Table of Contents

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-Q

(Mark one)

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

For the quarterly period ended March 29, 2008

or

☐ **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: 001-33156

First Solar, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**20-4623678**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

350 West Washington Street, Suite 600
Tempe, Arizona 85281
(Address of principal executive offices, including zip code)

(602) 414-9300
(Registrant's telephone number, including area code)

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

Indicate by check mark whether the registrant 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 ☑	Accelerated filer ☐	Non-accelerated filer ☐ (Do not check if a smaller reporting company)	Smaller reporting company ☐

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

As of April 25, 2008 there were 79,751,626 shares of the registrant's common stock, par value $0.001, outstanding.

FIRST SOLAR, INC. AND SUBSIDIARIES

FORM 10-Q FOR THE QUARTERLY PERIOD ENDED MARCH 29, 2008

TABLE OF CONTENTS

PART I. FINANCIAL INFORMATION

Item 1. ***Unaudited Condensed Consolidated Financial Statements***

FIRST SOLAR, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands, except per share amounts)
(Unaudited)

	Three Months Ended	
	March 29, 2008	March 31, 2007
Net sales	$196,915	$ 66,949
Cost of sales	92,591	36,907
Gross profit	104,324	30,042
Operating expenses:		
Research and development	4,760	3,058
Selling, general and administrative	28,671	13,690
Production start-up	12,761	8,474
Total operating expenses	46,192	25,222
Operating income	58,132	4,820
Foreign currency gain (loss)	774	(270)
Interest income	6,685	4,127
Interest expense, net	(4)	(201)
Other expense	(378)	(167)
Income before income taxes	65,209	8,309
Income tax expense	18,590	3,281
Net income	$ 46,619	$ 5,028
Net income per share:		
Basic	$ 0.59	$ 0.07
Diluted	$ 0.57	$ 0.07
Weighted-average number of shares used in per share calculations:		
Basic	79,059	72,347
Diluted	81,607	75,392

See accompanying notes to these condensed consolidated financial statements.

FIRST SOLAR, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands, except share data)
(Unaudited)

	March 29, 2008	December 29, 2007
ASSETS		
Current assets:		
Cash and cash equivalents	$ 590,534	$ 404,264
Marketable securities — current	90,130	232,686
Accounts receivable, net	18,027	18,165
Inventories	58,559	40,204
Deferred project costs	1,219	2,643
Economic development funding receivable	897	35,877
Deferred tax asset, net — current	3,909	3,890
Prepaid expenses and other current assets	34,976	64,780
Total current assets	798,251	802,509
Property, plant and equipment, net	529,390	430,104
Deferred tax asset, net — noncurrent	51,583	51,811
Marketable securities — noncurrent	28,340	32,713
Restricted investments	27,113	14,695
Goodwill	33,829	33,449
Other assets — noncurrent	8,653	6,031
Total assets	$1,477,159	$ 1,371,312
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable and accrued expenses	$ 167,063	$ 132,366
Short-term debt	—	24,473
Current portion of long-term debt	17,673	14,836
Other current liabilities	43,008	14,803
Total current liabilities	227,744	186,478
Accrued collection and recycling liabilities	18,151	13,079
Long-term debt	70,210	68,856
Other liabilities — noncurrent	9,877	5,632
Total liabilities	325,982	274,045
Stockholders' equity:		
Common stock, $0.001 par value per share; 500,000,000 shares authorized; 79,698,283 and 78,575,211 shares issued and outstanding at March 29, 2008 and December 29, 2007, respectively	80	79
Additional paid-in capital	1,100,633	1,079,775
Accumulated earnings	59,514	12,895
Accumulated other comprehensive (loss) income	(9,050)	4,518
Total stockholders' equity	1,151,177	1,097,267
Total liabilities and stockholders' equity	$1,477,159	$ 1,371,312

See accompanying notes to these condensed consolidated financial statements.

FIRST SOLAR, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(Unaudited)

	Three Months Ended	
	March 29, 2008	March 31, 2007
Cash flows from operating activities:		
Cash received from customers	$ 194,595	$ 86,618
Cash paid to suppliers and employees	(137,779)	(46,395)
Interest received	6,156	4,124
Interest paid, net of amounts capitalized	(4)	(201)
Income tax	4,905	(4,902)
Excess tax benefit from share-based compensation arrangements	(4,255)	(123)
Other	(348)	(192)
Net cash provided by operating activities	63,270	38,929
Cash flows from investing activities:		
Purchases of property, plant and equipment	(74,606)	(40,755)
Purchase of marketable securities	(57,796)	—
Proceeds from maturities of marketable securities	11,250	—
Proceeds from sales of marketable securities	223,902	—
Increase of restricted investments	(12,091)	(38)
Net cash provided by (used in) investing activities	90,659	(40,793)
Cash flows from financing activities:		
Proceeds from issuance of common stock	5,935	588
Repayment of long-term debt	(25,740)	(823)
Proceeds from issuance of debt	57	14,815
Excess tax benefit from share-based compensation arrangements	4,255	123
Proceeds from economic development funding	35,661	3,968
Other financing activities	(2)	(2)
Net cash provided by financing activities	20,166	18,669
Effect of exchange rate changes on cash and cash equivalents	12,175	115
Net increase in cash and cash equivalents	186,270	16,920
Cash and cash equivalents, beginning of the period	404,264	308,092
Cash and cash equivalents, end of the period	$ 590,534	$325,012
Supplemental disclosure of noncash investing and financing activities:		
Property, plant and equipment acquisitions funded by liabilities	$ 26,500	$ 16,199

See accompanying notes to these condensed consolidated financial statements.

FIRST SOLAR, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Unaudited)
Three Months Ended March 29, 2008

Note 1. Basis of Presentation

Basis of presentation. The accompanying unaudited condensed consolidated financial statements of First Solar, Inc. and its subsidiaries have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP") for interim financial information and pursuant to the instructions to Form 10-Q and Article 10 of Regulation S-X of the Securities and Exchange Commission. Accordingly, these interim financial statements do not include all of the information and footnotes required by generally accepted accounting principles for annual financial statements. In the opinion of management, all adjustments (consisting only of normal recurring adjustments) considered necessary for a fair statement have been included. Operating results for the three months ended March 29, 2008 are not necessarily indicative of the results that may be expected for the year ending December 27, 2008, or for any other period. The balance sheet at December 29, 2007 has been derived from the audited consolidated financial statements at that date but does not include all of the information and footnotes required by U.S. GAAP for complete financial statements. These financial statements and notes should be read in conjunction with the financial statements and notes thereto for the year ended December 29, 2007 included in our Annual Report on Form 10-K filed with the Securities and Exchange Commission.

Fiscal periods. We report our results of operations using a 52 or 53 week fiscal year, which ends on the Saturday on or before December 31. Our fiscal quarters end on the Saturday closest to the end of the applicable calendar quarter. Fiscal 2008 will end on December 27, 2008 and will consist of 52 weeks.

Note 2. Summary of Significant Accounting Policies

Our significant accounting policies are disclosed in our Annual Report on Form 10-K for the year ended December 29, 2007 filed with the Securities and Exchange Commission. Our significant accounting policies reflect the adoption of Statement of Financial Accounting Standards (SFAS) No. 157, *Fair Value Measurements* in the first quarter of fiscal 2008.

On December 30, 2007, we adopted SFAS 157 for our financial assets and financial liabilities. SFAS 157 defines fair value, establishes a framework for measuring fair value in accordance with generally accepted accounting principles and expands financial statement disclosure requirements for fair value measurements. See Note 9 for more information about our adoption of SFAS 157 for our financial assets and financial liabilities and about our accounting policies related to fair value measurement. Our adoption of SFAS 157 did not have a material impact on our financial position, results of operations or cash flows.

Note 3. Recent Accounting Pronouncements

In December 2007, the Financial Accounting Standards Board (FASB) issued SFAS 141R, *Business Combinations,* which replaces SFAS 141. SFAS 141R requires most assets acquired and liabilities assumed in a business combination, contingent consideration and certain acquired contingencies to be measured at their fair value as of the date of the acquisition. SFAS 141R also requires that acquisition related costs and restructuring costs be recognized separately from the business combination. SFAS 141R will be effective for us for the fiscal year 2009 and will be effective for business combinations entered into after December 27, 2008.

In December 2007, the FASB issued SFAS 159, *The Fair Value Option for Financial Assets and Financial Liabilities.* SFAS 159 permits entities to choose to measure many financial assets and financial liabilities at fair value and to report unrealized gains and losses on those assets and liabilities in earnings. We did not elect to adopt the fair value option under this statement.

In December 2007, the FASB issued SFAS 160, *Noncontrolling Interest in Consolidated Financial Statements.* SFAS 160 amends previous accounting literature to establish new accounting and reporting standards for the noncontrolling interest in a subsidiary and for the deconsolidation of a subsidiary. SFAS 160 will become effective for us as of the beginning of fiscal 2010. We have not yet evaluated the impact, if any, the adoption of this Statement will have on our financial position, results of operations or cash flows.

In February 2008, the FASB issued FASB Staff Position No. FAS 157-1 (FSP 157-1), *Application of FASB Statement No. 157 to FASB Statement No. 13 and Other Accounting Pronouncements That Address Fair Value Measurements for Purposes of Lease Classification under Statement 13*. FSP 157-1 states that SFAS 157 does not apply to fair value measurements for purposes of lease

classification or measurement. However, SFAS 157 does apply to fair value measurements of lease-related assets or liabilities assumed in a business combination. We adopted FSP 157-1 concurrent with our adoption of SFAS 157 and this did not have a material impact on our financial position, results of operations or cash flows.

In February 2008, the FASB issued FASB Staff Position No. FAS 157-2 (FSP 157-2), *Effective Date of FASB Statement No. 157*. FSP 157-2 deferred the effective date of SFAS 157 for nonfinancial assets and nonfinancial liabilities, except for items that are recognized or disclosed at fair value in the financial statements on a recurring basis, until fiscal years beginning after November 15, 2008. As a result of FSP 157-2, we will adopt SFAS 157 for our nonfinancial assets and nonfinancial liabilities beginning with the first interim period of our fiscal year 2009. We are currently evaluating the impact of the adoption of SFAS 157 for our nonfinancial assets and nonfinancial liabilities on our financial position, results of operations or cash flows.

In March 2008, the FASB issued SFAS 161, *Disclosures About Derivative Instruments and Hedging Activities—an amendment of FASB Statement No. 133*. SFAS 161 expands quarterly disclosure requirements in SFAS 133 about an entity's derivative instruments and hedging activities. SFAS 161 is effective for fiscal years beginning after November 15, 2008. We are currently assessing the impact of SFAS 161 on our financial position and results of operations.

Note 4. Goodwill and Intangible Assets

On November 30, 2007, we acquired 100% of the outstanding membership interests of Turner Renewable Energy, LLC. Under the purchase method of accounting, we allocated $33.4 million to goodwill as of December 29, 2007, which represents the excess of the purchase price over the fair value of the identifiable net tangible and intangible assets of Turner Renewable Energy, LLC.

The changes in the carrying amount of goodwill for the three months ended March 29, 2008 are as follows (in thousands):

Balance as of December 29, 2007	$ 33,449
Goodwill adjustments	380
Balance as of March 29, 2008	$ 33,829

The goodwill adjustment of $0.4 million was primarily a result of adjustments made to the opening balance sheet for the acquisition-related intangible assets and related deferred taxes.

In addition, with the acquisition of Turner Renewable Energy, LLC in November 2007, we identified two intangible assets, which represent customer contracts already in progress and customer contracts not yet started. We amortize these costs using the percentage of completion method.

Information regarding our acquisition-related intangible assets that are being amortized is as follows (in thousands):

	As of December 29, 2007		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Value
Customer contracts in progress	$ 170	$ 28	$ 142
Customer contracts not started	1,620	—	1,620
Total	$ 1,790	$ 28	$ 1,762

	As of March 29, 2008 (Unaudited)		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Value
Customer contracts in progress	$ 170	$ 28	$ 142
Customer contracts not started	1,385	84	1,301
Total	$ 1,555	$ 112	$ 1,443

Amortization expense for acquisition-related intangible assets was $0.1 million for the three months ended March 29, 2008.

Note 5. Economic Development Funding

On July 26, 2006, we were approved to receive taxable investment incentives *("Investitionszuschüsse")* of approximately €21.5 million ($34.0 million at the balance sheet close rate on March 29, 2008 of $1.58/€1.00) from the State of Brandenburg, Germany. These funds will reimburse us for certain costs we incurred building our plant in Frankfurt/Oder, Germany, including costs for the construction of buildings and the purchase of machinery and equipment. Receipt of these incentives is conditional upon the State of Brandenburg having sufficient funds allocated to this program to pay the reimbursements we claim. In addition, we are required to operate our facility for a minimum of five years and employ a specified number of associates during this period. Our incentive approval expires on December 31, 2009. As of March 29, 2008, we had received cash payments of $32.3 million under this program, and we had accrued an additional $0.9 million that we are eligible to receive under this program based on qualifying expenditures that we had incurred through that date.

We were eligible to recover up to approximately €23.8 million of expenditures related to the construction of our plant in Frankfurt/Oder, Germany under the German Investment Grant Act of 2005 *("Investitionszulagen").* This act permits us to claim tax-exempt reimbursements for certain costs we incurred building our plant in Frankfurt/Oder, Germany, including costs for the construction of buildings and the purchase of machinery and equipment. Tangible assets subsidized under this program have to remain in the region for at least five years. In accordance with the administrative requirements of this act, we claimed reimbursement under the Act in conjunction with the filing of our tax returns with the local German tax office during the third quarter of fiscal 2007. In addition, this program expired on December 31, 2006, and we can only claim reimbursement for investments completed by that date. The majority of our buildings and structures and our investment in machinery and equipment were completed by that date. In January 2008, we received a cash payment of $34.2 million under this program. As of March 29, 2008, there were no additional investment incentives that we were eligible to receive under this program.

Note 6. Marketable Securities

We have classified our marketable securities as "available-for-sale." Accordingly, they are recorded at fair value and net unrealized gains and losses are recorded as part of other comprehensive income until realized. We report realized gains and losses on the sale of our marketable securities in earnings, computed using the specific identification method. During the three months ended March 29, 2008, we realized $0.4 million in gains and $0.1 million in losses on our marketable securities. See Note 9 for information about the fair value measurement of our marketable securities.

All of our available-for-sale marketable securities are subject to a periodic impairment review. We consider our marketable debt securities impaired, when a significant decline in the issuer's credit quality is likely to have a significant adverse effect on the fair value of the investment. Investments identified as being impaired are subject to further review to determine if the investment is other than temporarily impaired, in which case the investment is written down to its impaired value and a new cost basis is established.

A summary of available-for-sale marketable securities by major security type as of March 29, 2008 are as follows (in thousands):

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
U.S. government obligations and federal agency debt	$118,003	$ 467	$ —	$118,470
Total	$118,003	$ 467	$ —	$118,470

Contractual maturities of our available-for-sale marketable securities as of March 29, 2008 were as follows (in thousands):

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
One year or less	$ 89,839	$ 291	$ —	$ 90,130
One year to five years	28,164	176	—	28,340
Five years or more	—	—	—	—
Total	$118,003	$ 467	$ —	$118,470

The net $0.5 million unrealized gain on our investments as of March 29, 2008 was primarily a result of changes in interest rates. We typically invest in highly-rated securities with low probabilities of default. Our investment policy requires investments to be rated single A or better, limits the types of acceptable investments, limits the concentration as to security holder and limits the duration of the investment.

Note 7. Consolidated Balance Sheet Details

Accounts receivable, net

Accounts receivable, net consisted of the following at March 29, 2008 and December 29, 2007 (in thousands):

	March 29, 2008	December 29, 2007
Accounts receivable, gross	$18,701	$ 18,170
Allowance for doubtful accounts	(674)	(5)
Accounts receivable, net	$18,027	$ 18,165

Inventories

Inventories consisted of the following at March 29, 2008 and December 29, 2007 (in thousands):

	March 29, 2008	December 29, 2007
Raw materials	$38,983	$ 22,874
Work in process	3,165	2,289
Finished goods	16,411	15,041
Total inventories	$58,559	$ 40,204

Prepaid expenses and other current assets

Prepaid expenses and other current assets consisted of the following at March 29, 2008 and December 29, 2007 (in thousands):

	March 29, 2008	December 29, 2007
Prepaid expenses	$13,533	$ 10,136
Prepaid income taxes — current	210	13,042
Pending sale of marketable securities	—	28,600
Other current assets	21,233	13,002
Prepaid expenses and other current assets	$34,976	$ 64,780

Property, plant and equipment

Property, plant and equipment consisted of the following at March 29, 2008 and December 29, 2007 (in thousands):

	March 29, 2008	December 29, 2007
Buildings and improvements	$ 77,280	$ 44,679
Machinery and equipment	301,335	170,125
Office equipment and furniture	10,153	7,365
Leasehold improvements	4,164	4,046
Depreciable property, plant and equipment, gross	392,932	226,215
Accumulated depreciation	(54,021)	(43,134)
Depreciable property, plant and equipment, net	338,911	183,081
Land	3,724	3,046
Construction in progress	186,755	243,977
Property, plant and equipment, net	$529,390	$ 430,104

Depreciation of property, plant and equipment was $10.1 million and $5.1 million for the three months ended March 29, 2008 and March 31, 2007, respectively.

We incurred and capitalized interest cost (into our property, plant and equipment) as follows during the three months ended March 29, 2008 and March 31, 2007 (in thousands):

	Three Months Ended	
	March 29, 2008	March 31, 2007
Interest cost incurred	$ 1,509	$ 1,048
Interest capitalized	(1,505)	(847)
Interest expense, net	$ 4	$ 201

Accounts payable and accrued expenses

Accounts payable and accrued expenses consisted of the following at March 29, 2008 and December 29, 2007 (in thousands):

	March 29, 2008	December 29, 2007
Accounts payable	$ 21,974	$ 26,441
Product warranty liability	9,261	7,276
Income tax payable	35,496	24,487
Accrued compensation and benefits	9,854	21,862
Accrued property, plant and equipment	61,489	35,220
Accrued inventory	15,116	4,811
Other accrued expenses	13,873	12,269
Total accounts payable and accrued expenses	$167,063	$ 132,366

Note 8. Derivative Financial Instruments

As a global company, we are exposed in the normal course of business to interest rate risk and foreign currency risk that could affect our net assets, financial position and results of operations. It is our policy to use derivative financial instruments to minimize or eliminate the risks associated with operating activities and the resulting financing requirements. We use derivative financial instruments exclusively to hedge realized or forecasted transactions. We do not use derivative financial instruments for speculative or trading purposes. Our use of derivative financial instruments is subject to strict internal controls based on centrally defined mechanisms and guidelines. The various risk classes and risk management systems are outlined below. See Note 9 for information about the fair value measurement of our derivative financial instruments.

Interest Rate Risk

We use interest rate swap agreements to mitigate our exposure to interest rate fluctuations associated with certain of our debt instruments; we do not use interest rate swap agreements for speculative or trading purposes. We have interest rate swaps with a financial institution that effectively converts to fixed rates the floating variable rate of Euribor on certain drawdowns taken on the term loan portion of our credit facility with a consortium of banks led by IKB Deutsche Industriebank AG. As of March 29, 2008, the total notional value of the interest rate swaps was €46.0 million ($72.7 million at the balance sheet close rate on March 29, 2008 of $1.58/€1.00).

The notional amounts of the interest rate swaps are scheduled to decline in accordance with our scheduled principal payments on the hedged term loan drawdowns. These derivative financial instruments qualified for accounting as cash flow hedges in accordance with SFAS 133*, Accounting for Derivative Instruments and Hedging Activities,* and we designated them as such. As a result, we classified the aggregate fair value of the interest rate swap agreements with other assets on our balance sheet, which was $0.1 million, at March 29, 2008. We record changes in that fair value in other comprehensive income. We assessed the interest rate swap agreements as highly effective cash flow hedges as of March 29, 2008.

Foreign Currency Exchange Risk

Cash Flow Exposure

We have forecasted future cash flows, including revenues and expenses, denominated in currencies other than the relevant entity's functional currency. Our primary cash flow exposures are customer collections and vendor payments. Changes in the relevant entity's functional currency value will cause fluctuations in the cash flows we expect to receive when these cash flows are realized or settled. We may enter into foreign exchange forward contracts or other derivatives to hedge the value of a portion of these cash flows. We account for these foreign exchange contracts as cash flow hedges. The effective portion of the derivative's gain or loss is initially

reported as a component of accumulated other comprehensive income (loss) and subsequently reclassified into earnings when the transaction is settled.

We purchased forward contracts to hedge the exchange risk on forecasted cash flows denominated in Euro. On March 29, 2008, the unrealized loss of these forward contracts was $32.4 million. The total notional value of the forward contracts was €289.8 million ($457.9 million at the balance sheet close rate on March 29, 2008 of $1.58/€1.00) on March 29, 2008. The forward exchange rates for these contracts range between $1.4431/€1.00 and $1.4612/€1.00.

The foreign exchange contracts that hedge our forecasted future cash flows qualified for accounting as cash flow hedges in accordance with SFAS 133, and we designated them as such. As a result, we report the aggregate fair value on our balance sheet, and we record changes in that fair value in other comprehensive income. We determined that these derivative financial instruments were highly effective cash flow hedges as of March 29, 2008.

Transaction Exposure

We have certain assets and liabilities, primarily receivables, investments and accounts payable (including inter-company transactions) that are denominated in currencies other than the relevant entity's functional currency. In certain circumstances, changes in the functional currency value of these assets and liabilities create fluctuations in our reported consolidated financial position, results of operations and cash flows. We may enter into foreign exchange forward contracts or other instruments to minimize the short-term foreign currency fluctuations on such assets and liabilities. The gains and losses on the foreign exchange forward contracts offset the transaction gains and losses on certain foreign currency receivables, investments and payables recognized in earnings.

In 2007, we purchased a forward foreign exchange contract to hedge certain foreign currency denominated intercompany long-term debt. We recognize gains or losses from the fluctuation in foreign exchange rates and the valuation of this hedging contract in foreign currency gain (loss) on our consolidated statements of operations. As of March 29, 2008, we had a single outstanding foreign exchange hedge contract to sell €20.0 million ($26.8 million at a fixed exchange rate of $1.34/€1.00). Unrealized mark-to-market losses recorded on this contract as of March 29, 2008 were $4.2 million. The contract is scheduled to settle on February 27, 2009.

Note 9. Fair Value Measurement

On December 30, 2007, the beginning of our fiscal year, we adopted SFAS 157. SFAS 157 defines fair value, establishes a framework for measuring fair value in accordance with generally accepted accounting principles and expands financial statement disclosure requirements for fair value measurements. Our adoption of SFAS 157 was limited to our financial assets and financial liabilities, as permitted by FSP 157-2. We do not have any nonfinancial assets or nonfinancial liabilities that are recognized or disclosed at fair value in our financial statements on a recurring basis. The implementation of the fair value measurement guidance of SFAS 157 did not result in any changes to the carrying values of our financial instruments on our opening balance sheet on December 30, 2007 for fiscal year 2008.

SFAS 157 defines fair value as the price that would be received from the sale of an asset or paid to transfer a liability (an exit price) on the measurement date in an orderly transaction between market participants in the principal or most advantageous market for the asset or liability. SFAS 157 specifies a hierarchy of valuation techniques, which is based on whether the inputs into the valuation technique are observable or unobservable. The hierarchy is as follows:

- Level 1 — Valuation techniques in which all significant inputs are unadjusted quoted prices from active markets for assets or liabilities that are identical to the assets or liabilities being measured.
- Level 2 — Valuation techniques in which significant inputs include quoted prices from active markets for assets or liabilities that are similar to the assets or liabilities being measured and/or quoted prices from markets that are not active for assets or liabilities that are identical or similar to the assets or liabilities being measured. Also, model-derived valuations in which all significant inputs and significant value drivers are observable in active markets are Level 2 valuation techniques.
- Level 3 — Valuation techniques in which one or more significant inputs or significant value drivers are unobservable. Unobservable inputs are valuation technique inputs that reflect our own assumptions about the assumptions that market participants would use in pricing an asset or liability.

When available, we use quoted market prices to determine the fair value of an asset or liability. If quoted market prices are not available, we will measure fair value using valuation techniques that use, when possible, current market-based or independently-

sourced market parameters, such as interest rates and currency rates. Following is a description of the valuation techniques that we use to measure the fair value of assets and liabilities that we measure and report on our balance sheet at fair value on a recurring basis:

- *Marketable securities*. As of March 29, 2008, our marketable securities consisted primarily of U.S. government obligations and federal agency debt. Our marketable securities are valued using quoted prices for securities with similar characteristics and other observable inputs (such as interest rates observable at commonly quoted intervals), and accordingly, we classify the valuation techniques that use these inputs as Level 2. We consider the effect of our counterparties' credit standing in our valuations of our marketable securities holdings.
- *Derivative assets and liabilities*. Our derivative assets and liabilities consist of foreign currency forward exchange contracts involving major currencies and interest rate swaps involving a benchmark interest rate. Since our derivative assets and liabilities are not traded on an exchange, they are valued using valuation models. Interest rate yield curves and foreign exchange rates are the significant inputs into these valuation models. These inputs are observable in active markets over the terms of the instruments we hold, and accordingly, we classify these valuation techniques as Level 2 in the hierarchy. We consider the effect of our own credit standing and that of our counterparties in our valuations of our derivative financial instruments.

For the three months ended March 29, 2008, information about inputs into the fair value measurements of our assets and liabilities that are measured at fair value on a recurring basis in periods subsequent to their initial recognition is as follows (in thousands):

		Fair Value Measurements at Reporting Date Using		
Description	Total Fair Value and Carrying Value on Our Balance Sheet	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Marketable securities	$ 118,470	$ —	$118,470	$ —
Derivative assets	188	—	188	—
Total assets	$ 118,658	$ —	$118,658	$ —
Liabilities:				
Derivative liabilities	$ 36,799	$ —	$ 36,799	$ —

Note 10. Debt

Our long-term debt at March 29, 2008 and December 29, 2007 consisted of the following (in thousands):

	March 29, 2008	December 29, 2007
Euro denominated loan, variable interest Euribor plus 1.6%, due 2008 through 2012	$ 72,771	$ 67,761
2.25% loan, due 2006 through 2015	12,812	13,226
0.25% — 3.25% loan, due 2007 through 2009	2,917	3,334
Capital lease obligations	7	9
	88,507	84,330
Less unamortized discount	(624)	(638)
Total long-term debt	87,883	83,692
Less current portion	(17,673)	(14,836)
Noncurrent portion	$ 70,210	$ 68,856

We had outstanding borrowings of $24.5 million at December 29, 2007, which we classified as short-term debt. In February 2008, we repaid the full amount of our short-term debt that related to our bridge loan with a consortium of banks led by IKB Deutsche Industriebank AG.

As of March 29, 2008, we had the following four outstanding commercial commitments in the form of letters of credit and bank guarantees: $0.7 million dated September 2007 for an energy supply agreement; MYR 4.0 million dated October 2007 for Malaysian custom and excise tax ($1.2 million at the balance sheet close rate on March 29, 2008 of $0.31/MYR1.00); MYR 2.2 million dated December 2007 for an energy supply agreement ($0.7 million at the balance sheet close rate on March 29, 2008 of $0.31/MYR1.00); and $1.3 million dated January 2008 for a sales and purchase agreement.

Note 11. Commitments and Contingencies

Product warranties

We offer warranties on our products and record an estimate of the associated liability based on the number of solar modules under warranty at customer locations, our historical experience with warranty claims, our monitoring of field installation sites, our in-house testing of our solar modules and our estimated per-module replacement cost.

Product warranty activity during the three months ended March 29, 2008 and March 31, 2007 was as follows (in thousands):

	Three Months Ended	
	March 29, 2008	March 31, 2007
Product warranty liability, beginning of period	$ 7,276	$ 2,764
Accruals for new warranties issued (warranty expense)	1,992	728
Settlements	(8)	(1)
Change in estimate of warranty liability	1	(136)
Product warranty liability, end of period	$ 9,261	$ 3,355

Note 12. Share-Based Compensation

We measure share-based compensation cost at the grant date based on the fair value of the award and recognize this cost as an expense over the grant recipients' requisite service periods, in accordance with SFAS 123(R). The share-based compensation expense that we recognized in our consolidated statements of operations for the three months ended March 29, 2008 and March 31, 2007 was as follows (in thousands):

	Three Months Ended	
	March 29, 2008	March 31, 2007
Share-based compensation expense included in:		
Cost of sales	$ 2,208	$ 1,495
Research and development	965	1,158
Selling, general and administrative	7,400	2,868
Production start-up	286	255
Total share-based compensation expense	$10,859	$ 5,776

The increase in share-based compensation expense was primarily the result of new awards.

The following table presents our share-based compensation expense by type of award for the three months ended March 29, 2008 and March 31, 2007 (in thousands):

	Three Months Ended	
	March 29, 2008	March 31, 2007
Stock options	$ 5,060	$ 5,680
Restricted stock units	5,528	—
Unrestricted stock	81	102
Net amount absorbed into inventory	190	(6)
Total share-based compensation expense	$10,859	$ 5,776

Share-based compensation cost capitalized in our inventory was $0.4 million and $0.2 million at March 29, 2008 and March 31, 2007, respectively. As of March 29, 2008, we had $20.6 million of unrecognized share-based compensation cost related to unvested stock option awards, which we expect to recognize as an expense over a weighted-average period of approximately 2 years, and $87.2

million of unrecognized share-based compensation cost related to unvested restricted stock units, which we expect to recognize as an expense over a weighted-average period of approximately 2 years.

Note 13. Income Taxes

On December 31, 2006, we adopted the provisions of FASB Interpretation No. (FIN) 48, which is an interpretation of SFAS 109, *Accounting for Income Taxes*. Tax law is subject to significant and varied interpretation, so an enterprise may be uncertain whether a tax position that it has taken will ultimately be sustained when it files its tax return. FIN 48 establishes a "more-likely-than-not" threshold that must be met before a tax benefit can be recognized in the financial statements and, for those benefits that may be recognized, stipulates that enterprises should recognize the largest amount of the tax benefit that has a greater than 50 percent likelihood of being realized upon ultimate settlement with the taxing authority. FIN 48 also addresses changes in judgments about the realizability of tax benefits, accrual of interest and penalties on unrecognized tax benefits, classification of liabilities for unrecognized tax benefits and related financial statement disclosures.

During the three months ended March 29, 2008, we recorded $1.4 million of unrecognized tax benefits that, if recognized, would affect the effective tax rate. During the three months ended March 29, 2008, we did not identify any reductions in unrecognized tax benefits resulting from settlements with taxing authorities or due to the lapse of applicable statutes of limitations. We operate in multiple jurisdictions throughout the world, and our tax returns are periodically audited or subject to review by both domestic and foreign tax authorities. As a result of ongoing examinations and the timing of completion, it is not possible to estimate the potential net increase or decrease to our unrecognized tax benefits during the next twelve months.

We are subject to filing requirements for income tax returns in the U.S. federal jurisdiction and various state and foreign jurisdictions. We are presently undergoing an examination by the German taxing authorities. Additionally, our tax years going back to 2003 are subject to examination in all tax jurisdictions in which we operate.

At each period end, we exercise significant judgment in determining our provisions for income taxes, our deferred tax assets and liabilities and our future taxable income for purposes of assessing our likelihood of utilizing any future tax benefit from our deferred tax assets. The ultimate realization of deferred tax assets depends on the generation of sufficient taxable income of the appropriate character and in the appropriate taxing jurisdictions during the future periods in which the underlying tax-deductible temporary differences become deductible. We determined the valuation allowance on our deferred tax assets in accordance with the provisions of SFAS 109, which require us to weigh both positive and negative evidence in order to ascertain whether it is more likely than not that deferred tax assets will be realized. We evaluated all significant available positive and negative evidence, including the existence of cumulative net losses, benefits that could be realized from available tax strategies and forecasts of future taxable income, in determining the need for a valuation allowance on our deferred tax assets.

