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

FORM 10-K

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

For the fiscal year ended January 1, 2012

OR

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

For the transition period from _____ to _____

Commission file number 001-34166

SunPower Corporation

(Exact Name of Registrant as Specified in its Charter)

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

77 Rio Robles, San Jose, California 95134
(Address of Principal Executive Offices) (Zip Code)

Registrant's telephone number, including area code: **(408) 240-5500**

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

Title of each class	**Name of each exchange on which registered**
Common Stock $0.001 par value	**Nasdaq Global Select Market**

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

None
(Title of Class)

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

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

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 x No o

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. x

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

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

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

The aggregate market value of the voting stock held by non-affiliates of the registrant on July 3, 2011 was $710.3 million. Such aggregate market value was computed by reference to the closing price of the common stock as reported on the Nasdaq Global Select Market on July 1, 2011. For purposes of determining this amount only, the registrant has defined affiliates as including Total Gas & Power USA, SAS and the executive officers and directors of registrant on July 1, 2011.

The total number of outstanding shares of the registrant's common stock as of February 24, 2012 was 117,362,249.

DOCUMENTS INCORPORATED BY REFERENCE

Parts of the registrant's definitive proxy statement for the registrant's 2012 annual meeting of stockholders are incorporated by reference in Items 10, 11, 12, 13, and 14 of Part III of this Annual Report on Form 10-K.

TABLE OF CONTENTS

Trademarks

The following terms, among others, are our trademarks and may be used in this report: SunPower®, PowerGuard®, SunTile®, PowerTracker®, and PowerLight®. Other trademarks appearing in this report are the property of their holders, where noted.

Unit of Power

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

Levelized Cost of Energy ("LCOE")

The LCOE equation is an evaluation of the life-cycle energy cost and life-cycle energy production of an energy producing system. It allows alternative technologies to be compared when different scales of operation, investment or operating time periods exist. It captures capital costs and ongoing system-related costs, along with the amount of electricity produced, and converts them into a common metric. Key drivers for LCOE reduction for photovoltaic products include panel efficiency, capacity factors, reliable system performance, and the life of the system.

Cautionary Statement Regarding Forward-Looking Statements

This Annual Report on Form 10-K contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are statements that do not represent historical facts and the assumptions underlying such statements. We use words such as "anticipate," "believe," "continue," "could," "estimate," "expect," "intend," "may," "plan," "predict," "potential," "will," "would," "should," and similar expressions to identify forward-looking statements. Forward-looking statements in this Annual Report on Form 10-K include, but are not limited to, our plans and expectations regarding future financial results, expected operating results, business strategies, projected costs and cost reduction, products, ability to monetize utility projects, competitive positions, management's plans and objectives for future operations, the sufficiency of our cash and our liquidity, our ability to obtain financing, the availability of credit support from Total S.A. under the Credit Support Agreement, the ability to comply with debt covenants, trends in average selling prices, plans and expectations regarding the Liquidity Support Facility (see Item 9B), the success of our joint ventures and acquisitions, expected capital expenditures, warranty matters, outcomes of litigation, our exposure to foreign exchange, interest and credit risk, general business and economic conditions, industry trends, impact of changes in government incentives, expected restructuring charges, and the likelihood of any impairment of project assets, long-lived assets, goodwill, and intangible assets. These forward-looking statements are based on information available to us as of the date of this Annual Report on Form 10-K and current expectations, forecasts and assumptions and involve a number of risks and uncertainties that could cause actual results to differ materially from those anticipated by these forward-looking statements. Such risks and uncertainties include a variety of factors, some of which are beyond our control. Please see "Part I. Item 1A: Risk Factors" herein and our other filings with the Securities and Exchange Commission ("SEC") for additional information on risks and uncertainties that could cause actual results to differ. These forward-looking statements should not be relied upon as representing our views as of any subsequent date, and we are under no obligation to, and expressly disclaim any responsibility to, update or alter our forward-looking statements, whether as a result of new information, future events or otherwise.

The following information should be read in conjunction with the Consolidated Financial Statements and the accompanying Notes to Consolidated Financial Statements included in this Annual Report on Form 10-K. Our fiscal year ends on the Sunday closest to the end of the applicable calendar year. All references to fiscal periods apply to our fiscal quarter or year which ends on the Sunday closest to the calendar month end.

PART I

ITEM 1: *BUSINESS*

We are a vertically integrated solar products and services company that designs, manufactures and delivers high-performance solar electric systems worldwide for residential, commercial, and utility-scale power plant customers. Of all the solar cells available for the mass market, we believe our solar cells have the highest conversion efficiency, a measurement of the amount of sunlight converted by the solar cell into electricity.

We believe our solar cells provide the following benefits compared with conventional solar cells:

- superior performance, including the ability to generate up to 50% more power per unit area than conventional solar cells;
- superior aesthetics, with our uniformly black surface design that eliminates highly visible reflective grid lines and metal interconnect ribbons;
- more KW per pound can be transported using less packaging, resulting in lower distribution costs; and
- more efficient use of silicon, a key raw material used in the manufacture of solar cells.

The high efficiency and superior aesthetics of our solar power products provide compelling customer benefits. In many situations, we offer a significantly lower area-related cost structure for our customers because our solar panels require a substantially smaller roof or land area than conventional solar technology and half or less of the roof or land area of many commercial solar thin film technologies.

We believe our solar power systems provide the following benefits compared with various competitors' systems:

- channel breadth and flexible delivery capability, including turn-key systems;
- high performance delivered by enhancing energy delivery and financial return through systems technology design; and
- cutting edge systems design to meet customer needs and reduce cost, including non-penetrating, fast roof installation technologies.

Our solar power systems are designed to generate electricity over a system life typically exceeding 25 years and are designed to be used in residential, commercial, and large-scale applications. Our large-scale applications typically have system ratings of more than 500 KW. In our history, we have shipped more than 2,200 MW of SunPower solar products worldwide. We sell distributed rooftop and ground-mounted solar power systems as well as central-station power plants globally. In the United States, distributed solar power systems are typically either rated at: (i) more than 500 KW of capacity to provide a supplemental, distributed source of electricity for a customer's facility; or (ii) ground mount systems reaching up to hundreds of MWs for regulated utilities. In the United States and Europe, commercial and electric utility customers typically choose to purchase solar electricity under a power purchase agreement ("PPA") with an investor or financing company that buys the system from us. In Europe, our products and systems are typically purchased by an investor or financing company and operated as central-station solar power plants. These power plants are rated with capacities of approximately 1 to 50 MW, and generate electricity for sale under tariff to private and public utilities.

Business Segments Overview

Our President and Chief Executive Officer, as the chief operating decision maker ("CODM"), has organized our company and manages resource allocations and measures performance of our company's activities between two business segments: the Utility and Power Plants ("UPP") Segment and the Residential and Commercial ("R&C") Segment. Our UPP Segment refers to our large-scale solar products and systems business, which includes power plant project development and project sales, turn-key engineering, procurement and construction ("EPC") services for power plant construction, and power plant operations and maintenance ("O&M") services. Our UPP Segment also sells components, including large volume sales of solar panels and mounting systems to third parties, sometimes on a multi-year, firm commitment basis. Our R&C Segment focuses on solar equipment sales into the residential and small commercial market through our third-party global dealer

network, as well as direct sales and EPC and O&M services in the United States and Europe for rooftop and ground-mounted solar power systems for the new homes, commercial and public sectors.

Our UPP revenue for fiscal 2011, 2010, and 2009 was $1,064.1 million, $1,186.1 million, and $653.5 million, respectively, and our R&C revenue for fiscal 2011, 2010, and 2009 was $1,248.4 million, $1,033.2 million, and $870.8 million, respectively. For more information about the financial condition and results of operations of each segment, please see *Part II - "Item 7: Management's Discussion and Analysis of Financial Condition and Results of Operations"* and *"Item 8: Financial Statements and Supplementary Data."*

Change in Segment Reporting: In December 2011, we announced a reorganization of the Company to align our business and cost structure with expected market conditions in 2012 and beyond. The reorganization did not impact segment reporting in fiscal 2011 as our CODM continues to manage resource allocations and measure performance of the Company's activities between the UPP and R&C Segments while we are implementing our new organizational strategy. We are in the process of determining our new segments and making decisions internally on how we will manage the new segments, allocate resources, and assess performance.

Our Products and Services

Products

Solar Cells

Solar cells are semiconductor devices that directly convert sunlight into direct current electricity. Our A-300 solar cell is a silicon solar cell with a specified power value of 3.1 watts and a conversion efficiency averaging between 20.0% and 21.5%. Our A-330 solar cell delivers 3.3 watts with a conversion efficiency of up to 22.7%. Our solar cells are designed without highly reflective metal contact grids or current collection ribbons on the front of the solar cells. This feature enables our solar cells to be assembled into solar panels that exhibit a more uniform appearance than conventional solar panels.

Solar Panels

Solar panels are solar cells electrically connected together and encapsulated in a weatherproof panel. We believe solar panels made with our solar cells are the highest efficiency solar panels available for the mass market. Because our solar cells are more efficient relative to conventional solar cells, when our solar cells are assembled into panels, the assembly cost per watt is less because more power can be incorporated into a given size panel. Higher solar panel efficiency allows installers to mount a solar power system with more power within a given roof or site area and can reduce per watt installation costs. We also sell a line of Serengeti™ branded solar panels manufactured by third parties, however this line is winding down as we believe we now have sufficient capacity in the cost structure to meet the needs of our customers with our high efficiency SunPower® series panels. The following SunPower® solar panel series are incorporated into our solar power systems and are available to provide customers with the right solution to fit their needs:

- *SunPower® E18 Series Solar Panel ("E18")*

  Available in a 72-cell configuration, the E18 series panel uses our A300 all back-contact solar cells and delivers a total panel conversion of 18.1% to 18.5%. The E18 panel is available with our signature black backsheet which combines high efficiency with a sleek, black appearance to blend elegantly with the roof. E18 panels feature high transmission tempered front glass and a sturdy anodized frame allowing panels to operate reliably in multiple mounting configurations. The E18 panel's reduced voltage-temperature coefficient and exceptional low-light performance attributes provide outstanding energy delivery per peak power watt.

- *SunPower® E19 Series Solar Panel ("E19")*

  Available in a 72, 96, and 128-cell configuration, the E19 series panel uses our A300 all back-contact solar cells and delivers total panel conversion of 19.3% to 19.7%. The E19 panel features high transmission tempered glass with anti-reflective coating which allows for more diffuse off-angle light to be captured. The coating and larger area cells result in a darker, more aesthetically-pleasing appearance.

- *SunPower® E20 Series Solar Panel ("E20")*

Introduced in June 2011, the E20 series panel holds the world record for efficiency among commercially available, mass-produced solar cells. Available in a 96-cell configuration, the E20 series panel uses our A-330 all back-contact solar cells and delivers total panel conversion of up to 20.1%. With comprehensive inverter compatibility, E20 panels can be used with both inverters that require transformers as well as the highest performing transformer-less inverters to maximize output. E20 panels are additionally equipped with a positive power tolerance rating which ensures that the power generated by each panel meets that panel's rating, or up to five percent more.

The development of the E20 solar panel series is a direct result of the investment in SunPower by the United States Department of Energy through its Solar America Initiative program. The E20 rating was further confirmed by the Department of Energy's National Renewable Energy Lab.

Inverters

Every solar power system needs an inverter to transform the direct current electricity collected from the solar panels into utility-grade alternating current power that is ready for household use. We sell a line of SunPower branded inverters manufactured by third parties.

Solar Power Systems

We offer several types of rooftop and ground-mounted solar products. The following tiles and systems are included within our suite of products:

Roof Mounted Products

- *SunPower® T-5 Solar Roof Tile System ("T-5")*

  Tilted at a 5-degree angle, the T-5 roof tile was the industry's first all-in-one non-penetrating photovoltaic rooftop product that combines solar panel, frame, and mounting system into one pre-engineered unit. The all-in-one mounting system and frame is made from an engineered glass-filled polymer that is non-reactive, eliminating the need for electrical grounding of the array. The patented design is adaptable to virtually any flat or low-slope rooftop while providing the roof membrane protection from corrosion. The tiles further interlock for wind resistance and secure installation. Since the T-5 solar roof tile typically weighs less than three pounds per square foot and is stacked for shipping, more KW per pound can be transported using less packaging, resulting in lower distribution costs. These benefits make the T-5 solar roof tile easier and faster to install than other rooftop systems as well as an effective solution for area or weight constrained flat rooftops.

  The development of the T-5 solar roof tile is a direct result of the investment in SunPower by the United States Department of Energy through its Solar America Initiative program.

  The T-5 solar roof tile systems are primarily sold through our R&C Segment.

- *SunPower® T-10 Commercial Solar Roof Tiles ("T-10")*

  Tilted at a 10-degree angle, the T-10 commercial solar roof tiles can allow for generation of up to 10% more annual energy output than traditional flat roof-mounted systems, depending on geographical location and local climate conditions. These non-penetrating panels interlock for secure, rapid installation without compromising the structural integrity of the roof. Further, the lightweight tile weighs less than four pounds per square foot. Sloped side and rear wind deflectors improve wind performance, allowing T-10 solar arrays to withstand winds up to 120 miles per hour. Performance is optimized for larger roofs with less space constraints as well as underutilized tracks of land, such as ground reservoirs.

  The T-10 commercial solar roof tile is primarily sold through our R&C Segment.

- *PowerGuard® Roof System ("PowerGuard")*

  PowerGuard is a non-penetrating roof-mounted solar panel that delivers reliable, clean electricity while insulating and protecting the roof membrane from ultraviolet rays and thermal degradation to save both heating and cooling energy expenses. Designed for quick and easy installation, the tiles fit together with

interlocking tongue-and-groove side surfaces which operate within the existing roof line and electrical system. Each tile consists of a solar laminate, lightweight cement substrate and styrofoam base and typically weighs approximately four pounds per square foot, which is supported by most commercial rooftops. The lightweight construction is integrated with a patented pressure equalizing design that has been tested to withstand winds of up to 140 miles per hour. Moreover, certain other conventional systems add weight for stability against wind and weather, which may exceed weight limits for some commercial buildings' roofs. The PowerGuard roof system has been tested and certified by Underwriters Laboratories Inc. ("UL") and has received a UL-listed Class B fire rating which we believe facilitates obtaining building permits and inspector approvals. These systems have been installed in a broad range of climates principally in the United States and Switzerland, and on a wide variety of building types, from rural single story warehouses to urban high rise structures.

The PowerGuard roof system is primarily sold through our R&C Segment.

- *SunTile® Roof Integrated System ("SunTile")*

Our patented SunTile® product is a highly efficient solar power shingle roofing system utilizing our solar cell technology that is designed to integrate with conventional residential roofing materials. SunTile solar shingles are designed to replace multiple types of roof panels, including the most common concrete flat, low and high profile “S” tile and composition shingles. We believe that SunTile systems are less visible on a roof than conventional solar technology because the solar panel is integrated directly into the roofing material instead of mounted onto the roof. SunTile systems have a UL-listed Class A fire rating, which is the highest level of fire rating provided by UL, and are designed to be incorporated by production home builders into the construction of their new homes.

The SunTile roof system is primarily sold through our R&C Segment.

Ground Mounted Products

- *SunPower® T-0 Tracker ("T-0") & SunPower® T-20 Tracker ("T-20")*

The T-0 and T-20 trackers are single-axis tracking systems that automatically pivot solar panels to track the sun's movement throughout the day. This tracking feature increases the amount of sunlight that is captured and converted into energy by up to 30% over flat or fixed-tilt systems, depending on geographic location and local climate conditions. A single motor and drive mechanism can control 10 to 20 rows, or more than 200 KW of solar panels. This multi-row feature represents a cost advantage for our customers over dual axis tracking systems, as such systems require more motors, drives, land, and power to operate per KW of capacity. The SunPower Tracker system can be assembled onsite, and is easily scalable. These trackers feature our TMAC Advanced Tracker Controller ("TMAC") software, which includes real-time tracker status updates, remote (wireless) monitoring and control, proprietary energy production optimization algorithms, and improved reliability. The T-0 and T-20 trackers have been installed in a wide range of geographical markets principally in the United States, Germany, Italy, Portugal, South Korea, and Spain.

The T-0 and T-20 trackers are sold through both our UPP and R&C Segments.

- *SunPower Oasis™ Power Plant ("SunPower Oasis")*

The Oasis is the industry's first modular solar power block that scales from 1 MW distributed installations to large central station power plants. Oasis provides a fully integrated, cost-effective way to rapidly deploy utility-scale solar power systems, streaming the development and construction process while optimizing the use of available land. Each power block integrates the SunPower T-0 tracker, a 400-watt utility solar panel, pre-manufactured cabling, and our TMAC software. The power block kits are shipped pre-assembled to the job site for rapid field installation, and offer a high capacity factor and reliable long-term performance. The Oasis operating system is designed to support future grid interconnection requirements for large-scale solar power plants, such as voltage ride through and power factor control. It features a utility-standard supervisory control and data acquisition ("SCADA") operation and analytical tools, which include intelligent sensor and control networks for optimized power plant operation. The Oasis streamlines the entire power plant development process, from permitting through construction and financing.

The SunPower Oasis is sold through our UPP Segment.

- *SunPower® C-7 Tracker ("C-7")*

  Named for its ability to concentrate the Sun's energy by 7 times, the C-7 delivers the lowest levelized cost of electricity for utility scale deployment available today. The C-7 combines a horizontal single-axis tracker with rows of parabolic mirrors, reflecting light onto linear arrays of our high efficiency solar cells. This tracker's components come factory preassembled enabling rapid installation using standard tools and requiring no specialized field expertise.

  The C-7 tracker is sold through our UPP Segment.

- *Fixed Tilt and SunPower® Tracker Systems for Parking Structures*

  SunPower has developed and patented designs for solar power systems for parking structures in multiple configurations. These dual-use systems typically incorporate solar panels into the roof of a carport or similar structure to deliver onsite solar power while providing shade and protection. Aesthetically-pleasing, standardized and scalable, they are well suited for parking lots adjacent to facilities. SunPower Tracker technology can be incorporated for elevated parking structures to provide a differentiated product to our customers.

  Fixed Tilt and SunPower Tracker Systems for parking structures are sold through both our UPP and R&C Segments.

Other System Offerings

We have other products that leverage our core systems. For example, our metal roof system is designed for sloped-metal roof buildings, which are used in some winery and warehouse applications. This solar power system is designed for rapid installation. We also offer other architectural products such as day lighting with translucent solar panels.

Balance of System Components

"Balance of system components" are components of a solar power system other than the solar panels, and include SunPower branded inverters, mounting structures, charge controllers, grid interconnection equipment, and other devices depending on the specific requirements of a particular system and project.

Services

We provide our solar power plant customers end-to-end management of the project lifecycle, from early stage site assessment, financing support, and project development, including full-scale environmental and construction permitting, through engineering, procurement, construction, and commissioning. Our projects are built incorporating industry-leading standards for safety, quality, performance, and reliability. Once tested, our plant O&M organization provides customers with "utility-quality" data collection, performance monitoring, diagnostic and performance reporting services, as well as lifecycle asset planning and management with industry leading software applications.

Operations and Maintenance

Our solar power systems are designed to generate electricity over a system life typically exceeding 25 years. We provide commissioning, warranty, administration, operations, maintenance, and performance monitoring services with the objective of optimizing our customers' electrical energy production. Commissioning services include testing to verify that equipment and system performance meet design requirements and specifications. We also pass through to customers long-term warranties from the original equipment manufacturers ("OEMs") of certain system components. We provide warranties of 25 years for our solar panels, which is standard in the solar industry, while our inverters typically carry warranty periods ranging from 5 to 10 years. In addition, we generally warrant our workmanship on installed systems for periods ranging up to 10 years. Systems under warranty and systems under a performance monitoring contract use our proprietary software systems to collect and remotely analyze equipment operating and system performance data from all of our sites in our offices located in the United States and the Philippines. We offer our customers a comprehensive suite of solar power system maintenance services ranging from system monitoring, to preventive maintenance, to rapid-response outage restoration and inverter repair. Our Performance Monitoring Service Agreement includes continuous remote monitoring, inverter outage notification, system performance

website access, and a 24/7 technical support line. Our Performance Basic Service Agreement adds preventive maintenance to the Standard Monitoring Services Agreement, and our Performance Plus Service Agreement includes all of the Performance Basic Service Agreement features plus on-site troubleshooting and corrective maintenance using regionally-located field service technicians.

Monitoring

Our O&M personnel have access to a powerful set of tools developed on industry leading information technology platforms that facilitate the management of a global fleet of commercial and utility scale photovoltaic power plants. Real time flow of data from our customers' sites is aggregated centrally where an engine applies advanced solar specific algorithms to detect and report potential performance issues. Our work management system routes any anomalies to the appropriate responders to ensure timely resolution. The enterprise asset management system stores the operational history of thousands of systems sold and delivered through our UPP and R&C Segments. We have implemented highly automated workflow processes that minimize the time from detection to analysis to dispatch and repair. Our O&M photovoltaic fleet management systems are built on more than a decade of solar services experience, allowing us to provide premier O&M services to our customers worldwide.

We have developed a proprietary set of advanced monitoring applications built upon the leading electric utility real-time monitoring platform (the "SunPower Monitoring System"). The SunPower Monitoring System continuously scans the operational status and performance of the solar power system and automatically identifies system outages and performance deficiencies to our 24/7 monitoring technicians. Customers can access historical or daily system performance data through our customer website (www.sunpowermonitor.com). Some customers choose to install "digital signs" to display system performance information from the lobby of their facility. We believe these displays enhance our brand and educate the public and prospective customers about solar power.

In 2008, we released the SunPower Monitoring System, and in 2009, we released the industry’s first monitoring application for the Apple iPhone®, iPod touch® and iPad® mobile devices. In 2011, we expanded our monitoring application to Android™ devices as well. With the addition of these applications to the SunPower Monitoring System, residential customers now have four easy ways to access information about the energy generated by their SunPower solar power systems. Along with the iPhone, iPod touch, iPad and Android applications, the SunPower Monitoring System offers homeowners the ability to monitor SunPower solar power systems with a wireless, in-home wall-mounted liquid crystal display ("LCD") that provides power production and cumulative energy information. The monitoring system also provides the convenience of Internet access to a solar power system’s performance from virtually anywhere. Customers can view a system’s energy performance and environmental savings on an hourly, monthly, and annual basis.

Solar Park Project Development

Our power plant development and project teams have established a scalable, fully integrated, vertical approach to developing utility-scale photovoltaic power plants in a sustainable way. Our power plant development and project finance teams evaluate sites for solar developments; obtain land rights through purchase and lease options; conduct environmental and grid transmission studies; and obtain building, construction and grid-interconnection permits, licenses, and regulatory approvals.

The plants and project development rights, initially owned by us, are sold to third parties through our UPP Segment. In the United States, commercial and electric utility customers typically choose to purchase solar electricity under a PPA with an investor or financing company that buys the system from us. In Europe and Israel, the projects are typically purchased by an investor or financing company and operated as central-station solar power plants.

For more information about the costs associated with solar park project development see "*Item 1A: Risk Factors*" including "*We may make significant investments in building solar power plants without first obtaining project financing, and the delayed sale of our projects would adversely affect our business, liquidity, and results of operations*" and "*Due to the general economic environment, the continued market pressure driving down the average selling prices of our solar power products, and other factors, we may be unable to generate sufficient cash flows or obtain access to external financing necessary to fund our operations and make adequate capital investments as planned.*"

Financing Options

We offer to arrange an array of financing options for our customers primarily by partnering with third-party financial institutions. The financing options range from simple loans, to capital and operating leases, to long-term, multi-party PPAs, and

third-party ownership structures. For example, we offer a solar lease program under our R&C Segment with certain available financing capacity, which allows customers to obtain SunPower systems under lease agreements for terms of up to 20 years. The solar lease program allows for low monthly payments with little or no money down, and options for the customer to purchase the system during or at the end of the lease. Leased residential systems are supported by system maintenance, insurance, and performance guarantees.

Research and Development

We engage in extensive research and development efforts to improve solar cell efficiency through enhancement of our existing products, development of new techniques such as concentrating photovoltaic power, and reducing manufacturing cost and complexity. Our research and development group works closely with our manufacturing facilities, our equipment suppliers and our customers to improve our solar cell design and to lower solar cell, solar panel and system product manufacturing and assembly costs. In addition, we have dedicated employees who work closely with our current and potential suppliers of crystalline silicon, a key raw material used in the manufacture of our solar cells, to develop specifications that meet our standards and ensure the high quality we require, while at the same time controlling costs. Under our Research & Collaboration Agreement with Total Gas & Power USA, SAS ("Total"), our majority stockholder, we have established a joint committee to engage in long-term research and development projects with continued focus on maintaining and expanding our technology position in the crystalline silicon domain and ensuring our industrial competitiveness. See Note 2 of Notes to Consolidated Financial Statements in *Part II - "Item 8: Financial Statements and Supplemental Data."*

We have government contracts that enable us to develop new technologies and pursue additional research opportunities while helping to offset our research and development expense. In fiscal 2007, we signed a Solar America Initiative research and development agreement with the United States Department of Energy under which we were awarded $24.1 million. The award was fully funded by the end of the third quarter of fiscal 2010. During fiscal 2011, we have executed new research and development agreements with the United States federal government and California state agencies. Further payments received under these contracts will offset some of our R&D expense in future periods.

For more information about these contracts, including the government’s rights to use technology developed as a result of such contracts, please see *"Item 1A: Risk Factors"* including *"Our past reliance on government programs to partially fund our research and development programs could impair our ability to commercialize our solar power products and services."*

Supplier Relationships, Manufacturing, and Module Assembly

We purchase polysilicon, ingots, wafers, solar cells, third-party standard efficiency solar panels, and balance of system components from various manufacturers, including joint ventures, on both a contracted and a purchase order basis. We have contracted with some of our suppliers for multi-year supply agreements. Under such agreements, we have annual minimum purchase obligations and in certain cases prepayment obligations. We currently believe our supplier relationships and various short- and long-term contracts will afford us the volume of material and services required to meet our planned output. For more information about risks related to our supply chain, please see *"Item 1A: Risk Factors"* including *"Limited competition among suppliers has required us in some instances to enter into long-term, firm commitment supply agreements that could result in excess or insufficient inventory and place us at a competitive disadvantage on pricing."*

We are working with our suppliers and partners along all steps of the value chain to reduce costs by improving manufacturing technologies and expanding economies of scale. Crystalline silicon is the leading commercial material for solar cells and is used in several forms, including single-crystalline, or monocrystalline silicon, multicrystalline, or polycrystalline silicon, ribbon and sheet silicon, and thin-layer silicon. Our solar cell value chain starts with high purity silicon called polysilicon. Polysilicon is created by refining quartz or sand. We have negotiated multiple long-term, fixed price contracts with large polysilicon suppliers.

Polysilicon is melted and grown into crystalline ingots by companies specializing in ingot growth, such as our supplier Woongjin Energy Co., Ltd. ("Woongjin Energy") located in South Korea. The ingots are sliced into wafers by our joint venture First Philec Solar Corporation ("First Philec Solar") located in the Philippines, and by other vendors. The wafers are processed into solar cells in our two manufacturing facilities located in the Philippines and by our joint venture AUO SunPower Sdn. Bhd. ("AUOSP") located in Malaysia. Our first facility ("FAB1") is 215,000 square feet and began operations in the fall of 2004. In August 2006, we purchased a 344,000 square foot building in the Philippines ("FAB2"), which is located approximately 20 miles from FAB1, and began operations in the summer of 2007. We currently operate four solar cell manufacturing lines and twelve solar cell manufacturing lines at FAB1 and FAB2, respectively, with a total rated annual solar cell manufacturing capacity of 700 MW.

In December 2010, we announced the inauguration of AUOSP, SunPower's joint venture solar cell manufacturing facility ("FAB3") in Malaysia with AU Optronics Corp. ("AUO"). The construction and ramp up of FAB3, located in Melaka, south of Kuala Lumpur, will continue through 2014, and when completed, is expected to generate more than 1,400 MW annually. FAB3 began production in October 2010 and as of January 1, 2012 operates twelve solar cell manufacturing lines with a total rated annual solar cell manufacturing capacity of 600 MW.

Using our solar cells, we manufacture our solar panels at our solar panel assembly facilities located in the Philippines and Mexico. In our Philippines facility, we currently operate fourteen solar panel assembly lines with a total rated annual solar panel manufacturing capacity of 600 MW. In August 2011, we leased an additional facility in Mexicali, Mexico which will serve as another solar panel assembly facility. We currently operate two solar panel assembly lines in our Mexico facility. When fully online, the Mexico facility will house twelve solar panel assembly lines with an expected total manufacturing capacity of approximately 500 MW. Our solar panels are also assembled for us by third-party contract manufacturers in China, Mexico, Poland, and California.

We source the solar panels and balance of system components based on quality, performance, and cost considerations both internally and from third-party suppliers. We generally assemble proprietary components, such as cementitious coatings and certain adhesive applications, while we purchase generally available components from third-party suppliers. Certain of our products, such as our SunTile products, are assembled at our third-party contractors' assembly plant prior to shipment to the project location. Other products such as our SunPower Tracker and SunPower T-10 commercial roof tiles are field assembled with components shipped directly from suppliers. The balance of system components can make up as much as two-thirds of the cost of a solar power system. Therefore, we are focused on standardizing our products with the goal of driving down installation costs, such as with our SunPower Oasis operating system.

Customers

In our UPP Segment, our customers typically include investors, financial institutions, project developers, electric utilities, and independent power producers in the United States, Europe, and Asia. In our R&C Segment, we primarily sell our products to commercial and governmental entities, production home builders, and our third-party global dealer network serving residential owners and small commercial building owners. In the residential homeowner market, we sell our products to customers primarily in the United States, Australia, and Europe while our commercial, governmental, and production home builders are typically in the United States.

We work with development, construction, system integration, and financing companies to deliver our solar power systems to wholesale sellers, retail sellers, and retail users of electricity. In the United States, we often work with investors and financing companies that purchase solar power systems from us, and they then sell solar electricity generated from these systems under PPAs to utilities or end-use customers. End-use customers typically pay the investors and financing companies over an extended period of time based on energy they consume from the solar power systems, rather than paying for the full capital cost of purchasing the solar power systems. In our history, we have shipped more than 2,200 MW of SunPower solar products worldwide. In addition, our dealer network and our new homes division have deployed thousands of SunPower rooftop solar power systems to residential customers.

We sell our products in North America, Europe, the Middle East, Asia, and Australia, principally in regions where government incentives have accelerated solar power adoption. We have offices in markets such as Australia, England, France, Germany, Greece, Israel, Italy, Japan, Malta, and Spain. We anticipate developing additional customer relationships in other markets and geographic regions as we expand our business. We generally do not have long-term agreements with our customers, see *"Item 1A: Risk Factors"* including *"We often do not have long-term agreements with our customers and accordingly could lose customers without warning, which could cause our operating results to decline."*

The table below represents our significant customers which accounted for greater than 10 percent of total revenue, accounts receivable, or costs and estimated earnings in excess of billings during fiscal 2011, 2010, and 2009. We had no customers that accounted for 10 percent or more of total revenue in fiscal 2011.

		Year Ended		
Revenue		**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Significant Customers:	**Business Segment**			
Customer A	Utility and power plants	*	12%	*
Customer B	Utility and power plants	*	*	12%

Accounts receivable		As of January 1, 2012	As of January 2, 2011
Significant Customer:	**Business Segment**		
Customer C	Utility and power plants	20%	*
Customer D	Utility and power plants	*	11%

Cost in excess of billings		As of January 1, 2012	As of January 2, 2011
Significant Customer:	**Business Segment**		
Customer E	Utility and power plants	21%	*
Customer F	Utility and power plants	*	17%
Customer G	Utility and power plants	*	15%

* denotes less than 10% during the period

Geographic Information

Information regarding the physical location of our property, plant and equipment and our foreign and domestic operations is contained in Note 6 and Note 17, respectively, of Notes to Consolidated Financial Statements in *Part II - "Item 8: Financial Statements and Supplemental Data,"* which information is incorporated herein by reference.

Seasonal Trends

Our business is subject to industry-specific seasonal fluctuations. Sales have historically reflected these seasonal trends with the largest percentage of total revenues realized during the last two calendar quarters of a fiscal year. Lower seasonal demand normally results in reduced shipments and revenues in the first two calendar quarters of a fiscal year. There are various reasons for this seasonality, mostly related to economic incentives and weather patterns. For example, in European countries with feed-in tariffs, the construction of solar power systems may be concentrated during the second half of the calendar year, largely due to the annual reduction of the applicable minimum feed-in tariff and the fact that the coldest winter months are January through March. In the United States, customers will sometimes make purchasing decisions towards the end of the year in order to take advantage of tax credits or for other budgetary reasons. In addition, sales in the new home development market are often tied to construction market demands which tend to follow national trends in construction, including declining sales during cold weather months.

Marketing and Sales

We market and sell solar electric power technologies worldwide through a direct sales force and through our third-party global dealer network. We sell products and services to residential, commercial, utility and power plant customers.

Through both our R&C and UPP Segments, we have direct sales personnel, and within our R&C Segment, we also have dealer representatives. Our direct sales personnel and dealer representatives are located in Australia, France, Germany, Greece, Italy, Japan, Korea, Spain, Switzerland, and the United States. During fiscal 2011, we expanded the size of our dealer network to approximately 1,800 dealers worldwide from 1,500 in fiscal 2010 and 1,000 in fiscal 2009. Our dealer network in the United States serves over 40 states. We have three dealership tiers in the program: Elite, Premier, and Authorized. Approximately 10% to 15% of the dealers in the United States have earned Elite status and approximately 25% to 35% have earned Premier status. We provide warranty coverage on systems we sell through our direct sales personnel and dealers through both the UPP and R&C Segments. To the extent we sell through dealers, we may provide system design and support services while the dealers are responsible for construction, maintenance, and service.

Our overall marketing programs include conferences and seminars, website and social media campaigns, sales training, public relations, and advertising. Our marketing group is also responsible for driving many qualified leads to support our sales teams lead generation efforts and assessing the productivity of our lead pipeline. For our R&C Segment, we assist our dealer network through a marketing resource center and customer support organization. We have marketing personnel in San Jose and Richmond, California, and Trenton, New Jersey, United States, as well as in Frankfurt, Germany, Madrid, Spain and Geneva, Switzerland.

Backlog

Our solar power system project backlog within our North American commercial business and our systems business within the R&C Segment and UPP Segment, respectively, represents the uncompleted portion of contracted and financed projects. Contingent customer orders that are not yet financed are excluded from backlog as of January 2, 2011. Our solar power system projects are often cancelable by our customers under certain conditions. In addition, revenue and related costs are often subject to delays or scope modifications based on change orders agreed to with our customers, or changes in the estimated construction costs to be incurred in completing the project.

Our residential and light commercial business and the components business within the R&C Segment and UPP Segment, respectively, include large volume sales of solar panels, mounting systems, and other solar equipment to third parties, which are typically ordered by our third-party global dealer network and customers under standard purchase orders with relatively short delivery lead-times, generally within one to three months. We have entered into multi-year supply agreements with certain customers of our components business that contain minimum firm purchase commitments. However, specific products that are to be delivered and the related delivery schedules under these long-term contracts are often subject to modifications based on change orders and amendments agreed to with our customers. Our backlog represents the uncompleted portion of firm purchase commitments and open purchase orders by our third-party global dealer network.

Management believes that backlog at any particular date is not necessarily a meaningful indicator of future revenue for any particular period of time because our backlog excludes contracts signed and completed in the same quarter and contracts still conditioned upon obtaining financing. Backlog totaled approximately $1,688 million and $1,373 million as of January 1, 2012 and January 2, 2011, respectively, of which $1,028 million is expected to be recognized in fiscal 2012.

Competition

The market for solar electric power technologies is competitive and continually evolving. We expect to face increased competition, which may result in price reductions, reduced margins, or loss of market share. Our solar power products and systems compete with a large number of competitors in the solar power market, including, but not limited to:

- *R&C Segment:* Canadian Solar Inc., JA Solar Holdings Co., Kyocera Corporation, Mitsubishi Corporation, Q-Cells AG, Sanyo Corporation (a subsidiary of Panasonic Corporation), Sharp Corporation, SolarCity Corporation, SolarWorld AG, Sungevity, Inc., SunRun, Inc., Suntech Power Holdings Co. Ltd., Trina Solar Ltd., and Yingli Green Energy Holding Co. Ltd.

- *UPP Segment:* Abengoa Solar S.A., Acconia Energia S.A., AES Solar Energy Ltd., Chevron Energy Solutions (a subsidiary of Chevron Corporation), EDF Energy plc, First Solar Inc., NextEra Energy, Inc., OPDE Group, NRG Energy, Inc., Recurrent Energy (a subsidiary of Sharp Corporation), Sempra Energy, Skyline Solar, Inc., Solargen Energy, Inc., Solaria Corporation, SolFocus, Inc., SunEdison (a subsidiary of MEMC Electronic Materials Inc.), and Tenaska, Inc.

We also face competition from resellers that have developed related offerings that compete with our product and service offerings, or have entered into strategic relationships with other existing solar power system providers. We compete for limited government funding for research and development contracts, customer tax rebates and other programs that promote the use of solar, and other renewable forms of energy with other renewable energy providers and customers.

In addition, universities, research institutions, and other companies have brought to market alternative technologies such as thin films and high concentration photovoltaic, which compete with our technology in certain applications. Furthermore, the solar power market in general competes with conventional fossil fuels supplied by utilities and other sources of renewable energy such as wind, hydro, biomass, solar thermal, and emerging distributed generation technologies such as micro-turbines, sterling engines and fuel cells.

In the large-scale on-grid solar power systems market, we face direct competition from a number of companies, including those that manufacture, distribute, or install solar power systems as well as construction companies that have expanded into the renewable sector. In addition, we will occasionally compete with distributed generation equipment suppliers.

We believe that the key competitive factors in the market for solar panels include:

- total system price;

- LCOE evaluation;
- power efficiency and performance;
- aesthetic appearance of solar panels;
- strength of distribution relationships;
- availability of third-party financing and investments;
- timeliness of new product introductions; and
- warranty protection, quality, and customer service.

The principal elements of competition in the solar power systems market include technical expertise, price, experience, delivery capabilities, diversity of product offerings, financing structures, marketing and sales, product performance, quality, efficiency and reliability, and technical service and support. We believe that we can compete favorably with respect to each of these factors, although we may be at a disadvantage in comparison to larger companies with broader product lines, greater technical service and support capabilities, and financial resources. For more information about risks related to our competition, please see *"Item 1A: Risk Factors"* including *"The increase in the global supply of solar cells and panels, and increasing competition, may cause substantial downward pressure on the prices of our products and cause us to lose sales or market share, resulting in lower revenues, earnings, and cash flow," and "If we fail to successfully develop and introduce new and enhanced products and services, while continuing to reduce our costs, we may not be able to compete effectively, and our ability to generate revenues will suffer."*

Intellectual Property

We rely on a combination of patent, copyright, trade secret, trademark, and contractual protections to establish and protect our proprietary rights. "SunPower" is our registered trademark in countries throughout the world for use with solar cells, solar panels and mounting systems. We also hold registered trademarks for "Oasis," "PowerLight," "PowerGuard," "PowerTracker," "Serengeti," "Smarter Solar," "SunTile," "SuPo Solar," and "The Planet's Most Powerful Solar" in certain countries. We are seeking and will continue to seek registration of the "SunPower" trademark and other trademarks in additional countries as we believe is appropriate. As of January 1, 2012, we held registrations for 13 trademarks in the United States, and had 5 trademark registration applications pending. We also held 28 trademarks and had over 19 trademark applications pending in foreign jurisdictions. We require our business partners to enter into confidentiality and nondisclosure agreements before we disclose any sensitive aspects of our solar cells, technology, or business plans. We typically enter into proprietary information agreements with employees, consultants, vendors, customers, and joint venture partners.

We own multiple patents and patent applications which cover aspects of the technology in the solar cells, mounting products, and electrical and electronic systems that we currently manufacture and market. We continue to file for and receive new patent rights on a regular basis. The lifetime of a utility patent typically extends for 20 years from the date of filing with the relevant government authority. We assess appropriate opportunities for patent protection of those aspects of our technology, designs, methodologies, and processes that we believe provide significant competitive advantages to us, and for licensing opportunities of new technologies relevant to our business. As of January 1, 2012, we held 89 patents in the United States, which will expire at various times between now and 2030, and had 142 patent applications pending. We also held 100 patents and had 306 patent applications pending in foreign jurisdictions. While patents are an important element of our intellectual property strategy, our business as a whole is not dependent on any one patent or any single pending patent application. We additionally rely on trade secret rights to protect our proprietary information and know-how. We employ proprietary processes and customized equipment in our manufacturing facilities. We therefore require employees and consultants to enter into confidentiality agreements to protect them.

We are currently in litigation in Germany against Knubix GmbH related to alleged violations of our patent rights. We are also currently in litigation in Federal Court in the Northern District of California against SolarCity Corporation ("Solar City") and five current SolarCity employees relating to alleged violations by such employees of our trade secret rights.

For more information about risks related to our intellectual property, please see *"Item 1A: Risk Factors"* including *"We are dependent on our intellectual property, and we may face intellectual property infringement claims that could be time-consuming and costly to defend and could result in the loss of significant rights,"* and *"We rely substantially upon trade secret laws and contractual restrictions to protect our proprietary rights, and, if these rights are not sufficiently protected, our ability*

to compete and generate revenue could suffer," and *"We may not obtain sufficient patent protection on the technology embodied in the solar products we currently manufacture and market, which could harm our competitive position and increase our expenses."*

Public Policy Considerations

Different policy mechanisms have been used by governments to accelerate the adoption of solar power. Examples of customer-focused financial mechanisms include capital cost rebates, performance-based incentives, feed-in tariffs, tax credits, and net metering. Some of these government mandates and economic incentives are scheduled to be reduced or to expire, or could be eliminated altogether, including the feed-in tariffs in Germany and Italy. Capital cost rebates provide funds to customers based on the cost and size of a customer's solar power system. Performance-based incentives provide funding to a customer based on the energy produced by their solar power system. Feed-in tariffs pay customers for solar power system generation based on energy produced, at a rate generally guaranteed for a period of time. Tax credits reduce a customer's taxes at the time the taxes are due. In the United States and other countries, net metering has often been used as a supplemental program in conjunction with other policy mechanisms. Under net metering, a customer can generate more energy than used, during which periods the electricity meter will spin backwards. During these periods, the customer "lends" electricity to the grid, retrieving an equal amount of power at a later time.

In addition to the mechanisms described above, new market development mechanisms to encourage the use of renewable energy sources continue to emerge. For example, many states in the United States have adopted renewable portfolio standards which mandate that a certain portion of electricity delivered to customers come from eligible renewable energy resources. In certain developing countries, governments are establishing initiatives to expand access to electricity, including initiatives to support off-grid rural electrification using solar power. For more information about risks related to public policies, please see *"Item 1A: Risk Factors"* including *"The reduction, modification or elimination of government and economic incentives could cause our revenue to decline and harm our financial results," and "Existing regulations and policies and changes to these regulations and policies may present technical, regulatory, and economic barriers to the purchase and use of solar power products, which may significantly reduce demand for our products and services," and "Fluctuations in Solar Renewable Energy Credits spot prices may adversely impact our results of operations".*

Environmental Regulations

We use, generate, and discharge toxic, volatile, or otherwise hazardous chemicals and wastes in our research and development, manufacturing, and construction activities. We are subject to a variety of foreign, federal, state, and local governmental laws and regulations related to the purchase, storage, use, and disposal of hazardous materials.

We believe that we have all environmental permits necessary to conduct our business and expect to obtain all necessary environmental permits for future construction activities. We believe that we have properly handled our hazardous materials and wastes and have appropriately remediated any contamination at any of our premises. We are not aware of any pending or threatened environmental investigation, proceeding or action by foreign, federal, state or local agencies, or third parties involving our current facilities. Any failure by us to control the use of, or to restrict adequately the discharge of, hazardous substances could subject us to substantial financial liabilities, operational interruptions, and adverse publicity, any of which could materially and adversely affect our business, results of operations, and financial condition.

Employees

As of January 1, 2012, we had approximately 5,220 employees worldwide, excluding employees of our joint ventures. As of January 1, 2012, approximately 670 employees were located in the United States, 4,130 employees were located in the Philippines and 420 employees were located in other countries. Of these employees, approximately 3,980 were engaged in manufacturing, 150 in construction projects, 210 in research and development, 560 in sales and marketing, and 320 in general and administrative services. None of our employees are represented by labor unions. Employees located in France, Italy and Spain are covered by collective bargaining agreements. We have never experienced a work stoppage and we believe relations with our employees are good.

Additional Information

We were originally incorporated in California in April 1985 by Dr. Richard Swanson to develop and commercialize high-efficiency solar cell technologies. Cypress Semiconductor Corporation ("Cypress") made a significant investment in SunPower in 2002 and in November 2004, Cypress acquired 100% ownership of all outstanding shares of our capital stock, excluding unexercised warrants and options. In November 2005, we reincorporated in Delaware, created two classes of

common stock and held an initial public offering ("IPO") of our former class A common stock. After completion of our IPO, Cypress held all the outstanding shares of our former class B common stock. On September 29, 2008, Cypress distributed to its shareholders all of its shares of our former class B common stock, in the form of a pro rata dividend to the holders of record as of September 17, 2008 of Cypress common stock. As a result, our former class B common stock became publicly traded and listed on the Nasdaq Global Select Market under the symbol "SPWRB," along with our former class A common stock under the symbol "SPWRA," and we discontinued being a subsidiary of Cypress. On June 21, 2011, we became a subsidiary of Total, a subsidiary of Total S.A., a French *société anonyme* ("Total S.A.") that acquired 60% of our former class A and B common stock as of June 13, 2011. On November 15, 2011, our stockholders approved the reclassification of all outstanding former class A common stock and class B common stock into a single class of common stock listed on the Nasdaq Global Select Market under the symbol "SPWR".

Available Information

We make available our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 free of charge on our website at www.sunpowercorp.com, as soon as reasonably practicable after they are electronically filed or furnished to the SEC. Additionally, copies of materials filed by us with the SEC may be accessed at the SEC's Public Reference Room at 100 F Street NE, Washington, D.C. or at the SEC's website at http://www.sec.gov. For information about the SEC's Public Reference Room, the public may contact 1-800-SEC-0330. Copies of material filed by us with the SEC may also be obtained by writing to us at our corporate headquarters, SunPower Corporation, Attention: Investor Relations, 77 Rio Robles, San Jose, California 95134, or by calling (408) 240-5500. The contents of our website are not incorporated into, or otherwise to be regarded as a part of, this Annual Report on Form 10-K.

ITEM 1A: *RISK FACTORS*

Our operations and financial results are subject to various risks and uncertainties, including risks related to our sales channels, liquidity, supply chain, operations, intellectual property, and our debt and equity securities. Although we believe that we have identified and discussed below certain key risk factors affecting our business, there may be additional risks and uncertainties that are not presently known or that are not currently believed to be significant that may also adversely affect our business, financial condition, results of operations, cash flows, and trading price of our common stock as well as our 4.50% senior convertible debentures, 4.75% senior convertible debentures, and 0.75% senior convertible debentures.

Risks Related to Our Sales Channels

The increase in the global supply of solar cells and panels, and increasing competition, may cause substantial downward pressure on the prices of such products and cause us to lose sales or market share, resulting in lower revenues, earnings, and cash flow.

Global solar cell and panel production capacity has been materially increasing since 2009, and is expected to continue to increase in the future. Many competitors or potential competitors, particularly in China, continue to expand their production, creating an oversupply of solar panels and cells in key markets. Increases in solar panel production and industry competition have resulted, and will continue to result, in substantial downward pressure on the price of solar cells and panels, including SunPower products. Increasing competition could also result in us losing sales or market share. Such price reductions or loss of sales or market share could continue to have a negative impact on our revenue and earnings, and could materially adversely affect our business and financial condition and cash flows. See also "*If we fail to successfully develop and introduce new and enhanced products and services, while continuing to reduce our costs, we may not be able to compete effectively, and our ability to generate revenues will suffer.*"

Our operating results will be subject to fluctuations and are inherently unpredictable.

We do not know if our revenue will grow, or if it will grow sufficiently to outpace our expenses. We may not be profitable on a quarterly basis. For example, we experienced net losses in each quarter of 2011. Our quarterly revenue and operating results will be difficult to predict and have in the past fluctuated from quarter to quarter. Revenue from our large commercial and, utilities and power plant customers (for example, our California Valley Solar Ranch ("CVSR") project), is difficult to forecast and is susceptible to large fluctuations. The amount, timing and mix of sales to our large commercial, utilities and power plant customers, often for a single medium or large-scale project, may cause large fluctuations in our revenue and other financial results as, at any given time, a single large-scale project can account for a material portion of our total revenue in a given quarter. Our inability to monetize our projects as planned, or any delay in obtaining the required

government support or initial payments to begin recognizing revenue under the relevant recognition criteria, and the corresponding revenue impact under the percentage-of-completion method of recognizing revenue, may similarly cause large fluctuations in our revenue and other financial results. A delayed disposition of a project could require us to recognize a gain on the sale of assets instead of recognizing revenue. Further, our revenue mix of materials sales versus project sales can fluctuate dramatically from quarter to quarter, which may adversely affect our margins and financial results in any given period. Any decrease in revenue from our large commercial, utilities and power plant customers, whether due to a loss or delay of projects or an inability to collect, could have a significant negative impact on our business. Our agreements with these customers may be canceled if we fail to meet certain product specifications or materially breach the agreement. In the event of a customer bankruptcy, our customers may seek to renegotiate the terms of current agreements or renewals. In addition, the failure by any significant customer to pay for orders, whether due to liquidity issues or otherwise, could materially and adversely affect our results of operations. Sales to our residential and light commercial customers are similarly susceptible to unpredictable volumes. Declining average selling prices impact our residential and light commercial sales quickly, thus leading to large fluctuations in revenues. Any of the foregoing may cause us to miss any current and future revenue or earnings guidance and negatively impact liquidity.

We base our planned operating expenses in part on our expectations of future revenue and a significant portion of our expenses is fixed in the short term. If revenue for a particular quarter is lower than we expect, we likely will be unable to proportionately reduce our operating expenses for that quarter, which would harm our operating results for that quarter. This may cause us to miss any revenue or earnings guidance announced by us.

The execution of our growth strategy is dependent upon the continued availability of third-party financing arrangements for our solar power plants and our customers, and is affected by general economic conditions.

The general economy, the current European debt crisis, and limited availability of credit and liquidity could materially and adversely affect our business and results of operations. We often require project financing for development and construction of our solar power plant projects, which require significant investments before the equity is later sold to investors. Many purchasers of our systems projects have entered into third-party arrangements to finance their systems over an extended period of time, while many end-customers have chosen to purchase solar electricity under a power purchase agreement ("PPA") with an investor or financing company that purchases the system from us or our authorized dealers. In addition, under our power purchase business model, we often execute PPAs directly with the end-user customer purchasing solar electricity, with the expectation that we will later assign the PPA to a financier. Under such arrangements, the financier separately contracts with us to build and acquire the solar power system, and then sells the electricity to the end-user customer under the assigned PPA. When executing PPAs with the end-user customers, we seek to mitigate the risk that a financier will not be available for the project by allowing termination of the PPA in such event without penalty. However, we may not always be successful in negotiating for penalty-free termination rights for failure to obtain financing, and certain end-user customers have required substantial financial penalties in exchange for such rights. These structured finance arrangements are complex and may not be feasible in many situations.

Due to the general challenging credit markets worldwide, we may be unable to obtain project financing for our projects, we may be unable to find partners for our residential lease program, customers may be unable or unwilling to finance the cost of our products, we may have difficulties in reaching agreements with financiers to finance the construction of our solar power systems, or the parties that have historically provided this financing may cease to do so, or only do so on terms that are substantially less favorable for us or our customers, any of which could materially and adversely affect our revenue and growth in all segments of our business. In addition, in the United States, with the expiration of the Treasury Grant under Section 1603 of the American Recovery and Reinvestment Act program, we will need to identify interested financiers with sufficient taxable income to monetize the tax incentives created by our solar systems. Our plans to continue to grow our residential leasing program may be delayed if credit conditions prevent us from obtaining or maintaining arrangement(s) to finance the program. The lack of project financing could delay the development and construction of our solar power plant projects, thus reducing our revenues from the sale of such projects. Many customers, especially in the United States, choose to purchase solar electricity under a PPA with a financing company that buys the system from us and the lack of availability of such financing could lead to reduced revenues. If economic recovery is slow in the United States or elsewhere, or if the European debt crisis remains unresolved or worsens, we may experience decreases in the demand for our solar power products, which may harm our operating results. We may in some cases seek to pursue partnership arrangements with financing entities to assist residential and other customers to obtain financing for the purchase or lease of our systems, which would expose us to credit or other risks. In addition, a rise in interest rates would likely increase our customers' cost of financing or leasing our products and could reduce their profits and expected returns on investment in our products. The general reduction in available credit to would-be borrowers or lessees, the poor state of economies worldwide, and the condition of housing markets worldwide could delay or reduce our sales of products to new homebuilders and authorized resellers.

The reduction, modification or elimination of government and economic incentives could cause our revenue to decline and harm our financial results.

The market for on-grid applications, where solar power is used to supplement a customer's electricity purchased from the utility network or sold to a utility under tariff, depends in large part on the availability and size of government mandates and economic incentives because, at present, the cost of solar power generally exceeds retail electric rates in many locations and wholesale peak power rates in some locations. In addition, on-grid applications depend on access to the grid, which is also regulated by government entities. Incentives and mandates vary by geographic market. Various government bodies in most of the countries where we do business have provided incentives in the form of feed-in tariffs, rebates, and tax credits and other incentives and mandates, such as renewable portfolio standards, to end-users, distributors, system integrators and manufacturers of solar power products to promote the use of solar energy in on-grid applications and to reduce dependency on other forms of energy. In 2011, some of these government mandates and economic incentives have been reduced or fundamentally restructured, including the feed-in tariffs in Germany and incentives offered by other European countries, which has had a materially negative effect on the market size and price of solar systems in Europe and caused our earnings in 2011 to decline in Europe and adversely affected our financial results. Governmental decisions regarding the provision of economic incentives often depend on political and economic factors that are largely beyond our control. Because our sales are into the on-grid market, the reduction, modification or elimination of grid access, government mandates and economic incentives in one or more of our customer markets would materially and adversely affect the growth of such markets or result in increased price competition, either of which could cause our revenue to decline and harm our financial results.

Existing regulations and policies and changes to these regulations and policies may present technical, regulatory, and economic barriers to the purchase and use of solar power products, which may significantly reduce demand for our products and services.

The market for electric generation products is heavily influenced by federal, state and local government laws, regulations and policies concerning the electric utility industry in the United States and abroad, as well as policies promulgated by electric utilities. These regulations and policies often relate to electricity pricing and technical interconnection of customer-owned electricity generation, and could deter further investment in the research and development of alternative energy sources as well as customer purchases of solar power technology, which could result in a significant reduction in the potential demand for our solar power products. The market for electric generation equipment is also influenced by trade and local content laws, regulations and policies which can discourage growth and competition in the solar industry, create economic barriers to the purchase of solar power products, thus reducing demand for our solar products. We anticipate that our solar power products and their installation will continue to be subject to oversight and regulation in accordance with federal, state, local and foreign regulations relating to construction, safety, environmental protection, utility interconnection and metering, trade, and related matters. It is difficult to track the requirements of individual states or local jurisdictions and design equipment to comply with the varying standards. Any new regulations or policies pertaining to our solar power products may result in significant additional expenses to us, our resellers and our resellers' customers, which could cause a significant reduction in demand for our solar power products. See also "*Risks Related to Our Operations-We sell our solar products to agencies of the U.S. government, and as a result, we are subject to a number of procurement rules and regulations, and our business could be adversely affected by an audit by the U.S. government if it were to identify errors or failure to comply with regulations.*"

We may incur unexpected warranty and product liability claims that could materially and adversely affect our financial condition and results of operations.

Our current standard product warranty for our solar panels includes a 10-year warranty period for defects in materials and workmanship and a 25-year warranty period for declines in power performance. We believe our warranty periods are consistent with industry practice. We perform accelerated lifecycle testing that expose our solar panels to extreme stress and climate conditions in both environmental simulation chambers and in actual field deployments in order to highlight potential failures that would occur over the 25-year warranty period. Due to the long warranty period, we bear the risk of extensive warranty claims long after we have shipped product and recognized revenue. Although we conduct accelerated testing of our solar panels and have several years of experience with our all-back-contact solar cell architecture, our solar panels have not and cannot be tested in an environment that exactly simulates the 25-year warranty period and it is difficult to test for all conditions that may occur in the field. We have sold solar panels since the early 2000's and have therefore not tested the full warranty cycle.

In our project installations, our current standard warranty for our solar power systems differs by geography and end-customer application and usually includes a limited warranty of up to 10 years for defects in work and workmanship, after which the customer may typically extend the period covered by its warranty for an additional fee. Due to the long warranty period, we bear the risk of extensive warranty claims long after we have completed a project and recognized revenues.

Warranty and product liability claims may also result from defects or quality issues in certain third party technology and components that our business incorporates into its solar power systems, particularly solar cells and panels, over which we have little or no control. While we generally pass through manufacturer warranties we receive from our suppliers to our customers, in some circumstances, we may be responsible for repairing or replacing defective parts during our warranty period, often including those covered by manufacturers' warranties, or incur other non-warranty costs. If the manufacturer disputes or otherwise fails to honor its warranty obligations, we may be required to incur substantial costs before we are compensated, if at all, by the manufacturer. Furthermore, our warranties may exceed the period of any warranties from our suppliers covering components, such as third party solar cells, third party panels and third party inverters, included in our systems. In addition, manufacturer warranties may not fully compensate us for losses associated with third-party claims caused by defects or quality issues in their products. For example, most manufacturer warranties exclude many losses that may result from a system component's failure or defect, such as the cost of de-installation, re-installation, shipping, lost electricity, lost renewable energy credits or other solar incentives, personal injury, property damage, and other losses. In certain cases our direct warranty coverage provided by SunPower to our customers, and therefore our financial exposure, may exceed our recourse available against cell, panel or other manufacturers for defects in their products. In addition, in the event we seek recourse through warranties, we will also be dependent on the creditworthiness and continued existence of the suppliers to our business.

Increases in the defect rate of SunPower or third-party products could cause us to increase the amount of warranty reserves and have a corresponding negative impact on our results of operations. Further, potential future product failures could cause us to incur substantial expense to repair or replace defective products, and we have agreed in some circumstances to indemnify our customers and our distributors against liability from some defects in our solar products. A successful indemnification claim against us could require us to make significant damage payments. Repair and replacement costs, as well as successful indemnification claims, could materially and negatively impact our financial condition and results of operations.

Like other retailers, distributors and manufacturers of products that are used by customers, we face an inherent risk of exposure to product liability claims in the event that the use of the solar power products into which solar cells and solar panels are incorporated results in injury, property damage or other damages. We may be subject to warranty and product liability claims in the event that our solar power systems fail to perform as expected or if a failure of our solar power systems results, or is alleged to result, in bodily injury, property damage or other damages. Since our solar power products are electricity producing devices, it is possible that our systems could result in injury, whether by product malfunctions, defects, improper installation or other causes. In addition, since we only began selling our solar cells and solar panels in the early 2000's and the products we are developing incorporate new technologies and use new installation methods, we cannot predict whether or not product liability claims will be brought against us in the future or the effect of any resulting negative publicity on our business. Moreover, we may not have adequate resources in the event of a successful claim against us. We rely on our general liability insurance to cover product liability claims and have not obtained separate product liability insurance. A successful warranty or product liability claim against us that is not covered by insurance or is in excess of our available insurance limits could require us to make significant payments of damages. In addition, quality issues can have various other ramifications, including delays in the recognition of revenue, loss of revenue, loss of future sales opportunities, increased costs associated with repairing or replacing products, and a negative impact on our goodwill and reputation, which could also adversely affect our business and operating results.

If we fail to successfully develop and introduce new and enhanced products and services, while continuing to reduce our costs, we may not be able to compete effectively, and our ability to generate revenues will suffer.

The solar power market is characterized by continually changing technology requiring improved features, such as increased efficiency and higher power output and improved aesthetics. Technologies developed by our direct competitors, including thin film solar panels, concentrating solar cells, solar thermal electric and other solar technologies, may provide power at lower costs than our products. We also face competition in some markets from other power generation sources, including conventional fossil fuels, wind, biomass, and hydro. In addition, other companies could potentially develop a highly reliable renewable energy system that mitigates the intermittent power production drawback of many renewable energy systems. Companies could also offer other value-added improvements from the perspective of utilities and other system owners, in which case such companies could compete with us even if the cost of electricity associated with such new system is higher than that of our systems.

Our solar panels are currently competitive in the market compared with lower cost conventional solar cells, such as thin-film, due to their higher efficiency. If our competitors are able to drive down their manufacturing costs faster than us, our products may become less competitive even when adjusted for efficiency. If we cannot effectively execute our cost reduction roadmap, our competitive position would suffer, and we could lose market share and our margins would be adversely impacted as we face downward pricing pressure.

Our failure to further refine our technology, reduce cost in our manufacturing process, and develop and introduce new solar power products could cause our products or our manufacturing facilities to become uncompetitive or obsolete, which could reduce our market share, cause our sales to decline, and cause the impairment of our assets. This will require us to continuously develop new solar power products and enhancements for existing solar power products to keep pace with evolving industry standards, competitive pricing and changing customer requirements. If we cannot continually improve the efficiency of our solar panels as compared to those of our competitors, our pricing will become less competitive, and we could lose market share and our margins would be adversely impacted. As we introduce new or enhanced products or integrate new technology into our products, we will face risks relating to such transitions including, among other things, technical challenges, acceptance of products by our customers, disruption in customers' ordering patterns, insufficient supplies of new products to meet customers' demand, possible product and technology defects arising from the integration of new technology and a potentially different sales and support environment relating to any new technology. Our failure to manage the transition to newer products or the integration of newer technology into our products could adversely affect our business's operating results and financial condition.

A limited number of customers and large projects are expected to continue to comprise a significant portion of our revenues and any decrease in revenue from those customers or projects, or an increase in related expenses, could have a significant adverse effect on us.

Even though we expect our customer base and number of large projects to expand and our revenue streams to diversify, a substantial portion of our revenues could continue to depend on sales to a limited number of customers as well as construction of a limited number of large projects (for example, the CVSR project), and the loss of sales to, or construction of, or inability to collect from those customers or for those projects, or an increase in expenses (such as financing costs) related to any such large projects, would have a significant negative impact on our business. Our agreements with such customers or for such projects may be cancelled if we fail to meet certain product specifications, materially breach the governing agreements, or in the event of a customer's or project entity's bankruptcy, and our customers may seek to cancel or renegotiate the terms of current agreements or renewals. In addition, the failure by any significant customer to pay for orders and the construction process, whether due to liquidity issues, failure of anticipated government support or otherwise, could materially and negatively affect our results of operations.

