted by the Bank as contemplated below (i) all of the Assignor's rights and obligations under the Facility Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the facility identified below and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor against any Person, whether known or unknown, arising under or in connection with the Facility Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: _____

2. Assignee: _____
[and is an Affiliate of [*identify Bank*]]

3. [Company / Applicants]: _____

4. Facility Agreement: The $175,000,000 Letter of Credit Facility Agreement dated as of June 29, 2016 among SunPower Corporation, Total S.A., SunPower Corporation, Systems, the Subsidiary Applicants parties thereto from time to time, and HSBC Bank USA, National Association

5. Assigned Interest:

Facility Assigned	Aggregate Commitment Amounts / Credit Exposure for all Banks	Amount of Commitment / Credit Exposure Assigned	Percentage Assigned of Commitment/Credit Exposure[1]
Letter of Credit Facility	$_____	$_____	_____%

Effective Date: _____ ___, 20___ [TO BE INSERTED BY BANK AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: _____
Name:
Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By: _____
Name:
Title:

[1] Set forth, to at least 9 decimals, as a percentage of the Commitment / Credit Exposure of all Banks thereunder.

[Consented to:][2]

[NAME OF RELEVANT PARTY]

By _____
Title:

---

[2] To be added only if the consent of the Company [and/or other Applicants] is required by the terms of the Facility Agreement.

EXHIBIT B

[FORM OF]
LOC REQUEST

[*See attached.*]

HSBC

APPLICATION FOR IRREVOCABLE STANDBY LETTER OF CREDIT

To: HSBC Bank USA, National Association
Trade and Supply Chain - Standby Unit
2 Hanson Place, 14th Floor
Brooklyn, New York 11217 U.S.A.

L/C NO. _____
(FOR BANK USE ONLY)

DATE:

Reference is made to that certain Letter of Credit Facility Agreement (as amended, supplemented, modified or restated from time to time, the "**Agreement**"), dated as of June 29, 2016 among the undersigned, HSBC Bank USA, National Association ("**Bank**") and the other parties party thereto. In accordance with the terms, provisions and conditions of the Agreement, the undersigned hereby requests that Bank issue an Irrevocable Standby Letter of Credit (together with any replacements, extensions or modifications, the "**Credit**") for the account of the undersigned with the following terms:

AIRMAIL _____ AIRMAILVIA COURIER _____ AIRMAIL, WITH SHORT PRELIMINARY CABLE _____ FULL CABLE

FOR ACCOUNT OF (APPLICANT)

_____

(ACCOUNT PARTY)
if different than Applicant

IN FAVOR OF (BENEFICIARY)

AMOUNT
Type of Currency: _____
In Numbers: _____
In Words:

_____

Drafts must be presented to drawee's counters on or before Expiration Date of:
____/____/_____ at HSBC Bank USA, N.A.

Partial Drawing : D Allowed DNot Allowed

D UNDERLYING PURPOSE OF THE CREDIT (please provide a brief overview of the underlying business purpose/arrangement/contract):

D BRIEF DESCRIPTION OF GOODS (when shipment of goods involved):

DPORT(S) OF LOADING / AIRPORT OF DEPARTURE(when shipment of goods involved):

DPORT(S) OF DISCHARGE / AIRPORT OF DESTINATION (when shipment of goods involved)
AVAILABLE BY PAYMENT AGAINST DRAFTS AT SIGHT DRAWN ON YOURSELVES ACCOMPANIED BY THE FOLLOWING DOCUMENTS:

D NONE

D BENEFICIARY'S SIGNED STATEMENT, WORDED AS FOLLOWS (KINDLY STATE EXACT WORDING THAT IS TO APPEAR ON THE STATEMENT ACCOMPANYING THE DRAFT).

D OTHER DOCUMENTS:

D SPECIAL INSTRUCTIONS TO BE AN INTEGRAL PART OF THIS APPLICATION
(IF NECESSARY, ATTACH ADDENDUM AND SIGN IN ADDITION TO THIS APPLICATION.)

We represent that, to our knowledge, the transactions covered by the Credit are not prohibited under the Foreign Assets Control Regulations of the United States Treasury Department or Tax Reform Act of 1976 as amended or the Export Administration Act of 1977 as amended or related laws and regulations thereto and that any transfer of moneys covered by the Credit conforms in every material respect with all material existing United States laws and Government regulations.

RESTRICTED - HSBC Bank USA, N.A.

Each Credit shall be issued subject to the International Standby Practices 1998, International Chamber of Commerce (ICC) Publication 590 in effect at the same time of the issuance of such Credit (ISP 98) or, if so elected by the Applicant in this Application, the Uniform Customs and Practice for Documentary Credits Publication No. 600 (2007 Revision) (UCP) most recently published by ICC. The provisions herein are supplemental to, and not in substitution of said ISP 98 (or, as applicable, UCP) to the extent consistent with the provisions of this Agreement. As to matters not governed by ISP 98 or the UCP, as applicable, the Credit shall be governed by and construed in accordance with the laws of the State of New York and applicable United States Federal laws.

"Check the Box" Election: Each Credit shall be subject to (check one):

___ International Standby Practices 1998, ICC Publication 590 ___ Uniform Customs and Practice for Documentary Credits

APPLICANT

ADDRESS

AUTHORIZED SIGNATURE(S)

Applicant Beneficiary

All correspondent bank charges payable by	D	D
All your charges payable by	D	D
Interest charges, if any, payable by	D	D

Without limiting the terms above, the Bank is hereby authorized to debit our account no. _____ with _____ for the amount of each drawing and/the Bank's commissions, fees and charges.

PLEASE SIGN OFFICIALLY

ACCOUNT NUMBER

(The following is to be executed if the Applicant is not also the Account Party)

AUTHORIZATION AND AGREEMENT OF ACCOUNT PARTY

To: HSBC Bank USA, National Association

We join in this Application, in the request to the Bank to issue the Credit described above, naming us as Account Party. In consideration thereof, we irrevocably agree that: (i) the above Applicant has the sole right to give instructions and make arrangements and amendments with respect to the foregoing Application, the Credit and disposition of documents; (ii) we shall have no right, claim, set off or defense against the Bank or the Bank's correspondents respecting any matter arising in connection with such arrangement or amendment; (iii) we shall be jointly and severally liable with Applicant for all obligations owing to the Bank in connection with the foregoing Application, the Agreement executed by Applicant with respect thereto, and the Credit; and (iv) we agree to be bound by the Agreement and all obligations of the Applicant thereunder as if were a party thereto. We agree that Applicant is authorized to assign or transfer to the Bank all or any part of our obligations arising in connection with this transaction and any security therefor. Upon such assignment or transfer, the Bank will be vested with all power and rights in respect of the obligations and security transferred or assigned to the Bank and the Bank may enforce its rights under the Agreement against us and our property in accordance with the terms hereof.

Name

ACCT PARTY – AS INDICATED ON FRONT

Address

By _____

RESTRICTED

FOR BANK USE ONLY

APPROVED		
SIGNATURE		
PRINT NAME		
CAP/WLI OFFICER CODE		
DEPARTMENT		
TELECOMM		
DUNS NO. OR TIN/SSN		
FACILITY NO.		
COST CENTER	PURPOSE CODE	
PER ANNUM RATE %	CHARGE DDA	SEND BILL
UP FRONT	ARREARS	MONTHLY
QUARTERLY	SEMI-ANNUAL	ANNUAL
OTHER CHARGES Issuance Fee (Preparation Commission) $		
AMENDMENT FEE $	PAYMENT COMMISSION	
PARTICIPATION D Yes D No If Yes, Attach Separate Memo		
SIC CODE	COUNTRY OF ULTIMATE RISK	

EXHIBIT C-1

MATTERS TO BE COVERED IN OPINION OF COUNSEL TO THE CREDIT PARTIES

The following matters will be addressed in the opinion of counsel to the Company and the Subsidiary Applicants, subject to (a) customary and appropriate assumptions, qualifications, limitations and exclusions, (b) reliance on certificates of officers of the Company and public officials and agencies, and (c) such other matters as such counsel deems necessary or appropriate in the preparation and delivery of the opinion

1. The Company is a corporation duly incorporated and existing in good standing under the laws of the State of Delaware and is authorized or qualified to do business and in good standing as a foreign corporation in the State of California. Each Subsidiary Applicant is a [corporation duly incorporated][limited liability company duly formed] and existing in good standing under the laws of the jurisdiction of its organization. Each Credit Party has the corporate or limited liability company power and authority, as applicable, (i) to conduct its business substantially as described in [an officer's certificate of such Credit Party], and (ii) to enter into and to incur and perform its obligations under the Letter of Credit Facility Agreement (the "Facility Agreement").