After applying the evaluation guidance of SFAS 109 as of March 29, 2008, we concluded that it was more-likely-than-not that the net deferred tax assets in Malaysia would be utilized in future periods. Therefore, based upon management's assessment of the available evidence at March 29, 2008, we reversed the $0.6 million of valuation allowances established during fiscal 2007.

Note 14. Net Income per Share

Basic net income per share is computed by dividing net income by the weighted-average number of common shares outstanding for the period. Diluted net income per share is computed giving effect to all potential dilutive common stock, including stock options and restricted stock units.

The reconciliation of the numerator and denominator used in the calculation of basic and diluted net income per share is as follows (in thousands):

	Three Months Ended	
	March 29, 2008	March 31, 2007
Basic net income per share		
Numerator:		
Net income	$46,619	$ 5,028
Denominator:		
Weighted-average shares used in computing basic net income per share	79,059	72,347

	Three Months Ended	
	March 29, 2008	March 31, 2007
Diluted net income per share		
Denominator:		
Weighted-average shares used in computing basic net income per share	79,059	72,347
Effect of stock options and restricted stock units outstanding	2,548	3,045
Weighted-average shares used in computing diluted net income per share	81,607	75,392

The following number of outstanding options and restricted stock units was excluded from the computation of diluted net income per share as they would have had an antidilutive effect (in thousands):

	Three Months Ended	
	March 29, 2008	March 31, 2007
Options to purchase common stock and restricted stock units	131	107

Note 15. Comprehensive Income

Comprehensive income, which includes foreign currency translation adjustments, unrealized gains on derivate instruments designated and qualifying as cash flow hedges and unrealized losses on available-for-sale securities, the impact of which has been excluded from net income and reflected as components of stockholders' equity, is as follows (in thousands):

	Three Months Ended	
	March 29, 2008	March 31, 2007
Net income	$ 46,619	$ 5,028
Foreign currency translation adjustments	9,442	161
Change in unrealized gain on marketable securities, net of tax of $(159) for 2008	288	—
Change in unrealized (loss) gain on derivative instruments, net of tax of $6,485 for 2008	(23,298)	19
Comprehensive income	$ 33,051	$ 5,208

Components of accumulated other comprehensive income (loss) were as follows (in thousands):

	March 29, 2008	December 29, 2007
Foreign currency translation adjustments	$ 15,560	$ 6,118
Unrealized gain on marketable securities, net of tax of $(174) for 2008 and $(15) for 2007	316	28
Unrealized loss on derivative instruments, net of tax of $7,437 for 2008 and $952 for 2007	(24,926)	(1,628)
Accumulated other comprehensive (loss) income	$ (9,050)	$ 4,518

Note 16. Statement of Cash Flows

Following is a reconciliation of net income to net cash provided by operating activities for the three months ended March 29, 2008 and March 31, 2007 (in thousands):

	Three Months Ended	
	March 29, 2008	March 31, 2007
Net income	$ 46,619	$ 5,028
Adjustments to reconcile net income to cash provided by operating activities:		
Depreciation and amortization	9,064	5,123
Share-based compensation	10,859	5,776
Deferred income taxes	1,027	—
Excess tax benefits from share-based compensation arrangements	(4,255)	(123)
Loss (gain) on disposal of property and equipment	30	(2)
Provision for doubtful accounts receivable	669	—
Gain on sales of investments, net	(280)	—
Provision for excess and obsolete inventories	82	(23)
Changes in operating assets and liabilities:		
Accounts receivable	(3,000)	19,745
Inventories	(17,254)	1,535
Deferred project costs	1,424	—
Prepaid expenses and other current assets	(2,031)	3,780

	Three Months Ended	
	March 29, 2008	March 31, 2007
Costs and estimated earnings in excess of billings	6	—
Other noncurrent assets	(1,761)	(446)
Billings in excess of costs and estimated earnings	(909)	—
Accounts payable and accrued expenses	22,980	(1,464)
Total adjustments	16,651	33,901
Net cash provided by operating activities	$63,270	$38,929

Note 17. Segment Reporting

SFAS 131, *Disclosure about Segments of an Enterprise and Related Information*, establishes standards for companies to report in their financial statements information about operating segments, products, services, geographic areas and major customers. The method of determining what information to report is based on the way that management organizes the operating segments within the enterprise for making operating decisions and assessing financial performance. The component segment, which is our principal business, is the design, manufacture and sale of solar modules, which convert sunlight to electricity. We sell our solar modules to thirteen principal customers, which we have long term supply contracts with. These customers include project developers, system integrators and operators of renewable energy projects.

We also sell solar power systems comprised of our solar modules and balance of system components procured from third parties directly to system owners. This may include services such as development, engineering, procurement of permits and equipment, construction management, monitoring and maintenance. For the three months ended March 29, 2008, we have not sold solar power systems using our solar modules, as we continued to sell third party solar modules acquired through the acquisition of Turner Renewable Energy, LLC consummated on November 30, 2007. These operations do not currently meet the quantitative criteria for segments and therefore are reflected in the Other category in the following table below (in thousands):

	Three Months Ended March 29, 2008			Three Months Ended March 31, 2007		
	Components	Other	Total	Components	Other	Total
Net sales	$ 193,862	$ 3,053	$ 196,915	$ 66,949	$ —	$ 66,949
Income (loss) before income taxes	$ 68,116	$ (2,907)	$ 65,209	$ 8,309	$ —	$ 8,309
Goodwill	$ —	$33,829	$ 33,829	$ —	$ —	$ —
Assets	$1,427,316	$49,843	$1,477,159	$ 618,763	$ —	$618,763

Note 18. Subsequent Events

On March 31, 2008, First Solar Manufacturing GmbH, a wholly owned indirect subsidiary of First Solar, Inc. and a consortium of banks led by IKB Deutsche Industriebank AG agreed to modify certain terms of the credit facility that the consortium of banks had entered into with First Solar Manufacturing GmbH on July 27, 2006. The amendment extends the principal repayment period on the term loan portion of the facility from eighteen quarters to twenty quarters, removes a provision requiring an additional one-time principal repayment during fiscal 2009 based on First Solar Manufacturing GmbH's fiscal 2008 cash flows, permits First Solar Manufacturing GmbH to take on a variety of financial liabilities in the normal course of its business and enables First Solar Manufacturing GmbH's to make payments to affiliates.

On April 28, 2008, we granted 182,961 restricted units at a market price of $285.52 to our associates as part of our annual stock refresh program. The grant date fair value for these awards is approximately $52.2 million and will be amortized over the vesting period, which is generally four years.

Item 2. ***Management's Discussion and Analysis of Financial Condition and Results of Operations***

Cautionary Statement Regarding Forward-Looking Statements

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of the Securities Exchange Act of 1934 and the Securities Act of 1933, which are subject to risks, uncertainties and assumptions that are difficult to predict. All statements in this Quarterly Report on Form 10-Q, other than statements of historical fact, are forward-looking statements. These forward-looking statements are made pursuant to safe harbor provisions of the Private Securities Litigation Reform Act of 1995. The forward-looking statements include statements, among other things, concerning our business strategy, including anticipated trends and developments in and management plans for our business and the markets in which we operate; future financial results, operating results, revenues, gross margin, operating expenses, products, projected costs and capital expenditures; research and development programs; sales and marketing initiatives; and competition. In some cases, you can identify these statements by forward-looking words, such as "estimate," "expect," "anticipate," "project," "plan," "intend," "believe," "forecast," "foresee," "likely," "may," "should," "goal," "target," "might," "will," "could," "predict" and "continue," the negative or plural of these words and other comparable terminology. Forward-looking statements are only predictions based on our current expectations and our projections about future events. All forward-looking statements included in this Quarterly Report on Form 10-Q are based upon information available to us as of the filing date of this Quarterly Report on Form 10-Q. You should not place undue reliance on these forward-looking statements. We undertake no obligation to update any of these forward-looking statements for any reason. These forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance, or achievements to differ materially from those expressed or implied by these statements. These factors include the matters discussed in the section entitled "Risk Factors" elsewhere in this Quarterly Report on Form 10-Q. You should carefully consider the risks and uncertainties described under this section.

The following discussion and analysis should be read in conjunction with our Condensed Consolidated Financial Statements and the accompanying notes contained in this Quarterly Report on Form 10-Q. Unless expressly stated or the context otherwise requires, the terms "we," "our," "us" and "First Solar" refer to First Solar, Inc. and its subsidiaries.

Overview

We design and manufacture solar modules using a proprietary thin film semiconductor technology that has allowed us to reduce our average solar module manufacturing costs to among the lowest in the world. Each solar module uses a thin layer of cadmium telluride semiconductor material to convert sunlight into electricity. We manufacture our solar modules on high-throughput production lines and we perform all manufacturing steps ourselves in an automated, proprietary, continuous process. In 2007 and the three months ended March 29, 2008, we sold most of our solar modules to solar project developers and system integrators headquartered in Germany, France and Spain.

First Solar was founded in 1999 to bring an advanced thin film semiconductor process into commercial production through the acquisition of predecessor technologies and the initiation of a research, development and production program that allowed us to improve upon the predecessor technologies and launch commercial operations in January 2002. Currently, we manufacture our solar modules at our Perrysburg, Ohio and Frankfurt/Oder, Germany manufacturing facilities and conduct our research and development activities at our Perrysburg, Ohio manufacturing facility. Our objective is to become, by 2010, the first solar module manufacturer to offer a solar electricity solution that generates electricity on a non-subsidized basis at a price equal to the price of retail electricity in key markets in North America, Europe and Asia.

On January 24, 2007 we entered into a land lease agreement for a manufacturing center site in the Kulim Hi-Tech Park in the State of Kedah, Malaysia. The Malaysia site accommodates up to four plants, each with four productions lines. In April 2007, we began construction of plant one of our Malaysian manufacturing center. In the third and fourth quarters of 2007, we began construction of plants two and three respectively, and in the first quarter of 2008, we began construction of plant four. We expect plant one to reach its full capacity in the second half of 2008; plant two to reach its full capacity in the first half of 2009; and plants three and four to reach full capacity in the second half of 2009. After plant four of our Malaysian manufacturing center reaches its full capacity, planned for the second half of 2009, we will have 23 production lines and an annual global manufacturing capacity of 1035MW based on the first quarter of 2008 average run rate at our existing plants.

On November 30, 2007, we completed the acquisition of Turner Renewable Energy, LLC, a privately held company which designed and deployed commercial solar projects for utilities and Fortune 500 companies in the United States. Starting in December 2007, we operate this wholly owned subsidiary under the name of First Solar Electric, LLC.

On February 22, 2006, we were incorporated as a Delaware corporation. Prior to that date, we operated as a Delaware limited liability company.

Net Sales

We generate substantially all of our net sales from the sale of solar modules. Over the past four years and the three months ended March 29, 2008, the main constraint limiting our sales has been production capacity as customer demand has exceeded the number of solar modules we could produce. We price and sell our solar modules per watt of power. As a result, our net sales can fluctuate based on our output of sellable watts. We currently sell almost all of our solar modules to solar project developers and system integrators headquartered in Germany, France and Spain, which then resell our solar modules to end-users who receive government subsidies. The majority of our sales are denominated in foreign currency and subject to the fluctuation of the exchange rate between the euro and U.S. dollar. Our net sales could be negatively impacted if legislation reduces the current subsidy programs in Europe, North America or Asia or if interest rates increase, which could impact our end-users' ability to either meet their target return on investment or finance their projects.

Under our customer contracts, starting in April 2006, we transfer title and risk of loss to the customer and recognize revenue upon shipment. Under our customer contracts in effect prior to April 1, 2006, we did not transfer title or risk of loss, or recognize revenue, until the solar modules were received by our customers. Our customers do not have extended payment terms or rights of return under these contracts.

Under our long-term solar module supply contracts ("Long Term Supply Contracts") with our customers, we have the right to terminate certain contracts upon 12 months notice and a payment of a termination fee, if we determine that certain material adverse changes have occurred, including, depending on the contract, one or more of the following: new laws; rules or regulations with respect to our production, distribution, installation or collection and recycling program which have a substantial adverse impact on our business; unanticipated technical or operational issues which result in our experiencing widespread, persistent quality problems or the inability to achieve stable conversion efficiencies at planned levels; or extraordinary events beyond our control which substantially increase the cost of our labor, materials or utility expenses or significantly reduce our throughput.

Our customers are entitled to certain remedies in the event of missed deliveries of kilowatt volume. These delivery commitments are established through rolling four quarter forecasts that are agreed to with each of the customers within the parameters established in the Long Term Supply Contracts and define the specific quantities to be purchased on a quarterly basis and the schedules of the individual shipments to be made to the customers. In the case of a late delivery, certain of our customers are entitled to a maximum charge representing a percentage of the value of the delinquent delivery. If we do not meet our annual minimum volume shipments, our customers also have the right to terminate these contracts on a prospective basis.

With our acquisition of Turner Renewable Energy, LLC on November 30, 2007, a small portion of our revenues have been accounted for using the percent of completion method of accounting. Revenues for First Solar Electric, LLC for the three months ended March 29, 2008 were $3.1 million and not material to our consolidated results of operations.

No single customer accounted for more than 20% of our net sales in the three months ended March 29, 2008.

Cost of sales

Our cost of sales includes the cost of raw materials and components, such as tempered back glass, transparent conductive oxide or TCO coated front glass, cadmium telluride, laminate, connector assemblies and laminate edge seal and others. Other items contributing to our cost of sales are direct labor and manufacturing overhead such as engineering expense, equipment maintenance, environmental health and safety, quality and production control and procurement. Cost of sales also includes depreciation of manufacturing plant and equipment and facility related expenses. In addition, we accrue warranty and end-of-life collection and recycling expenses to our cost of sales.

We implemented a program in 2005 to collect and recycle our solar modules after their use. Under our collection and recycling program, we enter into an agreement with the end-users of the photovoltaic systems that use our solar modules. In the agreement, we commit, at our expense, to remove the solar modules from the installation site at the end of their life and transport them to a processing center where the solar module materials and components will be either refurbished and resold as used panels or recycled to recover some of the raw materials. In return, the owner agrees not to dispose of the solar modules except through our end-of-life

collection and recycling program or another program that we approve, and the photovoltaic system owner is responsible for disassembling the solar modules and packaging them in containers that we provide. At the time we sell a solar module, we record an expense in cost of sales equal to the present value of the estimated future end-of-life collection and recycling obligation. We record the accretion expense on this future obligation to selling, general and administrative expense.

Overall, we expect our cost of sales per watt to decrease over the next several years due to an increase of sellable watts per solar module, an increase in unit output per line, geographic diversification into lower-cost manufacturing regions and more efficient absorption of fixed costs driven by economies of scale.

Gross profit

Gross profit is affected by numerous factors, including our average selling prices, foreign exchange rates, our manufacturing costs and the effective utilization of our production facilities. For example, our Long Term Supply Contracts specify a sales price per watt that declines approximately 6.5% at the beginning of each year. Another factor impacting gross profits is the ramp of production on new plants due to a reduced ability to absorb fixed costs until full production volumes are reached. As a result, gross profits may vary from quarter to quarter and year to year.

Research and development

Research and development expense consists primarily of salaries and personnel-related costs and the cost of products, materials and outside services used in our process and product research and development activities. We continuously add equipment for further process developments and record the depreciation of such equipment as research and development expense. We may also allocate a portion of the annual operating cost of our Ohio expansion to research and development expense.

Selling, general and administrative

Selling, general and administrative expense consists primarily of salaries and other personnel-related costs, professional fees, insurance costs, travel expense and other selling expenses. We expect these expenses to increase in the near term, both in absolute dollars and as a percentage of net sales, in order to support the growth of our business as we expand our sales and marketing efforts, improve our information processes and systems and implement the financial reporting, compliance and other infrastructure required for a public company. Over time, we expect selling, general and administrative expense to decline as a percentage of net sales and on a cost per watt basis as our net sales and our total watts produced increase.

Production start-up

Production start-up expense consists primarily of salaries and personnel-related costs and the cost of operating a production line before it has been qualified for full production, including the cost of raw materials for solar modules run through the production line during the qualification phase. It also includes all expenses related to the selection of a new site and the related legal and regulatory costs and the costs to maintain our plant replication program, to the extent we cannot capitalize these expenditures. We incurred production start-up expense of $16.9 million during 2007 in connection with the qualification of the German plant and the planning and preparation of our plants at our Malaysian manufacturing center. Production start-up expense for the three months ended March 29, 2008, was $12.8 million relating to the planning and preparation of our plants at the Malaysian manufacturing center. We expect to incur significant production start-up expense in fiscal year 2008 in connection with our plants at the Malaysian manufacturing center. In general, we expect production start-up expense per production line to be higher when we build an entirely new manufacturing facility compared with the addition of new production lines at an existing manufacturing facility, primarily due to the additional infrastructure investment required when building an entirely new facility. Over time, we expect production start-up expense to decline as a percentage of net sales and on a cost per watt basis as a result of economies of scale.

Interest income

Interest income is earned on our cash, cash equivalents, marketable securities and restricted cash.

Interest expense, net

Interest expense, net of amounts capitalized, is incurred on various debt financings.

Foreign currency gain (loss)

Foreign currency gain (loss) consists of gains and losses resulting from holding assets and liabilities and conducting transactions denominated in currencies other than the functional currency of the respective subsidiaries.

Use of estimates

Our discussion and analysis of our financial condition and results of operations are based upon our unaudited condensed consolidated financial statements, which have been prepared in accordance with U.S. GAAP for interim financial information. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amount of assets, liabilities, net sales and expenses and related disclosure of contingent assets and liabilities. On an on-going basis, we evaluate our estimates, including those related to inventories, intangible assets, income taxes, warranty obligations, marketable securities valuation, derivative financial instrument valuation, end-of-life collection and recycling, contingencies and litigation and share-based compensation. 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.

Results of Operations

The following table sets forth our consolidated statements of operations as a percentage of net sales for the periods indicated:

	Three Months Ended	
	March 29, 2008	March 31, 2007
Net sales	100.0%	100.0%
Cost of sales	47.0%	55.1%
Gross profit	53.0%	44.9%
Research and development	2.4%	4.6%
Selling, general and administrative	14.6%	20.4%
Production start-up	6.5%	12.7%
Operating income	29.5%	7.2%
Foreign currency gain (loss)	0.4%	(0.4)%
Interest income	3.4%	6.2%
Interest expense, net	0.0%	0.3%
Other expense	0.2%	0.2%
Income tax expense	9.4%	4.9%
Net income	23.7%	7.5%

Three Months Ended March 29, 2008 and March 31, 2007

Net sales

	Three Months Ended			
(Dollars in thousands)	March 29, 2008	March 31, 2007	Three Month Period Change	
Net sales	$ 196,915	$ 66,949	$ 129,966	194%

Net sales increased by $130.0 million from $66.9 million in the three months ended March 31, 2007 to $196.9 million in the three months ended March 29, 2008, primarily as a result of a 173% increase in the MW volume of solar modules sold. The increase in the MW volume of solar modules sold was due to the full ramp of our German facility and continued improvements to our overall production throughput. In addition, the average number of sellable watts per solar module increased by 9% in the three months ended March 29, 2008 and the average selling price increased to $2.45 from $2.32 in the three months ended March 31, 2007. Our average selling price was positively impacted by $0.27 due to a favorable foreign exchange rate between the U.S. dollar and the euro; which was partially offset by a price decline of $0.14. During the three months ended March 29, 2008 and March 31, 2007, approximately 87% and 98%, respectively, of our net sales resulted from sales of solar modules to customers headquartered in Germany.

Cost of sales

(Dollars in thousands)	Three Months Ended March 29, 2008	Three Months Ended March 31, 2007	Three Month Period Change	
Cost of sales	$ 92,591	$ 36,907	$ 55,684	151%
% of net sales	47.0%	55.1%		

Cost of sales increased by $55.7 million from $36.9 million in the three months ended March 31, 2007 to $92.6 million in the three months ended March 29, 2008, primarily as a result of higher production and sales volumes which caused a $31.7 million increase in direct material expense, $4.5 million increase in warranty and end-of-life costs relating to the collection and recycling of our solar modules, $1.1 million increase in sales freight and other costs and $18.4 million increase in manufacturing overhead costs. The increase in manufacturing overhead costs was due to a $9.9 million increase in salaries and personnel-related expenses as a result of increased head count, which included a $0.5 million increase in share-based compensation expense. In addition, the increase in manufacturing overhead costs included a $5.7 million increase in facility and related expenses and a $2.8 million increase in depreciation expense, which was primarily the result of additional equipment becoming operational at our German plant.

Gross profit

(Dollars in thousands)	Three Months Ended March 29, 2008	Three Months Ended March 31, 2007	Three Month Period Change	
Gross profit	$ 104,324	$ 30,042	$ 74,282	247%
% of net sales	53.0%	44.9%		

Gross profit increased by $74.3 million from $30.0 million in the three months ended March 31, 2007 to $104.3 million in the three months ended March 29, 2008, reflecting an increase in net sales. As a percentage of net sales, gross profit increased 8.1% percentage points from 44.9% to 53.0%, representing increased leverage of our fixed cost infrastructure and scalability associated with our German plant expansion, which drove a 173% increase in the number of MW sold over the same time period.

Research and development

(Dollars in thousands)	Three Months Ended March 29, 2008	Three Months Ended March 31, 2007	Three Month Period Change	
Research and development	$ 4,760	$ 3,058	$ 1,702	56%
% of net sales	2.4%	4.6%		

Research and development expense increased by $1.7 million from $3.1 million in the three months ended March 31, 2007 to $4.8 million in the three months ended March 29, 2008, primarily as a result of an increase in headcount, which resulted in a $1.6 million increase in personnel-related expense and was offset by a $0.2 million reduction in share-based compensation expense from $1.2 million in the three months ended March 31, 2007 compared with $1.0 million in the three months ended March 29, 2008. In addition, consulting and other expenses increased by $0.3 million.

Selling, general and administrative

(Dollars in thousands)	Three Months Ended March 29, 2008	Three Months Ended March 31, 2007	Three Month Period Change	
Selling, general and administrative	$ 28,671	$ 13,690	$ 14,981	109%
% of net sales	14.6%	20.4%		

Selling, general and administrative expense increased by $15.0 million from $13.7 million in the three months ended March 31, 2007 to $28.7 million in the three months ended March 29, 2008, primarily as a result of an increase in headcount, which resulted in a $10.1 million increase in personnel-related expense and included a $4.5 million increase in share-based compensation expense from $2.9 million in the three months ended March 31, 2007 compared with $7.4 million in the three months ended March 29, 2008. In addition, legal and professional service fees expense increased by $2.7 million and all other expenses increased by $2.2 million, primarily as a result of infrastructure build out related to our continued expansion and increased compliance cost associated with being a public company.

Production start-up

(Dollars in thousands)	Three Months Ended March 29, 2008	Three Months Ended March 31, 2007	Three Month Period Change	
Production start-up	$ 12,761	$ 8,474	$ 4,287	51%
% of net sales	6.5%	12.7%		

In the three months ended March 29, 2008, we incurred $12.8 million of production start-up expense related to our sixteen line Malaysian expansion, which included related legal and regulatory costs, compared with $8.5 million of production start-up expense related to the ramp and qualification of our four line German plant during the three months ended March 31, 2007. Production start-up expense is primarily attributable to the cost of labor and material and depreciation expense to run and qualify the line prior to production, related facility expenses, management of our replication process and third party expenses.

Foreign currency gain (loss)

(Dollars in thousands)	Three Months Ended March 29, 2008	Three Months Ended March 31, 2007	Three Month Period Change	
Foreign currency gain (loss)	$ 774	$ (270)	$ 1,044	N.M.

Foreign currency gain for three months ended March 29, 2008, was $0.8 million compared with a foreign currency loss of $0.3 million for the three months ended March 31, 2007, primarily as a result of a significant increase in the value of the euro in the three months ended March 29, 2008 compared to an average decline in the three months ended March 31, 2007.

Interest income

(Dollars in thousands)	Three Months Ended March 29, 2008	Three Months Ended March 31, 2007	Three Month Period Change	
Interest income	$ 6,685	$ 4,127	$ 2,558	62%

Interest income increased by $2.6 million from $4.1 million in the three months ended March 31, 2007 to $6.7 million in the three months ended March 29, 2008, primarily as a result of higher cash, cash equivalents and marketable securities balances throughout the first quarter of 2008 due to the $366.0 million net proceeds received from our August 2007 equity follow-on public offering.

Interest expense, net

(Dollars in thousands)	Three Months Ended March 29, 2008	Three Months Ended March 31, 2007	Three Month Period Change	
Interest expense, net	$ 4	$ 201	$ (197)	98%

Interest expense, net of amounts capitalized, decreased by $0.2 million during the three months ended March 29, 2008 compared with the three months ended March 31, 2007, primarily as a result of higher amounts of interest expense capitalized.

Other expense

(Dollars in thousands)	Three Months Ended March 29, 2008	Three Months Ended March 31, 2007	Three Month Period Change	
Other expense	$ 378	$ 167	$ 211	126%

Other expense increased by $0.2 million during the three months ended March 29, 2008 compared with the three months ended March 31, 2007. Other expense consists mainly of financing fees related to our credit facility with a consortium of banks led by IKB Deutsche Industriebank AG.

Income tax expense

(Dollars in thousands)	Three Months Ended March 29, 2008	Three Months Ended March 31, 2007	Three Month Period Change	
Income tax expense	$ 18,590	$ 3,281	$ 15,309	467%
Effective tax rate (%)	28.5%	39.5%		

Income tax expense increased by $15.3 million from $3.3 million in the three months ended March 31, 2007 to $18.6 million in the three months ended March 29, 2008, primarily as a result of an increase in our income before taxes. The provision for income taxes differs from the amount computed by applying the statutory U.S. federal rate principally due to foreign income with lower tax rates

and from tax credits that lower the effective tax rate; the effect of which are partially offset by non-deductible expenses that increase the effective tax rate. The lower effective tax rates for the three months ended March 29, 2008, compared to the three months ended March 31, 2007, resulted primarily from the expansion of our international operations and a reduction of the German tax rate.

Critical Accounting Policies and Estimates

For a description of the critical accounting policies that affect our more significant judgments and estimates used in the preparation of our condensed consolidated financial statements, refer to our Annual Report on Form 10-K for the year ended December 29, 2007 filed with the Securities and Exchange Commission. There have been no changes to our critical accounting policies since December 29, 2007, with the exception of the adoption of SFAS 157, *Fair Value Measurements*, effective December 30, 2007. SFAS 157 establishes a framework for the fair value measurement of our marketable securities and derivative instruments.

Recent Accounting Pronouncements

See Note 3 for a summary of recent accounting pronouncements.

Liquidity and Capital Resources

As of March 29, 2008, we had $709.0 million in cash, cash equivalents and marketable securities compared to $669.7 million at December 29, 2007.

Operating Activities

Cash provided by operating activities was $63.3 million during the three months ended March 29, 2008 compared with $38.9 million during the same period in 2007. Cash received from customers increased to $194.6 million during the three months ended March 29, 2008 from $86.6 million during the three months ended March 31, 2007 primarily due to an increase in net sales. This increase was partially offset by cash paid to suppliers and employees of $137.8 million during the three months ended March 29, 2008 compared with cash paid to suppliers and employees of $46.4 million during the same period in 2007, mainly due to an increase in raw material and component purchases, an increase in personnel-related costs due to higher headcount and other costs supporting our global expansion.

Investing Activities

Cash provided by investing activities was $90.7 million during the three months ended March 29, 2008 compared with cash used of $40.8 million during the same period in 2007. Cash provided by investing activities resulted primarily from the net proceeds of marketable securities of $177.4 million during the three months ended March 29, 2008. Capital expenditures were $74.6 million during the three months ended March 29, 2008 and $40.8 million during the same period in 2007. The increase in capital expenditures was primarily due to our investments related to the construction of our new plants in Malaysia. Cash provided by investing activities for the three months ended March 29, 2008, was offset by $12.1 million of cash placed in restricted accounts to fund our solar module collection and recycling program.

Financing Activities

Cash provided by financing activities was $20.2 million during the three months ended March 29, 2008 compared with $18.7 million during the same period in 2007. Cash provided by financing activities resulted primarily from an increase in taxable investment incentives from the State of Brandenburg ("*Investitionszuschüsse*") and from the Federal Republic of Germany under the Investment Grant Act of 2005 *("Investitionszulagen")* related to the construction of our plant in Frankfurt/Oder, Germany to $35.7 million during the three months ended March 29, 2008 from $4.0 million during the same period in 2007. This increase was partially offset by the repayment of long-term debt of $25.7 million during the three months ended March 29, 2008 compared with payments of $0.8 million during the same period in 2007. During the three months ended March 31, 2007 we received $14.8 million from additional drawings under our credit facilities with a consortium of banks led by IKB Deutsche Industriebank AG.

We believe that our current cash and cash equivalents, marketable securities, cash flows from operating activities, government grants and low interest debt financings for our German plant will be sufficient to meet our working capital and capital expenditure needs for at least the next 12 months. However, if our financial results or operating plans change from our current assumptions, we may not have sufficient resources to support our business plan. As a result, we may engage in one or more debt or equity financings in the future that could result in increased expenses or dilution to our existing stockholders. If we are unable to obtain debt or equity financing on reasonable terms, we may be unable to execute our expansion strategy.

On December 30, 2007, the beginning of our fiscal year 2008, we adopted SFAS 157. Our adoption of SFAS 157 was limited to our financial assets and financial liabilities, as permitted by FSP 157-2. We do not have any nonfinancial assets or nonfinancial liabilities that are recognized or disclosed at fair value in our financial statements on a recurring basis. Our adoption of SFAS 157 did not have a material effect on our financial position and results of operations, and our fair value models do not make material use of unobservable inputs. See Note 9 for further information about our adoption of SFAS 157.

Off-Balance Sheet Arrangements

We had no off-balance sheet arrangements as of March 29, 2008.

Item 3. *Quantitative and Qualitative Disclosures About Market Risk*

Foreign Currency Exchange Risk

Our international operations accounted for approximately 98.4% of our net sales in the three months ended March 29, 2008 and 100.0% of our net sales in the three months ended March 31, 2007; all of which were denominated in euros. As a result, we have exposure to foreign exchange risk with respect to almost all of our net sales. Fluctuations in exchange rates, particularly in the U.S. dollar to euro exchange rate, affect our gross and net profit margins and could result in foreign exchange and operating losses. Historically, most of our exposure to foreign exchange risk has related to currency gains and losses between the times we sign and settle our sales contracts. For example, our Long Term Supply Contracts obligate us to deliver solar modules at a fixed price in euros per watt and do not adjust for fluctuations in the U.S. dollar to euro exchange rate. In the three months ended March 29, 2008, a 10% change in the euro exchange rates would have impacted our net sales by $19.7 million. With the expansion of our manufacturing operations into Germany and the current expansion into Malaysia, many of our operating expenses for the plants in these countries will be denominated in the local currency.

In the past, currency exchange rate fluctuations have had an impact on our business and results of operations. For example, currency exchange rate fluctuations positively impacted our cash flows by $12.2 million in the three months ended March 29, 2008 and positively impacted our cash flows by $0.1 million during the same period of 2007. Although we cannot predict the impact of future currency exchange rate fluctuations on our business or results of operations, we believe that we may have increased risk associated with currency exchange rate fluctuations in the future. As of March 29, 2008, we had one outstanding foreign exchange forward contract to sell €20.0 million ($26.8 million at a fixed exchange rate of $1.34/€1.00). The contract is due to settle on February 27, 2009. This currency forward contract hedges an intercompany loan. Most of our German plant's operating expenses will be denominated in euros, creating increasing opportunities for some natural hedges against the currency risk in our net sales. In addition, we purchased forward contracts to hedge the exchange risk on forecasted cash flows denominated in Euro. The total notional value of the forward contracts was €289.8 million ($457.9 million at the balance sheet close rate on March 29, 2008 of $1.58/€1.00) on March 29, 2008.