We often do not have long-term agreements with our customers and accordingly could lose customers without warning, which could cause our operating results to decline.

Our product sales to residential dealers and components customers are frequently not made under long-term agreements. We also contract to construct or sell large projects with no assurance of repeat business from the same customers in the future. Although we believe that cancellations on our purchase orders to date have been infrequent, our customers may cancel or reschedule purchase orders with us on relatively short notice. Cancellations or rescheduling of customer orders could result in the delay or loss of anticipated sales without allowing us sufficient time to reduce, or delay the incurrence of, our corresponding inventory and operating expenses. In addition, changes in forecasts or the timing of orders from these or other customers expose us to the risks of inventory shortages or excess inventory. These circumstances, in addition to the completion and non-repetition of large projects, declining average selling prices, changes in the relative mix of sales of solar equipment versus solar project installations, and the fact that our supply agreements are generally long-term in nature and many of our other operating costs are fixed, in turn could cause our operating results to fluctuate and may result in a material adverse effect in our business and financial results. In addition, since we rely partly on our network of dealers internationally for marketing and other promotional programs, if our dealers fail to perform up to our standards, our operating results may decline.

Almost all of our engineering, procurement and construction ("EPC") contracts are fixed price contracts which may be insufficient to cover unanticipated or dramatic changes in costs over the life of the project.

Almost all of our EPC contracts are fixed price contracts. All essential costs are estimated at the time of entering into the EPC contract for a particular project, and these are reflected in the overall price that we charge our customers for the project. These cost estimates are preliminary and may or may not be covered by contracts between us or the subcontractors, suppliers, and any other parties that may become necessary to complete the project. Thus, if the cost of materials were to rise dramatically as a result of sudden increased demand, or if financing costs were to increase due to use of the Liquidity Support Facility (as defined below) or otherwise, these costs may have to be borne by us.

In addition, we require qualified, licensed subcontractors to install most of our systems. Shortages of such skilled labor could significantly delay a project or otherwise increase our costs. In several instances in the past, we have obtained change orders that reimburse us for additional unexpected costs due to various reasons. Should miscalculations in planning a project or delays in execution occur, there can be no guarantee that we would be successful in obtaining reimbursement and we may not

achieve our expected margins or we may be required to record a loss in the relevant fiscal period.

Our business could be adversely affected by seasonal trends and construction cycles.

Our business is subject to significant industry-specific seasonal fluctuations. Sales have historically reflected these seasonal trends with the largest percentage of total revenues being realized during the last two calendar quarters. Low seasonal demand normally results in reduced shipments and revenues in the first two calendar quarters. There are various reasons for this seasonality, mostly related to economic incentives and weather patterns. For example, in European countries with feed-in tariffs, the construction of solar power systems may be concentrated during the second half of the calendar year, largely due to the annual reduction of the applicable minimum feed-in tariff and the fact that the coldest winter months are January through March. In the United States, customers will sometimes make purchasing decisions towards the end of the year in order to take advantage of tax credits or for other budgetary reasons. In addition, sales in the new home development market are often tied to construction market demands which tend to follow national trends in construction, including declining sales during cold weather months.

The competitive environment in which we operate often requires us to undertake customer obligations that could materially and adversely affect our financial condition and results of operations if our customer obligations are more costly than expected.

We are often required as a condition of financing or at the request of our end customer to undertake certain obligations such as:

- Ÿ System output performance guarantees;
- Ÿ System maintenance;
- Ÿ Penalty payments or customer termination rights if the system we are constructing is not commissioned within specified timeframes or other construction milestones are not achieved;
- Ÿ Guarantees of certain minimum residual value of the system at specified future dates; and
- Ÿ System put-rights whereby we could be required to buy-back a customer's system at fair value on specified future dates if certain minimum performance thresholds are not met.

Such financing arrangements and customer obligations involve complex accounting analyses and judgments regarding the timing of revenue and expense recognition, and in certain situations these factors may require us to defer revenue recognition until projects are completed, which could adversely affect revenue and profits in a particular period.

Risks Related to Our Liquidity

Due to the general economic environment, the continued market pressure driving down the average selling prices of our solar power products, and other factors, we may be unable to generate sufficient cash flows or obtain access to external financing necessary to fund our operations and make adequate capital investments as planned.

We expect total capital expenditures related to purchases of property, plant and equipment in the range of $110 million to $130 million in fiscal 2012. To develop new products, support future growth, achieve operating efficiencies, and maintain product quality, we must make significant capital investments in manufacturing technology, facilities and capital equipment, research and development, and product and process technology. We also anticipate increased costs as we expand our manufacturing operations, make advance payments for raw materials or pay to procure such materials, especially polysilicon, increase our sales and marketing efforts, invest in joint ventures and acquisitions, and continue our research and development efforts with respect to our products and manufacturing technologies. In January 2012, we completed the acquisition of Tenesol, a European-based manufacturer and developer of solar projects with module manufacturing operations in La Tour deSalvagny, France and Cape Town, South Africa, and which is in the process of developing a third site near Carling, France. Our manufacturing and assembly activities have required and will continue to require significant investment of capital and substantial engineering expenditures. In addition, we expect to invest a significant amount of capital to develop solar power systems and plants for sale to customers. The development and construction of solar power plants can require long periods of time and substantial initial investments. The delayed disposition of such projects could have a negative impact on our liquidity. See "*Risk Related to Our Operations-We may make significant investments in building solar power plants without first obtaining project financing, and the delayed sale of our projects would adversely affect our business, liquidity and results of*

operations." A significant portion of our revenue is generated from a limited number of customers and large projects, and our inability to execute those projects, or to collect from those customers or for those projects, would have a significant negative impact on our business. See *"A limited number of customers and large projects are expected to continue to comprise a significant portion of our revenues and any decrease in revenue from those customers or projects could have a significant adverse effect on us"* in Part II, Item 1A, "Risk Factors."

Our capital expenditures and use of working capital may be greater than we currently expect if we decide to make additional investments in the development and construction of solar power plants, or if sales of power plants and associated cash proceeds are delayed, or if we decide to accelerate increases in our manufacturing capacity internally or through capital contributions to joint ventures. We require project financing in connection with the construction of solar power plants, which financing may not be available on terms acceptable to us. In addition, we will in the future make additional investments in certain of our joint ventures or could guarantee certain financial obligations of our joint ventures, which could reduce our cash flows, increase our indebtedness and expose us to the credit risk of our joint ventures. Certain of our customers also require performance bonds issued by a bonding agency or letters of credit issued by financial institutions. As of January 1, 2012 letters of credit issued under the Deutsche Bank Trust facility amounted to $51.3 million and were fully collateralized with restricted cash. Our uncollateralized letter of credit facility with Deutsche Bank is guaranteed by Total S.A. pursuant to the Credit Support Agreement between us and Total S.A. A default under the Credit Support Agreement or the guaranteed letter of credit facility, or if our other indebtedness greater than $25 million becomes accelerated, could cause Total S.A., subject to its obligations under the Liquidity Support Facility (described below), to declare all amounts due and payable to Total S.A. and direct the bank to cease issuing additional letters of credit on behalf of SunPower, which could have a material adverse effect on our operations. In addition, if our financial results or operating plans change from our current assumptions, or if the holders of our outstanding 4.50% convertible debentures due 2015 become entitled, and elect, to convert the debentures into cash, we may not have sufficient resources to support our business plan or pay cash in connection with the redemption of outstanding 4.50% debentures. See "*Our substantial indebtedness and other contractual commitments could adversely affect our business, financial condition and results of operations, as well as our ability to meet any of our payment obligations under the 4.50% and 4.75% debentures and our other debt.*"

We believe that our current cash and cash equivalents, cash generated from operations, and funds available under our revolving credit facility with Credit Agricole will be sufficient to meet our working capital requirements and fund our committed capital expenditures over the next 12 months, including the development and construction of solar power plants over the next 12 months. In addition, we also have the Liquidity Support Facility (described below) with up to $600 million available from Total S.A. to us under certain specified circumstances. As of January 1, 2012, $250.0 million was outstanding under our revolving credit facility with Credit Agricole. This revolving credit facility requires that we maintain certain financial ratios, including a ratio of our debt at the end of each quarter to our EBITDA (earnings before interest, tax, depreciation and amortization) for the last twelve months as defined in the facility for that quarter not exceeding 4.5 to 1. The current market for our products is challenging, which makes projections of future revenue and EBITDA especially difficult. If we fail to meet one of these ratios in any future quarter, and if any such failure were not cured pursuant to the Liquidity Support Facility (described below), it would enable the syndicate of banks to declare us in default under the credit facility, which could lead to further defaults as described below.

We are also party to a Liquidity Support Agreement with Total S.A. and the DOE, and a series of related agreements with Total S.A. or its affiliates, under which Total S.A. has agreed to provide us with a liquidity facility to a maximum amount of $600 million (the "Liquidity Support Facility"). Total S.A. is required, through its affiliates, to provide liquidity support to us under this facility, and we are required to accept such liquidity support from Total, S.A., if either our actual or projected unrestricted cash, cash equivalents and unused borrowing capacity are reduced below $100 million, or we fail to satisfy any financial covenant under our indebtedness, including the Credit Agricole Facility. In either such event, subject to an $600 million aggregate limit, Total S.A. is required to provide us with sufficient liquidity support to increase the amount of our unrestricted cash, cash equivalents and unused borrowing capacity to above $100 million, and to restore our compliance with our financial covenants. In general, our cost of financing under the Liquidity Support Agreement would increase as the aggregate amount of liquidity support we require over time increases.

The lenders under our credit facilities and holders of our debentures may also require us to repay our indebtedness to them in the event that our obligations under other indebtedness or contracts in excess of the applicable threshold amount, such as $25 million, are accelerated and we fail to discharge such obligations. If our capital resources are insufficient to satisfy our liquidity requirements, for example, due to cross acceleration of indebtedness, we may seek to sell additional equity securities or debt securities or obtain other debt financings, including under the Liquidity Support Facility; although the current economic environment could also limit our ability to raise capital by issuing new equity or debt securities on acceptable terms, and lenders may be unwilling to lend funds on acceptable terms that would be required to supplement cash flows to support operations. The sale of additional equity securities or convertible debt securities, including under the Liquidity Support Facility,

would result in additional dilution to our stockholders and may not be available on favorable terms or at all, particularly in light of the current conditions in the financial and credit markets. Additional debt would result in increased expenses and would likely impose new restrictive covenants which may be similar or different than those restrictions contained in the covenants under our current debt agreements and debentures. Financing arrangements, including project financing for our solar power plants and letters of credit facilities, may not be available to us, or may not be available in amounts or on terms acceptable to us. We may also seek to sell assets, reduce or delay capital investments, or refinance or restructure our debt.

Under the Liquidity Support Facility, we are required to issue to Total S.A. or its affiliates, in exchange for the provision of liquidity support, warrants to purchase our common stock. The number of shares of our common stock covered by these warrants will be equal to an agreed percentage of the amount of support provided at a particular time, divided by the volume-weighted average of our stock price over the 30-day trading period ending on the trading day immediately preceding the date when the support is provided. The exercise price of these warrants is also set by reference to this volume-weighted average price, and therefore may be set at a discount to our stock price currently or at the time the warrants are issued. Any convertible debt we issue to Total S.A. or its affiliates under the Liquidity Support Facility will be convertible into our common stock at its market price at the time of conversion, which may be lower than our current stock price. Finally, any common stock we issue to Total S.A. under the Liquidity Support Facility will be priced at a 17% discount to the volume-weighted average stock price for the 30-day trading period ending on the trading day preceding the date of issuance. For all these reasons, any use of the Liquidity Support Facility will be dilutive to the equity interests of our other stockholders, and the degree of dilution will increase if our stock price decreases. Any other equity financing we may seek would also likely be dilutive to our stockholders' equity interests. For additional details, see Item 9B of this Annual Report.

If we cannot generate sufficient cash flows, find other sources of capital to fund our operations and solar power plant projects, make adequate capital investments to remain competitive in terms of technology development and cost efficiency, or provide bonding or letters of credit required by our projects, we will need to sell additional equity securities or debt securities, or obtain other debt financings. If adequate funds and alternative resources are not available on acceptable terms, our ability to fund our operations, develop and construct solar power plants, develop and expand our manufacturing operations and distribution network, maintain our research and development efforts, provide collateral for our projects, meet our debt service obligations, or otherwise respond to competitive pressures would be significantly impaired. Our inability to do any of the foregoing could have a material adverse effect on our business and results of operations.

Our substantial indebtedness and other contractual commitments could adversely affect our business, financial condition and results of operations, as well as our ability to meet any of our payment obligations under the 4.50% and 4.75% debentures and our other debt.

We currently have a significant amount of debt and debt service requirements that could have material consequences on our future operations, including:

- making it more difficult for us to meet our payment and other obligations under the 4.50% and 4.75% debentures and our other outstanding debt;
- resulting in an event of default if we fail to comply with the financial and other restrictive covenants contained in our debt agreements (with certain covenants becoming more restrictive over time), which event of default could result in all of our debt becoming immediately due and payable if not cured pursuant to the Liquidity Support Facility;
- reducing the availability of our cash flow to fund working capital, capital expenditures, project development, acquisitions and other general corporate purposes, and limiting our ability to obtain additional financing for these purposes;
- subjecting us to the risk of increased sensitivity to interest rate increases on our indebtedness with variable interest rates;
- subjecting us to the risk of currency fluctuations and government-fixed foreign exchange rates and the effects of currency hedging activity or inability to hedge currency fluctuation;
- limiting our flexibility in planning for, or reacting to, and increasing our vulnerability to, changes in our business, the industry in which we operate and the general economy; and
- placing us at a competitive disadvantage compared to our competitors that have less debt or are less leveraged.

Our indebtedness may increase if we require liquidity support from Total S.A. under the Liquidity Support Facility, and in general the economic cost of such indebtedness will increase, both in absolute dollars and in our cost per dollar borrowed, as the aggregate amount of liquidity support we require over time increases.

Any of the above-listed factors could have an adverse effect on our business, financial condition and results of operations and our ability to meet our payment obligations under the 4.50% and 4.75% debentures and our other debt. In addition, we also have significant contractual commitments for the purchase of polysilicon, some of which involve prepayments, and we may enter into additional, similar long-term supply agreements in the future. Further, if the holders of our outstanding 4.50% debentures have been entitled to, and do convert their debentures, the principal amount must be settled in cash. Future conversions could materially and adversely affect our liquidity and our ability to meet our payment obligations under our debt.

Our current tax holidays in the Philippines and Switzerland will expire within the next several years.

We currently benefit from income tax holiday incentives in the Philippines in accordance with our subsidiary's registration with the Philippine Economic Zone Authority ("PEZA"), which provide that we pay no income tax in the Philippines for those operations subject to the ruling. Our current income tax holidays were granted as manufacturing lines were placed in service and thereafter expire within the next fiscal year, and we are in the process of or have applied for extensions and renewals upon expiration. We currently expect such approvals to be granted. We believe that if our Philippine tax holidays expire, (a) gross income attributable to activities covered by our PEZA registrations will be taxed at a 5% preferential rate, and (b) our Philippine net income attributable to all other activities will be taxed at the statutory Philippine corporate income tax rate, currently 30%. An increase in our tax liability could materially and negatively affect our financial condition and results of operations.

We have an auxiliary company ruling in Switzerland where we sell our solar power products. The auxiliary company ruling results in a reduced effective Swiss tax rate of approximately 11.5%. The current ruling expires in 2015. If the ruling is not renewed in 2015, Swiss income would be taxable at the full Swiss tax rate of approximately 24.2%.

A change in our effective tax rate can have a significant adverse impact on our business.

A number of factors may adversely impact our future effective tax rates, such as the jurisdictions in which our profits are determined to be earned and taxed; changes in the valuation of our deferred tax assets and liabilities; adjustments to estimated taxes upon finalization of various tax returns; adjustments to the our interpretation of transfer pricing standards, changes in available tax credits, grants and other incentives; changes in stock-based compensation expense; changes in tax laws or the interpretation of such tax laws (for example, proposals for fundamental U.S. international tax reform); changes in U.S. generally accepted accounting principles; expiration or the inability to renew tax rulings or tax holiday incentives; and the repatriation of non-U.S. earnings for which we have not previously provided for U.S. taxes. A change in our effective tax rate due to any of these factors may adversely impact our future results from operations. See *Part II* - "*Item 7: Management's Discussion and Analysis of Financial Condition and Results of Operations-Results of Operations-Income Tax*es."

Our insurance for certain indemnities we have made to our officers and directors may be inadequate, and potential claims could materially and negatively impact our financial condition and results of operations.

Our certificate of incorporation, by-laws and indemnification agreements require us to indemnify our officers and directors for certain liabilities that may arise in the course of their service to us. Although we currently maintain directors and officers liability insurance for certain potential third-party claims for which we are legally or financially unable to indemnify them, such insurance may be inadequate for specific claims. In addition, in previous years, we have primarily self-insured with respect to potential third-party claims. If we were required to pay a significant amount on account of these liabilities for which we self-insured, our business, financial condition and results of operations could be materially harmed. See also *"Risks Related to Our Operations -- We and certain of our current and former officers and directors have been named as parties to various lawsuits relating to our past Audit Committee accounting investigation, and may be named in further litigation, including with respect to the restatement of our consolidated financial statements, all of which could require significant management time and attention, result in significant legal expenses or damages, and cause our business, financial condition, results of operations and cash flows to suffer."*

Our credit agreements contain covenant restrictions that may limit our ability to operate our business.

We may be unable to respond to changes in business and economic conditions, engage in transactions that might otherwise be beneficial to us, or obtain additional financing, because our debt agreements, our Credit Support Agreement and

our Liquidity Support Agreement with Total S.A., our Affiliation Agreement with Total, foreign exchange hedging agreements and equity derivative agreements contain, and any of our other future similar agreements may contain, covenant restrictions that limit our ability to, among other things:

- Ÿ incur additional debt, assume obligations in connection with letters of credit, or issue guarantees;
- Ÿ create liens;
- Ÿ make certain investments or acquisitions;
- Ÿ enter into transactions with our affiliates;
- Ÿ sell certain assets;
- Ÿ redeem capital stock or make other restricted payments;
- Ÿ declare or pay dividends or make other distributions to stockholders; and
- Ÿ merge or consolidate with any person.

Our ability to comply with these covenants is dependent on our future performance, which will be subject to many factors, some of which are beyond our control, including prevailing economic conditions. In addition, our failure to comply with these covenants could result in a default under the 4.50% and 4.75% debentures and our other debt, which could permit the holders to accelerate such debt if the default is not cured pursuant to the Liquidity Support Facility. If any of our debt is accelerated, we may not have sufficient funds available to repay such debt, which could materially and negatively affect our financial condition and results of operation.

Risks Related to Our Supply Chain

We will continue to be dependent on a limited number of third-party suppliers for certain raw materials and components for our products, which could prevent us from delivering our products to our customers within required timeframes, which in turn could result in sales and installation delays, cancellations, penalty payments and loss of market share.

We rely on a limited number of third-party suppliers, including our joint ventures, for certain raw materials and components for our solar cells, panels and power systems such as polysilicon, inverters and third-party solar panels. If we fail to develop or maintain our relationships with our suppliers, we may be unable to manufacture our products or our products may be available only at a higher cost or after a long delay. Such delays could prevent us from delivering our products to our customers within required timeframes and cause order cancellations and loss of market share. To the extent the processes that our suppliers use to manufacture components are proprietary, we may be unable to obtain comparable components from alternative suppliers. In addition, the financial markets could limit our suppliers' ability to raise capital if required to expand their production or satisfy their operating capital requirements. As a result, they could be unable to supply necessary raw materials, inventory and capital equipment to us which we would require to support our planned sales operations which would in turn negatively impact our sales volumes profitability and cash flows. The failure of a supplier to supply raw materials or components in a timely manner, or to supply raw materials or components that meet our quality, quantity and cost requirements, could impair our ability to manufacture our products or increase the cost of production. If we cannot obtain substitute materials or components on a timely basis or on acceptable terms, we could be prevented from delivering our products to our customers within required timeframes, which could result in sales and installation delays, cancellations, penalty payments or loss of market share, any of which could have a material adverse effect on our business, results of operations, and cash flows.

Limited competition among suppliers has required us in some instances to enter into long-term, firm commitment supply agreements that could result in excess or insufficient inventory and place us at a competitive disadvantage on pricing.

Due to the industry-wide shortage of polysilicon experienced prior to 2011, we have purchased polysilicon that we resell to third-party ingot and wafer manufacturers who deliver wafers to us that we then use in the manufacturing of our solar cells. Without sufficient polysilicon, some of those ingot and wafer manufacturers would not have been able to produce the wafers on which we rely. To match our estimated customer demand forecasts and growth strategy for the next several years, we have historically entered into multiple long-term supply agreements, including agreements with our joint venture First Philec Solar. Some agreements have long terms and provide for fixed or inflation-adjusted pricing, substantial prepayment obligations, and

firm purchase commitments that require us to pay for the supply whether or not we accept delivery. If such agreements require us to purchase more supplies than required to meet our actual customer demand over time, the resulting excess inventory could materially and negatively impact our results of operations. Prices for raw materials and components have been rapidly declining. If we are unable to access spot market pricing of commodities and decrease our dependency on long term or fixed commitment supply agreements, we would be paying more at unfavorable payment terms for such supplies than the current market prices and payment terms available to our competitors. We would then be placed at a competitive disadvantage against competitors who were able to leverage better pricing, we would be unable to meet our cost reduction roadmap, and our profitability could decline. If our agreements provide insufficient inventory to meet customer demand, or if our suppliers are unable or unwilling to provide us with the contracted quantities, we could purchase additional supply at available market prices which could be greater than expected and could materially and negatively impact our results of operations. Such market prices could also be greater than prices paid by our competitors, placing us at a competitive disadvantage and leading to a decline in our profitability. Further, we face significant specific counterparty risk under long-term supply agreements when dealing with suppliers without a long, stable production and financial history. In the event any such supplier experiences financial difficulties or goes into bankruptcy, it could be difficult or impossible, or may require substantial time and expense, for us to recover any or all of our prepayments. In the event any such supplier experiences financial difficulties or goes into bankruptcy, we would also be unlikely to collect for warranty claims against such suppliers. Any of the foregoing could materially harm our financial condition and results of operations.

If third-party manufacturers become unable or unwilling to sell their solar cells or panels to us, our business and results of operations may be materially negatively affected.

In January 2012, we completed the acquisition of Tenesol, a European-based manufacturer and developer of solar projects with module manufacturing operations in France and South Africa. Through Tenesol, we purchase a portion of our total product mix from third-party manufacturers of solar cells. Such products increase our inventory available for sale to customers in some markets. However, such manufacturers may not be willing to sell solar cells and panels to us at the quantities and on the terms and conditions we require. Such manufacturers may be our direct competitors. If they are unable or unwilling to sell to us, we may not have sufficient products available to sell to customers and satisfy our sales commitments, thereby materially and negatively affecting our business and results of operations. In addition, warranty and product liability claims may result from defects or quality issues in connection with third party solar cells that we incorporate into our solar power products. See also "*Risks Related to Our Sales Channels -- We may incur unexpected warranty and product liability claims that could materially and adversely affect our financial condition and results of operations*."

Risks Related to Our Operations

We may not be able to increase or sustain our recent growth rate, and we may not be able to manage our future growth effectively.

We may not be able to continue to expand our business or manage future growth. We plan to continue to improve our manufacturing processes and increase our production capacity, which will require successful execution of:

- Ÿ expanding our existing manufacturing facilities and developing new manufacturing facilities, which would increase our fixed costs and, if such facilities are underutilized, would negatively impact our results of operations;
- Ÿ ensuring delivery of adequate polysilicon and ingots;
- Ÿ enhancing our customer resource management and manufacturing management systems;
- Ÿ implementing and improving additional and existing administrative, financial and operations systems, procedures and controls, including the need to centralize, update and integrate our global financial internal control;
- Ÿ hiring additional employees;
- Ÿ expanding and upgrading our technological capabilities;
- Ÿ managing multiple relationships with our customers, suppliers and other third parties;
- Ÿ maintaining adequate liquidity and financial resources; and
- Ÿ continuing to increase our revenues from operations.

Our recent expansion has placed, and our planned expansion and any other future expansion will continue to place, a significant strain on our management, personnel, systems, liquidity and resources. Improving our manufacturing processes, expanding our manufacturing facilities or developing facilities may be delayed by difficulties such as unavailability of equipment or supplies or equipment malfunction. Ensuring delivery of adequate polysilicon and ingots is subject to many market risks including scarcity, significant price fluctuations and competition. Maintaining adequate liquidity is dependent upon a variety of factors including continued revenues from operations, working capital improvements, and compliance with our indentures and credit agreements. If we are unsuccessful in any of these areas, we may not be able to achieve our growth strategy and increase production capacity as planned during the foreseeable future. In addition, we need to manage our organizational growth, including rationalizing reporting structures, support teams, and enabling efficient decision making. For example, the administration of the residential leasing program requires processes and systems to support this new business model. If we are not successful or if we delay our implementation of such systems and processes, we may adversely affect the anticipated volumes in our residential leasing business. If we are unable to manage our growth effectively, we may not be able to take advantage of market opportunities, develop new solar cells and other products, satisfy customer requirements, execute our business plan or respond to competitive pressures. See also *"If we are not successful in adding additional production lines, or we experience interruptions in the operation of our solar cell production lines, our revenue and results of operations may be materially and adversely affected."*

We may make significant investments in building solar power plants without first obtaining project financing, and the delayed sale of our projects would adversely affect our business, liquidity, and results of operations.

The development and construction of solar power plants require long periods of time and substantial initial investments, which we may make without first obtaining project financing or getting final regulatory clearance. Such costs may never be recovered if the necessary permits and government support and approvals are not obtained, project financing is not obtained, or if a potential project sale cannot be completed on commercially reasonable terms or at all. Our efforts in this area may consist of all stages of development, including land acquisition, permitting, financing, construction, operation, and the eventual sale of the projects. We will often choose to bear the costs of such efforts prior to obtaining project financing, prior to getting final regulatory clearance, and prior to our final sale to a customer, if any. This involves significant upfront investments of resources (including, for example, large transmission deposits or other payments, which may be non-refundable), land acquisition, permitting, legal and other costs, and in some cases the actual costs of constructing a project, in advance of the signing of PPAs and EPC contracts, the sale of equity in the project and the receipt of any cash or revenue, much of which may not be recognized for several additional months or years following contract signing. Our ability to monetize solar power plant projects is dependent on successfully executing and selling large scale projects and often a single project can account for a material portion of our total revenue in a given quarter. We have deferred revenue recognition on certain construction projects until the projects have been financed, constructed, and sold to independent third parties. Alternatively, we may choose to build, own and operate certain solar power plants for a period of time, after which the project assets may be sold to third parties. In such cases, the delayed disposition of projects could require us to recognize a gain on the sale of assets instead of recognizing revenue. Our potential inability to obtain regulatory clearance, required government support, project financing, or enter into sales contracts with customers could adversely affect our business, liquidity and results of operations. Our inability to monetize our projects as planned, or any delay in obtaining the required initial payments to begin recognizing revenue under the relevant recognition criteria, and the corresponding revenue impact under the percentage-of-completion method of recognizing revenue, may cause large fluctuations in our revenue and other financial results. In the event the project is subsequently canceled, abandoned, or is deemed likely to occur, we will charge all prior capital costs as an operating expense in the quarter in which such determination is made, which could materially adversely affect operating results. Our liquidity could also be adversely impacted if we cannot obtain timely project financing or if project sales are delayed.

We have significant international activities and customers, and plan to continue these efforts, which subject us to additional business risks, including logistical complexity and political instability.

A substantial portion of our sales are made to customers outside of the United States, and a substantial portion of our supply agreements are with supply and equipment vendors located outside of the United States. Currently our solar cell and module production lines are located at our manufacturing facilities in the Philippines, Mexico, France and South Africa, and our joint venture's manufacturing facility in Malaysia. The majority of our solar panel assembly functions has historically been conducted by third-party contract manufacturers in China, Poland and Mexico. In addition, in January 2012, we completed the acquisition of Tenesol, a European-based manufacturer and developer of solar projects with significant international operations.

Risks we face in conducting business internationally include:

Ÿ multiple, conflicting and changing laws and regulations, export and import restrictions, employment laws,

environmental protection, regulatory requirements and other government approvals, permits and licenses;

- Ÿ difficulties and costs in staffing and managing foreign operations as well as cultural differences;
- Ÿ potentially adverse tax consequences associated with our permanent establishment of operations in more countries;
- Ÿ relatively uncertain legal systems, including potentially limited protection for intellectual property rights, and laws, changes in the governmental incentives we rely on, regulations and policies which impose additional restrictions on the ability of foreign companies to conduct business in certain countries or otherwise place them at a competitive disadvantage in relation to domestic companies;
- Ÿ repatriation of non-U.S. earnings taxed at rates lower than the U.S. statutory effective tax rate;
- Ÿ inadequate local infrastructure and developing telecommunications infrastructures;
- Ÿ financial risks, such as longer sales and payment cycles and greater difficulty collecting accounts receivable;
- Ÿ currency fluctuations and government-fixed foreign exchange rates and the effects of currency hedging activity or inability to hedge currency fluctuations;
- Ÿ political and economic instability, including wars, acts of terrorism, political unrest, boycotts, curtailments of trade and other business restrictions;
- Ÿ trade barriers such as export requirements, tariffs, taxes and other restrictions and expenses, which could increase the prices of our products and make us less competitive in some countries; and
- Ÿ liabilities associated with compliance with laws (for example, the Foreign Corrupt Practices Act and similar laws outside of the United States).

In addition, we need to manage our international operations with an efficient and scalable organization. If we are unable to effectively manage our international inventory and warehouses, for example, our shipping movements may not map with product demand and flow. If we are unable to successfully manage any such risks, any one or more could materially and negatively affect our business, financial condition and results of operations.

If we are not successful in adding additional production lines, or we experience interruptions in the operation of our solar cell production lines, our revenue and results of operations may be materially and adversely affected.

If our current or future solar cell or module production lines were to experience any problems or downtime, we would be unable to meet our production targets and our business would suffer. Our manufacturing activities have required and will continue to require significant management attention, a significant investment of capital and substantial engineering expenditures.

Under a joint venture agreement, we and AU Optronics Corporation ("AUO") jointly own and manage a joint venture that has constructed a manufacturing facility in Malaysia. The success of our joint venture is subject to significant risks including:

- Ÿ cost overruns, delays, supply shortages, equipment problems and other operating difficulties;
- Ÿ custom-built equipment may take longer and cost more to engineer than planned and may never operate as designed;
- Ÿ incorporating first-time equipment designs and technology improvements, which we expect to lower unit capital and operating costs, but this new technology may not be successful;
- Ÿ problems managing the joint venture with AUO, whom we do not control and whose business objectives may be different from ours and may be inconsistent with our best interests;
- Ÿ the joint venture's ability to obtain third party financing to fund its capital requirements;
- Ÿ difficulties in maintaining or improving our historical yields and manufacturing efficiencies;

- Ÿ difficulties in protecting our intellectual property and obtaining rights to intellectual property developed by the joint venture;
- Ÿ difficulties in hiring key technical, management, and other personnel;
- Ÿ difficulties in integration, implementing IT infrastructure and an effective control environment; and
- Ÿ potential inability to obtain, or obtain in a timely manner, financing, or approvals from governmental authorities for operations.

If we experience any of these or similar difficulties, we may be unable to complete the addition of new production lines on schedule at our joint venture, and our supply from the joint venture may be delayed or be more costly than expected, substantially constraining our supply of solar cells. If we are unable to utilize our manufacturing capacity at the joint venture as planned, or we experience interruptions in the operation of our existing production lines, our per-unit manufacturing costs would increase, we would be unable to increase sales or gross margins as planned, we may need to increase our supply of third party cells, and our results of operations would likely be materially and adversely affected.

If we do not achieve satisfactory yields or quality in manufacturing our solar products, our sales could decrease and our relationships with our customers and our reputation may be harmed.

The manufacture of solar cells is a highly complex process. Minor deviations in the manufacturing process can cause substantial decreases in yield and in some cases, cause production to be suspended or yield no output. We have from time to time experienced lower than anticipated manufacturing yields. As we expand our manufacturing capacity and bring additional lines or facilities into production, we may initially experience lower yields. If we do not achieve planned yields, our product costs could increase, and product availability would decrease resulting in lower revenues than expected. In addition, in the process of transforming polysilicon into ingots, a significant portion of the polysilicon is removed in the process. In circumstances where we provide the polysilicon, if our suppliers do not have very strong controls in place to ensure maximum recovery and utilization, our economic yield can be less than anticipated, which would increase the cost of raw materials to us.

Additionally, products as complex as ours may contain undetected errors or defects, especially when first introduced. For example, our solar cells or solar panels may contain defects that are not detected until after they are shipped or are installed because we cannot test for all possible scenarios. These defects could cause us to incur significant warranty, non-warranty and re-engineering costs, divert the attention of our engineering personnel from product development efforts and significantly affect our customer relations and business reputation. If we deliver solar products with errors or defects, including cells or panels of third-party manufacturers, or if there is a perception that such solar products contain errors or defects, our credibility and the market acceptance and sales of our products could be harmed. In addition, some of our arrangements with customers include termination or put rights for non-performance. In certain limited cases, we could incur liquidated damages or even be required to buy-back a customer's system at fair value on specified future dates if certain minimum performance thresholds are not met.

A change in our estimated fair market value of financed and installed systems or a change in our anticipated 1603 Treasury cash grant proceeds could adversely impact our business, revenues, margins, and results of operations.

The accounting for certain projects and programs in our business require assumptions regarding certain U.S. tax incentives, primarily, the Treasury Grant under Section 1603 of the American Recovery and Reinvestment Act (the "Cash Grant") program, which is administered by the U.S. Treasury Department ("Treasury") and provides Cash Grant payments in lieu of the §48(c) solar commercial investment tax credit to qualified applicants in an amount equal to 30% of the eligible cost basis for the qualifying solar energy property. We have applied or will apply for the Cash Grant for certain of our qualifying projects and residential leases that were under development in 2011. Additionally, in certain circumstances and under our residential lease program, we indemnify certain third parties for their receipt or the valuation of the Cash Grant. We have structured the Cash Grant applications, both in timing and amount, to be in accordance with the guidance provided by Treasury. Any changes to the Treasury guidance which we relied upon in structuring our projects, failure to comply with the requirements, or changes in assumptions including the estimated residual values and the estimated fair market value of financed and installed systems for the purposes of Cash Grant application could materially and adversely impact our business and results of operations. Additionally, if the amount or timing of the Cash Grant payments received varies from what we have projected, this will impact our revenues and margins and we may have to recognize losses, which will adversely impact our results of operations.

We obtain certain of our capital equipment used in our manufacturing process from sole suppliers and if this equipment is

damaged or otherwise unavailable, our ability to deliver products on time will suffer, which in turn could result in order cancellations and loss of revenue.

Some of the capital equipment used in the manufacture of our solar power products has been developed and made specifically for us, is not readily available from multiple vendors and would be difficult to repair or replace if it were to become damaged or stop working. If any of these suppliers were to experience financial difficulties or go out of business, or if there were any damage to or a breakdown of our manufacturing equipment, our business would suffer. In addition, a supplier's failure to supply this equipment in a timely manner, with adequate quality and on terms acceptable to us, could delay our capacity expansion or manufacturing process improvements and otherwise disrupt our production schedule or increase our costs of production.

Project development or construction activities may not be successful, which could increase our costs and impair our ability to recover our investments.

The development and construction of solar power electric generation facilities and other energy infrastructure projects involve numerous risks. We may be required to spend significant sums for preliminary engineering, permitting, legal, and other expenses before we can determine whether a project is feasible, economically attractive or capable of being built. Successful completion of a particular project may be adversely affected by numerous factors, including:

- Ÿ failures or delays in obtaining desired or necessary land rights, including ownership, leases and/or easements;
- Ÿ failures or delays in obtaining necessary permits, licenses or other governmental support or approvals, or in overcoming objections from members of the public or adjoining land owners;
- Ÿ uncertainties relating to land costs for projects;
- Ÿ unforeseen engineering problems;
- Ÿ access to available transmission for electricity generated by our solar power plants;
- Ÿ construction delays and contractor performance shortfalls;
- Ÿ work stoppages or labor disruptions;
- Ÿ cost over-runs;
- Ÿ availability of products and components from suppliers;
- Ÿ adverse weather conditions;
- Ÿ environmental, archaeological and geological conditions; and
- Ÿ availability of construction and permanent financing.

If we are unable to complete the development of a solar power plant, or fail to meet one or more agreed target construction milestone dates, we may be subject to liquidated damages and/or penalties under the EPC agreement or other agreements relating to the power plant, and we typically will not be able to recover our investment in the project. We expect to invest a significant amount of capital to develop projects initially owned by us or ultimately owned by third parties. If we are unable to complete the development of a solar power project, we may write-down or write-off some or all of these capitalized investments, which would have an adverse impact on our net income in the period in which the loss is recognized.

We depend on third-party contract manufacturers to assemble a significant portion of our solar cells into solar panels and any failure to obtain sufficient assembly and test capacity could significantly delay our ability to ship our solar panels and damage our customer relationships.

The majority of our solar panel assembly functions have historically been conducted by third-party contract manufacturers in China, Poland and Mexico. In 2011, we began module operations with a contract manufacturer in the United States, and opened our own module operations in Mexico. As a result of outsourcing a significant portion of this final step in our production, we face several significant risks, including limited control over assembly and testing capacity, delivery

schedules, quality assurance, manufacturing yields and production costs. If the operations of our third-party contract manufacturers were disrupted or their financial stability impaired, or if they were unable or unwilling to devote capacity to our solar panels in a timely manner, our business could suffer as we might be unable to produce finished solar panels on a timely basis. We also risk customer delays resulting from an inability to move module production to an alternate provider or to complete production internationally, and it may not be possible to obtain sufficient capacity or comparable production costs at another facility in a timely manner. In addition, migrating our design methodology to a new third-party contract manufacturer or to a captive panel assembly facility could involve increased costs, resources and development time, and utilizing additional third-party contract manufacturers could expose us to further risk of losing control over our intellectual property and the quality of our solar panels. Any reduction in the supply of solar panels could impair our revenue by significantly delaying our ability to ship products and potentially damage our relationships with new and existing customers, any of which could have a material and adverse effect on our financial condition and results of operation.

We act as the general contractor for many of our customers in connection with the installations of our solar power systems and are subject to risks associated with construction, cost overruns, delays and other contingencies tied to performance bonds and letters of credit, or other required credit and liquidity support guarantees, which could have a material adverse effect on our business and results of operations.

We act as the general contractor for many of our customers in connection with the installation of our solar power systems. Some customers require performance bonds issued by a bonding agency or letters of credit issued by financial institutions, or may require other forms of liquidity support. Due to the general performance risk inherent in construction activities, it has become increasingly difficult recently to attain suitable bonding agencies willing to provide performance bonding. Obtaining letters of credit may require collateral. In the event we are unable to obtain bonding or sufficient letters of credit or other liquidity support, we will be unable to bid on, or enter into, sales contracts requiring such bonding. See also "*Risks Related to Our Sales Channels--Almost all of our engineering, procurement and construction ("EPC") contracts are fixed price contracts which may be insufficient to cover unanticipated or dramatic changes in costs over the life of the project.*"

In addition, the contracts with some of our larger customers require that we would be obligated to pay substantial penalty payments for each day or other period a solar installation for any such customer is not completed beyond an agreed target date, up to and including the return of the entire project sale price. This is particularly true in Europe, where long-term, fixed feed-in tariffs available to investors are typically set during a prescribed period of project completion, but the fixed amount declines over time for projects completed in subsequent periods. We face material financial penalties in the event we fail to meet the completion deadlines, including but not limited a full refund of the contract price paid by the customers. In certain cases we do not control all of the events which could give rise to these penalties, such as reliance on the local utility to timely complete electrical substation construction.

Furthermore, investors often require that the solar power system generate specified levels of electricity in order to maintain their investment returns, allocating substantial risk and financial penalties to us if those levels are not achieved, up to and including the return of the entire project sale price. Also, our customers often require protections in the form of conditional payments, payment retentions or holdbacks, and similar arrangements that condition its future payments on performance. Delays in solar panel or other supply shipments, other construction delays, unexpected performance problems in electricity generation or other events could cause us to fail to meet these performance criteria, resulting in unanticipated and severe revenue and earnings losses and financial penalties. Construction delays are often caused by inclement weather, failure to timely receive necessary approvals and permits, or delays in obtaining necessary solar panels, inverters or other materials. Additionally, we sometimes purchase land in connection with project development and assume the risk of project completion. All such risks could have a material adverse effect on our business and results of operations.

Acquisitions of other companies or investments in joint ventures with other companies could materially and adversely affect our financial condition and results of operations, and dilute our stockholders' equity.

To increase our business and maintain our competitive position, we may acquire other companies or engage in joint ventures in the future. For example, in March 2010, we completed our acquisition of SunRay, in July 2010, we formed a joint venture with AUO to jointly own and operate our third solar cell manufacturing factory located in Malaysia, and in January 2012, we acquired Tenesol. See also *"If we are not successful in adding additional production lines, or we experience interruptions in the operation of our solar cell production lines, our revenue and results of operations may be materially and adversely affected."*

Acquisitions and joint ventures involve a number of risks that could harm our business and result in the acquired business or joint venture not performing as expected, including:

- Ÿ insufficient experience with technologies and markets in which the acquired business or joint venture is involved, which may be necessary to successfully operate and/or integrate the business or the joint venture;
- Ÿ problems integrating the acquired operations, personnel, IT infrastructure, technologies or products with the existing business and products;
- Ÿ diversion of management time and attention from the core business to the acquired business or joint venture;
- Ÿ potential failure to retain or hire key technical, management, sales and other personnel of the acquired business or joint venture;
- Ÿ difficulties in retaining or building relationships with suppliers and customers of the acquired business or joint venture, particularly where such customers or suppliers compete with us;
- Ÿ potential failure of the due diligence processes to identify significant issues with product quality and development or legal and financial liabilities, among other things;
- Ÿ potential inability to obtain, or obtain in a timely manner, approvals from governmental authorities or work councils, which could delay or prevent acquisitions, delay our ability to achieve synergies, or our successful operation of acquired companies or joint ventures;
- Ÿ potential necessity to re-apply for permits of acquired projects;
- Ÿ problems managing joint ventures with our partners, meeting capital requirements for expansion, and reliance upon joint ventures which we do not control; for example, our ability to effectively manage our joint venture with AUO;
- Ÿ subsequent impairment of the acquired assets, including intangible assets; and
- Ÿ assumption of liabilities including, but not limited to, lawsuits, tax examinations, warranty issues, and liabilities associated with compliance with laws (for example, the Foreign Corrupt Practices Act).

Additionally, we may decide that it is in our best interests to enter into acquisitions or joint ventures that are dilutive to earnings per share or that negatively impact margins as a whole. In an effort to reduce our cost of goods sold, we have and may continue to enter into acquisitions or joint ventures involving suppliers or manufacturing partners, which would expose us to additional supply chain risks. Acquisitions or joint ventures could also require investment of significant financial resources and require us to obtain additional equity financing, which may dilute our stockholders' equity, or require us to incur additional indebtedness. Such equity or debt financing may not be available on terms acceptable to us. For example, we, along with AUO, have committed to equally fund the AUO SunPower Sdn. Bhd. joint venture a combined $482 million through 2014, and an additional $50 million if requested. In addition, we could in the future make additional investments in our joint ventures or guarantee certain financial obligations of our joint ventures, which could reduce our cash flows, increase our indebtedness and expose us to the credit risk of our joint ventures.

To the extent that we invest in upstream suppliers or downstream channel capabilities, we may experience competition or channel conflict with certain of our existing and potential suppliers and customers. Specifically, existing and potential suppliers and customers may perceive that we are competing directly with them by virtue of such investments and may decide to reduce or eliminate their supply volume to us or order volume from us. In particular, any supply reductions from our polysilicon, ingot or wafer suppliers could materially reduce manufacturing volume.

As a result of fluctuations in the demand for our products, our goodwill, intangible assets, tangible project assets, and other long-lived assets may be impaired, or we may write off equipment or inventory, and each of these events would adversely affect our future financial results.

We have tangible project assets on our Consolidated Balance Sheets related to capitalized costs incurred in connection with the development of solar power systems. Project assets consist primarily of capitalized costs relating to solar power system projects in various stages of development that we incur prior to the sale of the solar power system to a third party. These costs include costs for land and costs for developing and constructing a solar power system. These project assets could become impaired if there are changes in the fair value of these capitalized costs. If these project assets become impaired, we may write-off some or all of the capitalized project assets, which would have an adverse impact on our financial results in the period in which the loss is recognized.

We have significant goodwill and intangible assets on our Consolidated Balance Sheets. We conduct our annual review of the valuation of goodwill as of the Sunday closest to the end of the third fiscal quarter of each year, or whenever events or changes in circumstances indicate that the carrying value of such assets may not be recoverable. Triggering events for an impairment review may include indicators such as the availability, reduction, modification or elimination of government and economic incentives, adverse industry or economic trends, lower than projected operating results or cash flows, or a sustained decline in our stock price or market capitalization. During the three months ended October 2, 2011, we recorded a goodwill impairment loss of $309.5 million. The evaluation of the fair value of goodwill involves valuation techniques which require significant management judgment. Should conditions be different from management's last impairment assessment, write-downs of goodwill may be required, which would result in a non-cash charge to earnings and lower stockholders' equity.

In addition, if the demand for our solar products decreases, our manufacturing capacity could be underutilized, and we may be required to record an impairment on our long-lived assets, including facilities and equipment, which would increase our expenses. In improving our manufacturing processes consistent with our cost reduction roadmap, we could write off equipment that is removed from the manufacturing process. In addition, if product demand decreases or we fail to forecast demand accurately, we could be required to write off inventory or record excess capacity charges, which would have a negative impact on our gross margin. Factory-planning decisions may shorten the useful lives of long-lived assets, including facilities and equipment, and cause us to accelerate depreciation. Each of the above events would adversely affect our future financial results.

Fluctuations in Solar Renewable Energy Credits spot prices may adversely impact our results of operations.

We acquire Solar Renewable Energy Credits (SRECs) in the ordinary course of business in New Jersey, which are credits generated and then sold to local utilities to help them meet renewable energy portfolio requirements in New Jersey. In order to facilitate sales, we have agreed in certain cases to purchase all SRECs generated by a solar system we install for a specified period at specified pricing. We then sell such credits to utilities or other third parties at specified pricing or we will sell the SRECs on the spot market. The SREC spot market prices have decreased significantly in recent months as supply of SRECs have increased, and the decline has exposed us to economic losses for SRECs we expect to purchase in excess of our selling commitments. If SREC prices continue to fluctuate or remain lower than our purchase commitment prices, we may have to recognize losses, which will adversely impact our results of operations.

A change in our anticipated foreign exchange transactions could affect the accounting of our foreign currency hedging program and adversely impact our revenues, margins, and results of operations.

Our hedging program is designed to reduce our exposure to movements in foreign currency exchange rates. As a part of this program, we designate certain derivative transactions as effective cash flow hedges of anticipated foreign currency revenues and record the effective portion of changes in the fair value of such transactions in "Accumulated other comprehensive income (loss)" in our Consolidated Balance Sheets until the anticipated revenues have occurred, at which point the associated income or loss would be recognized in revenue. In fiscal 2011, we reclassified amounts held in "Accumulated other comprehensive income" to "Other, net" in our Consolidated Statement of Operations for certain previously anticipated transactions which did not occur or were now probable not to occur, which totaled a loss of $1.6 million. If we conclude that we have a pattern of determining that hedged forecasted transactions will not occur, we may no longer be able to continue to use hedge accounting in the future to reduce our exposure to movements in foreign exchange rates. Such a conclusion and change in our foreign currency hedge program could adversely impact our revenue, margins and results of operations.

Fluctuations in foreign currency exchange rates and interest rates could adversely impact our business and results of operations.

We have significant sales globally, and we are exposed to movements in foreign exchange rates, primarily related to sales to European customers that are denominated in Euros. A depreciation of the Euro would adversely impact our margins on sales to European customers. When foreign currencies appreciate against the U.S. dollar, inventories and expenses denominated in foreign currencies become more expensive. An increase in the value of the U.S. dollar relative to foreign currencies could make our solar power products more expensive for international customers, thus potentially leading to a reduction in demand, our sales and profitability. As a result, substantial unfavorable changes in foreign currency exchange rates could have a substantial adverse effect on our financial condition and results of operations. Although we seek to reduce our currency exposure by engaging in hedging transactions where we deem it appropriate, we do not know whether our efforts will be successful. Because we hedge some of our expected future foreign exchange exposure, if associated revenues do not materialize, we could experience losses. In the past, we have experienced an adverse impact on our revenue, gross margin, cash position and profitability as a result of foreign currency fluctuations. In addition, any break-up of the Eurozone would disrupt our sales and supply chain, expose us to financial counterparty risk, and materially and adversely affect our results of

operations and financial condition.

We are exposed to interest rate risk because many of our customers depend on debt financing to purchase our solar power systems. An increase in interest rates could make it difficult for our customers to obtain the financing necessary to purchase our solar power systems on favorable terms, or at all, and thus lower demand for our solar power products, reduce revenue and adversely impact our operating results. An increase in interest rates could lower a customer's return on investment in a system or make alternative investments more attractive relative to solar power systems, which, in each case, could cause our customers to seek alternative investments that promise higher returns or demand higher returns from our solar power systems, which could reduce our revenue and gross margin and adversely impact our operating results. Our interest expense would increase to the extent interest rates rise in connection with our variable interest rate borrowings. In addition, lower interest rates have an adverse impact on our interest income. See also Item 7A "*Quantitative and Qualitative Disclosures About Market Risk*" and "*Risks Related to Our Sales Channels-The execution of our growth strategy is dependent upon the continued availability of third-party financing arrangements for our solar power plants and our customers, and is affected by general economic conditions*."

We are exposed to the credit risk of our financial counterparties, customers and suppliers.

We have certain financial and derivative instruments that subject us to credit risk. These consist primarily of cash and cash equivalents, restricted cash and cash equivalents, investments, accounts receivable, note receivable, advances to suppliers, foreign currency option contracts, foreign currency forward contracts, bond hedge and warrant transactions, purchased options and share lending arrangements for our common stock. We are exposed to losses in the event of nonperformance by the counterparties to our financial and derivative instruments. For example, in connection with the bankruptcy of Lehman, the fair value of the 2.9 million shares of our common stock loaned and unreturned by an affiliate of Lehman at the time of the bankruptcy was $213.4 million, which was reflected in the third quarter of fiscal 2008 as a loss on our statement of operations.

We enter into agreements with suppliers that specify future quantities and pricing of polysilicon to be supplied for periods up to 10 years. Under certain agreements, we are required to make significant prepayments to the vendors over the terms of the arrangements. We may be unable to recover such prepayments if the credit conditions of these suppliers materially deteriorate. In addition, we may not be able to collect from our customers in the event of the deterioration of their credit or if they enter into bankruptcy. Any of the preceding could materially and adversely impact our financial conditions, results of operations and liquidity. See also Item 7A "*Quantitative and Qualitative Disclosures About Market Risk*."

While we believe we currently have effective internal control over financial reporting, we may identify a material weakness in our internal controls over financial reporting that could cause investors to lose confidence in the reliability of our financial statements and result in a decrease in the value of our common stock.

Our management is responsible for maintaining internal control over financial reporting designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of consolidated financial statements for external purposes in accordance with U.S. GAAP. While the Company had material weaknesses in fiscal 2009, management remediated these material weaknesses, and concluded that as of January 2, 2011 and January 1, 2012, our internal control over financial reporting and our disclosure controls and procedures were effective.

We need to continuously maintain our internal control processes and systems and adapt them as our business grows and changes. This process is expensive, time-consuming and requires significant management attention. We cannot be certain that our internal control measures will continue to provide adequate control over our financial processes and reporting and ensure compliance with Section 404 of the Sarbanes-Oxley Act. Furthermore, as we grow our business or acquire other businesses, our internal controls may become more complex and we may require significantly more resources to ensure they remain effective. Failure to implement required new or improved controls, or difficulties encountered in their implementation, either in our existing business or in businesses that we may acquire, could harm our operating results or cause us to fail to meet our reporting obligations. If we or our independent registered public accounting firm identify material weaknesses in our internal controls, the disclosure of that fact, even if quickly remedied, may cause investors to lose confidence in our financial statements and the trading price of our common stock may decline.

Remediation of a material weakness could require us to incur significant expense and if we fail to remedy any material weakness, our financial statements may be inaccurate, our ability to report our financial results on a timely and accurate basis may be adversely affected, our access to the capital markets may be restricted, the trading price of our common stock may decline, and we may be subject to sanctions or investigation by regulatory authorities, including the SEC or The Nasdaq Global Select Market. We may also be required to restate our financial statements from prior periods.

We and certain of our current and former officers and directors have been named as parties to various lawsuits relating to our past Audit Committee accounting investigation, and may be named in further litigation, including with respect to the restatement of our consolidated financial statements, all of which could require significant management time and attention, result in significant legal expenses or damages, and cause our business, financial condition, results of operations and cash flows to suffer.

Three securities class action lawsuits were filed against our Company and certain of our current and former officers in the United States District Court for the Northern District of California on behalf of a class consisting of those who acquired our securities from April 17, 2008, through November 16, 2009. The actions arise from our announcement on November 16, 2009, that our Audit Committee commenced an internal investigation regarding certain unsubstantiated accounting entries. The complaints allege that the defendants made material misstatements and omissions concerning our financial results for 2008 and 2009, seek an unspecified amount of damages, and allege violations of sections 10(b) and 20(a) of the Securities Exchange Act of 1934, and sections 11 and 15 of the Securities Act of 1933. These cases were consolidated as In re SunPower Securities Litigation, Case No. CV-09-5473-RS (N.D. Cal.), and an amended complaint was filed on April 18, 2011. The amended complaint added two former employees as defendants. Defendants moved to dismiss the amended complaint, and on December 19, 2011, the court dismissed the claims brought pursuant to sections 11 and 15 of the Securities Act of 1933 and the claims brought against the two newly added former employees. In addition, derivative actions purporting to be brought on our behalf have also been filed in state and federal courts against several of our current and former officers and directors based on the same events alleged in the securities class action lawsuits described above. The California state derivative complaints assert state-law claims for breach of fiduciary duty, abuse of control, unjust enrichment, gross mismanagement, and waste of corporate assets. The federal derivative complaints assert state-law claims for breach of fiduciary duty, waste of corporate assets, and unjust enrichment. The Delaware state derivative complaint asserts state-law claims for breach of fiduciary duty and contribution and indemnification. The complaints seek an unspecified amount of damages.

We cannot predict the outcome of these lawsuits. The matters which led to our Audit Committee's investigation and the restatement of our consolidated financial statements have exposed us to greater risks associated with litigation, regulatory proceedings and government enforcement actions. We and our current and former officers and directors may, in the future, be subject to additional private and governmental actions relating to such matters. Subject to certain limitations, we are obligated to indemnify our current and former officers and directors in connection with such lawsuits and governmental investigations and any related litigation or settlements amounts. Regardless of the outcome, these lawsuits, and any other litigation that may be brought against us or our current or former officers and directors, could be time-consuming, result in significant expense and divert the attention and resources of our management and other key employees. An unfavorable outcome in any of these matters could exceed coverage provided under potentially applicable insurance policies, which is limited. Any such unfavorable outcome could have a material adverse effect on our business, financial condition, results of operations and cash flows. Further, we could be required to pay damages or additional penalties or have other remedies imposed against us, or our current or former directors or officers, which could harm our reputation, business, financial condition, results of operations or cash flows. In addition, our Company is largely self insured for these claims so that expenses, settlements or damages in excess of $5 million in these actions will not be recoverable under the primary coverage insurance policies. Moreover, such policies are subject to several terms, conditions and exclusions. See also *"Risks Related to Our Liquidity - Because we self-insure for certain indemnities we have made to our officers and directors, potential claims could materially and negatively impact our financial condition and results of operations."*

We may not fully realize the anticipated benefits of our relationship with Total.

We and Total S.A., parent of Total Gas & Power USA SAS ("Total"), have entered into a Credit Support Agreement under which Total S.A. has agreed to enter into one or more guarantee agreements with banks providing letter of credit facilities to us in support of certain of our businesses and other permitted purposes. Total S.A. will guarantee the payment to the applicable issuing bank of our obligation to reimburse a draw on a letter of credit and pay interest thereon in accordance with the letter of credit facility between such bank and us. In consideration for the commitments of Total S.A., we are required to pay Total S.A. a guarantee fee for each letter of credit that is the subject of a guaranty, starting at 1% and increasing to 2.35% in the fifth year following the completion of the tender offer. We entered into a letter of credit facility agreement with Deutsche Bank AG New York Branch in August 2011 supported by a Total S.A. guarantee. We have also entered into the Liquidity Support Facility, under which Total S.A. has agreed to provide up to $600 million of liquidity support in the event that our then-current or projected unrestricted cash, cash equivalents and unused borrowing capacity is reduced below $100 million or we are not in compliance with any financial covenant contained in our indebtedness.

We and Total have also entered into a Research & Collaboration Agreement that establishes a framework under which we engage in long-term research and development collaboration with Total. The Research & Collaboration Agreement is expected to encompass a number of different projects, with a focus on advancing technologies in the area of photovoltaics.

We may not realize the expected benefits of these agreements in a timely manner, or at all. The Credit Support Agreement can provide guarantees to our letter of credit facility, but not our other indebtedness. As the guarantee fee goes up over time, it may not be price competitive for us to continue to utilize the guarantee under the Credit Support Agreement and we may choose not to do so, which may cause our lenders to seek cash collateral. If the credit quality of Total S.A. were to deteriorate, then the guarantees would not be as beneficial to our lenders, which could reduce their willingness to lend to us and raise our costs of borrowing. We could incur additional expenses related to the Credit Support Agreement, especially relating to the guarantee fee. The Liquidity Support Facility may provide comfort to lenders, customers, suppliers and other business partners and protect us against defaults, but compensation to Total S.A. and its affiliates, and potential dilution to our other stockholders (through the issuance of equity, warrants, and convertible debt securities to Total S.A. and its affiliates) will increase to the extent that the amount of support provided by Total S.A. increases. The amount of support Total S.A. must provide under the Liquidity Support Facility is limited to $600 million. Finally, the facility will no longer be available, and all outstanding debt under the Liquidity Support Facility will become due, upon the completion of CVSR, which we expect to occur before the end of fiscal 2014. For additional details, see Item 9B of this Annual Report.

We may have difficulties in fully leveraging the research and development efforts of Total while protecting our intellectual property rights and our long term strategic interests. Further, the collaboration envisioned by the parties from the Research & Collaboration Agreement could be subject to governmental controls that could limit the full set of benefits

In addition, we are a U.S.-based, high growth, technology and alternative energy company, while Total S.A. is a more mature and much larger French diversified energy company. The resulting differences in our organizational cultures may prevent us from fully realizing the anticipated benefits from our relationship. If we have a potential conflict with Total, the resolution may be less favorable to us than if we were dealing with an unaffiliated party. Such disagreements may relate to any determination with respect to mergers and other business combinations, our acquisition or disposition of assets, our financing activities, allocation of business opportunities, employee retention or recruiting.

Total's ownership of our common stock may adversely affect our relationship with our customers, suppliers, lenders and partners, and adversely affect our ability to attract and retain key employees.

Total's majority ownership of our common stock may cause customers, suppliers, lenders, and partners to seek to change existing or future agreements with us. Any delay or reevaluation of their decisions or changes in existing agreements could materially impact our business. Similarly, current and prospective employees may experience uncertainty about their future roles with our company, or react negatively to the differences in our organizational cultures.

Our agreements with Cypress Semiconductor Corporation ("Cypress") require us to indemnify Cypress for certain tax liabilities. These indemnification obligations and related contractual restrictions may limit our ability to pursue certain business initiatives.

On October 6, 2005, while a subsidiary of Cypress, our former parent company, we entered into a tax sharing agreement with Cypress providing for each party's obligations concerning various tax liabilities. The tax sharing agreement is structured such that Cypress would pay all federal, state, local and foreign taxes that are calculated on a consolidated or combined basis while we were a member of Cypress's consolidated or combined group for federal, state, local and foreign tax purposes. Our portion of tax liabilities or benefits was determined based upon our separate return tax liability as defined under the tax sharing agreement. These tax liabilities or benefits were based on a pro forma calculation as if we were filing a separate income tax return in each jurisdiction, rather than on a combined or consolidated basis, subject to adjustments as set forth in the tax sharing agreement.

On June 6, 2006, we ceased to be a member of Cypress's consolidated group for federal income tax purposes and certain state income tax purposes. On September 29, 2008, we ceased to be a member of Cypress's combined group for all state income tax purposes. To the extent that we become entitled to utilize our separate portion of any tax credit or loss carryforwards existing as of such date, we will distribute to Cypress the tax effect, estimated to be 40% for federal and state income tax purposes, of the amount of such tax loss carryforwards so utilized, and the amount of any credit carryforwards so utilized. We will distribute these amounts to Cypress in cash or in our shares, at Cypress's option. As of January 1, 2012, we have a potential future liability of approximately $2.2 million that may be due under this arrangement. In fiscal 2011 and 2010, we paid zero and $0.7 million, respectively, in cash to Cypress, all of which represents the state component.

We were jointly and severally liable for any tax liability during all periods in which we were deemed to be a member of the Cypress consolidated or combined group. Accordingly, although the tax sharing agreement allocates tax liabilities between Cypress and all its consolidated subsidiaries, for any period in which we were included in Cypress's consolidated or combined

group, we could be liable in the event that any federal or state tax liability was incurred, but not discharged, by any other member of the group.

We will continue to be jointly and severally liable to Cypress until the statute of limitations runs or all appeal options are exercised for all years in which we joined in the filing of tax returns with Cypress. If Cypress experiences adjustments to their tax liability pursuant to tax examinations, we may incur an incremental liability.

In January 2010, Cypress was notified by the IRS that it intends to examine Cypress's corporate income tax filings for the tax years ended in 2006, 2007, and 2008. SunPower was included as part of Cypress's federal consolidated group in 2006 and part of 2007.

As of January 1, 2012, Cypress notified us that the IRS has completed its examination and there are no material adjustments upon completion of their review. While years prior to fiscal 2006 for Cypress's U.S. corporate tax return are not open for assessment, the IRS can adjust net operating loss and research and development carryovers that were generated in prior years and carried forward to fiscal 2006 and subsequent years. If the IRS sustains tax assessments against Cypress, we may be obligated to indemnify Cypress under the terms of the tax sharing agreement.