2. The execution and delivery to the Bank by each Credit Party of the Facility Agreement and the performance by each Credit Party of its respective obligations thereunder:

    a. have been authorized by all necessary corporate action by the Company and all necessary [corporate][limited liability company] action respectively;

    b. do not require under present law or present regulation of any governmental agency or authority of the State of New York or the United States of America any filing or registration by any Credit Party with, or approval or consent to such Credit Party of, any governmental agency or authority of the State of New York or the United States of America that has not been made or obtained except (i) those required in the ordinary course of business in connection with the performance by the Credit Parties of their respective obligations under certain covenants contained in the Facility Agreement, (ii) filings under securities laws, and (iii) filings, registrations, consents or approvals in each case not required to be made or obtained by the date hereof;

    c. do not contravene any provision of the Certificate of Incorporation or By-laws of the Company or, in the case of each Subsidiary Applicant, its [describe charter documents];

    d. do not violate (i) any present law, or present regulation of any governmental agency or authority, of the State of New York or the United States of America applicable to such Credit Party or its property or (ii) any of the "Material Agreements" to which they are a party or that is applicable to their properties or any court decree or order binding upon any of them that is listed on Annex I to the [officer's certificate]; and

    e. will not result in or require the creation or imposition of any security interest or lien upon any of its properties pursuant to the provisions of any Material Agreement.

3. The Facility Agreement has been duly executed and delivered on behalf of the Company and each Subsidiary Applicant and constitutes a valid and binding obligation of each such person, enforceable against each such person in accordance with its terms.

4. The application of the proceeds of the Letters of Credit thereof as provided in the Agreement will not be used to purchase or carry any margin stock and will not violate Regulation T, U or X of the Board of Governors of the Federal Reserve System.

5. The Company is not required to register as an "investment company" under, and as defined in, the Investment Company Act of 1940, as amended (the "1940 Act") and is not a company controlled by a company required to register as such under the 1940 Act.

EXHIBIT C-2

MATTERS TO BE COVERED IN OPINION OF COUNSEL TO THE PARENT GUARANTOR

The following matters will be addressed in the opinion of counsel to the Parent Guarantor under the laws of the Republic of France, subject to (a) customary and appropriate assumptions, qualifications, limitations and exclusions, (b) reliance on certificates of officers of the Parent Guarantor and public officials and agencies, and (c) such other matters as such counsel deems necessary or appropriate in the preparation and delivery of the opinion

1. The Parent Guarantor is duly incorporated, validly existing as a société anonyme and in good standing under the law of France and has the corporate power to enter into the Letter of Credit Facility Agreement (the "Facility Agreement") and the Parent Guaranty and to exercise its rights and perform its obligations thereunder.

2. The Parent Guarantor is not entitled to claim for itself or its assets or revenues immunity from suit, judgment or enforcement of any judgment.

3. The Parent Guarantor is validly bound pursuant to its signing of Facility Agreement and the Parent Guaranty, and the terms of the Facility Agreement and the Parent Guaranty constitute legal, valid, binding and enforceable obligations of the Parent Guarantor.

4. No authorizations, approvals or consents are required under the laws of the Republic of France for the execution and delivery by the Parent Guarantor of the Facility Agreement or the Parent Guaranty, or performance by the Parent Guarantor of its obligations under the Facility Agreement or the Parent Guaranty.

5. No further acts, conditions or things are required by French law to be done, fulfilled or performed in France in order to enable the Parent Guarantor lawfully to enter into, exercise its rights or perform its obligations under the Facility Agreement and the Parent Guaranty.

6. The execution, delivery and performance of the obligations of the Parent Guarantor under the Facility Agreement and the Parent Guaranty will not contravene any existing applicable French law, statute or published rule or regulation or any judgment, decree or permit to which the Parent Guarantor is subject nor will it contravene the Parent Guarantor's constitutive documents.

7. Each of [ ] in his capacity as Chief Financial Officer of the Parent Guarantor and [ ] in his capacity of Treasurer of the Parent Guarantor are duly authorized to execute the Facility Agreement and the Parent Guaranty on its behalf.

8. No stay of legal action or proceedings prior to a procédure de conciliation or mandat ad hoc or safeguard proceeding (procédure de sauvegarde) has been granted to Total and that no notice of judicial reorganisation (redressement judiciaire), judicial liquidation (liquidation judiciaire) or voluntary liquidation has been filed with the Registre du Commerce et des Sociétés.

9. On the basis of French domestic tax law, interest payable by the Parent Guarantor under the Facility Agreement and the Parent Guaranty is payable without deductions or withholdings on account of any present or future tax, levy, impost, duty, charge, fee, deduction or withholding of any nature and whatever called, by whomsoever, on whomsoever and wherever imposed, levied, collected, withheld or assessed.

10. It is not necessary in order to ensure the validity, effectiveness, performance and enforceability of the Facility Agreement or the Parent Guaranty that either of them be filed or registered in any public office or that any other instrument relating thereto be executed, delivered, filed or registered except that the admissibility in evidence of the Facility Agreement and the Parent Guaranty in the French Courts is subject to the production of a translation thereof into French by an officially sworn translator.

11. The submission by the Parent Guarantor in the Facility Agreement and the Parent Guaranty to the jurisdiction of the courts the State of New York sitting in New York County and of the United States District Court for the Southern District of New York, and any appellate court from any thereof (assuming it to be effective in such courts) is binding on the Parent Guarantor. The choice of New York law to govern the Facility Agreement and the Parent Guaranty is valid and would be given effect in any proceedings brought against the Parent Guarantor in the French courts, provided that the relevant content of New York law is duly proven and not held to be contrary to French Ordre Public International.

12. A final judgment for a sum of money in relation to the Facility Agreement and/or the Parent Guaranty obtained against the Parent Guarantor in New York courts would be recognized and enforceable by the French courts subject to and in accordance with the Regulation EC N°. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters.

EXHIBIT D

[FORM OF]
ADHERENCE AGREEMENT

ADHERENCE AGREEMENT (this "Agreement") dated as of _____ among _____, a _____, which is a new Subsidiary Applicant (the "New Subsidiary Applicant"), SunPower Corporation, a Delaware corporation, the direct or indirect parent of the New Subsidiary Applicant (the "Company"), SunPower Corporation, Systems, a Delaware corporation ("Systems"),Total S.A., a société anonyme organized under the laws of the Republic of France, and HSBC Bank USA, National Association (the "Bank").

Reference is made to the Letter of Credit Facility Agreement dated as of June 29, 2016, among the Company, Systems, the Subsidiary Applicants parties thereto from time to time, and the Bank (as amended, supplemented, or otherwise modified from time to time, the "Facility Agreement"). Unless the context requires otherwise, terms used herein as defined terms and not otherwise defined herein shall have the meanings given thereto in the Facility Agreement.

Section 2.12 of the Facility Agreement provides that, subject to the satisfaction of certain conditions, the undersigned New Subsidiary Applicant may become a party to, and a "Subsidiary Applicant" under, the Facility Agreement by entering into an agreement in the form of this Agreement.

Accordingly, and for other good and lawful consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. In accordance with Section 2.12 of the Facility Agreement, the New Subsidiary Applicant by its signature below becomes a "Subsidiary Applicant" under the Facility Agreement with the same force and effect as if originally named therein as a Subsidiary Applicant. The New Subsidiary Applicant hereby (a) agrees to all of the terms and provisions of the Facility Agreement applicable to it as a Subsidiary Applicant thereunder and (b) represents and warrants that it satisfies all of the requirements under the Facility Agreement for becoming a Subsidiary Applicant and that the representations and warranties relating to it contained in the Facility Agreement are true and correct in all material respects on and as of the date hereof (except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct in all material respects as of such earlier date). The Facility Agreement is hereby incorporated herein by reference.

2. Hereinafter, each reference to the "Subsidiary Applicants" in the Facility Agreement shall be deemed to include the New Subsidiary Applicant until such time as the Company executes and delivers to the Bank a notice of termination in substantially the form of **Annex A** hereto or such other form acceptable to the Bank (a "Notice of Termination"), whereupon the New Subsidiary Applicant shall cease to be a Subsidiary Applicant. Notwithstanding the preceding sentence, no such Notice of Termination will become effective at a time when any Obligations of the New Subsidiary Applicant shall be outstanding thereunder or any LOC issued at the request of the New Subsidiary Applicant shall be outstanding (which shall not have been Cash Collateralized in a manner satisfactory to the Bank in its sole discretion); provided that such Notice of Termination shall be effective to terminate the New Subsidiary Applicant's right to request LOCs under the Facility Agreement.