Interest Rate Risk

We are exposed to interest rate risk because many of our end-users depend on debt financing to purchase and install a solar electricity generation system. Although the useful life of a solar electricity generation system is approximately 25 years, end-users of our solar modules must pay the entire cost of the system at the time of installation. As a result, many of our end-users rely on debt financing to fund their up-front capital expenditure and final project. An increase in interest rates could make it difficult for our end-users to secure the financing necessary to purchase and install a system on favorable terms, or at all, and thus lower demand for our solar modules and system development services and reduce our net sales. In addition, we believe that a significant percentage of our end-users install solar electricity generation systems as an investment, funding the initial capital expenditure through a combination of equity and debt. An increase in interest rates could lower an investor's return on investment in a system or make alternative investments more attractive relative to solar electricity generation systems, which, in each case, could cause these end-users to seek alternative investments that promise higher returns.

During 2006, we entered into a credit facility with a consortium of banks led by IKB Deutsche Industriebank AG, which bears interest at Euribor plus 1.6% for a term loan, Euribor plus 2.0% for a bridge loan and Euribor plus 1.8% for a revolving credit facility. As of March 29, 2008, we hedged our exposure to changes in Euribor using interest rate swaps with a combined notional value of €46.0 million ($72.7 million at the balance sheet close rate on March 29, 2008 of $1.58/€1.00).

In addition, we invest some of our cash in debt securities, which exposes us to interest rate risk. The primary objective of our investment activities is to preserve principal and provide liquidity on demand, while at the same time maximizing the income we receive from our investments without significantly increasing risk. Some of the securities in which we invest may be subject to market risk. This means that a change in prevailing interest rates may cause the principal amount of the investment to fluctuate. For example, if we hold a security that was issued with an interest rate fixed at the then-prevailing rate and the prevailing interest rate later rises, the principal amount of our investment will probably decline. To minimize this risk, we maintain our portfolio of cash equivalents and marketable securities in a variety of securities, including money market funds, government and non-government debt securities and certificates of deposit. As of March 29, 2008, our fixed-income investments earned a pretax yield of approximately 3.9%, with a

weighted average maturity of two months. If interest rates were to instantaneously increase (decrease) by 100 basis points, the fair market value of our total investment portfolio could decrease (increase) by approximately $1.0 million. The direct risk to us associated with fluctuating interest rates is limited to our investment portfolio and we do not believe that a 10% change in interest rates will have a significant impact on our consolidated statements of operations and statements of cash flows. As of March 29, 2008, all of our investments were in money market accounts or U.S. government securities and federal agency debt.

Commodity and Component Risk

We are exposed to price risks for the raw materials and components used in the manufacture of our modules. Also, some of our raw materials and components are sourced from a limited number of suppliers or a sole supplier. We endeavor to hold limited inventory of key raw materials or components sufficient for our manufacturing needs and to qualify multiple suppliers, a process which could take up to 12 months if successful, but some suppliers are unique and it may not be feasible to qualify second source suppliers. In some cases, we also enter into long term supply contracts for raw materials and components, but these arrangements are normally of shorter duration than the term of our Long Term Supply Contracts with our customers. As a result, we remain exposed to price changes in the raw materials and components used in our modules. In addition, a failure by a key supplier could disrupt our supply chain which could result in higher prices for our raw materials and components and even a disruption in our manufacturing process. Since our selling price under our Long Term Supply Contracts does not adjust in the event of price changes in our underlying raw material or component and require minimum deliveries of our products during their term, we are unable to pass along changes in the cost of the raw materials and components for our products and may be in default of our delivery obligations if we experience a manufacturing disruption.

Item 4. *Controls and Procedures*

Evaluation of Disclosure Controls and Procedures

Our management, including our Chief Executive Officer and Chief Financial Officer, conducted an evaluation as of March 29, 2008 of the effectiveness of our "disclosure controls and procedures" as defined in Exchange Act Rule 13a-15(e). Based on that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that as of March 29, 2008, our disclosure controls and procedures were effective to ensure that information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in rules and forms of the SEC and is accumulated and communicated to our management as appropriate to allow timely decisions regarding required disclosure.

Changes in Internal Control Over Financial Reporting

Our management, including our Chief Executive Officer and Chief Financial Officer, conducted an evaluation of our "internal control over financial reporting" as defined in Exchange Act Rule 13a-15(f) to determine whether any changes in our internal control over financial reporting occurred during the three months ended March 29, 2008 that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. Based on that evaluation, there have been no such changes in our internal control over financial reporting during the three months ended March 29, 2008.

CEO and CFO Certifications

We have attached as exhibits to this Quarterly Report on Form 10-Q the certifications of our Chief Executive Officer and Chief Financial Officer, which are required in accordance with the Exchange Act. We recommend that this Item 4 be read in conjunction with those certifications for a more complete understanding of the subject matter presented.

Limitations on the Effectiveness of Controls

Control systems, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control systems' objectives are being met. Further, the design of any control systems must reflect the fact that there are resource constraints, and the benefits of all controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within our company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns

can occur because of simple error or mistake. Control systems can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part on 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. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures.

PART II. OTHER INFORMATION

Item 1. *Legal Proceedings*

In the ordinary conduct of our business, we are subject to periodic lawsuits, investigations and claims, including, but not limited to, routine employment matters. Although we cannot predict with certainty the ultimate resolution of lawsuits, investigations and claims asserted against us, we do not believe that any currently pending legal proceeding to which we are a party will have a material adverse effect on our business, results of operations, cash flows or financial condition.

In accordance with SFAS 5, "Accounting for Contingencies," we record a liability when it is both probable that a liability has been incurred and the amount of the loss can be reasonably estimated. These provisions are reviewed at least quarterly and adjusted to reflect the impacts of negotiations, settlements, rulings, advice of legal counsel and other information and events pertaining to a particular case.

Item 1A. *Risk Factors*

In addition to the other information set forth in this report, you should carefully consider the factors discussed in Part I, "Item 1A: Risk Factors" in our Annual Report on Form 10-K for the year ended December 29, 2007 and our registration statement on Form S-1/A filed on August 3, 2007, which could materially affect our business, financial condition or future results. The risks described in our Annual Report on Form 10-K are not the only risks facing our company. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition or future results. The risk factors included in our Annual Report on Form 10-K for the year ended December 29, 2007 and our registration statement on Form S-1/A filed on August 3, 2007, have not materially changed.

Item 6. *Exhibits*

The following exhibits are filed with this Quarterly Report on Form 10-Q:

Exhibit Number	Exhibit Description	Incorporated by Reference				Filed Herewith
		Form	Date of First Filing	File Number	Exhibit Number	
4.1	Amendment No. 3 to the Facility Agreement dated July 27, 2006 between First Solar Manufacturing GmbH and IKB Deutsche Industriebank AG dated March 31, 2008					X
10.1	Employment Agreement dated March 31, 2008 between First Solar, Inc. and James R. Miller.					X
21.1	List of Subsidiaries of First Solar Inc.					X
31.01	Certification of Chief Executive Officer pursuant to 15 U.S.C. Section 7241, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002					X
32.02	Certification of Chief Financial Officer pursuant to 15 U.S.C. Section 7241, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002					X
32.01*	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					X

* This exhibit shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933 or the

Securities Exchange Act of 1934, whether made before or after the date hereof and irrespective of any general incorporation language in any filings.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

FIRST SOLAR, INC.

By: /s/ JENS MEYERHOFF
Jens Meyerhoff
Chief Financial Officer
(Principal Financial Officer and Duly Authorized Officer)

May 1, 2008

EXHIBIT INDEX

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Exhibit 4.1

31 MARCH 2008

Amendment No. 3
to the Facility Agreement Dated July 27, 2006

By and Between

First Solar Manufacturing GmbH,
Frankfurt (Oder)
as "Borrower",

First Solar Holdings GmbH,
Mainz
as Joint and Several Debtor, und

First Solar GmbH
Mainz
as Joint and Several Debtor, and

IKB Deutsche Industriebank AG,
Düsseldorf
as "Bank", "Agent" and "Security Interest Agent", and

Commerzbank AG Filiale Mainz,
Mainz
as "Bank", and

Landesbank Rheinland-Pfalz,
Mainz
as "Bank", and

Landesbank Sachsen Aktiengesellschaft,
Leipzig
as "Bank"

PREAMBLE

1. IKB Deutsche Industriebank AG, Düsseldorf, as syndication leader together with the banking syndicate of First Solar Manufacturing GmbH as Borrower, made available, subject to the joint and several liability of First Solar Holdings GmbH, Mainz, and First Solar GmbH, Mainz, three loan facilities up to the total amount of EUR102,044,000.00 to finance a manufacturing site for the production of solar modules on a cadmium-telluride base with an annual capacity of 100 MWp in Frankfurt/Oder according to the conditions of the Facility Agreement dated July, 27 2006 including Amendment No. 1 dated September 12, 2006 and Amendment No. 2 dated March 15, 2007 (**"Facility Agreement"**).

2. This Amendment changes several conditions of the Facility Agreement.

WHEREFOR, the Parties agree to the following Amendment:

1. DEFINITIONS

The terms used in this Amendment have the meaning attributed to them in the Facility Agreement, in so far as there is no modification thereof in this Amendment.

2. CHANGES TO THE FACILITY AGREEMENT

2.1 Changes. The "Facility Agreement" is changed herewith. The amended version is attached in Annex 1.

2.2 Effective Date. The amended version of the "Facility Agreement" is effective retroactively as of 31.12.2007 following the signing of this Amendment by all Parties to the Agreement.

2.3 Continuity in Other Respects. Except for the changes to the "Facility Agreement" accepted in this Amendment, the Agreement shall remain in full force and effect.

3. DOCUMENTS

The "Borrower" shall ensure that, no later than four (4) weeks after the date of this Amendment, the documents listed in Annex 2 shall be submitted to the "Banks", whereby the content of said documents shall be in a form and manner satisfactory to the "Banks".

4. GENERAL CONDITIONS

4.1 Partial Effect. Should individual conditions of this Amendment be deemed entirely or partially invalid or should a gap be found in this modification agreement, then the

validity of the other conditions shall not be affected. In lieu of the ineffective conditions or in order to fill the gap, an appropriate provision should be agreed to that, insofar as legally possible, comes closest to what the Parties would have desired or would have agreed to according to the meaning and purpose of the Amendment, had they considered the matter.

4.2 **Applicable Law**. This Amendment is subject to the laws of the Federal Republic of Germany.

4.3 **Venue**. Exclusive venue for any disputes arising out of or relating to this Amendment shall be Düsseldorf.

4.4 **Requirement of Writing**. Changes and Modifications to this Amendment must be in writing. This requirement of a writing also applies to this No. 4.4.

SIGNATURES

31 March 2008	/s/ Karl-Heinz Harz **First Solar Manufacturing GmbH**
31 March 2008	/s/ Karl-Heinz Harz **First Solar GmbH**
31 March 2008	/s/ Karl-Heinz Harz **First Solar Holdings GmH**
31 March 2008	/s/ Roman Boguhn /s/ Lothar Brosig **Commerzbank AG Filiale Mainz**
31 March 2008	/s/ Anja Lange /s/ Thomas Richter **IKB Deutsche Industriebank AG**
31 March 2008	/s/ Antje Gruber /s/ Christine Schettgen **Landesbank Rheinland-Pfalz**
31 March 2008	/s/ Beate Schneider /s/ Doreen Will **Landesbank Sachsen Aktiengesellschaft**

Annex 1

Amended Facility Agreement Annex 1

between

First Solar Manufacturing GmbH,
Frankfurt (Oder)

as "Borrower"

subject to the joint and several liability of

First Solar Holdings GmbH,
Mainz

and

First Solar GmbH
Mainz

and

IKB Deutsche Industriebank AG,
Düsseldorf

as "Bank", "Agent" and "Security Agent" and

Commerzbank AG Mainz Branch

Mainz

as "Bank" and

Landesbank Rheinland-Pfalz

Mainz

as "Bank" and

Landesbank Sachsen Aktiengesellschaft

Leipzig

as "Bank"

Preamble

First Solar Inc., Phoenix, Arizona intends to construct and operate a production plant in Frankfurt/Oder for the production of solar modules on the basis of cadmium-telluride having a capacity of 100 MWp (hereinafter referred to as the "**Project**") through First Solar Manufacturing GmbH, Frankfurt (Oder): the shares in First Solar Manufacturing GmbH, Frankfurt (Oder) are held by First Solar Inc., Phoenix, Arizona through First Solar Holdings GmbH, Mainz .

M+W Zander FE GmbH was retained as the general contractor for the construction of the buildings as well as the infrastructure. Various suppliers will deliver and install the components for the production lines pursuant to separate agreements.

The distribution of the solar modules is supposed to take place through First Solar GmbH, Mainz, a 100% subsidiary of First Solar Inc., Phoenix, Arizona on the basis of a distributor contract.

The projected total costs for the "Project" are EUR 117.7 million.

The debt capital will be provided to the First Solar Manufacturing GmbH, Frankfurt (Oder) by a syndicate of banks under the lead arrangement of IKB Deutsche Industriebank AG pursuant to the following terms and conditions.

The Federal Republic of Germany and the State of Brandenburg will secure 80% of the claims of the banks in connection with the following described term loan and working capital loan by creating deficiency guarantees (*Ausfallbürgschaften)* for the benefit of the banks.

The subsidies contemplated for the Project were applied for in December 2005/January 2006 and approved by the European Commission on 26 April 2006.

Now, therefore, on the basis of the instructions on the application for the Federal guarantees including parallel state guarantees, the Parties agree as follows:

1. Definitions

1.1. The following definitions apply to this Facility Agreement:

"**Agreed Replacement and Expansion Investments**" are the investments for placement in expansion made by the "Borrower" up to the maximum amount foreseen in the "Business Plan" for the respective business year, whereby the maximum amount is increased by the amounts which were foreseen but not used for replacement and expansion investments in the "Business Plan" for the respective previous business years;

"**Supply Agreements**" mean the following contracts:;

(a) all supply agreements between the "Borrower" and the "FS GmbH";

(b) all supply agreements and other agreements on the delivery and services related to solar modules between the "Borrower" and third-party customers of solar modules; and

(c) all supply agreements and other agreements on the delivery and services related to solar modules between "FS GmbH" and third-party customers of solar modules;

"**End of the Construction Phase**" means the point in time in which the "Borrower" achieves a nominal capacity with their production facility in the amount of 100 megawatts;

"**Agent**" means IKB Deutsche Industriebank Aktiengesellschaft, Düsseldorf;

"**Old Bank**" means a "Bank" which transfers its rights and obligations under the "Contract Documents" completely or partially pursuant to Clause 27 (Assignments and Transfers) of this Facility Agreement to a "New Bank".

"**Deficiency Guarantees**" means the deficiency guarantees from the Federal Republic of Germany (for 48 % of the total amount of the "Term Loan" and initially 48 % of the "Revolver") and the State of Brandenburg (for 32 % of the total amount of the "Term Loan" and initially 32 % of the "Revolver") in an amount totaling 80 % of the amount of the "Term Loan" and the "Revolver" which, as is apparent from Annex **6a** *("Decision on the approval of the deficiency guarantees plus supplements")*, are issued for the benefit of the "Banks" with regard to the Facility Agreement, including the "*General Terms and Conditions for the Assumption of Guarantees by the Federal Republic of Germany (the Bund) and Federal States issuing Parallel Guarantees*" in the form apparent from Annex 6b;

"**Banking Day**" means a day on which the credit institutions in Düsseldorf and Frankfurt am Main are open for general business and which is a "TARGET Day";

"**Banks**" means IKB Deutsche Industriebank AG, Düsseldorf, as well as any third parties joining this Facility Agreement pursuant to Clause 27 as lenders;

"**Majority of Banks**" means the "Banks", whose "QuotasQuotas" in each case of a made decision account for at least 66 2/3% of all "QuotasQuotas";

"**Base Interest Rate**" means the base interest rate as defined in § 247 German Civil Code (*Bürgerliches Gesetzbuch*, *BGB*);

"**Bridge Loan**" means the bridge loan in the amount of EUR 22,000,000 pursuant to Clause 2.1;

"**Guarantors**" means the Federal Republic of Germany and the State of Brandenburg;

"**Guarantee Amount**": means the amount as defined for the respective calendar year in clause 24.6;

"**Business Plan**" means the business plan of the "Borrower" contained in Annex 28 (*Business Plan*) to this Facility Agreement;

"**Cash Flow available for Debt Service**" is defined in Annex 15 (Definition of Key Financial Figures);

"**Cash Flow Waterfall**" means the following sequence of application of the "Cash from Operations":

(1) due tax payments of the "Borrower";

(2) interest payments and compensation for the "Loans"

(3) interest payments and compensation for all other bank financing of the "Borrower";

(4) repayment of principal on the "Loans";

(5) repayment of all other bank financing of the "Borrower";

(6) leasing expenses of the "Borrower" and

(7) "Agreed Replacement and Expansion Investments";

"**Cash Flow from Operations**" is defined in Annex **15** (*Definitions of Key Financial Figures*);

"**Threatening Event of Default**" means any circumstance or event, which would with the expiry of a grace period or giving of notice constitute an event of default;

"**EBITDA**" is defined in Annex **15** (*Definitions of Key Financial Figures*) to this Facility Agreement;

"**Equity**" is defined in Annex **15** (*Definitions of Key Financial Figures*) to this Facility Agreement;

"**Equity Ratio**" is defined in Annex **15** (*Definitions of Key Financial Figures*) to this Facility Agreement;

"**EPC Contractors**" are M+W Zander FE GmbH as well as all suppliers who have concluded an equipment supply agreement with the "Borrower" relating to the "Project";

"**EPC Agreements**" are the General Contractor Agreement concluded between M+W Zander FE GmbH and the Borrower on 13 December 2005 and 5 January 2006, the two contracts on the delivery of technical installations concluded between VON ARDENNE Anlagentechnik GmbH and the "Borrower"/"FS LLC" on 31 March 2006, the contract on the delivery of technical installations concluded between Cincinnati Machine LLC and the "Borrower" on 16 February 2006 and the contract on the delivery of technical installations concluded between NPC Corporation and the "Borrower" on 15 February 2006;

"**Permitted Financial Liabilities**" are Financial Liabilities

(a) from or in connection with this Facility Agreement granted partner loans/loans by "Sponsors" pursuant to the provisions of the "Sponsor Contracts",

(b) entered into with the approval of the "majority of the banks" and the "Guarantors":

"**Permitted Material and Capital Investments**" are

(a) "Agreed Replacement and Expansion investments"

(b) third party funded "Material and Capital Investments" (even if reporting of same in the balance sheet is not required) provided that the payment and repayment entitlements of said third parties are insolvency firm and subordinate to the entitlements of the "Agent" and of the "Banks" under this Facility Agreement and

(c) "Material and Capital Investments" made with the approval of the "majority of the banks" and the "Guarantors"

"**EU Decision**" means the decision of the EU Commission dated 26 April 2006 on the "Deficiency Guarantees" and the "Investment Subsidies and Supports";

"**EURIBOR**" means the interest rate published by Reuters on its screen service on page EURIBOR 01 at or around 11:00 a.m. local time in Brussels on the "Interest Fixing Date" for a period of time corresponding to the Interest Period following the "Interest Fixing Date" or, if a fixing of interest is not possible in this manner, the interest rate determined by the "Agent" on the basis of the quotations from the "Reference Banks" for loans with a

duration corresponding to the respective Interest Period on the relevant "Interest Fixing Date" pursuant to Clause 7.7;

"**Fee Letter**" means the fee letter concluded between the "Borrower", "FS GmbH", "FS" and the "Agent" before this Facility Agreement is concluded;

"**Financial Liabilities**" are all liabilities from or in connection with

(a) Monies made available by way of loans taken out or within the scope of repayable subsidiary funds

(b) an acceptance draft bank discount or guaranteed loan,

(c) a promissory note, a debenture or a certified security of any other kind, including a bond,

(d) leasing and lease purchase agreements and third party funded "Material and Capital Investments" (even if same do not have to be reported in the balance sheet),

(e) sold or discounted receivables (including factoring, unless the buyer assumes the full risk of default),

(f) derivate transactions with the exception of hedging agreements and the "Interest Securing Contract",

(g) Liabilities, guarantees, co-signature agreements and other potential liabilities for third party financial liabilities,

(h) received deposits or granted deferrals to pertinent legal entities if same is done primarily for financing purposes and

(i) potential recourse liabilities for guarantees and co-signature agreements issued by third parties.

"**Freely Disposable Net Assets**" means the assets of a company (as described in Section 266 clause 2, A, B and C German Commercial Code (HGB)), minus (a) the liabilities (as described in Section 266 clause 3, B, C and D German Commercial Code (HGB)) and (b) the share capital of the company, whereby the following adjustments of the balance sheet items shall be made:

(i) the amount of any share capital increase made by the respective company contrary to the obligations under the "Contract Documents" shall be deducted from the share capital;

(ii) loans or other liabilities assumed by the respective company contrary to the obligations under the "Contract Documents" are to disregarded; and

(iii) assets whose book value is substantially lower than the market value in the balance sheet shall be accounted for at their fair

market value, provided that they are not necessary for the business operation and a sale of those assets makes economic sense.

"**FS**" means First Solar Inc., Phoenix, Arizona;

"**FS GmbH**" means First Solar GmbH, Mainz;

"**FS Group**" means "FS" and its "Subsidiaries";

"**FS Holdings**" means First Solar Holdings GmbH, Mainz, a 100% subsidiary of "FS";

"**FS LLC**" means First Solar US Manufacturing LLC., Perrysburg, Ohio, a former 100% subsidiary of "FS"; which was merged with FS as the acquiring company as of 03/31/2007;

"**Shareholders**" means "FS" and "FS Holdings";

"**Permits**" means all public law permits, consents, licenses, authorizations and approvals required for the construction and operation of the "Project", listed in Annex **12** (*Permits for the Construction and Operation of the Project*) except for the "Subsidy Order", the "Deficiency Guarantee" and the "EU Decision";

"**Total Liabilities**" is defined in Annex **15** (*Definitions of Key Financial Figures*) to this Facility Agreement;

"**Investment Account**" means the account No. 2011112 01 at the Commerzbank AG, Mainz (Routing Code 550 400 22) to be established by the "Borrower" pursuant to Clause 13.2;

"**Investment Subsidies**" means the investment subsidies in the amount of EUR 23,756,000 to be provided by the Federal Republic of Germany for the "Project" in accordance with the Investment Subsidy Act (*Investitionszulagengesetz*) 2005;

"**Investment Subsidies and Supports**" means the investment subsidy granted and to be granted under the "Subsidy Order" in the amount of EUR 21,531,000 and the investment support provided and to be provided for the "Project" by the Federal Republic of Germany in accordance with the Investment Subsidy Act (*Investitionszulagengesetz*) 2005 in the amount of EUR 23,756,000;

"**IP License Agreement**": is the contract to be concluded between the "Borrower" and "FS" regarding the rights of use for all licenses, patents and other industrial property rights, which are necessary for the "Project";

"**Loans**" means the "Term Loan", the "Bridge Loan" and the "Revolver";

"**Borrower**": is the First Solar Manufacturing GmbH, Mainz;

"**Market Disruption Notice**" means the notice by the "Agent" about an event within the meaning of Clause 8 (*Market Disruption*);

"Maximum Distribution Margin": is the maximum uniform distribution margin of 2%, which is contained in the sale prices of the products sold by "FS GmbH" to end users from US and German production;

"Maximum Commission Entitlement": is the maximum commission entitlement of 2%, pertaining to "FS GmbH" from the "Borrower" from the sale for its account;

"**Excess Amount**" is defined in Clause 23.1;

"**CET**" means central European time, and — when applicable — central European daylight savings time;

"**New Bank**" means a bank which completely or partially assumes the rights and obligations of an "Old Bank" under the Contract Documents pursuant to Clause 27 (*Assignments and Transfers*);

"**Project**" is defined in the Preamble;

"**Project Progress Report**" means the report to be prepared by the "Project Appraiser" pursuant to Clause 17.8 with regard to the progress of the "Project", which especially contains a comparison of the costs already incurred for the "Project" at the time of such report to the costs for the "Project" foreseen in the "Business Plan" and the confirmation that the "Project" has made the progress corresponding to the investments as of the respective time, the "Project" has no delays compared to the "Schedule" and that all "Permits" required as of that time have been granted;

"**Project Appraiser**" means the technical expert appointed by the "Agent" which at the time of conclusion of this Facility Agreement is the firm Lahmeyer International GmbH, Bad Vilbel;

"**Project Account**" is the project account no. 2011112 00 at the Commerzbank AG, Mainz (Routing Code 550 400 22) to be established by the "Borrower" pursuant to Clause 13.1 of this Facility Agreement;

"**Project Account FS GmbH**" is the account to be set up by "FS GmbH" pursuant to the draft "Security Contract" attached herewith as Annex 18a (Contract on the Pledging of an Account) under account no. 2009330 00 with Commerzbank AG, Mainz (Routing Code 550 400 22);

"**Project Contracts**" means the contracts listed in Annex **5** (*Project Contracts*) to this Facility Agreement;

"**PwC**" means PricewaterhouseCoopers Aktiengesellschaft Wirtschaftsprüfungsgesellschaft, Lise-Meitner-Str. 1, 10589 Berlin having the mandate to act for the "Guarantors" in case of such guarantees;

"**Quota**" means the portion attributed to each "Bank" of the obligation to provide the Loan or the amount, which is provided. The Quotas as of the signing of this Facility Agreement are set forth in Annex 1 (*Quotas*);

"**Reference Banks**" means the Deutsche Bank AG, the Commerzbank AG and the Dresdner Bank AG;

"**Reference Interest Rate**" means "EURIBOR";

"**Revolver**" means the loan for working capital facility in the amount of EUR 27,000,000 pursuant to Clause 2.1 of this Facility Agreement;

"Fixed Assets and Capital Investments": are additions to fixed assets, which have to be reported in the balance sheet or its appendix pursuant to the accounting principles applicable to the "Borrower"; in particular additions from or in connection with:

(a) concessions, commercial licensing rights and similar rights and values as well as licenses to such rights and values;

(b) goodwill;

(c) land parcels, rights equivalent to land rights and buildings, including buildings erected on third party owned land parcels;

(d) technical equipment and machines, other equipment, production and business equipment;

(e) stakes in and loans to affiliated companies;

(f) investments;

(g) loans to companies of which the Company is a stakeholder;

(h) fixed asset securities and other loans;

"**Debt Service Coverage Level**" is defined in Annex **15** (*Definitions of Key Financial Figures*);

"**Debt Service Reserve**" means an amount of EUR 3,000,000;

"**Debt Service Reserve Investment Account"** is the account to be set up by the "Borrower" pursuant to Clause 13.4 under account no. 2011112 12 with Commerzbank AG, Mainz (Routing Code 550 400 22);

"**Debt Service Reserve Account**" is the account no. 2011112 04 at the Commerzbank AG, Mainz (Routing Code 550 400 22) to be established in accordance with Clause 13.4 by the "Borrower" and also refers to the "Debt Service Reserve Investment Account";

"**Service and Supply Contract 5N**" is the German Supply and Service Agreement between the "Borrower", "FS" and 5N PV Gesellschaft fuer photovoltaische Produkte mbH and 5N Plus Inc. dated 3/30/2007;

"**Security**" means the security interests and other forms of security listed in Annex 13 (*Security*) as well as all future security agreed between the "Banks" and the "Borrowers";

"**Security Agent**" means IKB Deutsche Industriebank AG;

"**Security Agreements**" means all declarations to be issued and all contracts to be concluded in connection with the "Security";

"**Sponsors**" means the "Shareholders";

"**Sponsors' Agreements**" means the "Sponsor's Agreement FS Holdings", the "Sponsor's Agreement USA I" and the "Sponsor's Agreement USA II";

"**Term Loan**" means the term loan in the amount of EUR 53,044,000 pursuant to Clause 2.1;

"**TARGET**" means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system;

"**TARGET Day**" is every day on which "TARGET" is open for the processing of payments;

"**Subsidiary**" is any company which is directly or indirectly controlled by a person or with regard to which a person directly or indirectly holds more than 50 % of the voting rights or comparable rights, and "to control" for this purpose means the authority to instruct the management and to determine the guidelines for business policy or, in the case of a German stock company, to determine the members of the supervisory board appointed by the shareholders, be it as the holder of voting rights or on the basis of a contract or otherwise;

"**Surplus Cash Flow**" is defined in Annex **15** (*Financial Figures*) to this Facility Agreement;

"**Transfer**" means the transfer of rights and obligations under this Facility Agreement pursuant to Clause 27.3;

"**Affiliated Enterprises**" means enterprises in which "FS" has a direct or indirect participation;

"**Royalty Payments**" means any payments made by the "Borrower" pursuant to Clause 19.1.35.

"**Sponsor's Agreement FS Holdings**" means the Agreement between "FS Holdings", the "Agent", the "Borrower", and "FS GmbH" pursuant to Annex **9a** (*Sponsor's Agreement FS Holdings*);

"**Sponsor's Agreement USA I**" means the Agreement between "FS", "FS Holdings", the "Borrower", and the "Agent" pursuant to Annex **9b** (Sponsor's Agreement USA);

"**Sponsor's Agreement USA II**" means the Agreement between "FS", the "Borrower", and the "Agent" pursuant to Annex **9c** (Sponsor's Agreement USA pertaining to the Recourse Finanancing Insurance);

"**Debt Level**" is defined in Annex **15** (*Financial Figures*) to this Facility Agreement;

"**Insurance Policies**" means the insurance policies listed in Annex **11** (*Insurance Policies*);

"**Insurance Consultant**" is Marsh GmbH, Frankfurt am Main, appointed by the "Agent";

"**Insurance Account**" is the account no. 2011112 03 at the Commerzbank AG, Mainz (Routing Code 550 400 22) to be established in accordance with Clause 13.4 by the "Borrower";

"**Contract Documents**" means this Facility Agreement, the "Fee Letter" and the "Security Agreements"; each including all respective supplements, modifications and additions made between the respective parties to the Facility Agreement and the Security Contracts at this time and to be made between them in the future to the extent only that same are expressly defined as such by the "Agent" and the "Borrower";

"**Material Adverse Change**" is the occurrence of an event which has a material adverse influence on the business operations, the financial situation or the commercial relationships of the "Borrower", "FS GmbH", "FS Holdings", or "FS" and which results in the "Borrower", "FS GmbH", "FS Holdings", no longer being able to comply with its financial or other obligations under the "Contract Documents" or which endangers or precludes their performance;

"**Accountants**" means the accounting firm PwC Deutsche Revision Aktiengesellschaft Wirtschaftsprüfungsgesellschaft retained by the "Borrower" or another accountant appointed by the "Borrower" which is satisfactory to the "Agent";

"**Schedule**" means the schedule relating to the "Project" under Annex **8** (*Schedule*) which is provided by the "Borrower" and confirmed by the "Project Appraiser", as amended from time to time with the consent of the "Project Appraiser" and the "Agent" in the actual form;

"**Drawdown**" means a drawdown of a payout under one of the "Loans";

"**Drawdown Request**" means a request for a "Drawdown" under this Agreement pursuant to Annex **3** (*Drawdown Request*);

"**Drawdown Period**" means with regard to

(a) the “Term Loan” and the “Bridge Loan”, the period from signing this Facility Agreement until 12/31/2007,

(b) the “Revolver”, the period from signing this Facility Agreement until 09/30/2012 ;

“**Drawdown Date**” is a date on which a payout is supposed to be made under one of the “Loans”;

“**Interest Determination Notice**” is the written notice of the “Borrower” about the duration of an “Interest Period”.

“**Interest Determination Date**” is the second “Banking Day” prior to the beginning of each “Iinterest Period”;

“**Interest Hedging Agreement**” is the framework contract for finance future transactions, to be concluded by the “Borrower” with the IKB Financial Products Société Anonyme, Luxemburg wherein the risk of change in interest rate is secured including all assets and all individual accounts hereunder for at least 75 % of the outstanding under the “Term Loan” up to its duration under consideration of redemption terms based o the “Business Plan”.

“**Subsidy Order**” is the order from the *Investitionsbank* of the State of Brandenburg dated about the “Investment Subsidies and Supports”, as well as all related orders on supports and subsidies for the benefit of the “Borrower” which are still to be issued.