We would also be liable to Cypress for taxes that might arise from the distribution by Cypress of our former class B common stock to Cypress's stockholders on September 29, 2008, or "spin-off". In connection with Cypress's spin-off of our former class B common stock, we and Cypress, on August 12, 2008, entered into an amendment to our tax sharing agreement (“Amended Tax Sharing Agreement”) to address certain transactions that may affect the tax treatment of the spin-off and certain other matters.

Subject to certain caveats, Cypress obtained a ruling from the IRS to the effect that the distribution by Cypress of our former class B common stock to Cypress's stockholders qualified as a tax-free distribution under Section 355 of the Internal Revenue Code (“Code”). Despite such ruling, the distribution may nonetheless be taxable to Cypress under Section 355(e) of the Code if 50% or more of the voting power or value of our stock was or is later acquired as part of a plan or series of related transactions that included the distribution of our stock. The Amended Tax Sharing Agreement requires us to indemnify Cypress for any liability incurred as a result of issuances or dispositions of our stock after the distribution, other than liability attributable to certain dispositions of our stock by Cypress, that cause Cypress's distribution of shares of our stock to its stockholders to be taxable to Cypress under Section 355(e) of the Code.

Under the Amended Tax Sharing Agreement, we also agreed that, until October 29, 2010, we would not effect a conversion of any or all of our former class B common stock to former class A common stock or any similar recapitalization transaction or series of related transactions (a “Recapitalization”). On November 16, 2011, we reclassified our former class A common stock and class B common stock into a single class of common stock. In the event this reclassification does result in the spin-off being treated as taxable, we could face substantial liabilities as a result of our obligations under the Amended Tax Sharing Agreement.

Any future agreements with Total SA regarding tax indemnification and certain tax liabilities may adversely impact our financial position.

We currently believe that we will not join in tax filings on a consolidated, combined or unitary basis with Total SA. Accordingly, no tax sharing arrangement is currently in place. If we and Total join in a tax filing in the future, a tax sharing agreement will be required, which would allocate the tax liabilities among the parties and may adversely impact our financial position.

Our headquarters and manufacturing facilities, as well as the facilities of certain subcontractors and suppliers, are located in regions that are subject to earthquakes, floods, and other natural disasters, and climate change and climate change regulation could have an adverse effect on our operations.

Our headquarters and research and development operations are located in California, and our manufacturing facilities are located in the Philippines, France and Mexico. The facilities of our joint venture for manufacturing and subcontractors for assembly and test of solar panels are located globally, including in Malaysia, China, Poland, South Africa, and Mexico. Any significant earthquake, tsunami or other natural disaster in these countries or countries where our suppliers are located could materially disrupt our management operations and/or our production capabilities, and could result in our experiencing a significant delay in delivery, or substantial shortage, of our products and services.

In addition, legislators, regulators, and non-governmental organizations, as well as companies in many business sectors,

are considering ways to reduce green-house gas emissions. Further regulation could be forthcoming at the federal or state level with respect to green-house gas emissions. Such regulation or similar regulations in other countries could result in regulatory or product standard requirements for our global business, including our manufacturing operations. Furthermore, the potential physical impacts of climate change on our operations may include changes in weather patterns (including floods, tsunamis, drought and rainfall levels), water availability, storm patterns and intensities, and temperature levels. These potential physical effects may adversely impact the cost, production, sales and financial performance of our operations.

We could be adversely affected by any violations of the U.S. Foreign Corrupt Practices Act ("FCPA") and foreign anti-bribery laws.

The U.S. FCPA generally prohibits companies and their intermediaries from making improper payments to non-U.S. government officials for the purpose of obtaining or retaining business. Other countries in which we operate also have anti-bribery laws, some of which prohibit improper payments to government and non-government persons and entities. Our policies mandate compliance with these anti-bribery laws. We continue to acquire businesses outside of the United States and operate in many parts of the world that have experienced governmental corruption to some degree and, in certain circumstances, strict compliance with anti-bribery laws may conflict with local customs and practices. In addition, due to the level of regulation in our industry, our entry into new jurisdictions through internal growth or acquisitions requires substantial government contact where norms can differ from U.S. standards. While we implement policies and procedures and conduct training designed to facilitate compliance with these anti-bribery laws, thereby mitigating the risk of violations of such laws, our employees, subcontractors and agents may take actions in violation of our policies and anti-bribery laws. Any such violation, even if prohibited by our policies, could subject us to criminal or civil penalties or other sanctions, which could have a material adverse effect on our business, financial condition, cash flows and reputation.

We sell our solar products to agencies of the U.S. government, and as a result, we are subject to a number of procurement rules and regulations, and our business could be adversely affected by an audit by the U.S. government if it were to identify errors or a failure to comply with regulations.

We have sold and continue to sell our solar power systems to various U.S. government agencies. In connection with these contracts, we must comply with and are affected by laws and regulations relating to the award, administration, and performance of U.S. government contracts, which may impose added costs on our business. We are expected to perform in compliance with a vast array of federal laws and regulations, including, without limitation, the Federal Acquisition Regulation, the Truth in Negotiations Act, the Federal False Claims Act, the Anti-Kickback Act of 1986, the Trade Agreements Act, the Buy American Act, the Procurement Integrity Act, and the Davis Bacon Act. A violation of specific laws and regulations, even if prohibited by our policies, could result in the imposition of fines and penalties, reductions of the value of our contracts, contract modifications or termination, or suspension or debarment from government contracting for a period of time.

In some instances, these laws and regulations impose terms or rights that are more favorable to the government than those typically available to commercial parties in negotiated transactions. For example, the U.S. government may terminate any of our government contracts either at its convenience or for default based on performance. A termination arising out of our default may expose us to liability and have a material adverse effect on our ability to compete for future contracts.

U.S. government agencies may audit and investigate government contractors. These agencies review a contractor's performance under its contracts, cost structure, and compliance with applicable laws, regulations, and standards. If an audit or investigation uncovers improper or illegal activities, we may be subject to civil or criminal penalties and administrative sanctions, including termination of contracts, forfeiture of profits, suspension of payments, fines, and suspension or prohibition from doing business with the U.S. government. In addition, we could suffer reputational harm if allegations of impropriety were made against us.

Compliance with environmental regulations can be expensive, and noncompliance with these regulations may result in adverse publicity and potentially significant monetary damages and fines.

We are required to comply with all foreign, U.S. federal, state and local laws and regulations regarding pollution control and protection of the environment. In addition, under some statutes and regulations, a government agency, or other parties, may seek recovery and response costs from operators of property where releases of hazardous substances have occurred or are ongoing, even if the operator was not responsible for such release or otherwise at fault. We use, generate and discharge toxic, volatile and otherwise hazardous chemicals and wastes in our research and development and manufacturing activities. Any failure by us to control the use of, or to restrict adequately the discharge of, hazardous substances could subject us to potentially significant monetary damages and fines or suspensions in our business operations. In addition, if more stringent laws and regulations are adopted in the future, the costs of compliance with these new laws and regulations could be substantial. To date

such laws and regulations have not had a significant impact on our operations, and we believe that we have all necessary permits to conduct operations as they are presently conducted. If we fail to comply with present or future environmental laws and regulations, however, we may be required to pay substantial fines, suspend production or cease operations.

In addition, new U.S. legislation includes disclosure requirements regarding the use of "conflict" minerals mined from the Democratic Republic of Congo and adjoining countries and procedures regarding a manufacturer's efforts to prevent the sourcing of such “conflict” minerals. The implementation of these requirements could affect the sourcing and availability of minerals used in the manufacture of solar products. As a result, there may only be a limited pool of suppliers who provide conflict free minerals, and we cannot be certain that we will be able to obtain products in sufficient quantities or at competitive prices. Also, since our supply chain is complex, we may face reputational challenges with our customers and other stakeholders if we are unable to sufficiently verify the origins for all minerals used in our products.

Our success depends on the continuing contributions of our key personnel.

We rely heavily on the services of our key executive officers and the loss of services of any principal member of our management team could adversely impact our operations. In addition, we anticipate that we will need to hire a number of highly skilled technical, manufacturing, sales, marketing, administrative and accounting personnel. The competition for qualified personnel is intense in our industry. We may not be successful in attracting and retaining sufficient numbers of qualified personnel to support our anticipated growth. We cannot guarantee that any employee will remain employed with us for any definite period of time since all of our employees, including our key executive officers, serve at-will and may terminate their employment at any time for any reason.

We may in the future be required to consolidate the assets, liabilities and financial results of certain of our existing or future joint ventures, which could have an adverse impact on our financial position, gross margin and operating results.

The Financial Accounting Standards Board has issued accounting guidance regarding variable interest entities ("VIEs") that affects our accounting treatment of our existing and future joint ventures. We have variable interests in First Philec Solar Corporation and our joint venture with AUO. To ascertain if we are required to consolidate these entities, we determine whether these entities are VIEs and if we are the primary beneficiary in accordance with the accounting guidance. Factors we consider in determining whether we are the VIE's primary beneficiary include the decision making authority of each partner, which partner manages the day-to-day operations of the joint venture and each partner's obligation to absorb losses or right to receive benefits from the joint venture in relation to that of the other partner. Changes in the financial accounting guidance, or changes in circumstances at each of these joint ventures, could lead us to determine that we have to consolidate the assets, liabilities and financial results of such joint ventures. This could have a material adverse impact on our financial position, gross margin and operating results. In addition, we may enter into future joint ventures or make other equity investments, which could have an adverse impact on us because of the financial accounting guidance regarding VIEs.

Risks Related to Our Intellectual Property

We are dependent on our intellectual property, and we may face intellectual property infringement claims that could be time-consuming and costly to defend and could result in the loss of significant rights.

From time to time, we, our respective customers, or third parties with whom we work may receive letters, including letters from various industry participants, alleging infringement of their patents. Although we are not currently aware of any parties pursuing or intending to pursue infringement claims against us, we cannot assure investors that we will not be subject to such claims in the future. Additionally, we are required by contract to indemnify some of our customers and our third-party intellectual property providers for certain costs and damages of patent infringement in circumstances where our products are a factor creating the customer's or these third-party providers' infringement liability. This practice may subject us to significant indemnification claims by our customers and our third-party providers. We cannot assure investors that indemnification claims will not be made or that these claims will not harm our business, operating results or financial condition. Intellectual property litigation is very expensive and time-consuming and could divert management's attention from our business and could have a material adverse effect on our business, operating results or financial condition. If there is a successful claim of infringement against us, our customers or our third-party intellectual property providers, we may be required to pay substantial damages to the party claiming infringement, stop selling products or using technology that contains the allegedly infringing intellectual property, or enter into royalty or license agreements that may not be available on acceptable terms, if at all. Parties making infringement claims may also be able to bring an action before the International Trade Commission that could result in an order stopping the importation into the United States of our solar products. Any of these judgments could materially damage our business. We may have to develop non-infringing technology, and our failure in doing so or in obtaining licenses to the proprietary rights on a timely basis could have a material adverse effect on our business.

We have filed, and may continue to file, claims against other parties for infringing our intellectual property that may be very costly and may not be resolved in our favor.

To protect our intellectual property rights and to maintain our competitive advantage, we have, and may continue to, file suits against parties who we believe infringe our intellectual property. Intellectual property litigation is expensive and time consuming and could divert management's attention from our business and could have a material adverse effect on our business, operating results or financial condition, and our enforcement efforts may not be successful. In addition, the validity of our patents may be challenged in such litigation. Our participation in intellectual property enforcement actions may negatively impact our financial results.

We rely substantially upon trade secret laws and contractual restrictions to protect our proprietary rights, and, if these rights are not sufficiently protected, our ability to compete and generate revenue could suffer.

We seek to protect our proprietary manufacturing processes, documentation and other written materials primarily under trade secret and copyright laws. We also typically require employees, consultants, and third parties such as our vendors and customers, with access to our proprietary information to execute confidentiality agreements. The steps taken by us to protect our proprietary information may not be adequate to prevent misappropriation of our technology. Our systems may be subject to intrusions, security breaches, or targeted theft of our trade secrets. In addition, our proprietary rights may not be adequately protected because:

- Ÿ people may not be deterred from misappropriating our technologies despite the existence of laws or contracts prohibiting it;
- Ÿ policing unauthorized use of our intellectual property may be difficult, expensive and time-consuming, the remedy obtained may be inadequate to restore protection of our intellectual property, and moreover, we may be unable to determine the extent of any unauthorized use;
- Ÿ the laws of other countries in which we market our solar products, such as some countries in the Asia/Pacific region, may offer little or no protection for our proprietary technologies; and
- Ÿ reports we file in connection with government-sponsored research contracts are generally available to the public and third parties may obtain some aspects of our sensitive confidential information.

Reverse engineering, unauthorized copying or other misappropriation of our proprietary technologies could enable third parties to benefit from our technologies without compensating us for doing so. Any inability to adequately protect our proprietary rights could harm our ability to compete, to generate revenue and to grow our business.

We may not obtain sufficient patent protection on the technology embodied in the solar products we currently manufacture and market, which could harm our competitive position and increase our expenses.

Although we substantially rely on trade secret laws and contractual restrictions to protect the technology in the solar products we currently manufacture and market, our success and ability to compete in the future may also depend to a significant degree upon obtaining patent protection for our proprietary technology. We currently own multiple patents and patent applications which cover aspects of the technology in the solar cells and mounting systems that we currently manufacture and market. Material patents that relate to our systems products and services primarily relate to our rooftop mounting products and ground-mounted tracking products. We intend to continue to seek patent protection for those aspects of our technology, designs, and methodologies and processes that we believe provide significant competitive advantages.

Our patent applications may not result in issued patents, and even if they result in issued patents, the patents may not have claims of the scope we seek or we may have to refile patent applications due to newly discovered prior art. In addition, any issued patents may be challenged, invalidated or declared unenforceable, or even if we obtain an award of damages for infringement by a third party, such award could prove insufficient to compensate for all damages incurred as a result of such infringement. The term of any issued patents would be 20 years from their filing date and if our applications are pending for a long time period, we may have a correspondingly shorter term for any patent that may issue. Our present and future patents may provide only limited protection for our technology and may not be sufficient to provide competitive advantages to us. For example, competitors could develop similar or more advantageous technologies on their own or design around our patents. Also, patent protection in certain foreign countries may not be available or may be limited in scope and any patents obtained may not be as readily enforceable as in the United States, making it difficult for us to effectively protect our intellectual

property from misuse or infringement by other companies in these countries. Our inability to obtain and enforce our intellectual property rights in some countries may harm our business. In addition, given the costs of obtaining patent protection, we may choose not to protect certain innovations that later turn out to be important.

We may not be able to prevent others from using the term SunPower or similar terms in connection with their solar power products which could adversely affect the market recognition of our name and our revenue.

"SunPower" is our registered trademark in certain countries, including the United States, for uses that include solar cells and solar panels. We are seeking registration of the "SunPower" trademark in other countries but we may not be successful in some of these jurisdictions. We hold registered trademarks for SunPower®, PowerGuard®, PowerTracker® and SunTile®, in certain countries, including the United States. We have not registered, and may not be able to register, these trademarks in other key countries. In the foreign jurisdictions where we are unable to obtain or have not tried to obtain registrations, others may be able to sell their products using trademarks compromising or incorporating "SunPower," or a variation thereof, or our other chosen brands, which could lead to customer confusion. In addition, if there are jurisdictions where another proprietor has already established trademark rights in marks containing "SunPower," or our other chosen brands, we may face trademark disputes and may have to market our products with other trademarks or without our trademarks, which may undermine our marketing efforts. We may encounter trademark disputes with companies using marks which are confusingly similar to the SunPower mark, or our other marks, which if not resolved favorably, could cause our branding efforts to suffer. In addition, we may have difficulty in establishing strong brand recognition with consumers if others use similar marks for similar products.

Our past reliance on government programs to partially fund our research and development programs could impair our ability to commercialize our solar power products and services.

Government funding of some of our research and development efforts imposed certain restrictions on our ability to commercialize results and could grant commercialization rights to the government. In some funding awards, the government is entitled to intellectual property rights arising from the related research. Such rights include a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced each subject invention developed under an award throughout the world by or on behalf of the government. Other rights include the right to require us to grant a license to the developed technology or products to a third party or, in some cases, if we refuse, the government may grant the license itself, if the government determines that action is necessary because we fail to achieve practical application of the technology, because action is necessary to alleviate health or safety needs, to meet requirements of federal regulations, or to give the United States industry preference. Accepting government funding can also require that manufacturing of products developed with federal funding be conducted in the United States.

Risks Related to Our Debt and Equity Securities

Total's majority ownership of our common stock may adversely affect the liquidity and value of our common stock.

As of January 31, 2012, Total owned approximately 66% of our outstanding common stock. Pursuant to the Affiliation Agreement between us and Total, the Board of Directors of SunPower includes six designees from Total, giving Total majority control of our Board. As a result, subject to the restrictions in the Affiliation Agreement, Total possesses significant influence and control over our affairs. Our non-Total stockholders have reduced ownership and voting interest in our company and, as a result, have less influence over the management and policies of our company than they exercised prior to Total's tender offer. As long as Total controls us, the ability of our other stockholders to influence matters requiring stockholder approval is limited. Total's stock ownership and relationships with members of our Board of Directors could have the effect of preventing minority stockholders from exercising significant control over our affairs, delaying or preventing a future change in control, impeding a merger, consolidation, takeover or other business combination or discouraging a potential acquirer from making a tender offer or otherwise attempting to obtain control of us, limiting our financing options. These factors in turn could adversely affect the market price of our common stock or prevent our stockholders from realizing a premium over the market price of our common stock. The Affiliation Agreement limits Total and any member of the Total affiliated companies ("Total Group") from effecting, seeking, or entering into discussions with any third party regarding any transaction that would result in the Total Group beneficially owning our shares in excess of certain thresholds during a standstill period. The Affiliation Agreement also imposes certain limitations on the Total Group's ability to seek to affect a tender offer or merger to acquire 100% of our outstanding voting power. Such provisions may not be successful in preventing the Total Group from engaging in transactions which further increase their ownership and negatively impact the price of our common stock. In connection with our acquisition of Tenesol and our entry into the Liquidity Support Facility, we agreed to exempt the shares issued in connection with those transactions from the ownership limitations imposed by the Affiliation Agreement, so that Total may own up to the stated limits plus any such shares. In return for providing certain guarantees or other support, as was the case with the Liquidity Support Agreement, Total may request additional equity to be issued to it or its affiliates, or it may convert previously

issued convertible debt into equity or exercise previously granted warrants, potentially at a discount or at a smaller premium than our other stockholders would prefer, which may lead to additional dilution to our stockholders. Due to the pricing of the equity compensation elements of the Liquidity Support Facility, the degree of dilution to our other stockholders will tend to increase to the extent that we require more support and to the extent that our stock price decreases. See also "*Risks Related to Our Liquidity--Due to the general economic environment, the continued market pressure driving down the average selling prices of our solar power products, and other factors, we may be unable to generate sufficient cash flows or obtain access to external financing necessary to fund our operations and make adequate capital investments as planned.*" Finally, the market for our common stock has become less liquid and more thinly traded as a result of the Total tender offer. The lower number of shares available to be traded could result in greater volatility in the price of our common stock and affect our ability to raise capital on favorable terms in the capital markets.

Conversion of our outstanding 4.75% debentures, our warrants related to our outstanding 4.50% and 4.75% debentures, and future substantial issuances or dispositions of our common stock or other securities, could dilute ownership and earnings per share or cause the market price of our stock to decrease.

To the extent we issue common stock upon conversion of our outstanding 4.75% debentures, the conversion of some or all of such debentures will dilute the ownership interests of existing stockholders, including holders who had previously converted their debentures. Any sales in the public market of the common stock issuable upon such conversion could adversely affect prevailing market prices of our common stock. Sales of our common stock in the public market or sales of any of our other securities could dilute ownership and earnings per share, and even the perception that such sales could occur could cause the market prices of our common stock to decline. In addition, the existence of our outstanding debentures may encourage short selling of our common stock by market participants who expect that the conversion of the debentures could depress the prices of our common stock.

We issued warrants to affiliates of the underwriters of our 4.50% and 4.75% debentures, which are exercisable for a total of approximately 11.1 million shares and 8.7 million shares of our common stock, respectively. The warrants, together with certain convertible hedge transactions, are meant to reduce our exposure upon potential conversion of our 4.50% and 4.75% debentures. If the market price of our common stock exceeds the respective exercise prices of the warrants, such warrants will have a dilutive effect on our earnings per share, and could dilute the ownership interests for existing stockholders if exercised.

The price of our common stock, and therefore of our outstanding 0.75%, 4.50%, and 4.75% debentures, may fluctuate significantly.

Our common stock has experienced extreme price and volume fluctuations. The trading price of our common stock could be subject to further wide fluctuations due to many factors, including the factors discussed in this risk factors section. In addition, the stock market in general, and the Nasdaq Global Select Market and the securities of technology companies and solar companies in particular, have experienced severe price and volume fluctuations. These trading prices and valuations, including our own market valuation and those of companies in our industry generally, may not be sustainable. These broad market and industry factors may decrease the market price of our common stock, regardless of our actual operating performance. Because the 0.75%, 4.50%, and 4.75% debentures are convertible into our common stock (and/or cash equivalent to the value of our common stock), volatility or depressed prices of our common stock could have a similar effect on the trading price of these debentures.

Delaware law and our certificate of incorporation and by-laws contain anti-takeover provisions, our outstanding 0.75%, 4.50%, and 4.75% debentures provide for a right to convert upon certain events, and our Board of Directors entered into a rights agreement and declared a rights dividend, any of which could delay or discourage takeover attempts that stockholders may consider favorable.

Provisions in our restated certificate of incorporation and by-laws may have the effect of delaying or preventing a change of control or changes in our management. These provisions include the following:

- the right of the Board of Directors to elect a director to fill a vacancy created by the expansion of the Board of Directors;
- the prohibition of cumulative voting in the election of directors, which would otherwise allow less than a majority of stockholders to elect director candidates;
- the requirement for advance notice for nominations for election to the Board of Directors or for proposing matters that can be acted upon at a stockholders' meeting;

- Ÿ the ability of the Board of Directors to issue, without stockholder approval, up to 10.0 million shares of preferred stock with terms set by the Board of Directors, which rights could be senior to those of common stock;

- Ÿ our Board of Directors is divided into three classes of directors, with the classes to be as nearly equal in number as possible;

- Ÿ stockholders may not call special meetings of the stockholders, except by Total under limited circumstances;

- Ÿ our Board of Directors is able to alter our by-laws without obtaining stockholder approval.

Certain provisions of our outstanding debentures could make it more difficult or more expensive for a third party to acquire us. Upon the occurrence of certain transactions constituting a fundamental change, including an entity becoming the beneficial owner of 75% of our voting stock (such as Total), holders of our outstanding debentures will have the right, at their option, to require us to repurchase, at a cash repurchase price equal to 100% of the principal amount plus accrued and unpaid interest on the debentures, all or a portion of their debentures. We may also be required to issue additional shares of our common stock upon conversion of such debentures in the event of certain fundamental changes. In addition, we entered into a Rights Agreement with Computershare Trust Company, N.A., commonly referred to as a "poison pill," which could delay or discourage takeover attempts that stockholders may consider favorable.

ITEM 1B: *UNRESOLVED STAFF COMMENTS*

None.

ITEM 2: *PROPERTIES*

Prior to May 2011, we leased our corporate headquarters, which occupied approximately 60,000 square feet in San Jose, California, under a lease from Cypress until its expiration in April 2011. In May 2011 we moved to our new corporate headquarters in San Jose, California which occupies approximately 186,000 square feet under a lease from an unaffiliated third-party that expires in April 2021. In Richmond, California, we occupy approximately 207,000 square feet for office, light industrial and research and development use under a lease from an unaffiliated third party that expires in December 2018. In addition to these facilities, we also have our European headquarters located in Geneva, Switzerland where we occupy approximately 4,000 square feet under a lease that expires in September 2012, as well as sales and support offices in Southern California, Texas, New Jersey, Oregon, Australia, England, France, Germany, Greece, Israel, Italy, Malta, Spain, and South Korea, all of which are leased from unaffiliated third parties.

We leased from Cypress an approximately 215,000 square foot building in the Philippines from fiscal 2003 through April 2008, which serves as FAB1 with four solar cell manufacturing lines in operation. In May 2008, we purchased FAB1 from Cypress and assumed the lease for the land from an unaffiliated third-party for a total purchase price of $9.5 million. The lease for the land expires in May 2048 and is renewable for an additional 25 years. In August 2006, we purchased a 344,000 square foot building in the Philippines which serves as FAB2 with twelve solar cell manufacturing lines in operation. Our four solar cell manufacturing lines and twelve solar cell manufacturing lines operating at FAB1 and FAB2, respectively, have a total rated annual solar cell manufacturing capacity of 700 MW.

In January 2008, we completed the construction of an approximately 175,000 square foot building in the Philippines which serves as our solar panel assembly facility that currently operates fourteen solar panel assembly lines with a total rated annual solar panel manufacturing capacity of 600 MW. In August 2011, we leased an additional facility in Mexicali, Mexico from an unaffiliated third-party that expires in August 2021 and additionally serves as a solar panel assembly facility that currently operates 2 solar panel assembly lines. When fully online, the Mexico facility will house twelve solar panel assembly lines with an expected total annual manufacturing capacity of approximately 500 MW.

As a result of the January 31, 2012 acquisition of Tenesol, a global solar provider headquartered in La Tour de Salvagny, France, and a wholly-owned subsidiary of Total, we acquired module manufacturing operations in Toulouse, France and Capetown, South Africa with a total annual manufacturing capacity of approximately 170 MW.

We may require additional space in the future, which may not be available on commercially reasonable terms or in the location we desire.

Because of the interrelation of our business segments, both the UPP Segment and R&C Segment use substantially all of the properties at least in part, and we retain the flexibility to use each of the properties in whole or in part for each of the segments. Therefore, we do not identify or allocate assets by business segment. For more information on property, plant and equipment by country, see Note 6 of Notes to Consolidated Financial Statements in Part II - "Item 8: Financial Statements and Supplemental Data."

ITEM 3. ***LEGAL PROCEEDINGS***

Three securities class action lawsuits were filed against the Company and certain of its current and former officers and directors in the United States District Court for the Northern District of California on behalf of a class consisting of those who acquired the Company's securities from April 17, 2008 through November 16, 2009. The cases were consolidated as In re SunPower Securities Litigation, Case No. CV-09-5473-RS (N.D. Cal.), and lead plaintiffs and lead counsel were appointed on March 5, 2010. Lead plaintiffs filed a consolidated complaint on May 28, 2010. The actions arise from the Audit Committee's investigation announcement on November 16, 2009 regarding certain unsubstantiated accounting entries. The consolidated complaint alleges that the defendants made material misstatements and omissions concerning the Company's financial results for 2008 and 2009, seeks an unspecified amount of damages, and alleges violations of sections 10(b) and 20(a) of the Securities Exchange Act of 1934, and sections 11 and 15 of the Securities Act of 1933. The Company believes it has meritorious defenses to these allegations and will vigorously defend itself in these matters. The court held a hearing on the defendants' motions to dismiss the consolidated complaint on November 4, 2010. The court dismissed the consolidated complaint with leave to amend on March 1, 2011. An amended complaint was filed on April 18, 2011. The amended complaint added two former employees as defendants. Defendants filed motions to dismiss the amended complaint on May 23, 2011. The motions to dismiss the amended complaint were heard by the court on August 11, 2011. On December 19, 2011, the court granted in part and denied in part the motions to dismiss, dismissing the claims brought pursuant to sections 11 and 15 of the Securities Act of 1933 and the claims brought against the two newly added former employees. The Company is currently unable to determine if the resolution of these matters will have an adverse effect on the Company's financial position, liquidity or results of operations.

Derivative actions purporting to be brought on the Company's behalf have also been filed in state and federal courts against several of the Company's current and former officers and directors based on the same events alleged in the securities class action lawsuits described above. The California state derivative cases were consolidated as In re SunPower Corp. S'holder Derivative Litig., Lead Case No. 1-09-CV-158522 (Santa Clara Sup. Ct.), and co-lead counsel for plaintiffs have been appointed. The complaints assert state-law claims for breach of fiduciary duty, abuse of control, unjust enrichment, gross mismanagement, and waste of corporate assets. Plaintiffs are scheduled to file a consolidated complaint on March 5, 2012. The federal derivative complaints were consolidated as In re SunPower Corp. S'holder Derivative Litig., Master File No. CV-09-05731-RS (N.D. Cal.), and lead plaintiffs and co-lead counsel were appointed on January 4, 2010. The federal complaints assert state-law claims for breach of fiduciary duty, waste of corporate assets, and unjust enrichment, and seek an unspecified amount of damages. Plaintiffs filed a consolidated complaint on May 13, 2011, in the Delaware Court of Chancery. A Delaware state derivative case, Brenner v. Albrecht, et al., C.A. No. 6514-VCP (Del Ch.), was filed on May 23, 2011. The complaint asserts state-law claims for breach of fiduciary duty and contribution and indemnification, and seeks an unspecified amount of damages. The Company intends to oppose all the derivative plaintiffs' efforts to pursue this litigation on the Company's behalf. Defendants moved to stay or dismiss the Delaware derivative action on July 5, 2011. The motion to stay was heard by the court on October 27, 2011, and on January 27, 2012 the court granted the Company's motion and stayed the case indefinitely subject to plaintiff seeking to lift the stay under specified conditions. The Company is currently unable to determine if the resolution of these matters will have an adverse effect on the Company's financial position, liquidity or results of operations.

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

ITEM 4: ***MINE SAFETY DISCLOSURES***

Not applicable.

PART II

ITEM 5: *MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES*

Market Information

Prior to November 17, 2011, our former class A and class B common stock was listed on the Nasdaq Global Select Market under the trading symbols "SPWRA" and "SPWRB," respectively. On November 15, 2011, our Stockholders approved reclassification of all outstanding shares of our former class A and class B common stock into a single class of common stock. Therefore, effective November 17, 2011, our common stock is listed on the Nasdaq Global Select Market under the trading symbol "SPWR".

The high and low trading prices of our common stock during fiscal 2011 and 2010 were as follows:

	SPWR		SPWRA		SPWRB	
	High	Low	High	Low	High	Low
Fiscal Year 2011						
Fourth quarter: November 17, 2011 through January 1, 2012	$ 8.60	$ 4.94	*	*	*	*
Fourth quarter: October 3, 2011 through November 16, 2011	*	*	$ 10.88	$ 6.61	$ 10.12	$ 5.99
Third quarter	*	*	$ 23.35	$ 8.06	$ 17.72	$ 7.35
Second quarter	*	*	$ 22.60	$ 14.87	$ 22.10	$ 14.65
First quarter	*	*	$ 19.88	$ 12.90	$ 19.45	$ 12.47
Fiscal Year 2010						
Fourth quarter	*	*	$ 14.52	$ 11.65	$ 14.00	$ 11.48
Third quarter	*	*	$ 14.49	$ 10.03	$ 13.86	$ 9.66
Second quarter	*	*	$ 19.29	$ 10.73	$ 17.11	$ 9.41
First quarter	*	*	$ 25.85	$ 18.02	$ 23.04	$ 15.89

* Not applicable due to class of SunPower stock outstanding and trading during that period.

As of February 24, 2012, there were approximately 973 record holders. A substantially greater number of holders are in "street name" or beneficial holders, whose shares are held of record by banks, brokers, and other financial institutions.

Dividends

We have never declared or paid any cash dividend on our common stock, and we do not currently intend to pay any cash dividend on our common stock in the foreseeable future. We intend to retain future earnings, if any, to finance the operation and expansion of our business.

Recent Sales of Unregistered Securities

None.

Issuer Purchases of Equity Securities

The following table sets forth all purchases made by or on behalf of us or any "affiliated purchaser," as defined in Rule 10b-18(a)(3) under the Securities Exchange Act of 1934, of shares of our common stock during each of the indicated periods.

Period	Total Number of Shares Purchased (1)	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number of Shares That May Yet Be Purchased Under the Publicly Announced Plans or Programs
October 3, 2011 through October 30, 2011	415	$ 7.96	—	—
October 31, 2011 through November 27, 2011	157,710	$ 8.02	—	—
November 28, 2011 through January 1, 2012	3,747	$ 6.73	—	—
	161,872	$ 7.99	—	—

(1) The total number of shares purchased includes only shares surrendered to satisfy tax withholding obligations in connection with the vesting of restricted stock issued to employees.

Equity Compensation Plan Information

The following table provides certain information as of January 1, 2012 with respect to our equity compensation plans under which shares of our common stock are authorized for issuance:

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (in thousands)		Weighted-average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in the first column) (in thousands)
Equity compensation plans approved by security holders	416		$ 27.38	3,293
Equity compensation shares not approved by security holders	—		$ —	—
	416	(1)	$ 27.38	3,293

(1) Shares associated with our warrants outstanding in connection with our 4.50% debentures are excluded from the above table as the exercise price exceeded our closing stock as of January 1, 2012. This table additionally excludes options to purchase an aggregate of approximately 68,000 shares of common stock, at a weighted average exercise price of $21.74 per share, that we assumed in connection with the acquisition of PowerLight Corporation, now known as SunPower Corporation, Systems, in January 2007. Under the terms of our three equity incentive plans, we may issue incentive or non-statutory stock options, restricted stock awards, restricted stock units, or stock purchase rights to directors, employees and consultants to purchase common stock. Our Third Amended and Restated SunPower Corporation 2005 Stock Incentive Plan includes an automatic share reserve increase feature effective for 2009 through 2015. This share reserve increase feature will cause an annual and automatic increase in the number of shares of our common stock reserved for issuance under the Stock Incentive Plan in an amount each year equal to the least of: 3% of the outstanding shares of all classes of our common stock measured on the last day of the immediately preceding fiscal year; 6,000,000 shares; and such other number of shares as determined by our Board.

ITEM 6: *SELECTED CONSOLIDATED FINANCIAL DATA*

The following selected consolidated financial data should be read together with *"Item 7: Management's Discussion and Analysis of Financial Condition and Results of Operations"* and *"Item 8: Financial Statements and Supplementary Data"* included elsewhere in this Annual Report on Form 10-K. We report our results of operations on the basis of 52- or 53-week periods, ending on the Sunday closest to December 31. Fiscal 2007 ended on December 30, 2007, fiscal 2008 ended on December 28, 2008, fiscal 2009 ended on January 3, 2010, fiscal 2010 ended on January 2, 2011, and fiscal 2011 ended on

January 1, 2012. Each fiscal year included 52 weeks, except fiscal 2009 which included 53 weeks. Our fiscal quarters end on the Sunday closest to the end of the applicable calendar quarter, except in a 53-week fiscal year in which the additional week falls into the fourth quarter of that fiscal year.

	Year Ended				
(In thousands, except per share data)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**	**December 28,2008**	**December 30, 2007**
Consolidated Statements of Operations Data					
Revenue	$ 2,312,494	$ 2,219,230	$ 1,524,283	$ 1,437,594	$ 774,790
Cost of revenue	2,084,290	1,709,337	1,240,563	1,087,973	627,039
Gross margin	228,204	509,893	283,720	349,621	147,751
Operating income (loss)	(520,451)	138,867	61,834	154,407	2,289
Income (loss) from continuing operations before income taxes and equity in earnings of unconsolidated investees	(587,763)	183,413	43,620	(97,904)	6,095
Income (loss) from continuing operations	$ (603,859)	$ 166,883	$ 32,521	$ (124,445)	$ 27,901
Income (loss) from continuing operations per share of common stock:					
Basic	$ (6.18)	$ 1.74	$ 0.36	$ (1.55)	$ 0.36
Diluted	$ (6.18)	$ 1.64	$ 0.35	$ (1.55)	$ 0.34
Weighted-average shares:					
Basic	97,724	95,660	91,050	80,522	75,413
Diluted	97,724	105,698	92,746	80,522	80,439

(In thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**	**December 28,2008**	**December 30, 2007**
Consolidated Balance Sheet Data					
Cash and cash equivalents, restricted cash and cash equivalents, current portion and short-term investments	$ 710,213	$ 761,602	$ 677,919	$ 232,750	$ 390,667
Working capital	1,037,688	1,005,492	747,335	420,067	206,167
Total assets	3,275,197	3,379,331	2,696,895	2,084,257	1,673,305
Long-term debt	355,000	50,000	237,703	54,598	—
Convertible debt, net of current portion	423,268	591,923	398,606	357,173	333,210
Long-term deferred tax liabilities	—	—	6,777	6,493	45,512
Customer advances, net of current portion	181,947	160,485	72,288	91,359	60,153
Other long-term liabilities	152,492	131,132	70,045	44,222	14,975
Total stockholders' equity	$ 1,097,510	$ 1,657,434	$ 1,376,380	$ 1,100,198	$ 947,296

ITEM 7: *MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS*

General Overview

We are a vertically integrated solar products and services company that designs, manufactures, and delivers high-performance solar electric systems worldwide for residential, commercial and utility-scale power plant customers. Of all the solar cells available for the mass market, we believe our solar cells have the highest conversion efficiency, a measurement of the amount of sunlight converted by the solar cell into electricity.

We were originally incorporated in California in April 1985 by Dr. Richard Swanson to develop and commercialize high-efficiency solar cell technologies. Cypress Semiconductor Corporation ("Cypress") made a significant investment in

SunPower in 2002 and in November 2004, Cypress acquired 100% ownership of all outstanding shares of our capital stock, excluding unexercised warrants and options. In November 2005, we reincorporated in Delaware, created two classes of common stock and held an initial public offering ("IPO") of our former class A common stock. After completion of our IPO, Cypress held all the outstanding shares of our former class B common stock. On September 29, 2008, Cypress distributed to its shareholders all of its shares of our former class B common stock, in the form of a pro rata dividend to the holders of record as of September 17, 2008 of Cypress common stock. As a result, our former class B common stock became publicly traded and listed on the Nasdaq Global Select Market under the symbol "SPWRB," along with our former class A common stock under the symbol "SPWRA," and we discontinued being a subsidiary of Cypress. On April 28, 2011, we and Total Gas & Power USA, SAS ("Total"), a subsidiary of Total S.A. ("Total S.A."), entered into a Tender Offer Agreement (the "Tender Offer Agreement"). Pursuant to the Tender Offer Agreement, on May 3, 2011, Total commenced a cash tender offer to acquire up to 60% of the outstanding shares of our former class A common stock and up to 60% of the outstanding shares of our former class B common stock (the "Tender Offer") at a price of $23.25 per share for each class.

The offer expired on June 14, 2011 and Total accepted for payment on June 21, 2011 a total of 34,756,682 shares of our former class A common stock and 25,220,000 shares of our former class B common stock, representing 60% of each class of our outstanding common stock as of June 13, 2011 for a total cost of approximately $1.4 billion. On November 15, 2011, our stockholders approved the reclassification of all outstanding former class A common stock and class B common stock into a single class of common stock listed on the Nasdaq Global Select Market under the symbol "SPWR." On January 31, 2012, in connection with the acquisition of Tenesol S.A., Total purchased an additional 18.6 million shares of our common stock and owns, as of that date, approximately 66% of our outstanding common stock (see Note 18).

Business Segments Overview

Our President and Chief Executive Officer, as the chief operating decision maker ("CODM"), has organized our company and manages resource allocations and measures performance of our company's activities between two business segments: the Utility and Power Plants ("UPP") Segment and the Residential and Commercial ("R&C") Segment. Our UPP Segment refers to our large-scale solar products and systems business, which includes power plant project development and project sales, turn-key engineering, procurement and construction ("EPC") services for power plant construction, and power plant operations and maintenance ("O&M") services. Our UPP Segment also sells components, including large volume sales of solar panels and mounting systems to third parties, sometimes on a multi-year, firm commitment basis. Our R&C Segment focuses on solar equipment sales into the residential and small commercial market through our third-party global dealer network, as well as direct sales and EPC and O&M services in the United States and Europe for rooftop and ground-mounted solar power systems for the new homes, commercial, and public sectors.

Change in Segment Reporting

In December 2011, we announced a reorganization of our Company to align our business and cost structure with expected market conditions in 2012 and beyond. The reorganization did not impact segment reporting in fiscal 2011 as our CODM continues to manage resource allocations and measure performance of our activities between the UPP and R&C Segments while we are implementing our new organizational strategy. We are in the process of determining our new segments and making decisions internally on how we will manage the new segments, allocate resources, and assess performance.

Seasonal Trends

Our business is subject to industry-specific seasonal fluctuations. Sales have historically reflected these seasonal trends with the largest percentage of total revenues realized during the last two calendar quarters of a fiscal year. Lower seasonal demand normally results in reduced shipments and revenues in the first two calendar quarters of a fiscal year. There are various reasons for this seasonality, mostly related to economic incentives and weather patterns. For example, in European countries with feed-in tariffs, the construction of solar power systems may be concentrated during the second half of the calendar year, largely due to the fact that the coldest winter months in the Northern Hemisphere are January through March. In the United States, customers will sometimes make purchasing decisions towards the end of the year in order to take advantage of tax credits or for other budgetary reasons. In addition, sales in the new home development market are often tied to construction market demands which tend to follow national trends in construction, including declining sales during cold weather months.

Unit of Power

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

Levelized Cost of Energy ("LCOE")

The LCOE equation is an evaluation of the life-cycle energy cost and life-cycle energy production of an energy producing system. It allows alternative technologies to be compared when different scales of operation, investment, or operating time periods exist. It captures capital costs and ongoing system-related costs, along with the amount of electricity produced, and converts them into a common metric. Key drivers for LCOE reduction for photovoltaic products include panel efficiency, capacity factors, reliable system performance, and the life of the system.

Fiscal Years

We report our results of operations on the basis of 52- or 53-week periods, ending on the Sunday closest to December 31. Fiscal 2009 ended on January 3, 2010, fiscal 2010 ended on January 2, 2011, and fiscal 2011 ended on January 1, 2012. Each fiscal year included 52 weeks, except fiscal 2009 which included 53 weeks. Our fiscal quarters end on the Sunday closest to the end of the applicable calendar quarter, except in a 53-week fiscal year in which the additional week falls into the fourth quarter of that fiscal year.

Change in Solar Market

In March 2011, the Italian government passed a new legislative decree providing for a significant change in its feed-in tariff ("FIT") program. In May 2011, the Italian government announced a legislative decree which defined the revised FIT and the transition process effective June 1, 2011. The decree announced a decline in FIT and also set forth a limit on the construction of solar plants on agricultural land. Similarly, during the last several months other European countries reduced government incentives for the solar market. Such changes had a materially negative effect on the market for solar systems in Europe and caused our earnings to decline in Europe and adversely affected our financial results. In response to the reduction in European government incentives, primarily in Italy, our Board of Directors approved a restructuring plan, on June 13, 2011, to realign our resources. Further, to accelerate operating cost reduction and improve overall operating efficiency, on November 30, 2011, our management approved a second company-wide restructuring plan. These plans and related charges are further discussed below under "Results of Operations."

Goodwill and Other Intangible Asset Impairment

We conduct our annual impairment test of goodwill as of the Sunday closest to the end of the third fiscal quarter of each year. Impairment of goodwill is tested at our reporting unit level. Management determined the UPP Segment and R&C Segment each have two reporting units. In estimating the fair value of the reporting units, we make estimates and judgments about our future cash flows using an income approach defined as Level 3 inputs under fair value measurement standards. The income approach, specifically a discounted cash flow analysis, included assumptions for, among others, forecasted revenue, gross margin, operating income, working capital cash flow, perpetual growth rates and long-term discount rates, all of which require significant judgment by management. The sum of the fair values of our reporting units are also compared to our external market capitalization to determine the appropriateness of our assumptions and adjusted, if appropriate. These assumptions took into account the current industry environment and its impact on our business. Based on the impairment test performed in the third quarter of fiscal 2011, we determined that the carrying value of the UPP-International, UPP-Americas, and Residential and Light Commercial reporting units exceeded their fair value. As a result, we recorded a goodwill impairment loss of $309.5 million, representing all of the goodwill associated with these reporting units. As of January 1, 2012, the fair value of the remaining reporting unit, North American Commercial, exceeded the carrying value under the first step of the goodwill impairment test. Therefore, goodwill was not impaired with respect to this reporting unit.

We additionally review our intangible assets for impairment whenever events or changes in circumstances indicate that the carrying value of such assets may not be recoverable. Triggering events for an impairment review may include indications such as adverse industry or economic trends, lower than projected operation results or cash flows, or sustained decline in our stock price or market capitalization. During the third quarter of fiscal 2011, we determined that the carrying value of certain intangible assets related to strategic acquisitions of EPC and O&M project pipelines in Europe were no longer recoverable and therefore recognized an impairment loss of $40.3 million in fiscal 2011.

2012 Outlook

During fiscal 2011 we saw a decline in overall demand for solar systems primarily in Europe as a result of the decline in European government incentives as described above. The resulting supply environment drove down average selling prices across all product and service lines. Such pricing pressures are expected to continue throughout fiscal 2012.

In 2012 we continue to be focused on reducing the cost of our solar panels and systems. We expect our R&D activities to increase as we emphasize continued improvement of our solar cell efficiency and LCOE performance through enhancement of our existing products, development of new products and reduction of manufacturing cost and complexity in conjunction with our overall cost-control strategies. We are further working with our suppliers and partners along all steps of the value chain to reduce costs by improving manufacturing technologies and expanding economies of scale.

We plan to continue to expand our business in growing and sustainable markets. In fiscal 2011 we launched our residential lease program with our dealers in the United States, in partnership with a third-party financial institution, which allows customers to obtain SunPower systems under lease agreements up to 20 years, subject to financing availability. We announced the first commercial deployment of our SunPower® C-7 Tracker technology under a power purchase agreement ("PPA") and commenced production of our next generation solar cell with demonstrated efficiencies of up to 24%. Our acquisition of Tenesol S.A. ("Tenesol") in the first quarter of fiscal 2012 has further expanded our European and global customer channels as well as added a strong manufacturing based in both Europe and Africa. Please see "Part I. Item 1A: Risk Factors" for additional information on risks and uncertainties that could cause actual results to differ from management's plans and outlook for 2012.

Financial Operations Overview

The following describes certain line items in our Consolidated Statements of Operations:

Revenue

UPP Segment Revenue: Our UPP Segment refers to our large-scale solar products and systems business, which includes power plant project development and project sales, turn-key EPC services for power plant construction, and power plant O&M services. The UPP Segment sells components, including large volume sales of solar panels and mounting systems to third parties, sometimes on a multi-year, firm commitment basis, in the United States, Europe, and Asia.

R&C Segment Revenue: Our R&C Segment focuses on solar equipment sales into the residential and small commercial market through our third-party global dealer network, as well as direct sales and EPC and O&M services in the United States for rooftop and ground-mounted solar power systems for the new homes, commercial, and public sectors.

Other Revenue Factors: Sales of EPC projects and other services relate to solar electric power systems that integrate our solar panels and balance of systems components. In the United States, where customers often utilize rebate and tax credit programs in connection with projects rated 1 MW or less of capacity, we typically sell solar power systems rated up to 1 MW of capacity to provide a supplemental, distributed source of electricity for a customer’s facility as well as ground mount systems reaching up to hundreds of MWs for regulated utilities. In the United States, many customers choose to purchase solar electricity under a PPA with an investor or financing company which buys the system from us. In Europe and the United States, our systems are often purchased by third-party investors as central-station solar power plants, typically rated from 1 to 50 MW, which generate electricity for sale under tariff to regional and public utilities. We also sell our solar panels and balance of systems components under materials-only sales contracts in the United States, Europe and Asia. Our revenue recognition policy is described in more detail under "Critical Accounting Estimates."

Cost of Revenue

Our cost of revenue will fluctuate from period to period due to the mix of projects completed and recognized as revenue, in particular between large utility projects and large commercial installation projects. The cost of solar panels is the single largest cost element in our cost of revenue. Our cost of solar panels consists primarily of: (i) polysilicon, silicon ingots and wafers used in the production of solar cells, along with other materials such as chemicals and gas that are needed to transform silicon wafers into solar cells; (ii) raw materials such as glass, frame, backing and other materials; (iii) solar cells from our AUO SunPower Sdn. Bhd. ("AUOSP") joint venture; as well as (iv) direct labor costs and assembly costs we pay to our third-party contract manufacturers in China, Mexico, Poland, and California. Other cost of revenue associated with the construction of solar power systems includes real estate, mounting systems, inverters and third-party contract manufacturer costs. In addition, other factors contributing to cost of revenue include amortization of other intangible assets, stock-based compensation, depreciation, provisions for estimated warranty claims, salaries, personnel-related costs, freight, royalties, facilities expenses, and manufacturing supplies associated with contracting revenue and solar cell fabrication as well as factory pre-operating costs associated with our manufacturing facilities. Such pre-operating costs included compensation and training costs for factory workers as well as utilities and consumable materials associated with preproduction activities.

We are targeting to improve cost of revenue over time as we implement cost reduction programs, improve our manufacturing processes, and grow our business to attain economies of scale on fixed costs. An expected reduction in cost of revenue based on manufacturing efficiencies, however, could be partially or completely offset by increased raw material costs.

Gross Margin

Our gross margin each quarter is affected by a number of factors, including average selling prices for our solar power products, the types of projects in progress, the gross margins estimated for those projects in progress, our product mix, our actual manufacturing costs, the utilization rate of our solar cell manufacturing facilities, and actual overhead costs. Historically, revenue from materials-only sales contracts generate a higher gross margin percentage than revenue generated from turn-key solar power system contracts. Turn-key contracts generate higher revenue per watt as a result of the included EPC services, O&M services as well as power plant project development. In addition, we generally experience higher gross margin on construction projects that utilize SunPower solar panels compared to construction projects that utilize solar panels purchased from third parties.

From time to time, we enter into agreements whereby the selling price for certain of our solar power products is fixed over a defined period. In addition, almost all of our construction contracts are fixed price contracts. However, we have in several instances obtained change orders that reimburse us for additional unexpected costs due to various reasons. We also have long-term agreements for polysilicon, ingots, wafers, solar cells and solar panels with suppliers, some with take-or-pay arrangements. An increase in our manufacturing costs and other project costs over such a defined period could have a negative impact on our overall gross margin. Our gross margin may also be impacted by fluctuations in manufacturing yield rates and certain adjustments for inventory reserves. Our inventory policy is described in more detail under "Critical Accounting Estimates."

Operating Expenses

Our operating expenses include research and development ("R&D") expenses and sales, general and administrative ("SG&A") expenses. R&D expenses consist primarily of salaries and related personnel costs, depreciation of equipment and the cost of solar cells, solar panel materials, various prototyping materials, and services used for the development and testing of products. We expect our R&D expense to continually increase in absolute dollars as we continue to develop new processes to further improve the conversion efficiency of our solar cells and reduce their manufacturing cost, and as we develop new products to diversify our product offerings.

R&D expense is reported net of any funding received under contracts with governmental agencies because such contracts are considered collaborative arrangements. These awards are typically structured such that only direct costs, R&D overhead, procurement overhead, and general and administrative expenses that satisfy government accounting regulations are reimbursed. In addition, our government awards from state agencies will usually require us to pay to the granting governmental agency certain royalties based on sales of products developed with government funding or economic benefit derived from incremental improvements funded. Royalties paid to governmental agencies are charged to the cost of goods sold.

SG&A expense for our business consists primarily of salaries and related personnel costs, professional fees, insurance, and other selling and marketing expenses.

Goodwill and other intangible asset impairment primarily consists of impairment of goodwill as a result of our annual impairment test, performed in the third quarter of fiscal 2011, as we determined the carrying value of certain reporting units exceeded their fair value. Additionally, during the third quarter of fiscal 2011 we impaired certain intangible assets related to strategic acquisitions of EPC and O&M project pipelines in Europe as it was determined their carrying value was no longer recoverable.

Restructuring expense consists of two restructuring plans effected during fiscal 2011 in response to reductions in European government incentives, which had a significant impact on the global solar market, and to accelerate operating cost reduction to improve overall operating efficiency. Charges in connection with these plans relate to employee severance and benefits, lease termination costs, and legal and other related charges. For additional details see Note 8 of Notes to Consolidated Financial Statements.

Other Income (Expense), Net

Interest income represents interest income earned on our cash, cash equivalents, restricted cash, restricted cash equivalents and available-for-sale securities. Interest expense primarily relates to: (i) debt under our senior convertible

debentures; (ii) fees for our outstanding letters of credit; (iii) SunPower Malaysia Manufacturing Sdn. Bhd.'s ("SPMY") borrowings under the facility with the Malaysian government prior to the deconsolidation of this entity in the third quarter of fiscal 2010; (iv) outstanding term loans; (v) our revolving credit facilities; (vi) our mortgage loan; and (vii) customer advance payments. For additional details see Notes 7, 9, and 11 of Notes to Consolidated Financial Statements.

Gain on deconsolidation of consolidated subsidiary is the result of the deconsolidation of SPMY, subsequently renamed AUOSP, in the third quarter of fiscal 2010. Net gain on change in equity interest in unconsolidated investee refers to the value of our equity interests in Woongjin Energy Co., Ltd. ("Woongjin Energy") and First Philec Solar Corporation ("First Philec Solar) being adjusted upon dilutive events. Gain on sale of equity interest in unconsolidated investee represents net gains from the sale of our Woongjin Energy shares in the open market during second half of fiscal 2011. For additional details see Note 10 of Notes to Consolidated Financial Statements.

Gain on mark-to-market derivatives during fiscal 2011 and 2010 relates to derivative instruments associated with our 4.50% senior cash convertible debentures ("4.50% debentures"): (i) the embedded cash conversion option; (ii) the over-allotment option; (iii) the bond hedge transaction; and (iv) the warrant transactions. The changes in fair value of these derivatives are reported in our Consolidated Statement of Operations until such transactions settle or expire. The bond hedge and warrant transactions are meant to reduce our exposure to potential cash payments associated with the embedded cash conversion option. Gain on mark-to-market derivatives during fiscal 2009 relates to the change in fair value of certain convertible debenture hedge transactions (the "purchased options") associated with the issuance of our 4.75% senior convertible debentures ("4.75% debentures") intended to reduce the potential dilution that would occur upon conversion of the debentures. For additional details see Note 11 of Notes to Consolidated Financial Statements.

Gain on share lending arrangement relates to our historical share lending arrangement with Lehman Brothers International (Europe) Limited ("LBIE"). In the event that counterparty default under the share lending arrangement becomes probable, we are required to recognize an expense in our Consolidated Statement of Operations equal to the then fair value of the unreturned loaned shares, net of any probable recoveries.

Other, net consists primarily of gains or losses on foreign exchange and derivatives as well as gain on sale and impairment charges for certain available-for-sale securities and other investments.

Income Taxes

Deferred tax assets and liabilities are recognized for temporary differences between financial statement and income tax bases of assets and liabilities. Valuation allowances are provided against deferred tax assets when management cannot conclude that it is more likely than not that some portion or all deferred tax assets will be realized. For additional details see Notes 1 and 13 of Notes to Consolidated Financial Statements.

We currently benefit from income tax holiday incentives in the Philippines in accordance with our subsidiary’s registration with the Philippine Economic Zone Authority ("PEZA"), which provide that we pay no income tax in the Philippines for those operations subject to the ruling. Our current income tax holidays were granted as manufacturing lines were placed in service and thereafter expire within the next fiscal year, and we are in the process of or have applied for extensions and renewals upon expiration. We expect such approvals to be granted. We believe that if our Philippine tax holidays expire, (a) gross income attributable to activities covered by our PEZA registrations will be taxed at a 5% preferential rate, and (b) our Philippine net income attributable to all other activities will be taxed at the statutory Philippine corporate income tax rate, currently 30%. An increase in our tax liability could materially and negatively affect our financial condition and results of operations.

We have an auxiliary company ruling in Switzerland where we sell our solar power products. The auxiliary company ruling results in a reduced effective Swiss tax rate of approximately 11.5%. The current ruling expires at the end of 2015. If the ruling is not renewed in 2015, Swiss income would be taxable at the full Swiss tax rate of approximately 24.2%.

For financial reporting purposes, during periods when we were a subsidiary of Cypress, income tax expense and deferred income tax balances were calculated as if we were a separate entity and had prepared our own separate tax return. Effective with the closing of our public offering of common stock in June 2006, we were no longer eligible to file federal and most state consolidated tax returns with Cypress. As of September 29, 2008, Cypress completed a spin-off of all of its shares of our former class B common stock to its shareholders, so we are no longer eligible to file any remaining state consolidated tax returns with Cypress. Under our tax sharing agreement with Cypress, we agreed to pay Cypress for any federal and state income tax credit or net operating loss carryforwards utilized in our federal and state tax returns in subsequent periods that originated while our results were included in Cypress’s federal tax returns.

Equity in Earnings of Unconsolidated Investees

In the third quarter of fiscal 2006, we entered into an agreement to form Woongjin Energy, a joint venture to manufacture monocrystalline silicon ingots. Woongjin Energy is located in South Korea and began manufacturing in the third quarter of fiscal 2007. In the fourth quarter of fiscal 2007, we entered into an agreement to form First Philec Solar, a joint venture to provide wafer slicing services of silicon ingots. This joint venture is located in the Philippines and became operational in the second quarter of fiscal 2008. On May 27, 2010, our subsidiaries SunPower Technology, Ltd. ("SPTL") and AUOSP, entered into a joint venture agreement with AU Optronics Singapore Pte. Ltd. ("AUO"), and AU Optronics Corporation, the ultimate parent company of AUO ("AUO Taiwan"). The joint venture transaction closed on July 5, 2010 and we, through SPTL, and AUO each own 50% of the joint venture AUOSP. AUOSP owns a solar cell manufacturing facility ("FAB3") in Malaysia and will manufacture and sell solar cells on a "cost-plus" basis to us and AUO. AUOSP became operational in the fourth quarter of fiscal 2010 with construction to continue through fiscal 2014. We account for these investments using the equity method, in which the equity investments are classified as "Other long-term assets" in the Consolidated Balance Sheets and our share of the investees' earnings (loss) is included in "Equity in earnings of unconsolidated investees" in the Consolidated Statements of Operations. For additional details see Note 10 of Notes to Consolidated Financial Statements.

Income from Discontinued Operations, Net of Taxes

In connection with our strategic acquisition of SunRay Malta Holdings Limited ("SunRay") on March 26, 2010, we acquired a project company, Cassiopea PV S.r.l ("Cassiopea"), operating a previously completed 20 MWac solar power plant in Montalto di Castro, Italy. In the period in which our asset is classified as held-for-sale, we are required to segregate for all periods presented the related assets, liabilities, and results of operations associated with that asset as discontinued operations. On August 5, 2010, we sold Cassiopea, including all related assets and liabilities. Cassiopea's results of operations for fiscal 2010 are classified as "Income from discontinued operations, net of taxes" in our Consolidated Statement of Operations. Unless otherwise stated, the discussion below pertains to our continuing operations. For additional details see Note 4 of Notes to Consolidated Financial Statements.

Critical Accounting Estimates

Our discussion and analysis of our financial condition and results of operations are based on our financial statements, which have been prepared in accordance with generally accepted accounting principles in the United States ("U.S. GAAP"). The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenue, and expenses. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions. Our most critical estimates and judgments are associated with: (a) revenue recognition, which impacts the recording of revenue; (b) allowance for doubtful accounts and sales returns, which impact revenue and SG&A expense; (c) warranty reserves, which impact cost of revenue and gross margin; (d) valuation of inventories, which impacts cost of revenue and gross margin; (e) valuation of stock-based compensation expense, which impacts cost of revenue, R&D and SG&A expense; (f) equity in earnings of unconsolidated investees, which impacts net income (loss); (g) accounting for business combinations, which impacts fair value of goodwill and other intangible assets; (h) valuation of long-lived assets, which impacts impairments of property, plant and equipment, project assets and other intangible assets; (i) goodwill impairment testing, which impacts our measurement of potential impairment of our goodwill; (j) fair value of financial instruments, valuation of debt without the conversion feature and valuation of share lending arrangements, which impacts net income (loss); and (k) accounting for income taxes, which impacts our tax provision. We also have other key accounting policies that are less subjective and, therefore, judgments in their application would not have a material impact on our reported results of operations. The following is a discussion of our most critical estimates and judgments as of and for the year ended January 1, 2012.

Revenue Recognition

Solar Power Products

We sell our solar panels and balance of system components primarily to dealers, system integrators and distributors, and recognize revenue, net of accruals for estimated sales returns, when persuasive evidence of an arrangement exists, delivery of the product has occurred, title and risk of loss has passed to the customer, the sales price is fixed or determinable, collectability of the resulting receivable is reasonably assured and the rights and risks of ownership have passed to the customer. Other than

standard warranty obligations, there are no rights of return and there are no significant post-shipment obligations, including installation, training or customer acceptance clauses with any of our customers that could have an impact on revenue recognition. Our revenue recognition policy is consistent across all geographic areas.

Construction Contracts

Revenue is also comprised of EPC projects which are governed by customer contracts that require us to deliver functioning solar power systems and are generally completed within three to twelve months from commencement of construction. We recognize revenue from fixed price construction contracts using the percentage-of-completion method of accounting. Under this method, revenue arising from fixed price construction contracts is recognized as work is performed based on the percentage of incurred costs to estimated total forecasted costs.

Incurred costs used in our percentage-of-completion calculation include all direct material, labor, subcontract costs, and those indirect costs related to contract performance, such as indirect labor, supplies, and tools. Project material costs are included in incurred costs when the project materials have been installed by being permanently attached or fitted to the solar power system as required by the project's engineering design.

In addition to an EPC deliverable, a limited number of arrangements also include multiple deliverables such as post-installation systems monitoring and maintenance. For contracts with separately priced monitoring and maintenance, we recognize revenue related to such separately priced elements over the contract period. For contracts including monitoring and maintenance not separately priced, we determined that post-installation systems monitoring and maintenance qualify as separate units of accounting. Such post-installation monitoring and maintenance are deferred at the time the contract is executed and are recognized to revenue over the contractual term. The remaining EPC revenue is recognized on a percentage-of-completion basis.

In addition, when arrangements include contingent revenue clauses such as penalty payments or customer termination or put rights for non-performance, we defer the contingent revenue until such time as the contingencies expire. In certain limited cases, we could be required to buy-back a customer's system at fair value on specified future dates if certain minimum performance thresholds are not met for periods of up to two years. To date, no such repurchase obligations have been triggered.

Provisions for estimated losses on uncompleted contracts, if any, are recognized in the period in which the loss first becomes probable and reasonably estimable. Contracts may include profit incentives such as milestone bonuses. These profit incentives are included in the contract value when their realization is reasonably assured.