3. The New Subsidiary Applicant hereby agrees to be liable under the Facility Agreement, with respect to each Existing LOC listed on Schedule III to the Facility Agreement as being issued at its request, as though such Existing LOC were issued as an LOC pursuant to the Facility Agreement.

4. Each of the New Subsidiary Applicant, Systems and the Company represents and warrants to the Bank that this Agreement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally.

5. Each of the New Subsidiary Applicant, Systems and the Company represents and warrants that no Event of Default has occurred and is continuing immediately after giving effect to the execution and delivery of this Agreement.

6. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which, when taken together, shall constitute but one agreement. This Agreement shall become effective when the Bank shall have received counterparts of this Agreement that bear the signatures of the New Subsidiary Applicant, the Company, Systems and the Bank. Delivery of an executed counterpart of a signature page of this Agreement by electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

7. Each of the New Subsidiary Applicant and the Company agrees to furnish to the Bank such information as the Bank shall reasonably request in connection with the New Subsidiary Applicant or the Company.

8. Except as expressly supplemented hereby, the Facility Agreement shall remain in full force and effect.

9. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

10. If any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and in any other Loan Document shall not in any way be affected or impaired.

11. All communications and notices hereunder shall be in writing and given as provided in Section 7.02 of the Facility Agreement. All communications and notices hereunder to the New Subsidiary Applicant shall be given to it at the address set forth under its signature hereto.

12. Neither this Agreement nor any provision hereof may be waived, amended, or modified except as provided in Section 7.01 of the Facility Agreement.

13. The New Subsidiary Applicant agrees to reimburse the Bank for its reasonable expenses incurred in connection with this Agreement, including the reasonable fees, disbursements, and other charges of counsel.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Adherence Agreement to be duly executed and delivered as of the day and year first above written.

Address:

_____
_____
_____
_____

[NEW SUBSIDIARY APPLICANT]

By: _____
Name:
Title:

SUNPOWER CORPORATION

By: _____
Name:
Title:

SUNPOWER CORPORATION, SYSTEMS

By: _____
Name:
Title:

TOTAL S.A.

By: _____
Name:
Title:

HSBC BANK USA, NATIONAL ASSOCIATION

By: _____
Name:
Title:

EXHIBIT E

[FORM OF]
PARENT GUARANTY

EXECUTION VERSION

GUARANTY

This **GUARANTY** (the "Guaranty"), dated as of June 29, 2016, is between TOTAL S.A., a société anonyme organized under the laws of the Republic of France (the "Guarantor"), and HSBC BANK USA,NATIONAL ASSOCIATION, having a registered office at 452 Fifth Avenue, New York, NY 10018 (the "Bank").

RECITALS

A. SunPower Corporation, a Delaware corporation (the "Obligor"), and one or more Subsidiary Applicants wish to enter into a Letter of Credit Facility Agreement dated as of the date hereof among the Obligor, the Guarantor, the Subsidiary Applicants from time to time party thereto, and the Bank (as amended, supplemented, or otherwise modified from time to time, the "Contract") the form of which Contract has been provided to the Obligor and to the Guarantor. Terms not otherwise defined herein shall have the meaning ascribed to them in the Contract.

B. It is a condition precedent to the Bank's extension of credit under the Contract that the Guarantor guarantee the payment to the Bank of the Obligor's payment obligations under the Contract with respect to the reimbursement of draws on letters of credit and interest thereon.

C. Guarantor owns a majority of the issued and outstanding voting and economic equity interests in the Obligor and will receive direct and indirect benefits from the Bank's performance of the Contract.

AGREEMENT

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties hereby agree as follows:

1. Guaranty. (a) Guarantor unconditionally guarantees and promises to pay to the Bank, in accordance with the payment instructions contained in the Contract, on demand after the default by the Obligor in the performance of its payment obligations under the Contract, in lawful money of the United States (or, if applicable, in an Alternate Currency or, at the Bank's option, the Dollar Equivalent thereof) any and all Obligations (as hereinafter defined) consisting of payments due to the Bank. For purposes of this Guaranty, the term "Obligations" means and includes the obligations of the Obligor (including as guarantor) now or hereafter arising to reimburse to the Bank the amount of any draw on any letter of credit issued pursuant to the Contract (including any letters of credit issued on the request of or for any Subsidiary Applicant) and all interest accrued on such reimbursement obligation from the date of such reimbursement until the date paid, including, without limitation, interest accruing at the rate provided in the Contract on or after the commencement of any bankruptcy, insolvency or other comparable proceeding under the Bankruptcy Code or other applicable Debtor Relief Laws, whether or not

allowed or allowable. For the avoidance of doubt, the term “Obligations” does not include fees, expenses or other amounts payable by the Obligor to the Bank.

(b) This Guaranty is absolute, unconditional, continuing and irrevocable, constitutes an independent guaranty of payment and is in no way conditioned on or contingent upon any attempt to enforce in whole or in part any of the Obligor’s Obligations to the Bank, the existence or continuance of the Obligor as a legal entity, the consolidation or merger of the Obligor with or into any other entity, the sale, lease or disposition by the Obligor of all or substantially all of its assets to any other entity, or the bankruptcy or insolvency of the Obligor, the admission by the Obligor of its inability to pay its debts as they mature, or the making by the Obligor of a general assignment for the benefit of, or entering into a composition or arrangement with, creditors. If the Obligor fails to pay or perform any Obligations to the Bank that are subject to this Guaranty as and when they are due, the Guarantor shall forthwith pay to the Bank all such liabilities or obligations in immediately available funds. Each failure by the Obligor to pay any Obligations shall give rise to a separate cause of action, and separate suits may be brought hereunder as each cause of action arises.

(c) The Bank may at any time and from time to time, without the consent of or notice to the Guarantor, except such notice as may be required by applicable statute that cannot be waived, without incurring responsibility or liability to the Guarantor, and without impairing or releasing the obligations of the Guarantor hereunder, (i) exercise or refrain from exercising any rights against the Obligor or others (including the Guarantor) or otherwise act or refrain from acting, (ii) settle or compromise any Obligations hereby guaranteed and/or any other obligations and liabilities (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any obligations and liabilities which may be due to the Bank or others, and (iii) sell, exchange, release, surrender, realize upon or otherwise deal with in any manner or in any order any property pledged or mortgaged by anyone to secure or in any manner securing the Obligations hereby guaranteed.

(d) The Bank may not, without the prior written consent of the Guarantor, (i) alter (except as expressly permitted by the Contract) any Obligation hereby guaranteed or amend, modify or supplement the terms of the Contract (other than the addition of a Subsidiary Applicant or Subsidiary Account Party or the termination of a Subsidiary Applicant or Subsidiary Account Party pursuant to the terms and conditions of the Contract), (ii) take and hold security or additional security of or from a Credit Party for any or all of the obligations or liabilities covered by this Guaranty, except as provided in the Contract (including, without limitation, Cash Collateral as provided in Section 2.14, Section 6.01 and Section 6.02 of the Contract) or (iii) except as provided in the Contract (including, without limitation, Section 7.06 of the Contract) assign its rights and interests under this Guaranty, in whole or in part.

(e) No invalidity, irregularity or unenforceability of any of the Obligations hereby guaranteed shall affect, impair, or be a defense to this Guaranty, including, without limitation, any Law of any jurisdiction or any other event affecting any term of any of the Obligations. This is a continuing Guaranty for which Guarantor receives continuing consideration and all obligations to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon and this Guaranty is therefore irrevocable without the prior written consent of the Bank.

(f) All payments by the Guarantor hereunder shall be made free and clear of and without deduction for any Taxes. If the Guarantor shall be required by law to deduct any Taxes from or in respect of any sum payable hereunder to the Bank, (i) the sum payable shall be increased as may be necessary so that after the Guarantor and the Bank have made all required deductions the Bank receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Guarantor shall make all such deductions, and (iii) the Guarantor shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable Law.

(g) The Guarantor further agrees that its obligations hereunder shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Obligation is rescinded or must otherwise be restored by the Bank upon the bankruptcy or reorganization of the Obligor or otherwise. Nothing shall discharge or satisfy the liability of the Guarantor hereunder except the full and final performance and payment in cash of the Obligations.