1.2 The use of quotation marks for certain terms and their derivatives serve as a reference to the definitions in Clause 1.1 of this Facility Agreement. If the same term is used without quotations marks, the general meaning resulting from the context applies.

The singular form of a word includes the plural, and the plural form includes the singular.

2. Loans

The “Banks” grant the “Borrower” in accordance with their respective “Quotas”:

2.1 a term loan in the amount of EUR 53,044,000 (the “**Term Loan**”), a bridge loan in the amount of EUR 22,000,000 (the “**Bridge Loan**”), and a working capital loan in the amount of EUR 27,000,000 (the “**Revolver**”).

2.2 The payout amount of the “Loans” is 100% respectively.

2.3. “FS GmbH” and “FS Holding” are jointly and severally liable with the “Borrower” for all obligations of the “Borrower” under this Facility Agreement.

2.4 The liability of "FS GmbH" for liabilities of the "Borrower" under the "Contract Documents" and the right to foreclose the "Security" provided by "FS GmbH" shall be limited to the respective amount of the "Freely Disposable Net Assets" existing at the time of such payment or enforcement.

The restriction of the liability in the aforementioned Paragraph 1 shall only apply if "FS GmbH" objects to the recourse or the foreclosure of a "Security" on the grounds of the restricted liability within 15 "Banking Days" after the "Agent" has announced the recourse or the foreclosure and within 3 "Banking Days" after the successful appeal, the amount of the "Freely Disposable Net Assets" shall be determined by an independent auditor with the consent of the "Agent".

3. Purpose of the Loans

3.1 The "Term Loan" is exclusively designed for the partial financing of the fixed assets for the "Project" in accordance with the description in the overview "Source of Funds / Use of Funds" in Annex **2** (*Source of Funds / Use of Funds*).

3.2 The "Bridge Loan" serves to pre-finance the "Investment Supports".

3.3 The "Revolver" serves the financing of the necessary operating funds for the "Project".

4. Quotas of the Banks

4.1 Each "Bank" undertakes to participate in each "Drawdown" under the "Loans" pursuant to this Facility Agreement in an amount corresponding to its respective "Quota" on the respective "Drawdown Date" and to place the amount allocated to it at the disposition of the "Agent".

4.2 Each "Bank" is liable to the "Borrower" only with its "Quota" for compliance of the totality of the obligations imposed on the "Banks" under this Facility Agreement. Joint liability is excluded.

4.3 To the extent that a "Bank" does not fulfill its obligations under this Facility Agreement, this does not relieve the other parties from the performance of their obligations under this Facility Agreement.

4.4 The "Banks" are individual creditors and not joint creditors under this Facility Agreement.

4.5 Except in the case of a corresponding order by the "Majority of Banks" or unless expressly regulated in this Agreement, the rights of the "Banks" will exclusively be exercised by the "Agent" as the representative of the "Banks".

5. Drawdowns

5.1 The "Borrower" can request a Drawdown under one of the "Loans" within the respective "Drawdown Period" with a "Drawdown Request" in the form set forth in Annex **3** (*Drawdown Request*). The correctly filled out

"Drawdown Request" must be received by the "Agent" not later than 10:00 am "CET" five "Banking Days" prior to the "Drawdown Date" as set forth in the drawdown request.

5.2 The "Borrower" is only authorized to submit "Drawdown Requests" if the preconditions for Drawdown set forth in Annex **4a** ("*General Preconditions for Payout*") and in Annex **4b** ("*Special Preconditions for Drawdown*") have each been fulfilled to the satisfaction of the "Agent".

5.3 "Drawdowns" under the "Term Loan" are only permitted if in addition to the preconditions set forth in Annex **4a** ("*General Preconditions for Drawdown*") and in Annex **4b** ("*Special Preconditions for each Drawdown*"):

(a) Copies of invoices are presented which show progress in the project going beyond the total amount of EUR 22,000,000. The invoices are to be certified by the countersignature of an authorized person employed by the "Borrower"; and

(b) The respective last "Project Progress Report" to be provided under Clause 17.8 has been issued to the satisfaction of the "Agent".

"Drawdowns" will be made in a maximum amount of 56.72 % of the respective net invoice amount, which is in excess of EUR 22,000,000.

"Drawdowns" under the "Term Loan" are made in amounts of at least EUR 3,000,000 except for the last "Drawdown".

There will be a maximum of twelve "Drawdowns".

5.4 "Drawdowns" under the "Bridge Loan" are only permissible if in addition to the preconditions set forth in Annex **4a** ("*General Preconditions for Drawdown*") and in Annex **4b** ("*Special Preconditions for each Drawdown*"):

(a) The "Agent" has copies of the invoices for supplies and services for which applications for the "Investment Supports" have been submitted; and

(b) The respective last "Project Progress Report" to be provided under Clause 17.8 has been issued to the satisfaction of the "Agent".

"Drawdowns" are made in the amount of a maximum of 20.5% of the respective net invoice amount.

5.5 A maximum of two "Drawdowns" per calendar month will be made in the amount of at least EUR 500,000.

5.6 Unless agreed otherwise, all payouts are made to the "Project Account FSM".

5.7 As soon as all preconditions for the respective Drawdown under one of the Loans exist to the satisfaction of the "Agent", the "Agent" will confirm this

to the “Banks”. Each “Bank” must then provide to the “Agent” the amount allocable to it to be paid out on the respective “Drawdown Date” by no later than 11:00 a.m. CET.

6. Termination and Loss of the Loan

6.1 The “Borrower” is entitled to terminate the “Loans” to the extent these “Loans” have not been used in “Drawdowns” in amounts of EUR 2,000,000 by advance written notice of five “Banking Days” if the “Borrower” has demonstrated to the satisfaction of the “Agent” that the total financing of the “Project” is not endangered by the termination.

6.2 In the case of termination of the “Term Loan”, the last due scheduled repayment installments shall be pro-rated, taking the terminated amount into account .

The “Bridge Loan” and the “Revolver” are reduced upon termination by the respective terminated amount.

6.3 The amounts of the “Loans” not used by expiration of the respective “Drawdown Periods” lapse at that time. Figure 6.2 applies accordingly.

7. Interest

7.1 The interest rate for the respective interest period is calculated for each “Drawdown” as a sum of the “Reference Interest Rate” and the respective margin applicable under Clause 7.6. The “Agent” shall notify the “Borrower” and the “Banks” of the interest rate for the pertinent interest period and its term two bank business days prior to the beginning of an interest period.

7.2 The interest periods for the “Term Loan” and the “Bridge Loan” are, at the election of “Borrower” three or six months and for the “Revolver”, one, three or six months. The election for the first interest period for a “Drawdown” under a “Loan” is made in the “Drawdown Request”. The “Borrower” will inform the Agent about the duration of the interest period the “Borrower” desires for the subsequent interest periods of the relevant “Drawdown” by no later than 11:00 a.m. CET five “Banking Days” prior to the “Interest Determination Date” by using the form set forth in Annex **14** (*Interest Determination Notice*).

If the “Borrower” does not make an election in the “Drawdown Request” or by the scheduled date five “Banking Days” prior to the “Interest Determination Date”, the interest period has the duration of three months.

7.3 The first interest period of a “Drawdown” under a “Loan” begins with the “Drawdown Date” and ends upon expiration of one, three or six months, depending on the elected duration of the interest period, on the day corresponding in its number to the “Drawdown Date”. The first interest period for each additional “Drawdown” under the Loan begins with the last day of the previous interest period and ends on the last day of the duration determined or agreed for it. Each further “Interest Period” for a “Drawdown”

under the respective "Loan" begins on the last day of the previous interest period and ends on the last day of the duration determined or agreed for it. If a repayment date under Clause 10 (*Repayment*) falls within the determined or agreed duration of an interest period, the interest period ends on the repayment date.

7.4 If the last day of an interest period falls on a day, which is not a Banking Day, the interest period is extended to the next "Banking Day" unless this day falls in the next calendar month. In this case, the interest period ends on the immediately preceding "Banking Day".

7.5 If more than one interest period under a respective "Loan" end on the same day, the relevant "Drawdowns" will be combined on the relevant day and will be treated in the future as a single "Drawdown".

7.6 The respective margin for the total duration of the "Term Loan" is 1.6 % p.a., for the "Bridge Loan" 2 % p.a. and for the "Revolver" 1.8 % p.a.

7.7 If the "Agent" can only determine the "Reference Interest Rate" for an interest period on the basis of quotes from the "Reference Banks", the applicable "Reference Interest Rate" for this interest period is the interest rate calculated by the "Agent" (if appropriate, rounded up to the next full sixteenth of a percentage point) from the arithmetic mean of the interest rates which have been notified to the "Agent" on the "Interest Determination Date" by at least two "Reference Banks" at approximately 11:00 a.m. CET.

7.8 The interest will be accrued and is due for payment at the end of each interest period. The "Agent" will inform the "Borrower" and the "Banks" about the amount of the interest payments which are due in a timely manner prior to expiration of each interest period.

7.9 To the extent that payments are made on dates other than the end of an interest period, the "Borrower" must compensate the "Banks" for all damages resulting from the early repayment.

A loss of margin is not being compensated.

8. Market Disruption

If one of the following events occurs, the "Agent" will inform the "Borrower" and the "Banks" about this without undue delay ("**Market Disruption Notice**"):

(a) the determination of "EURIBOR" is not possible and none or only one of the "Reference Banks" has provided an interest rate to the "Agent" by 11:30 a.m. CET on the respective "Interest Determination Date" which is required in order to determine the "Reference Interest Rate", or

(b) the "Agent" has received a notice prior to the beginning of the interest period regarding a "Drawdown" from one or more "Banks" whose "Quotas" account in aggregate at least 50 % of all "Quotas" that for

reasons generally affecting the European interbank market the refinancing costs for the "Banks" for this "Drawdown" are higher than the "Reference Interest Rate" for this interest period.

Upon receipt of such a "Market Disruption Notice" the respective "Drawdown" shall be paid out if the "Borrower" does not instruct otherwise; the "Agent" and the "Borrower" will negotiate in good faith within a period of 10 days about an alternative method for determining the interest for the "Drawdown". Such an alternative method can contemplate both another interest period and another reference interest rate. If no agreement is reached prior to expiration of this deadline, the interest rate for the relevant "Drawdown" for each "Bank" is the sum of the respective margin under Clause 7.6 and the annual refinancing costs for the relevant "Bank" with regard to its participation in the "Drawdown". Each "Bank" will inform the "Agent" about this interest rate as quickly as possible and in any event prior to the end of the relevant interest period.

9. Default Interest

9.1 If the "Borrower" does not fulfill a payment obligation under this Facility Agreement when due, the "Borrower" owes default interest from the due date until the date of payment in an amount of the "Base Interest Rate" plus 5 % p.a. or, if it is an interest payment with which the "Borrower" is in default, liquidated damages in the corresponding amount. A reminder is not required.

9.2 The amount of the default interest or the damages will be determined by the "Agent" and will be notified to the "Borrower" and the "Banks".

9.3 The "Banks" retain the right to prove that they have suffered higher damages, and in the case of liquidated damages the "Borrower" retains the right to prove lower damages.

10. Repayment

10.1 The "Term Loan" is to be repaid quarterly in arrears on 31.03, 30.06, 30.09. and 31.12. of each year in 20 equal repayment installments; the first installment is due on 31.03.2008, and the last installment is due on 31.12.2012.

The amount of the respective installment shall be equivalent to the amount stipulated in the repayment plan provided in Annex 30 (*Repayment Plan*). In the event that any changes to the installments should have to be made, in particular because (i) the "Borrower" enforces the rights pursuant to Clause 6.1, the amount of the installments shall be recalculated based on the balance of the loan.

The amount of said newly calculated installments shall be communicated to the "Borrower" and the "Banks" for their information by the "Agent" in writing in the form of an adjusted Repayment Plan in due time prior to the due date of the next installment.

10.2 The "Bridge Loan" is to be repaid in the amount of the respectively paid out "Investment Subsidies", but no later than in full on 31.12.2008. The amounts

received in the “Investment Account” in connection with the “Investment Subsidies” will be applied respectively at the end of the next interest period as a repayment of the “Bridge Loan”.

10.3 The final due date for the Revolving Facility is on 31.12.2012.

11. Voluntary Repayment

11.1 The “Term Loan” and the “Bridge Loan” can each be voluntarily repaid in advance in a single sum or in partial amounts of at least EUR 2,000,000 at the end of any interest period upon giving at least 5 “Banking Days” irrevocable written advance notice.

The voluntary repayment of the “Bridge Loan” is only permissible after complete repayment of the “Term Loan”.

11.2 The “Borrower” is obliged (1) to make a mandatory special repayment of the “Term Loan” at the end of the current interest period under the “Term Loan” and (2) after complete repayment of the “Term Loan”, to make a mandatory special repayment of the “Revolver” at the end of the current interest period under the “ Revolver” and (3) after complete repayment of the “Revolver”, to make a mandatory special repayment of the “Bridge Loan” at the end of the current interest period under the “Bridge Loan”

(a) with 100% of each amount in excess of EUR 500,000 in an individual case and/or per business year of the “Borrower” derived from any proceeds from the sale of fixed assets of the “Borrower” unless the sale of assets to be replaced is involved. In the case of the sale of assets to be replaced, a mandatory special repayment must be made if the replacement acquisition has not been demonstrated to the satisfaction of the “Agent” within 180 days after the date of sale; and

(b) with payments from the “Insurance Policies” to the extent that these exceed EUR 100,000 in an insured event to the extent that the payment is not used pursuant to Clause 13.3 within the deadline set there.

11.3 In the case of early repayment of the “Term Loan”, the respective last due scheduled repayment installment will be reduced by the specially repaid amount.

The “Bridge Loan” and the “Revolver” are reduced by the respective specially repaid amount upon early repayment.

12. New Drawdowns

Amounts repaid under the “Term Loan” and the “Bridge Loan” cannot again be drawn down.

Each “Drawdown” under the “Revolver” can be completely or partially repaid as of the end of the respective interest period, whereby both the

amount to be repaid as well as the remaining amount to be paid out cannot be less than EUR 500,000 if the outstanding amount is not completely repaid. The repayment of amounts paid out under the "Revolver" must be notified to the "Agent" in writing using the form set forth in Annex **16** (*"Template Repayment Revolver"*) at least five "Banking Days" prior to the end of the respective "Interest Period".

Amounts repaid under the "Revolver" can be again drawn down if the preconditions for Drawdown set forth in Clause 5 are satisfied.

13. Accounts

13.1 The "Borrower" is required to establish the following accounts prior to the first Drawdown under the "Loans", which accounts are to be maintained exclusively without overdraft capacity and are to be pledged with first ranking to the "Security Agent" and with regard to which the respective banks where the accounts are maintained have waived their pledge rights under their general terms and conditions:

13.1 "**Project Account":**

All payments of the "Agent" to the "Borrower" under the "Loans" will be made to the "Project Account".

Payments of the "Borrower" from the "Project Account" can only be made in accordance with the purpose of the respective "Loans". In the case of a "Threatening Event of Default" under Clause 20, the "Borrower" is only entitled to make payments from the "Project Account" with the prior written consent of the "Agent".

13.2 "**Investment Account**"

The "Investment Account" will be credited with payments under the "Investment Supports". The "Borrower" undertakes to instruct the appropriate tax office to make payments for the "Project" on an annual basis under the "Investment Supports" exclusively to the "Investment Account"; or, if and as long as these payments cannot be made to the "Investment Account" for any technical reasons, to make same exclusively to the "Project Account". The "Borrower" undertakes to transfer payments for the "Project" under "Investment Supports" within 5 bank business days after receipt to the "Project Account" or to the "Investment Account".

The "Borrower" can only use the funds in the "Investment Account" for the repayment of the "Bridge Loan". Any other disposition of the funds is excluded.

The "Borrower" hereby irrevocably authorizes the "Agent" to collect all of the amounts credited to the "Investment Account" as of the end of an interest period following the credit for repayment of the amounts paid out under the "Bridge Loan". The "Agent" is hereby expressly released from the application of § 181 BGB.

13.3 "**Insurance Account**"

The "Borrower" will make sure that all payments in connection with the "Insurance Policies" are credited to the "Insurance Account".

The "Borrower" shall use funds in the "Insurance Account" only

(a) for a replacement acquisition or reconstruction of the assets affected by the insurance event if the "Borrower" proves the replacement acquisition to the satisfaction of the "Agent" within 180 days after the payout of the insurance amount, whereby a copy of the order is sufficient proof;

(b) if payments under the business interruption insurance are involved, to cover the ongoing costs of operations if the "Borrower" proves the operating costs to the satisfaction of the "Agent" within 180 days after the payout of the insurance amount; and

(c) if payments under the business liability insurance are involved, for the satisfaction of claims for damages under imperative provision of law.

Any other disposition of the funds is excluded.

13.4 "**Debt Service Reserve Account**"

Before drawdown of any of the "Loans" "Borrower" is required to pay the "Debt Service Reserve" from the first "Drawdown" under the "Loans" into the "Debt Service Reserve Account". The "Borrower" shall have the right to transfer the "Debt Service Reserve" to the "Debt Service Investment Account" as a time deposit.

To the extent that a part or the entire amount of the "Debt Service Reserve" has been used to repay an amount due in connection with the "Loans", the "Borrower" is required to again restock the "Debt Service Reserve" on the "Agent's" first demand.

The "Debt Service Reserve" remains in the "Debt Service Reserve Account" until all claims of the "Banks" under and in connection with the Facility Agreement have been fulfilled.

The "Borrower" can only dispose of the interest credited to the "Debt Service Reserve Account" pursuant to a separate interest agreement between the "Borrower" and the account holding bank, but not of the "Debt Service Reserve".

If the "Borrower" does not comply with its payment obligations under the Facility Agreement, the "Borrower" hereby irrevocably authorizes the "Agent" to apply the "Debt Service Reserve" to settle due obligations under Clause 14.4. The "Agent" is released from the restrictions of Section 181 German Civil Code.

14. Payments of the "Borrower" and the "Banks"

14.1 All payments of the "Borrower" and the "Banks" to the "Agent" under the "Contract Documents" are to be rendered to account number 2013535410, routing number 30010400, IBAN: DE 91300104002013535410, a general account of the "Borrower" to be established for this purpose with IKB Deutsche Industriebank AG, over which the "Borrower" has no authority to make dispositions.

14.2 All payments of the "Borrower" to the "Agent" under the "Contract Documents" are due for payment in EUR on the due date by 10:00 a.m. CET. If payments under this Facility Agreement or the "Contract Documents" fall due on a day which is not a "Banking Day", the due date is extended to the next "Banking Day" in the same calendar month, or if the next "Banking Day" falls in the next calendar month, the due date is the immediately preceding "Banking Day".

14.3 Each payment made by the "Borrower" or a third party make to the "Agent" for obligations of the "Borrower" under the Facility Agreement or the "Contract Documents" will be distributed by the "Agent" to the "Banks" without undue delay corresponding to their "Quotas". If a repayment is the result of the termination of the Facility Agreement in relation to a specific "Banks" pursuant to Clause 15.3 the "Agent" will distribute the payment to such "Banks".

14.4 If a payment of the "Borrower" or a third party for the obligations of the "Borrower" is not sufficient to satisfy all obligations of the "Borrower" towards the "Banks" upon receipt of the payment, the "Agent" is authorized to credit the received payments to the obligations of the "Borrower" in the following sequence:

- first, to the outstanding costs and disbursements of the "Agent",
- second, to any outstanding fees,
- third, to default interest,
- fourth, to due interest,
- fifth, to due amounts of principal,
- sixth, to all other due payments.

Any different determinations by the respective "Borrower" of how to credit the payment will not be taken into account.

14.5 Interest and fees will be calculated on the basis of the actual number of days elapsed in relation to a year having 360 days.

15. Changes in certain Bases of the Contract, Taxes

15.1 If changes in law or changes in guidelines, orders or requirements of the banking supervisory authorities with regard to minimum reserves or liquidity or equity capital requirements (e.g., the requirements under the so-called Basel II Principles) result in,

(a) an increase of the costs of a "Bank" for maintaining its obligations assumed under this Agreement,

(b) an increase of the costs of a "Bank" of providing, complying with or financing its participation in a "Drawdown" or the maintenance of its credit promise, or

(c) a decrease in any amount or interest which the relevant "Bank" has received or is supposed to receive under or in connection with this Facility Agreement,

the relevant "Bank" is entitled to demand payment of an amount equal to these additional costs or the reduction from the "Borrower". A "Bank" which intends to demand the amounts mentioned under (a) through (c) must inform the "Borrower" accordingly through the "Agent". This notice must state the determined amount of the additional costs or the reduction, the time at which these costs or the reduction was fist incurred, as well as the reason for it. The "Banks" are, however, not obliged to provide statements, which contain confidential information about their organization or internal business, affairs or which would permit corresponding conclusions to be drawn. The payment of the amount of the additional costs or the reduction is due 15 "Banking Days" after receipt of the notice at the "Borrower".

15.2 The obligation to compensate costs pursuant to Clause 15.1 (a) or (b) above or the obligation to pay the difference amount pursuant to Clause 15.1 (c) above shall not exist, if the respective request or order of the banking supervisory authority is directed only against an individual "Bank" and is not related to the "Project" or a person involved in the "Project".

15.3 In case that the "Borrower" is obliged to make a payment pursuant to Clause 15.1 (a) and (b) or payment of the difference amount pursuant to Clause 15. 1 (c) above, it shall be entitled to terminate the "Facility Agreement" regarding such "Banks", which ask for payments pursuant to Clause 15.1. The "Borrower" shall then be obliged to repay the outstanding "Loans" as far as they relate for the "Quotas" of such "Banks" at the end of the respective "Interest Period" or, together with a prepayment indemnity (*Vorfälligkeitsentschädigung*), during the respective "Interest Period". The calculation of the prepayment indemnity shall be done in accordance with actual binding judgments.

15.4 The “Borrower” must make all payments to the “Banks” without deductions or withholdings for taxes, levies, fees or similar burdens to the extent that the “Borrower” is not required by law to make the deduction or the withholding.

If the “Borrower” is required by law to make deductions or withholdings of tax, levies or fees, it must increase the amounts to be paid so that the net amount remaining after the deduction or the withholding corresponds to the amount which the “Banks” would receive upon payment of the originally owed amount without deduction or withholding.

If a “Bank” receives at a later stage a tax credit, a tax refund or a tax reduction, which results from a payment, which has to be made in accordance which Clause 2 above, the “Bank” has to pay (if is able to pay notwithstanding the received payment) to the “Borrower” an amount in its own fair judgment. However, if the tax credit, the tax refund or the tax reduction is not related to a payment made by a “Borrower” pursuant to sub-clause 2 above or the total amount does not correspond, (a) the respective “Bank” is permitted to decide in its own discretion about the reasonable level of amount to be paid to the “Borrower” and the point of time of such payment, (b) the “Bank” shall decide in its own fair judgment about the use, the application or the regulation of such tax refunds or tax privileges and (c) the respective “Bank” is not obliged to release any information regarding its own tax issues or calculations.

If a “Bank” which has paid an amount to the “Borrower” according to Paragraph 3 notifies, that the payment or privilege relating to the payment was incorrect or has been withdrawn, the “Borrower” has to refund such an amount to the “Bank” after request, which is in the “Bank’s” own fair judgment necessary to bring the “Bank” in the same situation as if the “Bank” would have been able to receive the refund or the privilege.

15.5. Each “Bank” shall represent to the “Borrower” after its request a letter largely equivalent to the form of *Rundschreiben des Bundesfinanzministeriums vom 20.Oktonber 2005* (Circular of the German Ministry of Finance) dated 20 October 2005 (IV B 7 — S2742a — 43/05) to § 8a KStG.

16. Representations and Warranties

16.1 The “Borrower” represents to the “Agent” and the “Banks” on the date on which this Facility Agreement is signed that the following statements are correct:

16.1.1 The “Borrower” is a duly established company with limited liability under German law. The “Borrower” has the authority to conduct and continue its present business without restrictions and to own and possess its current assets.

16.1.2 The “Borrower” is entitled to validly conclude the “Contract Documents” as well as the “Project Agreements”, to exercise its rights under these contracts

and to perform its obligations under these contracts and has all corresponding "Permits" at the respective point in time.

16.1.3 All "Permits" as well as all applications or other actions relating to public authorities which the "Borrower" is required to obtain or carry out according at the respective time, based on the status of the "Project", have been obtained or carried out by the "Borrower" and have been granted by a final order and have not been withdrawn or revoked.

16.1.4 The presented and to be presented annual and quarterly financial statements to the "Banks" pursuant to the provisions of this Facility Agreement were prepared in accordance with applicable statutory provisions and present a true and fair view of the assets, the financial situation and the earnings position of the "Borrower", and there have been no "Material Adverse Effects" at the "Borrower" since the time such financial statements have been prepared.

16.1.5 There is no event of default under this Facility Agreement and no "Threatening Event of Default".

16.1.6 There are not proceedings before a court, an arbitral tribunal or an administrative authority pending or threatened against or initiated by the "Borrower" which in the aggregate exceed an amount in controversy of EUR 2,000,000.

16.1.7 The "Borrower" conducts its business in accordance with all applicable legal provisions, including environmental provisions and in accordance with all applicable administrative regulations and orders.

16.1.8 The "Borrower" has not established any security interest except the "Security" over any of its assets.

16.1.9 The respective "Borrower" has properly submitted all tax declarations and has paid all taxes when due, regardless of their type.

16.1.10 The "Borrower" is neither insolvent nor is insolvency imminent. The "Borrower" has not been served with an application to commence insolvency proceedings nor have such proceedings been commenced.

16.1.11 The "Borrower" has completely and accurately disclosed to the "Agent" and the "Banks" all facts and information which upon exercising the care of a prudent businessman could be assumed would be of importance for the credit decision of the "Banks". All information which the "Borrower" or one of its advisors has forwarded to the "Agent" or the "Banks" in writing are accurate and complete at the time they were forwarded to the "Banks" or the "Agent".

16.1.12 The "Borrower" has at least until the repayment of the "Loans" the unrestricted right to dispose or right of use over all relevant licenses, intellectual property rights or similar rights for the "Project" or has secured access to these rights under contract law by way of the "Project Agreements".

16.1.13 The "Borrower" is drawing down the "Loans" for its own account.

16.1.14 Except for the "Project Contracts" listed in Annex **5** (*Project Contracts*), no other material products which have not been notified by the "Borrower" to the "Agent" are required for the construction and the operation of the "Project". The "Borrower" is not aware of, and has not been notified about any performance defaults under the "Project Contracts", nor should the "Borrower" have been aware of such performance defaults as a result of the specific circumstances unless the "Borrower" has informed the "Agent" about such a performance default without undue delay.

16.2 The representations and warranties contained in Clause 16.1 are deemed to have been repeated by the "Borrower" for each "Drawdown" and for each payment of interest with regard to the set of facts and the respective circumstances existing at that time if the respective "Borrower" has not notified the "Agent" in writing at least five "Banking Days" prior to the "Drawdown" or the interest payment that the "Borrower" cannot make one of the representations and warranties set forth in Clause 16.1 of this Facility Agreement, and the notice must state the reasons. This does not affect the rights under Clause 20.1.3

17. Obligations to provide Information

17.1 The "Borrower" will make available to the "Agent" for the purpose of forwarding to the "Banks" and the "Guarantors" his own certified financial statements (inter alia, balance sheet, profit and loss statement, cash flow account) and auditors reports as well as the certified consolidated financial statements (inter alia, balance sheet, profit and loss statement, cash flow account) and audit reports for "FS GmbH", "FS Holdings" (consolidated) as well as "FS" (consolidated) within 120 days after conclusion of the his business year. The auditors report is to contain an opinion about the conditions, as they pertain to the market standard, of the internal delivery and service commerce according to Clause 19.1.14.

Together with its respective audited financial statements, the "Borrower" will also present the calculation of the "Surplus Cash Flow".

In the event that the "Borrower" should intend to make payments pursuant to Clause 19.1.36, "Borrower" shall present the audited annual report for the fiscal year preceeding the pertinent payment along with the calculation of the "Equity Resources Quota" and of the "Debt Service Coverage Level" and a confirmation of compliance with same in the form of the template provided in Annex 29 (*Template Confirmation Financial Indices).*

17.2 The "Borrower" will provide to the "Agent" for the purpose of forwarding to the "Banks" and the " Guarantors" a certificate of the "Accountant" within 120 days after conclusion of its respective business year that the "Accountant" has examined the information of the "Borrower" (i) on the agreed key financial figures in Clause 18 (*Key Financial Figures*) and on the "Surplus Cash Flow" and (ii) on the amount of the investments made with regard to the plausibility of the information and no objections have been raised.

17.3 The “Borrower” will provide to the “Agent” for the purpose of forwarding to the “Banks” and the “Guarantors” within 45 days after the end of each business quarter the quarterly interim numbers, if any, (balance sheet, profit and loss statement, cash flow account, liquidity status, information on inventories, debtors and creditor payment periods, with all information being accompanied by a comparison of the actual numbers to the planned numbers in the “Business Plan”).

The “Borrower” will provide information, in the context of its quarterly reporting, about the produced number of solar modules in the amount of the produced mega watts and will also provide for a calculation of the key financial figures pursuant to Clause 18 (*Key Financial Figures*) within 45 days after the end of its respective business quarter.

If the “Borrower” intends to make “Royalty Payments”, “Borrower” will provide the first audited annual report in 2007 and subsequently the respective quarterly interim numbers along with the calculation of the “Equity Resources Quota” and of the “Debt Service Coverage Level” and a confirmation of compliance with same in the form of the template provided in Annex 29 (*Template Confirmation Financial Indices).*

17.4 The “Borrower” will provide to the “Agent” for the purpose of forwarding to the “Banks” and the “Guarantors” within 45 days after the end of each business quarter the quarterly consolidated interim numbers, if any, (balance sheet, profit and loss statement, cash flow account) for the “FS Group”.

17.5 The “Borrower” will provide the “Agent” for the purpose of forwarding to the “Banks” and the “Guarantors” an updated corporate plan (business plan) with the financial planning, the planning of sales as well as the investment planning and liquidity planning for the following business year one month prior to expiration of a then respective current business year. To the extent that the corporate plan is different from the “Business Plan”, the consent of the “Agent” is required.

17.6 The “Borrower” grants the “Agent” and any third party which it may engage and which is subject to professional confidentiality as well as the “Guarantors” upon their request access to the “Borrower’s” business records and will allow the “Agent”, the engaged third parties who are subject to professional confidentiality and the “Guarantors” access upon their first demand to view and have access at the normal business hours to the “Borrower’s” business premises, business records and the plant and will give the “Agent” information about the security collateral.

17.7 The “Borrower” will inform the “Agent”, without undue delay, about all events and circumstances related to the “Borrower” and “FS GmbH” that could endanger the economic viability and the operation of the “Project” and/or the servicing of the “Loans”, and, upon the “Agent’s” request, about the “Borrower’s” general economic situation as well as the general economic situation of “FS GmbH”.

17.8 The “Borrower” will cooperate with the “Project Appraiser” so that he can provide a “Project Progress Report” to the “Agent” and the “Banks” by the “End of the Construction Phase” in a timely manner within 15 days after expiration of every calendar month.

17.9 “Borrower” will inform the “Agent” without undue delay about any delays in the construction phase of the “Project” compared to the “Schedule” and will show the “Agent” upon its request the effects of such delays and will also show how compliance with the intended completion date can be assured.

17.10 “Borrower” will inform the “Agent” without undue delay about technical disturbances which lead or could lead to a negative impact on the operations of “Project”.

17.11 The “Borrower” will inform the “Agent” until the “End of Construction Phase” on a quarterly basis and thereafter on a yearly basis, together with the certified financial statements under Clause 17.1, of an actual inventory list of the equipment, machinery and technical tools which have been used for security.

17.12 The “Borrower” will inform the “Agent” about changes in the “Borrower’s” management.

17.13 The “Borrower” will inform the “Agent”, without undue delay, about the occurrence or imminence of a “Threatening Event of Default”.