Development Projects

We develop and sell solar power plants which generally include the sale or lease of related real estate. Revenue recognition for these solar power plants require adherence to specific guidance for real estate sales, which provides that if we hold control over land or land rights prior to the execution of an EPC contract, we recognize revenue and the corresponding costs when all of the following requirements are met: the sale is consummated, the buyer's initial and any continuing investments are adequate, the resulting receivables are not subject to subordination and we have transferred the customary risk and rewards of ownership to the buyer. In general, a sale is consummated upon the execution of an agreement documenting the terms of the sale and a minimum initial payment by the buyer to substantiate the transfer of risk to the buyer. This may require us to defer revenue during construction, even if a sale was consummated, until we receive the buyer's initial investment payment, at which time revenue would be recognized on a percentage-of-completion basis as work is completed. Our revenue recognition methods for solar power plants not involving real estate remain subject to our historical practice using the percentage-of-completion method.

Allowance for Doubtful Accounts and Sales Returns

We maintain allowances for doubtful accounts for estimated losses resulting from the inability of our customers to make required payments. A considerable amount of judgment is required to assess the likelihood of the ultimate realization of accounts receivables. We make our estimates of the collectability of our accounts receivable by analyzing historical bad debts, specific customer creditworthiness and current economic trends.

In addition, at the time revenue is recognized from the sale of solar panels and balance of system components, we record estimates for sales returns which reduce revenue. These estimates are based on historical sales returns, analysis of credit memo data, and other known factors. Actual returns could differ from these estimates.

Warranty Reserves

We generally warrant or guarantee the performance of our solar panels that we manufacture at certain levels of power output for 25 years. In addition, we pass through to customers long-term warranties from the original equipment manufacturers ("OEMs") of certain system components, such as inverters. Warranties of 25 years from solar panel suppliers are standard in the solar industry, while inverters typically carry warranty periods ranging from 5 to 10 years. In addition, we generally warrant our workmanship on installed systems for periods ranging up to 10 years. We maintain reserves to cover the expected costs that could result from these warranties. Our expected costs are generally in the form of product replacement or repair. Warranty reserves are based on our best estimate of such costs and are recognized as a cost of revenue. We continuously monitor product returns for warranty failures and maintain a reserve for the related warranty expenses based on various factors including historical warranty claims, results of accelerated lab testing, field monitoring, vendor reliability estimates, and data on industry averages for similar products. Historically, warranty costs have been within management's expectations. For additional details see Note 9 of Notes to Consolidated Financial Statements.

Valuation of Inventories

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

We evaluate the terms of our long-term agreements with suppliers, including joint ventures, for the procurement of polysilicon, ingots, wafers, solar cells, and solar panels and establish accruals for estimated losses on adverse purchase commitments as necessary, such as lower of cost of market value adjustments, forfeiture of advanced deposits and liquidated damages.

Other market conditions that could impact the realizable value of our inventories and are periodically evaluated by management include the aging of inventories on hand, historical inventory turnover ratio, anticipated sales price, new product development schedules, the effect new products might have on the sale of existing products, product obsolescence, customer concentrations, product merchantability, and other factors. If we determine that the cost of inventories exceeds its estimated market value based on assumptions about expected demand and market conditions, we record a write-down equal to the difference between the cost of inventories and the estimated market value. If actual market conditions are less favorable than those projected by management, additional inventory write-downs may be required that could negatively impact our gross margin and operating results. If actual market conditions are more favorable, we may have higher gross margin when products that have been previously written down are sold in the normal course of business. For additional details see Note 6 of Notes to Consolidated Financial Statements.

Stock-Based Compensation

We provide share-based awards to our employees, executive officers and directors through various equity compensation plans including our employee stock option and restricted stock plans. We measure and record compensation expense for all share-based payment awards based on estimated fair values. The fair value of restricted stock awards and units is based on the market price of our common stock on the date of grant. We have not granted stock options subsequent to fiscal 2008.

We are required under current accounting guidance to estimate forfeitures at the date of grant. Our estimate of forfeitures is based on our historical activity, which we believe is indicative of expected forfeitures. In subsequent periods if the actual rate of forfeitures differs from our estimate, the forfeiture rates may be revised, as necessary. Changes in the estimated forfeiture rates can have a significant effect on share-based compensation expense since the effect of adjusting the rate is recognized in the period the forfeiture estimate is changed.

We also grant performance share units to executive officers and certain employees that require us to estimate expected achievement of performance targets over the performance period. This estimate involves judgment regarding future expectations of various financial performance measures. If there are changes in our estimate of the level of financial performance measures expected to be achieved, the related share-based compensation expense may be significantly increased

or reduced in the period that our estimate changes.

Investments in Equity Interests

Investments in entities in which we can exercise significant influence, but do not own a majority equity interest or otherwise control, are accounted for under the equity method. We record our share of the results of these entities as "Equity in earnings of unconsolidated investees" on the Consolidated Statements of Operations. We record our share of the results of Woongjin Energy and First Philec Solar in the same quarter and the results of AUOSP with a one quarter lag. To calculate our share of the investees' income or loss, we adjust the net income (loss) of each joint venture to conform to U.S. GAAP and multiply that by our equity investment ownership percentage.

Variable Interest Entities ("VIE")

We regularly evaluate our relationships with Woongjin Energy, First Philec Solar and AUOSP to determine if we have a controlling financial interest in the VIEs and therefore become the primary beneficiary of the joint ventures requiring us to consolidate their financial results into our financial statements. We do not consolidate the financial results of Woongjin Energy, First Philec Solar and AUOSP as we have concluded that we are not the primary beneficiary of these joint ventures. Although we are obligated to absorb losses or have the right to receive benefits from the joint ventures that are significant to the entities, such variable interests held by us do not empower us to direct the activities that most significantly impact the joint ventures' economic performance. For additional details see Note 10 of the Notes to Consolidated Financial Statements for discussions of our joint ventures.

In connection with the sale of the equity interests in the entities that hold solar power plants, we also consider if we retain a variable interest in the entity sold, either through retaining a financial interest or by contractual means. If we determine that the entity sold is a VIE and that we hold a variable interest, we then evaluate whether we are the primary beneficiary. The entity that is the primary beneficiary consolidates the VIE. The determination of whether we are the primary beneficiary is based upon whether we have the power to direct the activities that most directly impact the economic performance of the VIE and whether we absorb any losses or benefits that would be potentially significant to the VIE. To date, there have been no sales of entities holding solar power plants in which we have concluded that we are the primary beneficiary after the sale.

Accounting for Business Combinations

We record all acquired assets and liabilities, including goodwill, other intangible assets and in-process research and development, at fair value. The initial recording of goodwill, other intangible assets and in-process research and development requires certain estimates and assumptions concerning the determination of the fair values and useful lives. The judgments made in the context of the purchase price allocation can materially impact our future results of operations. Accordingly, for significant acquisitions, we obtain assistance from third-party valuation specialists. The valuations calculated from estimates are based on information available at the acquisition date. Goodwill is not amortized, but is subject to annual tests for impairment or more often if events or circumstances indicate it may be impaired. Other intangible assets are amortized over their estimated useful lives and are subject to impairment if events or circumstances indicate a possible inability to realize the carrying amount. For additional details see Notes 3 and 5 of Notes to Consolidated Financial Statements.

Valuation of Long-Lived Assets

Our long-lived assets include property, plant and equipment, project assets and other intangible assets with finite lives. Our business requires heavy investment in manufacturing facilities that are technologically advanced, but can quickly become significantly under-utilized or rendered obsolete by rapid changes in demand for solar power products produced in those facilities.

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

Goodwill Impairment Testing

Goodwill is tested for impairment at least annually, or more frequently if certain indicators are present. A two-step process is used to test for goodwill impairment. The first step is to determine if there is an indication of impairment by comparing the estimated fair value of each reporting unit to its carrying value, including existing goodwill. Goodwill is considered impaired if the carrying value of a reporting unit exceeds the estimated fair value. Upon an indication of impairment, a second step is performed to determine the amount of the impairment by comparing the implied fair value of the reporting unit's goodwill with its carrying value.

We conduct our annual impairment test of goodwill as of the Sunday closest to the end of the third fiscal quarter of each year. Impairment of goodwill is tested at our reporting unit level. Management determined that the UPP Segment and R&C Segment each have two reporting units. The two reporting units of the UPP Segment are the systems business and the components business. The two reporting units of the R&C Segment are the North American commercial business and the residential and light commercial business. The process of evaluating the potential impairment of goodwill is highly subjective and requires significant judgment at many points during the analysis. In estimating the fair value of the reporting units, we make estimates and judgments about our future cash flows using an income approach defined as Level 3 inputs under fair value measurement standards. The income approach, specifically a discounted cash flow analysis, included assumptions for, among others, forecasted free cash flow, perpetual growth rates and long-term discount rates, all of which require significant judgment by management. The sum of the fair values of our reporting units are also compared to our external market capitalization to determine the appropriateness of our assumptions (i.e. the discounted cash flow analysis) and to reduce the fair values of our reporting units, if appropriate. These assumptions took into account the current economic environment and its impact on our business. In the event that management determines that the value of goodwill has become impaired, we will incur an accounting charge for the amount of the impairment during the fiscal quarter in which the determination is made. For additional details see Notes 3 and 5 of Notes to Consolidated Financial Statements.

Fair Value of Financial Instruments

Certain of our financial assets and financial liabilities, specifically our cash, cash equivalents, restricted cash, restricted cash equivalents, available-for-sale securities, foreign currency derivatives, interest rate swaps derivatives and convertible debenture derivatives are carried at fair value in our Consolidated Financial Statements. Accounting guidance defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. We enter into over-the-counter ("OTC") foreign currency derivatives and use various valuation techniques to derive the value of option and forward contracts. In determining fair value, we use the market and income approaches. Current accounting guidance provides a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the observable inputs be used when available. Observable inputs are inputs that market participants would use in pricing the asset or liability developed based on market data obtained from sources independent of us. Unobservable inputs are inputs that reflect our assumptions about market participants assumptions used in pricing the asset or liability, developed based on the best information available in the circumstances. As such, fair value is a market-based measure considered from the perspective of a market participant who holds the asset or owes the liability rather than an entity specific measure. The hierarchy is broken down into three levels based on the reliability of inputs as follows:

- Level 1—Valuations based on quoted prices in active markets for identical assets or liabilities that we have the ability to access. Since valuations are based on quoted prices that are readily and regularly available in an active market, valuation of these products does not entail a significant degree of judgment. Financial assets utilizing Level 1 inputs include most money market funds.

- Level 2—Valuations based on quoted prices in markets that are not active or for which all significant inputs are observable, directly or indirectly. Financial assets utilizing Level 2 inputs include bank notes, debt securities, foreign currency option contracts, forward exchange contracts, interest rate swaps derivatives and convertible debenture derivatives. The selection of a particular technique to value a derivative depends upon the contractual term of, and specific risks inherent with, the instrument as well as the availability of pricing information in the market. We generally use similar techniques to value similar instruments. Valuation techniques utilize a variety of inputs, including contractual terms, market prices, yield curves, credit curves and measures of volatility. For derivatives that trade in liquid markets, such as generic forward, option and swap contracts, inputs can generally be verified and selections do not involve significant management judgment.

- Level 3—Valuations based on inputs that are unobservable and significant to the overall fair value measurement. Financial assets utilizing Level 3 inputs include certain money market funds. We use the market approach to estimate

the price that would be received to sell certain money market funds in an orderly transaction between market participants ("exit price"). We reviewed the underlying holdings and estimated the price of underlying fund holdings to estimate the fair value of these funds.

Availability of observable inputs can vary from instrument to instrument and to the extent that valuation is based on inputs that are less observable or unobservable in the market, the determination of fair value requires more judgment. Accordingly, the degree of judgment exercised by our management in determining fair value is greatest for instruments categorized in Level 3. In certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, for disclosure purposes the level in the fair value hierarchy within which the fair value measurement in its entirety falls is determined based on the lowest level input that is significant to the fair value measurement in its entirety.

Unrealized gains and losses of our available-for-sale securities and the effective portion of foreign currency derivatives are excluded from earnings and reported as a component of accumulated other comprehensive income (loss) on the Consolidated Balance Sheets. To the extent our foreign currency derivatives are not effective hedges, unrealized gains or losses are included in earnings. Similarly, the change in fair value of our interest rate swaps derivatives and convertible debenture derivatives are included in earnings. Additionally, we assess whether an other-than-temporary impairment loss on our available-for-sale securities has occurred due to declines in fair value or other market conditions. Declines in fair value that are considered other-than temporary are recorded in "Other, net" in the Consolidated Statements of Operations.

In general, investments with original maturities of greater than ninety days and remaining maturities of one year or less are classified as short-term investments. Investments with maturities beyond one year may also be classified as short-term based on their highly liquid nature and because such investments represent the investment of cash that is available for current operations. For additional details see Note 7 of Notes to Consolidated Financial Statements.

Valuation of Certain Convertible Debt

Convertible debt instruments that may be settled in cash upon conversion require recognition of both the liability and equity components in the Consolidated Financial Statements. The debt component is required to be recognized at the fair value of a similar debt instrument that does not have an associated equity component. The equity component is recognized as the difference between the proceeds from the issuance of the convertible debt and the fair value of the liability, after adjusting for the deferred tax impact. The accounting guidance also requires an accretion of the resulting debt discount over the expected life of the convertible debt.

In February 2007, we issued $200.0 million in principal amount of our 1.25% senior convertible debentures ("1.25% debentures") to Lehman Brothers Inc. ("Lehman Brothers"). In July 2007, we issued $225.0 million in principal amount of our 0.75% senior convertible debentures ("0.75% debentures") to Credit Suisse Securities (USA) LLC ("Credit Suisse"). The 1.25% debentures and the 0.75% debentures contain partial cash settlement features and are therefore subject to the aforementioned accounting guidance. We estimated that the effective interest rate for similar debt without the conversion feature was 9.25% and 8.125% on the 1.25% debentures and 0.75% debentures, respectively. The resulting debt discount is amortized to non-cash interest expense under the interest method through the first date the debt holders can require us to repurchase their debentures. For additional details see Note 11 of Notes to Consolidated Financial Statements.

Valuation of Share Lending Arrangements

Share lending arrangements executed in connection with convertible debt offerings or other financings are required to be measured at fair value and amortized as interest expense in our Consolidated Statement of Operations in the same manner as debt issuance costs. In addition, in the event that counterparty default under the share lending arrangement becomes probable, we are required to recognize an expense in our Consolidated Statement of Operations equal to the then fair value of the unreturned loaned shares, net of any probable recoveries.

We have two historical share lending arrangements. In connection with the issuance of our 1.25% debentures and 0.75% debentures, we loaned 2.9 million shares of our former class A common stock to LBIE and 1.8 million shares of our former class A common stock to Credit Suisse International ("CSI") under share lending arrangements. Retroactive application of the above accounting guidance, as required in fiscal 2010, resulted in higher non-cash amortization of imputed share lending costs as well as a significant non-cash loss resulting from Lehman Brothers Holding Inc. ("Lehman") filing a petition for protection under Chapter 11 of the U.S. bankruptcy code on September 15, 2008, and LBIE commencing administration proceedings (analogous to bankruptcy) in the United Kingdom. On December 16, 2010, we entered into an assignment agreement with Deutsche Bank AG - London Branch ("Deutsche Bank") under which we assigned to Deutsche Bank our claims against LBIE and Lehman in connection with the share lending arrangement. Under the assignment agreement, Deutsche Bank paid us $24.0

million for the claims on December 16, 2010, and we may receive, upon the final allowance or admittance of the claims in the U.K. and U.S. proceedings, an additional payment for the claims. We cannot predict the amount of any such payment for the claims and cannot guarantee that we will receive any additional payment for the claims. The amount recovered under the assignment agreement on December 16, 2010 was $24.0 million and was reflected as "Gain on share lending arrangement" in our Consolidated Statements of Operations in fiscal 2010. For additional details see Note 11 of Notes to Consolidated Financial Statements.

Accounting for Income Taxes

Our global operations involve manufacturing, R&D, selling and project development activities. Profit from non-U.S. activities is subject to local country taxation, but not subject to United States tax until repatriated to the United States. It is our intention to indefinitely reinvest these earnings outside the United States. We record a valuation allowance to reduce our U.S. deferred tax assets to the amount that is more likely than not to be realized. In assessing the need for a valuation allowance, we consider historical levels of income, expectations and risks associated with the estimates of future taxable income and ongoing prudent and feasible tax planning strategies. In the event we determine that we would be able to realize additional deferred tax assets in the future in excess of the net recorded amount, or if we subsequently determine that realization of an amount previously recorded is unlikely, we would record an adjustment to the deferred tax asset valuation allowance, which would change income tax in the period of adjustment. As of January 1, 2012, we believe there is insufficient evidence to realize additional deferred tax assets, although it is possible that a reversal of the valuation allowance, which could be material, could occur in fiscal 2012.

The calculation of tax liabilities involves dealing with uncertainties in the application of complex global tax regulations. We recognize potential liabilities for anticipated tax audit issues in the United States and other tax jurisdictions based on our estimate of whether, and the extent to which, additional taxes will be due. If payment of these amounts ultimately proves to be unnecessary, the reversal of the liabilities would result in tax benefits being recognized in the period in which we determine the liabilities are no longer necessary. If the estimate of tax liabilities proves to be less than the ultimate tax assessment, a further charge to expense would result. We accrue interest and penalties on tax contingencies which are classified as "Provision for income taxes" in the Consolidated Statements of Operations and are not considered material. For additional details see Note 13 of Notes to Consolidated Financial Statements.

Pursuant to the Tax Sharing Agreement with Cypress, we are obligated to indemnify Cypress upon current utilization of carryforward tax attributes generated while we were part of the Cypress consolidated or combined group. Further, to the extent Cypress experiences any tax examination assessments attributable to our operations while part of the Cypress consolidated or combined group, Cypress will require an indemnification from us for those aspects of the assessment that relate to our operations. See also *"Item 1A: Risk Factors"* including *"Our agreements with Cypress require us to indemnify Cypress for certain tax liabilities. These indemnification obligations and related contractual restrictions may limit our ability to pursue certain business initiatives."*

In addition, foreign exchange gains (losses) may result from estimated tax liabilities, which are expected to be realized in currencies other than the U.S. dollar.

Results of Operations

Revenue

	Year Ended		
(In thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Utility and power plants	$ 1,064,144	$ 1,186,054	$ 653,531
Residential and commercial	1,248,350	1,033,176	870,752
Total revenue	$ 2,312,494	$ 2,219,230	$ 1,524,283

Total Revenue: During fiscal 2011, 2010, and 2009 our total revenue was $2,312.5 million, $2,219.2 million, $1,524.3 million, respectively. The increase in total revenue of 4% in fiscal 2011 as compared to fiscal 2010 was primarily attributable to revenue from the development of several large scale projects in North America and Europe, as well as the continuous growth of our third-party global dealer network to adjust to demand in the geographical regions in which we do business. In fiscal 2011 and 2010, we recognized revenue on 765.8 MW and 558.5 MW, respectively, of solar power products sold through both our

UPP & R&C Segments. The increase in our total revenue was partially offset by declining average selling prices and mix of our solar power products. The increase in total revenue of 46% in fiscal 2010 as compared to fiscal 2009 is primarily attributable to revenue related to the sale of several large scale projects, including projects acquired through our acquisition of SunRay in March 2010, that were completed and monetized, as well as growing demand for our solar power products in the residential and commercial markets in the United States and Europe as a result of favorable renewable energy policies.

Sales outside the United States represented approximately 49%, 71%, and 57% of total revenue for fiscal 2011, 2010, and 2009, respectively. The shift in revenue by geography in fiscal 2011 as compared to fiscal 2010 was due to increasing demand in the United States for our solar power products due to additional federal and state initiatives supporting attractive solar incentives within the residential, commercial, and utility sectors as well as a slowdown in project development and component shipments in Europe due to changes in government incentives. The shift in revenue by geography in fiscal 2010 as compared to fiscal 2009 was due to the sale of several large scale projects completed or under construction in Italy during fiscal 2010.

Concentrations: The table below represents our significant customers which accounted for greater than 10 percent of total revenue, accounts receivable, or costs and estimated earnings in excess of billings during fiscal 2011, 2010, and 2009. We had no customers that accounted for 10 percent or more of total revenue in fiscal 2011. We entered into a project contract with one of our customers in the United States in fiscal 2011, which is anticipated to account for 10 percent or more of total revenue in fiscal 2012.

		Year Ended		
Revenue		**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Significant Customer:	**Business Segment**			
Customer A	Utility and power plants	*	12%	*
Customer B	Utility and power plants	*	*	12%

		As of	
Accounts receivable		**January 1, 2012**	**January 2, 2011**
Significant Customer:	**Business Segment**		
Customer C	Utility and power plants	20%	*
Customer D	Utility and power plants	*	11%

		As of	
Cost in excess of billings		**January 1, 2012**	**January 2, 2011**
Significant Customer:	**Business Segment**		
Customer E	Utility and power plants	21%	*
Customer F	Utility and power plants	*	17%
Customer G	Utility and power plants	*	15%

* denotes less than 10% during the period

UPP Revenue: UPP revenue for fiscal 2011, 2010, and 2009 was $1,064.1 million, $1,186.1 million, and $653.5 million, respectively, which accounted for 46%, 53%, and 43%, respectively, of total revenue. UPP revenue in fiscal 2011 decreased 10% as compared to fiscal 2010 primarily due to changes in European government incentives which had a materially negative effect on the market for solar systems, particularly large-scale solar products and systems in Europe, and caused our earnings related to such projects to decline in Europe. This decrease was partially offset by an increase in component sales period over period, particularly in North America. We recognized revenue on 229.3 MW and 118.6 MW of component sales in fiscal 2011 and 2010, respectively. The UPP Segment further recognized revenue under the percentage-of-completion method for several power plants including three solar power plants under construction in the United States totaling 60 MW and the completion of a 20 MW solar power plant in Ontario, Canada. In addition, in fiscal 2011, our UPP Segment completed and sold two power plants in Italy totaling 14 MW.

UPP revenue in fiscal 2010 increased 81% as compared to fiscal 2009 primarily due to revenue related to the sale of

several large scale development projects in Italy acquired and sold as part of our acquisition of SunRay in March 2010 as well as an increase in the number of EPC contracts. In the second half of fiscal 2010 our UPP Segment completed the sale of 44 MW and 8 MW solar power plants in Montalto di Castro Italy to a consortium of international investors, and a 13 MW solar power plant in Anguillara, Italy to another customer. The UPP Segment further recognized revenue under the percentage-of-completion method for several power plants totaling 28 MW in the Sicily region and Piedmont region of Italy, a 20 MW solar power plant in Toronto, Canada and a 17 MW solar power plant in Colorado. In addition, in fiscal 2010 our UPP Segment began providing solar panels and balance of system components to a utility customer in the United States under a large five-year supply contract.

In fiscal 2009, our UPP Segment recognized revenue from the construction of a 20 MW solar power plant for SunRay (in its capacity as our third-party customer) in Montalto di Castro, Italy prior to our acquisition of that company. In addition, our UPP Segment completed the construction of a 25 MW solar power plant in Desoto County, Florida and began the construction of a 10 MW solar power plant at the Kennedy Space Center in Florida.

R&C Revenue: R&C revenue for fiscal 2011, 2010, and 2009 was $1,248.4 million, $1,033.2 million, and $870.8 million, respectively, or 54%, 47%, and 57%, respectively, of total revenue. R&C revenue in fiscal 2011 increased 21% as compared to fiscal 2010 due to growing demand for our solar power products in the residential and commercial markets, specifically in rooftop and ground-mounted commercial projects in North America, particularly the United States, due to federal state and local initiatives supporting solar power projects. In fiscal 2011 we recognized revenue on 385.2 MW of solar power products sold through our R&C Segment as compared to 274.6 MW in fiscal 2010. In fiscal 2011, we additionally entered into new residential and commercial markets in Belgium and the United Kingdom and further expanded in Germany. We additionally expanded our third-party global dealer network which was composed of more than 1,800 dealers worldwide at the end of fiscal 2011, an increase of approximately 20% from fiscal 2010. These increases were partially offset by the change in European government incentives which adversely impacted the overall market for solar products and further drove down average selling prices in all regions.

R&C revenue in fiscal 2010 increased 19% as compared to fiscal 2009 primarily due to growing demand for our solar power products in the residential and commercial markets in both the United States and Europe, and in part due to our introduction of an additional product series in fiscal 2010 with increased solar panel efficiency and module configuration. In fiscal 2010 we additionally began construction on several large commercial projects in New Jersey.

Cost of Revenue

Details of cost of UPP revenue are as follows:

	UPP		
	Year Ended		
(Dollars in thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Amortization of other intangible assets	$ 272	$ 2,762	$ 2,732
Stock-based compensation	5,706	7,608	5,808
Non-cash interest expense	1,323	5,412	1,231
Change in European government incentives	32,708	—	—
Materials and other cost of revenue	927,067	892,544	517,079
Total cost of revenue	$ 967,076	$ 908,326	$ 526,850
Total cost of revenue as a percentage of revenue	91%	77%	81%
Total gross margin percentage	9%	23%	19%

Details of cost of R&C revenue are as follows:

(Dollars in thousands)	R&C Year Ended January 1, 2012	January 2, 2011	January 3, 2010
Amortization of other intangible assets	$ 195	$ 7,644	$ 8,465
Stock-based compensation	7,481	8,121	8,190
Non-cash interest expense	1,241	1,495	1,508
Change in European government incentives	23,007	—	—
Materials and other cost of revenue	1,085,290	783,751	695,550
Total cost of revenue	$ 1,117,214	$ 801,011	$ 713,713
Total cost of revenue as a percentage of revenue	89%	78%	82%
Total gross margin percentage	11%	22%	18%

Total Cost of Revenue: Our cost of revenue will fluctuate from period to period due to the mix of projects completed and recognized as revenue, in particular between large utility projects and large commercial installation projects. The cost of solar panels is the single largest cost element in our cost of revenue. Other cost of revenue associated with the construction of solar power systems includes real estate, mounting systems, inverters, third-party contract manufacturer costs, construction subcontract and dealer costs. In addition, other factors contributing to cost of revenue include amortization of other intangible assets, stock-based compensation, depreciation, provisions for estimated warranty claims, salaries, personnel-related costs, freight, royalties, facilities expenses and manufacturing supplies associated with contracting revenue and solar cell fabrication, as well as factory pre-operating costs associated with our manufacturing facilities.

During fiscal 2011, 2010, and 2009 total cost of revenue was $2,084.3 million, $1,709.3 million, and $1,240.6 million, respectively, which represented an increase of 22% and 38% period over period. The increase in total cost of revenue in fiscal 2011 as compared to fiscal 2010 is primarily due to a 37% increase in total MW of solar power products sold. Additionally contributing to the increase in total cost of revenue is $55.7 million in charges incurred in fiscal 2011 associated with the change in European government incentives, including (i) a $16.0 million write-down of project asset costs based on changes in fair value and our ability to develop, commercialize and sell active projects within Europe, and (ii) $39.7 million related to the write-down of third-party inventory and costs associated with the termination of third-party solar cell supply contracts resulting from lower demand and average selling price in certain areas of Europe. The increase in total cost of revenue is partially offset by lower material costs, higher yields as well as better factory utilization as a result of higher output generated at our manufacturing facilities and our AUOSP joint venture.

The increase in total cost of revenue in fiscal 2010 as compared to fiscal 2009 is primarily due to (i) increased sales volume; (ii) greater economies of scale as a result of lower material cost and better utilization; and (iii) an increase in output generated at our manufacturing facilities. During fiscal 2010, our two solar cell manufacturing facilities produced 577.7 MW and 397.4 MW in fiscal 2010 and 2009, respectively. The increase in total cost of revenue in fiscal 2010 as compared to fiscal 2009 partially corresponds with an increase in total revenue of 46% over the same period as average selling prices did not experience the significant declines as seen in fiscal 2011 as a result of the change in European government incentives.

UPP Gross Margin: Gross margin for our UPP Segment was $97.1 million, $277.7 million, and $126.7 million for fiscal 2011, 2010, and 2009, respectively, or 9%, 23%, and 19%, respectively, of UPP revenue. UPP gross margin decreased in fiscal 2011 as compared to fiscal 2010 primarily due to an increase in costs on certain power plant projects under construction and reductions in the average selling price of components due to oversupply in the market. Also contributing to the decline in gross margin were charges relating to the change in European government incentives totaling $32.7 million including (i) a $16.0 million write-down of project asset costs to estimated fair value based on changes in our ability to develop, commercialize and sell active projects within Europe, and (ii) $16.7 million related to the write-down of acquired third-party inventory and costs associated with the termination of third-party solar cell supply contracts as described above. Partially offsetting the decline in gross margin for our UPP Segment was an increase in component sales in North America and Europe, which typically have higher gross margin percentages than our utility projects. In fiscal 2011, we recognized revenue on 229.3 MW of components as compared to 118.6 MW in fiscal 2010, an increase of 93% year over year. UPP gross margin increased in fiscal 2010 as compared to fiscal 2009 primarily due to: (i) a greater proportion of sales from development projects in Italy which have higher gross margins due to customers paying a premium for turn-key fully developed power plants, and (ii) reduced charges for inventory write-downs and subsequent sales of aged third party solar panels in fiscal 2010 as compared to fiscal 2009.

R&C Gross Margin: Gross margin for our R&C Segment was $131.1 million, $232.2 million, and $157.0 million for fiscal 2011, 2010, and 2009, respectively, or 11%, 22%, and 18%, respectively, of R&C revenue. Gross margin decreased in fiscal 2011 as compared to fiscal 2010 primarily due to to: (i) overall reduction in average selling prices of our solar products; (ii) increased mix of third party panels in the first three quarters of fiscal 2011, which generally have a lower margin; and (iii) $23.0 million in charges related to the write-down of acquired third-party inventory and costs associated with the termination of third-party solar cell supply contracts as a result of the change in European government incentives as described above. These decreases were partially offset by increased activity and installations of rooftop and ground-mounted projects in the commercial sector in North America. R&C gross margin increased in fiscal 2010 as compared to fiscal 2009 primarily due to: (i) the reduction in large commercial balance of system cost, and (ii) improvements attributable to continued manufacturing scale and reductions in our manufacturing costs, partially offset by reduced average selling prices of solar power products.

Research and Development ("R&D")

	Year Ended		
(Dollars in thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Stock-based compensation	$ 6,166	$ 7,555	$ 6,296
Non-cash interest expense	6	—	—
Other R&D	51,603	41,535	25,346
Total R&D	$ 57,775	$ 49,090	$ 31,642
As a percentage of revenue	2%	2%	2%

In fiscal 2011, 2010, and 2009 R&D expense was $57.8 million, $49.1 million, and $31.6 million, respectively, which represents an increase of 18% in fiscal 2011 as compared to fiscal 2010, and an increase of 55% in fiscal 2010 as compared to fiscal 2011. The overall increase in our investment in R&D period over period resulted primarily from costs related to the improvement of our current generation solar cell manufacturing technology, development of our next generation of solar cells, solar panels, trackers and rooftop systems, and development of systems performance monitoring products.

Cost reimbursements received from government entities in the United States additionally decreased over all periods due to phase out of related programs in 2010, such as the Solar America Initiative R&D agreement with the United States Department of Energy. R&D cost reimbursements received under such agreements totaled $1.0 million, $5.2 million, and $8.9 million during fiscal 2011, 2010, and 2009, respectively. As of January 1, 2012 we have executed new research and development agreements with the United States federal government and California state agencies. Further payments received under these contracts will offset some of our R&D expense in future periods.

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

	Year Ended		
(Dollars in thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Amortization of other intangible assets	$ 21,202	$ 28,071	$ 5,277
Stock-based compensation	25,772	31,088	26,700
Total investment related costs	13,924	—	—
Amortization of promissory notes	2,122	11,054	—
Non-cash interest expense	45	—	—
Other SG&A	256,654	251,723	158,267
Total SG&A	$ 319,719	$ 321,936	$ 190,244
As a percentage of revenue	14%	15%	12%

During fiscal 2011, 2010 and 2009, SG&A expense was $319.7 million, $321.9 million, and $190.2 million, respectively. SG&A expense decreased 1% in fiscal 2011 as compared to fiscal 2010 and was primarily driven by: (i) our cost-control strategy implemented in response to the changes in the European market and the resulting restructuring, including the overall reduction of consulting charges in Europe and the United States; (ii) the reduction in legal and other professional services as significant acquisition and integration related costs were incurred subsequent to our acquisition of SunRay in March 2010; and (iii) $4.4 million of expenses incurred in the first quarter of fiscal 2010 associated with our Audit Committee's independent investigation of certain accounting entries primarily related to cost of goods sold by our Philippines operations.

The above decrease was partially offset by: (i) additional personnel related expenses (including salary, employee benefits, stock-based compensation costs and commission) as a result of net increase in headcount; (ii) non-recurring transaction expenses of $13.9 million incurred in connection with the April 28, 2011 Tender Offer Agreement with Total as well as related integration costs; (iii) additional bad debt expense of $9.8 million related to several customers impacted by the recent changing market conditions in Europe; and (iv) additional operating and development expenses consolidated into our financial results subsequent to our acquisition SunRay in March 2010.

SG&A expense increased 69% in fiscal 2010 as compared to fiscal 2009 and was primarily related to: (i) additional operating and development expenses consolidated into our financial results subsequent to our acquisition of SunRay in March 2010; (ii) higher amortization associated with other intangible assets related to acquired project assets (which were subsequently impaired in the third quarter for fiscal 2011); (iii) acquisition-related costs and integration-related costs such as legal, accounting, valuation and other professional services; (iv) costs associated with the formation of the AUOSP joint venture; (v) personnel related expenses (including stock-based compensation costs, bonus and commission) as a result of increased headcount; (vi) additional bad debt expense due to the overall increase in revenue and the collectability of outstanding accounts receivable related to several customers impacted by the difficult economic conditions; and (vii) $4.4 million of expenses incurred in the first quarter of fiscal 2010 associated with our Audit Committee independent investigation of certain accounting entries primarily related to cost of goods sold by our Philippines operations.

Goodwill and Other Intangible Asset Impairment

	Year Ended		
(In thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Goodwill impairment	$ 309,457	$ —	$ —
Other intangible asset impairment	40,301	—	—
	$ 349,758	$ —	$ —
As a percentage of revenue	15%	—%	—%

We conduct our annual impairment test of goodwill as of the Sunday closest to the end of the third fiscal quarter of each year. Impairment of goodwill is tested at our reporting unit level. Management determined the UPP Segment and R&C Segment each have two reporting units, UPP-International and UPP-Americas for UPP Segment, and Residential and Light Commercial and North American Commercial for R&C Segment. Based on the impairment test performed during the third quarter of fiscal 2011, as further described above under "Change in European Market", we determined that the carrying value of the UPP-International, UPP-Americas, and Residential and Light Commercial reporting units exceeded their fair value. As a result, we recorded a goodwill impairment loss of $309.5 million, representing all of the goodwill associated with these reporting units. As of January 1, 2012, the fair value of the remaining reporting unit exceeded the carrying value under the first step of the goodwill impairment test. Therefore, goodwill was not impaired (see Note 5).

We additionally review our intangible assets for impairment whenever events or changes in circumstances indicate that the carrying value of such assets may not be recoverable. During the third quarter of fiscal 2011, we determined the carrying value of certain intangible assets related to strategic acquisitions of EPC and O&M project pipelines in Europe were no longer recoverable and therefore recognized an impairment loss of $40.3 million in the year ended January 1, 2012 (see Note 5).

Restructuring Charges

	Year Ended		
(In thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
December 2011 Plan	$ 7,477	$ —	$ —
June 2011 Plan	13,926	$ —	$ —
Restructuring charges	$ 21,403	$ —	$ —
As a percentage of revenue	1%	—%	—%

December 2011 Plan: To accelerate operating cost reduction and improve overall operating efficiency, in December 2011, we implemented a company-wide restructuring program (the "December 2011 Plan"). During the year ended January 1, 2012, $7.5 million of restructuring charges in connection with the December 2011 Plan were recognized in our Consolidated Statements of Operations, consisting of $7.3 million of employee severance and benefits, which includes $1.6 million of stock

compensation associated with the accelerated vesting of restricted stock units in accordance with certain grant and termination agreements, and $0.2 million of legal and other related charges. The December 2011 Plan eliminates 2% of SunPower's global workforce. We expect to record restructuring charges up to $17.0 million, related to both the UPP Segment and R&C Segment, in the twelve months following the approval and implementation of the plan. We expect greater than 80% of these charges to be cash.

June 2011 Plan: In response to reductions in European government incentives, primarily in Italy, which have had a significant impact on the global solar market, on June 13, 2011, our Board of Directors approved a restructuring plan (the "June 2011 Plan") to realign our resources. During the year ended January 1, 2012, $13.9 million of restructuring charges in connection with the June 2011 Plan were recognized in our Consolidated Statements of Operations consisting of $11.2 million of employee severance and benefits, which includes $1.4 million of compensation associated with the accelerated vesting of promissory notes previously issued as consideration for an acquisition completed in the first quarter of fiscal 2010, $0.7 million of lease and related termination costs, and $2.1 million of legal and other related charges. The June 2011 Plan eliminates 2% of our global workforce, in addition to the consolidation or closure of certain facilities in Europe. We expect to record restructuring charges of up to $17.0 million related to the UPP Segment in the twelve months following the approval and implementation of the plan. We expect greater than 90% of restructuring related charges to be cash.

Other Income (Expense), Net

	Year Ended		
(In thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Interest income	$ 2,054	$ 1,541	$ 2,109
Non-cash interest expense	(26,012)	(23,709)	(19,843)
Other interest expense	(41,010)	(31,567)	(16,444)
Total interest expense	(67,022)	(55,276)	(36,287)
Gain on sale of equity interest in unconsolidated investee	5,937	—	—
Gain on change in equity interest in unconsolidated investee	322	28,078	—
Gain on deconsolidation of consolidated subsidiary	—	36,849	—
Gain on mark-to-market derivatives	343	35,764	21,193
Gain on share lending arrangement	—	24,000	—
Other, net	(8,946)	(26,410)	(5,229)
Other income (expense), net	$ (67,312)	$ 44,546	$ (18,214)

Interest expense during fiscal 2011 primarily related to debt under our senior convertible debentures, fees for our outstanding letters of credit with Deutsche Bank AG New York Branch ("Deutsche Bank") and Deutsche Bank Trust Company, the mortgage loan with International Finance Corporation ("IFC"), debt under the loan agreement with California Enterprise Development Authority ("CEDA"), and debt under the revolving credit facilities with Union Bank, N.A. ("Union Bank") and Société Générale, Milan Branch ("Société Générale") and Credit Agricole Corporate and Investment Bank ("Credit Agricole"). Interest expense during fiscal 2010 primarily related to issuances of our senior convertible debentures and borrowings under the facility agreement with the Malaysian government (deconsolidated in the third quarter of fiscal 2010), fees for our outstanding letters of credit with Deutsche Bank, and acquired debt. Interest expense during fiscal 2009 primarily related to borrowings under our senior convertible debentures, fees for our outstanding letters of credit with Wells Fargo Bank, N.A. ("Wells Fargo"), our borrowings under the facility agreement with the Malaysian government, term loan with Union Bank and customer advance payments. The increase in interest expense of 21% in fiscal 2011 as compared to fiscal 2010 was due to additional indebtedness related to our $250.0 million in principal amount of 4.50% senior cash convertible debentures ("4.50% debentures") issued in April 2010, approximately €75.0 million borrowed from Société Générale in November 2010 under the revolving credit facility, as well as the $50.0 million borrowed from Union Bank in July 2011, both of which were repaid and terminated in September 2011 in connection with a borrowing of $250.0 million under a new Revolving Credit Agreement with Credit Agricole that provides up to $275.0 million of revolving loans, outstanding borrowings up to $75.0 million under our mortgage loan agreement with IFC beginning in November 2010, and $30 million borrowed under our loan agreement with CEDA in December 2010. The increase in interest expense of 52% in fiscal 2010 as compared to 2009 is due to: (i) additional indebtedness related to our $250.0 million in principal amount of 4.50% debentures issued in April 2010, $70.0 million borrowed from Union Bank in October 2010, approximately $98.0 million borrowed from Société Générale in November 2010 and $50.0 million borrowed from IFC in November 2010; and (ii) fees for our outstanding letters of credit with Deutsche Bank.

During fiscal 2011, we recorded a net gain of $5.9 million from the sale of 15.5 million shares of Woongjin Energy Co., Ltd (“Woongjin Energy”), which decreased our equity ownership from 31% to 6%. In January 2012, we sold our remaining equity interest in Woongjin Energy. Non-cash gains recorded due to the dilution of our equity interest in Woongjin Energy as a result of Woongjin Energy's issuance of additional equity to other investors amounted to $0.3 million and $28.3 million in fiscal 2011 and 2010, respectively.

On July 5, 2010, we closed our joint venture transaction with AUO. Under the joint venture agreement our equity interest in SPMY, formerly our subsidiary, was reduced to 50% and the entity was renamed AUOSP. As a result of the shared power arrangement with AUO, we deconsolidated AUOSP and account for our direct investment under the equity method in the third quarter of fiscal 2010. We recognized a non-cash gain of $36.8 million as a result of the deconsolidation of AUOSP in the third quarter of fiscal 2010 in our Consolidated Statement of Operations.

The $0.3 million net gain on mark-to-market derivatives during fiscal 2011 related to the change in fair value of the following derivative instruments associated with the 4.50% debentures: (i) the embedded cash conversion option; and (ii) the bond hedge transaction. The $35.8 million net gain on mark-to-market derivatives during fiscal 2010 related to the change in fair value of the following derivative instruments associated with the 4.50% debentures: (i) the embedded cash conversion option; (ii) the over-allotment option; (iii) the bond hedge transaction; and (iv) the warrant transaction. The changes in fair value of these derivatives are reported in our Consolidated Statements of Operations until such transactions settle or expire. The over-allotment option derivative settled on April 5, 2010 when the initial purchasers of the 4.50% debentures exercised the $30.0 million over-allotment option in full. As a result of the terms of the warrants being amended and restated so that they are settled in shares of our common stock rather than in cash, the warrants have not required mark-to-market accounting treatment subsequent to December 23, 2010. The $21.2 million net gain on mark-to-market derivatives during fiscal 2009 relates to changes in the fair value of the purchased options associated with the issuance of our 4.75% debentures. The purchased options, which were indexed to our common stock, were deemed to be mark-to-market derivatives during the one-day period in which the over-allotment option in favor of the 4.75% debenture underwriters was unexercised. We entered into the debenture underwriting agreement on April 28, 2009 and the 4.75% debenture underwriters exercised the over-allotment option in full on April 29, 2009. During the one-day period that the underwriters' over-allotment option was outstanding, our common stock price increased substantially, resulting in a non-cash gain on purchased options of $21.2 million in fiscal 2009 in our Consolidated Statement of Operations.

In connection with the issuance of our 1.25% debentures, we loaned 2.9 million shares of our former class A common stock to Lehman Brothers International (Europe) Limited ("LBIE") under a share lending arrangement. On September 15, 2008, Lehman filed a petition for protection under Chapter 11 of the U.S. bankruptcy code and LBIE commenced administration proceedings (analogous to bankruptcy) in the United Kingdom. As a result, we recognized a $213.4 million non-cash loss in the third quarter of fiscal 2008 which was the then fair value of the 2.9 million shares of our former class A common stock loaned and unreturned by LBIE. On December 16, 2010, we entered into an assignment agreement with Deutsche Bank under which we assigned to Deutsche Bank our claims against LBIE and Lehman in connection with the share lending arrangement. We recovered $24.0 million under the assignment agreement with Deutsche Bank which was reflected in the fourth quarter of fiscal 2010 as "Gain on share lending arrangement" in our Consolidated Statements of Operations.

The following table summarizes the components of Other, net:

	Year Ended		
(In thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Gain (loss) on derivatives and foreign exchange	$ 2,538	$ (27,701)	$ (3,902)
Gain (loss) on sale of investments	(191)	770	(1,443)
Other income (expense), net	(11,293)	521	116
Total other, net	$ (8,946)	$ (26,410)	$ (5,229)

Other, net expenses during fiscal 2011, 2010, and 2009 was comprised of net expenses and losses totaling $8.9 million, $26.4 million, and $5.2 million, respectively, consisting primarily of (i) losses totaling $15.3 million, $23.1 million, and $0.9 million, respectively, from expensing the time value of option contracts and forward points on forward exchange contracts of effective cash flow hedges; (ii) net gains totaling $17.8 million and net losses totaling $4.6 million and $3.0 million, respectively, on foreign currency derivatives and foreign exchange largely due to the volatility in the currency markets; and (iii) a total charge of $11.2 million in fiscal 2011 related to changes in fair value of our investment in unconsolidated investees given the overall economy and solar market conditions. We have an active hedging program designed to reduce our exposure to movements in foreign currency exchange rates. As a part of this program, we designate certain derivative transactions as

effective cash flow hedges of anticipated foreign currency revenues and record the effective portion of changes in the fair value of such transactions in "Accumulated other comprehensive income " in our Consolidated Balance Sheets until the anticipated revenues have occurred, at which point the associated income or loss would be recognized in revenue. During fiscal 2011, in connection with the decline in forecasted revenue, we reclassified an amount held in "Accumulated other comprehensive income" for certain previously anticipated transactions which did not occur or are now probable not to occur, which totaled a loss of $1.6 million, which is included in the net gain of $17.8 million on foreign currency derivatives and foreign exchange for fiscal 2011 described above.

Income Taxes

	Year Ended		
(Dollars in thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Provision for income taxes	$ (22,099)	$ (23,375)	$ (21,028)
As a percentage of revenue	1%	1%	1%

In fiscal 2011, our income tax provision of $22.1 million, on a loss from continuing operations of $587.8 million, was primarily due to foreign income in certain jurisdictions where our operations were profitable. In fiscal 2010, our income tax provision of $23.4 million on income from continuing operations before income taxes and equity in earnings of unconsolidated investees of $183.4 million was primarily due to the mix of income earned in domestic and foreign jurisdictions, nondeductible amortization of purchased other intangible assets, non deductible equity compensation, amortization of debt discount from convertible debentures, gain on change in equity interest in Woongjin Energy, mark-to-market fair value adjustments, changes in the valuation allowance on deferred tax assets, and discrete stock option deductions. In fiscal 2009, our income tax provision of $21.0 million on income from continuing operations before income taxes and equity in earnings of unconsolidated investees of $43.6 million was primarily due to domestic and foreign income taxes in certain jurisdictions where our operations were profitable, net of nondeductible amortization of purchased other intangible assets, discrete stock option deductions, and the discrete non-cash non-taxable gain on purchased options.

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

We record a valuation allowance to reduce our deferred tax assets to the amount that is more likely than not to be realized. In assessing the need for a valuation allowance, we consider historical levels of income, expectations and risks associated with the estimates of future taxable income and ongoing prudent and feasible tax planning strategies. In the event we determine that we would be able to realize additional deferred tax assets in the future in excess of the net recorded amount, or if we subsequently determine that realization of an amount previously recorded is unlikely, we would record an adjustment to the deferred tax asset valuation allowance, which would change income tax in the period of adjustment. As of January 1, 2012, we believe there is insufficient evidence to realize additional deferred tax assets in fiscal 2011.

Equity in Earnings of Unconsolidated Investees

	Year Ended		
(Dollars in thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Equity in earnings of unconsolidated investees	$ 6,003	$ 6,845	$ 9,929
As a percentage of revenue	—%	—%	1%

In fiscal 2011, 2010, and 2009, our equity in earnings of unconsolidated investees was net gains of $6.0 million, $6.8 million, and $9.9 million, respectively. Our share of Woongjin Energy's income totaled $9.8 million, $14.4 million, and $9.8 million in fiscal 2011, 2010 and 2009, respectively. The change in our equity share of Woongjin Energy's earnings period over period is attributable to overall declines in gross margin and the decrease in our equity ownership through dilution and sale. Our share of First Philec Solar Corporation's ("First Philec Solar") income totaled $0.8 million, $0.4 million, and $0.1 million in fiscal 2011, 2010, and 2009, respectively. The change in our equity share of First Philec Solar's earnings period over period represents the growth of the joint ventures' operations and changes in our equity ownership. Our share of AUOSP's loss in fiscal 2011 and 2010 totaled $4.6 million and $8.0 million, respectively.

Income from Discontinued Operations, Net of Taxes

	Year Ended		
(Dollars in thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Income from discontinued operations, net of taxes	$ —	$ 11,841	$ —
As a percentage of revenue	—%	1%	—%

In connection with our acquisition of SunRay on March 26, 2010, we acquired a European project company, Cassiopea PV S.r.l ("Cassiopea"), operating a previously completed 20 MWac solar power plant in Montalto di Castro, Italy. In the period in which our asset is classified as held-for-sale, we are required to segregate for all periods presented the related assets, liabilities and results of operations associated with that asset as discontinued operations. On August 5, 2010, we sold the assets and liabilities of Cassiopea. Therefore, results of operations were classified as "Income from discontinued operations, net of taxes" in the Consolidated Statement of Operations in the year ended January 2, 2011.

Liquidity and Capital Resources

Cash Flows

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

	Year Ended		
(In thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Net cash provided by (used in) operating activities of continuing operations	$ (125,096)	$ 168,402	$ 141,389
Net cash provided by (used in) investing activities of continuing operations	75,737	(461,360)	(256,559)
Net cash provided by financing activities of continuing operations	106,665	244,045	532,286

Operating Activities

Net cash used in operating activities of continuing operations in fiscal 2011 was $125.1 million and was primarily the result of: (i) a net loss of $603.9 million; (ii) increases in prepaid expense and other current assets of $242.6 million primarily associated with outstanding receivables due and receivable from our joint ventures; (iii) increases in inventories and project assets of $131.0 million for construction of future and current projects in North America and Europe; and (iv) an increase in advances to suppliers of $35.1 million associated with prepayments for polysilicon in accordance with our long-term supply contracts. Net cash used in operating activities was partially offset by: (i) non-cash impairment charges totaling $389.5 million associated with goodwill and other intangible asset impairment in the third quarter of fiscal 2011, as well as inventories and project asset write-downs in fiscal 2011 associated with the change in European government incentives; (ii) other non-cash charges of $201.2 million primarily related to depreciation and amortization, stock based compensation, and non-cash interest charges; and (iii) a decrease of $296.8 million in other operating liabilities, net of changes to operating assets.

Net cash provided by operating activities of continuing operations of $168.4 million in fiscal 2010 was primarily the result of: (i) income from continuing operations of $166.9 million; (ii) increases in accounts payable and other accrued liabilities of $158.0 million as well as an increase in customer advances of $90.6 million primarily related to outstanding payables due to our AUOSP joint ventures; (iii) non-cash charges totaling $255.1 million for depreciation, amortization, stock-based compensation, debt issuance costs, and non-cash interest expense. Net cash provided by operating activities of continuing operations was partially offset by: (i) increases to inventories of $114.5 million as we continue to grow our business; (ii) increases in accounts receivable of $132.2 million related to the increase in revenue; (iii) an increase in advance to suppliers of $96.1 million associated with prepayments for polysilicon in accordance with long-term supply contracts; (iv) an $0.8 million net gain on investments; (v) a $24.0 million recovery on a previously recorded loss on a share lending arrangement to LBIE; (vi) net gains of $35.8 million on mark-to-market derivatives related to the change in fair value of the derivative instruments associated with the 4.50% debentures; (vii) other non-cash income of $72.0 million primarily related to our equity share in earnings of joint ventures, gain on deconsolidation of AUOSP, net gain on change in our equity interest in joint ventures; and (viii) other changes in operating assets and liabilities of $27.4 million.

Net cash provided by operating activities of continuing operations in fiscal 2009 of $141.4 million was primarily the result of: (i) income from continuing operations of $32.5 million; (ii) non-cash charges totaling $175.3 million for depreciation, amortization, impairment of investments, stock-based compensation, and non-cash interest expense; and (iii) decreases in inventories of $53.7 million due to improved inventory turns as a result of management's demand-driven manufacturing model. The increase was partially offset by: (i) an increase in accounts receivable of $50.5 million due to the increase in total revenue in the fourth quarter of fiscal 2009 as compared to the same period in fiscal 2008; (ii) increase in advances to suppliers of $27.9 million related to our long-term polysilicon supply agreements; (iii) decrease in customer advances of $18.4 million; (iv) non-cash income of $31.1 million related to gain on purchased options and our equity share in earnings of joint ventures; and (v) net changes in other operating assets and liabilities of $12.3 million.

Investing Activities

Net cash provided by investing activities of continuing operations in fiscal 2011 was $75.7 million, which included: (i) $176.7 million of restricted cash released back to us due to transition of outstanding letter of credits in the August 2011 Deutsche Bank facility under which payment of obligations is guaranteed by Total S.A. and the release of deposited funds under our reimbursement agreement with Barclays Capital Inc. upon conversion of the CEDA bonds to a fixed rate instrument; (ii) $75.3 million in proceeds from the sale of a portion of our equity interest in our Woongjin Energy joint venture on the open market; and (iii) $43.8 million in proceeds received related to the sale of debt securities. Cash provided by investing activities was partially offset by: (i) $131.4 million related to capital expenditures primarily associated with improvements to our current generation solar cell manufacturing technology, leasehold improvements associated with new offices leased in San Jose, California, the build-out of new solar panel assembly facility in Mexicali, Mexico, and other projects; (ii) $80.0 million related to additional cash investments in our AUOSP joint venture; and (iii) $9.2 million in purchases of marketable securities.

Net cash used in investing activities of continuing operations in fiscal 2010 was $461.4 million, of which: (i) $119.2 million relates to capital expenditures primarily associated with the continued construction of FAB3 in Malaysia prior to deconsolidation on July 5, 2010; (ii) $272.7 million in cash was paid for a strategic acquisition completed in March 2010, net of cash acquired; (iii) $40.1 million for the purchase of debt securities; (iv) $5.6 million of increases in restricted cash and cash equivalents; (v) $17.8 million in cash paid for investments in AUOSP and non-public companies; and (vi) $12.9 million relates to cash of AUOSP that was deconsolidated on July 5, 2010. Cash used in investing activities was partially offset by $5.3 million in proceeds received from the sale of equipment to a third-party contract manufacturer and $1.6 million on proceeds from sale or maturity of money market funds.

Net cash used in investing activities of continuing operations during fiscal 2009 was $256.6 million, of which: (i) $167.8 million relates to capital expenditures primarily associated with the completion of our second solar cell manufacturing facility ("FAB2") in the Philippines and the continued construction of FAB3 in Malaysia; (ii) $135.5 million relates to increases in restricted cash and cash equivalents for the drawdown under the facility agreement with the Malaysian government; and (iii) $2.4 million relates to cash paid for investments in First Philec Solar and a non-public company. Cash used in investing activities was partially offset by $39.1 million in proceeds received from the sales or maturities of available-for-sale securities and $10.0 million in proceeds received from the sale of equipment to a third-party contract manufacturer.

Financing Activities

Net cash provided by financing activities of continuing operations in fiscal 2011 of $106.7 million reflects cash received of: (i) $489.2 million in cash proceeds from gross drawdowns under the Union Bank, Société Générale, and Credit Agricole revolving credit facilities, and our IFC mortgage loan agreement; (ii) $4.1 million from stock option exercises; and (iii) $2.3 million in cash proceeds in conjunction with warrant holders' exercise of their rights to reduce warrant exercise prices (see Note 11). Cash provided by financing activities in fiscal 2011 was partially offset by: (i) $377.1 million repayment on outstanding balances under the Union Bank and Société Générale revolving credit facilities; and (ii) $11.7 million in purchases of stock for tax withholding obligations on vested restricted stock.

Net cash provided by financing activities of continuing operations in fiscal 2010 of $244.0 million reflects cash received of: (i) $230.5 million in net proceeds from the issuance of $250.0 million in principal amount of our 4.50% debentures, after reflecting the payment of the net cost of the call spread overlay; (ii) $214.7 million and $318.6 million in net proceeds from various bank and project loans, respectively; (iii) $24.0 million received under the LBIE claim assignment agreement with Deutsche Bank; and (iv) $0.9 million from stock option exercises. Cash received was partially offset by: (i) $333.5 million principal amount of project loans assumed by customers with the sale of 44 MW and 8 MW solar power plants in Montalto di Castro, Italy to a consortium of international investors; (ii) cash paid of $30.0 million to Union Bank to terminate our $30.0 million term loan; (iii) repayment of $33.6 million to Piraeus Bank to terminate our current account overdraft agreement in Greece; (iv) repurchase of $143.8 million in principal amount of our 0.75% debentures; and (v) $3.7 million for treasury stock

purchases that were used to pay withholding taxes on vested restricted stock units.

Net cash provided by financing activities of continuing operations during fiscal 2009 of $532.3 million reflects cash received of: (i) $218.8 million in net proceeds from our public offering of 10.35 million shares of our former class A common stock; (ii) $198.7 million in net proceeds from the issuance of $230.0 million in principal amount of our 4.75% debentures, after reflecting the payment of the net cost of the call spread overlay; (iii) Malaysian Ringgit 560.0 million (approximately $163.4 million based on the exchange rate as of January 3, 2010) from the Malaysian government under AUOSP's facility agreement; (iv) $29.8 million in net proceeds from Union Bank under our $30.0 million term loan; and (v) $1.5 million from stock option exercises. Cash received during fiscal 2009 was partially offset by cash paid of $75.6 million to repurchase approximately $81.1 million in principal amount of our 0.75% debentures and $4.3 million for treasury stock purchases that were used to pay withholding taxes on vested restricted stock.

Debt and Credit Sources

Convertible Debentures

As of both January 1, 2012 and January 2, 2011, an aggregate principal amount of $250.0 million of the 4.50% debentures remain issued and outstanding. Interest on the 4.50% debentures is payable on March 15 and September 15 of each year. The 4.50% debentures mature on March 15, 2015. The 4.50% debentures are convertible only into cash, and not into shares of our common stock (or any other securities). Prior to December 15, 2014, the 4.50% debentures are convertible only upon specified events and, thereafter, they will be convertible at any time, based on an initial conversion price of $22.53 per share of our common stock. The conversion price will be subject to adjustment in certain events, such as distributions of dividends or stock splits. Upon conversion, we will deliver an amount of cash calculated by reference to the price of our common stock over the applicable observation period. We may not redeem the 4.50% debentures prior to maturity. Holders may also require us to repurchase all or a portion of their 4.50% debentures upon a fundamental change, as defined in the debenture agreement, at a cash repurchase price equal to 100% of the principal amount plus accrued and unpaid interest. In the event of certain events of default, such as our failure to make certain payments or perform or observe certain obligations thereunder, Wells Fargo, the trustee, or holders of a specified amount of then-outstanding 4.50% debentures will have the right to declare all amounts then outstanding due and payable. Concurrent with the issuance of the 4.50% debentures, we entered into privately negotiated convertible debenture hedge transactions and warrant transactions which represent a call spread overlay with respect to the 4.50% debentures (the "CSO2015"), assuming full performance of the counterparties and 4.50% Warrants strike prices in excess of the conversion price of the 4.50% debentures. According to the counterparties to the warrants, the consummation of the Total Tender Offer triggered their rights to make a downward adjustment to the strike price of the warrants. In the third quarter of fiscal 2011, we and the counterparties to the 4.50% Warrants agreed to reduce the exercise price of the 4.50% Warrants from $27.03 to $24.00. Please see *"Conversion of our outstanding 4.75% debentures, our warrants related to our outstanding 4.50% and 4.75% debentures, and future substantial issuances or dispositions of our common stock or other securities, could dilute ownership and earnings per share or cause the market price of our stock to decrease.*" in "Part I. Item 1A: Risk Factors."

As of both January 1, 2012 and January 2, 2011, an aggregate principal amount of $230.0 million of the 4.75% senior convertible debentures ("4.75% debentures") remain issued and outstanding. Interest on the 4.75% debentures is payable on April 15 and October 15 of each year. Holders of the 4.75% debentures are able to exercise their right to convert the debentures at any time into shares of our common stock at a conversion price equal to $26.40 per share. The applicable conversion rate may adjust in certain circumstances, including upon a fundamental change, as defined in the indenture governing the 4.75% debentures. If not earlier converted, the 4.75% debentures mature on April 15, 2014. Holders may also require us to repurchase all or a portion of their 4.75% debentures upon a fundamental change at a cash repurchase price equal to 100% of the principal amount plus accrued and unpaid interest. In the event of certain events of default, such as our failure to make certain payments or perform or observe certain obligations thereunder, Wells Fargo, the trustee, or holders of a specified amount of then-outstanding 4.75% debentures will have the right to declare all amounts then outstanding due and payable. Concurrent with the issuance of the 4.75% debentures, we entered into certain convertible debenture hedge transactions (the "4.75% Bond Hedge") and warrant transactions (the "4.75% Warrants") with affiliates of certain of the underwriters of the 4.75% debentures. According to the counterparties to the warrants, the consummation of the Total Tender Offer triggered their rights to make a downward adjustment to the strike price of the warrants. In the third quarter of fiscal 2011, we and the counterparties to the 4.75% Warrants agreed to reduce the exercise price of the 4.75% Warrants from $38.50 to $26.40, which is no longer above the conversion price of the 4.75% debentures. Please see *"Conversion of our outstanding and 4.75% debentures, our warrants related to our outstanding 4.50% and 4.75% debentures, and future substantial issuances or dispositions of our common stock or other securities, could dilute ownership and earnings per share or cause the market price of our stock to decrease."* in "Part I. Item 1A: Risk Factors".

As of both January 1, 2012 and January 2, 2011, an aggregate principal amount of $198.6 million of the 1.25% senior convertible debentures ("1.25% debentures") remained issued and outstanding. Interest on the 1.25% debentures is payable on February 15 and August 15 of each year. The 1.25% debentures mature on February 15, 2027. Holders may require us to repurchase all or a portion of their 1.25% debentures on each of February 15, 2012, February 15, 2017 and February 15, 2022, or if we experience certain types of corporate transactions constituting a fundamental change, as defined in the indenture governing the 1.25% debentures. Any repurchase of the 1.25% debentures under these provisions will be for cash at a price equal to 100% of the principal amount of the 1.25% debentures to be repurchased plus accrued and unpaid interest. In addition, we may redeem some or all of the 1.25% debentures on or after February 15, 2012 for cash at a redemption price equal to 100% of the principal amount of the 1.25% debentures to be redeemed plus accrued and unpaid interest. As of January 1, 2012, the 1.25% debentures were classified as short-term liabilities within "Convertible debt, current portion" in the Consolidated Balance Sheet as the holders may require us to repurchase all of their 1.25% debentures on February 15, 2012. On February 16, 2012, we repurchased $198.6 million in principal amount of the 1.25% debentures at a cash price of $199.8 million, representing 100% of the principal amount plus accrued and unpaid interest. None of the 1.25% debentures remained issued and outstanding after the repurchase.