2. Representations and Warranties. The Guarantor represents and warrants to the Bank that (a) the Guarantor is a société anonyme duly organized, validly, existing and in good standing under the laws of its jurisdiction of incorporation or formation, (b) the execution, delivery and performance by the Guarantor of this Guaranty are within the power of the Guarantor and have been duly authorized by all necessary actions on the part of the Guarantor, (c) this Guaranty has been duly executed and delivered by the Guarantor and constitutes a legal, valid and binding obligation of the Guarantor, enforceable against it in accordance with its terms, except as limited by bankruptcy, insolvency or other laws of general application relating to or affecting the enforcement of creditors' rights generally, (d) the execution, delivery and performance of this Guaranty do not (i) violate any law, rule or regulation of any governmental authority, or (ii) result in the creation or imposition of any material lien, charge, security interest or encumbrance upon any property, asset or revenue of the Guarantor, (e) no consent, approval, order or authorization of, or registration, declaration or filing with, any governmental authority or other person (including, without limitation, the shareholders of the Guarantor) is required in connection with the execution, delivery and performance of this Guaranty, except such consents, approvals, orders, authorizations, registrations, declarations and filings that are so required and which have been obtained and are in full force and effect, (f) the Guarantor is not in violation of any law, rule or regulation other than those the consequences of which cannot reasonably be

expected to have material adverse effect on the ability of the Guarantor to perform its obligations under this Guaranty, and (g) no litigation, investigation or proceeding of any court or other governmental tribunal is pending or, to the knowledge of the Guarantor, threatened against the Guarantor which, if adversely determined, could reasonably be expected to have a material adverse effect on the ability of the Guarantor to perform its obligations under this Guaranty.

3. Waivers. (a) The Guarantor, to the extent permitted under applicable law, hereby waives any right to require Bank to (i) proceed against the Obligor or any other guarantor of the Obligor's obligations under the Contract, (ii) proceed against or exhaust any security received from the Obligor or any other guarantor of the Obligor's Obligations under the Contract, or (iii) pursue any other right or remedy in the Bank's power whatsoever.

(b) The Guarantor further waives, to the extent permitted by applicable law, (i) any defense resulting from the absence, impairment or loss of any right of reimbursement, subrogation, contribution or other right or remedy of the Guarantor against the Obligor, any other guarantor of the Obligations or any security, (ii) any setoff or counterclaim of the Obligor or any defense which results from any disability or other defense of the Obligor or the cessation or stay of enforcement from any cause whatsoever of the liability of the Obligor (including, without limitation, the lack of validity or enforceability of the Contract), (iii) any right to exoneration of sureties that would otherwise be applicable, (iv) any right of subrogation or reimbursement and, if there are any other guarantors of the Obligations, any right of contribution, and right to enforce any remedy that the Bank now has or may hereafter have against the Obligor, and any benefit of, and any right to participate in, any security now or hereafter received by Bank, (v) all presentments, demands for performance, notices of non-performance, notices delivered under the Contract, protests, notice of dishonor, and notices of acceptance of this Guaranty and of the existence, creation or incurring of new or additional Obligations and notices of any public or private foreclosure sale, (vi) the benefit of any statute of limitations, (vii) any appraisement, valuation, stay, extension, moratorium redemption or similar law or similar rights for marshalling, and (viii) any right to be informed by the Bank of the financial condition of the Obligor or any other guarantor of the Obligations or any change therein or any other circumstances bearing upon the risk of nonpayment or nonperformance of the Obligations. The Guarantor has the ability to and assumes the responsibility for keeping informed of the financial condition of the Obligor and any other guarantors of the Obligations and of other circumstances affecting such nonpayment and nonperformance risks.

4. Notice of Issuance of Letters of Credit and Draws Thereon; Block Notice.

(a) Notice of Issuance of Letter of Credit and Draws Thereon. Within ten (10) days after each issuance of a letter of credit under the Contract, the Bank will notify the Guarantor of (i) the amount of such letter of credit (including a copy thereof) and (ii) the aggregate amount of letters of credit that are outstanding under the Contract, after giving effect to such issuance. In addition the Bank will notify the Guarantor of any draw on any letter of

credit (including the date and amount of such draw) issued pursuant to the Contract within two business days of such draw, even if such draw is reimbursed by the Obligor to the Bank prior to the delivery of such notice. Any failure to furnish any notice required under this paragraph shall not affect the obligations of the Guarantor hereunder regarding any outstanding letter of credit.

(b) Right of Guarantor to Block Issuances of Letters of Credit.

(i) Delivery of Block Notice. The Guarantor may (A) suspend the right of the Obligor to obtain additional issuances of letters of credit under the Contract that are subject to this Guaranty at any time following the occurrence and during the continuance of a Trigger Event (as defined in the Amended and Restated Credit Support Agreement dated as of June 29, 2016, as amended, supplemented and modified from time to time (provided that the Guarantor will give notice, reasonably promptly, to the Bank of any material amendment to or modification thereof), between the Obligor and the Guarantor, the current version of which is attached hereto as Exhibit A) or (B) limit the aggregate undrawn amount of letters of credit that are subject to this Guaranty at any time following a reduction of the Maximum L/C Amount or Available Facility Amount pursuant to such Credit Support Agreement, in each case by delivering to the Bank a written notice to such effect (a "Notice of Block"). Such Notice of Block shall be made and shall be deemed effective when properly given in the manner specified in Section 5(a) of this Guaranty. The Bank will have no duty to investigate or make any determination with respect to any Notice of Block received by it and will comply with any Notice of Block given by the Guarantor. The Bank may rely upon any instructions from any person that it reasonably believes to be an authorized representative of the Guarantor. Notwithstanding any other provision herein, the Guarantor acknowledges and agrees that it shall remain liable in accordance with the terms hereof in respect of all Obligations arising out of or in connection with any issued and outstanding letter of credit that was requested under the Contract prior to the Bank's receipt of a Notice of Block.

(ii) Compliance with Notice. From and after the date a Notice of Block is delivered to the Bank pursuant to and in accordance with the provisions of clause (i) above, and until either (A) the Guarantor delivers to the Bank a written notice rescinding such Notice of Block or (B) this Guaranty is terminated, no additional letters of credit may be issued by the Bank for the benefit of the Obligor pursuant to the Contract without the prior written consent of the Guarantor.

5. Miscellaneous.

(a) Notices. All notices, requests, demands and other communications that are required or may be given under this Guaranty shall be in writing and shall be personally delivered or sent by certified or registered mail. If personally delivered, notices, requests, demands and other communications will be deemed to have been duly given at time of actual receipt. If delivered by certified or registered mail, deemed receipt will be at time

evidenced by confirmation of receipt with return receipt requested. In each case notice shall be sent:

if to the Bank, to:	Global Banking Multinationals HSBC Bank USA, National Association 601 Montgomery St., Suite 1500 San Francisco, CA 94111 Attention: Thomas Lo Telephone: (415) 678-3877 Email: Thomas.lo@us.hsbc.com
	with a copy to:
	Global Trade & Receivables Finance Legal HSBC Bank USA, National Association 452 Fifth Avenue New York, NY 10018 Attention: Amoy Chambers Telephone: (212) 525-0489 Email: amoy.w.chambers@us.hsbc.com
if to the Guarantor, to:	Total SA 2 place Jean Miller – La Defense 6 92078 Paris La Défense Cedex, France Attention: Jean-Luc Guiziou Telephone: +33 1 47 44 26 95 E-mail: jean-luc.guiziou@total.com

or to such other place and with such other copies as the Bank or the Guarantor may designate as to itself by written notice to the other pursuant to this Section 5(a).

(b) Nonwaiver. No failure or delay on the Bank's part in exercising any right hereunder shall operate as a waiver thereof or of any other right nor shall any single or partial exercise of any such right preclude any other further exercise thereof or of any other right.

(c) Amendments and Waivers. This Guaranty may not be amended or modified, nor may any of its terms be waived, except by written instruments signed by the Guarantor and the Bank. Each waiver or consent under any provision hereof shall be effective only in the specific instances for the purpose for which given.

(d) Assignments. This Guaranty shall be binding upon and inure to the benefit of the Bank and the Guarantor and their respective successors and permitted assigns.

This Guaranty may not be assigned by the Guarantor without the express written approval of the Bank.