18. Key financial Numbers

“Borrower” undertakes to comply with the following key financial figures:

18.1 The “Debt Service Coverage Level” cannot be lower than the value of 1.1:1;

18.2 The “Debt Level” cannot exceed the following values for the following respective time periods:

Time period	**Debt Level**
from 1 Jan. 2007 to 31 Dec. 2008 (inclusive)	3.0:1
from 1 Jan. 2009 to 31 Dec. 2009 (inclusive)	2.5:1
from 1 Jan. 2010 until the end of the term of the “Loans”	1.5:1

18.3 The Key Financial Figures will be determined by the “Borrower” on 31.03, 30.06, 30.09 respectively of each year on the basis of the quarterly numbers of the “Borrower” pursuant to Clause 17.3 for the precedent 12 months and as of 31.12 of each year on the basis of the certified annual accounts pursuant to Clause 17.1, for the first time as of 31.12.2007. Compliance with the key

financial figures must be confirmed to the "Agent" by the commercial managing director of the "Borrower" in writing each time.

If the "Borrower" and the "Agent" do not agree about the determination of the key financial numbers on the basis of the quarterly numbers, the "Agent" is entitled to retain an accountant at the costs of the "Borrower" who will determine and certify the key financial figures.

19. Covenants and Conditions

19.1 The "Borrower" will

19.1.1 establish the "Securities" or will make sure that they are established free of prior encumbrances with a first priority and free of rights of third parties; should the "Securities" deteriorate, especially due to a loss of value and/or losses, upon demand of the "Agent", the "Borrower" will provide the "Banks" with additional securities.

19.1.2 obtain all "Permits" required for a business operations and the "Project" at the respective time and will ensure that the "Permits" are maintained and will provide proof of this to the "Agent" upon its request and will construct and operate the "Project" based on the established European environmental standards and guidelines, and will observe legal ordinances and regulations;

19.1.3 conduct and insure his business operations in accordance with the standard common in the industry and with the care of a prudent businessman. In particular, the "Borrower" will issue invoices in the intervals common in the industry to his customers for solar modules and will attend to a timely collection of outstanding receivables;

19.1.4 not enter into futures transactions without cover without the prior consent of the "Banks" and the "Guarantors";

19.1.5 comply at all times with all terms and conditions and requirements of the "EU Decision", the "Deficiency Guarantee", the "Investment Subsidies and Supports" and the "Subsidy Orders" and will observe all obligations contained therein;

19.1.6 not change the type and scope of his business operations without the prior written consent of the "Banks" and the "Guarantors" to the extent that such a change would lead to a "Material Adverse Change" or endanger the "Project";

19.1.7 conclude the "Project Contracts" in the form agreed with the "Banks" to the extent that they were not already supposed to be concluded and were concluded under Annex **5** (*Project Contracts*) prior to the first Drawdown under one of the "Loans" and will not terminate, amend or waive their rights under the "Project Contracts" without the prior written consent of the "Banks" and the "Guarantor" if such a termination, amendment or such a waiver results in a "Material Adverse Change" or an endangerment of the "Project".

The "Borrower" will inform the "Agent", without undue delay, about all amendments to the contracts;

19.1.8 report in the context of the quarterly reporting about the conclusion of, modification of and/or additions to "Off-Take Agreements", provide the "Agent" with copies of the agreements upon request and will assign or see to the assignment of the claims under the newly concluded "Off-Take Agreements" to the "Banks" immediate afterward upon the first demand of the "Agent";

19.1.9 inform the "Agent" without undue delay if a customer of solar modules defaults on payments under the "Off-Take Agreements";

19.1.10 inform the "Agent" and the "Guarantors" with undue delay about all material events and circumstances, which could endanger the commercial viability of the "Project" and/or the servicing of the "Loans". In particular, the "Borrower" will inform each of the "Agent" and the "Guarantor" without undue delay as soon as an "Event of Default" or the "Threatening of an Event of Default" under this Facility Agreement or a performance under the "Project Contracts" occurs;

19.1.11 fulfill his obligations under this Facility Agreement at least with the same priority with their other present and future unsubordinated obligations. This does not apply to those obligations which have statutory priority;

19.1.12 make sure that his business operations and the "Project" are insured in a commercially reasonable scope and

(a) that the "Insurance Policies" are concluded no later than the points in time set forth in Annex **11** (*insurance*) and that the insurance is maintained throughout the term of this Facility Agreement (with the exemption of the insurances for the construction period) and in particular that the material assets to be brought into the "Project" are insured completely during the shipping and construction phase of the "Project" as well as during the operational phase, against fire and all other significant elemental damaging events which are standard in the industry,

(b) that the insurance contracts for the "Insurance Policies" including all amendments are sent as copies to the "Agent" immediately after being concluded,

(c) that the "Agent" immediately reports the new conclusion of or amendments to the insurance contracts and that the "Agent" provides, upon request, a confirmation from the "Insurance Agent" showing that the relevant "Insurant Policies" are suitable and standard for the industry;

(d) that the claims under the insurance contracts for the "Insurance Policies" with the exception of the third party liability insurance are assigned immediately after their conclusion as security to the "Banks"

and ensure that they present to the "Agent" the respective insurance letters and acknowledgements if requested; and

(e) that evidence about the payment of the insurance premiums is always provided to the "Agent" without undue delay;

19.1.13 maintain his rights of disposition and/or use for the "Project" and its all relevant licenses, intellectual property rights and similar rights are maintained in full for their respective business operations and will immediately pay any license fees, registration fees and similar fees when due if the pre-requisites indicated under Clause 19.1.35 are met. In particular, the relevant licenses, intellectual property rights and similar rights are maintained in such a way that in the case of insolvency of the "Borrower" or "FS", the "Borrower" or the appointed insolvency administrator for the "Borrower" or a legal successor to the "Borrower" can enact them. Should such licenses or intellectual property rights for the "Borrower" be violated or affected by a third party, the "Borrower" will exhaust all available legal means in order to defend themselves from such violation or offence.

If additional licenses, intellectual property rights or similar rights are required for the execution of the "Project" or the "Borrower's" business operations, the "Borrower" will take all necessary action in order to obtain or register these licenses, intellectual property rights or similar rights;

The "Borrower" will not violate any necessary intellectual property rights or license rights of third parties required for the "Project" or its "Business Operations" and will provide evidence of this to the "Agent" upon its request in a form satisfactory to the "Agent";

If the "Borrower" has indications about a violation of intellectual property rights or license rights of third parties, the "Borrower" will inform the "Agent" about this without undue delay and will take all necessary action in order to avoid harm to the "Project" or its business operations;

19.1.14 will effect the internal supply and services traffic (including during the investment phase) with JWMA Partners LLC, Phoenix, as well as the companies within the control of JWMA, "affiliated companies" and the "sponsors" only within the scope of its normal business activities and not on worse terms and conditions that are common between third parties acting at arm's length.

The "Borrower" shall conclude no distribution and take-off contracts with "FS GmbH", in which the "maximum commission entitlement" or the "maximum distribution margin" are exceeded and to whom "FS GmbH" pays no payments exceeding the "maximum commission entitlement" or the "maximum distribution margin" under the distribution and take-off contracts;

19.1.15 deleted

19.1.16 not complete or have completed any merger or spin-off or reorganization without the prior written consent of the “Banks” and the “Guarantors”;

19.1.17 not change their corporate form or allow it to be changed and will not enter into any corporate group agreements or other agreements which could have effects on its corporate or capital structure without the prior written consent of the “Banks” and the “Guarantors;

19.1.18 not maintain or open any additional business accounts other than the accounts contemplated in Clause 13 without the prior written consent of the “Banks” and the “Guarantors”;

19.1.19 not enter into any agreements resulting in a “Material Adverse Change” without the prior written consent of the “Banks” and the “Guarantors”;

19.1.20 carry out and supervise the construction and the operation of the “Project” (especially regular maintenance and repair of the assets required for the business operations) with the care of a prudent businessman and complete the “Project” within the “Schedule”;

19.1.21 comply with the “Time Schedule” and inform the “Agent” about any delays compared to the “Time Schedule” without undue delay. The “Agent” is entitled to retain the “Project Appraiser” for the purpose of examining the cause of any delays in excess of 4 weeks. The costs for such an examination will be borne by “Borrower”, whereby the “Agent” will give due consideration to the justified interests of “Borrower” with regard to the amount of costs;

19.1.22 not permit any increase in the stated project costs in the “Business Plan” without the prior written consent of the “Banks” and the “Guarantors” unless the increased project costs are financed by the “Sponsors” using subordinated loans/shareholder loans. “Borrower” shall provide evidence to the “Agent” in satisfactory form in this case about the bearing of costs by the “Sponsors”;

19.1.23 retain the “Debt Service Reserve” on the “Debt Service Reserve Account”;

19.1.24 apply the “Cash Flow from Operations” in accordance with the “Cash Flow Waterfall”;

19.1.25 comply with the requirements of the “Business Plan”;

19.1.26 establish and maintain a proper accounting department as well as an IT supported controlling system which, among other items, is capable of providing a monthly comparison between actual and planned numbers;

19.1.27 conclude the “Interest Hedge Agreement” by no later than before the first “Drawdown” and provide evidence of this to the “Agent” without a separate request. The “Agent” will offer “Borrower” corresponding interest hedging transactions upon its request;

19.1.28 to pledge to the “Banks” any unencumbered real estate and/or real estate to be acquired in the future that is used or is to be used for operations.

The “Borrower” will inform the “Agent” about the acquisition of any real estate without request and will comply with the first request of the “Agent” to pledge such real estate.;

19.1.29 not enter into any “Financial Liabilities” with the exception of “Permitted Financial Liabilities”;

19.1.30 not grant any security rights over its respective assets or parts of the assets to third parties or encumber the assets with security interests or other rights for the benefit of third parties or permit the assets to be encumbered with security interests or other rights for the benefit of third parties without the prior written consent of the “Banks” and the “Guarantors”;

19.1.31 not sell any assets or otherwise provide them to third parties or undertake an obligation for a sale or transfer of possession outside of the ordinary course of business without the prior written consent of the “Banks” and the “Guarantors”;

19.1.32 not grant any loans, guarantees or similar instruments to third parties without the prior written consent of the “Banks” and the “Guarantors”;

19.1.33 only use shareholder loans/loans from the “Sponsors” if the resulting payment and repayment obligations are subordinated in a manner which is secure in the case of insolvency;

19.1.34 make any repayments for shareholders loans/loans granted by the “Sponsors” only subject to written approval by the “Banks” and the “Guarantors”;

19.1.35 only make interest payments for shareholders loans/loans granted by the “Sponsors” or payments based on management services, or “Royalty Payments” based on technical or other services, management services, licensing fees, registration fees or similar fees to “affiliated companies” or other payments to one of the “Sponsors”, except for payments under Clause 19.1.34 or 19.1.36, or payments to an “Affiliated Enterprise” for the first time on the basis of the audited annual report 2007 if

(a) neither a cause for termination pursuant to Clause 20 nor an “Impending Event of Default” exists or would result from the corresponding payment;

(b) the “Equity Resources Quota” is no less than 30 % or will not drop below 30 % as a result of said payments and

(c) the “Debt Service Coverage Level” will not fall short of 1.3 or as a result of the said payments .

Interest payments to shareholders loans/loans granted by the “Sponsors” may not exceed the standard market maximum.

In case of a different repayment procedure, the “Banks” and the “Guarantors” have to give their written consent.

19.1.36 To make disbursements of dividends only from the "Surplus Cashflow" and only to a maximum amount equivalent the the net profit produced by the "Borrower" in the respective accumulated fiscal year, in each case based on the audited annual report "Surplus Cashflow", for the first time for fiscal year 2007 and only if

(a) neither a cause for termination pursuant to Clause 20 nor an "Impending Event of Default" exists or would result from the corresponding payment;

(b) the "Equity Resources Quota" is no less than 30 % or will not drop below 30 % as a result of said payments and

(c) the "Debt Service Coverage Level" does no fall below 1:3:1 or will not fall short of 1.3 as a result of the said payments.

In case of a different repayment procedure, the "Banks" and the "Guarantors" have to give their written consent

19.1.37 Not to make any "Material and Capital Investments" with the exception of "Permitted Material and Capital Investments";

19.1.38 not execute the purchase option (*First Solar purchase option*) set forth in the "5N Contract", Clause 2.11 (b) without the prior written consent of the "Banks" and "Guarantors".

20. Event of Default

20.1 The "Banks" are entitled to terminate this Facility Agreement if one of the following circumstances occurs and the additional preconditions in (i) and (ii) as set forth in Clause 20.2 exists:

20.1.1 the "Borrower" or a "Sponsor" does not comply with its payment obligation under one of the "Contract Documents" when due;

20.1.2 proceeds from the "Loans" are used in a manner other than the purpose foreseen for the respective "Loan" in Clause 3, or the achievement of the intended use of the funds is precluded;

20.1.3 one of the representations and warranties made in Clause 16 (*Representations and Warranties*) turns out to have been incorrect from the very beginning or becomes subsequently incorrect or the "Borrower" cannot make a representation and warranty at the point in time contemplated in Clause 16.2 of this Facility Agreement;

20.1.4 the "Borrower" does not comply with a covenant or condition under Clause 19 (*Covenants and Conditions*) or any other condition or covenant under the "Contract Documents" and this results in a "Material Adverse Change";

20.1.5 the "Borrower" does not comply with a covenant or condition under Clause 13 (*Accounts*), Clause17 (*Obligations to provide Information*) or Clause 18

(*Key Financial Figures*) or any other obligation or condition under the "Contract Documents";

20.1.6 a "Sponsor" does not comply with an obligation under the "Contract Documents" or "FS GmbH" fails to meet one of its obligations stipulated in the draft "Security Contracts" attached hereto as Annex **24b** (*Contract on the Assignment of Entitlements from Purchase Agreements)* and Annex **18a** (*Contract on the Pledging of an Account*);

20.1.7 a declaration made by the "Borrower" or a "Sponsor" which is considered fundamental by the "Banks" for granting the "Loans" or information provided by the "Borrower" or a "Sponsor" turns out to be wrong, misleading or incomplete;

20.1.8 insolvency proceedings or comparable proceedings under the respective applicable system of law are commenced over the assets of the "Borrower" or a "Sponsor" or one of these companies seizes to make its payments or commences out of court negotiations on extending payment terms with its creditors or is over-indebted;

20.1.9 liquidation proceedings are resolved or initiated with regard to the "Borrower" or a "Sponsor" or one of these companies ceases to conduct its business;

20.1.10 insolvency proceedings or comparable proceedings under the respectively applicable system of law are applied for or commenced over the assets of one or more of the contracting parties of the "Borrower" under the "Project Contracts" or the liquidation of such a contracting party is resolved or initiated and results in "Material Adverse Change";

20.1.11 the "Borrower" or the "Sponsors" give up on the "Project" or change it fundamentally;

20.1.12 a "Security" is not validly established in a binding and enforceable manner or its legal validity, binding nature and enforceability is disputed by the respective party obliged under the "Security" or the realization of a "Security" is precluded or endangered or the value of a "Security" is reduced;

20.1.13 one or more "Project Agreements" are or become completely or partially invalid or are terminated prematurely or amended and this leads to a "Material Adverse Change";

20.1.14 a performance default under a "Project Contract" occurs which leads to a "Material Adverse Change";

20.1.15 the "Project" is delayed for a period of more than three months compared to the "Schedule" and this delay is confirmed by the "Project Appraiser";

20.1.16 a "Permit" required for the "Project" at the relevant point in time or for the respective business operations of the "Borrower" is not granted at all or not granted in a timely manner or is granted with modifications, conditions,

deadlines or imposed terms or is completely or partially withdrawn or amended and this event or the action results in a "Material Adverse Change";

20.1.17 the "Subsidy Order", the "Deficiency Guarantee" or the "EU Decision" are cancelled, amended or withdrawn;

20.1.18 the "Borrower" is in default with an undisputed payment obligation (except for payment obligations under the "Contract Documents") towards a third party in an amount of more than EUR 100,000 or a "Sponsor" is in default with an undisputed payment obligation (except for payment obligations under the "Contract Documents") in favor of third parties in a total of more than EUR 500,000;

20.1.19 proceedings before a court, an arbitral tribunal or an administrative authority are commenced against the "Borrower" or a "Sponsor" which if decided against the respective party would lead to a "Material Adverse Change" unless the "Borrower" or the "Sponsor" demonstrates without undue delay to the satisfaction of the "Agent" that these proceedings are an abuse of right, inadmissible or unfounded or can be avoided by other measures. A "Material Adverse Change" in the context of this Clause 20.1.9 exists especially if the amount in controversy of all pending legal disputes exceeds in the aggregate for each "Borrower" or "Sponsor" EUR 2,000,000;

20.1.20 a "Material Adverse Change" occurs; or

20.1.21 the "Shareholders" resolve a reduction of registered capital and distribution of the amount of the reduction.

20.2 If there is an event of default, the "Agent" in favor of the "Banks" is entitled,

(a) to completely or partially terminate with immediate effect the "Loans" which have not yet been drawn down or which have been used and/or

(b) to demand immediate payment of all or part of the outstanding amounts of the "Loans" together with the respective accrued interest and all other amounts to be paid under this Facility Agreement and/or

(c) to realize the "Securities"

and especially

(i) in the case of an event of default under Clause 20.1.1, if the default in payment completely or partially continues to exist after the expiration of five "Banking Days" since the date of a payment demand by the "Agent" to the respective party owing the payment, and

(ii) in all other cases of Clause 20.1 and in which the type of event of default permits a cure by the respective "Borrower" or the respective "Sponsor", if the event of default completely or partially continues to exist after expiration of 20 "Banking Days" since the date of a notice

from the "Agent" to the party about the existence of the event of default, and

(iii) in all other cases of Clause 20.1 and in which the type of event of default permits a cure by the respective "Borrower" or the respective "Sponsor", immediately after the occurrence of the respective termination cause whereby the "Banks" are obliged to prove that it was impossible to cure the respective termination cause.

21. Agents and Banks

21.1 The leadership of the banking syndicate is the responsibility of the "Agent". In the course of leading the syndicate, the "Agent" will make all decisions required for a proper administration of the credit relationship in the normal course of business independently according to its reasonable discretion unless expressly provided otherwise in this Facility Agreement.

21.2 Each "Bank" hereby grants power of attorney to the "Agent" to represent it towards the "Borrower", the "Sponsors" and third parties in connection with the "Loans" in the context of the provisions in the "Contract Documents".

21.3 The "Agent" is not authorized without the prior written consent of the respective "Bank" to file a lawsuit in the name of the "Bank" or commence any other court proceedings in the name of the "Bank".

21.4 The "Banks" hereby appoint the "Agent" as their "Security Agent" and authorize the "Agent" as such to exercise the rights and powers of attorney and make the discretionary decisions which the "Security Agent" is responsible for under the "Contract Documents". The provisions in this Clause 21 relating to the "Agent" apply accordingly for the "Security Agent".

21.5 To the extent legally permissible, each "Bank" hereby releases the "Agent" from the restrictions of "181 BGB with regard to the powers of attorney which are granted to the "Agent" under the "Contract Documents".

21.6 Notwithstanding the provisions contained in this Facility Agreement on the reporting obligations, the "Agent" will forward to the "Banks" all material information and notices which the "Agent" receives from one of the other parties to this Facility Agreement.

21.7 The "Agent" will represent the interests of the "Banks" with the care of a prudent businessman. The liability of the "Agent" for actions or omissions in connection with the "Contract Documents" is limited to intentional misconduct and gross negligence.

21.8 The "Agent" acts exclusively as the leader of the syndicate of the "Banks" when performing its obligations under the "Contract Documents" and not as a representative or agent for the "Borrower". The "Agent" is not liable to the "Borrower" or the other "Banks" for the performance of the obligations by the respective other party.

21.9 As syndicate leader for the “Banks”, the “Agent” will act through a special unit which is responsible for the leadership of the syndicate in connection with the “Contract Documents”. This unit will be treated as independent from the other departments and working units of the “Agent”. Knowledge in another department or working unit of the “Agent” can be treated as confidential by these departments or working units and will not be attributed to the “Agent” in its function as leader of the syndicate under the “Contract Documents”.

21.10 The “Agent” is not required

(a) to determine whether the “Borrower” or the “Sponsors” have complied with their obligations under the “Contract Documents” or whether an event of default exists or is threatening,

(b) to examine the completeness and correctness of all notices under this Facility Agreement,

(c) to examine the possibility for the collect ability of any type of payments of money which are or become due under the present Facility Agreement,

(d) to examine the enforceability or value of the “Securities” or

(e) to examine the legal validity, reasonableness or completeness of the “Contract Documents”.

21.11 Each “Bank” assures that it has independently examined the “Project” and the credit worthiness of the “Borrower” without having relied on any examination by the “Agent”. Each “Bank” is signing this Facility Agreement on the basis of its own independent examination and will in the future base its decisions about actions or omissions under this Facility Agreement on its own examination which it considers reasonable. Each “Bank” hereby confirms its agreement with the “Contract Documents”.

21.12 Unless otherwise expressly stated, the “Agent” exercises the rights and authorities in connection with the “Contract Documents” in accordance with the instructions of the “Majority of Banks” and is not subject to any liability towards the “Banks” to the extent the “Agent” complies with these instructions. The “Agent” has the right at any time to obtain the consent of the “Banks” to a specific measure. An instruction by the “Majority of Banks” is not required if there is an urgent situation.

21.13 Each “Bank” will compensate the “Agent” or indemnify the “Agent” against corresponding liabilities upon the request of the “Agent” for all damages and expenses (including value added tax) incurred in connection with the “Contract Documents” unless the respective damages and expenses are the result of an intentional or grossly negligent violation of duties on the part of the “Agent”. The individual “Banks” are liable proportionately according to their respective “Quota”.

21.14 If the "Agent" has not received any written notice from the "Borrower" or a "Bank" that a payment will not be made to the "Agent" two "Banking Days" prior to the payments under this Facility Agreement becoming due, the "Agent" can assume that the payment will be made on the due date. The "Agent" is entitled, but not required to pay the corresponding amount to the "Borrower" and/or the "Banks". If it turns out on the due date that the payment was in fact not rendered, the respective recipient of the payment will repay this amount together with the refinancing costs of the "Agent" to the "Agent" without undue delay upon its request.

21.15 The syndicate relationship between the "Agent" and the "Banks" end only after complete satisfaction of all claims under this Facility Agreement. To the extent that "Securities" are realized, the syndicate relationship only ends upon conclusion of the realization and/or the distribution of any proceeds.

21.16 During the course of the syndicate relationship, regular notice of termination of the syndicate relationship is excluded; the right to terminate for just cause remains unaffected. If a "Bank" terminates its participation for just cause or leaves the syndicate for other reasons, the syndicate relationship will be continued among the remaining "Banks".

If the "Agent" leaves the syndicate relationship, the remaining "Banks" will assign the leadership of the syndicate under this Facility Agreement to one of the other "Banks" with a "Majority of the Banks".

21.17 The "Agent" can designate a new branch or branch office in the European Union to the "Borrower" and the "Banks" from which the "Agent" will perform its obligations under this Facility Agreement. The law applicable to this Facility Agreement remains unaffected by this.

21.18 To the extent that the "Agent" is indemnified against liability pursuant to this Clause 21, this indemnity only applies in the relationship between the "Agent" and the "Banks". The liability of the "Borrower" is not affected by this.

22. Resignation and Removal of the "Agent"

22.1 The "Agent" can withdraw at any time from its appointment under this Facility Agreement by written notice to the other Parties to this Facility Agreement.

The "Agent" can be removed by a resolution of the "Majority of Banks" from its duties under this Facility Agreement by written notice given to the "Borrower" and the "Agent".

The withdrawal or the removal takes effect upon notice about the appointment of a successor pursuant to Clause 22.3.

The provisions of this Clause 22 pertaining to the "Agent" shall also apply to the "Security Agent".

22.2 In the event of a withdrawal or the removal of the "Agent", the "Majority of Banks" is entitled on costs of the "Banks" to appoint a successor for the position of "Agent" with the agreement of the "Borrower." If such a successor has not been appointed within 30 "Banking Days" after the notice about the withdrawal or the removal, the "Agent" is entitled to designate another corresponding financial institution as its successor upon agreement with the "Borrower" which has at least a rating of *"A"* issued by Standard & Poor's Ratings Groups.

22.3 The acceptance of the appointment will be notified to the "Agent" by the "Bank" appointed by the "Majority of Banks" for this purpose.

22.4 After the notice has been given, the successor will succeed the "Agent" and will receive all rights, authorities, priority rights and obligations of its predecessor. The "Agent" which has withdrawn or been removed from its function will take all necessary action in order to cause the succession to be valid. The "Agent" will then be released from its obligations under this Facility Agreement, whereby the indemnity in Clause 21 (*Agents and Banks*) with regard to such acts or omissions which the "Agent" performed in its function as "Agent" will continue to apply.

23. Sharing Clause

23.1 If a "Bank" has received or collected at any time an amount relating to its participation in the "Loans", which amount exceeds the amount this "Bank" should have received from the "Agent" if a distribution had taken place pursuant to the procedure set forth in Clause 14.3 and Clause 14.4 (the "Excess Amount") at any point in time, then this "Bank" must immediately inform the "Agent" about this and must pay the "Excess Amount" to the "Agent" within three "Banking Days" after this notice.

The "Agent" will then distribute the "Excess Amount" to the "Banks" (except for that "Bank" which received the "Excess Amount") to that these obtain satisfaction proportionately according to their "Quota" and pursuant to Clause 14.3 and Clause 14.4.

The "Banks" will adjust the liabilities of the "Borrower" corresponding to the distribution of the "Excess Amount" among them. If the "Excess Amount" is subsequently completely or partially repaid to the "Borrower" by the "Bank" which had originally received the "Excess Amount", each of the "Banks" will forward the share in the "Excess Amount" which it had received from the "Agent" to the "Agent" so that it can be repaid to the "Bank" which is required to make the repayment.

23.2 A "Bank" is not required to surrender the "Excess Amount" if it has been awarded this amount in the context of court proceedings which the other "Banks" did not join although they had the opportunity to do so.

23.3 The right of each "Bank" to engage in banking transactions outside of this Facility Agreement with the "Borrower" or with affiliated enterprises within

the meaning of § 15 German Stock Companies Act (*Aktiengesetz*) remains unaffected.

24. Fees

The "Borrower" pays

24.1 a one-time processing fee pursuant to the "Fee Letter" to the "Agent" upon its request;

24.2 an administrative fee pursuant to the "Fee Letter" annually on each 30 June to the "Agent" upon its request;

24.3 a commitment fee in the amount of 0.6 % annually of the nominal amount of the "Loan" which has not been drawn down to the "Agent" which will be forwarded to the "Banks". The commitment fee is calculated by the "Agent" as of the date on which this Facility Agreement is signed.

The commitment fee is payable in arrears on each 31.03, 30.06, 30.09 and 30.12 of each year upon request of the "Agent";

24.4 a *Waiver Fee* in the amount of EUR 2,500 per "Bank" and EUR 5,000 for the "Agent" to the "Agent" for proportionate allocation to the "Banks" for each amendment to the contract or declaration of waiver made on the request of the "Borrower";

24.5 a surety compensation to the "Guarantors" in the amount of currently 0.8 % annually on the "Surety Amount" to be determined pursuant to Clause 24.6. The surety compensation is first due upon handing over the surety document and is to be paid on each 01.04 and 01.10 of each calendar year and at the last time for the calendar year in which the surety document is returned as no longer being needed or in which the "Agent" has submitted the loss report to "PwC" after a claim has been asserted against the "Guarantors".

Payment of the surety compensation must be evidenced to the "Agent" in each case without undue delay.

24.6 The "Surety Amount" in the calendar year 2006 is EUR 64,035,200 and is reduced for the "Term Loan" by the repayment installments made and for the "Revolving Loan" from 30 June 2010 by 13.33 percentage points semi-annually.

25 Third Party Costs and Disbursements

25.1 The "Borrower" bears all adequate external costs and other expenses which the "Agent" or the "Banks" incur in connection with the drafting, the conclusion or the amendment of the "Contract Documents", especially for retaining external consultants and attorneys and/or for the activities of notaries.

25.2 The “Borrower” bears all costs and disbursements, which the “Agent” and/or a “Bank” incur in connection with maintaining and/or enforcing the rights under the “Contract Documents”.

25.3 The “Agent” receives compensation in the amount of EUR 500 for each confirmation of account balances prepared at the request of the “Borrower” or its accountants.

25.4. The “Borrower” will reimburse each of the “Banks” the costs they incur in the course of an official audit resulting from the activities of the “Borrower” in connection with this Facility Agreement.

Upon the “Agent’s” request, the “Borrower” will reimburse the “Guarantor” for the costs of an audit in accordance with Clauses 17 and 18 of the “*General Terms and Conditions for the Assumption of Guarantees by the Federal Republic of Germany (the Bund) and States issuing Parallel Guarantees*"(“*Allgemeinen Bestimmungen für Bürgschaftsübernahmen durch die Bundesrepublik Deutschalnd (Bund) und parallel bürgender Bundesländer”).*

26. Substitute Performance

The “Borrower” is obligated to reimburse each “Bank” for those losses and costs which are incurred as a result of the “Bank” having refinanced a “Drawdown” requested by a “Borrower” without being able to pay out this amount because the preconditions established in this Facility Agreement for the “Drawdown” have been completely or partially not fulfilled or are no longer fulfilled.

27. Assignments and Transfers

27.1 The “Borrower” is not permitted to assign rights and claims under the “Contract Documents” to third parties without the prior written consent of the “Agent”.

27.2 A “Bank” can completely or partially transfer the economic risk of granting the “Loans” to third parties; this can, for example, take place by way of credit derivatives, pledges, assignment of the loan claims, transfers of contract, including with all relevant security or by loan sub-participations.

A third party within the meaning of this provision can only be a member of the European system of central banks, a credit institution, a financial services institution, a financial enterprise, a pension organization [*Versorgungswerk/Pensionskasse*] or a capital investment company which is subject to supervision by the Federal Agency for Supervision of Financial Services [*Bundesanstalt für Finanzdienstleistungsaufsicht*] or another state supervisory authority or a comparable foreign supervisory authority as well as a single purpose company which is required in order to structure the transfer of the risk.

27.3 A "Transfer" of rights and claims is only permissible if the amount to be transferred is at least EUR 5,000,000. The amount to be transferred is to be allocated proportionately to the already drawn down portion of the "Loans" and the portion of the "Loans" of the "Old Bank" which has not yet been paid out.

27.4 The "Transfer" needs the consent of the "Borrower". "Borrower's" consent to the "Transfer" shall not be required in the event of an "Impending Cause to Terminate" or in the event that a cause to terminate pursuant to Clause 20.1 of this Facility Agreement should arise.

The "Borrower" shall give its consent to the "Transfer", if the "New Bank" is a bank or a third party which has at least a rating of *"A"* issued by Standard & Poor's Ratings Groups or a similar rating issued by another rating agency.

27.5 The "Transfer" takes effect upon countersignature by the "Agent" on the transfer contract which contains at least the clauses outlined in the form of Annex **10** (*Transfer Agreement*).

The "Agent" shall inform the "Borrower" regarding the taking effect of the "Transfer".

27.6 Each "Transfer" requires the "New Bank" to pay a fee in the amount of EUR 5,000 to the "Agent" which is due upon the "Transfer" taking effect.

27.7 Upon the "Transfer" taking effect, the "New Bank" will become a "Bank" within the meaning of this Facility Agreement. The "New Bank" will pay the "Old Bank" the amount set forth in the Transfer Agreement pursuant to Annex **10** (*Transfer Agreement*) on the date set forth there.

27.8 The "Borrower", "FS GmbH" and "FS Holdings" will use their best efforts to support the "Banks" in their actions pursuant to Clause 27.2 in order to secure the success of these measures.

28. Confidentiality

28.1 The "Agent" and the "Banks" will maintain confidentiality about all written or oral information provided to them by the "Borrower", "FS GmbH" and "FS Holdings".