As of both January 1, 2012 and January 2, 2011, an aggregate principal amount of $0.1 million of the 0.75% debentures remain issued and outstanding. Interest on the 0.75% debentures is payable on February 1 and August 1 of each year. The 0.75% debentures mature on August 1, 2027. Holders of the 0.75% debentures could require us to repurchase all or a portion of their debentures on each of August 1, 2015, August 1, 2020 and August 1, 2025, or if we experienced certain types of corporate transactions constituting a fundamental change, as defined in the indenture governing the 0.75% debentures. Any repurchase of the 0.75% debentures under these provisions will be for cash at a price equal to 100% of the principal amount of the 0.75% debentures to be repurchased plus accrued and unpaid interest. In addition, we could redeem the remaining 0.75% debentures on or after August 2, 2010 for cash at a redemption price equal to 100% of the principal amount of the 0.75% debentures to be redeemed plus accrued and unpaid interest.

Mortgage Loan Agreement with IFC

On May 6, 2010, our subsidiaries SPML and SPML Land, Inc. ("SPML Land") entered into a mortgage loan agreement with IFC. Under the loan agreement, SPML may borrow up to $75.0 million during the first two years, and SPML shall repay the amount borrowed, starting 2 years after the date of borrowing, in 10 equal semiannual installments over the following 5 years. SPML shall pay interest of LIBOR plus 3% per annum on outstanding borrowings, and a front-end fee of 1% on the principal amount of borrowings at the time of borrowing, and a commitment fee of 0.5% per annum on funds available for borrowing and not borrowed. SPML may prepay all or a part of the outstanding principal, subject to a 1% prepayment premium. On November 12, 2010, SPML borrowed $50.0 million under the mortgage loan agreement. On June 9, 2011, SPML borrowed an additional $25.0 million under the loan agreement. As of January 1, 2012 and January 2, 2011, SPML had $75.0 million and $50.0 million, respectively, outstanding under the mortgage loan agreement. SPML and SPML Land pledged certain assets as collateral supporting SPML's repayment obligation. Additionally, in accordance with the terms of the mortgage loan agreement, we are required to establish a debt service reserve account which shall contain the amount, as determined by IFC, equal to the aggregate principal and interest due on the next succeeding interest payment date after such date. As of January 1, 2012 and January 2, 2011, we had restricted cash and cash equivalents of $1.3 million and $0.9 million, respectively, related to the IFC debt service reserve. For additional details see Note 11 of Notes to Consolidated Financial Statements.

Loan Agreement with CEDA

On December 29, 2010, we borrowed from CEDA the proceeds of the $30.0 million aggregate principal amount of CEDA's tax-exempt Recovery Zone Facility Revenue Bonds (SunPower Corporation - Headquarters Project) Series 2010 (the "Bonds") maturing April 1, 2031 under a loan agreement with CEDA. Certain of our obligations under the loan agreement were contained in a promissory note dated December 29, 2010 issued by us to CEDA, which assigned the promissory note, along with all right, title and interest in the loan agreement, to Wells Fargo, as trustee, with respect to the Bonds for the benefit of the holders of the Bonds. The Bonds initially bore interest at a variable interest rate (determined weekly), but at our option were converted into fixed-rate bonds (which include covenants of, and other restrictions on, us). Additionally, in accordance with the terms of the loan agreement, we are required to keep all loan proceeds on deposit with Wells Fargo, the trustee, until funds are withdrawn by us for use in relation to the design and leasehold improvements of our new corporate headquarters in San Jose, California. As of January 1, 2012 and January 2, 2011, we had restricted cash and cash equivalents of $10.0 million and $60.3 million, respectively, related to the CEDA loan agreement.

As of January 2, 2011, the $30.0 million aggregate principal amount of the Bonds was classified as "Short-term debt" in our Consolidated Balance Sheets due to the potential for the Bonds to be redeemed or tendered for purchase on June 22, 2011 under the reimbursement agreement. On June 1, 2011, the Bonds were converted to bear interest at a fixed rate of 8.50% to

maturity and the holders' rights to tender the Bonds prior to their stated maturity was removed. Therefore, the $30.0 million aggregate principal amount of the Bonds are classified as "Long-term debt" in our Consolidated Balance sheet as of January 1, 2012.

Revolving Credit Facility with Société Générale

On November 23, 2010, we entered into a revolving credit facility with Société Générale under which we were able to borrow up to €75.0 million. Interest periods were monthly. On May 25, 2011, we entered into an amendment of our revolving credit facility with Société Générale which extended the maturity date to November 23, 2011. Under the amended facility we were able to borrow up to €75.0 million of which amounts borrowed were able to be repaid and reborrowed until October 23, 2011. We were required to pay interest on outstanding borrowings of (1) EURIBOR plus 3.25% per annum for advances outstanding before May 26, 2011, and (2) EURIBOR plus 2.70% for advances outstanding on May 26, 2011 or thereafter; a front-end fee of 0.50% on the available borrowing; and a commitment fee of 1% per annum on funds available for borrowing and not borrowed.

As of January 2, 2011, an aggregate amount of €75.0 million, or approximately $98.0 million based on the exchange rate as of that date, remained outstanding under the revolving credit facility which is classified as "Short-term debt" in the Consolidated Balance Sheets. On September 27, 2011, we repaid €75.0 million, or approximately $107.7 million based on the exchange rate as of that date, of outstanding borrowings plus fees, using proceeds received from the September 2011 revolving credit facility with Credit Agricole described below, and terminated the facility.

October 2010 Collateralized Revolving Credit Facility with Union Bank

On October 29, 2010, we entered into a revolving credit facility with Union Bank. Until the maturity date of October 28, 2011, we were able to borrow up to $70.0 million under the revolving credit facility. Amounts borrowed could be repaid and reborrowed until October 28, 2011. As collateral under the revolving credit facility, we pledged our holding of 19.4 million shares of common stock of Woongjin Energy to Union Bank.

We were required to pay interest on outstanding borrowings of, at our option, (1) LIBOR plus 2.75% or (2) 1.75% plus a base rate equal to the highest of (a) the federal funds rate plus 1.5%, (b) Union Bank's prime rate as announced from time to time, or (c) LIBOR plus 1.0%, per annum; a front-end fee of 0.40% on the available borrowing; and a commitment fee of 0.25% per annum on funds available for borrowing and not borrowed.

As of January 2, 2011, an aggregate amount of $70.0 million was outstanding under the revolving credit facility which was classified as "Short-term debt" in our Consolidated Balance Sheet. We repaid $70.0 million of outstanding borrowings plus fees in the second quarter of fiscal 2011. On June 20, 2011, we terminated the facility and the pledge on all shares of Woongjin Energy we held.

July 2011 Uncollateralized Revolving Credit Facility with Union Bank

On July 18, 2011, we entered into a Credit Agreement with Union Bank under which we were able to borrow up to $50.0 million from Union Bank until October 28, 2011. Amounts borrowed were able to be repaid and reborrowed until October 28, 2011. All outstanding amounts under the facility were due and payable on October 31, 2011. On July 18, 2011, we drew down $50.0 million under the credit facility.

We were required to pay interest on outstanding borrowings of (1) LIBOR plus 2.75%, or (2) 1.75% plus a base rate equal to the higher of (a) the federal funds rate plus 0.50%, or (b) Union Bank's reference rate as announced from time to time; a front-end fee of 0.15% on the total amount available for borrowing; and a commitment fee of 0.50% per annum, calculated on a daily basis, on funds available for borrowing and not borrowed.

On September 27, 2011, we repaid $50.0 million of outstanding borrowings plus fees, using proceeds received from the July 2011 revolving credit facility with Credit Agricole described below, and terminated the facility.

April 2010 Letter of Credit Facility with Deutsche Bank

On April 12, 2010, we entered into a letter of credit facility with Deutsche Bank, as issuing bank and as administrative agent, and certain financial institutions. On May 27, 2011, we received an additional $25.0 million commitment from a financial institution under the Deutsche Bank letter of credit facility, which increased the aggregate amount of letters of credit that may be issued under the facility from $375.0 million to $400.0 million. The letter of credit facility provided for the

issuance, upon our request, of letters of credit by the issuing bank in order to support our obligations. For outstanding letters of credit under the letter of credit facility, we paid a fee of 0.50% plus any applicable issuances fees charged by its issuing and correspondent banks. We also paid a commitment fee of 0.20% on the unused portion of the facility. We were required to collateralize at least 50% of the dollar-denominated obligations under the issued letters of credit, and 55% of the non-dollar-denominated obligations under the issued letters of credit, with restricted cash on our Consolidated Balance Sheet.

As of January 2, 2011, letters of credit issued under the letter of credit facility totaled $326.9 million and were collateralized by short-term and long-term restricted cash of $55.7 million and $118.3 million, respectively, on our Consolidated Balance Sheet. On August 9, 2011, we terminated the April 2010 letter of credit facility agreement with Deutsche Bank subsequent to the establishment of the August 2011 letter of credit facility agreement as described below. All outstanding letters of credit under the April 2010 letter of credit facility were transferred to the August 2011 letter of credit facility and $197.8 million in collateral as of August 9, 2011 was released.

August 2011 Letter of Credit Facility with Deutsche Bank

On August 9, 2011, we entered into a letter of credit facility agreement with Deutsche Bank, as issuing bank and as administrative agent, and certain financial institutions, and further amended on December 20, 2011. Payment of obligations under the letter of credit facility is guaranteed by Total S.A. pursuant to the Credit Support Agreement between us and Total S.A. The letter of credit facility provides for the issuance, upon our request, of letters of credit by the issuing banks thereunder in order to support certain of our obligations, in an aggregate amount not to exceed (a) $725.0 million until December 31, 2012; and (b) $771.0 million for the period from January 1, 2013 through December 31, 2013. Aggregate letter of credit amounts may be increased upon the agreement of the parties, but otherwise may not exceed (i) $878.0 million for the period from January 1, 2014 through December 31, 2014; (ii) $936.0 million for the period from January 1, 2015 through December 31, 2015; and (iii) $1.0 billion for the period from January 1, 2016 through June 28, 2016.

Each letter of credit issued under the letter of credit facility must have an expiration date no later than the second anniversary of the issuance of that letter of credit, provided that up to 15% of the outstanding value of the letters of credit may have an expiration date of between two and three years from the date of issuance.

As of January 1, 2012, letters of credit issued under the August 2011 letter of credit facility with Deutsche Bank totaled $710.8 million.

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

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

As of January 1, 2012 letters of credit issued under the Deutsche Bank Trust facility amounted to $51.3 million which were fully collateralized with restricted cash on the Consolidated Balance Sheets.

September 2011 Revolving Credit Facility with Credit Agricole

On September 27, 2011, we entered into a revolving credit agreement with Credit Agricole, as administrative agent, and certain financial institutions, under which we may borrow up to $275.0 million until September 27, 2013. Amounts borrowed may be repaid and reborrowed until September 27, 2013.

We are required to pay interest on outstanding borrowings of: (a) with respect of any LIBOR loan, 1.5% plus the LIBOR divided by a percentage equal to one minus the stated maximum rate of all reserves required to be maintained against "Eurocurrency liabilities" as specified in Regulation D; (b) with respect to any alternative base loan, 0.5% plus the greater of (1) the prime rate, (2) the Federal Funds rate plus 0.5%, and (3) the one month LIBOR plus 1%; (c) a commitment fee equal to 0.25% per annum on funds available for borrowing and not borrowed; (d) an upfront fee of 0.125% of the revolving loan commitment; and (e) arrangement fee customary for a transaction of this type.

In the event Total S.A. no longer beneficially owns 40% of our issued and outstanding voting securities, the revolving credit facility would be subject to renegotiation, with a view to agreeing to amend the revolving credit facility consistent with terms and conditions and market practice for similarly situated borrowers. If we cannot reach an agreement with the lenders, we

are required to prepay all principal, interest, fees, and other amounts owed and the revolving credit facility will terminate.

Our revolving credit facility with Credit Agricole requires that we maintain certain financial ratios, including that the ratio of our debt at the end of each quarter to our EBITDA (earnings before interest, tax, depreciation, and amortization) for the last twelve months, as defined, would not exceed 4.5 to 1. If our forecasts are not achieved as anticipated, it is possible that we could breach this or other covenants in the future, which could affect the availability of borrowings under the line and potentially result in cross defaults on other agreements, such as our convertible notes, if not remedied. On February 28, 2012, as further described in Item 9B, we entered into the Liquidity Support Facility with Total S.A. under which we may receive up to $600 million of liquidly support. Under this facility, Total S.A. must provide us and we must accept from Total S.A. additional liquidity in the form of guarantees, revolving or convertible debt, equity, or other forms of liquidity support agreed to by the Company, in the event that either our actual or projected unrestricted cash, cash equivalents and unused borrowing capacity are reduced below $100 million, or we fail to satisfy any financial covenant under our indebtedness, including the revolving facility with Credit Agricole.

As of January 1, 2012, $250.0 million was outstanding under the revolving credit facility with Credit Agricole which is classified as "Long term debt" on our Consolidated Balance Sheets, and additional $25.0 million remained available for borrowing under this facility.

Liquidity

As of January 1, 2012, we had unrestricted cash and cash equivalents of $657.9 million as compared to $605.4 million as of January 2, 2011. We also have an additional $25.0 million available for borrowing under our September 2011 Revolving Credit Facility with Credit Agricole. Our cash balances are held in numerous locations throughout the world, including substantial amounts held outside of the United States. The amounts held outside of the United States representing the earnings of our foreign subsidiaries which, if repatriated to the United States under current law, would be subject to United States federal and state tax less applicable foreign tax credits. Repatriation of earnings that have not been subjected to U.S. tax and which have been indefinitely reinvested outside the U.S. could result in additional United States federal income tax payments in future years.

On July 5, 2010, we formed our AUOSP joint venture. Under the terms of the joint venture agreement, our subsidiary SunPower Technology, Ltd. ("SPTL") and AU Optronics Singapore Pte. Ltd. ("AUO") each own 50% of AUOSP. Both SPTL and AUO are obligated to provide additional funding to AUOSP in the future. During the second half of fiscal 2010, we, through SPTL, and AUO each contributed total initial funding of $27.9 million. In fiscal 2011, both SPTL and AUO each contributed an additional $80.0 million in funding and will each contribute additional amounts to the joint venture in fiscal 2012 through 2014 amounting to $241.0 million, or such lesser amount as the parties may mutually agree (see the Contractual Obligations table below). In addition, if AUOSP, SPTL, or AUO requests additional equity financing to AUOSP, then SPTL and AUO will each be required to make additional cash contributions of up to $50.0 million in the aggregate. Further, we could in the future guarantee certain financial obligations of AUOSP. On November 5, 2010, we entered into an agreement with AUOSP under which we will resell to AUOSP polysilicon purchased from a third-party supplier and AUOSP will provide prepayments to us related to such polysilicon, which we will use to satisfy prepayments owed to the third-party supplier. We expect to receive prepayments from AUOSP in fiscal 2012 amounting to $70 million.

On January 31, 2012, we completed our acquisition of Tenesol, a global solar provider headquartered in La Tour deSalvagny, France, and a wholly-owned subsidiary of Total, for $165.4 million in cash in exchange for 100% of the equity of Tenesol from Total pursuant to a stock purchase agreement entered into on December 23, 2011. Concurrently with the closing of the acquisition, Total purchased 18.6 million shares of the Company's common stock in a private placement at $8.80 per share for total proceeds of $163.7 million. Tenesol has module manufacturing operations in Toulouse, France and Capetown, South Africa and is in the process of developing a third site near Carling, France. Our manufacturing and assembly activities have required and will continue to require significant investment of capital and substantial engineering expenditures.

Under the terms of the amended warrants, we sold to affiliates of certain of the initial purchasers of the 4.50% cash convertible debentures warrants to acquire, subject to anti-dilution adjustments, up to 11.1 million shares of our common stock. The bond hedge and warrants described in Note 11 of Notes to the Consolidated Financial Statements represent a call spread overlay with respect to the 4.50% debentures. Assuming full performance by the counterparties (and 4.50% Warrants strike prices in excess of the conversion price of the 4.50% debentures), the transactions effectively reduce our potential payout over the principal amount on the 4.50% debentures upon conversion of the 4.50% debentures. In the third quarter of fiscal 2011, we and the counterparties to the 4.50% Warrants agreed to reduce the exercise price of the 4.50% Warrants from $27.03 to $24.00.

We expect total capital expenditures related to purchases of property, plant and equipment in the range of $110 million to

$130 million in fiscal 2012 in order to improve our current and next generation solar cell manufacturing technology and other projects. In addition, we expect to invest a significant amount of capital to develop solar power systems and plants for sale to customers. The development of solar power plants can require long periods of time and substantial initial investments. Our efforts in this area may consist of all stages of development, including land acquisition, permitting, financing, construction, operation and the eventual sale of the projects. We often choose to bear the costs of such efforts prior to the final sale to a customer, which involves significant upfront investments of resources (including, for example, large transmission deposits or other payments, which may be non-refundable), land acquisition, permitting, legal and other costs, and in some cases the actual costs of constructing a project, in advance of the signing of PPAs and EPC contracts and the receipt of any revenue, much of which is not recognized for several additional months or years following contract signing. Any delays in disposition of one or more projects could have a negative impact on our liquidity.

Certain of our customers also require performance bonds issued by a bonding agency or letters of credit issued by financial institutions. Obtaining letters of credit may require adequate collateral. All letters of credit issued under our August 2011 Deutsche Bank facility are guaranteed by Total S.A. pursuant to the Credit Support Agreement. Our letter of credit facility with Deutsche Bank Trust is fully collateralized by restricted cash, which reduces the amount of cash available for operations. As of January 1, 2012 letters of credit issued under the Deutsche Bank Trust facility amounted to $51.3 million which were fully collateralized with restricted cash on the Consolidated Balance Sheets.

We believe that our current cash, cash equivalents and cash expected to be generated from operations and funds available under our revolving credit facility with Credit Agricole will be sufficient to meet our working capital and fund our committed capital expenditures over the next 12 months, including the development and construction of solar power systems and plants over the next 12 months. In addition, we also have the Liquidity Support Facility (described below) with up to $600 million available from Total S.A. to us under certain specified circumstances. However, there can be no assurance that our liquidity will be adequate over time. A significant portion of our revenue is generated from a limited number of customers and large projects and our inability to execute these projects, or to collect from these customers or for these projects, would have a significant negative impact on our business. Our capital expenditures and use of working capital may be greater than we expect if we decide to make additional investments in the development and construction of solar power plants and sales of power plants and associated cash proceeds are delayed, or if we decide to accelerate increases in our manufacturing capacity internally or through capital contributions to joint ventures. We require project financing in connection with the construction of solar power plants, which financing may not be available on terms acceptable to us. In addition, we could in the future make additional investments in our joint ventures or guarantee certain financial obligations of our joint ventures, which could reduce our cash flows, increase our indebtedness and expose us to the credit risk of our joint ventures. *See also "A limited number of customers and large projects are expected to continue to comprise a significant portion of our revenues and any decrease in revenue from these customers or projects could have a significant adverse effect on us," and "Due to the general economic environment, the continued market pressure driving down the average selling prices of our solar power products and other factors, we may be unable to generate sufficient cash flows or obtain access to external financing necessary to fund our operations and make adequate capital investments as planned."* in Part II, Item 1A "Risk Factor."

We are party to an agreement with a customer to construct the California Valley Solar Ranch, a solar park. Part of the debt financing necessary for the customer to pay for the construction of this solar park is being provided by the Federal Financing Bank in reliance on a guarantee of repayment provided by the Department of Energy (DOE) under a loan guarantee program. On February 28, 2012, we entered into a Liquidity Support Agreement with Total S.A. and the DOE, and a series of related agreements with Total S.A. and Total, under which Total S.A. has agreed to provide us, or cause to be provided, additional liquidity under certain circumstances to a maximum amount of $600 million ("Liquidity Support Facility"). Total S.A. is required to provide liquidity support to us under the facility, and we are required to accept such liquidity support from Total S.A., if either our actual or projected unrestricted cash, cash equivalents, and unused borrowing capacity are reduced below $100 million, or we fail to satisfy any financial covenant under our indebtedness. In either such event, subject to a $600 million aggregate limit, Total S.A. is required to provide us with sufficient liquidity support to increase the amount of our unrestricted cash, cash equivalents and unused borrowing capacity to above $100 million, and to restore compliance with our financial covenants. The Liquidity Support Facility is available until the completion of the solar park, expected to be operational in 2013 and completed before the end of 2014, and, under certain conditions, up to December 31, 2016, at which time all outstanding guarantees will expire and all outstanding debt under the facility will become due. In return for Total S.A.'s agreement to provide the Liquidity Support Facility, on February 28, 2012, we issued to Total a seven-year warrant to purchase 9,531,677 shares of our common stock at an exercise price of $7.8685 per share. During the term of the facility, we must pay Total S.A. a quarterly fee equal to 0.25% of the unused portion of the facility. Liquidity support may be provided by Total S.A. or through its affiliates in the form of revolving non-convertible debt, convertible debt, equity, guarantees of our indebtedness or other forms of liquidity support agreed to by the Company, depending on the amount outstanding under the facility immediately prior to provision of the applicable support among other factors. We are required to compensate Total S.A. for any liquidity support actually provided, and the form and amount of such compensation depends on the form and amount of

support provided, with the amount of compensation generally increasing with the amount of support provided over time. Such compensation is to be provided in a variety of forms including guarantee fees, warrants to purchase common stock, interest on amounts borrowed, and discounts on equity issued. The use of the Liquidity Support Facility is not limited to direct obligations related to the solar park, but we have agreed to conduct our operations, and use any proceeds from such facility in ways that minimize the likelihood of Total S.A. being required to provide further support. The Liquidity Support Facility is available for general corporate purposes. For a more detailed description of the Liquidity Support Facility, see Item 9B of this Annual Report below.

If our capital resources are insufficient to satisfy our liquidity requirements, we may seek to sell additional equity securities or debt securities or obtain other debt financing, including under the Liquidity Support Facility. The current economic environment, however, could also limit our ability to raise capital by issuing new equity or debt securities on acceptable terms, and lenders may be unwilling to lend funds on acceptable terms that would be required to supplement cash flows to support operations. The sale of additional equity securities or convertible debt securities, including under the Liquidity Support Agreement, would result in additional dilution to our stockholders (and potential for further dilution upon the exercise of warrants or the conversion of convertible debt issued under the Liquidity Support Facility) and may not be available on favorable terms or at all, particularly in light of the current conditions in the financial and credit markets. Additional debt would result in increased expenses and would likely impose new restrictive covenants which may be similar or different than those restrictions contained in the covenants under the letter of credit facility with Deutsche Bank, the letter of credit facility with Deutsche Bank Trust, the mortgage loan agreement with IFC, the loan agreement with CEDA, the revolving credit facility with Credit Agricole, the 4.50% debentures or the 4.75% debentures. Financing arrangements, including project financing for our solar power plants and letters of credit facilities, may not be available to us, or may not be available in amounts or on terms acceptable to us.

Contractual Obligations

The following summarizes our contractual obligations as of January 1, 2012:

		Payments Due by Period			
(In thousands)	**Total**	**2012**	**2013-2014**	**2015-2016**	**Beyond 2016**
Convertible debt, including interest (1)	$ 744,908	$ 221,094	$ 268,828	$ 254,986	$ —
IFC mortgage loan, including interest (2)	84,014	2,561	31,606	32,094	17,753
CEDA loan, including interest (3)	79,088	2,550	5,100	5,100	66,338
Credit Agricole revolving credit facility, including interest (4)	258,251	4,750	253,501	—	—
Future financing commitments (5)	245,940	47,770	198,170	—	—
Operating lease commitments (6)	123,778	15,733	28,261	23,290	56,494
Utility obligations (7)	750	—	—	—	750
Non-cancellable purchase orders (8)	210,511	210,511	—	—	—
Purchase commitments under agreements (9)	2,497,801	493,991	604,746	687,798	711,266
Total	$ 4,245,041	$ 998,960	$ 1,390,212	$ 1,003,268	$ 852,601

(1) Convertible debt, including interest, relates to the aggregate of $678.7 million in outstanding principal amount of our senior convertible debentures on January 1, 2012. For the purpose of the table above, we assume that all holders of the 4.50% debentures and 4.75% debentures will hold the debentures through the date of maturity in fiscal 2015 and 2014, respectively, and all holders of the 0.75% debentures will require us to repurchase the debentures on August 1, 2015, and upon conversion, the values of the senior convertible debentures will be equal to the aggregate principal amount with no premiums. On February 16, 2012, we repurchased 100% of the principal amount plus accrued and unpaid interest of our 1.25% debentures.

(2) IFC mortgage loan, including interest, relates to the $75.0 million borrowed as of January 1, 2012. Under the loan agreement, SPML is required to repay the amount borrowed, starting 2 years after the date of borrowing, in 10 equal semiannual installments over the following 5 years. SPML is required to pay interest of LIBOR plus 3% per annum on

outstanding borrowings.

(3) CEDA loan, including interest, relates to the proceeds of the $30.0 million aggregate principal amount of the Bonds. The Bonds mature on April 1, 2031. On June 1, 2011 the Bonds were converted to bear interest at a fixed rate of 8.50% through maturity.

(4) Credit Agricole revolving credit facility, with interest, relates to the $250.0 million borrowed on September 27, 2011 and maturing on September 27, 2013. We are required to pay interest on outstanding borrowings of (a) with respect to any LIBO rate loan, 1.50% plus the LIBO rate divided by a percentage equal to one minus the stated maximum rate of all reserves required to be maintained against "Eurocurrency liabilities" as specified in Regulation D; and (b) with respect to any alternate base loan, 0.50% plus the greater of (1) the prime rate, (2) the Federal Funds rate plus 0.5%, and (3) the one month LIBO rate plus 1%.

(5) SPTL and AUO will contribute additional amounts to AUOSP in fiscal 2012 through 2014 amounting to $241.0 million by each shareholder, or such lesser amount as the parties may mutually agree. Further, in connection with a purchase agreement with a non-public company we will be required to provide additional financing to such party of up to $4.9 million, subject to certain conditions.

(6) Operating lease commitments primarily relate to certain solar power systems leased from unaffiliated third parties over minimum lease terms of up to 20 years and various lease agreements for our headquarters in San Jose, California, sales and support offices throughout the United States and Europe and a solar module facility in Mexicali, Mexico.

(7) Utility obligations relate to our 11-year lease agreement with an unaffiliated third party for our administrative, research and development offices in Richmond, California.

(8) Non-cancellable purchase orders relate to purchases of raw materials for inventory and manufacturing equipment from a variety of vendors.

(9) Purchase commitments under agreements relate to arrangements entered into with several suppliers, including joint ventures, for polysilicon, ingots, wafers, solar cells and solar panels as well as agreements to purchase solar renewable energy certificates from solar installation owners in New Jersey and Pennsylvania. These agreements specify future quantities and pricing of products to be supplied by the vendors for periods up to 10 years and there are certain consequences, such as forfeiture of advanced deposits and liquidated damages relating to previous purchases, in the event that we terminate the arrangements. Where pricing is specified for future periods, in some contracts, we may reduce our purchase commitment under the contract if we obtain a bona fide third party offer at a price that is a certain percentage lower than the applicable purchase price in the existing contract. If market prices decrease, we intend to use such provisions to either move our purchasing to another supplier or to force the initial supplier to reduce its price to remain competitive with market pricing.

Liabilities Associated with Uncertain Tax Positions

As of January 1, 2012 and January 2, 2011, total liabilities associated with uncertain tax positions were $27.7 million and $24.9 million, respectively, and are included in "Other long-term liabilities" in our Consolidated Balance Sheets as they are not expected to be paid within the next twelve months. Due to the complexity and uncertainty associated with our tax positions, we cannot make a reasonably reliable estimate of the period in which cash settlement will be made for our liabilities associated with uncertain tax positions in other long-term liabilities. Therefore, they have been excluded from the table above.

Off-Balance-Sheet Arrangements

As of January 1, 2012, we did not have any significant off-balance-sheet arrangements, as defined in Item 303(a)(4)(ii) of SEC Regulation S-K.

Recent Accounting Pronouncements

See Note 1 "Recent Accounting Pronouncements," to our consolidated financial statements included in this Annual Report on Form 10-K for a summary of recent accounting pronouncements.

ITEM 7A: *QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK*

Foreign Currency Exchange Risk

Our exposure to movements in foreign currency exchange rates is primarily related to sales to European customers that are denominated in Euros. Revenue generated from European customers represented 37%, 65%, and 53% of our total revenue in fiscal 2011, 2010, and 2009, respectively. A 10% change in the Euro exchange rate would have impacted our revenue by approximately $85.6 million, $144.2 million, and $80.8 million in fiscal 2011, 2010, and 2009, respectively.

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

We currently conduct hedging activities which involve the use of option and forward contracts to address our exposure to changes in the foreign exchange rate between the U.S. dollar and other currencies. As of January 1, 2012, we had outstanding hedge option contracts and forward contracts with aggregate notional values of $130.4 million and $200.8 million, respectively. As of January 2, 2011, we held option and forward contracts totaling $358.9 million and $1,469.5 million, respectively, in notional value. Because we hedge some of our expected future foreign exchange exposure, if associated revenues do not materialize we could experience losses. During fiscal 2011, in connection with the decline in forecasted revenue surrounding the overall change in the solar sector, we concluded that certain previously anticipated transactions were probable not to occur and thus we reclassified the amount held in "Accumulated other comprehensive income" in our Consolidated Balance Sheets for these transactions, which totaled a loss of $1.6 million to "Other, net" in our Consolidated Statement of Operations for the year ended January 1, 2012. If we conclude that we have a pattern of determining that hedged forecasted transactions probably will not occur, we may no longer be able to continue to use hedge accounting in the future to reduce our exposure to movements in foreign exchange rates. Such a conclusion and change in our foreign currency hedge program could adversely impact our revenue, margins and results of operations. We cannot predict the impact of future exchange rate fluctuations on our business and operating results.

Credit Risk

We have certain financial and derivative instruments that subject us to credit risk. These consist primarily of cash and cash equivalents, restricted cash and cash equivalents, investments, accounts receivable, note receivable, advances to suppliers, foreign currency option contracts, foreign currency forward contracts, bond hedge and warrant transactions and a share lending arrangement for our common stock. We are exposed to credit losses in the event of nonperformance by the counterparties to our financial and derivative instruments.

We enter into agreements with vendors that specify future quantities and pricing of polysilicon to be supplied for periods up to 10 years. Under certain agreements, we are required to make prepayments to the vendors over the terms of the arrangements. As of January 1, 2012 and January 2, 2011, advances to suppliers totaled $322.1 million and $287.1 million, respectively. Two suppliers accounted for 75% and 20% of total advances to suppliers as of January 1, 2012, and 83% and 13% of total advances to suppliers as of January 2, 2011. We may be unable to recover such prepayments if the credit conditions of these suppliers materially deteriorate.

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

Interest Rate Risk

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

Our interest expense would increase to the extent interest rates rise in connection with our variable interest rate borrowings. As of January 1, 2012, the outstanding principal balance of our variable interest borrowings was $325.0 million. We do not believe that an immediate 10% increase in interest rates would have a material effect on our financial statements. In addition, lower interest rates have an adverse impact on our interest income. Our investment portfolio primarily consists of $187.5 million in money market funds as of January 1, 2012, and exposes us to interest rate risk. Due to the relatively short-term nature of our investment portfolio, we do not believe that an immediate 10% increase in interest rates would have a material effect on the fair market value of our money market funds. Since we believe we have the ability to liquidate substantially all of this portfolio, we do not expect our operating results or cash flows to be materially affected to any significant degree by a sudden change in market interest rates on our investment portfolio.

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

Our investments held in joint ventures and other non-public companies expose us to equity price risk. As of January 1, 2012 and January 2, 2011, investments of $129.9 million and $116.4 million, respectively, are accounted for using the equity method, and $4.9 million and $16.4 million, respectively, are accounted for using the cost method. These strategic investments in third parties are subject to risk of changes in market value, which if determined to be other-than-temporary, could result in realized impairment losses. We generally do not attempt to reduce or eliminate our market exposure in equity and cost method investments. We monitor these investments for impairment and record reductions in the carrying values when necessary. Circumstances that indicate an other-than-temporary decline include the valuation ascribed to the issuing company in subsequent financing rounds, decreases in quoted market prices and declines in operations of the issuer. There can be no assurance that our equity and cost method investments will not face risks of loss in the future.

Interest Rate Risk and Market Price Risk Involving Convertible Debt

The fair market value of our 4.75%, 4.50%, 1.25%, and 0.75% convertible debentures is subject to interest rate risk, market price risk and other factors due to the convertible feature of the debentures. The fair market value of the debentures will generally increase as interest rates fall and decrease as interest rates rise. In addition, the fair market value of the debentures will generally increase as the market price of our common stock increases and decrease as the market price of our common stock falls. The interest and market value changes affect the fair market value of the debentures, but do not impact our financial position, cash flows or results of operations due to the fixed nature of the debt obligations, except to the extent increases in the value of our common stock may provide the holders of our 4.50% debentures, 1.25% debentures, and/or 0.75% debentures the right to convert such debentures into cash in certain instances. The aggregate estimated fair value of the 4.75% debentures, 4.50% debentures, 1.25% debentures, and 0.75% debentures was $604.6 million and $633.7 million as of January 1, 2012 and January 2, 2011, respectively, based on quoted market prices as reported by an independent pricing source. A 10% increase in quoted market prices would increase the estimated fair value of our then-outstanding debentures to $665.0 million and $697.1 million as of January 1, 2012 and January 2, 2011, respectively, and a 10% decrease in the quoted market prices would decrease the estimated fair value of our then-outstanding debentures to $544.1 million and $570.4 million as of January 1, 2012 and January 2, 2011, respectively.

ITEM 8: ***FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA***

SUNPOWER CORPORATION

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders of
SunPower Corporation:

In our opinion, the consolidated financial statements listed in the accompanying index present fairly, in all material respects, the financial position of SunPower Corporation and its subsidiaries at January 1, 2012 and January 2, 2011 and the results of their operations and their cash flows for each of the three years in the period ended January 1, 2012 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of January 1, 2012, based on criteria established in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Company's management is responsible for these financial statements, for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in Management's Report on Internal Control over Financial Reporting appearing under Item 9A. Our responsibility is to express opinions on these financial statements and on the Company's internal control over financial reporting based on our integrated audits. We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement and whether effective internal control over financial reporting was maintained in all material respects. Our audits of the financial statements included examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

A company's internal control over financial reporting is a process designed 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. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ PricewaterhouseCoopers LLP

San Jose, California
February 29, 2012

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

	January 1, 2012	January 2, 2011
Assets		
Current assets:		
Cash and cash equivalents	$ 657,934	$ 605,420
Restricted cash and cash equivalents, current portion	52,279	117,462
Short-term investments	—	38,720
Accounts receivable, net	390,262	381,200
Costs and estimated earnings in excess of billings	54,854	89,190
Inventories	397,262	313,398
Advances to suppliers, current portion	43,143	31,657
Project assets - plants and land, current portion	24,243	23,868
Prepaid expenses and other current assets (1)	482,691	192,934
Total current assets	2,102,668	1,793,849
Restricted cash and cash equivalents, net of current portion	27,276	138,837
Restricted long-term marketable securities	9,145	—
Property, plant and equipment, net	607,456	578,620
Project assets - plants and land, net of current portion	34,614	22,238
Goodwill	35,990	345,270
Other intangible assets, net	4,848	66,788
Advances to suppliers, net of current portion	278,996	255,435
Other long-term assets (1)	174,204	178,294
Total assets	$ 3,275,197	$ 3,379,331
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable (1)	$ 416,615	$ 382,884
Accrued liabilities	234,688	137,704
Billings in excess of costs and estimated earnings	170,828	48,715
Short-term debt	—	198,010
Convertible debt, current portion	196,710	—
Customer advances, current portion (1)	46,139	21,044
Total current liabilities	1,064,980	788,357
Long-term debt	355,000	50,000
Convertible debt, net of current portion	423,268	591,923
Customer advances, net of current portion (1)	181,947	160,485
Other long-term liabilities	152,492	131,132
Total liabilities	2,177,687	1,721,897
Commitments and contingencies (Note 9)		
Stockholders' equity:		
Preferred stock, $0.001 par value; 10,000,000 and 10,042,490 shares authorized as of January 1, 2012 and January 2, 2011, respectively; none issued and outstanding as of both January 1, 2012 and January 2, 2011	—	—
Common stock, $0.001 par value, 367,500,000 shares authorized, 100,475,533 shares issued, and 99,099,776 shares outstanding as of January 1, 2012; class A common stock, $0.001 par value, 217,500,000 shares authorized, 56,664,413 shares issued, and 56,073,083 shares outstanding as of January 2, 2011; class B common stock, $0.001 par value, 150,000,000 shares authorized, 42,033,287 shares issued and outstanding as of January 2, 2011	100	98
Additional paid-in capital	1,657,474	1,606,697
Retained earnings (accumulated deficit)	(540,187)	63,672
Accumulated other comprehensive income	8,540	3,640
Treasury stock, at cost; 1,375,757 shares of common stock as of January 1, 2012 and 591,330 shares of class A common stock as of January 2, 2011	(28,417)	(16,673)
Total stockholders' equity	1,097,510	1,657,434
Total liabilities and stockholders' equity	$ 3,275,197	$ 3,379,331

(1) The Company has related party balances in connection with transactions made with its joint ventures which are recorded within the "Prepaid expenses and other current assets," "Other long-term assets," "Accounts payable," "Customer advance, current portion," and "Customer advances, net of current portion" financial statement line items in the Consolidated Balance Sheets (see Note 6, Note 9, and Note 10).

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

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

	Year Ended		
	January 1, 2012	January 2, 2011	January 3, 2010
Revenue:			
Utility and power plants	$ 1,064,144	$ 1,186,054	$ 653,531
Residential and commercial	1,248,350	1,033,176	870,752
Total revenue	2,312,494	2,219,230	1,524,283
Cost of revenue:			
Utility and power plants	967,076	908,326	526,850
Residential and commercial	1,117,214	801,011	713,713
Total cost of revenue	2,084,290	1,709,337	1,240,563
Gross margin	228,204	509,893	283,720
Operating expenses:			
Research and development	57,775	49,090	31,642
Sales, general and administrative	319,719	321,936	190,244
Goodwill impairment	309,457	—	—
Other intangible asset impairment	40,301	—	—
Restructuring charges	21,403	—	—
Total operating expenses	748,655	371,026	221,886
Operating income (loss)	(520,451)	138,867	61,834
Other income (expense), net:			
Interest income	2,054	1,541	2,109
Interest expense	(67,022)	(55,276)	(36,287)
Gain on deconsolidation of consolidated subsidiary	—	36,849	—
Gain on sale of equity interest in unconsolidated investee	5,937	—	—
Gain on change in equity interest in unconsolidated investee	322	28,078	—
Gain on mark-to-market derivatives	343	35,764	21,193
Gain on share lending arrangement	—	24,000	—
Other, net	(8,946)	(26,410)	(5,229)
Other income (expense), net	(67,312)	44,546	(18,214)
Income (loss) before income taxes and equity in earnings of unconsolidated investees	(587,763)	183,413	43,620
Provision for income taxes	(22,099)	(23,375)	(21,028)
Equity in earnings of unconsolidated investees	6,003	6,845	9,929
Income (loss) from continuing operations	(603,859)	166,883	32,521
Income from discontinued operations, net of taxes	—	11,841	—
Net income (loss)	$ (603,859)	$ 178,724	$ 32,521
Net income (loss) per share of common stock:			
Net income (loss) per share - basic:			
Continuing operations	$ (6.18)	$ 1.74	$ 0.36
Discontinued operations	—	0.13	—
Net income (loss) per share — basic	$ (6.18)	$ 1.87	$ 0.36
Net income (loss) per share - diluted:			
Continuing operations	$ (6.18)	$ 1.64	$ 0.35
Discontinued operations	—	0.11	—
Net income (loss) per share — diluted	$ (6.18)	$ 1.75	$ 0.35
Weighted-average shares:			
Basic	97,724	95,660	91,050
Diluted	97,724	105,698	92,746

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

SunPower Corporation
Consolidated Statements of Stockholders' Equity and Comprehensive Income (Loss)
(In thousands)

	Common Stock						
	Shares (1)	Value	Additional Paid-in Capital	Treasury Stock	Accumulated Other Comprehensive Income (Loss)	Retained Earnings (Accumulated Deficit)	Total Stockholders' Equity
Balances at December 28, 2008	**85,883**	**$ 86**	**$ 1,280,817**	**$ (8,657)**	**$ (25,611)**	**$ (146,437)**	**$ 1,100,198**
Components of comprehensive income:							
Net income					—	32,521	32,521
Translation adjustment					(4,346)	—	(4,346)
Net gain on derivatives (Note 12)					14,928	—	14,928
Unrealized gain on investments					8	—	8
Income taxes					(2,336)	—	(2,336)
Total comprehensive income							40,775
Issuance of common stock upon exercise of options	587	1	1,528	—	—	—	1,529
Issuance of restricted stock to employees, net of cancellations	346	—	—	—	—	—	—
Issuance of common stock in relation to offering, net of offering expenses	10,350	10	218,771	—	—	—	218,781
Issuance of common stock for purchase acquisition	55	—	1,471	—	—	—	1,471
Cash paid for purchased options	—	—	(97,336)	—	—	—	(97,336)
Proceeds from warrant transactions	—	—	71,001	—	—	—	71,001
Gain on purchased options	—	—	(21,193)	—	—	—	(21,193)
Equity component of repurchased convertible debt	—	—	(882)	—	—	—	(882)
Excess tax benefits from stock-based award activity	—	—	20,064	—	—	—	20,064
Stock-based compensation expense	—	—	46,692	—	—	—	46,692
Distribution to Cypress under tax sharing agreement	—	—	—	—	—	(393)	(393)
Purchases of treasury stock	(149)	—	—	(4,327)	—	—	(4,327)
Balances at January 3, 2010	**97,072**	**97**	**1,520,933**	**(12,984)**	**(17,357)**	**(114,309)**	**1,376,380**
Components of comprehensive income:							
Net income					—	178,724	178,724
Translation adjustment					1,103	—	1,103
Net gain on derivatives (Note 12)					23,124	—	23,124
Income taxes					(3,230)	—	(3,230)
Total comprehensive income							199,721
Issuance of common stock upon exercise of options	303	—	867	—	—	—	867
Issuance of restricted stock to employees, net of cancellations	967	1	—	—	—	—	1
Fair value of warrant transactions	—	—	30,218	—	—	—	30,218
Excess tax benefits from stock-based award activity	—	—	237	—	—	—	237
Stock-based compensation expense	—	—	54,442	—	—	—	54,442
Distribution to Cypress under tax sharing agreement	—	—	—	—	—	(743)	(743)
Purchases of treasury stock	(236)	—	—	(3,689)	—	—	(3,689)
Balances at January 2, 2011	**98,106**	**98**	**1,606,697**	**(16,673)**	**3,640**	**63,672**	**1,657,434**
Components of comprehensive loss:							
Net loss					—	(603,859)	(603,859)
Translation adjustment					2,800	—	2,800
Net loss on derivatives (Note 12)					(175)	—	(175)
Income taxes					2,275	—	2,275
Total comprehensive loss							(598,959)
Issuance of common stock upon exercise of options	993	1	4,051	—	—	—	4,052
Issuance of restricted stock to employees, net of cancellations	2,161	2	—	—	—	—	2
Proceeds from warrant transactions	—	—	2,261	—	—	—	2,261
Excess tax benefits from stock-based award	—	—	(2,415)	—	—	—	(2,415)

activity							
Stock-based compensation expense	—	—	46,880	—	—	—	46,880
Purchases of treasury stock	(784)	(1)	—	(11,744)	—	—	(11,745)
Balances at January 1, 2012	**100,476**	**$ 100**	**$ 1,657,474**	**$ (28,417)**	**$ 8,540**	**$ (540,187)**	**$ 1,097,510**

(1) On November 15, 2011, the Company's stockholders approved the reclassification of all outstanding former class A common stock and former class B common stock into a single class of common stock. The reclassification was effective November 16, 2011 upon which each share of the Company's former outstanding class A common stock and class B common stock automatically reclassed as, and became one share of, a new single class of common stock (See Note 14).

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

SunPower Corporation
Consolidated Statements of Cash Flows
(In thousands)

	Year Ended		
	January 1, 2012	**January 2, 2011**	**January 3, 2010**
Cash flows from operating activities:			
Net income (loss)	$ (603,859)	$ 178,724	$ 32,521
Less: Income from discontinued operations, net of taxes	—	11,841	—
Income (loss) from continuing operations	(603,859)	166,883	32,521
Adjustments to reconcile income (loss) from continuing operations to net cash provided by (used in) operating activities of continuing operations			
Stock-based compensation	46,736	54,372	46,994
Goodwill impairment	309,457	—	—
Other intangible asset impairment	40,301	—	—
Depreciation	106,632	102,192	84,630
Amortization of other intangible assets	21,669	38,477	16,474
Loss (gain) on sale of investments	191	(770)	1,443
Gain on mark-to-market derivatives	(343)	(35,764)	(21,193)
Non-cash interest expense	28,627	30,616	22,582
Amortization of debt issuance costs	5,126	18,426	3,141
Amortization of promissory notes	3,486	11,054	—
Gain on deconsolidation of consolidated subsidiary	—	(36,849)	—
Gain on change in equity interest in unconsolidated investee	(322)	(28,078)	—
Gain on sale of equity interest in unconsolidated investee	(5,937)	—	—
Gain on share lending arrangement	—	(24,000)	—
Third-party inventories write-down	23,651	—	—
Project assets write-down	16,053	—	—
Equity in earnings of unconsolidated investees	(6,003)	(6,845)	(9,929)
Deferred income taxes and other tax liabilities	1,370	15,889	12,238
Changes in operating assets and liabilities, net of effect of acquisition:			
Accounts receivable	87	(132,184)	(50,510)
Costs and estimated earnings in excess of billings	41,165	(63,444)	5,610
Inventories	(96,909)	(114,534)	53,740
Project assets	(34,113)	(10,687)	—
Prepaid expenses and other assets	(242,551)	(2,519)	(13,091)
Advances to suppliers	(35,110)	(96,060)	(27,894)
Accounts payable and other accrued liabilities	86,630	157,993	2,123
Billings in excess of costs and estimated earnings	121,486	33,591	919
Customer advances	47,384	90,643	(18,409)
Net cash provided by (used in) operating activities of continuing operations	(125,096)	168,402	141,389
Net cash used in operating activities of discontinued operations	—	(1,593)	—
Net cash provided by (used in) operating activities	(125,096)	166,809	141,389
Cash flows from investing activities:			
Decrease (increase) in restricted cash and cash equivalents	176,744	(5,555)	(135,455)
Purchase of property, plant and equipment	(131,446)	(119,152)	(167,811)
Proceeds from sale of equipment to third-party	514	5,284	9,961
Purchase of marketable securities	(9,180)	(40,132)	—
Proceeds from sales or maturities of available-for-sale securities	43,759	1,572	39,149
Cash paid for acquisition, net of cash acquired	—	(272,699)	—
Cash decrease due to deconsolidation of consolidated subsidiary	—	(12,879)	—
Cash received from sales of investments in joint ventures and other non-public companies	75,346	—	—
Cash paid for investments in joint ventures and other non-public companies	(80,000)	(17,799)	(2,403)
Net cash provided by (used in) investing activities of continuing operations	75,737	(461,360)	(256,559)
Net cash provided by investing activities of discontinued operations	—	33,950	—
Net cash provided by (used in) investing activities	75,737	(427,410)	(256,559)
Cash flows from financing activities:			
Proceeds from issuance of bank loans, net of issuance costs	489,221	214,655	193,256
Proceeds from issuance of project loans, net of issuance costs	—	318,638	—
Assumption of project loans by customers	—	(333,467)	—
Proceeds from issuance of convertible debt, net of issuance costs	—	244,241	225,018
Proceeds from offering of class A common stock, net of offering expenses	—	—	218,781
Proceeds from sale of claim in connection with share lending arrangement	—	24,000	—
Repayment of bank loans	(377,124)	(63,646)	—

Cash paid for repurchase of convertible debt	—	(143,804)	(75,636)
Cash paid for purchased options	—	—	(97,336)
Cash paid for bond hedge	—	(75,200)	—
Proceeds from warrant transactions	2,261	61,450	71,001
Proceeds from exercise of stock options	4,051	867	1,529
Purchases of stock for tax withholding obligations on vested restricted stock	(11,744)	(3,689)	(4,327)
Net cash provided by financing activities of continuing operations	106,665	244,045	532,286
Net cash provided by financing activities of discontinued operations	—	17,059	—
Net cash provided by financing activities	106,665	261,104	532,286
Effect of exchange rate changes on cash and cash equivalents	(4,792)	(10,962)	(3,568)
Net increase (decrease) in cash and cash equivalents	52,514	(10,459)	413,548
Cash and cash equivalents at beginning of period	605,420	615,879	202,331
Cash and cash equivalents of continuing operations, end of period	$ 657,934	$ 605,420	$ 615,879
Non-cash transactions:			
Issuance of common stock for purchase acquisitions	$ —	$ —	$ 1,471
Property, plant and equipment acquisitions funded by liabilities	10,888	5,937	28,914
Non-cash interest expense capitalized and added to the cost of qualified assets	2,423	5,957	4,964
Proceeds from issuance of bond, net of issuance costs	—	29,538	—
Supplemental cash flow information:			
Cash paid for interest, net of amount capitalized	28,049	16,592	7,922
Cash paid for income taxes	28,154	10,582	17,169

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

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

The Company

SunPower Corporation (together with its subsidiaries, the "Company" or "SunPower") is a vertically integrated solar products and services company that designs, manufactures and delivers high-performance solar electric systems worldwide for residential, commercial, and utility-scale power plant customers.

The Company's President and Chief Executive Officer, as the chief operating decision maker ("CODM"), has organized the Company and manages resource allocations and measures performance of the Company's activities between these two business segments: the Utility and Power Plants ("UPP") Segment and the Residential and Commercial ("R&C") Segment. The Company's UPP Segment refers to its large-scale solar products and systems business, which includes power plant project development and project sales, turn-key engineering, procurement and construction ("EPC") services for power plant construction, and power plant operations and maintenance ("O&M") services. The UPP Segment also sells components, including large volume sales of solar panels and mounting systems, to third parties, sometimes on a multi-year, firm commitment basis. The Company's R&C Segment focuses on solar equipment sales into the residential and small commercial market through its third-party global dealer network, as well as direct sales and EPC and O&M services in the United States and Europe for rooftop and ground-mounted solar power systems for the new homes, commercial, and public sectors.

In December 2011, the Company announced a reorganization to align its business and cost structure with expected market conditions in 2012 and beyond. The reorganization did not have impact to the current segment reporting in fiscal 2011 as the Company's CODM continues to manage resource allocations and measure performance of the Company's activities between the UPP and R&C Segments while it is aligning its new organizational strategy.

On June 21, 2011, the Company became a majority owned subsidiary of Total Gas & Power USA, SAS, a French *société par actions simplifiée* ("Total"), a subsidiary of Total S.A., a French *société anonyme* ("Total S.A."), through a tender offer and Total's purchase of 60% of the outstanding former class A common stock and former class B common stock of the Company as of June 13, 2011 (see Note 2).

Basis of Presentation and Preparation

Principles of Consolidation

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

Reclassifications

Certain prior period balances have been reclassified to conform to the current period presentation in the Company’s Consolidated Financial Statements and the accompanying notes. Such reclassification had no effect on previously reported results of operations or retained earnings.

Fiscal Years

The Company reports on a fiscal-year basis and ends its quarters on the Sunday closest to the end of the applicable calendar quarter, except in a 53-week fiscal year, in which case the additional week falls into the fourth quarter of that fiscal year. Fiscal year 2011 and 2010 consisted of 52 weeks while fiscal year 2009 consisted of 53 weeks. Fiscal year 2011 ended on January 1, 2012, fiscal year 2010 ended on January 2, 2011, and fiscal year 2009 ended on January 3, 2010.

Management Estimates

The preparation of the consolidated financial statements in conformity with accounting principles generally accepted in the United States ("U.S. GAAP") requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Significant estimates in these financial statements include percentage-of-completion for construction projects, allowances for doubtful accounts receivable and sales returns, inventory and project assets

write-downs, stock-based compensation, estimates for future cash flows and economic useful lives of property, plant and equipment, goodwill, valuations for business combinations, other intangible assets and other long-term assets, asset impairments, fair value of financial instruments, certain accrued liabilities including accrued warranty, restructuring and termination of supply contracts reserves, valuation of debt without the conversion feature, valuation of share lending arrangements, income taxes, and tax valuation allowances. Actual results could materially differ from those estimates.

Summary of Significant Accounting Policies

Fair Value of Financial Instruments

The fair value of a financial instrument is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The carrying values of cash and cash equivalents, accounts receivable, and accounts payable approximate their respective fair values due to their short-term maturities. Investments in available-for-sale securities are carried at fair value based on quoted market prices or estimated based on market conditions and risks existing at each balance sheet date. Foreign currency derivatives are carried at fair value based on quoted market prices for financial instruments with similar characteristics. Unrealized gains and losses of the Company’s available-for-sale securities and the effective portion of foreign currency derivatives are excluded from earnings and reported as a component of "Accumulated other comprehensive income" in the Consolidated Balance Sheets. Additionally, the Company assesses whether an other-than-temporary impairment loss on its available-for-sale securities has occurred due to declines in fair value or other market conditions. Declines in fair value that are considered other-than-temporary and the ineffective portion of foreign currency derivatives are included in "Other, net" in the Consolidated Statements of Operations.

Comprehensive Income (Loss)

Comprehensive income (loss) is defined as the change in equity during a period from non-owner sources. The Company’s comprehensive income (loss) for each period presented is comprised of (i) the Company’s net income (loss); (ii) foreign currency translation adjustment of the Company’s foreign subsidiaries whose assets and liabilities are translated from their respective functional currencies at exchange rates in effect at the balance sheet date, and revenues and expenses are translated at average exchange rates prevailing during the applicable period; and (iii) changes in unrealized gains or losses, net of tax, for the effective portion of derivatives designated as cash flow hedges (see Note 12) and available-for-sale securities carried at their fair value.

Cash Equivalents

Highly liquid investments with original or remaining maturities of ninety days or less at the date of purchase are considered cash equivalents.

Cash in Restricted Accounts

The Company maintains cash and cash equivalents in restricted accounts pursuant to various letters of credit, surety bonds, loan agreements, long-term polysilicon supply agreements, and other agreements in the normal course of business.

Short-Term and Long-Term Investments

The Company invests in money market funds, bank notes, and debt securities. In general, investments with original maturities of greater than ninety days and remaining maturities of one year or less are classified as short-term investments and as long-term investments with maturities of more than one year. Investments with maturities beyond one year may be classified as short-term based on their highly liquid nature and because such investments represent the investment of cash that is available for current operations. Despite the long-term maturities, the Company has the ability and intent, if necessary, to liquidate any of these investments in order to meet the Company’s working capital needs within its normal operating cycles. The Company has classified these investments as available-for-sale securities (see Note 7).

Inventories

Inventories are valued at the lower of cost or market value. The Company evaluates the recoverability of its inventories based on assumptions about expected demand and market conditions. The Company’s assumption of expected demand is developed based on its analysis of bookings, sales backlog, sales pipeline, market forecast, and competitive intelligence. The Company’s assumption of expected demand is compared to available inventory, production capacity, available third-party inventory, and growth plans. The Company’s factory production plans, which drive materials requirement planning, are

established based on its assumptions of expected demand. The Company responds to reductions in expected demand by temporarily reducing manufacturing output and adjusting expected valuation assumptions as necessary. In addition, expected demand by geography has changed historically due to changes in the availability and size of government mandates and economic incentives.

Other market conditions that could impact the realizable value of the Company's inventories and are periodically evaluated by management include historical inventory turnover ratio, anticipated sales price, new product development schedules, the effect new products might have on the sale of existing products, product obsolescence, customer concentrations, product merchantability, and other factors. If the Company determines that the cost of inventories exceeds its estimated market value based on assumptions about expected demand and market conditions, the Company records a write-down equal to the difference between the cost of inventories and the estimated market value. If actual market conditions are less favorable than those projected by management, additional inventory write-downs may be required that could negatively impact the Company's gross margin and operating results. If actual market conditions are more favorable, the Company may have higher gross margin when products that have been previously written down are sold in the normal course of business (see Note 6).

Property, Plant and Equipment

Property, plant and equipment are stated at cost, less accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful lives of the assets as presented below. Leasehold improvements are amortized over the shorter of the estimated useful lives of the assets or the remaining term of the lease. Repairs and maintenance costs are expensed as incurred.

In fiscal 2011, the Company revised its estimated useful lives for buildings, leasehold improvements, and manufacturing equipment. Such change in estimate did not have a material impact on the Company's Consolidated Statement of Operations in fiscal 2011.

	Useful Lives in Years
Buildings	20
Leasehold improvements	1 to 20
Manufacturing equipment	8 to 15
Computer equipment	2 to 7
Solar power systems	30
Furniture and fixtures	3 to 5

Interest Capitalization

The interest cost associated with major development and construction projects is capitalized and included in the cost of the property, plant and equipment or project assets. Interest capitalization ceases once a project is substantially complete or no longer undergoing construction activities to prepare it for its intended use. When no debt is specifically identified as being incurred in connection with a construction project, the Company capitalizes interest on amounts expended on the project at the Company’s weighted average cost of borrowed money (see Note 6).

Project Assets - Plant and Land

Project assets consist primarily of capitalized costs relating to solar power system projects in various stages of development that the Company incurs prior to the sale of the solar power system to a third-party. These costs include costs for land and costs for developing and constructing a solar power system. Development costs can include legal, consulting, permitting, and other similar costs. Once the Company enters into a definitive sales agreement, it reclassifies these costs to deferred project costs within "Prepaid expenses and other current assets" in its Consolidated Balance Sheet. The Company expenses these project assets to cost of revenue as each respective project asset or solar power system is sold to a customer, since the project is constructed for a customer (matching the underlying revenue recognition method), or if it determines that the project is commercially not viable.

The Company reviews project assets for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. The Company considers the project commercially viable if it is anticipated to be sellable for a profit once it is either fully developed or fully constructed. The Company examines a number of factors to

determine if the project will be profitable, including whether there are any environmental, ecological, permitting, or regulatory conditions that have changed for the project since the start of development. Such changes could cause the cost of the project to increase or the selling price of the project to decrease. Due to the development, construction, and sale timeframe of the Company's larger solar projects, it classifies project assets which are not expected to be sold within the next 12 months as "Project assets - plants and land, net of current portion" on the Consolidated Balance Sheets. Once specific milestones have been achieved, the Company determines if the sale of the project assets will occur within the next 12 months from a given balance sheet date and, if so, it then reclassifies the project assets as current.

Long-Lived Assets

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

Other intangible assets with finite useful lives are amortized using the straight-line method over their useful lives ranging primarily from one to six years (see Note 5).

Goodwill

Goodwill is tested for impairment at least annually, or more frequently if certain indicators are present. A two-step process is used to test for goodwill impairment. The first step is to determine if there is an indication of impairment by comparing the estimated fair value of each reporting unit to its carrying value, including existing goodwill. Goodwill is considered impaired if the carrying value of a reporting unit exceeds the estimated fair value. Upon an indication of impairment, a second step is performed to determine the amount of the impairment by comparing the implied fair value of the reporting unit’s goodwill with its carrying value.

The Company conducts its annual impairment test of goodwill as of the Sunday closest to the end of the third fiscal quarter of each year. Impairment of goodwill is tested at the Company’s reporting unit level. Management determined the UPP Segment and R&C Segment each have two reporting units. In estimating the fair value of the reporting units, the Company makes estimates and judgments about its future cash flows using an income approach defined as Level 3 inputs under fair value measurement standards (see Note 7). The income approach, specifically a discounted cash flow analysis, included assumptions for, among others, forecasted free cash flow, perpetual growth rates, and long-term discount rates, all of which require significant judgment by management. The sum of the fair values of the Company's reporting units are also compared to its external market capitalization to determine the appropriateness of its assumptions (i.e. the discounted cash flow analysis) and to reduce the fair values of the Company's reporting units, if appropriate. These assumptions took into account the current economic environment and its impact on the Company's business. In the event that management determines that the value of goodwill has become impaired, the Company would incur an accounting charge for the amount of the impairment during the fiscal quarter in which the determination is made (see Note 5).

Product Warranties

The Company generally warrants or guarantees the performance of the solar panels that it manufactures at certain levels of power output for 25 years. In addition, the Company passes through to customers long-term warranties from the original equipment manufacturers ("OEMs") of certain system components, such as inverters. Warranties of 25 years from solar panel suppliers are standard in the solar industry, while inverters typically carry warranty periods ranging from 5 to 10 years. In addition, the Company generally warrants its workmanship on installed systems for periods ranging up to 10 years. The Company maintains reserves to cover the expected costs that could result from these warranties. The Company’s expected costs are generally in the form of product replacement or repair. Warranty reserves are based on the Company’s best estimate of such costs and are recognized as a cost of revenue. The Company continuously monitors product returns for warranty failures and maintains a reserve for the related warranty expenses based on various factors including historical warranty claims, results of accelerated lab testing, field monitoring, vendor reliability estimates, and data on industry averages for similar products. Historically, warranty costs have been within management’s expectations (see Note 9).

Revenue Recognition

Solar Power Products

The Company sells its solar panels and balance of system components primarily to dealers, system integrators and distributors, and recognizes revenue, net of accruals for estimated sales returns, when persuasive evidence of an arrangement exists, delivery of the product has occurred, title and risk of loss has passed to the customer, the sales price is fixed or determinable, collectability of the resulting receivable is reasonably assured, and the rights and risks of ownership have passed to the customer. Other than standard warranty obligations, there are no rights of return and there are no significant post-shipment obligations, including installation, training or customer acceptance clauses with any of the Company's customers that could have an impact on revenue recognition. The Company's revenue recognition policy is consistent across all geographic areas.

The provision for estimated sales returns on product sales is recorded in the same period the related revenues are recorded. These estimates are based on historical sales returns, analysis of credit memo data, and other known factors. Actual returns could differ from these estimates.

Construction Contracts

Revenue is also comprised of EPC projects which are governed by customer contracts that require the Company to deliver functioning solar power systems and are generally completed within three to twelve months from commencement of construction. The Company recognizes revenue from fixed price construction contracts using the percentage-of-completion method of accounting. Under this method, revenue arising from fixed price construction contracts is recognized as work is performed based on the percentage of incurred costs to estimated total forecasted costs.

Incurred costs used in the Company’s percentage-of-completion calculation include all direct material, labor, subcontract costs, and those indirect costs related to contract performance, such as indirect labor, supplies, and tools. Project material costs are included in incurred costs when the project materials have been installed by being permanently attached or fitted to the solar power system as required by the project’s engineering design.