(e) Cumulative Rights, etc. The rights, powers and remedies of the Bank under this Guaranty shall be in addition to all rights, powers and remedies given to the Bank by virtue of any applicable law, rule or regulation, the Contract or any other agreement, all of which rights, powers, and remedies shall be cumulative and may be exercised successively or concurrently without impairing the Bank's rights hereunder.

(f) Partial Invalidity. If at any time any provision of this Guaranty is or becomes illegal, invalid or unenforceable in any respect under the law or any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Guaranty nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

(g) Currency Indemnity. Any payments by the Guarantor hereunder in any Specified Currency shall not be discharged or satisfied by any tender, or any recovery pursuant to any judgment or otherwise, which is expressed in or converted into any currency other than the Specified Currency, except to the extent that such tender or recovery results in the actual receipt by the Bank of the full amount of the Specified Currency payable under this Agreement. The Guarantor shall indemnify the Bank for any shortfall and the Guarantor's obligation to make payments in the Specified Currency shall be enforceable as an alternative or additional cause of action to the extent that such actual receipt is less than the full amount of the Specified Currency expressed to be payable hereunder, and shall not be affected by judgment being obtained for other sums due hereunder.

(h) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA, WITHOUT REFERENCE TO CONFLICTS OF LAWS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

(i) JURISDICTION. EACH PARTY (A) IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF AND (B) WAIVES ANY OBJECTION WHICH SUCH PARTY MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY SUCH COURT. EACH PARTY IRREVOCABLY WAIVES THE DEFENSE OF AN INCONVENIENT FORUM FOR THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT SITTING IN NEW YORK COUNTY. EACH OF

THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(j) SERVICE OF PROCESS. EACH PARTY AGREES THAT SERVICE OF PROCESS IN ANY SUCH ACTION OR PROCEEDING MAY BE MADE BY THE MAILING OF COPIES THEREOF BY EXPRESS OR OVERNIGHT MAIL OR COURIER, POSTAGE PREPAID, TO SUCH PARTY AT ITS ADDRESS REFERRED TO IN SECTION 5(a). NOTHING IN THIS GUARANTY SHALL AFFECT ANY RIGHT THAT ANY PARTY MAY OTHERWISE HAVE TO SERVE PROCESS IN ANY OTHER MANNER. THE GUARANTOR HEREBY IRREVOCABLY APPOINTS AND DESIGNATES SUNPOWER CORPORATION, A DELAWARE CORPORATION, AS ITS AGENT FOR ACCEPTANCE OF SERVICE OF LEGAL PROCESS, SUMMONS, NOTICES, AND DOCUMENTS IN ANY ACTION OR PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THE GUARANTY; ANY SUCH SERVICE MAY BE EFFECTED BY DELIVERY TO SUNPOWER CORPORATION AT: TOTAL S.A., C/O SUNPOWER CORPORATION, ATTN: CORPORATE SECRETARY, 77 RIO ROBLES, SAN JOSE, CALIFORNIA 95134. THE GUARANTOR AGREES THAT ANY FAILURE OF (I) SUNPOWER CORPORATION TO DELIVER TO THE GUARANTOR A COPY OF ANY SUCH PROCESS OR (II) THE GUARANTOR TO RECEIVE ANY SUCH COPY SHALL NOT AFFECT IN ANY WAY THE SERVICE OF SUCH PROCESS.

(k) JURY TRIAL. EACH OF THE GUARANTOR AND THE BANK, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AS TO ANY ISSUE RELATING HERETO IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS GUARANTY.

(l) JUDICIAL REFERENCE. IF ANY ACTION OR PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, THE COURT SHALL, AND IS HEREBY DIRECTED TO, MAKE A GENERAL REFERENCE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638 TO A REFEREE (WHO SHALL BE A SINGLE ACTIVE OR RETIRED JUDGE) TO HEAR AND DETERMINE ALL OF THE ISSUES IN SUCH ACTION OR PROCEEDING (WHETHER OF FACT OR OF LAW) AND TO REPORT A STATEMENT OF DECISION, PROVIDED THAT AT THE OPTION OF ANY PARTY TO SUCH PROCEEDING, ANY SUCH ISSUES PERTAINING TO A “PROVISIONAL REMEDY” AS DEFINED IN CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 1281.8 SHALL BE HEARD AND DETERMINED BY THE COURT.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Guaranty to be executed as of the day and year first written above.

TOTAL S.A.

By _____
Name:
Title:

HSBC BANK USA, NATIONAL ASSOCIATION

By _____
Name:
Title:

EXHIBIT F

[FORM OF]
REQUEST RE SUBSIDIARY ACCOUNT PARTY

SUNPOWER CORPORATION

Date

To the Bank referred to in the Facility
Agreement referred to below

Re: Request to Approve "[ ]" as a "Subsidiary Account Party"

Reference is made to the Letter of Credit Facility Agreement, dated as of June 29, 2016 (as it may be amended, supplemented or otherwise modified from time to time, the "Facility Agreement"), among SunPower Corporation (the "Company"), SunPower Corporation, Systems, Total S.A., the Subsidiary Applicants parties thereto from time to time, and HSBC Bank USA, National Association (the "Bank"). Capitalized terms used herein without definition shall have the meanings given to such terms in the Facility Agreement.

The Company hereby requests that the Bank approve [ ], an [ ]limited liability company ("[ ]"), as a Subsidiary Account Party under the Facility Agreement. In connection therewith, the Company hereby represents and warrants to the Bank that [ ] is an [direct/indirect] Subsidiary of the Company.

Kindly sign this consent in the space provided below to approve [ ] as a Subsidiary Account Party as provided herein.

This approval to treat [ ] as a Subsidiary Account Party shall not become effective until each party hereto shall have executed and delivered this approval or a separate approval to the same effect. This approval may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page to this approval by facsimile or e-mail (in a pdf or similar file) shall be effective as delivery of an original executed counterpart of this approval. This approval constitutes one of the Loan Documents referred to in the Facility Agreement. This approval shall be governed by, and construed in accordance with, the law of the State of New York.

Very truly yours,

SUNPOWER CORPORATION

By: _____
Name:
Title:

THE FOREGOING REQUEST TO APPROVE
[ ]
AS A "SUBSIDIARY ACCOUNT PARTY" IS HEREBY APPROVED:

_____

HSBC USA BANK, NATIONAL ASSOCIATION,
as the Bank

By: _____
Name:
Title:

Exhibit 10.67

Execution Version

TRANSFER AGREEMENT

This Transfer Agreement (this "Transfer Agreement") is entered into as of June 29, 2016 by and among SunPower Corporation, a Delaware corporation (the "Company"), SunPower Corporation, Systems, a Delaware corporation (the "Subsidiary Applicant" and, together with the Company, the "Credit Parties" and individually, each a "Credit Party"), Total S.A., a société anonyme organized under the laws of the Republic of France (the "Parent Guarantor"), Deutsche Bank AG New York Branch, as administrative agent for the Banks (as defined below) (in such capacity, the "Administrative Agent"), and the Banks.

RECITALS

WHEREAS, the Credit Parties and the Parent Guarantor entered into the Letter of Credit Facility Agreement, dated as of August 9, 2011 (as amended by the First Amendment dated as of December 20, 2011, the Second Amendment dated as of December 19, 2012, the Third Amendment dated as of December 23, 2013, the Fourth Amendment dated as of December 23, 2014, and the Fifth Amendment dated as of October 7, 2015, and as may be further amended, modified, supplemented, extended or restated from time to time, the "Credit Agreement"), with the Administrative Agent and the several financial institutions from time to time a party thereto (the "Banks"). Each capitalized term used herein, that is not defined herein, shall have the meaning ascribed thereto in the Credit Agreement.

WHEREAS, pursuant to Section 2.04(a) of the Credit Agreement, the aggregate Commitment Amount permanently reduced to zero on June 28, 2016.