28.2 It does not constitute a violation of this obligation of confidentiality if information is forwarded to

(a) third parties within the meaning of Clause 27.2 of this Facility Agreement in the context of taking the measures contemplated in Clause 27.2 if the recipient is required to treat the information as confidential,

(b) members of management bodies, agents, attorneys, accountants, rating agencies or other consultants of the "Agent" or of one of the "Banks" if the recipient is required to treat the information as confidential based on a written confidentiality agreement or

(c) public authorities or courts on the basis of a corresponding order, mandatory legal provisions or in the context of court proceedings.

29. Rebuttable Presumptions

All confirmations, determinations and bookings by the "Agent" or a "Bank" with regard to an interest rate or an amount of money in the context of the "Contract Documents" establishes the rebuttable presumption that it is correct unless there is an obvious error.

30. Statements pursuant to § 8 of the Money Laundering Act (*GELDWÄSCHEGESETZ*)

The "Borrower" declares by their countersignature under this Facility Agreement that they have acted for their own account with regard to the drawing of the "Loans".

31. Requirement of Written Form, Amendments to the Facility Agreement

31.1 Each change or supplement to this Facility Agreement requires written form in order to be valid to the extent that the law does not require a stricter form. This also applies to any amendments to this clause on written form.

31.2 The "Agent" can agree on changes and supplements to this Facility Agreement and can waive the exercise of rights or the compliance with obligations under this Facility Agreement with regard to the "Borrower" in the name of the "Banks" with the prior consent of the "Majority of Banks".

31.3 The prior consent of all "Banks", which the "Agent" will obtain, is required for

(a) each amendment of Clause 27.1 or this Clause 31.3;

(b) extensions of time or other changes in dates for payment of interest or principal;

(c) an increase in the amount of the loan or a reduction of amounts payable under this Facility Agreement;

(d) a waiver of or other change in preconditions for drawing down under this Facility Agreement;

(e) the release of a "Security";

(f) an amendment to the event of default set forth in Clause 20.1;

(g) an amendment to the definition of "Majority of Banks"; or

(h) other measures to the extent that this is expressly set forth in this Facility Agreement.

32. Exercise of Rights, Severability Clause

32.1 If the "Agent" and/or the "Banks" waive the exercise of rights under this Facility Agreement in a specific case, this does not affect the assertion of other rights. A waiver by the "Agent" or one of the "Banks" is only valid if it has been notified to the "Borrower" in writing.

32.2 If a provision in this Facility Agreement is or becomes invalid or unenforceable, this does not affect the other provisions. The invalid or unenforceable provision will be replaced by another valid and enforceable provision which the Parties would have agreed to if they had given thought upon conclusion of this Facility Agreement to the invalidity or the unenforceability of the respective provision and which corresponds to the intent of the Parties in light of the purpose of this Facility Agreement. The above provision applies accordingly if this Facility Agreement does not cover a subject.

33. Rights of Set-Off and Retention

A right of set-off and retention for the "Borrower" does not exist unless the claim of the "Borrower" has been determined by a final judgment or if it is not disputed by either the "Agent" or the "Banks".

34. Notices

Each notice under or in connection with this Facility Agreement should be issued in writing and must be transmitted either personally or by mail, e-mail or by fax to the following contact addresses:

To the "Borrower":

First Solar Manufacturing GmbH
Marie-Curie-Str. 3
15236 Frankfurt (Oder)

Attn.: Bernhard Bischof
Tel.: 0335 52102-104
Fax.: 0335 52102-137
e-mail: bbischof@firstsolar.com

To "FS GmbH" and/or "FS Holdings":

First Solar Holdings GmbH

Rheinstrasse 4N

55116 Mainz

Attn.: Karlheinz Harz
Tel.: 06131-1443300
Fax.: 06131-144500
e-mail: kharz@firstsolar.com

To the "Agent", the "Security Agent" and/or the "Banks"

IKB Deutsche Industriebank AG
Strukturierte Finanzierung
Transaktionsmanagement
Wilhelm-Bötzkes-Straße 1
40474 Düsseldorf

Attn.: Mr. Sven Dalkowski
Tel.: 0211-8221-3291
Fax.: 0211-8221-3591

Email: sven.dalkowski@ikb.de

Changes in the contact addresses must be notified to the "Agent" by giving two weeks advanced notice. The "Agent" will inform the other Parties to this Facility Agreement about the change without undue delay.

The change of a contact address to a foreign country requires the prior written consent of the "Agent".

35. Jurisdiction, Applicable Law

35.1 Exclusive jurisdiction for all disputes under or in connection with this Facility Agreement is Düsseldorf. This does not affect different mandatory statutory jurisdictions.

35.2 This Facility Agreement is subject to the laws of the Federal Republic of Germany.

36. Provisions on Guarantors

The guarantee decision attached as Annex 6a (*Decision on the approval of the deficiency guarantees plus pertinent supplements*) is an integral part of this Agreement. All provisions and obligations to be imputed to the Facility Agreement in accordance with the Guarantee Decision are herewith agreed upon, even if they are not separately indicated in the Facility Agreement. In

case of doubt and any contradictions to other provisions of the Facility Agreement, the guarantee decision shall prevail.

As a supplement to the provisions contained in this Facility Agreement, the terms and conditions for the "Deficiency Guarantee" including the "*General Terms and Conditions for Assuming Guarantors by the Federal Republic of Germany and Parallel Guarantors issued by the States*" (*Allgemeinen Bestimmungen für Bürgschaftsübernahmen durch die Bundesrepublik Deutschland (Bund) und parallel bürgender Bundesländer*) pursuant to Annex **6b** are applicable.

The guarantors have the right to engage commissioned parties in the administration of the "Deficiency Guarantees".

Mainz, on

First Solar Manufacturing GmbH

Düsseldorf, on

IKB Deutsche Industriebank AG
as "Agent" and in the name of the "Banks"

Mainz, on

First Solar GmbH

Mainz, on

First Solar Holdings GmbH

Annex 2

1. Confirmation of First Solar Inc. in regard to its obligations relating to the "Facility Agreement", in particular under the guarantee issued by it to secure the claims under the "Facility Agreement" (*Acknowledgement and Reaffirmation*);

2. Legal opinion of First Solar Inc.'s attorneys in light of the binding "Verpflichtungserklärung USA I" (*Sponsors Agreement*) according to Attachment 9b to the "Facility Agreement";

3. Legal Opinion of First Solar Inc.'s attorney in light of the "Verpflichtungserklärung USA II" (*Agreement and Undertaking*) according to Attachment 9c of the "Facility Agreement";

Exhibit 10.1
Execution Copy

EMPLOYMENT AGREEMENT

This **Employment Agreement** (this "Agreement") is made as of March 31, 2008, by and between **First Solar, Inc.**, a Delaware corporation having its principal office at 4050 East Cotton Center Boulevard, Building 6, Suite 68, Phoenix, Arizona 85040 (hereinafter "Employer") and **James R. Miller** (hereinafter "Employee").

WITNESSETH:

WHEREAS, Employer and Employee wish to enter into an agreement relating to the employment of Employee by Employer.

NOW, THEREFORE, in consideration of the foregoing premises, and the mutual covenants, terms and conditions set forth herein, and intending to be legally bound hereby, Employer and Employee hereby agree as follows:

ARTICLE I. Employment

1.1 Term; At-Will Nature of Employment. The term of this Agreement (the "Term") shall commence as of March 31, 2008 (the "Start Date"). As of such date, Employer shall employ Employee as a full-time, at-will employee, and Employee shall accept employment with Employer as a full-time, at-will employee. Employer or Employee may terminate this Agreement at any time and for any reason, with or without cause and with or without notice, subject to the provisions of this Agreement.

1.2 Position and Duties of Employee. Employer hereby employs Employee in the initial capacity of Executive Vice President, Product and Global Supply Chain Management for First Solar and Employee hereby accepts such position. Employee agrees to diligently and faithfully perform such duties as may from time to time be assigned to Employee by Employer's Chief Executive Officer or Employer's Board of Directors (the "Board"), consistent with Employee's position with Employer. Employee recognizes the necessity for established policies and procedures pertaining to Employer's business operations, and Employer's right to change, revoke or supplement such policies and procedures at any time, in Employer's sole discretion. Employee agrees to comply with such policies and procedures, including those contained in any manuals or handbooks, as may be amended from time to time in the sole discretion of Employer.

1.3 No Salary or Benefits Continuation Beyond Termination. Except as may be required by applicable law or as otherwise specified in this Agreement or the Change in Control Severance Agreement between Employer and Employee dated as of the date hereof (the "Change in Control Agreement"), Employer shall not be liable to Employee for any salary or benefits continuation beyond the date of Employee's cessation of employment with Employer. The rights

and obligations set forth in Section 1.5 and Articles IV and V of this Agreement shall survive termination of Employee's employment and termination of this Agreement.

1.4 Termination of Employment. Employee's employment with Employer shall terminate upon the earliest of: (a) Employee's death; (b) unless waived by Employer, Employee's disability, either physical or mental (as determined by a qualified physician mutually agreeable to Employer and Employee) which renders Employee unable, for a period of at least six (6) months, effectively to perform the obligations, duties and responsibilities of Employee's employment with Employer; (c) the termination of Employee's employment by Employer for cause (as hereinafter defined); (d) Employee's resignation; and (e) the termination of Employee's employment by Employer without cause. As used herein, "cause" shall mean Employer's good faith determination of: (i) Employee's dishonest, fraudulent or illegal conduct relating to the business of Employer; (ii) Employee's willful breach or habitual neglect of Employee's duties or obligations in connection with Employee's employment; (iii) Employee's misappropriation of Employer funds; (iv) Employee's conviction of a felony or any other criminal offense involving fraud or dishonesty, whether or not relating to the business of Employer or Employee's employment with Employer; (v) Employee's excessive use of alcohol; (vi) Employee's unlawful use of controlled substances or other addictive behavior; (vii) Employee's unethical business conduct; (viii) Employee's breach of any statutory or common law duty of loyalty to Employer; or (ix) Employee's material breach of this Agreement, the Non-Competition and Non-Solicitation Agreement between Employer and Employee (the "Non-Competition Agreement"), the Confidentiality and Intellectual Property Agreement between Employer and Employee (the "Confidentiality Agreement") or the Change in Control Agreement. Upon termination of Employee's employment with Employer for any reason, Employee will promptly return to Employer all materials in any form acquired by Employee as a result of such employment with Employer, and all property of Employer.

1.5 Severance Payments and Vacation Pay.

(a) Vacation Pay in the Event of a Termination of Employment. In the event of the termination of Employee's employment with Employer for any reason, Employee shall be entitled to receive, in addition to the severance payments described in Section 1.5(b) below, if any, the dollar value of any earned but unused (and unforfeited) vacation. Such dollar value shall be paid to Employee within fifteen (15) days following the date of termination of employment.

(b) Severance Payments in the Case of a Termination Without Cause Pursuant to Section 1.4(e). If Employee's employment is terminated by Employer pursuant to Section 1.4(e) (termination without cause), then, subject to the Change in Control Agreement, Employee shall be entitled to severance pay equal to one (1) times the Base Salary (as hereinafter defined) in effect as of the date of termination of employment payable in accordance with Employer's regular payroll practices commencing on the first payroll date on or following the 61st day following the date of termination. Severance payments shall be reduced by any compensation that Employee earns during the twelve (12) months following such termination of employment. Employee agrees to notify Employer of the amounts of such compensation earned. Severance payments shall be subject to any applicable tax withholding requirements. Notwithstanding anything to the contrary herein, no severance payments shall be due or made to Employee hereunder unless, on or prior to the sixtieth (60th) day following the date of termination of employment, (i) Employee shall have executed and delivered a general release in favor of Employer and its affiliates, which shall be substantially in the form of the Separation Agreement and Release attached hereto as **Exhibit A** and otherwise satisfactory to Employer and (ii) such general release has become effective and irrevocable (the date such release is effective and irrevocable, the "Release Effective Date").

(c) Medical Insurance. If Employee's employment is terminated by Employer pursuant to Section 1.4(e) (termination without cause), Employer will provide or pay for Employee's medical insurance benefits at the same or a comparable level as provided by Employer during Employee's employment, for a period beginning on the date of termination and ending on the earlier of (i) the date that is twelve (12) months following such termination and (ii) the date that Employee is covered under a medical benefits plan of a subsequent employer. Except as permitted by Section 409A (as defined below), the continued benefits provided to Employee pursuant to this Section 1.5(c) during any calendar year will not affect the continued benefits to be provided to Employee pursuant to this Section 1.5(c) in any other calendar year.

(d) Vesting. In the event of (i) the termination of Employee's employment with Employer due to death under Section 1.4(a), (ii) the termination of Employee's employment with Employer due to disability under Section 1.4(b) or (iii) the termination of Employee's employment by Employer without cause under Section 1.4(e), Employee shall immediately receive an additional twelve (12) months of vesting credit with respect to Employee's stock options, stock appreciation rights, restricted stock and any other equity or equity-based compensation. The shares underlying any restricted stock units that become vested pursuant to this Section 1.5(d) shall be payable on the date of Employee's termination of employment. Any

of Employee's stock options and stock appreciation rights that become vested pursuant to this Section 1.5(d) shall be exercisable immediately upon vesting, and any such stock options and stock appreciation rights and any of Employee's stock options and stock appreciation rights that are otherwise vested and exercisable as of Employee's termination of employment shall remain exercisable for 12 months following Employee's termination of employment, provided that, if during such period Employee is under any trading restriction due to a lockup agreement or closed trading window, such period shall be tolled during the period of such trading restriction. In the event the terms of this Agreement are contrary to or conflict with the terms of any document or agreement addressing Employee's stock options, restricted stock, restricted stock units or any other equity compensation, the terms of this Agreement shall govern and control; provided that, notwithstanding anything to the contrary herein, in no event shall any stock option or stock appreciation right continue to be exercisable after the original expiration date of such stock option or stock appreciation right.

ARTICLE II. Compensation

2.1 Sign on Bonus. Subject to applicable tax withholding requirements, Employee shall receive a Twenty-five Thousand and 00/100 Dollar ($25,000) sign on bonus payable on the first payroll date of the Term.

2.2 Base Salary. Employee shall be compensated at an annual base salary of Three Hundred Fifty Thousand and 00/100 Dollars ($350,000) (the "Base Salary") while Employee is employed by Employer under this Agreement, subject to such annual increases that Employer may, in its sole discretion, determine to be appropriate. Such Base Salary shall be paid in accordance with Employer's standard policies and shall be subject to applicable tax withholding requirements.

2.3 Annual Bonus Eligibility. Employee shall be eligible to receive an annual bonus of up to sixty percent (60%) of Employee's Base Salary based upon individual and company performance, as determined by Employer in its sole discretion. The specific bonus eligibility and the standards for earning a bonus will be developed by Employer and communicated to Employee as soon as practicable after the beginning of each year.

2.4 Benefits; Vacation. Employee shall be eligible to receive all benefits as are available to similarly situated employees of Employer generally, and any other benefits that Employer may, in its sole discretion, elect to grant to Employee from time to time. In addition, Employee shall be entitled to four (4) weeks paid vacation per year, which shall be accrued in accordance with Employer's policies applicable to similarly situated employees of Employer.

2.5 Reimbursement of Business Expenses. Employee may incur reasonable expenses in the course of employment hereunder for which Employee shall be eligible for reimbursement or advances in accordance with Employer's standard policy therefor.

2.6 Grant of Equity.

(a) Eligibility. Employee will be eligible to participate in Employer's equity participation programs to acquire options or equity incentive compensation units in the common stock of Employer, subject to and/or in accordance with the following: (i) the additional terms contained in Employer's equity grant documentation; (ii) approval, if required, of Employer's equity incentive plan by the Board and the shareholders of Employer; (iii) approval of the grants by the Board; (iv) Employee's execution of documents requested by Employer at the time of grant; (v) Employee's continued employment through the grant date; (vi) the terms of the 2006 Omnibus Equity Incentive Compensation Plan or the successor thereto; and (vii) the policies, procedures and practices that may be adopted from time to time by Employer in its sole discretion for granting such options or equity incentive compensation units.

(b) Hiring Grant. Promptly following the Start Date, but subject to Board approval, Employee will receive a one time grant of restricted stock units valued at Two Million Eight Hundred Thousand and 00/100 Dollars ($2,800,000) on the Start Date, as determined by the Board, which shall vest, contingent on continued employment, in accordance with the terms of the restricted stock unit grant.

2.7 Location. Employee's position will be based in Phoenix, Arizona.

ARTICLE III. Absence of Restrictions

3.1 Employee hereby represents and warrants to Employer that Employee has full power, authority and legal right to enter into this Agreement and to carry out all obligations and duties hereunder and that the execution, delivery and performance by Employee of this Agreement will not violate or conflict with, or constitute a default under, any agreements or other understandings to which Employee is a party or by which Employee may be bound or affected, including any order, judgment or decree of any court or governmental agency. Employee further represents and warrants to Employer that Employee is free to accept employment with Employer as contemplated herein and that Employee has no prior or other obligations or commitments of any kind to any person, firm, partnership, association, corporation, entity or business organization that would in any way hinder or interfere with Employee's acceptance of, or the full performance of, Employee's duties hereunder.

ARTICLE IV. Miscellaneous

4.1 Withholding. Any payments made under this Agreement shall be subject to applicable federal, state and local tax reporting and withholding requirements.

4.2 Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware without reference to the principles of conflicts of laws. Any judicial action commenced relating in any way to this Agreement including the enforcement, interpretation or performance of this Agreement, shall be commenced and maintained in a court of competent jurisdiction located in Maricopa County, Arizona. In any action to enforce this Agreement, the prevailing party shall be entitled to recover its litigation

costs, including its attorneys' fees. The parties hereby waive and relinquish any right to a jury trial and agree that any dispute shall be heard and resolved by a court and without a jury. The parties further agree that the dispute resolution, including any discovery, shall be accelerated and expedited to the extent possible. Each party's agreements in this Section 4.2 are made in consideration of the other party's agreements in this Section 4.2, as well as in other portions of this Agreement.

4.3 No Waiver. The failure of Employer or Employee to insist in any one or more instances upon performance of any terms, covenants and conditions of this Agreement shall not be construed as a waiver or relinquishment of any rights granted hereunder or of the future performance of any such terms, covenants or conditions.

4.4 Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered, delivered by facsimile transmission or by courier or mailed, registered or certified mail, postage prepaid as follows:

If to Employer:	First Solar, Inc. 28101 Cedar Park Blvd Perrysburg, OH 43551 Attention: Human Resources
If to Employee:	To Employee's then current address on file with Employer

Or at such other address or addresses as any such party may have furnished to the other party in writing in a manner provided in this Section 4.4.

4.5 Assignability and Binding Effect. This Agreement is for personal services and is therefore not assignable. Notwithstanding the foregoing, this Agreement may be assigned by Employer to any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of Employer (the "Successor"). As used in this Agreement, (a) the term "Employer" shall mean Employer as hereinbefore defined and any Successor and any permitted assignee to which this Agreement is assigned and (b) the term "Board" shall mean the Board as hereinbefore defined and the board of directors or equivalent governing body of any Successor and any permitted assignee to which this Agreement is assigned. This Agreement shall be binding upon and inure to the benefit of the parties, their successors, assigns, heirs, executors and legal representatives.

4.6 Entire Agreement. This Agreement, the Change in Control Agreement, the Non-Competition Agreement and the Confidentiality Agreement set forth the entire agreement between Employer and Employee regarding the terms of Employee's employment and supersede all prior agreements between Employer and Employee covering the terms of Employee's employment. This Agreement may not be amended or modified except in a written instrument

signed by Employer and Employee identifying this Agreement and stating the intention to amend or modify it.

4.7 Severability. If it is determined by a court of competent jurisdiction that any of the restrictions or language in this Agreement are for any reason invalid or unenforceable, the parties desire and agree that the court revise any such restrictions or language, including reducing any time or geographic area, so as to render them valid and enforceable to the fullest extent allowed by law. If any restriction or language in this Agreement is for any reason invalid or unenforceable and cannot by law be revised so as to render it valid and enforceable, then the parties desire and agree that the court strike only the invalid and unenforceable language and enforce the balance of this Agreement to the fullest extent allowed by law. Employer and Employee agree that the invalidity or unenforceability of any provision of this Agreement shall not affect the remainder of this Agreement.

4.8 Construction. As used in this Agreement, words such as "herein," "hereinafter," "hereby" and "hereunder," and the words of like import refer to this Agreement, unless the context requires otherwise. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

ARTICLE V. Section 409A

5.1 In General. It is intended that the provisions of this Agreement comply with Section 409A of the Internal Revenue Code of 1986, as amended, and the regulations thereunder as in effect from time to time (collectively, "Section 409A"), and all provisions of this Agreement shall be construed and interpreted in a manner consistent with the requirements for avoiding taxes or penalties under Section 409A.

5.2 No Alienation, Set-offs, Etc. Neither Employee nor any creditor or beneficiary of Employee shall have the right to subject any deferred compensation (within the meaning of Section 409A) payable under this Agreement or under any other plan, policy, arrangement or agreement of or with Employer or any of its affiliates (this Agreement and such other plans, policies, arrangements and agreements, the "Employer Plans") to any anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment. Except as permitted under Section 409A, any deferred compensation (within the meaning of Section 409A) payable to or for the benefit of Employee under any Employer Plan may not be reduced by, or offset against, any amount owing by Employee to Employer or any of its affiliates.

5.3 Possible Six-month Delay. If, at the time of Employee's separation from service (within the meaning of Section 409A), (a) Employee shall be a specified employee (within the meaning of Section 409A and using the identification methodology selected by Employer from time to time) and (b) Employer shall make a good faith determination that an amount payable under an Employer Plan constitutes deferred compensation (within the meaning of Section 409A) the payment of which is required to be delayed pursuant to the six-month delay rule set forth in Section 409A in order to avoid taxes or penalties under Section 409A, then Employer (or an affiliate thereof, as applicable) shall not pay such amount on the otherwise scheduled payment date but shall instead accumulate such amount and pay it, without interest, on the first day of the seventh month following such separation from service.

5.4 Treatment of Installments. For purposes of Section 409A, each of the installments of continued Base Salary referred to in Section 1.5(b) shall be deemed to be a separate payment as permitted under Treas. Reg. Sec. 1.409A-2(b)(2)(iii).

IN WITNESS WHEREOF, Employer has caused this Agreement to be executed by one of its duly authorized officers and Employee has individually executed this Agreement, each intending to be legally bound, as of the date first above written.

EMPLOYEE:

/s/ James R. Miller
James R. Miller

EMPLOYER:
First Solar, Inc.

By: /s/ Michael J. Ahearn
Name Printed: Michael J. Ahearn
Title: CEO

Exhibit A

SEPARATION AGREEMENT AND RELEASE

I. Release. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned, with the intention of binding himself/herself, his/her heirs, executors, administrators and assigns, does hereby release and forever discharge First Solar, Inc., a Delaware corporation (the "Company"), and its present and former officers, directors, executives, agents, employees, affiliated companies, subsidiaries, successors, predecessors and assigns (collectively, the "Released Parties"), from any and all claims, actions, causes of action, demands, rights, damages, debts, accounts, suits, expenses, attorneys' fees and liabilities of whatever kind or nature in law, equity, or otherwise, whether now known or unknown (collectively, the "Claims"), which the undersigned now has, owns or holds, or has at any time heretofore had, owned or held against any Released Party, arising out of or in any way connected with the undersigned's employment relationship with the Company, its subsidiaries, predecessors or affiliated entities, or the termination thereof, under any Federal, state or local statute, rule, or regulation, or principle of common, tort or contract law, including but not limited to, the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 201 et seq., the Family and Medical Leave Act of 1993, as amended (the "FMLA"), 29 U.S.C. §§ 2601 et seq., Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e et seq., the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 621 et seq., the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101 et seq., the Worker Adjustment and Retraining Notification Act of 1988, as amended, 29 U.S.C. §§ 2101 et seq., the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1001 et seq., and any other equivalent or similar Federal, state, or local statute; provided, however, that nothing herein shall release the Company (a) of its obligations under that certain Employment Agreement in which the undersigned participates and pursuant to which this Separation Agreement and Release is being executed and delivered, (b) from any claims by the undersigned arising out of any director and officer indemnification or insurance obligations in favor of the undersigned and (c) from any director and officer indemnification obligations under the Company's by-laws. The undersigned understands that, as a result of executing this Separation Agreement and Release, he/she will not have the right to assert that the Company or any other Released Party unlawfully terminated his/her employment or violated any of his/her rights in connection with his/her employment or otherwise.

The undersigned affirms that he/she has not filed or caused to be filed, and presently is not a party to, any Claim, complaint or action against any Released Party in any forum or form and that he/she knows of no facts which may lead to any Claim, complaint or action being filed against any Released Party in any forum by the undersigned or by any agency, group, or class persons. The undersigned further affirms that he/she has been paid and/or has received all leave (paid or unpaid), compensation, wages, bonuses, commissions, and/or benefits to which he/she may be entitled and that no other leave (paid or unpaid), compensation, wages, bonuses, commissions and/or benefits are due to him/her from the Company and its subsidiaries, except as specifically provided in this Separation Agreement and Release. The undersigned furthermore affirms that he/she has no known workplace injuries or occupational diseases and has been provided and/or has not been denied any leave requested under the FMLA. If any agency or court assumes jurisdiction of any such Claim, complaint or action against any Released Party on

behalf of the undersigned, the undersigned will request such agency or court to withdraw the matter.

The undersigned further declares and represents that he/she has carefully read and fully understands the terms of this Separation Agreement and Release and that he/she has been advised and had the opportunity to seek the advice and assistance of counsel with regard to this Separation Agreement and Release, that he/she may take up to and including 21 days from receipt of this Separation Agreement and Release, to consider whether to sign this Separation Agreement and Release, that he/she may revoke this Separation Agreement and Release within seven calendar days after signing it by delivering to the Company written notification of revocation, and that he/she knowingly and voluntarily, of his/her own free will, without any duress, being fully informed and after due deliberate action, accepts the terms of and signs the same as his own free act.

II. Protected Rights. The Company and the undersigned agree that nothing in this Separation Agreement and Release is intended to or shall be construed to affect, limit or otherwise interfere with any non-waivable right of the undersigned under any Federal, state or local law, including the right to file a charge or participate in an investigation or proceeding conducted by the Equal Employment Opportunity Commission ("EEOC") or to exercise any other right that cannot be waived under applicable law. The undersigned is releasing, however, his/her right to any monetary recovery or relief should the EEOC or any other agency pursue Claims on his/her behalf. Further, should the EEOC or any other agency obtain monetary relief on his/her behalf, the undersigned assigns to the Company all rights to such relief.

III. Equitable Remedies. The undersigned acknowledges that a violation by the undersigned of any of the covenants contained in this Agreement would cause irreparable damage to the Company and its subsidiaries in an amount that would be material but not readily ascertainable, and that any remedy at law (including the payment of damages) would be inadequate. Accordingly, the undersigned agrees that, notwithstanding any provision of this Separation Agreement and Release to the contrary, the Company shall be entitled (without the necessity of showing economic loss or other actual damage) to injunctive relief (including temporary restraining orders, preliminary injunctions and/or permanent injunctions) in any court of competent jurisdiction for any actual or threatened breach of any of the covenants set forth in this Agreement in addition to any other legal or equitable remedies it may have.

IV. Return of Property. The undersigned shall return to the Company on or before [10 DAYS AFTER TERMINATION DATE], all property of the Company in the undersigned's possession or subject to the undersigned's control, including without limitation any laptop computers, keys, credit cards, cellular telephones and files. The undersigned shall not alter any of the Company's records or computer files in any way after [TERMINATION DATE].

V. Severability. If any term or provision of this Separation Agreement and Release is invalid, illegal or incapable of being enforced by any applicable law or public policy, all other conditions and provisions of this Separation Agreement and Release shall nonetheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated by this Separation Agreement and Release is not affected in any manner materially adverse to any party.

VI. **GOVERNING LAW. THIS SEPARATION AGREEMENT AND RELEASE SHALL BE DEEMED TO BE MADE IN THE STATE OF DELAWARE, AND THE VALIDITY, INTERPRETATION, CONSTRUCTION AND PERFORMANCE OF THIS AGREEMENT IN ALL RESPECTS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF DELAWARE WITHOUT REGARD TO ITS PRINCIPLES OF CONFLICTS OF LAW.**

Effective on the eighth calendar day following the date set forth below.

FIRST SOLAR, INC.

By _____
Name:
Title:

EMPLOYEE:

_____
[NAME]
Date
Signed:_____

NON-COMPETITION AND NON-SOLICITATION AGREEMENT

In consideration of Employee's (as defined below) ongoing at-will employment with Employer (as defined below) or one of its subsidiary companies, the compensation and benefits provided to me including those set forth in a separate Employment Agreement, Change in Control Agreement and Confidentiality and Intellectual Property Agreement (the "Confidentiality Agreement") and Employer's agreement to provide Employee with access to Employer's confidential information, intellectual property and trade secrets, access to its customers and other promises made below, Employee enters into the following non-competition and non-solicitation agreement:

This Non-Competition and Non-Solicitation Agreement ("Agreement") is effective by and between James R. Miller ("Employee") and First Solar, Inc. ("Employer") as of March 31, 2008.

Whereas, Employee desires to be employed by Employer and Employer has agreed to employ Employee in the current position of Employee with Employer, or such other position as Employer may from time to time determine;

Whereas, because of the nature of Employee's duties, in the performance of such duties, Employee will have access to and will necessarily utilize sensitive, secret and proprietary data and information, the value of which derives from its secrecy from Employer's competitors, which, like Employer, sell products and services throughout the world;

Whereas, Employee and Employer acknowledge and agree that Employee's conduct in the manner prohibited by this Agreement during, or for the period specified in this Agreement following the termination of, Employee's employment with Employer, would jeopardize Employer's Confidential Information (as defined in the Confidentiality Agreement) and the goodwill Employer has developed and generated over a period of years, and would cause Employer to experience unfair competition and immediate, irreparable harm; and

Whereas, in consideration of Employer's hiring Employee, Employee therefore has agreed to the terms of this Agreement, the Employment Agreement and the Confidentiality Agreement, and specifically to the restrictions contained herein.

Therefore, Employee and Employer hereby agree as follows (THE FOLLOWING ARE IMPORTANT RESTRICTIONS TO WHICH EMPLOYEE AGREES IN ORDER TO INDUCE EMPLOYER TO RETAIN EMPLOYEE AND WHICH, ONCE EMPLOYEE SIGNS THIS AGREEMENT, ARE BINDING ON EMPLOYEE. BY SIGNING THIS AGREEMENT, EMPLOYEE SIGNIFIES THAT EMPLOYEE HAS READ THESE RESTRICTIONS CAREFULLY BEFORE SIGNING THIS AGREEMENT, UNDERSTANDS THE AGREEMENT'S TERMS, AND ASSENTS TO ABIDE BY THESE RESTRICTIONS.):

1. **Nature and Period of Restriction.** At all times during Employee's employment and for a period of **twelve months** after the termination of employment (for any reason, including discharge or resignation) with Employer (the "Restricted Period"), Employee agrees as follows:

1.1. Employee agrees not to engage or assist, in any way or in any capacity, anywhere in the Territory (as defined below), either directly or indirectly, (a) in the business of the development, sale, marketing, manufacture or installation that would be in direct competition with of any type of product sold, developed, marketed, manufactured or installed by Employer during Employee's employment with Employer, including photovoltaic modules, or (b) in any other activity in direct competition or that would be in direct competition with the business of Employer as that business exists and is conducted (or with any business planned or seriously considered, of which Employee has knowledge) during Employee's employment with Employer. In addition and in particular, Employee agrees not to sell, market, provide or distribute, or endeavor to sell, market, provide or distribute, in any way, directly or indirectly, on behalf of Employee or any other person or entity, any products or services competitive with those of Employer to any person or entity which is or was an actual or prospective customer of Employer at any time during Employee's employment by Employer.

1.2. "Territory" for purposes of this Agreement means North America, South America, Australia, Europe and Asia.