In addition to an EPC deliverable, a limited number of arrangements also include multiple deliverables such as post-installation systems monitoring and maintenance. For contracts with separately priced monitoring and maintenance, the Company recognizes revenue related to such separately priced elements over the contract period. For contracts including monitoring and maintenance not separately priced, the Company determined that post-installation systems monitoring and maintenance qualify as separate units of accounting. Such post-installation monitoring and maintenance are deferred at the time the contract is executed and are recognized to revenue over the contractual term. The remaining EPC revenue is recognized on a percentage-of-completion basis.

In addition, when arrangements include contingent revenue clauses such as penalty payments or customer termination or put rights for non-performance, the Company defers the contingent revenue until such time as the contingencies expire. In certain limited cases, the Company could be required to buy-back a customer’s system at fair value on specified future dates if certain minimum performance thresholds are not met for periods of up to two years. To date, no such repurchase obligations have been required.

Provisions for estimated losses on uncompleted contracts, if any, are recognized in the period in which the loss first becomes probable and reasonably estimable. Contracts may include profit incentives such as milestone bonuses. These profit incentives are included in the contract value when their realization is reasonably assured.

Development Projects

The Company develops and sells solar power plants which generally include the sale or lease of related real estate. Revenue recognition for these solar power plants require adherence to specific guidance for real estate sales, which provides that if the Company holds control over land or land rights prior to the execution of an EPC contract, it recognizes revenue and the corresponding costs when all of the following requirements are met: the sale is consummated, the buyer's initial and any continuing investments are adequate, the resulting receivables are not subject to subordination, and the Company has transferred the customary risk and rewards of ownership to the buyer. In general, a sale is consummated upon the execution of an agreement documenting the terms of the sale and a minimum initial payment by the buyer to substantiate the transfer of risk

to the buyer. This may require the Company to defer revenue during construction, even if a sale was consummated, until it receives the buyer's initial investment payment, at which time revenue would be recognized on a percentage-of-completion basis as work is completed. The Company's revenue recognition methods for solar power plants not involving real estate remains subject to its historical practice using the percentage-of-completion method.

Shipping and Handling Costs

The Company records costs related to shipping and handling in cost of revenue.

Stock-Based Compensation

The Company measures and records compensation expense for all share-based payment awards based on estimated fair values. The Company provides share-based awards to its employees, executive officers, and directors through various equity compensation plans including its employee stock option and restricted stock plans. The fair value of stock option awards is measured at the date of grant using a Black-Scholes option pricing model, and the fair value of restricted stock awards and units is based on the market price of the Company's common stock on the date of grant. The Company has not granted stock options since fiscal 2008.

The Company estimates forfeitures at the date of grant. The Company's estimate of forfeitures is based on its historical activity, which it believes is indicative of expected forfeitures. In subsequent periods if the actual rate of forfeitures differs from the Company's estimate, the forfeiture rates may be revised, as necessary. Changes in the estimated forfeiture rates can have a significant effect on share-based compensation expense since the effect of adjusting the rate is recognized in the period the forfeiture estimate is changed.

The Company also grants performance share units to executive officers and certain employees that require it to estimate expected achievement of performance targets over the performance period. This estimate involves judgment regarding future expectations of various financial performance measures. If there are changes in the Company's estimate of the level of financial performance measures expected to be achieved, the related share-based compensation expense may be significantly increased or reduced in the period that its estimate changes.

Advertising Costs

Advertising costs are expensed as incurred. Advertising expense totaled approximately $3.9 million, $3.3 million, and $4.3 million in fiscal 2011, 2010, and 2009, respectively.

Research and Development Expense

Research and development expense consists primarily of salaries and related personnel costs, depreciation and the cost of solar cell and solar panel materials and services used for the development of products, including experiments and testing. All research and development costs are expensed as incurred. Research and development expense is reported net of any funding received under contracts with governmental agencies because such contracts are considered collaborative arrangements. These awards are typically structured such that only direct costs, research and development overhead, procurement overhead and general and administrative expenses that satisfy government accounting regulations are reimbursed. In addition, the Company’s government awards from state agencies will usually require it to pay to the granting governmental agency certain royalties based on sales of products developed with government funding or economic benefit derived from incremental improvements funded. Royalties paid to governmental agencies are charged to the cost of goods sold.

Translation of Foreign Currency

The Company and certain of its subsidiaries use their respective local currency as their functional currency. Accordingly, foreign currency assets and liabilities are translated using exchange rates in effect at the end of the period. Foreign subsidiaries that use the U.S. dollar as their functional currency translate monetary assets and liabilities using exchange rates in effect at the end of the period. Non-monetary assets and liabilities are translated at their historical values.

The Company includes gains or losses from foreign currency transactions in "Other, net" in the Consolidated Statements of Operations with the other hedging activities described in Note 12.

Concentration of Credit Risk

The Company is exposed to credit losses in the event of nonperformance by the counterparties to its financial and derivative instruments. Financial and derivative instruments that potentially subject the Company to concentrations of credit risk are primarily cash and cash equivalents, restricted cash and cash equivalents, investments, accounts receivable, notes receivable, advances to suppliers, foreign currency option contracts, foreign currency forward contracts, bond hedge and warrant transactions, purchased options, and share lending arrangements for its common stock. The Company's investment policy requires cash and cash equivalents, restricted cash and cash equivalents, and investments to be placed with high-quality financial institutions and to limit the amount of credit risk from any one issuer (see Note 7). Similarly, the Company enters into foreign currency derivative contracts and convertible debenture hedge transactions with high-quality financial institutions and limits the amount of credit exposure to any one counterparty. The foreign currency derivative contracts are limited to a time period of less than one year, while the purchased options will expire in 2014 and the bond hedge and warrant transactions expire in 2015. The Company regularly evaluates the credit standing of its counterparty financial institutions.

The Company performs ongoing credit evaluations of its customers' financial condition whenever deemed necessary and generally does not require collateral. The Company maintains an allowance for doubtful accounts based on the expected collectability of all accounts receivable, which takes into consideration an analysis of historical bad debts, specific customer creditworthiness and current economic trends. One customer accounted for 20% of accounts receivable as of January 1, 2012 and one customer accounted for 11% of accounts receivable as of January 2, 2011. In addition, one customer accounted for approximately 21% of the Company's "Costs and estimated earnings in excess of billings" balance as of January 1, 2012 on the Consolidated Balance Sheet as compared to two customers that accounted for approximately 17% and 15% of the balance as of January 2, 2011.

The Company has entered into agreements with vendors that specify future quantities and pricing of polysilicon to be supplied for periods up to 10 years. Under certain agreements, the Company is required to make prepayments to the vendors over the terms of the arrangements.

In fiscal 2007, the Company entered into share lending arrangements of its former class A common stock with financial institutions for which it received a nominal lending fee of $0.001 per share. The Company loaned 2.9 million shares and 1.8 million shares of its former class A common stock to Lehman Brothers International (Europe) Limited ("LBIE") and Credit Suisse International ("CSI"), respectively. Physical settlement of the shares is required when the arrangement is terminated. However, on September 15, 2008, Lehman Brothers Holding Inc. ("Lehman") filed a petition for protection under Chapter 11 of the U.S. bankruptcy code, and LBIE commenced administration proceedings (analogous to bankruptcy) in the United Kingdom. The Company filed a claim in the LBIE proceeding for $240.9 million and a corresponding claim in the Lehman Chapter 11 proceeding under Lehman's guaranty of LBIE's obligations. On December 16, 2010, the Company entered into an assignment agreement with Deutsche Bank under which the Company assigned to Deutsche Bank its claims against LBIE and Lehman in connection with the share lending arrangement. The Company received proceeds of $24.0 million as a result of the assignment agreement (see Note 11).

Income Taxes

Deferred tax assets and liabilities are recognized for temporary differences between financial statement and income tax bases of assets and liabilities. Valuation allowances are provided against deferred tax assets when management cannot conclude that it is more likely than not that some portion or all deferred tax assets will be realized.

As applicable, interest and penalties on tax contingencies are included in "Provision for income taxes" in the Consolidated Statements of Operations and such amounts were not material for any periods presented. In addition, foreign exchange gains (losses) may result from estimated tax liabilities, which are expected to be settled in currencies other than the U.S. dollar.

Investments in Equity Interests

Investments in entities in which the Company can exercise significant influence, but does not own a majority equity interest or otherwise control, are accounted for under the equity method. The Company records its share of the results of these entities as "Equity in earnings of unconsolidated investees" on the Consolidated Statements of Operations. The Company monitors its investments for other-than-temporary impairment by considering factors such as current economic and market conditions and the operating performance of the entities and records reductions in carrying values when necessary. The fair value of privately held investments is estimated using the best available information as of the valuation date, including current earnings trends, undiscounted cash flows, quoted stock prices of comparable public companies, and other company specific information, including recent financing rounds (see Notes 7 and 10).

Business Combinations

The Company records all acquired assets and liabilities, including goodwill, other intangible assets, and in-process research and development, at fair value. The initial recording of goodwill, other intangible assets, and in-process research and development requires certain estimates and assumptions concerning the determination of the fair values and useful lives. The judgments made in the context of the purchase price allocation can materially impact the Company's future results of operations. Accordingly, for significant acquisitions, the Company obtains assistance from third-party valuation specialists. The valuations calculated from estimates are based on information available at the acquisition date (see Notes 3 and 5). The Company charges acquisition related costs that are not part of the consideration to general and administrative expense as they are incurred. These costs typically include transaction and integration costs, such as legal, accounting, and other professional fees.

Recent Accounting Pronouncements

In May 2011, the Financial Accounting Standards Board ("FASB") amended its fair value principles and disclosure requirements. The amended fair value guidance states that the concepts of highest and best use and valuation premise are only relevant when measuring the fair value of nonfinancial assets and prohibits the grouping of financial instruments for purposes of determining their fair values when the unit of account is specified in other guidance. The amendment became effective for the Company on January 2, 2012. The Company does not anticipate that this amendment will have a material impact on its financial statements.

In June 2011, the FASB amended its disclosure guidance related to the presentation of comprehensive income. This amendment eliminates the option to report other comprehensive income and its components in the statement of changes in equity and requires presentation and reclassification adjustments on the face of the income statement. In December, 2011, the FASB further amended its guidance to defer changes related to the presentation of reclassification adjustments indefinitely as a result of concerns raised by stakeholders that the new presentation requirements would be difficult for preparers and add unnecessary complexity to financial statements. The amendment (other than the portion regarding the presentation of reclassification adjustments which, as noted above, has been deferred indefinitely) became effective for the Company on January 2, 2012 and will not have any impact on its financial position, but will impact its financial statement presentation.

In September 2011, the FASB amended its goodwill guidance by providing entities an option to use a qualitative approach to test goodwill for impairment. An entity will be able to first perform a qualitative assessment to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying value. If it is concluded that this is the case, it is necessary to perform the currently prescribed two step goodwill impairment test. Otherwise, the two-step goodwill impairment test is not required. The amendment became effective for the Company on January 2, 2012. The Company does not anticipate that this amendment will have a material impact on its financial statements.

In December 2011, the FASB and International Accounting Standards Board ("IASB") issued common disclosure requirements that are intended to enhance comparability between financial statements prepared in accordance with U.S. GAAP and those prepared in accordance with International Financial Reporting Standards ("IFRS"). This new guidance is applicable to companies that have financial instruments or derivatives that are either offset in the balance sheet (presented on a net basis) or subject to an enforceable master netting arrangement or similar arrangement. The requirement does not change the existing offsetting eligibility criteria or the permitted balance sheet presentation for those instruments that meet the eligibility criteria. However, once this disclosure requirement becomes effective, companies will also be required to disclose information about financial instruments and derivatives instruments that have been offset and related arrangements and to provide both net (offset amounts) and gross information in the notes to the financial statements for relevant assets and liabilities that are offset. The disclosure requirement becomes effective retrospectively in the first quarter of the Company's fiscal year 2013. The Company does not expect that the requirement will have a material impact on its financial position, results of operations or cash flows as it is disclosure only in nature.

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

On April 28, 2011, the Company and Total entered into a Tender Offer Agreement (the "Tender Offer Agreement"), pursuant to which, on May 3, 2011, Total commenced a cash tender offer to acquire up to 60% of the Company's outstanding shares of former class A common stock and up to 60% of the Company's outstanding shares of former class B common stock (the "Tender Offer") at a price of $23.25 per share for each class.

The offer expired on June 14, 2011 and Total accepted for payment on June 21, 2011 a total of 34,756,682 shares of the Company's former class A common stock and 25,220,000 shares of the Company's former class B common stock, representing

60% of each class of its outstanding common stock as of June 13, 2011, for a total cost of approximately $1.4 billion.

Credit Support Agreement

In connection with the Tender Offer, the Company and Total S.A. entered into a Credit Support Agreement (the "Credit Support Agreement") under which Total S.A. has agreed to enter into one or more guarantee agreements (each a "Guaranty") with banks providing letter of credit facilities to the Company in support of certain Company businesses and other permitted purposes. Total S.A. will guarantee the payment to the applicable issuing bank of the Company's obligation to reimburse a draw on a letter of credit and pay interest thereon in accordance with the letter of credit facility between such bank and the Company. The Credit Support Agreement became effective on June 28, 2011 (the "CSA Effective Date"). Under the Credit Support Agreement, at any time from the CSA Effective Date until the fifth anniversary of the CSA Effective Date, the Company may request that Total S.A. provide a Guaranty in support of the Company's payment obligations with respect to a letter of credit facility. Total S.A. is required to issue and enter into the Guaranty requested by the Company, subject to certain terms and conditions that may be waived by Total S.A., and subject to certain other conditions.

In consideration for the commitments of Total S.A., the Company is required to pay Total S.A. a guarantee fee for each letter of credit that is the subject of a Guaranty and was outstanding for all or part of the preceding calendar quarter. The Company is also required to reimburse Total S.A. for payments made under any Guaranty and certain expenses of Total S.A., plus interest on both. In fiscal 2011, the Company incurred guaranty fees of $2.2 million to Total S.A.

The Company has agreed to undertake certain actions, including, but not limited to, ensuring that the payment obligations of the Company to Total S.A. rank at least equal in right of payment with all of the Company's other present and future indebtedness, other than certain permitted secured indebtedness. The Company has also agreed to refrain from taking certain actions, including refraining from making any equity distributions so long as it has any outstanding repayment obligation to Total S.A. resulting from a draw on a guaranteed letter of credit.

The Credit Support Agreement will terminate following the fifth anniversary of the CSA Effective Date, after the later of the payment in full of all obligations thereunder and the termination or expiration of each Guaranty provided thereunder.

Affiliation Agreement

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

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

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

In accordance with the terms of the Affiliation Agreement, on July 1, 2011, the Company's Board of Directors expanded the size of the Board of Directors to eleven members and elected six nominees from Total as directors, following which the Board of Directors was composed of the Chief Executive Officer of the Company (who also serves as the chairman of the Company's Board of Directors), four existing non-Total designated members of the Company's Board of Directors, and six directors designated by Total. Directors designated by Total also serve on certain committees of the Company's Board of Directors. On the first anniversary of the consummation of the Tender Offer, the size of the Company's Board of Directors will be reduced to nine members and one non-Total designated director and one director designated by Total will resign from the Company's Board of Directors. If the Total Group's ownership percentage of Company common stock declines, the number of members of the Company's Board of Directors that Total is entitled to nominate to the Company's Board of Directors will be

reduced as set forth in the Affiliation Agreement.

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

Affiliation Agreement Guaranty

Total S.A. has entered into a guaranty (the "Affiliation Agreement Guaranty") pursuant to which Total S.A. unconditionally guarantees the full and prompt payment of Total S.A.'s, Total's and each of Total S.A.'s direct and indirect subsidiaries' payment obligations under the Affiliation Agreement and the full and prompt performance of Total S.A.'s, Total's and each of Total S.A.'s direct and indirect subsidiaries' representations, warranties, covenants, duties, and agreements contained in the Affiliation Agreement.

Research & Collaboration Agreement

In connection with the Tender Offer, Total and the Company have entered into a Research & Collaboration Agreement (the "R&D Agreement") that establishes a framework under which they may engage in long-term research and development collaboration ("R&D Collaboration"). The R&D Collaboration is expected to encompass a number of different projects ("R&D Projects"), with a focus on advancing technology in the area of photovoltaics. The primary purpose of the R&D Collaboration is to: (i) maintain and expand the Company's technology position in the crystalline silicon domain; (ii) ensure the Company's industrial competitiveness; and (iii) guarantee a sustainable position for both the Company and Total to be best-in-class industry players.

The R&D Agreement contemplates a joint committee (the "R&D Strategic Committee") that identifies, plans and manages the R&D Collaboration. Due to the impracticability of anticipating and establishing all of the legal and business terms that will be applicable to the R&D Collaboration or to each R&D Project, the R&D Agreement sets forth broad principles applicable to the parties' potential R&D Collaboration, and the R&D Collaboration Committee establishes the particular terms governing each particular R&D Project consistent with the terms set forth in the R&D Agreement.

Registration Rights Agreement

In connection with the Tender Offer, Total and the Company entered into a customary registration rights agreement (the "Registration Rights Agreement") related to Total's ownership of Company shares. The Registration Rights Agreement provides Total with shelf registration rights, subject to certain customary exceptions, and up to two demand registration rights in any 12-month period, also subject to certain customary exceptions. Total also has certain rights to participate in any registrations of securities initiated by the Company. The Company will generally pay all costs and expenses incurred by the Company and Total in connection with any shelf or demand registration (other than selling expenses incurred by Total). The Company and Total have also agreed to certain indemnification rights. The Registration Rights Agreement terminates on the first date on which: (i) the shares held by Total constitute less than 5% of the then-outstanding common stock; (ii) all securities held by Total may be immediately resold pursuant to Rule 144 promulgated under the Securities and Exchange Act of 1934 (the "Exchange Act") during any 90-day period without any volume limitation or other restriction; or (iii) the Company ceases to be subject to the reporting requirements of the Exchange Act.

Stockholder Rights Plan

On April 28, 2011, prior to the execution of the Tender Offer Agreement, the Company entered into an amendment (the "Rights Agreement Amendment") to the Rights Agreement, dated August 12, 2008, by and between the Company and Computershare Trust Company, N.A., as Rights Agent (the "Rights Agreement"), in order to, among other things, render the rights therein inapplicable to each of: (i) the approval, execution or delivery of the Tender Offer Agreement; (ii) the commencement or consummation of the Tender Offer; (iii) the consummation of the other transactions contemplated by the Tender Offer Agreement and the related agreements; and (iv) the public or other announcement of any of the foregoing.

On June 14, 2011, the Company entered into a second amendment to the Rights Agreement (the "Second Rights Agreement Amendment"), in order to, among other things, exempt Total, Total S.A. and certain of their affiliates and certain members of a group of which they may become members from the definition of "Acquiring Person" such that the rights issuable pursuant to the Rights Agreement will not become issuable in connection with the completion of the Tender Offer.

By-laws Amendment

On June 14, 2011, the Board of Directors approved the amendment of the Company's By-laws (the "By-laws"). The changes are required under the Affiliation Agreement. The amendments: (i) allow any member of the Total Group to call a meeting of stockholders for the sole purpose of considering and voting on a proposal to effect a Terra Merger (as defined in the Affiliation Agreement) or a Transferee Merger (as defined in the Affiliation Agreement); (ii) provide that the number of directors of the Board shall be determined from time to time by resolution adopted by the affirmative vote of a majority of the entire Board at any regular or special meeting; (iii) require, prior to the termination of the Affiliation Agreement, a majority of independent directors' approval to amend the By-laws so long as Total, together with Total S.A.'s subsidiaries collectively own at least 30% of the voting securities of the Company as well as require, prior to the termination of the Affiliation Agreement, Total's written consent during the Terra Stockholder Approval Period (as defined in the Affiliation Agreement) to amend the By-laws; and (iv) make certain other conforming changes to the By-laws.

Tenesol Stock Purchase Agreement

On December 23, 2011, the Company entered into a Stock Purchase Agreement with Total, under which it has agreed to acquire 100% of the equity interest of Tenesol SA, ("Tenesol"), from Total for $165.4 million in cash. The Tenesol acquisition was consummated on January 31, 2012 (see Note 18).

Private Placement Agreement

Contemporaneously with the execution of the Tenesol Stock Purchase Agreement, the Company entered into a Private Placement Agreement with Total, under which Total agreed to purchase, and the Company agreed to issue and sell 18.6 million shares of the Company's common stock for a purchase price of $8.80 per share. The sale was completed contemporaneously with the closing of the Tenesol acquisition (see Note 18).

Master Agreement

On December 23, 2011, the Company also entered into a Master Agreement with Total, under which the Company and Total agreed to a framework of transactions related to the Tenesol Acquisition and Private Placement Agreement. Additionally, Total has agreed to pursue several negotiations on additional agreements related to directly investing in the Company's R&D program over a multi-year period, purchase of modules and develop a multi-megawatt project using the Company's products.

Note 3. *BUSINESS COMBINATIONS*

SunRay Malta Holdings Limited ("SunRay")

In fiscal 2010, the Company completed its acquisition of SunRay, a European solar power plant developer company organized under the laws of Malta, under which the Company purchased all the issued share capital of SunRay for $296.1 million. As a result, SunRay became a subsidiary of the Company and the results of operations of SunRay have been included in the Consolidated Statement of Operations of the Company since March 26, 2010. As part of the acquisition, the Company acquired SunRay's project pipeline of solar photovoltaic projects in Europe and Israel, in various stages of development. SunRay's power plant development and project finance teams consisted of approximately 70 employees at the date of acquisition.

Purchase Price Consideration

The total consideration for the acquisition was $296.1 million, including: (i) $263.4 million paid in cash to SunRay's class A shareholders, class B shareholders, and class C shareholders; (ii) $18.7 million paid in cash to repay outstanding debt of SunRay; and (iii) $14.0 million in promissory notes issued by the Company's subsidiary SunPower North America, LLC, and guaranteed by SunPower. A portion of the purchase price allocated to SunRay's class A shareholders, class B shareholders, and certain non-management class C shareholders ($244.4 million in total) was paid by the Company in cash and the remaining portion of the purchase price allocated to SunRay's class C management shareholders was paid with a combination of $19.0 million in cash and $14.0 million in promissory notes.

The $14.0 million in promissory notes issued to SunRay's management shareholders were structured to provide a retention incentive. Since the vesting and payment of the promissory notes were contingent on future employment, the promissory notes were considered deferred compensation and therefore were not included in the purchase price allocated to the net assets acquired.

A total of $32.3 million of the purchase price paid and promissory notes payable to certain principal shareholders of SunRay will be held in escrow for two years following March 26, 2010, and be subject to potential indemnification claims that may be made by the Company during that period. The escrow fund consists of $28.7 million paid in cash and $3.6 million in promissory notes issued by SunPower North America, LLC. The escrow is generally tied to compliance with the representations and warranties made as part of the acquisition. Therefore, the $28.7 million in cash of the $263.4 million cash consideration is considered a part of the purchase price allocated to the net assets acquired. The funds in escrow, less any amounts relating to paid or pending claims, will be released two years following March 26, 2010.

Purchase Price Allocation

The Company accounted for this acquisition using the acquisition method. The Company allocated the purchase price to the acquired assets and liabilities based on their estimated fair values at the acquisition date as summarized in the following table. The allocation of the purchase price on March 26, 2010 is as follows:

	Year Ended
(In thousands)	**January 2, 2011**
Net tangible assets acquired	$ 54,094
Project assets	79,160
Purchased technology	1,120
Goodwill	147,716
Total purchase consideration	$ 282,090

The fair value of net tangible assets acquired on March 26, 2010 is as follows:

	As of
(In thousands)	**January 2, 2011**
Cash and cash equivalents	$ 9,391
Restricted cash and cash equivalents	36,701
Accounts receivable, net	1,958
Prepaid expenses and other current assets	5,765
Project assets - plants and land	18,803
Property, plant and equipment, net	452
Assets of discontinued operations	199,071
Total assets acquired	272,141
Accounts payable	(4,324)
Other accrued expenses and liabilities	(11,688)
Debt	(42,707)
Liabilities of discontinued operations	(159,328)
Total liabilities assumed	(218,047)
Net acquired assets	$ 54,094

The Company completed its review of the fair value of assets and liabilities acquired in the fourth quarter of fiscal 2010.

In the Company's determination of the fair value of the project assets and purchased technology acquired, it considered, among other factors, three generally accepted valuation approaches: the income approach, the market approach, and the cost approach. The Company selected the approaches that it believed to be most indicative of the fair value of the assets acquired.

Project Assets

The project assets totaling $79.2 million represent intangible assets that consist of: (i) projects and EPC pipeline, which relate to the development of power plants; and (ii) O&M pipeline, which relate to maintenance contracts that are established

after the developed plants are sold. The Company applied the income approach using the multi-period excess earnings method based on estimates and assumptions of future performance of these project assets provided by SunRay's and the Company's management to determine the fair value of the project assets. SunRay's and the Company's estimates and assumptions regarding the fair value of the project assets was derived from probability adjusted cash flows of certain project assets acquired based on the varying development stages of each project asset on the acquisition date. The Company amortized the project assets to "Selling, general and administrative" expense based on the pattern of economic benefit provided using the same probability adjusted cash flows from the sale of solar power plants over estimated lives of 4 years from the date of acquisition. These acquired intangible project assets were subsequently impaired in the third quarter of fiscal 2011 (see Note 5).

Purchased Technology

The Company applied the cost approach to calculate the fair value of internally developed technologies related to the project development business. The Company determined the fair value of the purchased technology totaling $1.1 million based on estimates and assumptions for the cost of reproducing or replacing the asset based on third party charges, salaries of employees and other internal development costs incurred. The Company amortized the purchased technology to "Cost of revenue" within the UPP Segment on a straight-line basis over estimated lives of 5 years. The purchased technology was subsequently impaired in the third fiscal quarter of fiscal 2011 (see Note 5).

Goodwill

Of the total estimated purchase price paid at the time of acquisition, $147.7 million was allocated to goodwill within the UPP Segment. Goodwill represents the excess of the purchase price of an acquired business over the fair value of the underlying net tangible and other intangible assets and is not deductible for tax purposes. Among the factors that contributed to a purchase price in excess of the fair value of the net tangible and other intangible assets was the acquisition of an assembled workforce, synergies in technologies, skill sets, operations, customer base, and organizational cultures. Goodwill was subsequently impaired based on the annual impairment test performed during the third quarter of fiscal 2011 (see Note 5).

Acquisition Related Costs

Acquisition related costs of $6.5 million recognized in the twelve months ended January 2, 2011 include transaction costs such as legal, accounting, valuation, and other professional services, which the Company has classified in "Selling, general and administrative" expense in its Consolidated Statement of Operations.

Utility and Power Plants Revenue

In fiscal 2010, SunRay's electricity revenue from discontinued operations totaled $11.1 million (see Note 4). In addition, SunRay completed the sale of multiple Italian solar parks which represented 21% of the Company's total revenue in fiscal 2010.

Pro Forma Financial Information

Supplemental information on an unaudited pro forma basis, as if the acquisition of SunRay was completed at the beginning of the first quarter in fiscal 2009, is as follows:

	Year Ended	
(In thousands, except per share amounts)	**January 2, 2011**	**January 3, 2010**
Revenue	$ 2,218,666	$ 1,382,838
Net income (loss)	150,136	(64,042)
Basic net income (loss) per share	$ 1.57	$ (0.70)
Diluted net income (loss) per share	$ 1.42	$ (0.70)

The unaudited pro forma supplemental information is based on estimates and assumptions, which the Company believes are reasonable. The unaudited pro forma supplemental information prepared by management is not necessarily indicative of the consolidated results of operations in future periods or the results that actually would have been realized had the Company and SunRay been a combined company during the specified periods.

Note 4. ***SALE OF DISCONTINUED OPERATIONS***

In connection with the acquisition of SunRay on March 26, 2010, the Company acquired a European project company, Cassiopea PV S.r.l ("Cassiopea"), which operated a previously completed 20 megawatt alternating current ("MWac") solar power plant in Montalto di Castro, Italy. In the period in which an asset of the Company is classified as held-for-sale, it is required to present for all periods the related assets, liabilities and results of operations associated with that asset as discontinued operations. On August 5, 2010, the Company sold the assets and liabilities of Cassiopea. Therefore, Cassiopea's results of operations were classified as "Income from discontinued operations, net of taxes" in the Consolidated Statement of Operations for year ended January 2, 2011.

Results of operations related to Cassiopea for the year ended January 2, 2011 were as follows:

	Year Ended
(In thousands)	**January 2, 2011**
Utility and power plants revenue	$ 11,081
Gross margin	11,081
Income from discontinued operations before sale of business unit	5,862
Gain on sale of business unit	11,399
Income before income taxes	17,261
Income from discontinued operations, net of taxes	11,841

Note 5. ***GOODWILL AND OTHER INTANGIBLE ASSETS***

Goodwill

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

(In thousands)	**UPP**	**R&C**	**Total**
As of January 3, 2010	$ 78,634	$ 119,529	$ 198,163
Goodwill arising from business combination	147,716	—	147,716
Translation adjustment	—	(609)	(609)
As of January 2, 2011	226,350	118,920	345,270
Goodwill impairment	(226,350)	(83,107)	(309,457)
Translation adjustment	—	177	177
As of January 1, 2012	$ —	$ 35,990	$ 35,990

Goodwill is tested for impairment at least annually, or more frequently if certain indicators are present. A two-step process is used to test for goodwill impairment. The first step is to determine if there is an indication of impairment by comparing the estimated fair value of each reporting unit to its carrying value, including existing goodwill. Goodwill is considered impaired if the carrying value of a reporting unit exceeds the estimated fair value. Upon an indication of impairment, a second step is performed to determine the amount of the impairment by comparing the implied fair value of the reporting unit's goodwill with its carrying value.

The Company conducts its annual impairment test of goodwill as of the Sunday closest to the end of the third fiscal quarter of each year. Impairment of goodwill is tested at the Company's reporting unit level. Management determined the UPP Segment and R&C Segment each have two reporting units, UPP-International and UPP-Americas for UPP Segment, and Residential and Light Commercial and North American Commercial for R&C Segment. In estimating the fair value of the reporting units, the Company makes estimates and judgments about its future cash flows using an income approach defined as Level 3 inputs under fair value measurement standards. The income approach, specifically a discounted cash flow analysis, included assumptions for, among others, forecasted revenue, gross margin, operating income, working capital cash flow, perpetual growth rates, and long-term discount rates, all of which require significant judgment by management. The sum of the fair values of the Company's reporting units are also compared to its external market capitalization to determine the appropriateness of its assumptions and adjusted, if appropriate. These assumptions took into account the current industry environment and its impact on the Company's business. Based on the annual impairment test performed as of the third quarter of fiscal 2011, the Company determined that the carrying value of the UPP-International, UPP-Americas, and Residential and

Light Commercial reporting units exceeded their fair value. As a result, the Company performed the second step of the impairment analysis for the three reporting units discussed above. The Company's calculation of the implied fair value of goodwill included significant assumptions for, among others, the fair values of recognized assets and liabilities and of unrecognized intangible assets, all of which require significant judgment by management. The Company calculated that the implied fair value of goodwill for the three reporting units was zero and therefore recorded a goodwill impairment loss of $309.5 million, representing all of the goodwill associated with these reporting units. The fair value of the remaining reporting unit, North American Commercial, significantly exceeded the carrying value under the first step of the goodwill impairment test as performed during the third quarter of fiscal 2011; therefore, goodwill was not impaired.

Intangible Assets

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

(In thousands)	Gross	Accumulated Amortization	Net
As of January 1, 2012			
Patents, trade names and purchased technology	$ 49,892	$ (49,892)	$ —
Purchased in-process research and development	1,000	(195)	805
Customer relationships and other	28,300	(24,257)	4,043
	$ 79,192	$ (74,344)	$ 4,848
As of January 2, 2011			
Project assets	$ 79,160	$ (22,627)	$ 56,533
Patents, trade names and purchased technology	55,144	(54,563)	581
Purchased in-process research and development	1,000	(28)	972
Customer relationships and other	40,525	(31,823)	8,702
	$ 175,829	$ (109,041)	$ 66,788

All of the Company's acquired other intangible assets are subject to amortization. Aggregate amortization expense for other intangible assets totaled $21.7 million, $38.5 million, and $16.5 million in fiscal 2011, 2010, and 2009, respectively.

The Company reviews intangible assets for impairment whenever events or changes in circumstances indicate that the carrying value of such assets may not be recoverable. During the third quarter of fiscal 2011, the Company determined the carrying value of certain intangible assets related to strategic acquisitions of EPC and O&M project pipelines in Europe were no longer recoverable and recognized an impairment loss of $40.3 million reflected as "Other intangible asset impairment" on the Company's Consolidated Statement of Operations for the year ended January 1, 2012. The Company determined that the carrying value of the intangible assets was not recoverable as the carrying value of the asset group which contained the intangible assets exceeded the undiscounted cash flows of the asset group for a period of time commensurate with the remaining useful life of the primary asset of the group plus a salvage value of the asset group at the end of this period. The impairment loss was calculated by comparing the fair value of the intangible assets to their carrying value. In calculating the fair value of the intangible assets, the Company utilized discounted cash flow assumptions related to the acquired EPC and O&M project pipelines in Europe. The significant decline in fair value of the intangible assets was primarily attributable to the change in government incentives in Europe.

As of January 1, 2012, the estimated future amortization expense related to other intangible assets is as follows:

(In thousands)	Amount
Year	
2012	$ 4,104
2013	272
2014	167
2015	167
2016	138
Thereafter	—
	$ 4,848

Note 6. ***BALANCE SHEET COMPONENTS***

(In thousands)	As of January 1, 2012	As of January 2, 2011
Accounts receivable, net:		
Accounts receivable, gross	$ 413,152	$ 389,554
Less: allowance for doubtful accounts	(20,408)	(5,967)
Less: allowance for sales returns	(2,482)	(2,387)
	$ 390,262	$ 381,200

(In thousands)	Balance at Beginning of Period	Charges (Releases) to Expenses / Revenues	Deductions	Balance at End of Period
Allowance for doubtful accounts:				
Year ended January 1, 2012	$ 5,967	$ 18,211	$ (3,770)	$ 20,408
Year ended January 2, 2011	2,298	11,405	(7,736)	5,967
Year ended January 3, 2010	1,863	1,444	(1,009)	2,298
Allowance for sales returns:				
Year ended January 1, 2012	2,387	95	—	2,482
Year ended January 2, 2011	1,908	2,160	(1,681)	2,387
Year ended January 3, 2010	231	1,677	—	1,908
Valuation allowance for deferred tax assets (1):				
Year ended January 1, 2012	4,644	125,302	—	129,946
Year ended January 2, 2011	42,163	(37,519)	—	4,644
Year ended January 3, 2010	9,985	32,178	—	42,163

(1) The above table reflects adjustments to the valuation allowance for prior years, which did not have a material impact on the financial statements as there was a corresponding adjustment to the Company's gross deferred tax assets.

(In thousands)	As of January 1, 2012	As of January 2, 2011
Inventories:		
Raw materials	$ 75,142	$ 70,683
Work-in-process	79,397	35,658
Finished goods	242,723	207,057
	$ 397,262	$ 313,398
Prepaid expenses and other current assets:		
VAT receivables, current portion	$ 68,993	$ 26,500
Foreign currency derivatives	34,422	35,954
Income tax receivable	10,418	1,513
Deferred project costs	183,789	934
Other current assets	12,301	13,605
Other receivables (2)	143,534	83,712
Other prepaid expenses	29,234	30,716
	$ 482,691	$ 192,934

(2) Includes tolling agreements with suppliers in which the Company provides polysilicon required for silicon ingot manufacturing and procures the manufactured silicon ingots from the suppliers (see Notes 9 and 10).

(In thousands)	As of January 1, 2012	As of January 2, 2011
Project assets - plants and land:		
Project assets — plants	$ 31,469	$ 28,784
Project assets — land	27,388	17,322
	$ 58,857	$ 46,106
Project assets - plants and land, current portion	$ 24,243	$ 23,868
Project assets - plants and land, net of current portion	$ 34,614	$ 22,238
Property, plant and equipment, net:		
Land and buildings	$ 13,912	$ 13,912
Leasehold improvements	244,913	207,248
Manufacturing equipment (3)	596,143	551,815
Computer equipment	70,795	46,603
Solar power systems	11,145	10,614
Furniture and fixtures	7,172	5,555
Construction-in-process	41,712	28,308
	985,792	864,055
Less: accumulated depreciation (4)	(378,336)	(285,435)
	$ 607,456	$ 578,620

(3) Certain manufacturing equipment associated with solar cell manufacturing lines located at one of the Company's facilities in the Philippines is collateralized in favor of a third-party lender (See Note 11). The Company also provided security for advance payments received from a third party in fiscal 2008 in the form of collateralized manufacturing equipment with a net book value of $21.1 million and $28.3 million as of January 1, 2012 and January 2, 2011, respectively.

(4) Total depreciation expense was $106.6 million, $102.2 million, and $84.6 million in fiscal 2011, 2010, and 2009, respectively.

Property, plant and equipment, net by geography (5):		
Philippines	$ 490,074	$ 502,131
United States	93,436	73,860
Mexico	21,686	—
Europe	1,966	2,400
Other	294	229
	$ 607,456	$ 578,620

(5) Property, plant and equipment, net are based on the physical location of the assets.

The below table presents the cash and non-cash interest expense capitalized to property plant and equipment and project assets during fiscal 2011, 2010, and 2009, respectively.

(In thousands)	Year Ended January 1, 2012	January 2, 2011	January 3, 2010
Interest expense:			
Interest cost incurred	$ (72,274)	$ (65,324)	$ (43,439)
Cash interest cost capitalized - property, plant and equipment	1,503	565	2,188
Non-cash interest cost capitalized - property, plant and equipment	942	774	4,964
Cash interest cost capitalized - project assets - plant and land	1,326	3,526	—
Non-cash interest cost capitalized - project assets - plant and land	1,481	5,183	—
Interest expense	$ (67,022)	$ (55,276)	$ (36,287)

(In thousands)	As of January 1, 2012	January 2, 2011
Other long-term assets:		
Investments in joint ventures	$ 129,929	$ 116,444
Bond hedge derivative	840	34,491
Investments in non-public companies	4,918	6,418
VAT receivables, net of current portion	6,020	7,002
Long-term debt issuance costs	10,734	12,241
Other	21,763	1,698
	$ 174,204	$ 178,294
Accrued liabilities:		
VAT payables	$ 42,867	$ 11,699
Foreign currency derivatives	14,935	10,264
Short-term warranty reserves	15,034	14,639
Interest payable	7,288	6,982
Deferred revenue	46,568	21,972
Employee compensation and employee benefits	33,300	33,227
Other	74,696	38,921
	$ 234,688	$ 137,704
Other long-term liabilities:		
Embedded conversion option derivatives	$ 844	$ 34,839
Long-term warranty reserves	74,908	48,923
Unrecognized tax benefits	27,737	24,894
Other	49,003	22,476
	$ 152,492	$ 131,132

Note 7. *INVESTMENTS*

The Company's investments in money market funds and debt securities, classified as available-for-sale, are carried at fair value. Debt securities that are classified as held-to-maturity are carried at amortized costs. Fair values are determined based on a hierarchy that prioritizes the inputs to valuation techniques by assigning the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities ("Level 1") and the lowest priority to unobservable inputs ("Level 3"). Level 2 measurements are inputs that are observable for assets or liabilities, either directly or indirectly, other than quoted prices included within Level 1.

The following tables present information about the Company's investments in money market funds and debt securities, classified as available-for-sale, that are measured at fair value on a recurring basis and indicate the fair value hierarchy of the valuation techniques utilized by the Company to determine such fair value. Information about the Company's convertible debenture derivatives measured at fair value on a recurring basis is disclosed in Note 11. Information about the Company's foreign currency derivatives measured at fair value on a recurring basis is disclosed in Note 12. The Company did not have any

nonfinancial assets or liabilities that were recognized or disclosed at fair value on a recurring basis in its consolidated financial statements.

	January 1, 2012				January 2, 2011			
(In thousands)	**Level 1**	**Level 2**	**Level 3**	**Total**	**Level 1**	**Level 2**	**Level 3**	**Total**
Assets								
Money market funds	$ 187,538	$ —	$ —	$ 187,538	$ 488,626	$ —	$ 172	$ 488,798
Debt securities	—	—	—	—	—	38,548	—	38,548
	$ 187,538	$ —	$ —	$ 187,538	$ 488,626	$ 38,548	$ 172	$ 527,346

There were no transfers between Level 1, Level 2, and Level 3 measurements during the year ended January 1, 2012 and January 2, 2011.

Money Market Funds

Substantially all of the Company's money market fund instruments are classified as available-for-sale and within Level 1 of the fair value hierarchy because they are valued using quoted prices for identical instruments in active markets.

Debt Securities

Investments in debt securities classified as held-to-maturity as of January 1, 2012, consist of Philippine government bonds purchased in the third quarter of fiscal 2011 which are maintained as collateral for present and future business transactions within the country. These bonds have maturity dates of up to 5 years with a carrying value of $9.1 million as of January 1, 2012, which are classified as "Restricted long-term marketable securities" on the Company's Consolidated Balance Sheets. The Company records such held-to-maturity investments at amortized cost based on its ability and intent to hold the securities until maturity. The Company monitors for changes in circumstances and events which would impact its ability and intent to hold such securities until the recorded amortized cost is recovered. The Company incurred no other-than-temporary impairment loss in the year ended January 1, 2012.

Investments in debt securities classified as available-for-sale utilizing Level 2 inputs as of January 2, 2011, consisted of bonds purchased in the fourth quarter of fiscal 2010. The bonds were guaranteed by the Italian government. The Company based its valuation of these bonds on movements of Italian sovereign bond rates since the time of purchase and incurred no other-than-temporary impairment loss in year ended January 2, 2011. This valuation is corroborated by comparison to third-party financial institution valuations. The fair value of the Company's investments in bonds totaled €29.5 million as of January 2, 2011. On May 23, 2011, the bonds were sold for net proceeds of €29.3 million which was €0.2 million below the recorded fair value of €29.5 million on the sale date. The €0.2 million difference was reflected as a loss within "Other, net" in the Consolidated Statement of Operations for the year ended January 1, 2012.

Minority Investments in Joint Ventures and Other Non-Public Companies

The Company holds minority investments in joint ventures and other non-public companies comprised of convertible promissory notes, common and preferred stock. The Company monitors these minority investments for impairment, which are included in "Prepaid expenses and other current assets" and "Other long-term assets" in its Consolidated Balance Sheets, and records reductions in the carrying values when necessary. Circumstances that indicate an other-than-temporary decline include the valuation ascribed to the issuing company in subsequent financing rounds, decreases in quoted market prices, and declines in operations of the issuer. As of January 1, 2012 and January 2, 2011, the Company had $129.9 million and $116.4 million, respectively, in investments in joint ventures accounted for under the equity method and $4.9 million and $16.4 million, respectively, in investments accounted for under the cost method (see Note 10).

Note 8. *RESTRUCTURING*

December 2011 Restructuring Plan

To accelerate operating cost reduction and improve overall operating efficiency, in December 2011, the Company implemented a company-wide restructuring program (the "December 2011 Plan"). The December 2011 Plan eliminates approximately 2% of SunPower's global workforce. The Company expects to record restructuring charges up to $17.0 million,

related to both the UPP Segment and R&C Segment, in the twelve months following the approval and implementation of the plan, of which $7.5 million has been recognized during the year ended January 1, 2012. The Company expects greater than 80% of these charges to be cash.

Restructuring charges in connection with the December 2011 Plan recognized during the twelve months ended January 1, 2012 in the Company's Consolidated Statements of Operations consisted of $7.3 million of employee severance and benefits, and accelerated vesting of restricted stock units previously granted, and $0.2 million of legal and other related charges. As of January 1, 2012, $3.4 million associated with the December 2011 Plan was recorded in "Accrued liabilities" on the Company's Consolidated Balance Sheet.

June 2011 Restructuring Plan

In response to reductions in European government incentives, primarily in Italy, which have had a significant impact on the global solar market, on June 13, 2011, the Company's Board of Directors approved a restructuring plan (the "June 2011 Plan") to realign the Company's resources. The June 2011 Plan eliminates approximately 2% of the Company's global workforce, in addition to the consolidation or closure of certain facilities in Europe. The Company expects to record restructuring charges associated with the June 2011 Plan of up to $17.0 million, related to the UPP Segment, in the twelve months following the approval and implementation of the plan, of which $13.9 million has been recognized during the year ended January 1, 2012. The Company expects greater than 90% of restructuring related charges to be cash.

Restructuring charges in connection with the June 2011 Plan recognized during the year ended January 1, 2012 in the Company's Consolidated Statements of Operations consisted of $11.2 million of employee severance, benefits and accelerated vesting of promissory notes, $0.7 million of lease and related termination costs, and $2.1 million of legal and other related charges. As of January 1, 2012, $4.4 million associated with the June 2011 Plan was recorded in "Accrued liabilities" on the Company's Consolidated Balance Sheet.

The following tables summarize the restructuring reserve activity during the year ended January 1, 2012:

	Year Ended			
(In thousands)	**January 2, 2011**	**Charges (Benefits)**	**Payments**	**January 1, 2012**
December 2011 Plan:				
Severance and Benefits (1)	$ —	$ 5,694	$ (2,350)	$ 3,344
Lease and Related Termination Costs	—	—	—	—
Other Costs (1) (2)	—	70	(46)	24
June 2011 Plan:				
Severance and Benefits (3)	—	9,822	(7,618)	2,204
Lease and Related Termination Costs	—	688	—	688
Other Costs (2)	—	2,055	(1,991)	64
Total Restructuring Liabilities	$ —	$ 18,329	$ (12,005)	$ 6,324

(1) December 2011 Plan reserve charges above excludes $1.6 million of stock compensation associated with the accelerated vesting of restricted stock units in accordance with certain grant and termination agreements and $0.1 million related to employee receivables which were written off. The $1.7 million charges described above are included in "Restructuring charges" on the Company's Consolidated Statement of Operations for the year ended January 1, 2012.

(2) Other costs primarily represent associated legal services.

(3) June 2011 Restructuring Plan reserve charges above exclude $1.4 million of charges associated with the accelerated vesting of promissory notes, in accordance with the terms of each agreement, previously issued as consideration for an acquisition completed in the first quarter of fiscal 2010. The $1.4 million charge is separately in "Accrued liabilities" on the Company's Consolidated Balance Sheet as of January 1, 2012, and in "Restructuring charges" on the Company's Consolidated Statement of Operations for the year ended January 1, 2012.

Note 9. ***COMMITMENTS AND CONTINGENCIES***

Operating Lease Commitments

The Company leases its corporate headquarters in San Jose, California and its Richmond, California facility under non-cancellable operating leases from unaffiliated third parties. The Company also has various lease arrangements, including its European headquarters located in Geneva, Switzerland as well as sales and support offices throughout the United States and Europe. In August 2011, the Company entered into a non-cancellable operating lease agreement for its solar module facility in Mexicali, Mexico from an unaffiliated third party.

In fiscal 2009, the Company signed a commercial project financing agreement with Wells Fargo to fund up to $100 million of commercial-scale solar power system projects through December 31, 2010. On July 16, 2011, the Company and Wells Fargo amended the agreement to extend through June 30, 2012. As of January 1, 2012, the Company leases seven solar power systems from Wells Fargo over minimum lease terms of up to 20 years that it had previously sold to Wells Fargo, of which three of these sales occurred during fiscal 2011. Separately, the Company entered into power purchase agreements ("PPAs") with end customers, who host the leased solar power systems and buy the electricity directly from the Company under PPAs with a duration of up to 20 years. At the end of the lease term, the Company has the option to purchase the systems at fair value or remove the systems. The deferred profit on the sale of the systems to Wells Fargo is recognized over the minimum term of the lease. In the fourth quarter of fiscal 2011, the Company also entered into similar lease arrangements with an unaffiliated third party where it leases solar power systems over minimum lease terms of up to 15 years that it previously sold to such third party.

Future minimum obligations under all non-cancellable operating leases as of January 1, 2012 are as follows:

(In thousands)	Amount
Year	
2012	$ 15,733
2013	14,804
2014	13,457
2015	12,225
2016	11,065
Thereafter	56,494
	$ 123,778

Rent expense was $11.0 million, $8.6 million, and $8.3 million in fiscal 2011, 2010, and 2009, respectively.

Purchase Commitments

The Company purchases raw materials for inventory and manufacturing equipment from a variety of vendors. During the normal course of business, in order to manage manufacturing lead times and help assure adequate supply, the Company enters into agreements with contract manufacturers and suppliers that either allow them to procure goods and services based on specifications defined by the Company, or that establish parameters defining the Company's requirements. In certain instances, these agreements allow the Company the option to cancel, reschedule or adjust the Company's requirements based on its business needs prior to firm orders being placed. Consequently, only a portion of the Company's disclosed purchase commitments arising from these agreements are firm, non-cancellable, and unconditional commitments.

The Company also has agreements with several suppliers, including some of its non-consolidated joint ventures, for the procurement of polysilicon, ingots, wafers, solar cells, solar panels, and Solar Renewable Energy Credits which specify future quantities and pricing of products to be supplied by the vendors for periods up to 10 years and provide for certain consequences, such as forfeiture of advanced deposits and liquidated damages relating to previous purchases, in the event that the Company terminates the arrangements. Where pricing is specified for future periods, in some contracts, the Company may reduce its purchase commitment under the contract if the Company obtains a bona fide third party offer at a price that is a certain percentage lower than the applicable purchase price in the existing contract. If market prices decrease, the Company intends to use such provisions to either move its purchasing to another supplier or to force the initial supplier to reduce its price to remain competitive with market pricing.

As of January 1, 2012, total obligations related to non-cancellable purchase orders totaled $0.2 billion and long-term supply agreements with suppliers totaled $2.5 billion. Of the total future purchase commitments of $2.7 billion as of January 1, 2012, $0.1 billion are for commitments to its non-consolidated joint ventures. Future purchase obligations under non-cancellable purchase orders and long-term supply agreements as of January 1, 2012 are as follows:

(In thousands)	Amount
Year	
2012	$ 704,502
2013	241,295
2014	363,451
2015	360,923
2016	326,875
Thereafter	711,266
	$ 2,708,312

Total future purchase commitments of $2.7 billion as of January 1, 2012 included tolling agreements with suppliers in which the Company provides polysilicon required for silicon ingot manufacturing and procures the manufactured silicon ingots from the supplier. Annual future purchase commitments in the table above are calculated using the gross price paid by the Company for silicon ingots and are not reduced by the price paid by suppliers for polysilicon. Total future purchase commitments as of January 1, 2012 would be reduced by $42.3 million to $2.6 billion had the Company's obligations under such tolling agreements been disclosed using net cash outflows.

The Company expects that all obligations related to non-cancellable purchase orders for manufacturing equipment will be recovered through future cash flows of the solar cell manufacturing lines and solar panel assembly lines when such long-lived assets are placed in service. Factors considered important that could result in an impairment review include significant underperformance relative to expected historical or projected future operating results, significant changes in the manner of use of acquired assets, and significant negative industry or economic trends. Obligations related to non-cancellable purchase orders for inventories match current and forecasted sales orders that will consume these ordered materials and actual consumption of these ordered materials are compared to expected demand regularly. The Company anticipates total obligations related to long-term supply agreements for inventories will be recovered because quantities are less than management's expected demand for its solar power products. However, the terms of the long-term supply agreements are reviewed by management and the Company establishes accruals for estimated losses on adverse purchase commitments as necessary, such as lower of cost or market value adjustments, forfeiture of advanced deposits and liquidated damages. Such accruals will be recorded when the Company determines the cost of purchasing the components is higher than the estimated current market value or when it believes it is probable such components will not be utilized in future operations. During fiscal 2011, the Company recorded charges amounting to $39.7 million related to the write-down of third-party inventory and costs associated with the termination of third-party solar cell supply contracts after reductions in European government incentives drove down demand and average selling price in certain areas of Europe.

Advances to Suppliers

As noted above, the Company has entered into agreements with various polysilicon, ingot, wafer, solar cell, and solar panel vendors that specify future quantities and pricing of products to be supplied by the vendors for periods up to 10 years. Certain agreements also provide for penalties or forfeiture of advanced deposits in the event the Company terminates the arrangements. Under certain agreements, the Company is required to make prepayments to the vendors over the terms of the arrangements. During the year ended January 1, 2012, the Company paid advances totaling $52.3 million in accordance with the terms of existing long-term supply agreements. As of January 1, 2012 and January 2, 2011, advances to suppliers totaled $322.1 million and $287.1 million, respectively, the current portion of which is $43.1 million and $31.7 million, respectively. Two suppliers accounted for 75% and 20% of total advances to suppliers as of January 1, 2012, and 83% and 13% as of January 2, 2011.

The Company's future prepayment obligations related to these agreements as of January 1, 2012 are as follows:

(In thousands)	Amount
Year	
2012	$ 183,526
2013	7,075
	$ 190,601

Advances from Customers

In November 2010, the Company and AUOSP entered into an agreement under which the Company will resell to AUOSP polysilicon purchased from a third-party supplier and AUOSP will provide prepayments to the Company related to such polysilicon, which prepayments will then be made by the Company to the third-party supplier. Prepayments paid by AUOSP to the Company in fiscal 2011 and 2010 were $30.0 million and $100.0 million, respectively. Prepayments to be paid by AUOSP to the Company in fiscal 2012 total $70.0 million. Beginning in the first quarter of fiscal 2011 and continuing through 2020, these advance payments will be applied as a credit against AUOSP's polysilicon purchases from the Company. Such polysilicon is used by AUOSP to manufacture solar cells which are sold to the Company on a "cost-plus" basis. As of January 1, 2012 and January 2, 2011, the outstanding advance was $126.5 million and $100.0 million, respectively, of which $5.4 million and $3.5 million, respectively, has been classified in short-term customer advances and $121.1 million and $96.5 million, respectively, in long-term customer advances in the accompanying Consolidated Balance Sheet, based on projected product shipment dates.

In August 2007, the Company entered into an agreement with a third party to supply polysilicon. Under the polysilicon agreement, the Company received advances of $40.0 million in each of fiscal 2008 and 2007 from this third party. Beginning in the first quarter of fiscal 2010, these advance payments are applied as a credit against the third party's polysilicon purchases from the Company. Such polysilicon is used by the third party to manufacture ingots, and potentially wafers, which are sold to the Company under an ingot supply agreement. As of January 1, 2012 and January 2, 2011, the outstanding advance was $64.1 million and $72.9 million, respectively, of which $8.1 million and $8.9 million, respectively, has been classified in short-term customer advances and $56.0 million and $64.0 million, respectively, in long-term customer advances in the accompanying Consolidated Balance Sheet, based on projected product shipment dates. The Company provided security for the advances in the form of collateralized manufacturing equipment with a net book value of $21.1 million and $28.3 million as of January 1, 2012 and January 2, 2011, respectively. As of January 1, 2012 and January 2, 2011, the Company also had $36.0 million and $40.0 million, respectively, of letters of credit issued by Deutsche Bank and $7.5 million and $4.6 million restricted cash held in escrow as of January 1, 2012 and January 2, 2011, respectively (see Notes 6 and 11).

The Company has also entered into other agreements with customers who have made advance payments for solar power products. These advances will be applied as shipments of product occur or upon completion of certain project milestones. As of January 1, 2012 and January 2, 2011, such customers had made advances of $37.5 million and $8.6 million, respectively, in the aggregate.

The estimated utilization of advances from customers as of January 1, 2012 is as follows:

(In thousands)	**Amount**
Year	
2012	$ 46,139
2013	70,603
2014	14,060
2015	18,387
2016	22,713
Thereafter	56,184
	$ 228,086

Product Warranties

The Company generally warrants or guarantees the performance of the solar panels that it manufactures at certain levels of power output for 25 years. In addition, the Company passes through to customers long-term warranties from OEMs of certain system components, such as inverters. Warranties of 25 years from solar panels suppliers are standard in the solar industry, while inverters typically carry warranty periods ranging from 5 to 10 years. In addition, the Company generally warrants its workmanship on installed systems for periods ranging up to 10 years. The Company maintains reserves to cover the expected costs that could result from these warranties. The Company's expected costs are generally in the form of product replacement or repair. Warranty reserves are based on the Company's best estimate of such costs and are recognized as a cost of revenue. The Company continuously monitors product returns for warranty failures and maintains a reserve for the related warranty expenses based on various factors including historical warranty claims, results of accelerated lab testing, field monitoring, vendor reliability estimates, and data on industry averages for similar products. Historically, warranty costs have been within management's expectations.

Provisions for warranty reserves charged to cost of revenue were $33.4 million, $23.4 million, and $22.0 million in fiscal

2011, 2010, and 2009, respectively. Activity within accrued warranty for the in fiscal 2011, 2010, and 2009 is summarized as follows:

	Year Ended		
(In thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Balance at the beginning of the period	$ 63,562	$ 46,475	$ 28,062
Accruals for warranties issued during the period	33,364	23,362	22,029
Settlements made during the period	(6,984)	(6,275)	(3,616)
Balance at the end of the period	$ 89,942	$ 63,562	$ 46,475

Contingent Obligations

Projects often require the Company to undertake customer obligations including: (i) system output performance guarantees; (ii) system maintenance; (iii) penalty payments or customer termination rights if the system the Company is constructing is not commissioned within specified timeframes or other milestones are not achieved; (iv) guarantees of certain minimum residual value of the system at specified future dates; and (v) system put-rights whereby the Company could be required to buy-back a customer's system at fair value on specified future dates if certain minimum performance thresholds are not met. To date, no such repurchase obligations have been required.

Future Financing Commitments

The Company is required to provide certain fundings under the joint venture agreement with AU Optronics Singapore Pte. Ltd. ("AUO") and another financing agreement with a third party, subject to certain conditions (see Note 10).

The Company's future financing obligations related to these agreements as of January 1, 2012 are as follows:

(In thousands)	**Amount**
Year	
2012	$ 47,770
2013	101,400
2014	96,770
	$ 245,940

Liabilities Associated with Uncertain Tax Positions

Total liabilities associated with uncertain tax positions were $27.7 million and $24.9 million as of January 1, 2012 and January 2, 2011, respectively, and are included in "Other long-term liabilities" in the Company's Consolidated Balance Sheets as they are not expected to be paid within the next twelve months. Due to the complexity and uncertainty associated with its tax positions, the Company cannot make a reasonably reliable estimate of the period in which cash settlement will be made for its liabilities associated with uncertain tax positions in other long-term liabilities (see Note 13).

Indemnifications

The Company is a party to a variety of agreements under which it may be obligated to indemnify the other party with respect to certain matters. Typically, these obligations arise in connection with contracts and license agreements or the sale of assets, under which the Company customarily agrees to hold the other party harmless against losses arising from a breach of warranties, representations and covenants related to such matters as title to assets sold, negligent acts, damage to property, validity of certain intellectual property rights, non-infringement of third-party rights, and certain tax related matters. In each of these circumstances, payment by the Company is typically subject to the other party making a claim to the Company under the procedures specified in the particular contract. These procedures usually allow the Company to challenge the other party's claims or, in case of breach of intellectual property representations or covenants, to control the defense or settlement of any third party claims brought against the other party. Further, the Company's obligations under these agreements may be limited in terms of activity (typically to replace or correct the products or terminate the agreement with a refund to the other party), duration and/or amounts. In some instances, the Company may have recourse against third parties and/or insurance covering certain payments made by the Company.

Legal Matters

Three securities class action lawsuits were filed against the Company and certain of its current and former officers and directors in the United States District Court for the Northern District of California on behalf of a class consisting of those who acquired the Company's securities from April 17, 2008 through November 16, 2009. The cases were consolidated as In re SunPower Securities Litigation, Case No. CV-09-5473-RS (N.D. Cal.), and lead plaintiffs and lead counsel were appointed on March 5, 2010. Lead plaintiffs filed a consolidated complaint on May 28, 2010. The actions arise from the Audit Committee's investigation announcement on November 16, 2009 regarding certain unsubstantiated accounting entries. The consolidated complaint alleges that the defendants made material misstatements and omissions concerning the Company's financial results for 2008 and 2009, seeks an unspecified amount of damages, and alleges violations of sections 10(b) and 20(a) of the Securities Exchange Act of 1934, and sections 11 and 15 of the Securities Act of 1933. The Company believes it has meritorious defenses to these allegations and will vigorously defend itself in these matters. The court held a hearing on the defendants' motions to dismiss the consolidated complaint on November 4, 2010. The court dismissed the consolidated complaint with leave to amend on March 1, 2011. An amended complaint was filed on April 18, 2011. The amended complaint added two former employees as defendants. Defendants filed motions to dismiss the amended complaint on May 23, 2011. The motions to dismiss the amended complaint were heard by the court on August 11, 2011. On December 19, 2011, the court granted in part and denied in part the motions to dismiss, dismissing the claims brought pursuant to sections 11 and 15 of the Securities Act of 1933 and the claims brought against the two newly added former employees. The Company is currently unable to determine if the resolution of these matters will have an adverse effect on the Company's financial position, liquidity or results of operations.

Derivative actions purporting to be brought on the Company's behalf have also been filed in state and federal courts against several of the Company's current and former officers and directors based on the same events alleged in the securities class action lawsuits described above. The California state derivative cases were consolidated as In re SunPower Corp. S'holder Derivative Litig., Lead Case No. 1-09-CV-158522 (Santa Clara Sup. Ct.), and co-lead counsel for plaintiffs have been appointed. The complaints assert state-law claims for breach of fiduciary duty, abuse of control, unjust enrichment, gross mismanagement, and waste of corporate assets. Plaintiffs are scheduled to file a consolidated complaint on March 5, 2012. The federal derivative complaints were consolidated as In re SunPower Corp. S'holder Derivative Litig., Master File No. CV-09-05731-RS (N.D. Cal.), and lead plaintiffs and co-lead counsel were appointed on January 4, 2010. The federal complaints assert state-law claims for breach of fiduciary duty, waste of corporate assets, and unjust enrichment, and seek an unspecified amount of damages. Plaintiffs filed a consolidated complaint on May 13, 2011, in the Delaware Court of Chancery. A Delaware state derivative case, Brenner v. Albrecht, et al., C.A. No. 6514-VCP (Del Ch.), was filed on May 23, 2011. The complaint asserts state-law claims for breach of fiduciary duty and contribution and indemnification, and seeks an unspecified amount of damages. The Company intends to oppose all the derivative plaintiffs' efforts to pursue this litigation on the Company's behalf. Defendants moved to stay or dismiss the Delaware derivative action on July 5, 2011. The motion to stay was heard by the court on October 27, 2011, and on January 27, 2012 the court granted the Company's motion and stayed the case indefinitely subject to plaintiff seeking to lift the stay under specified conditions. The Company is currently unable to determine if the resolution of these matters will have an adverse effect on the Company's financial position, liquidity or results of operations.