WHEREAS, (a) Deutsche Bank AG New York Branch ("DB") has extended to the Company a committed, bilateral letter of credit facility pursuant to a Continuing Agreement for Standby Letters of Credit and Demand Guarantees dated as of June 29, 2016 (as amended, supplemented or otherwise modified from time to time, the "DB Bilateral Facility"); (b) Crédit Agricole Corporate and Investment Bank ("Credit Agricole") has extended to the Company and the other Applicants (as defined in the Credit Agricole Bilateral Facility referred to below) a committed, bilateral letter of credit facility pursuant to a Letter of Credit Facility Agreement dated as of June 29, 2016 (as amended, supplemented or otherwise modified from time to time, the "Credit Agricole Bilateral Facility"); (c) HSBC Bank USA, National Association ("HSBC") has extended to the Company a committed, bilateral letter of credit facility pursuant to a Letter of Credit Facility Agreement dated as of June 29, 2016 (as amended, supplemented or otherwise modified from time to time, the "HSBC Bilateral Facility"); and (d) The Bank of Tokyo – Mitsubishi UFJ, Ltd. (The Bank of Tokyo – Mitsubishi UFJ, Ltd., Paris Branch together with DB, Credit Agricole and HSBC, being collectively referred to as the "Issuing Banks" and, individually, each an "Issuing Bank") has extended to the Company a committed, bilateral letter of credit facility pursuant to a Letter of Credit Facility Agreement dated as of June 29, 2016 (as amended, supplemented or otherwise modified from time to time, the "Bank of Tokyo Bilateral Facility", and together with the DB Bilateral Facility, the Credit Agricole Bilateral Facility and the HSBC Bilateral Facility, collectively, the "Bilateral Facilities" and, individually, each a "Bilateral Facility").

WHEREAS, the parties hereto desire to, among other things, cancel the LOC Participating Interests and cause each outstanding LOC issued by an Issuing Bank under the Credit Agreement and all rights and obligations in respect of such LOCs to be subject to, and governed by, the terms and conditions of such Issuing Bank's Bilateral Facility as if each such LOC were originally issued under such Issuing Bank's Bilateral Facility, all upon the terms and subject to the conditions set forth herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each of the parties to this Transfer Agreement, intending to be legally bound, hereby agrees as follows:

1. Incorporation of Recitals. Each of the above recitals is incorporated herein as true and correct and is relied upon by the Administrative Agent and each Bank in agreeing to the terms of this Transfer Agreement.

2. Outstanding LOCs. Annex 1 hereto sets forth as of the date hereof, in respect of each Issuing Bank, each outstanding LOC issued by such Issuing Bank under the Credit Agreement.

3. Cancellation of LOC Participating Interests. As of the Effective Date (as defined below), each Bank's LOC Participating Interest in respect of each outstanding LOC is hereby cancelled and of no further force or effect.

4. Transfer of LOCs to Bilateral Facilities. As of the Effective Date, each outstanding LOC issued by an Issuing Bank under the Credit Agreement, all instructions for the amendment, extension, or replacement of such LOC, the execution of any such instructions by such Issuing Bank, and all rights and reimbursement and other obligations in respect of such LOCs shall be subject to, and governed by, the terms and conditions of such Issuing Bank's Bilateral Facility as if such LOC had originally been issued under such Issuing Bank's Bilateral Facility.

5. Termination of Loan Documents. As of the Effective Date, the Credit Agreement and each other Loan Document (other than this Transfer Agreement) are hereby terminated and shall be of no further force or effect, except for (a) any provision thereof expressly stated to survive such termination, the payment in full of all reimbursement obligations, interest, and all other amounts payable thereunder, the expiration or termination of the Commitments, and/or the expiration without any pending drawing or termination of all LOCs and (b) the obligations of the Administrative Agent in connection with actions taken or to be taken by the Administrative Agent as set forth in Section 7 hereof.

6. Representations and Warranties. The Parent Guarantor and each Credit Party hereby represents and warrants to the Administrative Agent and the Banks that:

a. as of the Effective Date, all Obligations of the Company and each other Applicant arising under or in connection with the Credit Agreement and each other Loan Document (including, without limitation, all principal, interest, fees, and all other amounts payable thereunder) that are due and payable as of the Termination Date shall have been paid in full;

b. this Transfer Agreement has been duly and validly executed by an authorized officer of Parent Guarantor and each Credit Party and constitutes the legal, valid and binding obligation of the Parent Guarantor and each Credit Party;

c. no Block Notice is in effect as of the date hereof;

d. on and as of the date hereof, no Change in Law has occurred, no order, judgment or decree of any Governmental Authority has been issued, and no litigation is pending or threatened, which enjoins, prohibits, or restrains (or with respect to any litigation seeks to enjoin, prohibit, or restrain), the reimbursement of LOC Disbursements, the issuance of any LOC or any participation

therein, the consummation of any of the other transactions contemplated hereby, or the use of proceeds of the Facility; and

e. no Event of Default, or event or condition that would constitute an Event of Default but for the requirement that notice be given or time elapse or both, has occurred and is continuing or would result immediately after giving effect to this Transfer Agreement and the transactions contemplated hereby.

7. Effective Date. This Transfer Agreement shall become effective on the date hereof (the "Effective Date") when each of the following conditions has been satisfied (or waived in accordance with Section 8.01 of the Credit Agreement):

a. The Administrative Agent shall have received from the Parent Guarantor, each Credit Party, the Administrative Agent, and each Bank either (i) a counterpart of this Transfer Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include electronic transmission of a signed signature page of this Transfer Agreement) that such party has signed a counterpart of this Transfer Agreement.

b. The Administrative Agent shall have received, for the account of the applicable Person, all principal, interest, fees, costs, expenses and other amounts that are due and payable to the Administrative Agent (for its own account or for the account of any other Person) under any Loan Document as of the Termination Date and, to the extent invoiced, reimbursement or payment of the reasonable fees and disbursements of Moses & Singer LLP, special counsel to the Administrative Agent.

c. The Administrative Agent shall have received from each Issuing Bank (other than DB) notice that (i) such Issuing Bank has received all amounts that, pursuant to any Loan Document, are due and payable directly to such Issuing Bank as of the Termination Date or (ii) no such amounts are due and payable directly to such Issuing Bank as of the Termination Date.

The Administrative Agent shall notify the Company and the Banks of the Effective Date, and such notice shall be conclusive and binding.

8. Execution in Counterparts. This Transfer Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Transfer Agreement by facsimile, e-mail (in a pdf or similar file), or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Transfer Agreement.

9. Severability. Any provision of this Transfer Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

10. Amendments. This Transfer Agreement may not be amended or any provision hereof waived or modified except by an instrument in writing signed by each of the parties hereto.

11. Governing Law. This Transfer Agreement shall be construed in accordance with and governed by the law of the State of New York. [*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the Company, the Subsidiary Applicant, the Parent Guarantor, the Administrative Agent and the Banks have caused this Transfer Agreement to be executed as of the date first written above.

The "Company"

SUNPOWER CORPORATION

By: /s/ Charles Boynton
Name: Charles Boynton
Title: Executive Vice President and Chief Financial Officer

The "Subsidiary Applicant"

SUNPOWER CORPORATION, SYSTEMS

By: /s/ Ada Kwan
Name: Ada Kwan
Title: Treasurer

The "Parent Guarantor"

TOTAL, S.A.

By: /s/ Patrick de La Chevardière
Name: Patrick de La Chevardière
Title: Chief Financial Officer

[Signature Page to Transfer Agreement]

DEUTSCHE BANK AG NEW YORK
BRANCH, as Administrative Agent, as a Bank, and as an Issuing Bank

By: /s/ Prashant Mehra
Name: Prashant Mehra
Title: Director

By: /s/ Jack Leong
Name: Jack Leong
Title: Director

[Signature Page to Transfer Agreement]

BANCO SANTANDER, S.A., NEW YORK BRANCH, as a Bank

By: /s/ Rita Walz Cuccioli
Name: Rita Walz Cuccioli
Title: Executive Director
Banco Santander, S.A., New York Branch

By: /s/ Terence Corcoran
Name: Terence Corcoran
Title: Senior Vice President
Banco Santander, S.A., New York Branch

[Signature Page to Transfer Agreement]

CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK, as a Bank and as an Issuing Bank

By: /s/ Frederic Bambuck
Name: Frederic Bambuck
Title: Director

By: /s/ Javier Sanchez-Asiain
Name: Javier Sanchez-Asiain
Title: Managing Director
Head CBT Americas

[Signature Page to Transfer Agreement]

HSBC BANK USA, NATIONAL ASSOCIATION, as a Bank and as an Issuing Bank

By: /s/ Thomas Lo
Name: Thomas Lo
Title: Director

[Signature Page to Transfer Agreement]

LLOYDS TSB BANK PLC, as a Bank

By: /s/ Erin Doherty
Name: Erin Doherty
Title: Assistant Vice President – D006

By: /s/ Daven Popat
Name: Daven Popat
Title: Senior Vice President – P003

[Signature Page to Transfer Agreement]

THE BANK OF TOKYO – MITSUBISHI UFJ, LTD., PARIS BRANCH, as a Bank and as an Issuing Bank

By: /s/ Fumito Kobayashi
Name: Fumito Kobayashi
Title: General Manager

[Signature Page to Transfer Agreement]

UNICREDIT BANK AG, as a Bank

By: /s/ Renate Bergler
Name: Renate Bergler
Title: Managing Director

By: /s/ Andrea Thimm
Name: Andrea Thimm
Title: Director

[Signature Page to Transfer Agreement]

Exhibit 10.68

Execution Version

First Amendment to Credit Agreement

This First Amendment to Credit Agreement (this "Amendment") is made and entered into as of June 30, 2016, by and among SUNPOWER REVOLVER HOLDCO I, LLC, a Delaware limited liability company (the "Borrower"), MIZUHO BANK, LTD., in its capacity as Administrative Agent (in such capacity, the "Administrative Agent"), MIZUHO BANK (USA), in its capacity as Collateral Agent (in such capacity, the "Collateral Agent"), MIZUHO BANK, LTD. and GOLDMAN SACHS BANK USA, as Issuing Banks (the "Issuing Banks"), and the financial institutions party hereto as lenders (the "Lenders") and the financial institutions party hereto.