1.3. Employee agrees not to solicit, recruit, hire, employ or attempt to hire or employ, or assist any other person or entity in the recruitment or hiring of, any person who is (or was) an employee of Employer, and agrees not to otherwise urge, induce or seek to induce any person to terminate his or her employment with Employer.

1.4. The parties understand and agree that the restrictions set forth in the paragraphs in this Section 1 also extend to Employee's recommending or directing any such actual or prospective customers to any other competitive concerns, or assisting in any way any competitive concerns in soliciting or providing products or services to such customers, whether or not Employee personally provides any products or services directly to such customers. For purposes of this Agreement, a prospective customer is one that Employer solicited or with which Employer otherwise sought to engage in a business transaction during the time that Employee is or was employed by Employer.

1.5. Employee and Employer acknowledge and agree that Employer has expended substantial amounts of time, money and effort to develop business strategies, customer relationships, employee relationships, trade secrets and goodwill and to build an effective organization and that Employer has a legitimate business interest and right in protecting those assets as well as any similar assets that Employer may develop or obtain. Employee and Employer acknowledge that Employer is entitled to protect and preserve the going concern value of Employer and its business and trade secrets to the extent permitted by law. Employee acknowledges and agrees the restrictions imposed upon Employee under this Agreement are reasonable and necessary for the protection of Employer's legitimate interests, including

Employer's Confidential Information, intellectual property, trade secrets and goodwill. Employee and Employer acknowledge that Employer is engaged in a highly competitive business, that Employee is expected to serve a key role with Employer, that Employee will have access to Employer's Confidential Information, that Employer's business and customers and prospective customers are located around the world, and that Employee could compete with Employer from virtually any location in the world. Employee acknowledges and agrees that the restrictions set forth in this Agreement do not impose any substantial hardship on Employee and that Employee will reasonably be able to earn a livelihood without violating any provision of this Agreement. Employee acknowledges and agrees that, in addition to Employer's agreement to hire him, part of the consideration for the restrictions in this Section 1 consists of Employer's agreement to make severance payments as set forth in the separate Employment Agreement between Employer and Employee.

1.6. Employee agrees to comply with each of the restrictive covenants contained in this Agreement in accordance with its terms, and Employee shall not, and hereby agrees to waive and release any right or claim to, challenge the reasonableness, validity or enforceability of any of the restrictive covenants contained in this Agreement.

2. **Notice by Employee to Employer.** Prior to engaging in any employment or business during the Restricted Period, Employee agrees to provide prior written notice (by certified mail) to Employer in accordance with Section 6, stating the description of the activities or position sought to be undertaken by Employee, and to provide such further information as Employer may reasonably request in connection therewith (including the location where the services would be performed and the present or former customers or employees of Employer anticipated to receive such products or services). Employer shall be free to object or not to object in its unfettered discretion, and the parties agree that any actions taken or not taken by Employer with respect to any other employees or former employees shall have no bearing whatsoever on Employer's decision or on any questions regarding the enforceability of any of these restraints with respect to Employee.

3. **Notice to Subsequent Employer.** Prior to accepting employment with any other person or entity during the Restricted Period, Employee shall provide such prospective employer with written notice of the provisions of this Agreement, with a copy of such notice delivered promptly to Employer in accordance with Section 6.

4. **Extension of Non-Competition Period in the Event of Breach.** It is agreed that the Restricted Period shall be extended by an amount of time equal to the amount of time during which Employee is in breach of any of the restrictive covenants set forth above.

5. **Judicial Reformation to Render Agreement Enforceable.** If it is determined by a court of competent jurisdiction that any of the restrictions or language in this Agreement are for any reason invalid or unenforceable, the parties desire and agree that the court revise any such restrictions or language, including reducing any time or geographic area, so as to render them valid and enforceable to the fullest extent allowed by law. If any restriction or language in this Agreement is for any reason invalid or unenforceable and cannot by law be revised so as to render it valid and enforceable, then the parties desire and agree that the court strike only the

invalid and unenforceable language and enforce the balance of this Agreement to the fullest extent allowed by law. Employer and Employee agree that the invalidity or unenforceability of any provision of this Agreement shall not affect the remainder of this Agreement.

6. **Notice.** All documents, notices or other communications that are required or permitted to be delivered or given under this Agreement shall be in writing and shall be deemed to be duly delivered or given when received.

If to Employer:	First Solar, Inc. 4050 East Cotton Center Boulevard Building 6, Suite 68 Phoenix, Arizona 85040 Attention: Chief Executive Officer Fax: (602) 414-9400
If to Employee:	To Employee's then current address on file with Employer

7. **Enforcement.** Except as expressly stated herein, the covenants contained in this Agreement shall be construed as independent of any other provision or covenants of any other agreement between Employer and Employee, and the existence of any claim or cause of action of Employee against Employer, whether predicated on this Agreement or otherwise, or the actions of Employer with respect to enforcement of similar restrictions as to other employees, shall not constitute a defense to the enforcement by Employer of such covenants. Employee acknowledges and agrees that Employer has invested great time, effort and expense in its business and reputation, that the products and information of Employer are unique and valuable, and that the services performed by Employee are unique and extraordinary, and Employee agrees that Employer will suffer immediate, irreparable harm and shall be entitled, upon a breach or a threatened breach of this Agreement, to emergency, preliminary, and permanent injunctive relief against such activities, without having to post any bond or other security, and in addition to any other remedies available to Employer at law or equity. Any specific right or remedy set forth in this Agreement, legal, equitable or otherwise, shall not be exclusive but shall be cumulative upon all other rights and remedies allowed or by law, including the recovery of money damages. The failure of Employer to enforce any of the provisions of this Agreement, or the provisions of any agreement with any other Employee, shall not constitute a waiver or limit any of Employer's rights.

8. **At-Will Employment; Termination.** This Agreement does not alter the at-will nature of Employee's employment by Employer, and Employee's employment may be terminated by either party, with or without notice and with or without cause, at any time. In addition to the foregoing provisions of this Agreement, upon Employee's termination, Employee shall cease all identification of Employee with Employer and/or the business, products or services of Employer, and the use of Employer's name, trademarks, trade name or fictitious name. All provisions, obligations, and restrictions in this Agreement shall survive termination of Employee's employment with Employer.

9. **Choice of Law, Choice of Forum.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware, without reference to the principles of conflicts of laws. Any judicial action commenced relating in any way to this Agreement including the enforcement, interpretation, or performance of this Agreement, shall be commenced and maintained in a court of competent jurisdiction located in Maricopa County, Arizona. In any action to enforce this Agreement, the prevailing party shall be entitled to recover its litigation costs, including its attorneys' fees. The parties hereby waive and relinquish any right to a jury trial and agree that any dispute shall be heard and resolved by a court and without a jury. The parties further agree that the dispute resolution, including any discovery, shall be accelerated and expedited to the extent possible. Each party's agreements in this Section 9 are made in consideration of the other party's agreements in this Section 9, as well as in other portions of this Agreement.

10. **Entire Agreement, Modification and Assignment.**

10.1. This Agreement, the Employment Agreement, the Confidentiality Agreement and the Change in Control Agreement comprise the entire agreement relating to the subject matter hereof between the parties and supersede, cancel, and annul any and all prior agreements or understandings between the parties concerning the subject matter of the Agreement.

10.2. This Agreement may not be modified orally but may only be modified in a writing executed by both Employer and Employee.

10.3. This Agreement shall inure to the benefit of Employer, its successors and assigns, and may be assigned by Employer. Employee's rights and obligations under this Agreement may not be assigned by Employee.

11. **Construction.** As used in this Agreement, words such as "herein," "hereinafter," "hereby" and "hereunder," and the words of like import refer to this Agreement, unless the context requires otherwise. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

IN WITNESS WHEREOF, the parties have executed this Agreement, effective as of the day and year first written above.

EMPLOYER:	**EMPLOYEE:**
First Solar, Inc.	James R. Miller
By: /s/ Michael J. Ahearn Its: CEO Printed Name: Michael J. Ahearn	/s/ James R. Miller

Confidentiality and Intellectual Property Agreement

Employee: James R. Miller

Place of Signing: Phoenix, Arizona

Date: March 31, 2008

In consideration of my ongoing at-will employment with First Solar, Inc. or one of its subsidiary companies (collectively, the "Company"), for the compensation and benefits provided to me and for the Company's agreement to provide me with access to experience, knowledge and Confidential Information (as defined below) in the course of such employment relating to the methods, plans and operations of the Company and its suppliers, clients and customers, I enter into the following Confidentiality and Intellectual Property Agreement (the "Agreement") and agree as follows:

1. Except for any items I have identified and described in a writing given to the Company and acknowledged in writing by an officer of the Company on or before the date of this Agreement, which items are specifically excluded from the operation of the applicable provisions hereof, I do not own, nor have any interest in, any patents, patent applications, inventions, improvements, methods, discoveries, designs, trade secrets, copyrights, and/or other patentable or proprietary rights.

2. I will promptly and fully disclose to the Company all developments, inventions, ideas, methods, discoveries, designs, and innovations (collectively referred to herein as "Developments"), whether patentable or not, relating wholly or in part to my work for the Company or resulting wholly or in part from my use of the Company's materials or facilities, which I may make or conceive, whether or not during working hours, whether or not using the Company's materials, whether or not on the Company facilities, alone or with others, at any time during my employment or within ninety (90) days after termination thereof, and I agree that all such Developments shall be the exclusive property of the Company, and that I shall have no proprietary or shop rights in connection therewith.

3. I will assign, and do hereby assign, to the Company or the Company's designee, my entire right, title and interest in and to all such Developments including all trademarks, copyrights, moral rights and mask work rights in or relating to such Developments, and any patent applications filed and patents granted thereon including those in foreign countries; and I agree, both during my employment by the Company and thereafter, to execute any patent or other papers deemed necessary or appropriate by the Company for filing with the United States or any other country covering such Developments as well as any papers that the Company may consider necessary or helpful in obtaining or maintaining such patents during the prosecution of patent applications thereon or during the conduct of any interference, litigation, or any other matter in connection therewith, and to transfer to the Company any such patents that may be

issued in my name. If, for some reason, I am unable to execute such patent or other papers, I hereby irrevocably designate and appoint the Company and its designees and their duly authorized officers and agents, as the case may be, as my agent and attorney in fact to act for and in my behalf and stead to execute any documents and to do all other lawfully permitted acts in connection with the foregoing. I agree to cooperate with and assist the Company as requested by the Company to provide documentation reflecting the Company's sole and complete ownership of the Developments. All expenses incident to the filing of such applications, the prosecution thereof and the conduct of any such interference, litigation, or other matter will be borne by the Company. This Section 3 shall survive the termination of this Agreement.

4. Subject to Section 5 below, I will not, either during my employment with the Company or at any time thereafter, use, disclose or authorize, or assist anyone else to disclose or use or make known for anyone's benefit, any information, knowledge or data of the Company or any supplier, client, or customer of the Company in any way acquired by me during or as a result of my employment with the Company, whether before or after the date of this Agreement, (hereinafter the "Confidential Information"). Such Confidential Information shall include the following:

(a) Information of a business nature, including financial information and information about sales, marketing, purchasing, prices, costs, suppliers and customers;

(b) Information pertaining to future developments, including research and development, new product ideas and developments, strategic plans, and future marketing and merchandising plans and ideas;

(c) Information and material that relate to the Company's manufacturing methods, machines, articles of manufacture, compositions, inventions, engineering services, technological developments, "know-how", purchasing, accounting, merchandising and licensing;

(d) Trade secrets of the Company, including information and material with respect to the design, construction, capacity or method of operation of the Company's equipment or products and information regarding the Company's customers and sales or marketing efforts and strategies;

(e) Software in various stages of development (including source code, object code, documentation, diagrams, flow charts), designs, drawings, specifications, models, data and customer information; and

(f) Any information of the type described above that the Company obtained from another party and that the Company treats as proprietary or designates as confidential, whether or not owned or developed by the Company.

5. It is understood and agreed that the term "Confidential Information" shall not include information that is generally available to the public, other than through any act or omission on my part in breach of this Agreement.

6. I acknowledge that: (a) such Confidential Information derives its value to the Company from the fact that it is maintained as confidential and secret and is not readily available to the general public or the Company's competitors; (b) the Company undertakes great effort and sufficient measures to maintain the confidentiality and secrecy of such information; and (c) such Confidential Information is protected and covered by this Agreement regardless of whether or not such Confidential Information is a "trade secret" under applicable law. I further acknowledge and agree that the obligations and restrictions herein are reasonable and necessary to protect the Company's legitimate business interests, and that this Agreement does not impose an unreasonable or undue burden on me and will not prevent me from earning a livelihood subsequent to the termination of my employment with the Company. I agree to comply with each of the restrictive covenants contained in this Agreement in accordance with its terms, and will not, and I hereby agree to waive and release any right or claim to, challenge the reasonableness, validity or enforceability of any of the restrictive covenants contained in this Agreement.

7. I will deliver to the Company promptly upon request, and, in any event, on the date of termination of my employment, all documents, copies thereof and other materials in my possession, including any notes or memoranda prepared by me, pertaining to the business of the Company, whether or not including any Confidential Information, and thereafter will promptly deliver to the Company any documents and copies thereof pertaining to the business of the Company that come into my possession.

8. I represent that I have no agreements with or obligations to others with respect to any innovations, developments, or information that could conflict with any of the foregoing.

9. The invalidity or unenforceability of any provision of this Agreement, whether in whole or in part, shall not in any way affect the validity and/or enforceability of any of the other provisions of this Agreement. Any invalid or unenforceable provision or portion thereof shall be deemed severable to the extent of any such invalidity or unenforceability. The restrictions contained in this Agreement are reasonable for the purpose of preserving for the Company and its affiliates the proprietary rights, intangible business value and Confidential Information of the Company and its affiliates. If it is determined by a court of competent jurisdiction that any of the restrictions or language in this Agreement is for any reason invalid or unenforceable, the parties desire and agree that the court revise any such restrictions or language so as to render it valid and enforceable to the fullest extent allowed by law. If any restriction or language in this Agreement is for any reason invalid or unenforceable and cannot by law be revised so as to render it valid and enforceable, then the parties desire and agree that the court strike only the invalid and unenforceable language and enforce the balance of this Agreement to the fullest extent allowed by law.

10. I agree that any breach or threatened breach by me of any of the provisions in this Agreement cannot be remedied solely by the recovery of damages. I expressly agree that upon a

threatened breach or violation of any of such provisions, the Company, in addition to all other remedies, shall be entitled as a matter of right, and without posting a bond or other security, to emergency, preliminary, and permanent injunctive relief in any court of competent jurisdiction. Nothing herein, however, shall be construed as prohibiting the Company from pursuing, in concert with an injunction or otherwise, any other remedies available at law or in equity for such breach or threatened breach, including the recovery of damages.

11. This Agreement is made in consideration of my continued employment by the Company. I understand that the Company is under no obligation to employ me for any duration and that my employment with the Company is terminable at the will of the Company or at my will at any time and for any reason and without notice.

12. Upon termination of my employment with the Company, I shall, if requested by the Company, reaffirm my recognition of the importance of maintaining the confidentiality of the Company's Confidential Information and reaffirm all of my obligations set forth herein. The provisions, obligations, and restrictions in this Agreement shall survive the termination of my employment, and will be binding on me whether or not the Company requests a re-affirmation.

13. This Agreement, my Employment Agreement with the Company (the "Employment Agreement"), the Non-Competition Agreement (as defined in the Employment Agreement) and the Change in Control Agreement (as defined in the Employment Agreement) represent the full and complete understanding between me and the Company with respect to the subject matter hereof and supersede all prior representations and understandings, whether oral or written regarding such subject matter. This Agreement may not be changed, modified, released, discharged, abandoned or otherwise terminated, in whole or in part, except by an instrument in writing signed by both the Company and me. My obligations under this Agreement shall be binding upon my heirs, executors, administrators, or other legal representatives or assigns, and this Agreement shall inure to the benefit of the Company, its successors, and assigns.

14. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware without reference to principles of conflict of laws. Any judicial action commenced relating in any way to this Agreement including the enforcement, interpretation, or performance of this Agreement, shall be commenced and maintained in a court of competent jurisdiction located in Maricopa County, Arizona. In any action to enforce this Agreement, the prevailing party shall be entitled to recover its litigation costs, including its attorneys' fees. The parties hereby waive and relinquish any right to a jury trial and agree that any dispute shall be heard and resolved by a court and without a jury. The parties further agree that the dispute resolution, including any discovery, shall be accelerated and expedited to the extent possible. Each party's agreements in this Section 14 are made in consideration of the other party's agreements in this Section 14, as well as in other portions of this Agreement.

15. As used in this Agreement, words such as “herein,” “hereinafter,” “hereby” and “hereunder,” and the words of like import refer to this Agreement, unless the context requires otherwise. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation”.

EMPLOYER:	**EMPLOYEE:**
First Solar, Inc.	James R. Miller
By: /s/ Michael J. Ahearn Its: CEO Printed Name: Michael J. Ahearn	/s/ James R. Miller

CHANGE IN CONTROL SEVERANCE AGREEMENT

This **CHANGE IN CONTROL SEVERANCE AGREEMENT** (this "Agreement"), dated as of March 31, 2008, between First Solar, Inc., a Delaware corporation (the "Company"), and James R. Miller (the "Executive").

RECITALS:

WHEREAS the Executive is a skilled and dedicated employee of the Company who has important management responsibilities and talents that benefit the Company;

WHEREAS the Board of Directors of the Company (the "Board") considers it essential to the best interests of the Company and its stockholders to assure that the Company and its Subsidiaries (as defined below) will have the continued dedication of the Executive, notwithstanding the possibility, threat or occurrence of a Change in Control (as defined below); and

WHEREAS the Board believes that it is imperative to diminish the distraction of the Executive by virtue of the uncertainties and risks created by the circumstances surrounding a Change in Control and to ensure the Executive's full attention to the Company and its Subsidiaries during such a period of uncertainty.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, and intending to be legally bound hereby, the parties hereto agree as follows:

SECTION 1. Definitions. For purposes of this Agreement, the following terms shall have the meanings set forth below:

(a) "280G Gross-Up Payment" shall have the meaning set forth in Section 5(a).

(b) "Accounting Firm" shall have the meaning set forth in Section 5(b).

(c) "Accrued Rights" shall have the meaning set forth in Section 4(a)(iv).

(d) "Affiliate(s)" means, with respect to any specified Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person.

(e) "Annual Base Salary" shall mean the greater of the Executive's annual rate of base salary in effect (i) immediately prior to the Change in Control Date and (ii) immediately prior to the Termination Date.

(f) "Annual Bonus" shall mean the target annual cash bonus the Executive is eligible to earn (assuming one hundred percent (100%) fulfillment of all elements of the formula

under which such bonus would have been calculated) for the year in which the Termination Date occurs.

(g) "Bonus Amount" means, as of the Termination Date, the greater of (i) the Annual Bonus and (ii) the average of the annual cash bonuses payable to the Executive in respect of the three (3) calendar years immediately preceding the calendar year that includes the Termination Date or, if the Executive has not been employed for three (3) full calendar years preceding the calendar year that includes the Termination Date, the average of the annual cash bonuses payable to the Executive for the number of full calendar years prior to the Termination Date that he has been employed.

(h) "Cause" means the occurrence of any one of the following: (i) the Executive is convicted of, or pleads guilty or nolo contendere to, (A) a misdemeanor involving moral turpitude or misappropriation of the assets of the Company or a Subsidiary or (B) any felony (or the equivalent of such a misdemeanor or felony in a jurisdiction outside of the United States); (ii) the Executive commits one or more acts or omissions constituting gross negligence, fraud or other gross misconduct that the Company reasonably and in good faith determines has a materially detrimental effect on the Company; (iii) the Executive continually and willfully fails, for at least fourteen (14) days following written notice from the Company, to perform substantially the Executive's employment duties (other than as a result of incapacity due to physical or mental illness or after delivery by the Executive of a Notice of Termination for Good Reason); or (iv) the Executive commits a gross violation of any of the Company's material policies (including the Company's Code of Business Conduct and Ethics, as in effect from time to time) that the Company reasonably and in good faith determines is materially detrimental to the best interests of the Company. The termination of employment of the Executive for Cause shall not be effective unless and until there has been delivered to the Executive a copy of a resolution duly adopted by the affirmative vote of not less than a majority of the entire membership of the Board (excluding the Executive) at a meeting of the Board called and held for such purpose (after reasonable notice is provided to the Executive and the Executive is given an opportunity, together with counsel, to be heard before the Board), finding that in the good faith opinion of the Board, the Executive is guilty of the conduct described in clause (i), (ii), (iii) or (iv) above and specifying the particulars thereof in detail.

(i) "Change in Control" means the occurrence of any of the following:

(i) individuals who, as of the Effective Date, were members of the Board (the "Incumbent Directors") cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a member of the Board subsequent to the Effective Date whose appointment or election, or nomination for election, by the Company's stockholders was approved by a vote of at least a majority of the Incumbent Directors shall be considered as though such individual were an Incumbent Director, but excluding, for purposes of this proviso, any such individual whose assumption of office after the Effective Date occurs as a result of an actual or threatened proxy contest with respect to election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of any "person" (as such term is used in Section 13(d) of the Exchange Act) (each, a "Person") other than the Board or any Specified Shareholder;

(ii) the consummation of (A) a merger, consolidation, statutory share exchange or similar form of corporate transaction involving (1) the Company or (2) any of its Subsidiaries, but in the case of this clause (2) only if Company Voting Securities (as defined below) are issued or issuable in connection with such transaction or (B) a sale or other disposition of all or substantially all the assets of the Company (each of the events referred to in clause (A) or (B) being hereinafter referred to as a "Reorganization"), unless, immediately following such Reorganization, (x) all or substantially all the individuals and entities who were the "beneficial owners" (as such term is defined in Rule 13d-3 under the Exchange Act) of shares of the Company's common stock or other securities eligible to vote for the election of the Board outstanding immediately prior to the consummation of such Reorganization (such securities, the "Company Voting Securities") beneficially own, directly or indirectly, more than 50% of the combined voting power of the then outstanding voting securities of the corporation or other entity resulting from such Reorganization (including a corporation or other entity that, as a result of such transaction, owns the Company or all or substantially all the Company's assets either directly or through one or more subsidiaries) (the "Continuing Entity") in substantially the same proportions as their ownership, immediately prior to the consummation of such Reorganization, of the outstanding Company Voting Securities (excluding any outstanding voting securities of the Continuing Entity that such beneficial owners hold immediately following the consummation of such Reorganization as a result of their ownership prior to such consummation of voting securities of any corporation or other entity involved in or forming part of such Reorganization other than the Company or a Subsidiary), (y) no Person (excluding (i) any employee benefit plan (or related trust) sponsored or maintained by the Continuing Entity or any corporation or other entity controlled by the Continuing Entity and (ii) any Specified Shareholder) beneficially owns, directly or indirectly, twenty percent (20%) or more of the combined voting power of the then outstanding voting securities of the Continuing Entity and (z) at least a majority of the members of the board of directors or other governing body of the Continuing Entity were Incumbent Directors at the time of the execution of the definitive agreement providing for such Reorganization or, in the absence of such an agreement, at the time at which approval of the Board was obtained for such Reorganization;

(iii) the stockholders of the Company approve a plan of complete liquidation or dissolution of the Company, unless such liquidation or dissolution is part of a transaction or series of transactions described in Section 1(i)(ii) that does not otherwise constitute a Change in Control; or

(iv) any Person, corporation or other entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act) other than any Specified Shareholder becomes the beneficial owner, directly or indirectly, of securities of the Company representing a percentage of the combined voting power of the Company Voting Securities that is equal to or greater than the greater of (A) twenty percent (20%) and (B) the percentage of the combined voting power of the Company Voting Securities beneficially owned directly or indirectly by all the Specified Shareholders at such time; provided, however, that for purposes of this Section 1(i)(iv) only (and not for purposes of Sections 1(i)(i) through (iii)), the following acquisitions shall not constitute a Change in Control: (1) any acquisition by the Company or any Subsidiary, (2) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any Subsidiary, (3) any acquisition by an underwriter temporarily holding such Company Voting Securities pursuant to an offering of such securities and (4) any acquisition

pursuant to a Reorganization that does not constitute a Change in Control for purposes of Section 1(i)(ii).

(j) "Change in Control Date" means the date on which a Change in Control occurs.

(k) "COBRA" shall have the meaning set forth in Section 4(a)(iii).

(l) "Code" means the Internal Revenue Code of 1986, as amended from time to time, or any successor statute thereto, and the regulations promulgated thereunder as in effect from time to time.

(m) "Company Voting Securities" shall have the meaning set forth in Section 1(i)(ii).

(n) "Continuing Entity" shall have the meaning set forth in Section 1(i)(ii).

(o) "Disability" shall have the meaning set forth in Section 4(b)(ii).

(p) "Effective Date" shall have the meaning set forth in Section 2.

(q) "Executive Tax Year" shall have the meaning set forth in Section 4(a)(iii).

(r) "Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, or any successor statute thereto, and the regulations promulgated thereunder as in effect from time to time.

(s) "Excise Tax" means the excise tax imposed by Section 4999 of the Code, together with any interest or penalties imposed with respect to such tax.

(t) "Good Reason" means, without the Executive's express written consent, the occurrence of any one or more of the following:

(i) any material reduction in the authority, duties or responsibilities held by the Executive immediately prior to the Change in Control Date;

(ii) any material reduction in the annual base salary or annual incentive opportunity of the Executive as in effect immediately prior to the Change in Control Date;

(iii) any change of the Executive's principal place of employment to a location more than fifty (50) miles from the Executive's principal place of employment immediately prior to the Change in Control Date;

(iv) any failure of the Company to pay the Executive any compensation when due;

(v) delivery by the Company or any Subsidiary of a written notice to the Executive of the intent to terminate the Executive's employment for any reason, other than

Cause, death or Disability, in each case in accordance with this Agreement, regardless of whether such termination is intended to become effective during or after the Protection Period; or

(vi) any failure by the Company to comply with and satisfy the requirements of Section 10(c).

The Executive's right to terminate employment for Good Reason shall not be affected by the Executive's incapacity due to physical or mental illness. A termination of employment by the Executive for Good Reason for purposes of this Agreement shall be effectuated by giving the Company written notice ("Notice of Termination for Good Reason") of the termination setting forth in reasonable detail the specific conduct of the Company that constitutes Good Reason and the specific provisions of this Agreement on which the Executive relied, provided that such notice must be delivered to the Company no later than ninety (90) days after the occurrence of the event or events constituting Good Reason and the Company must be provided with at least thirty (30) days following the delivery of such Notice of Termination for Good Reason to cure such event or events. If such event or events are cured during such period, then the Executive will not be permitted to terminate employment for Good Reason as the result of such event or events. If the Company does not cure such event or events in such period, the termination of employment by the Executive for Good Reason shall be effective on the thirtieth (30th) day following the date when the Notice of Termination for Good Reason is given, unless the Company elects to treat such termination as effective as of an earlier date; provided, however, that so long as an event that constitutes Good Reason occurs during the Protection Period and the Executive delivers the Notice of Termination for Good Reason within ninety (90) days following the occurrence of such event, the Company is provided with at least thirty (30) days following the delivery of such Notice of Termination for Good Reason to cure such event, and the Executive terminates his employment as of the thirtieth (30th) day following the date when the Notice of Termination for Good Reason is given (or as of an earlier date chosen by the Company), then for purposes of the payments, benefits and other entitlements set forth herein, the termination of the Executive's employment pursuant thereto shall be deemed to occur during the Protection Period.

(u) "Incumbent Directors" shall have the meaning set forth in Section 1(i)(i).

(v) "Notice of Termination for Good Reason" shall have the meaning set forth in Section 1(t).

(w) "Payment" means any payment, benefit or distribution (or combination thereof) by the Company, any of its Affiliates or any trust established by the Company or its Affiliates, to or for the benefit of the Executive, whether paid, payable, distributed, distributable or provided pursuant to this Agreement or otherwise, including any payment, benefit or other right that constitutes a "parachute payment" within the meaning of Section 280G of the Code.

(x) "Person" shall have the meaning set forth in Section 1(i)(i).

(y) "Protection Period" means the period commencing on the Change in Control Date and ending on the second anniversary thereof.

(z) "Qualifying Termination" means any termination of the Executive's employment (i) by the Company, other than for Cause, death or Disability, that is effective (or with respect to which the Executive is given written notice) during the Protection Period, (ii) by the Executive for Good Reason during the Protection Period or (iii) by the Company that is effective prior to the Change in Control Date, other than for Cause, death or Disability, at the request or direction of a third party who took action that caused, or is involved in or a party to, a Change in Control.

(aa) "Release" shall have the meaning set forth in Section 4(a)(vi).

(bb) "Release Effective Date" shall have the meaning set forth in Section 4(a)(i).

(cc) "Reorganization" shall have the meaning set forth in Section 1(i)(ii).

(dd) "Safe Harbor Amount" shall have the meaning set forth in Section 5(a).

(ee) "Specified Shareholder" shall mean any of (i) the Estate of John T. Walton and its beneficiaries, (ii) JCL Holdings, LLC and its beneficiaries, (iii) Michael J. Ahearn and any of his immediate family, (iv) any Person directly or indirectly controlled by any of the foregoing and (v) any trust for the direct or indirect benefit of any of the foregoing.

(ff) "Subsidiary" means any entity in which the Company, directly or indirectly, possesses 50% or more of the total combined voting power of all classes of stock.

(gg) "Successor" shall have the meaning set forth in Section 10(c).

(hh) "Termination Date" means the date on which the termination of the Executive's employment, in accordance with the terms of this Agreement, is effective, provided that in the event of a Qualifying Termination described in clause (iii) of the definition thereof, the Termination Date shall be deemed to be the Change in Control Date.

(ii) "Underpayment" shall have the meaning set forth in Section 5(b).

SECTION 2. Effectiveness and Term. This Agreement shall become effective as of the date hereof (the "Effective Date") and shall remain in effect until the third (3rd) anniversary of the Effective Date, except that, beginning on the second anniversary of the Effective Date and on each anniversary thereafter, the term of this Agreement shall be automatically extended for an additional one-year period, unless the Company or the Executive provides the other party with sixty (60) days' prior written notice before the applicable anniversary that the term of this Agreement shall not be so extended. Notwithstanding the foregoing, in the event of a Change in Control during the term of this Agreement (whether the original term or the term as extended), this Agreement shall not thereafter terminate, and the term hereof shall be extended, until the Company and its Subsidiaries have performed all their obligations hereunder with no future performance being possible; provided, however, that this Agreement shall only be effective with respect to the first Change in Control that occurs during the term of this Agreement.

SECTION 3. Impact of a Change in Control on Equity Compensation Awards. Effective as of the Change in Control Date, notwithstanding any provision to the contrary, other than any such provision that expressly provides that this Section 3 of this Agreement does not apply (which provision shall be given full force and effect), in any of the Company's equity-based, equity-related or other long-term incentive compensation plans, practices, policies and programs (including the Company's 2003 Unit Option Plan and the Company's 2006 Omnibus Incentive Compensation Plan) or any award agreements thereunder, (a) all outstanding stock options, stock appreciation rights and similar rights and awards then held by the Executive that are unexercisable or otherwise unvested shall automatically become fully vested and immediately exercisable, as the case may be, (b) all outstanding equity-based, equity-related and other long-term incentive awards then held by the Executive that are subject to performance-based vesting criteria shall automatically become fully vested and earned at a deemed performance level equal to the maximum performance level with respect to such awards and (c) all other outstanding equity-based, equity-related and long-term incentive awards, to the extent not covered by the foregoing clause (a) or (b), then held by the Executive that are unvested or subject to restrictions or forfeiture shall automatically become fully vested and all restrictions and forfeiture provisions related thereto shall lapse.

SECTION 4. Termination of Employment.