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

Note 10. *JOINT VENTURES*

Joint Venture with Woongjin Energy Co., Ltd ("Woongjin Energy")

The Company and Woongjin Holdings Co., Ltd. ("Woongjin") formed Woongjin Energy in fiscal 2006, a joint venture to manufacture monocrystalline silicon ingots in Korea. The Company supplies polysilicon, services, and technical support required for silicon ingot manufacturing to Woongjin Energy. Once manufactured, the Company purchases the silicon ingots from Woongjin Energy under a nine-year agreement through 2016. There is no obligation or expectation for the Company to provide additional funding to Woongjin Energy.

On June 30, 2010, Woongjin Energy completed its initial public offering ("IPO") and the sale of 15.9 million new shares of common stock. The Company did not participate in this common stock issuance and its percentage equity ownership was subsequently diluted. As a result of the completion of the IPO, the Company concluded that Woongjin Energy is no longer a variable interest entity ("VIE"). During fiscal 2011, the Company sold 15.5 million shares of Woongjin Energy on the open market for total proceeds, net of tax, amounting to $78.8 million subsequently reducing the Company's percentage equity in

Woongjin Energy and its investment carrying balance. As of January 1, 2012, $3.4 million of the net proceeds was included in "Prepaid expenses and other current assets" on the Company's Consolidated Balance Sheets due to timing of cash settlement for trades executed near year end. As of January 1, 2012 and January 2, 2011, the Company held 3.9 million and 19.4 million shares, respectively, or a percentage equity ownership of 6% and 31%, respectively. The market value of the Company's equity interest in Woongjin Energy was $14.1 million on December 29, 2011.

As of January 1, 2012 and January 2, 2011, the Company's carrying value of its investment in Woongjin Energy totaled $14.0 million and $76.6 million, respectively, in its Consolidated Balance Sheets. The Company accounts for its investment in Woongjin Energy using the equity method since the Company is able to exercise significant influence over Woongjin Energy due to its board position and its consumption of a significant portion of their output. The Company's investment is classified as "Other long-term assets" in the Consolidated Balance Sheets and the Company's share of Woongjin Energy's income totaling $9.8 million, $14.4 million, and $9.8 million in fiscal 2011, 2010, and 2009, respectively, is included in "Equity in earnings of unconsolidated investees" in the Consolidated Statements of Operations. The Company recorded total cash gains of $5.9 million in "Gain on sale of equity interest in unconsolidated investee" in the Company's Consolidated Statement of Operations as a result of the Company's sale of 15.5 million shares of Woongjin Energy during fiscal 2011, which decreased the Company's equity ownership from 31% to 6%. The Company recorded total non-cash gains of $0.3 million during fiscal 2011 and $28.3 million during fiscal 2010 in "Gain on change in equity interest in unconsolidated investee" in the Company's Consolidated Statement of Operations due to its equity interest in Woongjin Energy being diluted as a result of Woongjin Energy's IPO and issuance of additional equity to other investors. As of January 1, 2012, the Company's maximum exposure to loss as a result of its involvement with Woongjin Energy was limited to the carrying value of its investment.

As of January 1, 2012 and January 2, 2011, $24.4 million and $18.4 million, respectively, remained due and receivable from Woongjin Energy related to polysilicon the Company supplied to Woongjin Energy for silicon ingot manufacturing. Payments to Woongjin Energy for manufactured silicon ingots totaled $238.5 million, $183.6 million, and $152.3 million during fiscal 2011, 2010, and 2009, respectively. As of January 1, 2012 and January 2, 2011, $44.1 million and $32.6 million, respectively, remained due and payable to Woongjin Energy. In addition, the Company conducted other related-party transactions with Woongjin Energy in fiscal 2010. During fiscal 2010, the Company recognized revenue related to the sale of solar panels to Woongjin Energy of $0.3 million. As of both January 1, 2012 and January 2, 2011, zero remained due and receivable from Woongjin Energy related to the sale of these solar panels.

Woongjin Energy qualified as a "significant investee" of the Company in fiscal 2009 as defined in SEC Regulation S-X Rule 4-08(g). Summarized financial information adjusted to conform to U.S. GAAP for Woongjin Energy for the years ended January 1, 2012 and January 2, 2011 is as follows:

Balance Sheets

	Year Ended	
(In thousands)	**January 1, 2012**	**January 2, 2011**
Assets		
Current assets	$ 148,867	$ 152,995
Noncurrent assets	206,761	249,760
Total assets	$ 355,628	$ 402,755
Liabilities		
Current liabilities	$ 147,227	$ 86,575
Noncurrent liabilities	54,161	53,736
Total liabilities	$ 201,388	$ 140,311

Statements of Operations

(In thousands)	Year Ended January 1, 2012	January 2, 2011	January 3, 2010
Revenue	$ 282,069	$ 138,362	$ 91,257
Cost of revenue	242,708	80,959	42,262
Gross margin	39,361	57,403	48,995
Operating income	24,226	49,703	43,978
Net income	15,474	41,103	21,094

Joint Venture with First Philec Solar Corporation ("First Philec Solar")

The Company and First Philippine Electric Corporation ("First Philec") formed First Philec Solar in fiscal 2007, a joint venture to provide wafer slicing services of silicon ingots to the Company in the Philippines. The Company supplies to First Philec Solar silicon ingots and technology required for slicing silicon. Once manufactured, the Company purchases the completed silicon wafers from First Philec Solar under a six-year wafering supply and sales agreement through 2013. There is no obligation or expectation for the Company to provide additional funding to First Philec Solar.

As of January 1, 2012 and January 2, 2011, the Company's carrying value of its investment in the joint venture totaled $6.9 million and $6.1 million, respectively, in its Consolidated Balance Sheets which represented a 15% equity investment in both periods. The Company accounts for its investment in First Philec Solar using the equity method since the Company is able to exercise significant influence over First Philec Solar due to its board positions. The Company's investment is classified as "Other long-term assets" in the Consolidated Balance Sheets and the Company's share of First Philec Solar's income of $0.8 million, $0.4 million, and $0.1 million in fiscal 2011, 2010, and 2009, respectively is included in “Equity in earnings of unconsolidated investees” in the Consolidated Statements of Operations. The Company recorded a non-cash loss during fiscal 2010 of $0.3 million in "Gain on change in equity interest in unconsolidated investee" in the Company's Consolidated Statement of Operations due to its equity interest in First Philec Solar being diluted from 20% to 15% as a result of First Philec Solar's issuance of additional equity to other investors. As of January 1, 2012, the Company's maximum exposure to loss as a result of its involvement with First Philec Solar was limited to the carrying value of its investment.

As of January 1, 2012 and January 2, 2011, $8.1 million and $3.3 million, respectively, remained due and receivable from First Philec Solar related to the wafer slicing process of silicon ingots supplied by the Company to First Philec Solar. Payments to First Philec Solar for wafer slicing services of silicon ingots totaled $134.4 million, $87.1 million, and $48.5 million during fiscal 2011, 2010, and 2009, respectively. As of January 1, 2012 and January 2, 2011, $8.0 million, and $9.0 million, respectively, remained due and payable to First Philec Solar related to the purchase of silicon wafers.

The Company has concluded that it is not the primary beneficiary of First Philec Solar since, although the Company and First Philec are both obligated to absorb losses or have the right to receive benefits from First Philec Solar that are significant to First Philec Solar, such variable interests held by the Company do not empower it to direct the activities that most significantly impact First Philec Solar's economic performance. In reaching this determination, the Company considered the significant control exercised by First Philec over the joint venture's Board of Directors, management and daily operations.

Joint Venture with AUOSP

The Company, through its subsidiaries SunPower Technology, Ltd. ("SPTL") formed the joint venture AUOSP, formerly SunPower Malaysia Manufacturing Sdn. Bhd., with AUO and AU Optronics Corporation, the ultimate parent company of AUO ("AUO Taiwan") in the third quarter of fiscal 2010. The Company, through SPTL, and AUO each own 50% of the joint venture AUOSP. AUOSP owns a solar cell manufacturing facility ("FAB 3") in Malaysia and manufactures solar cells and sells them on a "cost-plus" basis to the Company and AUO.

In connection with the joint venture agreement, the Company and AUO also entered into licensing and joint development, supply, and other ancillary transaction agreements. Through the licensing agreement, SPTL and AUO licensed to AUOSP, on a non-exclusive, royalty-free basis, certain background intellectual property related to solar cell manufacturing (in the case of SPTL), and manufacturing processes (in the case of AUO). Under the seven-year supply agreement with AUOSP, renewable by the Company for one-year periods thereafter, the percentage of AUOSP's total annual output allocated on a monthly basis to the Company, which the Company is committed to purchase, ranges from 95% in the fourth quarter of fiscal 2010 to 80% in fiscal year 2013 and thereafter. The Company and AUO have the right to reallocate supplies from time to time

under a written agreement. As required under the joint venture agreement, on November 5, 2010, the Company and AUOSP entered into an agreement under which the Company will resell to AUOSP polysilicon purchased from a third-party supplier and AUOSP will provide prepayments to the Company related to such polysilicon, which prepayment will then be made by the Company to the third-party supplier.

The Company and AUO are not permitted to transfer any of AUOSP's shares held by them, except to each other and to their direct or indirect wholly-owned subsidiaries. During the second half of fiscal 2010, the Company, through SPTL, and AUO each contributed total initial funding of $27.9 million. In fiscal 2011, the Company and AUO each contributed an additional $80.0 million and will each contribute additional amounts through 2014 amounting to $241.0 million, or such lesser amount as the parties may mutually agree. In addition, if AUOSP, SPTL or AUO requests additional equity financing to AUOSP, then SPTL and AUO will each be required to make additional cash contributions of up to $50.0 million in the aggregate (See Note 9).

The Company has concluded that it is not the primary beneficiary of AUOSP since, although the Company and AUO are both obligated to absorb losses or have the right to receive benefits, the Company alone does not have the power to direct the activities of AUOSP that most significantly impact its economic performance. In making this determination the Company considered the shared power arrangement, including equal board governance for significant decisions, elective appointment, and the fact that both parties contribute to the activities that most significantly impact the joint venture's economic performance. As a result of the shared power arrangement the Company deconsolidated AUOSP in the third quarter of fiscal 2010 and accounts for its investment in the joint venture under the equity method. The Company recognized a non-cash gain of $23.0 million as a result of deconsolidating the carrying value of AUOSP as of July 5, 2010. Under the deconsolidation accounting guidelines, an investor's opening investment is recorded at fair value on the date of deconsolidation. The Company recognized an additional non-cash gain of $13.8 million representing the difference between the initial fair value of the investment and its carrying value. The total non-cash gain of $36.8 million upon deconsolidation is classified as "Gain on deconsolidation of consolidated subsidiary" in "Other income" for fiscal 2010 within the Company's Consolidated Statements of Operations.

As of January 1, 2012 and January 2, 2011, the Company's carrying value of its investment (which represents its 50% equity investment) totaled $109.0 million and $33.7 million, respectively, in its Consolidated Balance Sheets. The Company accounts for its investment in AUOSP using the equity method in which the investment is classified as "Other long-term assets" in the Consolidated Balance Sheets. The Company's share of AUOSP's net loss for fiscal 2011 and 2010 totaled $4.6 million and $8.0 million, respectively, which is included in "Equity in earnings of unconsolidated investees" in the Consolidated Statement of Operations. The Company accounts for its share of AUOSP's net loss with a quarterly lag in reporting.

As of January 1, 2012 and January 2, 2011, $66.4 million, and $7.5 million, respectively, remained due and receivable from AUOSP and $101.7 million and $6.0 million, respectively, remained due and payable to AUOSP. Payments to AUOSP for solar cells totaled $215.8 million and zero during fiscal 2011 and 2010, respectively. As of January 1, 2012, the Company's maximum exposure to loss as a result of its involvement with AUOSP is limited to the carrying value of its investment.

Note 11. ***DEBT AND CREDIT SOURCES***

The following table summarizes the Company's outstanding debt as of January 1, 2012 and the related maturity dates:

(In thousands)	**Face Value**	**2012**	**2013**	**2014**	**2015**	**2016**	**Beyond 2016**
Convertible debt:							
4.50% debentures	$ 250,000	$ —	$ —	$ —	$ 250,000	$ —	$ —
4.75% debentures	230,000	—	—	230,000	—	—	—
1.25% debentures	198,608	198,608	—	—	—	—	—
0.75% debentures	79	—	—	—	79	—	—
IFC mortgage loan	75,000	—	12,500	15,000	15,000	15,000	17,500
CEDA loan	30,000	—	—	—	—	—	30,000
Credit Agricole revolving credit facility	250,000	—	250,000	—	—	—	—
	$ 1,033,687	$ 198,608	$ 262,500	$ 245,000	$ 265,079	$ 15,000	$ 47,500

Convertible Debt

The following table summarizes the Company's outstanding convertible debt (which is additionally reflected in the table above):

	January 1, 2012			January 2, 2011		
(In thousands)	Carrying Value	Face Value	Fair Value (1)	Carrying Value	Face Value	Fair Value (1)
4.50% debentures	$ 193,189	$ 250,000	$ 205,905	$ 179,821	$ 250,000	$ 230,172
4.75% debentures	230,000	230,000	200,967	230,000	230,000	215,050
1.25% debentures (2)	196,710	198,608	197,615	182,023	198,608	188,429
0.75% debentures	79	79	79	79	79	75
	$ 619,978	$ 678,687	$ 604,566	$ 591,923	$ 678,687	$ 633,726

(1) The fair value of the convertible debt was determined based on quoted market prices as reported by an independent pricing source.

(2) The carrying value of the 1.25% senior convertible debentures ("1.25% debentures") was classified as short-term liabilities within "Convertible debt, current portion" in the Consolidated Balance Sheet as of January 1, 2012 as the holders may require the Company to repurchase all of their 1.25% debentures on February 15, 2012.

4.50% Debentures

On April 1, 2010, the Company issued $220.0 million in principal amount of its 4.50% senior cash convertible debentures ("4.50% debentures") and received net proceeds of $214.9 million, before payment of the net cost of the call spread overlay described below. On April 5, 2010, the initial purchasers of the 4.50% debentures exercised the $30.0 million over-allotment option in full and the Company received net proceeds of $29.3 million. Interest is payable semi-annually, on March 15 and September 15 of each year, at a rate of 4.50% per annum which commenced on September 15, 2010. The 4.50% debentures mature on March 15, 2015 unless repurchased or converted in accordance with their terms prior to such date.

The 4.50% debentures are convertible only into cash, and not into shares of the Company's common stock (or any other securities). Prior to December 15, 2014, if the weighted average price of the Company's common stock was more than 130% of the then current conversion price for at least 20 out of 30 consecutive trade days in the last month of the fiscal quarter, then holders of the 4.50% debentures have the right to convert the debentures any day in the following fiscal quarter and, thereafter, they will be convertible at any time, based on an initial conversion price of $22.53 per share of the Company's common stock. The conversion price will be subject to adjustment in certain events, such as distributions of dividends or stock splits. Upon conversion, the Company will deliver an amount of cash calculated by reference to the price of its common stock over the applicable observation period. The Company may not redeem the 4.50% debentures prior to maturity. Holders may also require the Company to repurchase all or a portion of their 4.50% debentures upon a fundamental change, as defined in the debenture agreement, at a cash repurchase price equal to 100% of the principal amount plus accrued and unpaid interest. In the event of certain events of default, such as the Company's failure to make certain payments or perform or observe certain obligations thereunder, Wells Fargo, the trustee, or holders of a specified amount of then-outstanding 4.50% debentures will have the right to declare all amounts then outstanding due and payable.

The 4.50% debentures are senior, unsecured obligations of the Company, ranking equally with all existing and future senior unsecured indebtedness of the Company. The 4.50% debentures are effectively subordinated to the Company's secured indebtedness to the extent of the value of the related collateral and structurally subordinated to indebtedness and other liabilities of the Company's subsidiaries. The 4.50% debentures do not contain any sinking fund requirements.

The embedded cash conversion option within the 4.50% debentures and the over-allotment option related to the 4.50% debentures are derivative instruments that are required to be separated from the 4.50% debentures and accounted for separately as derivative instruments (derivative liabilities) with changes in fair value reported in the Company's Consolidated Statements of Operations until such transactions settle or expire. The initial fair value liabilities of the embedded cash conversion option and over-allotment option of $71.3 million and $0.5 million, respectively, were classified within "Other long-term liabilities" and simultaneously reduced the carrying value of "Convertible debt, net of current portion" (effectively an original issuance discount on the 4.50% debentures of $71.8 million) in the Company's Consolidated Balance Sheet.

From April 1, 2010 to April 5, 2010, the date the initial purchasers of the 4.50% debentures exercised the $30.0 million

over-allotment option in full, the Company incurred a non-cash loss of $1.4 million related to the change in fair value of the over-allotment option during that period. The non-cash loss of $1.4 million is reflected in "Gain on mark-to-market derivatives" in the Company's Consolidated Statement of Operations for fiscal 2010. Upon the exercise of the over-allotment option, the ending fair value liability of the over-allotment option on April 5, 2010 of $1.9 million was reclassified to the original issuance discount of the 4.50% debentures.

In addition, the initial $10.0 million fair value liability of the embedded cash conversion option within the $30.0 million of additional principal of the Company's 4.50% debentures purchased upon exercise of the over-allotment option was classified within "Other long-term liabilities" and simultaneously reduced the carrying value of "Convertible debt, net of current portion" (the total original issuance discount on the 4.50% debentures was $79.9 million) in the Company's Consolidated Balance Sheet.

In fiscal 2011 and 2010, the Company recognized a non-cash gain of $34.0 million and $45.2 million, respectively, recorded in "Gain on mark-to-market derivatives" in the Company's Consolidated Statement of Operations related to the change in fair value of the embedded cash conversion option and over-allotment option. The fair value liability of the embedded cash conversion option as of January 1, 2012 and January 2, 2011 totaled $0.8 million and $34.8 million, respectively, and is classified within "Other long-term liabilities" in the Company's Consolidated Balance Sheets.

The embedded cash conversion option is fair valued utilizing Level 2 inputs consisting of the exercise price of the instrument, the Company's common stock price and volatility, the risk free interest rate and the contractual term. Such derivative instruments are not traded on an open market as the banks are the counterparties to the instruments.

Significant inputs for the valuation of the embedded cash conversion option are as follows:

	As of (1)	
	January 1, 2012	**January 2, 2011**
Stock price	$ 6.23	$ 12.83
Exercise price	$ 22.53	$ 22.53
Interest rate	0.84%	1.63%
Stock volatility	44.00%	49.80%
Maturity date	February 18, 2015	February 18, 2015

(1) The valuation model utilizes these inputs to value the right but not the obligation to purchase one share at $22.53. The Company utilized a Black-Scholes valuation model to value the embedded cash conversion option. The underlying input assumptions were determined as follows:
- (i) Stock price. The closing price of the Company's common stock on the last trading day of the quarter.
- (ii) Exercise price. The exercise price of the embedded conversion option.
- (iii) Interest rate. The Treasury Strip rate associated with the life of the embedded conversion option.
- (iv) Stock volatility. The volatility of the Company's common stock over the life of the embedded conversion option.

The Company recognized $13.4 million and $7.4 million in non-cash interest expense during fiscal 2011 and 2010 related to the amortization of the debt discount on the 4.50% debentures. As of January 1, 2012 the remaining periods over which the unamortized debt discount associated with the 4.50% debentures will be recognized is as follows:

(In thousands)	**Debt Discount**
2012	$ 15,361
2013	17,340
2014	19,748
2015	4,362
	$ 56,811

Call Spread Overlay with Respect to 4.50% Debentures ("CSO2015")

Concurrent with the issuance of the 4.50% debentures, the Company entered into privately negotiated convertible

debenture hedge transactions (collectively, the "4.50% Bond Hedge") and warrant transactions (collectively, the "4.50% Warrants" and together with the 4.50% Bond Hedge, the “CSO2015”), with certain of the initial purchasers of the 4.50% cash convertible debentures or their affiliates. The CSO2015 transactions represent a call spread overlay with respect to the 4.50% debentures, whereby the cost of the 4.50% Bond Hedge purchased by the Company to cover the cash outlay upon conversion of the debentures is reduced by the sales prices of the 4.50% Warrants. Assuming full performance by the counterparties (and 4.50% Warrants strike prices in excess of the conversion price of the 4.50% debentures), the transactions effectively reduce the Company's potential payout over the principal amount on the 4.50% debentures upon conversion of the 4.50% debentures.

Under the terms of the 4.50% Bond Hedge, the Company bought from affiliates of certain of the initial purchasers options to acquire, at an exercise price of $22.53 per share, subject to customary adjustments for anti-dilution and other events, cash in an amount equal to the market value of up to 11.1 million shares of the Company's common stock. Under the terms of the original 4.50% Warrants, the Company sold to affiliates of certain of the initial purchasers of the 4.50% cash convertible debentures warrants to acquire, at an exercise price of $27.03 per share (subject to customary adjustments for anti-dilution and other events), cash in an amount equal to the market value of up to 11.1 million shares of the Company's common stock. Each 4.50% Bond Hedge and 4.50% Warrant transaction is a separate transaction, entered into by the Company with each counterparty, and is not part of the terms of the 4.50% debentures. On December 23, 2010, the Company amended and restated the original 4.50% Warrants so that the holders would, upon exercise of the 4.50% Warrants, no longer receive cash but instead would acquire up to 11.1 million shares of the Company's common stock. According to the counterparties to the warrants, the consummation of the Total Tender Offer triggered their rights to make a downward adjustment to the strike price of the warrants. In the third quarter of fiscal 2011, the Company and the counter parties to the 4.50% Warrants agreed to reduce the exercise price of the 4.50% Warrants from $27.03 to $24.00.

As a result of the terms of the Warrants being amended and restated so that they are settled in shares of the Company's common stock rather than in cash, the fair value as of December 23, 2010 of $30.2 million was reclassified from "Other long-term liabilities" to "Additional paid in capital" in the Company's Consolidated Balance Sheet. Further, the Warrants are not be subjected to mark-to-market accounting treatment subsequent to December 23, 2010.

The 4.50% Bond Hedge, which is indexed to the Company's common stock, is a derivative instrument that requires mark-to-market accounting treatment due to the cash settlement features until such transactions settle or expire. Similarly, the original 4.50% Warrants was a derivative instrument that required mark-to-market accounting treatment through December 23, 2010. The initial fair value of the 4.50% Bond Hedge was classified as "Other long-term assets" in the Company's Consolidated Balance Sheets.

The fair value of the 4.50% Bond Hedge as of January 1, 2012 and January 2, 2011 totaled $0.8 million and $34.5 million, respectively, and is classified within "Other long-term assets" in the Company's Consolidated Balance Sheets. In fiscal 2011the Company recognized a non-cash loss of $33.7 million in "Gain on mark-to-market derivatives" in the Company's Consolidated Statement of Operations related to the change in fair value of the 4.50% Bond Hedge. In fiscal 2010 the Company recognized a non-cash loss of $9.4 million in "Gain on mark-to-market derivatives" in the Company's Consolidated Statement of Operations related to the net change in fair value of the 4.50% Bond Hedge during the full year and the change in fair value of the original Warrants until their amendment on December 23, 2010.

The 4.50% Bond Hedge derivative instruments are fair valued utilizing Level 2 inputs consisting of the exercise price of the instruments, the Company's common stock price and volatility, the risk free interest rate and the contractual term. Such derivative instruments are not traded on an open market. Valuation techniques utilize the inputs described above in addition to liquidity and institutional credit risk inputs.

Significant inputs for the valuation of the 4.50% Bond Hedge are as follows:

	As of (1)	
	January 1, 2012	January 2, 2011
Stock price	$ 6.23	$ 12.83
Exercise price	$ 22.53	$ 22.53
Interest rate	0.84%	1.63%
Stock volatility	44.00%	49.80%
Credit risk adjustment	1.93%	1.25%
Maturity date	February 18, 2015	February 18, 2015

(1) The valuation model utilizes these inputs to value the right but not the obligation to purchase one share at $22.53 for the 4.50% Bond Hedge. The Company utilized a Black-Scholes valuation model to value the 4.50% Bond Hedge. The underlying input assumptions were determined as follows:

(i) Stock price. The closing price of the Company's common stock on the last trading day of the quarter.
(ii) Exercise price. The exercise price of the 4.50% Bond Hedge.
(iii) Interest rate. The Treasury Strip rate associated with the life of the 4.50% Bond Hedge.
(iv) Stock volatility. The volatility of the Company's common stock over the life of the 4.50% Bond Hedge.
(v) Credit risk adjustment. Represents the weighted average of the credit default swap rate of the counterparties.

4.75% Debentures

In May 2009, the Company issued $230.0 million in principal amount of its 4.75% senior convertible debentures ("4.75% debentures"), before payment of the net cost for the call spread overlay described below. Interest on the 4.75% debentures is payable on April 15 and October 15 of each year. Holders of the 4.75% debentures are able to exercise their right to convert the debentures at any time into shares of the Company's common stock at a conversion price equal to $26.40 per share. The applicable conversion rate may adjust in certain circumstances, including upon a fundamental change, as described in the indenture governing the 4.75% debentures. If not earlier converted, the 4.75% debentures mature on April 15, 2014. Holders may also require the Company to repurchase all or a portion of their 4.75% debentures upon a fundamental change at a cash repurchase price equal to 100% of the principal amount plus accrued and unpaid interest. In the event of certain events of default, such as the Company's failure to make certain payments or perform or observe certain obligations thereunder, Wells Fargo, the trustee, or holders of a specified amount of then-outstanding 4.75% debentures will have the right to declare all amounts then outstanding due and payable.

The 4.75% debentures are senior, unsecured obligations of the Company, ranking equally with all existing and future senior unsecured indebtedness of the Company. The 4.75% debentures are effectively subordinated to the Company's secured indebtedness to the extent of the value of the related collateral and structurally subordinated to indebtedness and other liabilities of the Company's subsidiaries.

Call Spread Overlay with Respect to 4.75% Debentures ("CSO2014")

Concurrent with the issuance of the 4.75% debentures, the Company entered into certain convertible debenture hedge transactions (the "4.75% Bond Hedge") and warrant transactions (the "4.75% Warrants") with affiliates of certain of the underwriters of the 4.75% debentures (the "CSO2014"), whereby the cost of the 4.75% Bond Hedges purchased by the Company to cover the potential share outlays upon conversion of the debentures is reduced by the sales prices of the 4.75% Warrants. The CSO2014 are not subject to mark-to-market accounting treatment since they may only be settled by issuance of the Company's common stock.

The 4.75% Bond Hedge allows the Company to purchase up to 8.7 million shares of the Company's common stock. The 4.75% Bond Hedge will be settled on a net share basis. Each 4.75% Bond Hedge and 4.75% Warrant is a separate transaction, entered into by the Company with each counterparty, and is not part of the terms of the 4.75% debentures. Holders of the 4.75% debentures do not have any rights with respect to the 4.75% Bond Hedges and 4.75% Warrants. The exercise prices of the 4.75% Bond Hedge are $26.40 per share of the Company's common stock, subject to customary adjustment for anti-dilution and other events.

The Bond Hedge, which was indexed to the Company's former class A common stock, was deemed to be a mark-to-market derivatives during the one-day period in which the over-allotment option in favor of the 4.75% debenture underwriters

was unexercised, resulting in a non-cash gain on purchased options of $21.2 million in the second quarter of fiscal 2009 in "Gain on mark-to-market derivatives" in the Company's Consolidated Statement of Operations.

Under the 4.75% Warrants, the Company sold warrants to acquire up to 8.7 million shares of the Company's common stock at an exercise price of $38.50 per share of the Company's common stock, subject to adjustment for certain anti-dilution and other events. The 4.75% Warrants expire in 2014. According to the counterparties to the warrants, the consummation of the Total Tender Offer triggered their rights to make a downward adjustment to the strike price of the warrants. In the third quarter of fiscal 2011, the Company and the counterparties to the 4.75% Warrants agreed to reduce the exercise price of the 4.75% Warrants from $38.50 to $26.40, which is no longer above the conversion price of the 4.75% debentures.

1.25% Debentures and 0.75% Debentures

In February 2007, the Company issued $200.0 million in principal amount of its 1.25% senior convertible debentures and received net proceeds of $194.0 million. During the fourth quarter of fiscal 2008, the Company received notices for the conversion of $1.4 million in principal amount of the 1.25% debentures which it settled for $1.2 million in cash and 1,000 shares of common stock. As of January 1, 2012, an aggregate principal amount of $198.6 million of the 1.25% debentures remain issued and outstanding. Interest on the 1.25% debentures is payable on February 15 and August 15 of each year, which commenced August 15, 2007. The 1.25% debentures mature on February 15, 2027. Holders may require the Company to repurchase all or a portion of their 1.25% debentures on each of February 15, 2012, February 15, 2017 and February 15, 2022, or if the Company experiences certain types of corporate transactions constituting a fundamental change, as defined in the indenture governing the 1.25% debentures. In addition, the Company may redeem some or all of the 1.25% debentures on or after February 15, 2012. Accordingly, the Company classified the 1.25% debentures as short-term liabilities and long-term liabilities in the Consolidated Balance Sheets as of January 1, 2012 and January 2, 2011, respectively. The 1.25% debentures are convertible, subject to certain conditions, into cash up to the lesser of the principal amount or the conversion value. If the conversion value is greater than $1,000, then the excess conversion value will be convertible into the Company's common stock. The initial effective conversion price of the 1.25% debentures is $56.75 per share and is subject to customary adjustments in certain circumstances. On February 16, 2012, the Company repurchased $198.6 million in principal amount of the 1.25% debentures at a cash price of $199.8 million, representing 100% of the principal amount plus accrued and unpaid interest. None of the 1.25% debentures remained issued and outstanding after the repurchase.

In July 2007, the Company issued $225.0 million in principal amount of its 0.75% senior convertible debentures and received net proceeds of $220.1 million. In fiscal 2009, the Company repurchased $81.1 million in principal amount of the 0.75% debentures for $75.6 million in cash. In fiscal 2010, the Company repurchased $143.8 million in principal amount of the 0.75% debentures for $143.8 million in cash, of which $143.3 million was pursuant to the contracted debenture holder put on August 2, 2010. As of January 1, 2012, an aggregate principal amount of $0.1 million of the 0.75% debentures remain issued and outstanding. Interest on the 0.75% debentures is payable on February 1 and August 1 of each year, which commenced February 1, 2008. The 0.75% debentures mature on August 1, 2027. Holders of the remaining 0.75% debentures could require the Company to repurchase all or a portion of their debentures on each of August 1, 2015, August 1, 2020 and August 1, 2025, or if the Company was involved in certain types of corporate transactions constituting a fundamental change, as defined in the indenture governing the 0.75% debentures. In addition, the Company could redeem the remaining 0.75% debentures on or after August 2, 2010. The 0.75% debentures were classified as long-term liabilities in the Company's Consolidated Balance Sheets as of January 1, 2012 and January 2, 2011, respectively, as the Company is not planning to redeem the remaining 0.75% debentures until it is required to repurchase all or a portion of the 0.75% debentures commencing on August 1, 2015. The 0.75% debentures are convertible, subject to certain conditions, into cash up to the lesser of the principal amount or the conversion value. If the conversion value is greater than $1,000, then the excess conversion value will be convertible into cash, common stock or a combination of cash and common stock, at the Company's election. The initial effective conversion price of the 0.75% debentures is $82.24 per share and is subject to customary adjustments in certain circumstances.

The 1.25% debentures and 0.75% debentures are senior, unsecured obligations of the Company, ranking equally with all existing and future senior unsecured indebtedness of the Company. The 1.25% debentures and 0.75% debentures are effectively subordinated to the Company's secured indebtedness to the extent of the value of the related collateral and structurally subordinated to indebtedness and other liabilities of the Company's subsidiaries. The 1.25% debentures and 0.75% debentures do not contain any sinking fund requirements.

If the closing price of the Company's common stock equals or exceeds 125% of the initial effective conversion price governing the 1.25% debentures and 0.75% debentures for 20 out of 30 consecutive trading days in the last month of the fiscal quarter then holders of the 1.25% debentures and 0.75% debentures have the right to convert the debentures any day in the following fiscal quarter. Because the closing price of the Company's common stock on at least 20 of the last 30 trading days during the fiscal quarters ending January 1, 2012 and January 2, 2011 did not equal or exceed 125% of the applicable

conversion price for its 1.25% debentures and 0.75% debentures, holders of the 1.25% debentures and 0.75% debentures are and were unable to exercise their right to convert the debentures, based on the market price conversion trigger, on any day in the first quarters of fiscal 2012 and 2011. Accordingly, the Company classified its 1.25% debentures as short-term in its Consolidated Balance Sheet as of January 1, 2012 and its 1.25% debentures and 0.75% debentures as long-term in its Consolidated Balance Sheet as of January 2, 2011. This test is repeated each fiscal quarter, therefore, if the market price conversion trigger is satisfied in a subsequent quarter, the 0.75% debentures may be reclassified as short-term.

The 1.25% debentures and 0.75% debentures are subject to accounting guidance for convertible debt instruments that may be settled in cash upon conversion since the debentures must be settled at least partly in cash upon conversion. The Company estimated that the effective interest rate for similar debt without the conversion feature was 9.25% and 8.125% on the 1.25% debentures and 0.75% debentures, respectively.

The Company recognized $14.7 million, $15.8 million, and $21.9 million in non-cash interest expense during fiscal 2011, 2010, and 2009, respectively, related to the 1.25% debentures and 0.75% debentures. As of January 1, 2012 the unamortized debt discount associated with the 1.25% debentures of $1.9 million will be recognized in fiscal 2012.

February 2007 Amended and Restated Share Lending Arrangement and July 2007 Share Lending Arrangement

Concurrent with the offering of the 1.25% debentures, the Company lent 2.9 million shares of its former class A common stock to LBIE, an affiliate of Lehman Brothers, one of the underwriters of the 1.25% debentures. Concurrent with the offering of the 0.75% debentures, the Company also lent 1.8 million shares of its former class A common stock to CSI, an affiliate of Credit Suisse Securities (USA) LLC ("Credit Suisse"), one of the underwriters of the 0.75% debentures. The loaned shares are to be used to facilitate the establishment by investors in the 1.25% debentures and 0.75% debentures of hedged positions in the Company's common stock. Under the share lending agreement, LBIE had the ability to offer the shares that remain in LBIE's possession to facilitate hedging arrangements for subsequent purchasers of both the 1.25% debentures and 0.75% debentures and, with the Company's consent, purchasers of securities the Company may issue in the future. The Company did not receive any proceeds from these offerings of former class A common stock, but received a nominal lending fee of $0.001 per share for each share of common stock that is loaned under the share lending agreements described below.

Share loans under the share lending agreement terminate and the borrowed shares must be returned to the Company under the following circumstances: (i) LBIE and CSI may terminate all or any portion of a loan at any time; (ii) the Company may terminate any or all of the outstanding loans upon a default by LBIE and CSI under the share lending agreement, including a breach by LBIE and CSI of any of its representations and warranties, covenants or agreements under the share lending agreement, or the bankruptcy or administrative proceeding of LBIE and CSI; or (iii) if the Company enters into a merger or similar business combination transaction with an unaffiliated third party (as defined in the agreement). In addition, CSI has agreed to return to the Company any borrowed shares in its possession on the date anticipated to be five business days before the closing of certain merger or similar business combinations described in the share lending agreement. Except in limited circumstances, any such shares returned to the Company cannot be re-borrowed.

Any shares loaned to LBIE and CSI are considered issued and outstanding for corporate law purposes and, accordingly, the holders of the borrowed shares have all of the rights of a holder of the Company's outstanding shares, including the right to vote the shares on all matters submitted to a vote of the Company's stockholders and the right to receive any dividends or other distributions that the Company may pay or make on its outstanding shares of common stock. However, LBIE and CSI agreed to pay to the Company an amount equal to any dividends or other distributions that the Company pays on the borrowed shares. The shares are listed for trading on the Nasdaq Global Select Market.

While the share lending agreement does not require cash payment upon return of the shares, physical settlement is required (i.e., the loaned shares must be returned at the end of the arrangement). In view of this share return provision and other contractual undertakings of LBIE and CSI in the share lending agreement, which have the effect of substantially eliminating the economic dilution that otherwise would result from the issuance of the borrowed shares, historically the loaned shares were not considered issued and outstanding for the purpose of computing and reporting the Company's basic and diluted weighted average shares or earnings per share. However, on September 15, 2008, Lehman filed a petition for protection under Chapter 11 of the U.S. bankruptcy code, and LBIE commenced administration proceedings (analogous to bankruptcy) in the United Kingdom. Notwithstanding the commencement of administrative proceeding, shares loaned under the arrangement with LBIE were not returned as required under the agreement. After reviewing the circumstances of the Lehman bankruptcy and LBIE administration proceedings, the Company began to reflect the 2.9 million shares lent to LBIE as issued and outstanding starting on September 15, 2008, the date on which LBIE commenced administration proceedings, for the purpose of computing and reporting the Company's basic and diluted weighted average shares and earnings per share.

The Company filed a claim in the LBIE proceeding for 240.9 million and a corresponding claim in the Lehman Chapter 11 proceeding under Lehman's guaranty of LBIE's obligations. On December 16, 2010, the Company entered into an assignment agreement with Deutsche Bank under which the Company assigned to Deutsche Bank its claims against LBIE and Lehman in connection with the share lending arrangement. Under the assignment agreement, Deutsche Bank paid the Company $24.0 million for the claims on December 16, 2010, and the Company may receive, upon the final allowance or admittance of the claims in the U.K. and U.S. proceedings, an additional payment for the claims. The Company cannot predict the amount of any such payment for the claims and cannot guarantee that it will receive any additional payment for the claims. Under the assignment agreement, rights to any shares lent to LBIE, which were not returned as required pursuant to the terms of the original agreement, were assigned to Deutsche Bank.

The shares lent to CSI were excluded for the purpose of computing and reporting the Company's basic and diluted weighted average shares or earnings per share. If Credit Suisse or its affiliates, including CSI, were to file bankruptcy or commence similar administrative, liquidating, restructuring or other proceedings, the Company may have had to consider 1.8 million shares lent to CSI as issued and outstanding for purposes of calculating earnings per share. In connection with the Company's repurchase of 100% of the principal amount of the 1.25% debentures, on February 23, 2012, the 1.8 million shares of the Company's common stock lent to CSI were returned and the share lending agreement was thereby terminated.

In the first quarter of fiscal 2010, the Company adopted new accounting guidance that requires its February 2007 amended and restated share lending arrangement and July 2007 share lending arrangement to be valued and amortized as interest expense in its Consolidated Statements of Operations in the same manner as debt issuance costs. In addition, in the event that counterparty default under the share lending arrangement becomes probable, the Company is required to recognize an expense in its Consolidated Statement of Operations equal to the then fair value of the unreturned loaned shares, net of any probable recoveries. The Company estimated that the imputed share lending costs (also known as issuance costs) associated with the 2.9 million shares and 1.8 million shares loaned to LBIE and CSI, respectively, totaled $1.8 million and $0.7 million, respectively. The new accounting guidance resulted in a significant non-cash loss due to Lehman filing a petition for protection under Chapter 11 of the U.S. bankruptcy code on September 15, 2008, and LBIE commencing administration proceedings (analogous to bankruptcy) in the United Kingdom. The then fair value of the 2.9 million shares of the Company's former class A common stock loaned and unreturned by LBIE was $213.4 million, and amount recovered under the assignment agreement on December 16, 2010 was $24.0 million, which was reflected in the third quarter of fiscal 2008 and fourth quarter of fiscal 2010, respectively, as "Gain (loss) on share lending arrangement" in the Company's Consolidated Statements of Operations. The Company presents proceeds received for transactions involving its common stock as financing cash flows.

As of January 1, 2012 the fair value of the 1.8 million outstanding loaned shares of common stock to CSI was $11.2 million (based on a market price of $6.23 as of December 30, 2011).

Mortgage Loan Agreement with International Finance Corporation ("IFC")

On May 6, 2010, SPML and SPML Land, Inc. ("SPML Land"), both subsidiaries of the Company, entered into a mortgage loan agreement with IFC. Under the loan agreement, SPML may borrow up to $75.0 million from IFC, after satisfying certain conditions to disbursement, and SPML and SPML Land pledged certain assets as collateral supporting SPML's repayment obligations. The Company guaranteed SPML's obligations to IFC.

Under the loan agreement, SPML may borrow up to $75.0 million during the first two years, and SPML shall repay the amount borrowed, starting 2 years after the date of borrowing, in 10 equal semiannual installments over the following 5 years. SPML shall pay interest of LIBOR plus 3% per annum on outstanding borrowings, and a front-end fee of 1% on the principal amount of borrowings at the time of borrowing, and a commitment fee of 0.5% per annum on funds available for borrowing and not borrowed. SPML may prepay all or a part of the outstanding principal, subject to a 1% prepayment premium. The loan agreement includes conditions to disbursements, representations, covenants, and events of default customary for financing transactions of this type. Covenants in the loan agreement include, but are not limited to, restrictions on SPML's ability to issue dividends, incur indebtedness, create or incur liens on assets, and make loans to or investments in third parties. As of January 1, 2012, the Company has obtained a waiver from IFC related to a payment dispute with a third party. The waiver extends to March 30, 2012 and the Company is seeking to extend the waiver. Additionally, in accordance with the terms of the mortgage loan agreement, the Company is required to establish a debt service reserve account which shall contain the amount, as determined by IFC, equal to the aggregate principal and interest due on the next succeeding interest payment date after such date. As of January 1, 2012 and January 2, 2011, the Company had restricted cash and cash equivalents of $1.3 million and $0.9 million, respectively, related to the IFC debt service reserve.

On June 9, 2011, SPML borrowed $25.0 million under the loan agreement. As of January 1, 2012 and January 2, 2011, SPML had $75.0 million and $50.0 million, respectively, outstanding under the mortgage loan agreement which is classified as

"Long-term debt" in the Company's Consolidated Balance Sheets. The loan was collateralized by SPML's property, plant and equipment with a net book value of approximately $196.6 million as of January 1, 2012.

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

On December 29, 2010, the Company borrowed the proceeds of the $30.0 million aggregate principal amount of CEDA's tax-exempt Recovery Zone Facility Revenue Bonds (SunPower Corporation - Headquarters Project) Series 2010 (the "Bonds") maturing April 1, 2031 under a loan agreement with CEDA. The Company's obligations under the loan agreement are contained in a promissory note dated December 29, 2010 issued by the Company to CEDA, which assigned the promissory note, along with all right, title and interest in the loan agreement, to Wells Fargo, as trustee, with respect to the Bonds for the benefit of the holders of the Bonds. The Bonds initially bore interest at a variable interest rate (determined weekly), but at the Company's option were converted into fixed-rate bonds (which include covenants of, and other restrictions on, the Company). Additionally, in accordance with the terms of the loan agreement, the Company is required to keep all loan proceeds on deposit with Wells Fargo, the trustee, until funds are withdrawn by it for use in relation to the design and leasehold improvements of its new corporate headquarters in San Jose, California. As of January 1, 2012 and January 2, 2011, the Company had restricted cash and cash equivalents of $10.0 million and $28.5 million, respectively, related to the CEDA loan agreement.

As of January 2, 2011 the $30.0 million aggregate principal amount of the Bonds was classified as "Short-term debt" in the Company's Consolidated Balance Sheet due to the potential for the Bonds to be redeemed or tendered for purchase on June 22, 2011 under the reimbursement agreement described below. On June 1, 2011, the Bonds were converted to bear interest at a fixed rate of 8.50% to maturity and the holders' rights to tender the Bonds prior to their stated maturity was removed. As such, the $30.0 million aggregate principal amount of the Bonds were classified as "Long-term debt" in the Company's Consolidated Balance Sheet as of January 1, 2012.

Concurrently with the execution of the loan agreement and the issuance of the Bonds by CEDA, the Company entered into a reimbursement agreement with Barclays Capital Inc. ("Barclays") pursuant to which the Company caused Barclays to deliver to Wells Fargo a direct-pay irrevocable letter of credit in the amount of $30.4 million (an amount equal to the principal amount of the Bonds plus 38 days' interest thereon). The letter of credit permitted Wells Fargo to draw funds to pay the Company's obligations to pay principal and interest on the Bonds and, in the event the Bonds are redeemed or tendered for purchase, the redemption price or purchase price thereof. Under the reimbursement agreement, the Company deposited $31.8 million in a sequestered account with Barclays, subject to an account control agreement, which funds collateralized the letter of credit pursuant to a cash collateral account pledge agreement entered into by the Company and Barclays on December 29, 2010. Such funds were classified as short-term restricted cash as of January 2, 2011 on the Consolidated Balance Sheet.

Following the conversion of the Bonds to a fixed rate instrument on June 1, 2011 (for which the letter of credit is no longer required), Barclays returned $31.8 million of the deposit, plus the remaining unspent funds and interest earnings, to the Company. In addition, the letter of credit terminated on June 16, 2011, and the Company's obligations under the reimbursement agreement, the cash collateral account pledge agreement and the related account control agreement were thereby terminated.

Revolving Credit Facility with Société Générale, Milan Branch ("Société Générale")

In fiscal 2010, the Company entered into a revolving credit facility with Société Générale under which the Company could borrow up to €75.0 million from Société Générale. On May 25, 2011 the Company entered into an amendment of its revolving credit facility with Société Générale which extended the maturity date to November 23, 2011. Under the amended facility the Company was able to borrow up to €75.0 million of which amounts borrowed could be repaid and reborrowed until October 23, 2011. The Company was required to pay interest on outstanding borrowings of (1) EURIBOR plus 3.25% per annum for advances outstanding before May 26, 2011, and (2) EURIBOR plus 2.70% for advances outstanding on May 26, 2011 or thereafter; a front-end fee of 0.50% on the available borrowing; and a commitment fee of 1% per annum on funds available for borrowing and not borrowed.

As of January 2, 2011, an aggregate amount of €75.0 million, or approximately $98.0 million based on the exchange rate as of that date, remained outstanding under the revolving credit facility which is classified as "Short-term debt" in the Consolidated Balance Sheets. On September 27, 2011, the Company repaid €75.0 million, or approximately $107.7 million based on the exchange rate as of that date, of outstanding borrowings plus fees, using proceeds received from the September 2011 revolving credit facility with Credit Agricole Corporate and Investment Bank ("Credit Agricole") described below, and terminated the facility.

April 2010 Letter of Credit Facility with Deutsche Bank AG New York Branch ("Deutsche Bank")

In fiscal 2010, the Company and certain subsidiaries of the Company entered into a letter of credit facility with Deutsche Bank, as issuing bank and as administrative agent, and certain financial institutions. The letter of credit facility provided for the issuance, upon request by the Company, of letters of credit by the issuing bank in order to support obligations of the Company. On May 27, 2011, the Company received an additional $25.0 million commitment from a financial institution under the Deutsche Bank letter of credit facility, which increased the aggregate amount of letters of credit that could have been issued under the facility from $375.0 million to $400.0 million.

As of January 2, 2011, letters of credit issued under the letter of credit facility totaled $326.9 million and were collateralized by short-term and long-term restricted cash of $55.7 million and $118.3 million, respectively, on the Consolidated Balance Sheet. On August 9, 2011, the Company terminated its April 2010 letter of credit facility agreement with Deutsche Bank subsequent to the establishment of the August 2011 letter of credit facility agreement, as described below. All outstanding letters of credit under the April 2010 letter of credit facility were transferred to the August 2011 letter of credit facility and $197.8 million in collateral as of August 9, 2011 was released to the Company.

August 2011 Letter of Credit Facility with Deutsche Bank

On August 9, 2011, the Company entered into a letter of credit facility agreement with Deutsche Bank, as issuing bank and as administrative agent, and certain financial institutions, and further amended on December 20, 2011. Payment of obligations under the letter of credit facility is guaranteed by Total S.A. pursuant to the Credit Support Agreement. The letter of credit facility provides for the issuance, upon request by the Company, of letters of credit by the issuing banks thereunder in order to support certain obligations of the Company, in an aggregate amount not to exceed (a) $725.0 million until December 31, 2012; and (b) $771.0 million for the period from January 1, 2013 through December 31, 2013. Aggregate letter of credit amounts may be increased upon the agreement of the parties but, otherwise, may not exceed (i) $878.0 million for the period from January 1, 2014 through December 31, 2014; (ii) $936.0 million for the period from January 1, 2015 through December 31, 2015; and (iii) $1.0 billion for the period from January 1, 2016 through June 28, 2016.

Each letter of credit issued under the letter of credit facility must have an expiration date no later than the second anniversary of the issuance of that letter of credit, provided that up to 15% of the outstanding value the letters of credit may have an expiration date of between two and three years from the date of issuance. The letter of credit facility includes representations, covenants, and events of default customary for financing transactions of this type. The letter of credit facility does not have a requirement for establishing a collateral account or any other security arrangements with Deutsche Bank or otherwise.

As of January 1, 2012, letters of credit issued under the August 2011 letter of credit facility with Deutsche Bank totaled $710.8 million.

September 2011 Letter of Credit Facility with Deutsche Bank Trust

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

As of January 1, 2012 letters of credit issued under the Deutsche Bank Trust facility amounted to $51.3 million which were fully collateralized with restricted cash on the Consolidated Balance Sheets.

October 2010 Collateralized Revolving Credit Facility with Union Bank

In fiscal 2010, the Company entered into a revolving credit facility with Union Bank under which the Company was able to borrow up to $70.0 million from Union Bank until October 28, 2011. The amount available for borrowing under the revolving credit facility was further capped at 30% of the market value of the Company's holding of 19.4 million shares of common stock of Woongjin Energy which were pledged as security under the facility. The Company was required to pay interest on outstanding borrowings of, at the Company's option, (1) LIBOR plus 2.75% or (2) 1.75% plus a base rate equal to the highest of (a) the federal funds rate plus 1.5%, (b) Union Bank's prime rate as announced from time to time, or (c) LIBOR plus 1.0%, per annum; a front end fee of 0.40% on the available borrowing; and a commitment fee of 0.25% per annum on funds available for borrowing and not borrowed.

The Company repaid $70.0 million of outstanding borrowings plus fees in the second quarter of fiscal 2011. On June 20,

2011, the Company terminated the facility and the pledge on all shares of Woongjin Energy held by the Company was released.

July 2011 Uncollateralized Revolving Credit Facility with Union Bank

On July 18, 2011, the Company entered into a Credit Agreement with Union Bank under which the Company was able to borrow up to $50.0 million from Union Bank until October 28, 2011. Amounts borrowed were able to be repaid and reborrowed until October 28, 2011. All outstanding amounts under the facility were due and payable on October 31, 2011. On July 18, 2011, the Company drew down $50.0 million under the credit facility.

The Company was required to pay interest on outstanding borrowings of (1) LIBOR plus 2.75%, or (2) 1.75% plus a base rate equal to the higher of (a) the federal funds rate plus 0.50%, or (b) Union Bank's reference rate as announced from time to time; a front-end fee of 0.15% on the total amount available for borrowing; and a commitment fee of 0.50% per annum, calculated on a daily basis, on funds available for borrowing and not borrowed.

On September 27, 2011, the Company repaid $50.0 million of outstanding borrowings plus fees, using proceeds received from the September 2011 revolving credit facility with Credit Agricole described below, and terminated the facility.

September 2011 Revolving Credit Facility with Credit Agricole

On September 27, 2011, the Company entered into a revolving credit agreement with Credit Agricole, as administrative agent, and certain financial institutions, under which the Company may borrow up to $275.0 million until September 27, 2013. Amounts borrowed may be repaid and reborrowed until September 27, 2013.

The Company is required to pay interest on outstanding borrowings of (a) with respect to any LIBOR loan, 1.5% plus the LIBOR divided by a percentage equal to one minus the stated maximum rate of all reserves required to be maintained against "Eurocurrency liabilities" as specified in Regulation D; (b) with respect to any alternative base loan, 0.5% plus the greater of (1) the prime rate, (2) the Federal Funds rate plus 0.5%, and (3) the one month LIBOR plus 1%; (c) a commitment fee equal to 0.25% per annum on funds available for borrowing and not borrowed; (d) an upfront fee of 0.125% of the revolving loan commitment; and (e) arrangement fee customary for a transaction of this type.

In the event Total S.A. no longer beneficially owns 40% of the Company's issued and outstanding voting securities, the revolving credit facility would be subject to renegotiation, with a view to agreeing to amend the revolving credit facility consistent with terms and conditions and market practice for similarly situated borrowers. If the Company cannot reach an agreement with the lenders, the Company is required to prepay all principal, interest, fees and other amounts owed and the revolving credit facility will terminate.

This revolving credit facility requires that the Company maintain certain financial ratios, including that the ratio of its debt at the end of each quarter to EBITDA (earnings before interest, tax, depreciation, and amortization) for the last twelve months, as defined, would not exceed 4.5 to 1. On February 28, 2012, the Company entered into a liquidity support facility with Total S.A. under which it may receive up to $600.0 million of liquidity support. Under this facility, Total S.A. must provide the Company, and the Company must accept from Total S.A., additional liquidity in the form of guarantees, revolving or convertible debt, equity, or other forms of liquidity support agreed to by the Company, in the event that either its actual or projected unrestricted cash, cash equivalents, and unused borrowing capacity are reduced below $100.0 million, or it fails to satisfy any financial covenant under its indebtedness, including the revolving facility with Credit Agricole. See further details in Note 18.

As of January 1, 2012, $250.0 million was outstanding under the revolving credit facility with Credit Agricole which amount is classified as "Long term debt" on the Company's Consolidated Balance Sheets, and additional $25.0 million remained available for borrowing under this facility.

Note 12. *FOREIGN CURRENCY DERIVATIVES*

The Company has non-U.S. subsidiaries that operate and sell the Company's products in various global markets, primarily in Europe. As a result, the Company is exposed to risks associated with changes in foreign currency exchange rates. It is the Company's policy to use various techniques, including entering into foreign currency derivative instruments, to manage the exposures associated with forecasted revenues, purchases of foreign sourced equipment and non-U.S. dollar denominated monetary assets and liabilities. The Company does not enter into foreign currency derivative financial instruments for speculative or trading purposes.

The Company is required to recognize derivative instruments as either assets or liabilities at fair value in its Balance Sheets. The Company utilizes the income approach and mid-market pricing to calculate the fair value of its option and forward contracts based on market volatilities, spot and forward rates, interest rates, and credit default swaps rates from published sources. The following table presents information about the Company's hedge instruments measured at fair value on a recurring basis as of January 1, 2012 and January 2, 2011, all of which utilize Level 2 inputs under the fair value hierarchy:

(In thousands)	Balance Sheet Classification	January 1, 2012	January 2, 2011
Assets	Prepaid expenses and other current assets		
Derivatives designated as hedging instruments:			
Foreign currency option contracts		$ 5,550	$ 16,432
Foreign currency forward exchange contracts		47	16,314
		$ 5,597	$ 32,746
Derivatives not designated as hedging instruments:			
Foreign currency option contracts		$ 5,080	$ —
Foreign currency forward exchange contracts		23,745	3,208
		$ 28,825	$ 3,208
Liabilities	Accrued liabilities		
Derivatives designated as hedging instruments:			
Foreign currency option contracts		$ —	$ 2,909
Foreign currency forward exchange contracts		105	3,295
		$ 105	$ 6,204
Derivatives not designated as hedging instruments:			
Foreign currency forward exchange contracts		$ 14,830	$ 4,060

Valuations are based on quoted prices in markets that are not active or for which all significant inputs are observable, directly or indirectly. The selection of a particular technique to value an over-the-counter ("OTC") foreign currency derivative depends upon the contractual term of, and specific risks inherent with, the instrument as well as the availability of pricing information in the market. The Company generally uses similar techniques to value similar instruments. Valuation techniques utilize a variety of inputs, including contractual terms, market prices, yield curves, credit curves and measures of volatility. For OTC foreign currency derivatives that trade in liquid markets, such as generic forward and option contracts, inputs can generally be verified and selections do not involve significant management judgment.

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

	Year Ended		
(In thousands)	January 1, 2012	January 2, 2011	January 3, 2010
Derivatives designated as cash flow hedges:			
Unrealized gain (loss) recognized in OCI (effective portion)	$ (32,224)	$ 56,755	$ (14,497)
Less: Loss (gain) reclassified from OCI to revenue (effective portion)	30,456	(46,109)	—
Less: Loss reclassified from OCI to other, net (1)	1,593	—	—
Add: Loss reclassified from OCI to cost of revenue (effective portion)	—	12,478	29,425
Net gain (loss) on derivatives	$ (175)	$ 23,124	$ 14,928

(1) The Company reclassified from OCI to "Other, net" a net loss totaling $1.6 million during the year ended January 1, 2012 relating to transactions previously designated as effective cash flow hedges as the Company concluded that the

related forecasted transactions are probable not to occur in the hedge period or within an additional two month time period thereafter.

The following table summarizes the amount of gain (loss) recognized in "Other, net" in the Consolidated Statements of Operations in the years ended January 1, 2012, January 2, 2011, and January 3, 2010:

	Year Ended		
(In thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Derivatives designated as cash flow hedges:			
Loss recognized in "Other, net" on derivatives (ineffective portion and amount excluded from effectiveness testing) (1)	$ (18,235)	$ (25,659)	$ (3,964)
Derivatives not designated as hedging instruments:			
Gain (loss) recognized in "Other, net"	$ (3,972)	$ 36,607	$ (24,073)

(1) The amount of loss recognized related to the ineffective portion of derivatives was insignificant. This amount also includes a net $1.6 million loss reclassified from OCI to "Other, net" in the year ended January 1, 2012 relating to transactions previously designated as effective cash flow hedges which did not occur or were now probable not to occur in the hedge period or within an additional two month time period thereafter.

Foreign Currency Exchange Risk

Designated Derivatives Hedging Cash Flow Exposure

The Company's subsidiaries have had and will continue to have material cash flows, including revenues and expenses, which are denominated in currencies other than their functional currencies. The Company's cash flow exposure primarily relates to anticipated third party foreign currency revenues and expenses. Changes in exchange rates between the Company's subsidiaries' functional currencies and other currencies in which it transacts will cause fluctuations in margin, cash flows expectations, and cash flows realized or settled. Accordingly, the Company enters into derivative contracts to hedge the value of a portion of these forecasted cash flows and to protect financial performance.

As of January 1, 2012, the Company had designated outstanding cash flow hedge option contracts and forward contracts with an aggregate notional value of $67.2 million and $38.8 million, respectively. The maturity dates of the outstanding contracts as of January 1, 2012 range from January to July 2012. As of January 2, 2011, the Company had designated outstanding hedge option contracts and forward contracts with an aggregate notional value of $358.9 million and $534.7 million, respectively. The Company designates either gross external or intercompany revenue up to its net economic exposure. These derivatives have a maturity of one year or less and consist of foreign currency option and forward contracts. The effective portion of these cash flow hedges are reclassified into revenue when third party revenue is recognized in the Consolidated Statements of Operations.

The Company expects to reclassify the majority of its net gains related to these option and forward contracts that are included in accumulated other comprehensive gain as of January 1, 2012 to revenue in the next 12 months. Cash flow hedges are tested for effectiveness each period based on changes in the spot rate applicable to the hedge contracts against the present value period to period change in spot rates applicable to the hedged item using regression analysis. The change in the time value of the options and the change in the forward points on forward exchange contracts are excluded from the Company's assessment of hedge effectiveness. The premium paid or time value of an option whose strike price is equal to or greater than the market price on the date of purchase is recorded as an asset in the Consolidated Balance Sheets. Thereafter, any change to this time value and the forward points is included in "Other, net" in the Consolidated Statements of Operations.

Under hedge accounting rules for foreign currency derivatives, the Company reflects mark-to-market gains and losses on its hedged transactions in accumulated other comprehensive income (loss) rather than current earnings until the hedged transactions occur. However, if the Company determines that the anticipated hedged transactions are probable not to occur, it must immediately reclassify any cumulative market gains and losses into its Consolidated Statement of Operations. During the year ended January 1, 2012, the Company determined that certain anticipated hedged transactions were probable not to occur due, in part, to the announcement of the feed-in-tariff changes in Italy. As a result, a net loss of $1.6 million was reclassified from "Accumulated other comprehensive income" to "Other, net" in the Company's Consolidated Statement of Operations.

Non-Designated Derivatives Hedging Transaction Exposure

Other derivatives not designated as hedging instruments consist of forward contracts used to hedge re-measurement of foreign currency denominated monetary assets and liabilities primarily for intercompany transactions, receivables from customers, and payables to third parties. Changes in exchange rates between the Company's subsidiaries' functional currencies and the currencies in which these assets and liabilities are denominated can create fluctuations in the Company's reported consolidated financial position, results of operations and cash flows. The Company enters into forward contracts, which are originally designated as cash flow hedges, and de-designates them upon recognition of the anticipated transaction to protect resulting non-functional currency monetary assets. These forward contracts as well as additional forward contracts are entered into to hedge foreign currency denominated monetary assets and liabilities against the short-term effects of currency exchange rate fluctuations. The Company records its derivative contracts that are not designated as hedging instruments at fair value with the related gains or losses recorded in "Other, net" in the Consolidated Statements of Operations. The gains or losses on these contracts are substantially offset by transaction gains or losses on the underlying balances being hedged. As of January 1, 2012, the Company held option contracts and forward contracts with an aggregate notional value of $63.2 million and $162.0 million, respectively, to hedge balance sheet exposure. These forward contracts have maturities of three month or less. As of January 2, 2011, the Company held forward contracts with an aggregate notional value of $934.8 million, to hedge balance sheet exposure.