A. WHEREAS, reference is made to that certain Credit Agreement, dated as of May 4, 2016, by and among the Borrower, the Lenders, the Administrative Agent, the Collateral Agent, the Issuing Banks, and the Lenders (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement").

B. WHEREAS, the parties hereto agree to amend the Credit Agreement on the terms and subject to the conditions of this Amendment.

C. NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

Section 1. Definitions. Capitalized terms used but not defined herein have the respective meanings assigned thereto, directly or by reference, in Article 1 of the Credit Agreement.

Section 2. Amendments to the Credit Agreement:

(a) The following definition of "Designated Payor" is hereby added to Article 1 of the Credit Agreement:

""Designated Payor" has the meaning set forth in Section 5.26(a)."

(a) The following definition of "Lender's Disbursement Period" is hereby added to Article 1 of the Credit Agreement:

""Lender's Disbursement Period" has the meaning set forth in Section 5.26(b)."

(b) The following definition of "Lender's Review Period" is hereby added to Article 1 of the Credit Agreement:

""Lender's Review Period" has the meaning set forth in Section 5.26(b)."

(c) The definition of "Letter of Credit Application" in Article 1 of the Credit Agreement is hereby deleted and replaced with the following:

""Letter of Credit Application" means any letter of credit application required by an Issuing Bank to be delivered by the Borrower prior to the issuance of any Letter of Credit."

(d) The definition of "Pledged Stock" set forth in Article 1 of the Credit Agreement is hereby deleted and replaced with the following:

""Pledged Stock" shall have the meaning given to the term "Pledged Collateral" in the Pledge Agreement."

(e) The following definition of "Prompt Payment Statute" is hereby added to Article 1 of the Credit Agreement:

""Prompt Payment Statute" has the meaning set forth in Section 5.26(a)."

(f) The following definition of "Reimbursement Obligation" is hereby added to Article 1 of the Credit Agreement:

""Reimbursement Obligation" means any reimbursement the Borrower is required to make to an Issuing Bank in accordance with the first sentence of Section 2.16(e)(A)."

(g) The following definitions in Article 1 of the Credit Agreement are hereby deleted: (i) "Prepayment Account" and (ii) "Revenue Account".

(h) Section 2.2(a) of the Credit Agreement is hereby amended by deleting the following in its entirety: "and in whole multiples of $500,000 in excess thereof".

(i) The reference to the following in Section 3.2(w) of the Credit Agreement is hereby deleted in its entirety: "the Initial Project Construction Loan Equity Contribution has been previously paid by the Borrower for the payment of Project Costs related to such Projects".

(j) Section 3.2(jj) of the Credit Agreement is hereby deleted and replaced with the following:

"(jj) The Administrative Agent shall have received a letter from the Independent Engineer, in form and substance acceptable to the Administrative Agent, confirming that the applicable Initial Project Construction Loan Equity Contribution has been previously paid by the Borrower for the payment of Project Costs related to such Projects."

(k) Section 3.3(h) of the Credit Agreement is hereby amended by adding the following to the end of such Section:

"With respect to all Projects located in Arizona, the releases of mechanic's and materialmen's liens that Administrative Agent must receive with each Construction Loan Notice of Borrowing are conditional lien waivers, in the forms prescribed by Arizona Revised Statute Sections 33-1008(D)(1) and

33-1008(D)(3), as applicable, for amounts requested in the current Construction Loan Notice of Borrowing and unconditional lien waivers, in the forms prescribed by Arizona Revised Statute Sections 33-1008(D)(2) and 33-1008(D)(4), as applicable, for amounts requested in the previous Construction Loan Notice of Borrowing".

(l) Section 3.2 of the Credit Agreement is hereby amended by adding the following new clause 3.2(nn) at the end of such Section:

"(nn) Prior to any Borrowing in respect of Macy's San Diego (Mission Viejo Project Site), delivery by the Borrower to the Administrative Agent of title reports from the Title Company with respect to such Project Site, which such reports shall be in form and substance reasonably acceptable to the Administrative Agent."

(m) Section 5.12 of the Credit Agreement is hereby amended by deleting clause (a) thereof and replacing clause (a) with the following: "(a) is an EWG and/or a QF".

(n) Section 5.23 of the Credit Agreement is hereby amended by deleting such section in its entirety and replacing it with the following:

"Section 5.23 The Borrower shall (and shall cause each Borrower Party to) cause each Project to achieve COD on or before the date that is 18 months prior to the Date Certain for such Project."

(o) Section 5.26 of the Credit Agreement is hereby amended by deleting such section in its entirety and replacing it with the following:

"Section 5.26 Prompt Payment Requirements.

(a) Compliance with Statute. Borrower Parties shall at all times comply with the provisions of A.R.S. Sections 32-1129, 32-1129.01, 32-1129.02, 32-1129.03, 32-1129.04, and 32-1129.05 (collectively, the "Prompt Payment Statute"). The Borrower represents and warrants to the Secured Parties that each Project Company owning any Project in Arizona is the "Owner" for purposes of the Prompt Payment Statute. No Secured Party shall be an "Owner" for purposes of the Prompt Payment Statute and no Secured Party shall be a "third party designated by Owner as the person responsible for making progress payments on a Construction Contract" (as the preceding quotation is used in the Prompt Payment Statute) for any Project located in Arizona (a "Designated Payor"). The Borrower shall not, and shall cause the Borrower Parties not to, cause or permit any statements or representations to be made or agreements to be entered into pursuant to which any Secured Party could reasonably be asserted to be a Designated Payor.

(b) Lender Not Responsible. The Borrower agrees that no Secured Party is responsible for compliance with the Prompt Payment Statute, as more particularly provided in subsection (a) above, and that the Borrower Parties

shall be solely responsible for such compliance. The Borrower Parties' obligation of compliance with the Prompt Payment Statute shall not in any way expand the obligations of the Secured Parties hereunder and the Secured Parties shall at all times retain the right to approve or disapprove advances of the Construction Loans in accordance with this Agreement regardless of any Borrower Party's obligations to any EPC Contractor or any other contractor in respect of any Project located in Arizona. In no event will any Secured Party have any liability or obligation to any of the Borrower Parties or any other Person to approve advances of the Construction Loan or make advances within any time periods required pursuant to the Prompt Payment Statute, nor will any Secured Party have any liability or obligation for costs, fees, expenses, or damages of any nature incurred by any of the Borrower Parties by reason of any failure to comply with the Prompt Payment Statute. Without limiting the generality of the foregoing, the Borrower acknowledges, represents and warrants to each Secured Party that (i) the Borrower Parties have taken into consideration the period of time within which the Secured Parties have to approve a Construction Loan Notice of Borrowing (the "Lender's Review Period"), (ii) the Borrower Parties have taken into consideration the period of time within which the Secured Parties have to make advances once the conditions precedent to advances have been satisfied ("Lender's Disbursement Period"), and (iii) to the extent that any Lender's Review Period or Lender's Disbursement Period may extend beyond any period of time required pursuant to the Prompt Payment Statute within which the Borrower Parties may either approve and certify any billing or estimate (or within which any billing or estimate may be deemed approved) or make payments to any applicable EPC Contractor for any Project located in Arizona or any other contractor in respect of a Project located in Arizona, then the Borrower Parties will nevertheless comply with the provisions of the Prompt Payment Statute. Within twenty (20) days of execution of this Amendment, pursuant to A.R.S. § 32-1129.01(G), the applicable Borrower Party that is the Owner (as defined in the applicable EPC Agreement) and the EPC Contractor (as defined in the applicable EPC Agreement) will execute an amendment or change order to the EPC Agreement that acknowledges and agrees that the EPC Agreement's (x) billing cycle, (y) number of specified days within which a billing or estimate must be certified and approved, and/or (z) number of specified days after certification and approval of the billing or estimate for the Owner (as defined in the EPC Agreement) to make payment to the EPC Contractor (as defined in the EPC Agreement), are an alternative billing cycle, an extended certification and approval period, and/or an extended payment period, as applicable, in conformance with the Prompt Payment Statute.