(a) Qualifying Termination. In the event of a Qualifying Termination, the Executive shall be entitled, subject to Section 4(a)(vi), to the following payments and benefits:

(i) Severance Pay. The Company shall pay the Executive an amount equal to two (2) times the sum of (A) the Executive's Annual Base Salary (without regard to any reduction giving rise to Good Reason) and (B) the Bonus Amount, in a lump-sum cash payment payable on the tenth (10th) business day after the Release described in Section 4(a)(vi) becomes effective and irrevocable (the "Release Effective Date"); provided, however, that such amount shall be paid in lieu of, and the Executive hereby waives the right to receive, any other cash severance payment the Executive is otherwise eligible to receive upon termination of employment under any severance plan, practice, policy or program of the Company or any Subsidiary or under any agreement between the Company and the Executive and, in the event of a Qualifying Termination described in clause (iii) of the definition thereof, the severance payment payable pursuant to this Section 4(a)(i) shall be reduced by the amount of any other such severance payments previously paid to the Executive.

(ii) Prorated Annual Bonus. The Company shall pay the Executive an amount equal to the product of (A) the Executive's Annual Bonus and (B) a fraction, the numerator of which is the number of days in the Company's fiscal year in which the Termination Date occurs through the Termination Date, and the denominator of which is three hundred sixty-five (365), in a lump-sum payment payable on the tenth (10th) business day after the Release Effective Date.

(iii) Continued Welfare Benefits. The Company shall, at its option, either (A) continue to provide medical, life insurance, accident insurance and disability benefits to the Executive and the Executive's spouse and dependents at least equal to the benefits provided by the Company and its Subsidiaries generally to other active peer executives of the Company and

its Subsidiaries or (B) pay for the Executive's continued group health plan coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"), in the case of each of clauses (A) and (B), for a period of time commencing on the Termination Date and ending on the date that is eighteen (18) months after the Termination Date; provided, however, that if the Executive becomes reemployed with another employer and is eligible to receive medical or other welfare benefits under another employer-provided plan, the medical and other welfare benefits described herein shall be secondary to those provided under such other plan during such applicable period of eligibility. Any provision of benefits pursuant to this Section 4(a)(iii) in one (1) tax year of the Executive (the "Executive Tax Year") shall not affect the amount of such benefits to be provided in any other Executive Tax Year. The right to such benefits shall not be subject to liquidation or exchange for any other benefit.

(iv) Accrued Rights. The Executive shall be entitled to (A) payments of any unpaid base salary, annual bonus or other amount earned or accrued through the Termination Date and reimbursement of any unreimbursed business expenses incurred through the Termination Date, (B) any payments explicitly set forth in any other benefit plans, practices, policies and programs in which the Executive participates and (C) any payments the Company is or becomes obligated to make pursuant to Sections 5, 7 and 12 (the rights to such payments, the "Accrued Rights"). The Accrued Rights payable pursuant to Section 4(a)(iv)(A) and Section 4(a)(iv)(B) shall be payable on their respective otherwise scheduled payment dates, provided that any amounts payable in respect of accrued but unused vacation shall be paid in a lump sum within 15 days following the Termination Date. The Accrued Rights payable pursuant to Section 4(a)(iv)(C) shall be payable at the times set forth in the applicable Section hereof.

(v) Outplacement. The Company shall reimburse the Executive for individual outplacement services to be provided by a firm of the Executive's choice or, at the Executive's election, provide the Executive with the use of office space, office supplies and secretarial assistance satisfactory to the Executive. The aggregate expenditures of the Company pursuant to this paragraph shall not exceed Twenty Thousand and 00/100 Dollars ($20,000). Notwithstanding anything to the contrary in this Agreement, the outplacement benefits under this Section 4(a)(v) shall be provided to the Executive for no longer than the one-year period following the Termination Date, and the amount of any outplacement benefits or office space, office supplies and secretarial assistance provided to the Executive in any Executive Tax Year shall not affect the amount of any such outplacement benefits or office space, office supplies and secretarial assistance provided to the Executive in any other Executive Tax Year.

(vi) Release of Claims. Notwithstanding any provision of this Agreement to the contrary, unless on or prior to the tenth (10^{th}) business day prior to March 15 of the year following the year in which the Termination Date occurs, the Executive has executed and delivered a Separation Agreement and Release (the "Release") substantially in the form of Exhibit A hereto and such Release has become effective and irrevocable in accordance with its terms, (A) no payments shall be paid or made available to the Executive under Section 4(a)(i) or 4(a)(ii), (B) the Company shall be relieved of all obligations to provide or make available any further benefits to the Executive pursuant to Section 4(a)(iii) and 4(a)(v) and (C) the Executive shall be required to repay the Company, in cash, within five business days after written demand is made therefor by the Company, an amount equal to the value of any benefits received by the Executive pursuant to Section 4(a)(iii) and 4(a)(v) prior to such date.

(b) Termination on Account of Death or Disability; Non-Qualifying Termination.

(i) The Executive's employment shall terminate automatically upon the Executive's death or Disability. In the event of any termination of Executive's employment other than a Qualifying Termination, the Executive shall not be entitled to any additional payments or benefits from the Company under this Agreement, other than payments or benefits with respect to the Accrued Rights.

(ii) For purposes of this Agreement, the Executive shall be deemed to have a "Disability" in the event of the Executive's absence for a period of 180 consecutive business days as a result of incapacity due to a physical or mental condition, illness or injury that is determined to be total and permanent by a physician mutually acceptable to the Company and the Executive or the Executive's legal representative (such acceptance not to be unreasonably withheld) after such physician has completed an examination of the Executive. The Executive agrees to make himself available for such examination upon the reasonable request of the Company, and the Company shall be responsible for the cost of such examination.

SECTION 5. Certain Additional Payments by the Company.

(a) Notwithstanding anything in this Agreement to the contrary and except as set forth below, in the event it shall be determined that any Payment that is paid or payable during the term of this Agreement would be subject to the Excise Tax, the Executive shall be entitled to receive an additional payment (a "280G Gross-Up Payment") in an amount such that, after payment by the Executive of all taxes (and any interest or penalties imposed with respect to such taxes), including any income and employment taxes and Excise Taxes imposed upon the 280G Gross-Up Payment, the Executive retains an amount of the 280G Gross-Up Payment equal to the Excise Tax imposed upon such Payments. The Company's obligation to make 280G Gross-Up Payments under this Section 5 shall not be conditioned upon the Executive's termination of employment and shall survive and apply after the Executive's termination of employment. Notwithstanding the foregoing provisions of this Section 5(a), if it shall be determined that the Executive is entitled to a 280G Gross-Up Payment, but that the Payments do not exceed one hundred ten percent (110%) of the greatest amount that could be paid to the Executive without giving rise to any Excise Tax (the "Safe Harbor Amount"), then no 280G Gross-Up Payment shall be made to the Executive and the amounts payable under this Agreement shall be reduced so that the Payments, in the aggregate, are reduced to the Safe Harbor Amount. If such a reduction is necessary, the Payments shall be reduced in the following order: (i) the Payments payable under Section 4(a)(i), (ii) the Payments payable under Section 4(a)(ii), (iii) any other cash Payments, (iv) the Payments payable under Section 4(a)(iii) and (v) the accelerated vesting under Section 3.

(b) Subject to the provisions of Section 5(c), all determinations required to be made under this Section 5, including whether and when a 280G Gross-Up Payment is required, the amount of such 280G Gross-Up Payment and the assumptions to be utilized in arriving at such determination, shall be made in accordance with the terms of this Section 5 by a nationally recognized certified public accounting firm that shall be designated by the Executive (the "Accounting Firm"). The Accounting Firm shall provide detailed supporting calculations both to

the Company and the Executive within fifteen (15) business days of the receipt of notice from the Executive that there has been a Payment or such earlier time as is requested by the Company. For purposes of determining the amount of any 280G Gross-Up Payment, the Executive shall be deemed to pay Federal income tax at the highest marginal rate applicable to individuals in the calendar year in which any such 280G Gross-Up Payment is to be made and deemed to pay state and local income taxes at the highest marginal rates applicable to individuals in the state or locality of the Executive's residence or place of employment in the calendar year in which any such 280G Gross-Up Payment is to be made, net of the maximum reduction in Federal income taxes that can be obtained from deduction of state and local taxes, taking into account limitations applicable to individuals subject to Federal income tax at the highest marginal rate. All fees and expenses of the Accounting Firm shall be borne solely by the Company. Any 280G Gross-Up Payment, as determined pursuant to this Section 5, shall be paid by the Company to the Executive within five (5) business days of the receipt of the Accounting Firm's determination. If the Accounting Firm determines that no Excise Tax is payable by the Executive, it shall so indicate to the Executive in writing. Any determination by the Accounting Firm shall be binding upon the Company and the Executive. As a result of the uncertainty in the application of Section 4999 of the Code, at the time of the initial determination by the Accounting Firm hereunder, it is possible that 280G Gross-Up Payments that will not have been made by the Company should have been made (an "Underpayment"), consistent with the calculations required to be made hereunder. In the event the Company exhausts its remedies pursuant to Section 5(c) and the Executive thereafter is required to make a payment of any Excise Tax, the Accounting Firm shall determine the amount of the Underpayment that has occurred and any such Underpayment shall be paid by the Company to the Executive within five (5) business days of the receipt of the Accounting Firm's determination.

(c) The Executive shall notify the Company in writing of any written claim by the Internal Revenue Service that, if successful, would require the payment by the Company of a 280G Gross-Up Payment. Such notification shall be given as soon as practicable, but no later than ten (10) business days after the Executive is informed in writing of such claim. Failure to give timely notice shall not prejudice the Executive's right to 280G Gross-Up Payments and rights of indemnity under this Section 5. The Executive shall apprise the Company of the nature of such claim and the date on which such claim is requested to be paid. The Executive shall not pay such claim prior to the expiration of the thirty (30)-day period following the date on which the Executive gives such notice to the Company (or such shorter period ending on the date that any payment of taxes with respect to such claim is due). If the Company notifies the Executive in writing prior to the expiration of such period that the Company desires to contest such claim, the Executive shall: (i) give the Company any information reasonably requested by the Company relating to such claim, (ii) take such action in connection with contesting such claim as the Company shall reasonably request in writing from time to time, including accepting legal representation with respect to such claim by an attorney reasonably selected by the Company, (iii) cooperate with the Company in good faith in order effectively to contest such claim and (iv) permit the Company to participate in any proceedings relating to such claim; provided, however, that the Company shall bear and pay directly all costs and expenses (including additional income taxes, interest and penalties) incurred in connection with such contest, and shall indemnify and hold the Executive harmless, on an after-tax basis, for any Excise Tax or income tax (including interest or penalties) imposed as a result of such representation and payment of costs and expenses. Without limitation on the foregoing provisions of this Section 5(c), the Company shall

control all proceedings taken in connection with such contest, and, at its sole discretion, may pursue or forgo any and all administrative appeals, proceedings, hearings and conferences with the applicable taxing authority in respect of such claim and may, at its sole discretion, either pay the tax claim on behalf of the Executive and direct the Executive to sue for a refund or contest the claim in any permissible manner, and the Executive agrees to prosecute such contest to a determination before any administrative tribunal, in a court of initial jurisdiction and in one (1) or more appellate courts, as the Company shall determine; provided, however, that (A) if the Company pays the tax claim on behalf of the Executive and directs the Executive to sue for a refund, the Company shall indemnify and hold the Executive harmless, on an after-tax basis, from any Excise Tax or income tax (including interest or penalties) imposed with respect to such payment and (B) if such contest results in any extension of the statute of limitations relating to payment of taxes for the taxable year of the Executive with respect to which such contested amount is claimed to be due, such extension must be limited solely to such contested amount. Furthermore, the Company's control of the contest shall be limited to issues with respect to which the 280G Gross-Up Payment would be payable hereunder, and the Executive shall be entitled to settle or contest, as the case may be, any other issue raised by the Internal Revenue Service or any other taxing authority.

(d) If, after the payment by the Company of any tax claim pursuant to Section 5(c), the Executive becomes entitled to receive any refund with respect to such claim, the Executive shall (subject to the Company's complying with the requirements of Section 5(c)) promptly pay to the Company the amount of such refund received (together with any interest paid or credited thereon after taxes applicable thereto). If, after the payment by the Company of any tax claim pursuant to Section 5(c), a determination is made that the Executive shall not be entitled to any refund with respect to such claim and the Company does not notify the Executive in writing of its intent to contest such denial of refund prior to the expiration of the thirty (30)-day period after such determination, then the amount the Company paid in respect of such claim shall offset, to the extent thereof, the amount of 280G Gross-Up Payment required to be paid.

(e) Notwithstanding anything to the contrary in this Agreement, (i) in no event shall any tax gross-up payments be made by the Company to the Executive under this Section 5 after the end of the Executive Tax Year following the Executive Tax Year in which the Executive remits the taxes for which such tax gross-up payment is required to be made under this Section 5, and (ii) no other payments will be made by the Company to the Executive under this Section 5 with respect to any audit or litigation relating to any 280G Gross-Up Payment or Excise Tax or other taxes after the Executive Tax Year following the Executive Tax Year in which the taxes that are the subject of the audit or litigation referred to in this Section 5 are remitted to the taxing authority, or where, as a result of such audit or litigation, no taxes are remitted, the end of the Executive Tax Year following the Executive Tax Year in which the audit is completed or there is a final and nonappealable settlement or other resolution of the litigation.

SECTION 6. Section 409A.

(a) It is the intention of the Company and the Executive that the provisions of this Agreement comply with Section 409A of the Code, and all provisions of this Agreement shall be construed and interpreted in a manner consistent with Section 409A of the Code.

(b) Neither the Executive nor any creditor or beneficiary of the Executive shall have the right to subject any deferred compensation (within the meaning of Section 409A of the Code) payable under this Agreement or under any other plan, policy, arrangement or agreement of or with the Company or any of its Affiliates (this Agreement and such other plans, policies, arrangements and agreements, the "Company Plans") to any anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment. Except as permitted under Section 409A of the Code, any deferred compensation (within the meaning of Section 409A of the Code) payable to or for the benefit of the Executive under any Company Plan may not be reduced by, or offset against, any amount owing by the Executive to the Company or any of its Affiliates.

(c) If, at the time of the Executive's separation from service (within the meaning of Section 409A of the Code), (i) the Executive shall be a specified employee (within the meaning of Section 409A of the Code and using the identification methodology selected by the Company from time to time) and (ii) the Company shall make a good faith determination that an amount payable under a Company Plan constitutes deferred compensation (within the meaning of Section 409A of the Code) the payment of which is required to be delayed pursuant to the six-month delay rule set forth in Section 409A of the Code in order to avoid taxes or penalties under Section 409A of the Code, then the Company (or an Affiliate thereof, as applicable) shall not pay such amount on the otherwise scheduled payment date but shall instead accumulate such amount and pay it, without interest, on the first day of the seventh month following such separation from service.

SECTION 7. No Mitigation or Offset; Enforcement of this Agreement.

(a) The Company's obligation to make the payments provided for in this Agreement and otherwise to perform its obligations hereunder shall not be affected by any set-off, counterclaim, recoupment, defense or other claim, right or action that the Company may have against the Executive or others. In no event shall the Executive be obligated to seek other employment or take any other action by way of mitigation of the amounts payable to the Executive under any of the provisions of this Agreement and, except as otherwise expressly provided for in this Agreement, such amounts shall not be reduced whether or not the Executive obtains other employment.

(b) The Company shall reimburse, upon the Executive's demand, any and all reasonable legal fees and expenses that the Executive may incur in good faith prior to the second anniversary of the expiration of the term of this Agreement as a result of any contest, dispute or proceeding (regardless of whether formal legal proceedings are ever commenced and regardless of the outcome thereof and including all stages of any contest, dispute or proceeding) by the Company, the Executive or any other Person with respect to the validity or enforceability of, or liability under, any provision of this Agreement or any guarantee of performance thereof (including as a result of any contest by the Executive regarding the amount of any payment owed pursuant to this Agreement), and shall indemnify and hold the Executive harmless, on an after-tax basis, for any tax (including Excise Tax) imposed on the Executive as a result of payment by the Company of such legal fees and expenses. Notwithstanding anything to the contrary in this Agreement, any reimbursement for any fees and expenses under this Section 7 shall be made promptly and no later than the end of the Executive Tax Year following the Executive Tax Year

in which the fees or expenses are incurred. The amount of fees and expenses eligible for reimbursement under this Section 7 during any Executive Tax Year shall not affect the fees and expenses eligible for reimbursement in another Executive Tax Year. No right to reimbursement under this Section 7 shall be subject to liquidation or exchange for any other payment or benefit. Notwithstanding anything to the contrary in this Agreement, no tax gross up payments shall be made by the Company under this Section 7 after the end of the Executive Tax Year following the Executive Tax Year in which the related taxes are remitted.

SECTION 8. Non-Exclusivity of Rights. Except as specifically provided in Section 4(a)(i), nothing in this Agreement shall prevent or limit the Executive's continuing or future participation in any plan, practice, policy or program provided by the Company or a Subsidiary for which the Executive may qualify, nor shall anything in this Agreement limit or otherwise affect any rights the Executive may have under any contract or agreement with the Company or a Subsidiary. Vested benefits and other amounts that the Executive is otherwise entitled to receive under any incentive compensation (including any equity award agreement), deferred compensation, retirement, pension or other plan, practice, policy or program of, or any contract or agreement with, the Company or a Subsidiary shall be payable in accordance with the terms of each such plan, practice, policy, program, contract or agreement, as the case may be, except as explicitly modified by this Agreement.

SECTION 9. Withholding. The Company may deduct and withhold from any amounts payable under this Agreement such Federal, state, local, foreign or other taxes as are required to be withheld pursuant to any applicable law or regulation.

SECTION 10. Assignment.

(a) This Agreement is personal to the Executive and, without the prior written consent of the Company, shall not be assignable by the Executive otherwise than by will or the laws of descent and distribution, and any assignment in violation of this Agreement shall be void.

(b) Notwithstanding the foregoing Section 10(a), this Agreement and all rights of the Executive hereunder shall inure to the benefit of, and be enforceable by, the Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. If the Executive should die while any amounts would still be payable to him hereunder if he had continued to live, all such amounts, unless otherwise provided herein, shall be paid in accordance with the terms of this Agreement to the Executive's devisee, legatee or other designee or, should there be no such designee, to the Executive's estate.

(c) The Company shall require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of the Company (a "Successor") to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would have been required to perform it if no such succession had taken place. As used in this Agreement, (i) the term "Company" shall mean the Company as hereinbefore defined and any Successor and any permitted assignee to which this Agreement is assigned and (ii) the term "Board" shall mean the Board as hereinbefore

defined and the board of directors or equivalent governing body of any Successor and any permitted assignee to which this Agreement is assigned.

SECTION 11. Dispute Resolution.

(a) Except as otherwise specifically provided herein, the Executive and the Company each hereby irrevocably submit to the exclusive jurisdiction of the United States District Court of Delaware (or, if subject matter jurisdiction in that court is not available, in any state court located within the city of Wilmington, Delaware) over any dispute arising out of or relating to this Agreement. Except as otherwise specifically provided in this Agreement, the parties undertake not to commence any suit, action or proceeding arising out of or relating to this Agreement in a forum other than a forum described in this Section 11(a); provided, however, that nothing herein shall preclude the Company or the Executive from bringing any suit, action or proceeding in any other court for the purposes of enforcing the provisions of this Section 11 or enforcing any judgment obtained by the Company or the Executive.

(b) The agreement of the parties to the forum described in Section 11(a) is independent of the law that may be applied in any suit, action or proceeding and the parties agree to such forum even if such forum may under applicable law choose to apply non-forum law. The parties hereby waive, to the fullest extent permitted by applicable law, any objection that they now or hereafter have to personal jurisdiction or to the laying of venue of any such suit, action or proceeding brought in an applicable court described in Section 11(a), and the parties agree that they shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court. The parties agree that, to the fullest extent permitted by applicable law, a final and non-appealable judgment in any suit, action or proceeding brought in any applicable court described in Section 11(a) shall be conclusive and binding upon the parties and may be enforced in any other jurisdiction.

(c) The parties hereto irrevocably consent to the service of any and all process in any suit, action or proceeding arising out of or relating to this Agreement by the mailing of copies of such process to such party at such party's address specified in Section 18.

(d) Each party hereto hereby waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding arising out of or relating to this Agreement. Each party hereto (i) certifies that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such party would not, in the event of any suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other parties hereto have been induced to enter into this Agreement by, among other things, the mutual waiver and certifications in this Section 11(d).

SECTION 12. Default in Payment. Any payment not made within ten (10) business days after it is due in accordance with this Agreement shall thereafter bear interest, compounded annually, at the prime rate in effect from time to time at Citibank, N.A., or any successor thereto. Such interest shall be payable at the same time as the corresponding payment is payable.

SECTION 13. **GOVERNING LAW. THIS AGREEMENT SHALL BE DEEMED TO BE MADE IN THE STATE OF DELAWARE, AND THE VALIDITY, INTERPRETATION, CONSTRUCTION AND PERFORMANCE OF THIS AGREEMENT IN ALL RESPECTS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF DELAWARE WITHOUT REGARD TO ITS PRINCIPLES OF CONFLICTS OF LAW.**

SECTION 14. Amendment; No Waiver. No provision of this Agreement may be amended, modified, waived or discharged except by a written document signed by the Executive and a duly authorized officer of the Company. The failure of a party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver of such party's rights or deprive such party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. Subject to Section 1(t), no failure or delay by either party in exercising any right or power hereunder will operate as a waiver thereof, nor will any single or partial exercise of any such right or power, or any abandonment of any steps to enforce such right or power, preclude any other or further exercise thereof or the exercise of any other right or power. No agreements or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by either party that are not set forth expressly in this Agreement.

SECTION 15. Severability. If any term or provision of this Agreement is invalid, illegal or incapable of being enforced by any applicable law or public policy, all other conditions and provisions of this Agreement shall nonetheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated by this Agreement is not affected in any manner materially adverse to any party. Upon any such determination that any term or provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

SECTION 16. Entire Agreement. This Agreement sets forth the entire agreement of the parties hereto in respect of the subject matter contained herein and supersedes all prior agreements, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, employee or representative of any party hereto, and any prior agreement of the parties hereto in respect of the subject matter contained herein is hereby terminated and canceled. None of the parties shall be liable or bound to any other party in any manner by any representations and warranties or covenants relating to such subject matter except as specifically set forth herein.

SECTION 17. Survival. The rights and obligations of the parties under the provisions of this Agreement, including Sections 5, 7, 11, 12 and 13, shall survive and remain binding and enforceable, notwithstanding the expiration of the Protection Period or the term of this Agreement, the termination of the Executive's employment with the Company for any reason or any settlement of the financial rights and obligations arising from the Executive's employment, to the extent necessary to preserve the intended benefits of such provisions.

SECTION 18. Notices. All notices or other communications required or permitted by this Agreement will be made in writing and all such notices or communications will be deemed to have been duly given when delivered or (unless otherwise specified) mailed by United States certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

If to the Company:	First Solar, Inc. 4050 East Cotton Center Boulevard Building 6, Suite 68 Phoenix, Arizona 85040 Attention: Chief Executive Officer Fax: 602-414-9400
If to the Executive:	To the Executive's then current address on file with the Company

or to such other address as any party may have furnished to the other in writing in accordance herewith, except that notices of change of address shall be effective only upon receipt.

SECTION 19. Headings and References. The headings of this Agreement are inserted for convenience only and neither constitute a part of this Agreement nor affect in any way the meaning or interpretation of this Agreement. When a reference in this Agreement is made to a Section, such reference shall be to a Section of this Agreement unless otherwise indicated.

SECTION 20. Counterparts. This Agreement may be executed in one or more counterparts (including via facsimile), each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

SECTION 21. Interpretation. For purposes of this Agreement, the words "include" and "including", and variations thereof, shall not be deemed to be terms of limitation but rather shall be deemed to be followed by the words "without limitation". The term "or" is not exclusive. The word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if".

SECTION 22. Time of the Essence. The parties hereto acknowledge and agree that time is of the essence in the performance of the obligations of this Agreement and that the parties shall strictly adhere to any timelines herein.

IN WITNESS WHEREOF, this Agreement has been executed by the parties as of the date first written above.

FIRST SOLAR, INC.,

By _____

Name: Michael J. Ahearn
Title: Chief Executive Officer and Chairman

EXECUTIVE:

_____

James R. Miller

SEPARATION AGREEMENT AND RELEASE

I. Release. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned, with the intention of binding himself/herself, his/her heirs, executors, administrators and assigns, does hereby release and forever discharge First Solar, Inc., a Delaware corporation (the "Company"), and its present and former officers, directors, executives, agents, employees, affiliated companies, subsidiaries, successors, predecessors and assigns (collectively, the "Released Parties"), from any and all claims, actions, causes of action, demands, rights, damages, debts, accounts, suits, expenses, attorneys' fees and liabilities of whatever kind or nature in law, equity, or otherwise, whether now known or unknown (collectively, the "Claims"), which the undersigned now has, owns or holds, or has at any time heretofore had, owned or held against any Released Party, arising out of or in any way connected with the undersigned's employment relationship with the Company, its subsidiaries, predecessors or affiliated entities, or the termination thereof, under any Federal, state or local statute, rule, or regulation, or principle of common, tort or contract law, including but not limited to, the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 201 et seq., the Family and Medical Leave Act of 1993, as amended (the "FMLA"), 29 U.S.C. §§ 2601 et seq., Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e et seq., the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 621 et seq., the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101 et seq., the Worker Adjustment and Retraining Notification Act of 1988, as amended, 29 U.S.C. §§ 2101 et seq., the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1001 et seq., and any other equivalent or similar Federal, state, or local statute; provided, however, that nothing herein shall release the Company (a) of its obligations under that certain Change in Control Severance Agreement in which the undersigned participates and pursuant to which this Separation Agreement and Release is being executed and delivered, (b) from any claims by the undersigned arising out of any director and officer indemnification or insurance obligations in favor of the undersigned and (c) from any director and officer indemnification obligations under the Company's by-laws. The undersigned understands that, as a result of executing this Separation Agreement and Release, he/she will not have the right to assert that the Company or any other Released Party unlawfully terminated his/her employment or violated any of his/her rights in connection with his/her employment or otherwise.

The undersigned affirms that he/she has not filed or caused to be filed, and presently is not a party to, any Claim, complaint or action against any Released Party in any forum or form and that he/she knows of no facts which may lead to any Claim, complaint or action being filed against any Released Party in any forum by the undersigned or by any agency, group, or class persons. The undersigned further affirms that he/she has been paid and/or has received all leave (paid or unpaid), compensation, wages, bonuses, commissions, and/or benefits to which he/she may be entitled and that no other leave (paid or unpaid), compensation, wages, bonuses, commissions and/or benefits are due to him/her from the Company and its subsidiaries, except as specifically provided in this Separation Agreement and Release. The undersigned furthermore affirms that he/she has no known workplace injuries or occupational diseases and has been provided and/or has not been denied any leave requested under the FMLA. If any agency or court assumes jurisdiction of any such Claim, complaint or action against any Released Party on behalf of the undersigned, the undersigned will request such agency or court to withdraw the matter.

The undersigned further declares and represents that he/she has carefully read and fully understands the terms of this Separation Agreement and Release and that he/she has been advised and had the opportunity to seek the advice and assistance of counsel with regard to this Separation Agreement and Release, that he/she may take up to and including 21 days from receipt of this Separation Agreement and Release, to consider whether to sign this Separation Agreement and Release, that he/she may revoke this Separation Agreement and Release within seven calendar days after signing it by delivering to the Company written notification of revocation, and that he/she knowingly and voluntarily, of his/her own free will, without any duress, being fully informed and after due deliberate action, accepts the terms of and signs the same as his own free act.

II. Protected Rights. The Company and the undersigned agree that nothing in this Separation Agreement and Release is intended to or shall be construed to affect, limit or otherwise interfere with any non-waivable right of the undersigned under any Federal, state or local law, including the right to file a charge or participate in an investigation or proceeding conducted by the Equal Employment Opportunity Commission ("EEOC") or to exercise any other right that cannot be waived under applicable law. The undersigned is releasing, however, his/her right to any monetary recovery or relief should the EEOC or any other agency pursue Claims on his/her behalf. Further, should the EEOC or any other agency obtain monetary relief on his/her behalf, the undersigned assigns to the Company all rights to such relief.

III. Equitable Remedies. The undersigned acknowledges that a violation by the undersigned of any of the covenants contained in this Agreement would cause irreparable damage to the Company and its subsidiaries in an amount that would be material but not readily ascertainable, and that any remedy at law (including the payment of damages) would be inadequate. Accordingly, the undersigned agrees that, notwithstanding any provision of this Separation Agreement and Release to the contrary, the Company shall be entitled (without the necessity of showing economic loss or other actual damage) to injunctive relief (including temporary restraining orders, preliminary injunctions and/or permanent injunctions) in any court of competent jurisdiction for any actual or threatened breach of any of the covenants set forth in this Agreement in addition to any other legal or equitable remedies it may have.

IV. Return of Property. The undersigned shall return to the Company on or before [10 DAYS AFTER TERMINATION DATE], all property of the Company in the undersigned's possession or subject to the undersigned's control, including without limitation any laptop computers, keys, credit cards, cellular telephones and files. The undersigned shall not alter any of the Company's records or computer files in any way after [TERMINATION DATE].

V. Severability. If any term or provision of this Separation Agreement and Release is invalid, illegal or incapable of being enforced by any applicable law or public policy, all other conditions and provisions of this Separation Agreement and Release shall nonetheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated by this Separation Agreement and Release is not affected in any manner materially adverse to any party.

VI. **GOVERNING LAW. THIS SEPARATION AGREEMENT AND RELEASE SHALL BE DEEMED TO BE MADE IN THE STATE OF DELAWARE, AND THE VALIDITY, INTERPRETATION, CONSTRUCTION AND PERFORMANCE OF THIS**

AGREEMENT IN ALL RESPECTS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF DELAWARE WITHOUT REGARD TO ITS PRINCIPLES OF CONFLICTS OF LAW.

Effective on the eighth calendar day following the date set forth below.

FIRST SOLAR, INC.,

By

_____

Name:
Title:

EMPLOYEE,

_____

[NAME]

Date Signed:_____

Exhibit 21.1

Subsidiaries of First Solar, Inc.

Name	Jurisdiction
First Solar GmbH	Germany
First Solar Holdings GmbH	Germany
First Solar Manufacturing GmbH	Germany
Minera Teloro S.A. de C.V.	Mexico
First Solar FE Holdings Pte. Ltd.	Singapore
First Solar Malaysia Sdn. Bhd.	Malaysia
First Solar Electric, LLC	United States
FSE Blythe I, LLC	United States
FSE Blythe Land Holdings, LLC	United States

EXHIBIT 31.01

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO 15 U.S.C. SECTION 7241, AS
ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Michael J. Ahearn, certify that:

1. I have reviewed the quarterly report on Form 10-Q of First Solar, Inc., a Delaware corporation, for the period ended March 29, 2008, as filed with the Securities and Exchange Commission;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an Annual Report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of 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: May 1, 2008

/s/ MICHAEL J. AHEARN
Michael J. Ahearn
Chief Executive Officer

EXHIBIT 31.02

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO 15 U.S.C. SECTION 7241, AS
ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Jens Meyerhoff, certify that:

1. I have reviewed the quarterly report on Form 10-Q of First Solar, Inc., a Delaware corporation, for the period ended March 29, 2008, as filed with the Securities and Exchange Commission;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an Annual Report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of 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: May 1, 2008

/s/ JENS MEYERHOFF
Jens Meyerhoff
Chief Financial Officer

EXHIBIT 32.01

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 on Form 10-Q of First Solar, Inc., a Delaware corporation, for the period ended March 29, 2008, as filed with the Securities and Exchange Commission, each of the undersigned officers of First Solar, Inc. certifies pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to his respective knowledge:

(1) the quarterly report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

(2) the information contained in the quarterly report fairly presents, in all material respects, the financial condition and results of operations of First Solar, Inc. for the periods presented therein.

Date: May 1, 2008

/s/ MICHAEL J. AHEARN
Michael J. Ahearn
Chief Executive Officer

Date: May 1, 2008

/s/ JENS MEYERHOFF
Jens Meyerhoff
Chief Financial Officer