(c) Indemnification. "With respect to any Project located in Arizona, the Borrower agrees to defend, indemnify and hold the Secured Parties and Secured Parties' agents, employees, representatives, directors, officers, successors and assigns for, from and against any and all claims, damages, loss, liability, judgments, reasonable costs and expenses arising from or related to the breach or violation by the Borrower Parties, the applicable EPC Contractor or any other contractor of the Prompt Payment Statute, the failure by any Borrower Parties, the applicable EPC Contractor or any

other contractor to pay any Person as and when required under the Prompt Payment Statute, and/or any suspension or termination by the applicable EPC Contractor, any other contractor or any subcontractor of the applicable EPC Contract, or other construction contract or subcontract unless caused solely by one or more Persons indemnified hereunder. This indemnity will survive the payment and performance of the applicable Construction Loan"

(p) Section 5.27 of the Credit Agreement is hereby amended by deleting such section in its entirety and replacing it with the following:

"Section 5.27 On the earlier to occur of (a) the next Borrowing date to occur after the initial Borrowing date and (b) July 29, 2016, the Borrower shall deliver to the Administrative Agent a written acknowledgement from the Power Purchaser for the Macy's San Diego and Walnut Creek Projects, in form and substance reasonably acceptable to the Administrative Agent, confirming that the Collateral Agent may be granted a security interest in the Site Lease Agreements related to such Projects.

(q) Article 6 of the Credit Agreement is hereby amended by adding the following new Section 6.24:

"6.24 Timing of COD. In no event shall COD of a Project occur (i) with respect to each Small Project, prior to delivery to the Administrative Agent of the Interconnection Agreement in respect of such Small Project, duly executed by the parties thereto, including the applicable Interconnector, and otherwise in form and substance acceptable to the Administrative Agent, and (ii) without (A) the Borrower having caused the amount on deposit in the Debt Service Reserve Account sub-account for such Project to equal the then-applicable DSR Requirement for such Project or (B) a DSR Letter of Credit in an amount equal to the then applicable DSR Requirement having been issued and being outstanding with respect to such Project."

(r) Section 7.3(a) of the Credit Agreement is hereby amended by adding a reference to "Section 5.23" after the reference to Section 5.7 in Section 7.3(a).

(s) All references to "ECCA Parent Guaranty" in the Credit Agreement are hereby deleted and replaced with "ECCA Guaranty".

(t) All references to "Chadbourne & Park LLP" in the Credit Agreement are hereby deleted and replaced with "Akin Gump Strauss Hauer & Feld LLP".

Section 3. Waiver. The parties hereto hereby waive the five (5) Business Day requirement set forth in Section 2.2(a) and the six (6) Business Day requirement set forth in Section 3.3(f) solely in respect of the Borrowing to occur on the date hereof.

Section 4. Effectiveness. This Amendment shall be effective, as of the date of this Amendment, upon the execution and delivery to Administrative Agent of counterparts of this Amendment duly executed by the parties hereto.

Section 5. Entire Agreement. This Amendment constitutes the entire agreement among the parties hereto with respect to the amendments and waivers dealt with herein. All previous documents, undertakings and agreements, whether oral, written or otherwise, among the parties hereto with respect to the amendment and consent in this Amendment, are hereby cancelled and superseded and shall not affect or modify any of the terms or obligations set forth in this Amendment. Upon the effectiveness of this Amendment, this Amendment shall be binding upon and inure to the benefit of the parties hereto.

Section 6. Miscellaneous.

(a) Limited Effect. This Amendment is limited in effect and, except as specifically set forth above, shall apply only as expressly set forth in this Amendment and shall not constitute a consent, waiver, modification, approval or amendment of any other provision of the Credit Agreement or any other Loan Document. Except as expressly provided for in this Amendment, nothing herein shall limit in any way the rights and remedies of the Lenders and the other Secured Parties under the Credit Agreement. The terms and conditions of the Credit Agreement and the other Loan Documents, as amended and otherwise modified by this Amendment, remain in full force and effect and are hereby ratified and affirmed.

(b) Severability. Any provision hereof that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and without affecting the validity or enforceability of any provision in any other jurisdiction.

(c) Headings. The headings of various sections of this Amendment are for convenience of reference only, do not constitute a part hereof and shall not affect the meaning or construction of any provision hereof.

(d) Incorporation by Reference. Sections 9.11 (Governing Law), 9.13 (Consent to Jurisdiction), and 9.19 (Waiver of Jury Trial) of the Credit Agreement hereby are incorporated by reference as if fully set forth in this Amendment *mutatis mutandis*.

(e) Counterparts and Facsimile or Electronic Mail Execution. This Amendment may be executed in any number of counterparts, all of which taken together shall constitute one and the same contract, and any of the parties hereto may execute this Amendment by signing any such counterpart. Delivery of an executed counterpart of this Amendment by facsimile or by electronic mail or other electronic imaging means shall be equally as effective as delivery of an original executed counterpart of this Amendment.

(f) Representations and Warranties. The Borrower represents and warrants to the Secured Parties that, as of the effective date hereof, each representation and warranty set forth in Article 4 of the Credit Agreement is true and correct in all material respects as if made on such date (or if such representation and warranty relates solely as of an earlier date, such representation and warranty was true and correct in all material respects as of such earlier date).

(g) Reference to the Credit Agreement. On and after the date of this Amendment, each reference in the Credit Agreement to "this Agreement," "hereunder," "hereof," "herein," and words of like import referring to the Credit Agreement, and each reference in the other Loan Documents to "the Credit Agreement," "thereunder," "thereof," "therein," and words of like import referring to the Credit Agreement, shall mean and be a reference to the Credit Agreement as amended by this Amendment.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the date first above written.

SUNPOWER REVOLVER HOLDCO I, LLC

By: /s/ Scott Piscitello

Name: Scott Piscitello
Title: Vice President

MIZUHO BANK, LTD., as Lender, Administrative Agent and Issuing Bank

By: /s/ Christopher Stolarski

Name: Christopher Stolarski
Title: Managing Director

MIZUHO BANK (USA), as Collateral Agent

By: /s/ Christopher Stolarski

Name: Christopher Stolarski
Title: Managing Director

GOLDMAN SACHS BANK USA, as Lender and Issuing Bank

By: /s/ Anisha Malhotra

Name: Anisha Malhotra
Title: Authorized Signatory

EXHIBIT 31.1

CERTIFICATIONS

I, Thomas H. Werner, certify that:

1 I have reviewed this Quarterly Report on Form 10-Q of SunPower Corporation;

2 Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3 Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4 The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5 The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 9, 2016

/S/ THOMAS H. WERNER

Thomas H. Werner
President, Chief Executive Officer and Director
(Principal Executive Officer)

EXHIBIT 31.2

CERTIFICATIONS

I, Charles D. Boynton, certify that:

1 I have reviewed this Quarterly Report on Form 10-Q of SunPower Corporation;

2 Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3 Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4 The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5 The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 9, 2016

/S/ CHARLES D. BOYNTON

Charles D. Boynton
Executive Vice President and Chief Financial Officer
(Principal Financial Officer)

EXHIBIT 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of SunPower Corporation (the "Company") on Form 10-Q for the period ended July 3, 2016 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), each of Thomas H. Werner and Charles D. Boynton certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge and belief:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: August 9, 2016

/S/ THOMAS H. WERNER

Thomas H. Werner
President, Chief Executive Officer and Director
(Principal Executive Officer)

/S/ CHARLES D. BOYNTON

Charles D. Boynton
Executive Vice President and Chief Financial Officer
(Principal Financial Officer)

The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of the Report or as a separate disclosure statement.