Credit Risk

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

Note 13. *INCOME TAXES*

The geographic distribution of income (loss) from continuing operations before income taxes and equity in earnings of unconsolidated investees and the components of provision for income taxes are summarized below:

	Year Ended		
(In thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Geographic distribution of income (loss) from continuing operations before income taxes and equity in earnings of unconsolidated investees:			
U.S. loss	$ (431,185)	$ (33,795)	$ (38,684)
Non-U.S. income (loss)	(156,578)	217,208	82,304
Income (loss) from continuing operations before income taxes and equity in earnings of unconsolidated investees	$ (587,763)	$ 183,413	$ 43,620
Provision for income taxes:			
Current tax benefit (expense)			
Federal	$ (3,105)	$ (1,490)	$ (14,263)
State	(317)	2,683	(37)
Foreign	(19,003)	(25,067)	(7,188)
Total current tax expense	$ (22,425)	$ (23,874)	$ (21,488)
Deferred tax benefit			
Federal	—	—	—
State	—	—	—
Foreign	326	499	460
Total deferred tax benefit	326	499	460
Provision for income taxes	$ (22,099)	$ (23,375)	$ (21,028)

The provision for income taxes differs from the amounts obtained by applying the statutory U.S. federal tax rate to income before taxes as shown below:

(In thousands)	Year Ended January 1, 2012	January 2, 2011	January 3, 2010
Statutory rate	35%	35%	35%
Tax benefit (expense) at U.S. statutory rate	$ 205,718	$ (64,195)	$ (15,267)
Foreign rate differential	(73,480)	48,051	16,295
State income taxes, net of benefit	(317)	3,349	(929)
Goodwill Impairment	(52,247)	—	—
Share lending arrangement	—	8,400	—
Total investment related costs	(2,878)	—	—
Tax credits (research and development/investment tax credit)	4,409	642	5,266
Deferred taxes not benefitted	(99,703)	(19,184)	(25,973)
Other, net	(3,601)	(438)	(420)
Total	$ (22,099)	$ (23,375)	$ (21,028)

(In thousands)	As of January 1, 2012	January 2, 2011
Deferred tax assets:		
Net operating loss carryforwards	$ 60,375	$ 983
Research and development credit and California manufacturing credit carryforwards	10,413	2,891
Reserves and accruals	64,482	24,692
Synthetic debt	60,772	60,772
Stock-based compensation stock deductions	10,320	10,914
Total deferred tax asset	206,362	100,252
Valuation allowance	(129,946)	(4,644)
Total deferred tax asset, net of valuation allowance	76,416	95,608
Deferred tax liabilities:		
Foreign currency derivatives unrealized gains	(1,971)	(2,235)
Other intangible assets and accruals	(47,177)	(54,425)
Equity interest in Woongjin Energy	(8,830)	(30,983)
Fixed asset basis difference	(20,442)	(10,558)
Total deferred tax liabilities	(78,420)	(98,201)
Net deferred tax liability	$ (2,004)	$ (2,593)

As of January 1, 2012, the Company had federal net operating loss carryforwards of $251.8 million for tax purposes, of which $13.5 million relate to stock deductions and $76.8 million relate to debt issuance, both of which will benefit equity when realized. As of January 1, 2012, the Company had California state net operating loss carryforwards of approximately $194.3 million for tax purposes, of which $19.2 million relate to stock deductions and $50.4 million relate to debt issuance, both of which will benefit equity when realized. These California net operating loss carryforwards will expire at various dates from 2015 to 2031. The Company also had research and development credit carryforwards of approximately $6.5 million for federal tax purposes and $6.9 million for state tax purposes. The Company's ability to utilize a portion of the net operating loss and credit carryforwards is dependent upon the Company being able to generate taxable income in future periods and may be limited due to restrictions imposed on utilization of net operating loss and credit carryforwards under federal and state laws upon a change in ownership, such as the transaction with Cypress.

The Company is subject to tax holidays in the Philippines where it manufactures its solar power products. Tax holidays in the Philippines reduce the Company's tax rate to 0% from 30%. Tax savings associated with the Philippines tax holidays were approximately $3.9 million, $11.8 million, and $11.1 million in fiscal 2011, 2010, and 2009, respectively, which provided a diluted net income (loss) per share benefit of $0.04, $0.11, and $0.12, respectively.

The Company has a tax ruling in Switzerland where it sells its solar power products. The ruling in Switzerland reduces the Company's tax rate to 11.5% from approximately 24.2%. Tax savings associated with this ruling was approximately $2.3

million, $1.6 million, and $0.4 million in fiscal 2011, 2010, and 2009, respectively, which provided a diluted net income (loss) per share benefit of $0.02, $0.02, and zero in fiscal 2011, 2010, and 2009, respectively. This current tax ruling expires at the end of 2015.

As of January 1, 2012, the Company's foreign subsidiaries have accumulated undistributed earnings of approximately $289.2 million that are intended to be indefinitely reinvested outside the United States and, accordingly, no provision for U.S. federal and state tax has been made for the distribution of these earnings. At January 1, 2012, the amount of the unrecognized deferred tax liability on the indefinitely reinvested earnings was $115.7 million.

Valuation Allowance

The Company's valuation allowance is related to deferred tax assets in the United States, and was determined by assessing both positive and negative evidence. When determining whether it is more likely than not that deferred assets are recoverable, with such assessment being required on a jurisdiction by jurisdiction basis, management believes that sufficient uncertainty exists with regard to the realizability of these assets such that a valuation allowance is necessary. Factors considered in providing a valuation allowance include the lack of a significant history of consistent profits, the lack of consistent profitability in the solar industry, and the lack of carryback capacity to realize these assets, and other factors. Based on the absence of sufficient positive objective evidence, management is unable to assert that it is more likely than not that the Company will generate sufficient taxable income to realize these remaining net deferred tax assets. Should the Company achieve a certain level of profitability in the future, it may be in a position to reverse the valuation allowance which would result in a non-cash income statement benefit. Additionally, the change in valuation allowance for fiscal 2011, 2010 and 2009 was $125.3 million, $37.5 million, and $32.2 million, respectively.

Unrecognized Tax Benefits

Current accounting guidance contains a two-step approach to recognizing and measuring uncertain tax positions. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates that it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount that is more than 50% likely of being realized upon ultimate settlement.

A reconciliation of the beginning and ending amounts of unrecognized tax benefits during fiscal 2011, 2010, and 2009 is as follows:

	Year Ended		
(In thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Balance, beginning of year	$ 23,649	$ 13,660	$ 13,470
Additions for tax positions related to the current year	2,535	5,319	3,692
Additions for tax positions from prior years	5,862	5,092	—
Reductions for tax positions from prior years/statute of limitations expirations	—	(422)	(3,502)
Balance at the end of the period	$ 32,046	$ 23,649	$ 13,660

Management believes that events that could occur in the next 12 months and cause a change in unrecognized tax benefits include, but are not limited to, the following:

- commencement, continuation or completion of examinations of the Company's tax returns by the U.S. or foreign taxing authorities; and
- expiration of statutes of limitation on the Company's tax returns.

The calculation of unrecognized tax benefits involves dealing with uncertainties in the application of complex global tax regulations. Uncertainties include, but are not limited to, the impact of legislative, regulatory and judicial developments, transfer pricing and the application of withholding taxes. Management regularly assesses the Company's tax positions in light of legislative, bilateral tax treaty, regulatory and judicial developments in the countries in which the Company does business. Management determined that an estimate of the range of reasonably possible change in the amounts of unrecognized tax benefits within the next 12 months cannot be made.

Classification of Interest and Penalties

The Company accrues interest and penalties on tax contingencies which are classified as "Provision for income taxes" in the Consolidated Statements of Operations. Accrued interest as of January 1, 2012 and January 2, 2011 was approximately $1.9 million and $1.2 million, respectively. Accrued penalties were not material for any of the periods presented.

Tax Years and Examination

The Company files tax returns in each jurisdiction in which it is registered to do business. In the U.S. and many of the state jurisdictions, and in many foreign countries in which the Company files tax returns, a statute of limitations period exists. After a statute of limitations period expires, the respective tax authorities may no longer assess additional income tax for the expired period. Similarly, the Company is no longer eligible to file claims for refund for any tax that it may have overpaid. The following table summarizes the Company's major tax jurisdictions and the tax years that remain subject to examination by these jurisdictions as of January 1, 2012:

Tax Jurisdictions	Tax Years
United States	2007 and onward
California	2005 and onward
Switzerland	2009 and onward
Philippines	2006 and onward

Additionally, the 2005 U.S. corporate tax return and 2004 and prior California tax returns are not open for assessment. The tax authorities can adjust net operating loss and research and development carryovers that were generated.

In January 2010, Cypress was notified by the IRS that it intends to examine Cypress's corporate income tax filings for the tax years ended in 2006, 2007, and 2008. SunPower was included as part of Cypress's federal consolidated group for part of 2006. As of January 1, 2012, Cypress notified the Company that the IRS has completed its examination and there are no material adjustments upon completion of their review. Additionally, while years prior to fiscal 2006 for Cypress's U.S. corporate tax return are not open for assessment, the IRS can adjust net operating loss and research and development carryovers that were generated in prior years and carried forward to fiscal 2006 and subsequent years. If the IRS sustains tax assessments against Cypress for years in which SunPower was included in Cypress's consolidated federal tax return, SunPower may be obligated to indemnify Cypress under the terms of the tax sharing agreement.

The Swiss federal authorities are currently examining the Company's 2009 and 2008 federal income tax returns. The Company does not expect the examination to result in a material assessment outside of existing reserves. If a material assessment in excess of current reserves results, the amount that the assessment exceeds current reserves will be a current period charge to earnings.

Note 14. *PREFERRED STOCK AND COMMON STOCK*

Preferred Stock

At January 1, 2012, the Company was authorized to issue approximately 10.0 million shares of $0.001 par value preferred stock. As of January 1, 2012 and January 2, 2011, the Company had no preferred stock issued and outstanding.

In fiscal 2008, the Company entered into a rights agreement with Computershare Trust Company, N.A., as rights agents, which provided for the issuance of shares of Series A Junior Participating Preferred Stock to holders of the Company's former class A common stock, and the issuance of shares of Series B Junior Participating Preferred Stock to holders of its former class B common stock, in certain circumstances defined therein. On November 16, 2011, the Company amended the rights agreement as a result of the Company's reclassification of its former class A common stock and former class B common stock into a single class of common stock, as described below. Under the amended rights agreement each of the former class A and former class B Rights became a "Right" to purchase Series A Junior Participating Preferred Stock of the Company.

Common Stock

On November 15, 2011, the Company's stockholders approved the reclassification of all outstanding former class A

common stock and former class B common stock into a single class of common stock. The reclassification was effective November 16, 2011 upon which each share of the Company's outstanding former class A common stock and former class B common stock automatically reclassed as, and became one share of, a new single class of common stock having the same voting powers, rights and qualifications, limitations and restrictions as the former Class A common stock.

In connection with the reclassification, the Company entered into four new supplemental indentures on November 16, 2011, covering the Company's 4.50%, debentures, 4.75% debentures, 1.25% debentures and 0.75% debentures (see Note 11).

Voting Rights - Common Stock

Prior to the November 16, 2011 reclassification, holders of shares of former class B common stock were entitled to cast eight votes per share on any matters subject to a stockholder vote, and holders of share of former class A common stock were entitled to cast one vote per share. As a result of the reclassifications, all common stock holders are entitled to one vote per share on all matters submitted to be voted on by the Company's stockholders, subject to the preferences applicable to any preferred stock outstanding.

Dividends - Common Stock

All common stock holders are entitled to receive equal per share dividends when and if declared by the Board of Directors, subject to the preferences applicable to any preferred stock outstanding. The Company's credit facilities place restrictions on the Company and its subsidiaries' ability to pay cash dividends. Additionally, the 1.25% debentures and 0.75% debentures, as amended by the associated November 16, 2011 supplemental indentures, allow the holders to convert their bonds into the Company's common stock if the Company declares a dividend that on a per share basis exceeds 10% of its common stock's market price.

As of January 1, 2012, common stock consisted of the following:

(In thousands, except share data)	**January 1, 2012**
Common stock, $0.001 par value; 367,500,000 shares authorized; 100,475,533* shares issued; 99,099,776* shares outstanding, at January 1, 2012	$ 100

* Includes total of 4.7 million shares of the former common stock lent to LBIE and CSI.

As of January 2, 2011, common stock consisted of the following:

(In thousands, except share data)	**January 2, 2011**
Class A common stock, $0.001 par value; 217,500,000 shares authorized; 56,664,413* shares issued; 56,073,083* shares outstanding, at January 2, 2011	$ 56
Class B common stock, $0.001 par value; 150,000,000 shares authorized; 42,033,287 shares issued and outstanding, at January 2, 2011	42
	$ 98

* Includes approximately 0.1 million shares of unvested restricted stock awards and a total of 4.7 million shares of the Company's former common stock lent to LBIE and CSI, as of January 2, 2011.

Shares Reserved for Future Issuance

The Company had shares of common stock reserved for future issuance as follows:

(In thousands)	**January 1, 2012**	**January 2, 2011**
Equity compensation plans	3,293	504

Note 15. ***NET INCOME (LOSS) PER SHARE OF COMMON STOCK***

The Company calculates net income (loss) per share by dividing earnings allocated to common stockholders by the weighted average number of common shares outstanding for the period. The Company's outstanding unvested restricted stock awards are considered participating securities as they may participate in dividends, if declared, even though the awards are not vested. As participating securities, the unvested restricted stock awards are allocated a proportionate share of net income, but excluded from the basic weighted average shares. No allocation is generally made to other participating securities in the case of a net loss per share.

Prior to the November 15, 2011 reclassification, the Company had two classes of outstanding stock, class A and class B common stock. The Company therefore calculated its net income (loss) per share in fiscal 2010 and fiscal 2009 under the two-class method. In applying the two-class method, earnings are allocated to both classes of common stock and other participating securities based on their respective weighted average shares outstanding during the period. Under the two class method, basic weighted average shares was computed using the weighted average of the combined former class A and former class B common stock outstanding. Class A and class B common stock were considered equivalent securities for purposes of the earnings per share calculation because the holders of each class are legally entitled to equal per share distributions whether through dividends or in liquidation.

Diluted weighted average shares is computed using basic weighted average shares plus any potentially dilutive securities outstanding during the period using the if-converted method and treasury-stock-type method, except when their effect is anti-dilutive. The Company uses income from continuing operations as the control number in determining whether potential common shares are dilutive or anti-dilutive in the period it reports a discontinued operation (see Note 4). Potentially dilutive securities include stock options, restricted stock units, senior convertible debentures and amended warrants associated with the CSO2015. As a result of the net loss from continuing operations for each of the year ended January 1, 2012 there is no dilutive impact to the net income (loss) per share calculation for the period.

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

(In thousands, except per share amounts)	Year Ended January 1, 2012	January 2, 2011	January 3, 2010
Basic net income (loss) per share:			
Numerator			
Income (loss) from continuing operations	$ (603,859)	$ 166,883	$ 32,521
Less: undistributed earnings allocated to unvested restricted stock awards (1)	—	(258)	(117)
Income (loss) from continuing operations available to common stockholders	$ (603,859)	$ 166,625	$ 32,404
Denominator			
Basic weighted-average common shares	97,724	95,660	91,050
Basic net income (loss) per share from continuing operations	$ (6.18)	$ 1.74	$ 0.36
Basic net income (loss) per share from discontinued operations	—	0.13	—
Basic net income (loss) per share	$ (6.18)	$ 1.87	$ 0.36
Diluted net income (loss) per share:			
Numerator			
Income (loss) from continuing operations	$ (603,859)	$ 166,883	$ 32,521
Add: Interest expense incurred on 4.75% debentures, net of tax	—	6,664	—
Less: undistributed earnings allocated to unvested restricted stock awards (1)	—	(242)	(115)
Income (loss) from continuing operations available to common stockholders	$ (603,859)	$ 173,305	$ 32,406
Denominator			
Basic weighted-average common shares	97,724	95,660	91,050
Effect of dilutive securities:			
Stock options	—	990	1,531
Restricted stock units	—	336	165
4.75% debentures	—	8,712	—
Diluted weighted-average common shares	97,724	105,698	92,746
Diluted net income (loss) per share from continuing operations	$ (6.18)	$ 1.64	$ 0.35
Diluted net income (loss) per share from discontinued operations	—	0.11	—
Diluted net income (loss) per share	$ (6.18)	$ 1.75	$ 0.35

(1) Losses are not allocated to unvested restricted stock awards because such awards do not contain an obligation to participate in losses.

Holders of the Company's 4.75% debentures may convert the debentures into shares of the Company's common stock, at the applicable conversion rate, at any time on or prior to maturity. The 4.75% debentures are included in the calculation of diluted net income per share if their inclusion is dilutive under the if-converted method. During fiscal 2011, 2010, and 2009 there were zero, 8.7 million, and zero dilutive potential common shares under the 4.75% debentures, respectively.

Holders of the Company's 1.25% debentures and 0.75% debentures may, under certain circumstances at their option, convert the debentures into cash and, if applicable, shares of the Company's common stock at the applicable conversion rate, at any time on or prior to maturity. The 1.25% debentures and 0.75% debentures are included in the calculation of diluted net

income per share if their inclusion is dilutive under the treasury-stock-type method. The Company's average stock price during fiscal 2011, 2010, and 2009 did not exceed the conversion price for the 1.25% debentures and 0.75% debentures. Under the treasury-stock-type method, the Company's 1.25% debentures and 0.75% debentures will generally have a dilutive impact on net income per share if the Company's average stock price for the period exceeds the conversion price for the debentures.

Holders of the Company's 4.50% debentures may, under certain circumstances at their option, convert the debentures into cash, and not into shares of the Company's common stock (or any other securities). Therefore, the 4.50% debentures are excluded from the net income per share calculation.

In the fourth quarter of fiscal 2010, the Company amended and restated the original Warrants under the CSO2015 so that holders would, upon exercise of the 4.50% Warrants, no longer receive cash but instead would acquire up to 11.1 million shares of the Company's common stock at an exercise price of $27.03. In the third quarter of fiscal 2011, as a result of the Total Tender Offer, the Company and the counterparties to the 4.50% Warrants agreed to reduce the exercise price of the 4.50% Warrants from $27.03 to $24.00 (see Note 11). If the market price per share of the Company's common stock for the period exceeds the established strike price, the Warrants will have a dilutive effect on its diluted net income per share using the treasury-stock-type method.

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

	Year Ended		
(In thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Stock options	425	309	394
Restricted stock units	4,943	2,803	1,116
Warrants (under the CSO2015)	*	*	N/A
4.75% debentures	8,712	**	8,712
1.25% debentures	*	*	*
0.75% debentures	*	*	*

(1) As a result of the net loss per share during the year ended January 1, 2012, the inclusion of all potentially dilutive stock options, restricted stock units, and common shares under the 4.75% debentures would be anti-dilutive. Therefore, those stock options, restricted stock units and shares were excluded from the computation of the weighted-average shares for diluted net loss per share for such period.

* The Company's average stock price during the fiscal 2011, 2010, and 2009 did not exceed the conversion price for the amended warrants (under the CSO2015), 1.25% debentures and 0.75% debentures and those instruments were thus non-dilutive in such periods.

** In fiscal 2010, the 4.75% debentures were dilutive under the if-converted method.

Note 16. *STOCK-BASED COMPENSATION*

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

	Year Ended		
(In thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Cost of UPP revenue	$ 5,706	$ 7,608	$ 5,808
Cost of R&C revenue	7,481	8,121	8,190
Research and development	6,166	7,555	6,296
Sales, general and administrative	25,772	31,088	26,700
Restructuring charges	1,611	—	—
Total stock-based compensation expense	$ 46,736	$ 54,372	$ 46,994

Consolidated net cash proceeds from the issuance of shares in connection with exercises of stock options under the Company's employee stock plans were $4.1 million, $0.9 million, and $1.5 million for fiscal 2011, 2010, and 2009, respectively.

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

	Year Ended		
(In thousands)	**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Employee stock options	$ 1,658	$ 1,960	$ 4,376
Restricted stock awards and units	45,223	52,481	42,148
Shares and options released from re-vesting restrictions	—	—	168
Change in stock-based compensation capitalized in inventory	(145)	(69)	302
Total stock-based compensation expense	$ 46,736	$ 54,372	$ 46,994

The following table summarizes the unrecognized stock-based compensation cost by type of awards:

(In thousands, except years)	**January 1, 2012**	**Weighted-Average Amortization Period (in years)**
Stock options	$ 833	0.61
Restricted stock units	62,117	1.89
	$ 62,950	1.88

Equity Incentive Programs

Stock-based Incentive Plans

The Company has three stock incentive plans: the 1996 Stock Plan ("1996 Plan"), the Third Amended and Restated 2005 SunPower Corporation Stock Incentive Plan ("2005 Plan") and the PowerLight Corporation Common Stock Option and Common Stock Purchase Plan ("PowerLight Plan"). The PowerLight Plan was assumed by the Company by way of the acquisition of PowerLight in fiscal 2007. Under the terms of all three plans, the Company may issue incentive or non-statutory stock options or stock purchase rights to directors, employees and consultants to purchase common stock. The 2005 Plan was adopted by the Company's Board of Directors in August 2005, and was approved by shareholders in November 2005. The 2005 Plan replaced the 1996 Plan and allows not only for the grant of options, but also for the grant of stock appreciation rights, restricted stock grants, restricted stock units and other equity rights. The 2005 Plan also allows for tax withholding obligations related to stock option exercises or restricted stock awards to be satisfied through the retention of shares otherwise released upon vesting. The PowerLight Plan was adopted by PowerLight's Board of Directors in October 2000.

In May 2008, the Company's stockholders approved an automatic annual increase available for grant under the 2005 Plan, beginning in fiscal 2009. The automatic annual increase is equal to the lower of three percent of the outstanding shares of all classes of the Company's common stock measured on the last day of the immediately preceding fiscal quarter, 6.0 million shares, or such other number of shares as determined by the Company's Board of Directors. As of January 2, 2012, approximately 6.3 million shares were available for grant under the 2005 Plan after including the automatic annual increase of approximately 3.0 million shares. No new awards are being granted under the 1996 Plan or the PowerLight Plan.

Incentive stock options may be granted at no less than the fair value of the common stock on the date of grant. Non-statutory stock options and stock purchase rights may be granted at no less than 85% of the fair value of the common stock at the date of grant. The options and rights become exercisable when and as determined by the Company's Board of Directors, although these terms generally do not exceed ten years for stock options. Under the 1996 and 2005 Plans, the options typically vest over five years with a one-year cliff and monthly vesting thereafter. Under the PowerLight Plan, the options typically vest over five years with yearly cliff vesting. Under the 2005 Plan, the restricted stock grants and restricted stock units typically vest in three equal installments annually over three years.

The majority of shares issued are net of the minimum statutory withholding requirements that the Company pays on behalf of its employees. During fiscal 2011, 2010, and 2009, the Company withheld 784,427 shares, 235,911 shares, and

149,341 shares, respectively, to satisfy the employees' tax obligations. The Company pays such withholding requirements in cash to the appropriate taxing authorities. Shares withheld are treated as common stock repurchases for accounting and disclosure purposes and reduce the number of shares outstanding upon vesting.

Other Employee Benefit Plans:

The Company has a statutory pension plan covering its employees in the Philippines. The Company accrues for the unfunded portion of the obligation of which the outstanding liability of this pension plan was $1.5 million and $1.1 million as of January 1, 2012 and January 2, 2011, respectively.

The Company maintains a 401(k) Savings Plan covering eligible domestic employees. During fiscal 2011, 2010, and 2009, the Company contributed $0.7 million, $0.6 million, and $0.5 million, respectively, to the plan.

Stock Options

The following table summarizes the Company's stock option activities:

	Outstanding Stock Options			
	Shares (in thousands)	**Weighted-Average Exercise Price Per Share**	**Weighted-Average Remaining Contractual Term (in years)**	**Aggregate Intrinsic Value (in thousands)**
Outstanding as of December 28, 2008	2,545	$ 8.96		
Exercised	(587)	2.60		
Forfeited	(59)	18.65		
Outstanding as of January 3, 2010	1,899	10.62		
Exercised	(303)	2.86		
Forfeited	(101)	17.76		
Outstanding as of January 2, 2011	1,495	11.71		
Exercised	(993)	4.09		
Forfeited	(18)	30.53		
Outstanding as of January 1, 2012	484	$ 26.62	4.71	$ 480
Exercisable as of January 1, 2012	441	$ 24.52	4.53	$ 480
Expected to vest after January 1, 2012	40	$ 48.08	6.64	$ —

The intrinsic value of options exercised in fiscal 2011, 2010, and 2009 were $16.4 million, $3.0 million, and $15.1 million, respectively. There were no stock options granted in fiscal 2011, 2010, and 2009.

The aggregate intrinsic value in the preceding table represents the total pre-tax intrinsic value, based on the Company's closing stock price of $6.23 at December 30, 2011, which would have been received by the option holders had all option holders exercised their options as of that date. The total number of in-the-money options exercisable was 0.1 million shares as of January 1, 2012.

The following table summarizes the Company's non-vested stock options and restricted stock activities thereafter:

	Stock Options		Restricted Stock Awards and Units	
	Shares (in thousands)	Weighted-Average Exercise Price Per Share	Shares (in thousands)	Weighted-Average Grant Date Fair Value Per Share (1)
Outstanding as of December 28, 2008	1,113	$ 14.82	1,604	$ 69.71
Granted	—	—	2,013	28.34
Vested (2)	(711)	7.89	(547)	66.06
Forfeited	(59)	18.65	(334)	65.95
Outstanding as of January 3, 2010	343	28.52	2,736	40.33
Granted	—	—	5,251	13.43
Vested (2)	(131)	23.05	(734)	33.53
Forfeited	(101)	17.76	(1,141)	38.60
Outstanding as of January 2, 2011	111	44.85	6,112	18.36
Granted	—	—	5,349	11.79
Vested (2)	(50)	47.09	(2,255)	22.32
Forfeited	(18)	30.53	(1,836)	14.86
Outstanding as of January 1, 2012	43	$ 48.33	7,370	$ 13.25

(1) The Company estimates the fair value of its restricted stock awards and units at its stock price on the grant date.

(2) Restricted stock awards and units vested include shares withheld on behalf of employees to satisfy the minimum statutory tax withholding requirements.

Note 17. ***SEGMENT AND GEOGRAPHICAL INFORMATION***

The CODM assesses the performance of the UPP Segment and R&C Segment using information about their revenue and gross margin after certain adjustments to reflect the substance of the revenue transactions, and adding back certain non-cash expenses such as amortization of other intangible assets, stock-based compensation expense, loss on change in European government incentives, restructuring charges and interest expense. In addition, the CODM assesses the performance of the UPP Segment and R&C Segment after adding back the results of discontinued operations to revenue and gross margin. The CODM does not review asset information by segment. The following tables present revenue by segment, cost of revenue by segment and gross margin by segment, revenue by geography and revenue by significant customer. Revenue is based on the destination of the shipments.

	Year Ended		
(As a percentage of total revenue)	January 1, 2012	January 2, 2011	January 3, 2010
Revenue by geography:			
United States	51%	29%	43%
Europe:			
Italy	15	40	22
Germany	8	11	21
France	8	4	—
Other	6	10	10
Rest of world	12	6	4
	100%	100%	100%

	Year Ended		
	January 1, 2012	January 2, 2011	January 3, 2010
Revenue by segment (in thousands):			
Utility and power plants (as reviewed by CODM)	$ 1,249,918	$ 1,197,135	$ 653,531
Utility and power plant project	(186,423)	—	—
Change in European government incentives	649	—	—
Revenue earned by discontinued operations	—	(11,081)	—
Utility and power plants	$ 1,064,144	$ 1,186,054	$ 653,531
Residential and commercial	$ 1,248,350	$ 1,033,176	$ 870,752
Cost of revenue by segment (in thousands):			
Utility and power plants (as reviewed by CODM)	$ 1,074,104	$ 892,544	$ 517,079
Utility and power plant project	(147,037)	—	—
Amortization of intangible assets	272	2,762	2,732
Stock-based compensation expense	5,706	7,608	5,808
Non-cash interest expense	1,323	5,412	1,231
Change in European government incentives	32,708	—	—
Utility and power plants	$ 967,076	$ 908,326	$ 526,850
Residential and commercial (as reviewed by CODM)	$ 1,085,290	$ 783,751	$ 695,550
Amortization of intangible assets	195	7,644	8,465
Stock-based compensation expense	7,481	8,121	8,190
Non-cash interest expense	1,241	1,495	1,508
Change in European government incentives	23,007	—	—
Residential and commercial	$ 1,117,214	$ 801,011	$ 713,713
Gross margin by segment:			
Utility and power plants (as reviewed by CODM)	14%	25%	21%
Residential and commercial (as reviewed by CODM)	13%	24%	20%
Utility and power plants	9%	23%	19%
Residential and commercial	11%	22%	18%
Depreciation by segment (in thousands):			
Cost of UPP revenue	$ 34,621	$ 45,306	$ 34,597
Cost of R&C revenue	56,487	47,431	44,221
	$ 91,108	$ 92,737	$ 78,818

		Year Ended		
(As a percentage of total revenue)		**January 1, 2012**	**January 2, 2011**	**January 3, 2010**
Significant Customers:	**Business Segment**			
Customer A	Utility and power plants	*	12%	*
Customer B	Utility and power plants	*	*	12%

* denotes less than 10% during the period

Note 18. ***SUBSEQUENT EVENTS***

Tenesol and Issuance of Common Stock to Total S.A.

On January 31, 2012, the Company completed its acquisition of Tenesol, a global solar provider headquartered in La Tour de Salvagny, France, and a wholly-owned subsidiary of Total, for $165.4 million in cash in exchange for 100% of the equity of Tenesol from Total pursuant to a stock purchase agreement entered into on December 23, 2011. Concurrently with the closing of the acquisition, Total purchased 18.6 million shares of the Company's common stock in a private placement at $8.80 per share. As of January 31, 2012, Total owned approximately 66% of the Company's common stock.

Tenesol is engaged in the business of devising, designing, manufacturing, installing, and managing solar power production and consumption systems for farms, industrial and service sector buildings, solar power plants and private homes. Through Tenesol acquisition, the Company would be able to, among other things, accelerate its strategic plan to grow its presence in Europe and move closer to end customers.

As Tenesol and the Company were under the common control of Total as of the January 31, 2012 acquisition date, the acquisition is treated as the transfer of an entity under common control. Therefore, beginning in the first quarter of fiscal 2012, the Company will revise its historical financial statements to reflect the transfer beginning in the fourth quarter of fiscal 2011, the first period in which Tenesol and the Company were under common control. The acquired assets and liabilities will be measured at the amounts which they were carried, or would be carried in accordance with U.S. GAAP, as of the acquisition date.

Repurchase of 1.25% Debentures and Termination of the July 2007 Share Lending Arrangement

On February 16, 2012, the Company repurchased $199.8 million in principal amount of its 1.25% debentures at a cash price of 100% of the principal amount plus accrued and unpaid interest (see Note 11). As a result of the Company's repurchase of 100% of the principal of the 1.25% debentures, on February 23, 2012, the 1.8 million shares of the Company's common stock lent to CSI were returned and the share lending agreement was thereby terminated (see Note 11).

Liquidity Support Agreement with Total S.A.

The Company is party to an agreement with a customer to construct the California Valley Solar Ranch, a solar park. Part of the debt financing necessary for the customer to pay for the construction of this solar park is being provided by Federal Financing Bank in reliance on a guarantee of repayment provided by the Department of Energy (DOE) under a loan guarantee program. On February 28, 2012, the Company entered into a Liquidity Support Agreement with Total S.A. and the DOE, and a series of related agreements with Total S.A. and Total, under which Total S.A. has agreed to provide the Company, or cause to be provided, additional liquidity under certain circumstances to a maximum amount of $600.0 million ("Liquidity Support Facility"). Total S.A. is required to provide liquidity support to the Company under the facility, and the Company is require to accept such liquidity support from Total S.A., if either the Company's actual or projected unrestricted cash, cash equivalents, and unused borrowing capacity are reduced below $100.0 million, or the Company fails to satisfy any financial covenant under its indebtedness. In either such event, subject to a $600.0 million aggregate limit, Total S.A. is required to provide the Company with sufficient liquidity support to increase the amount of its unrestricted cash, cash equivalents and unused borrowing capacity to above $100.0 million, and to restore compliance with its financial covenants. The Liquidity Support Facility is available until the completion of the solar park, expected to be operational in 2013 and completed before the end of fiscal 2014, and, under certain conditions, up to December 31, 2016, at which time all outstanding guarantees will expire and all outstanding debt under the facility will become due. In return for Total S.A.'s agreement to provide the Liquidity Support Facility, on February 28, 2012, the Company issued to Total a seven-year warrant to purchase 9,531,677 shares of the Company's common stock at an exercise price of $7.8685 per share. During the term of the facility, the Company must pay Total S.A. a quarterly fee equal to 0.25% of the unused portion of the facility. Liquidity support may be provided by Total S.A. or through its affiliates in the form of revolving non-convertible debt, convertible debt, equity, guarantees of Company indebtedness or other forms of liquidity support agreed to by the Company, depending on the amount outstanding under the facility immediately prior to provision of the applicable support among other factors. The Company is required to compensate Total S.A. for any liquidity support actually provided, and the form and amount of such compensation depends on the form and amount of support provided, with the amount of compensation generally increasing with the amount of support provided over time. Such compensation is to be provided in a variety of forms including guarantee fees, warrants to purchase common stock, interest on amounts borrowed, and discounts on equity issued. The use of the Liquidity Support Facility is not limited to direct obligations related to the solar park, but the Company has agreed to conduct its operations, and use any proceeds from such facility in ways, that minimize the likelihood of Total S.A. being required to provide further support. The Liquidity Support Facility is available for general corporate purposes. In connection with the Liquidity Support Agreement, the Company also entered into a Compensation and Funding Agreement with Total S.A., and Private Placement Agreement, and Revolving Credit and Convertible Loan Agreement with Total.

Third Amendment to Affiliation Agreement

In connection with the Liquidity Support Facility, the Company also entered into a third amendment (the "Third Amendment to Affiliation Agreement") to the Affiliation Agreement, dated April 28, 2011, with Total, as previously amended by the Amendment to Affiliation Agreement, dated as of June 7, 2011, and the Second Amendment to Affiliation Agreement, dated as of December 23, 2011 (the "Affiliation Agreement"). The Third Amendment to Affiliation Agreement, among other things, (i) provides that Total will have the right to appoint a deputy project manager for the CVSR project, subject to certain conditions; (ii) increases the number of Total designated directors on each of the Company's Compensation Committee, Nominating and Governance Committee and any other standing or ad hoc committee of the Company's Board of Directors to two members out of four (from one member out of three each), excluding the Audit Committee; (iii) broadens the definition of the period during which the Company must obtain the affirmative vote or written consent of Total prior to undertaking certain actions to include the period during which the Liquidity Support Facility are outstanding; (iv) requires the affirmative vote or written consent of Total for any repurchases by the Company of its common stock and under certain circumstances, issuance of convertible debt, including to refinance existing convertible debt; and (v) specifies that the standstill provisions of the Affiliation Agreement do not apply to securities issued in connection with the Liquidity Support Facility.

SELECTED UNAUDITED QUARTERLY FINANCIAL DATA

Consolidated Statements of Operations

(In thousands, except per share data)	Three Months Ended			
	January 1, 2012	October 2, 2011	July 3, 2011	April 3, 2011
Fiscal 2011:				
Revenue	$ 563,394	$ 705,427	$ 592,255	$ 451,418
Gross margin	44,264	76,124	19,294	88,522
Net loss	(83,082)	(370,784)	(147,872)	(2,121)
Net loss per share of common stock:				
Basic	$ (0.84)	$ (3.77)	$ (1.51)	$ (0.02)
Diluted	$ (0.84)	$ (3.77)	$ (1.51)	$ (0.02)

(In thousands, except per share data)	Three Months Ended			
	January 2, 2011	October 3, 2010	July 4, 2010	April 4, 2010
Fiscal 2010:				
Revenue	$ 937,073	$ 550,645	$ 384,238	$ 347,274
Gross margin	237,714	112,585	87,851	71,743
Net income (loss)	152,251	20,116	(6,216)	12,573
Net income (loss) per share of class A and class B common stock:				
Basic	$ 1.58	$ 0.21	$ (0.07)	$ 0.13
Diluted	$ 1.44	$ 0.21	$ (0.07)	$ 0.13

ITEM 9: *CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURES*

None.

ITEM 9A: *CONTROLS AND PROCEDURES*

Evaluation of Disclosure Controls and Procedures

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

Based on their evaluation as of the end of the period covered by this Annual Report on Form 10-K, our Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures were effective as of January 1, 2012 at a reasonable assurance level.

Management's Report on Internal Control over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting, as defined in Exchange Act Rule 13a-15(f). Management conducted an evaluation of the effectiveness of our internal control over financial reporting using the criteria described in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). Based on this evaluation, management concluded that our internal control over financial reporting was effective as of January 1, 2012 based on the criteria described in Internal Control-Integrated Framework issued by COSO. Management reviewed the results of its assessment with our Audit Committee.

The effectiveness of the Company's internal control over financial reporting as of January 1, 2012 has been audited by PricewaterhouseCoopers LLP, an independent registered public accounting firm, as stated in their report which is included in Item 8 of this Annual Report on Form 10-K.

Changes in Internal Control over Financial Reporting

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

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

ITEM 9B: *OTHER INFORMATION*

Item 1.01. Entry into Material Definitive Agreement

Liquidity Support Agreement

The Company is party to an agreement with a customer to provide engineering, procurement and construction ("EPC") services, as well as solar panels and power plant technology to the California Valley Solar Ranch ("CVSR"), a 250 MW AC solar power plant. Construction of CVSR is on plan to meet its phase 1 construction milestone in the third quarter of 2012. Part of the debt financing necessary for the customer to pay for the construction of CVSR is being provided by the Federal Financing Bank in reliance on a guarantee of repayment provided by the United States Department of Energy (DOE) under a loan guarantee program. The DOE requested that the Company, as EPC contractor for CVSR, provide additional financial assurances to support the project's loan guarantee. In response, on February 28, 2012, the Company entered into a Liquidity Support Agreement with Total S.A., a société anonyme organized under the laws of the Republic of France ("Total S.A."), and the DOE (the "Liquidity Support Agreement"), and a series of related agreements with affiliates of Total S.A., under which Total S.A. has agreed to provide the Company, or cause to be provided, additional liquidity under certain circumstances up to an aggregate amount of $600 million, as further described below.

While the Company does not currently anticipate the need to utilize this liquidity support facility for CVSR or for any other reason, the Company was able to provide to the DOE the financial assurances it sought. The Company continues to work closely with its customer on all loan disbursement milestones required by the DOE who is diligently managing the process.

The Liquidity Support Agreement provides that, subject to the terms and conditions set forth therein, upon a Liquidity Support Event (defined below), Total S.A. will make available, as of the date of the Liquidity Support Agreement, and provide to the Company from time to time various forms of equity, debt (both convertible and non-convertible), guarantee or other liquidity support ("Liquidity Injections"), as may be required to increase the amount of unrestricted cash, cash equivalents and unused borrowing capacity, and to ensure the Company's satisfaction of its financial covenants under certain third party indebtedness, up to the maximum aggregate amount of $600 million (the "Liquidity Support Facility"). A "Liquidity Support Event" is when (a) the Company's unrestricted cash and cash equivalents shown on its balance sheet plus any unused availability under any committed credit that is available to the Company ("Reported Liquidity") is below $100 million in a completed fiscal quarter, or the Company's projected liquidity measured in the same manner for the next fiscal quarter ("Projected Liquidity") is below $100 million; or (b) at any time during a fiscal quarter, the Company fails to satisfy any financial covenant under its indebtedness. Upon a Liquidity Support Event, Total S.A. is required to provide to the Company, and the Company is required to accept from Total S.A., a Liquidity Injection sufficient to cause (a) the Company's Reported Liquidity and Projected Liquidity to be at least $100 million, or, as applicable, (b) the Company to cure any breach and satisfy the applicable financial covenant in its indebtedness. The terms and conditions of such Liquidity Support Facility are set forth in the Compensation and Funding Agreement, the Revolving Credit and Convertible Loan Agreement, the Private Placement Agreement, each as described below and attached hereto as Exhibit 10.90, Exhibit 10.93, and Exhibit 10.94, and other ancillary agreements and forms of agreements attached hereto as Exhibit 10.95 to Exhibit 10.99, which are incorporated herein by reference.

The Liquidity Support Agreement will terminate, all outstanding guarantees issued thereunder will terminate, and all outstanding loans made thereunder will become due, upon the earliest to occur of (i) the final completion date of the CVSR project as defined under that certain Engineering, Procurement and Construction Agreement, dated as of September 30, 2011 (the "EPC Contract"), between SunPower Corporation, Systems, a Delaware corporation and a direct wholly owned subsidiary of the Company ("SunPower Systems"), which is the EPC contractor, and High Plains Ranch II, LLC, a Delaware limited liability company ("HPR II"), which is the CVSR project company sold by the Company to NRG Solar LLC in September 2011, (ii) the date of December 31, 2015, as may be extended under certain circumstances as described in the EPC Contract, but not beyond December 31, 2016, (iii) the date on which all secured obligations, as defined under that certain Loan Guarantee Agreement, dated as of September 30, 2011, between the DOE and HPR II, have been paid in full and all commitments to extend credit as set forth therein in connection with the CVSR project have been terminated, and (iv) the date on which SunPower Systems terminates the EPC Contract.

The above description of the Liquidity Support Agreement is a summary only and is qualified in its entirety by reference to the Liquidity Support Agreement, which is attached hereto as Exhibit 10.89 and is incorporated herein by reference.

Compensation and Funding Agreement

In connection with the Liquidity Support Agreement, on February 28, 2012, the Company entered into a Compensation and Funding Agreement (the "Compensation and Funding Agreement") with Total S.A., pursuant to which, among other things, the Company and Total S.A. established the parameters for the terms of the Liquidity Support Facility and any Liquidity Injections that may be required to be provided by Total S.A. to the Company pursuant to the Liquidity Support Agreement (the "Liquidity Support Arrangements"). The Company has agreed in the Compensation and Funding Agreement to use commercially reasonable efforts to assist Total S.A. in the performance of its obligations under the Liquidity Support Agreement and to conduct, and to act in good faith in conducting, its affairs in a manner such that Total S.A.'s obligation under the Liquidity Support Agreement to provide Liquidity Injections will not be triggered or, if triggered, will be minimized. The Company has also agreed to use any cash provided under the facility in such a way as to minimize the need for further liquidity support.

Upfront Payment Obligations

The Compensation and Funding Agreement provides that, on the effective date of the Liquidity Support Agreement, in consideration for Total S.A.'s agreement to enter into the Liquidity Support Agreement and for Total S.A.'s commitments set forth in the Liquidity Support Agreement, the Company will issue to or as directed by Total S.A. a warrant (the "Upfront Warrant"), in the form of Exhibit A to the Compensation and Funding Agreement, that is exercisable to purchase an amount of the Company's common stock equal to $75 million, divided by the volume-weighted average price for the Company's common stock for the 30 trading-day period ending on the trading day immediately preceding the date of calculation ("30-Day VWAP"), which for the Upfront Warrant is the effective date of the Liquidity Support Agreement. The exercise price of the Upfront Warrant, and of each additional warrant issuable under the Compensation and Funding Agreement, will be the 30-Day VWAP as of the date such warrant is issued. The Upfront Warrant will be exercisable at any time for seven years after its issuance, provided that, so long as at least $25 million of the Company's convertible debt remains outstanding, such exercise will not cause "any person," including Total S.A., to, directly or indirectly, including through one or more wholly-owned subsidiaries, become the "beneficial owner" (as such terms are defined in Rule 13d-3 and Rule 13d-5 under the Securities and Exchange Act of 1934, as amended), of more than 74.99% of the voting power of the Company's common stock at such time, because “any person” becoming such “beneficial owner” would trigger the repurchase or conversion of the Company's existing convertible debt. On February 28, 2012, the Company issued to Total the Upfront Warrant to purchase 9,531,677 shares of the Company's common stock with an exercise price of $7.8685, subject to adjustment for customary anti-dilution and other events.

The above description of the Upfront Warrant is a summary only and is qualified in its entirety by reference to the Upfront Warrant, which is attached hereto as Exhibit 10.92 and is incorporated herein by reference.

Ongoing Payment Obligations

The Compensation and Funding Agreement further provides that, subject to the terms and conditions set forth therein, the Company will make certain cash payments to Total S.A. within 30 days after the end of each calendar quarter during the term of the Compensation and Funding Agreement as follows:

(i) Quarterly payment of a commitment fee in an amount equal to 0.25% of the unused portion of the $600 million Liquidity Support Facility as of the end of such quarter; and

(ii) Quarterly payment of a guarantee fee in an amount equal to 2.75% per annum of the average amount of the Company's indebtedness that is guaranteed by Total S.A. pursuant to any Guaranty (as defined below) issued in accordance with the terms of the Compensation and Funding Agreement during such quarter.

In addition, any payment obligations of the Company to Total S.A. under the Compensation and Funding Agreement that are not paid when due shall accrue interest until paid in full at a rate equal to 6-month U.S. LIBOR as in effect from time to time plus 5.00% per annum.

Form of Liquidity Support

In the event that Total S.A. becomes obligated to provide a Liquidity Injection to the Company in a Liquidity Support Event pursuant to the Liquidity Support Agreement, the Compensation and Funding Agreement sets forth the form of such Liquidity Injection based on the greatest Drawn Support Amount that has been outstanding at any time prior to the date of determination (the "Maximum Drawn Support Amount") at such time, as follows:

(i) To the extent that the Maximum Drawn Support Amount at such time is equal to or less than $60 million, the Liquidity Injection shall be, at Total S.A.'s option, in the form of a revolving, non-convertible debt facility (a "Revolving

Loan") pursuant to the terms of the Revolving Credit and Convertible Loan Agreement set forth as Exhibit B to the Compensation and Funding Agreement, a Total S.A. Guaranty (defined below), or any other form of Liquidity Injection agreed to by the Company. In addition, at the time of funding of each such Revolving Loan, the Company will issue to or as directed by Total a warrant, in the form of Exhibit A to the Compensation and Funding Agreement, that is exercisable for seven years to purchase an amount of the Company's common stock equal to 20% of the amount of such Revolving Loan divided by the 30-Day VWAP as of the date of funding of such Revolving Loan. Notwithstanding the foregoing, the aggregate exercise price of warrants issued in connection with Revolving Loans may not exceed 20% of the maximum aggregate amount of Revolving Loans that has been outstanding at any time under the Revolving Credit and Convertible Loan Agreement. Interest payable on the Revolving Loan shall be 6-months U.S. LIBOR plus 5% per annum.

(ii) To the extent that the Maximum Drawn Support Amount at such time is greater than $60 million but equal to or less than $200 million, Total may, at its sole discretion, convert any Revolving Loan into a convertible debt facility (a "Convertible Loan"), pursuant to terms of the Revolving Credit and Convertible Loan Agreement set forth as Exhibit B to the Compensation and Funding Agreement, and any future Liquidity Injections will be, at Total S.A.'s option, in the form of a Convertible Loan, a Total S.A. Guaranty (defined below), or any other form of Liquidity Injection agreed to by the Company. Each Convertible Loan will be convertible into the Company's common stock at a conversion price equal to the amount of debt being converted, divided by the closing price of the Company's common stock on the trading day immediately preceding the conversion date) at the option of Total S.A. at any time after (A) the Convertible Loan has not been repaid within 6 months; (B) the Company's debt to EBITDA ratio exceeds 3.5 to 1.0 (or for the 2012 fiscal year, 4.0 to 1.0); or (C) any time the Maximum Drawn Support Amount exceeds $200 million. In addition, at the time of funding of each such Convertible Loan, the Company will issue to or as directed by Total S.A. a warrant, in the form of Exhibit A to the Compensation and Funding Agreement, that is exercisable for seven years to purchase an amount of the Company's common stock equal to 25% of the amount of such Convertible Loan (if the Maximum Drawn Support Amount at such time is not in excess of $200 million) or 35% of the amount of such Convertible Loan (to the extent that the Maximum Drawn Support Amount at such time is in excess of $200 million), in each case, divided by the 30-Day VWAP as of the date of funding of such Convertible Loan. Notwithstanding the foregoing, the aggregate exercise price of warrants issued in connection with Convertible Loans up to $140 million may not exceed 25% of the maximum aggregate amount of such Convertible Loans that has been outstanding at any time under the Revolving Credit and Convertible Loan Agreement, and the aggregate exercise price of warrants issued in connection with Convertible Loans in excess of $140 million may not exceed 35% of the maximum aggregate amount of such Convertible Loans that has been outstanding at any time under the Revolving Credit and Convertible Loan Agreement. Interest payable on the Convertible Loan shall be 6-months U.S. LIBOR plus 7% per annum for any Convertible Loan outstanding when the Maximum Drawn Support Amount is less than or equal to $200 million, and 6-months U.S. LIBOR plus 8% per annum when the Maximum Drawn Support Amount is greater than $200 million.

(iii) If the Maximum Drawn Support Amount at such time exceeds $200 million, or if the Company's debt to EBITDA ratio exceeds 3.5 to 1.0 (or, for the 2012 fiscal year, 4.0 to 1.0), the Liquidity Injection will be in the form selected by Total S.A., at its complete discretion, as an additional Revolving Loan, an additional Convertible Loan, a purchase of the equity securities of the Company, pursuant to the form Private Placement Agreement set forth as Exhibit C to the Compensation and Funding Agreement (a "Private Placement Agreement"), a guarantee by Total S.A. of the Company's indebtedness, pursuant to the form Guaranty set forth as Exhibit D to the Compensation and Funding Agreement (a "Guaranty"), or another form of Liquidity Injection acceptable to the DOE and the Company. The Company shall issue to Total S.A. warrants in connection with additional Revolving Loans or Convertible Loans as described above. If such Liquidity Injection is in the form of purchase of equity securities, then the Company will issue to or as directed by Total S.A. a warrant, in the form of Exhibit A to the Compensation and Funding Agreement, that is exercisable for seven years to purchase an amount of the Company's common stock equal to 25% of the amount of such Liquidity Injection divided by 30-Day VWAP as of the date of such Liquidity Injection. Any common stock sold to Total S.A. under the Private Placement Agreement will be priced at a 17% discount from the 30-Day VWAP as of the date such common stock is sold, and may be rounded up, at Total S.A.'s option, from the required amount of such Liquidity Injection to the next integral multiple of $25 million.

No warrants issued shall be exercisable so long as at least $25 million of the Company's convertible debt remains outstanding and such exercise will cause "any person," including Total S.A., to, directly or indirectly, including through one or more wholly-owned subsidiaries, become the "beneficial owner" of more than 74.99% of the voting power of the Company's common stock at such time. Loans made by Total S.A. under the Compensation and Funding Agreement shall be prepayable by the Company in agreed increments, so long as after giving effect to any such prepayment the Company's Reported Liquidity and Project Liquidity would be at least $125 million.

Notwithstanding the foregoing, if the incurrence of any such debt or issuance of any such warrants or equity securities would trigger a default under the terms of any existing SunPower debt agreements in an amount greater than $10 million, Total S.A. will have the option, in its reasonable discretion, to provide a Liquidity Injection in an alternative form so as not to cause

the Company to be in breach or default of any of its debt agreements. Notwithstanding the limitations on the form of Liquidity Injections described above, in connection with an actual or potential breach by the Company of its covenants under the Credit Agricole Facility Agreement, Total S.A. may make Liquidity Injections in the form of equity purchases sufficient to provide the Company with an “equity cure” under the Credit Agricole Facility Agreement, plus up to an additional $25 million of equity purchases. In addition to the provision of any "equity cure," Total S.A. may also in such event elect to lend money to the Company, in the form of convertible debt as described above, in order to repay amounts owing under the Credit Agricole Facility Agreement. Any such debt would bear interest at a rate of LIBOR plus 4.25% per annum until the maturity of the facility, and would thereafter bear interest at the rates described above, depending on the Maximum Drawn Support Amount.

If Total S.A. is required to make any payment to a lender under a Guaranty, and if the Company does not repay such payment to Total S.A. within 30 days, the amount of such payment, plus interest, shall be convertible, at Total S.A.'s option, into a Revolving Loan, a Convertible Loan or a purchase of equity pursuant to the Private Placement Agreement, in each case upon notice from Total S.A. to the Company and in each case with warrant coverage as described above.

Termination

The Compensation and Funding Agreement will remain in effect as long as (i) any obligations of the Company remain outstanding under any Revolving Credit and Convertible Loan Agreement or a Private Placement Agreement, (ii) any obligations of Total S.A. remain outstanding under any Guaranty, or (iii) Total S.A. has any obligation to provide Liquidity Injections pursuant to the Liquidity Support Agreement.

The above description of the Compensation and Funding Agreement is a summary only and is qualified in its entirety by reference to the Compensation and Funding Agreement, which is attached hereto as Exhibit 10.90 and is incorporated herein by reference.

Third Amendment to Affiliation Agreement

In connection with the Liquidity Support Arrangements, the Company also entered into a third amendment (the "Third Amendment to Affiliation Agreement") to the Affiliation Agreement, dated April 28, 2011, with Total Gas & Power USA, SAS, a société par actions simplifiée organized under the laws of the Republic of France and a wholly-owned subsidiary of Total S.A. ("Total"), as previously amended by the Amendment to Affiliation Agreement, dated as of June 7, 2011, and the Second Amendment to Affiliation Agreement, dated as of December 23, 2011 (the "Affiliation Agreement"). The Third Amendment to Affiliation Agreement, among other things, (i) provides that Total will have the right to appoint a deputy project manager for the CVSR project, subject to certain conditions; (ii) increases the number of Total designated directors on each of the Company's Compensation Committee, Nominating and Governance Committee and any other standing or ad hoc committee of the Company's Board of Directors to two members out of four (from one member out of three each), excluding the Audit Committee; (iii) broadens the definition of the period during which the Company must obtain the affirmative vote or written consent of Total prior to undertaking certain actions to include the period during which the Liquidity Support Arrangements are outstanding; (iv) requires the affirmative vote or written consent of Total for any repurchases by the Company of its common stock and under certain circumstances, issuance of convertible debt, including to refinance existing convertible debt; and (v) specifies that the standstill provisions of the Affiliation Agreement do not apply to securities issued in connection with the Liquidity Support Arrangements.

The above description of the Third Amendment to Affiliation Agreement is a summary only and is qualified in its entirety by reference to the Third Amendment to Affiliation Agreement, which is attached hereto as Exhibit 10.91 and is incorporated herein by reference.

Revolving Credit and Convertible Loan Agreement

On February 28, 2012, the Company and Total entered into a Revolving Credit and Convertible Loan Agreement, pursuant to which, the Company may receive Liquidity Injections from Total in the form of Revolving Loans or Convertible Loans pursuant to the terms of such agreement. All Revolving Loans and Convertible Loans shall accrue interest as described above. All Revolving Loans shall be in an initial principal amount that is an integral multiple of $1 million and not less than $5 million, or the amount remaining available under the $600 million Liquidity Support Facility. All Convertible Loans shall be in an initial principal amount that is an integral multiple of $1 million and not less than $10 million, or the amount remaining available under the $600 million Liquidity Support Facility. All Revolving Loans or Convertible Loans must rank pari passu with the Company's existing senior indebtedness, and secured to the fullest extent permitted by the Company's debt agreements. Total may demand prepayment of Revolving Loans and/or Convertible Loans, provided that after such prepayment, the Company would maintain its Reported Liquidity of at least $150 million and would not be in default of any

financial covenant under its indebtedness; after the expiration of the Compensation and Funding Agreement, Total may demand prepayment without regard to these conditions.

The above description of the Revolving Credit and Convertible Loan Agreement is a summary only and is qualified in its entirety by reference to the Revolving Credit and Convertible Loan Agreement, which is attached hereto as Exhibit 10.93 and is incorporated herein by reference.

Private Placement Agreement

On February 28, 2012, the Company and Total entered into a Private Placement Agreement, pursuant to which the Company will issue and sell to Total, and Total will purchase from the Company, the Company's common stock or warrants to purchase the Company's common stock with respect to each Liquidity Injection as specified by the terms of the Compensation and Funding Agreement. The number of warrant shares and exercise price will be calculated in accordance with the Compensation and Funding Agreement, and any common stock sold under the Private Placement Agreement will be priced at a 17% discount from the 30-Day VWAP as of the date such common stock is sold.

The above description of the Private Placement Agreement is a summary only and is qualified in its entirety by reference to the Private Placement Agreement, which is attached hereto as Exhibit 10.94 and is incorporated herein by reference.

Relationship Between the Company and Total

On June 21, 2011, the Company became a majority-owned subsidiary of Total through a tender offer whereby Total purchased approximately 60% of the Company's outstanding shares of Class A common stock and Class B common stock (which, as previously announced, the Company reclassified into a single class of common stock on November 16, 2011). In connection with the tender offer, the Company, Total and Total S.A. entered into several ancillary agreements, including (i) a Credit Support Agreement, pursuant to which Total S.A. agreed to provide certain guarantees and otherwise assist the Company in obtaining credit from third-party sources, and (ii) the Affiliation Agreement (described above), which defines the conditions under which Total may acquire further SunPower common stock and sets forth various principles for the governance of the Company during Total's period of control. Pursuant to the Affiliation Agreement, Total has designated, and currently has the continuing right to nominate, six of the Company's 11 directors.

On January 31, 2011, the Company acquired Tenesol S.A., a société anonyme organized under the laws of the Republic of France, from Total, and in connection with the acquisition, Total purchased 18.6 million additional shares of the Company's common stock in a private placement. The completion of the private placement increased Total's ownership percentage of the Company's common stock to approximately 66% of outstanding common stock.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information contained in Item 1.01 above is incorporated herein by reference.

Item 3.02. Unregistered Sales of Equity Securities.

On February 28, 2012, the Company issued to Total the Upfront Warrant (described above) to purchase 9,531,677 shares of the Company's common stock with an exercise price of $7.8685, subject to adjustment for customary anti-dilution and other events. The Company did not receive any cash consideration for the Upfront Warrant. The Company believes that the issuance and sale of the Upfront Warrant was exempt from the registration requirements of the Securities Act of 1933 pursuant to Section 4(2) thereunder.

The information contained in Item 1.01 above is incorporated herein by reference.

The above description of the Upfront Warrant is a summary only and is qualified in its entirety by reference to the Upfront Warrant, which is attached hereto as Exhibit 10.92 and is incorporated herein by reference.

Item 5.07. Submission of Matters to a Vote of Security Holders.

In accordance with the requirements of the Nasdaq Stock Market Listing Rules, the Company was required to seek stockholder approval of the Liquidity Support Arrangements. On February 28, 2012, Total, the holder of 78,576,682 shares of common stock of the Company, constituting a majority of the voting control of the Company, approved by written consent the

Liquidity Support Arrangements.

In connection with the written consent, the Company will file an Information Statement (the "Information Statement") with the Securities and Exchange Commission pursuant to Section 14(c) of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder, and will provide a copy of the Information Statement to all stockholders who did not execute the written consent.

PART III

Certain information required by Part III is omitted from this Annual Report on Form 10-K. We intend to file a definitive Proxy Statement pursuant to Regulation 14A not later than 120 days after the end of the fiscal year covered by this Annual Report on Form 10-K, and certain information included therein is incorporated herein by reference.

ITEM 10. ***DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE***

Information appearing under this Item is incorporated herein by reference to the similarly named section in our proxy statement for the 2012 annual meeting of stockholders.

We have adopted a code of ethics, entitled Code of Business Conduct and Ethics, that applies to all of our directors, officers and employees, including our principal executive officer, principal financial officer, and principal accounting officer. We have made it available, free of charge, on our website at www.sunpowercorp.com, and if we amend it or grant any waiver under it that applies to our principal executive officer, principal financial officer, or principal accounting officer, we will promptly post that amendment or waiver on our website as well.

ITEM 11: ***EXECUTIVE COMPENSATION***

Information appearing under this Item is incorporated herein by reference to the similarly named section in our proxy statement for the 2012 annual meeting of stockholders.

ITEM 12: ***SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS***

Information appearing under this Item is incorporated herein by reference to the similarly named section in our proxy statement for the 2012 annual meeting of stockholders.

ITEM 13: ***CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE***

Information appearing under this Item is incorporated herein by reference to the similarly named section in our proxy statement for the 2012 annual meeting of stockholders.

ITEM 14: ***PRINCIPAL ACCOUNTANT FEES AND SERVICES***

Information appearing under this Item is incorporated herein by reference to the similarly named section in our proxy statement for the 2012 annual meeting of stockholders.

PART IV

ITEM 15: *EXHIBITS AND FINANCIAL STATEMENT SCHEDULES*

The following documents are filed as a part of this Annual Report on Form 10-K:

1. *Financial Statements:*

2. *Financial Statement Schedule:*

All financial statement schedules are omitted as the required information is inapplicable or the information is presented in the Consolidated Financial Statements or Notes to Consolidated Financial Statements under Item 8 of this Annual Report on Form 10-K.

3. *Exhibits:*

EXHIBIT INDEX

Exhibit Number	Description
2.1	Share Purchase Agreement, dated February 11, 2010, by and among SunPower Corporation, SunRay Malta Holdings Limited and the shareholders of SunRay Malta Holdings Limited named therein (incorporated by reference to Exhibit 2.1 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on February 16, 2010).
2.2	Stock Purchase Agreement, dated December 23, 2011, by and among SunPower Corporation, Total Gas & Power USA, SAS, and Total Energie Développement SAS (incorporated by reference to Exhibit 2.1 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 23, 2011).
3.1	Restated Certificate of Incorporation of SunPower Corporation (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 16, 2011).
3.2	Amended and Restated By-Laws of SunPower Corporation (incorporated by reference to Exhibit 3.3 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 16, 2011).
4.1 *	Specimen Common Stock Certificate.
4.2	Indenture, dated February 7, 2007, by and between SunPower Corporation and Wells Fargo Bank, National Association, as Trustee (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on February 8, 2007).
4.3	First Supplemental Indenture, dated February 7, 2007, by and between SunPower Corporation and Wells Fargo Bank, National Association (incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on February 8, 2007).
4.4	Form of Second Supplemental Indenture, by and between SunPower Corporation and Wells Fargo Bank, National Association (incorporated by reference to Exhibit 4.1 of Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 26, 2007).
4.5	Third Supplemental Indenture, dated May 4, 2009, by and between SunPower Corporation and Wells Fargo Bank, N.A., as Trustee (incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K filed by SunPower Corporation on May 6, 2009).

4.6	Fourth Supplemental Indenture, dated April 1, 2010, by and between SunPower Corporation and Wells Fargo, National Association as Trustee (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on April 6, 2010).
4.7	Fifth Supplemental Indenture, dated November 16, 2011, by and between SunPower Corporation and Wells Fargo Bank, National Association as Trustee (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 16, 2011).
4.8	Sixth Supplemental Indenture, dated November 16, 2011, by and between SunPower Corporation and Wells Fargo Bank, National Association as Trustee (incorporated by reference to Exhibit 4.2 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 16, 2011).
4.9	Seventh Supplemental Indenture, dated November 16, 2011, by and between SunPower Corporation and Wells Fargo Bank, National Association as Trustee (incorporated by reference to Exhibit 4.3 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 16, 2011).
4.10	Eighth Supplemental Indenture, dated November 16, 2011, by and between SunPower Corporation and Wells Fargo Bank, National Association as Trustee (incorporated by reference to Exhibit 4.4 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 16, 2011).
4.11	Amended and Restated Rights Agreement, dated November 16, 2011, by and between SunPower Corporation and Computershare Trust Company, N.A., as Rights Agent, including the form of Certificate of Designation of Series A Junior Participating Preferred Stock, the forms of Right Certificates, and the Summary of Rights attached thereto as Exhibits A, B, and C, respectively (incorporated by reference to Exhibit 4.1 to the Registrant's Registration Statement on Form 8-A filed with the Securities and Exchange Commission on November 16, 2011).
4.12	Certificate of Designation of Series A Junior Participating Preferred Stock of SunPower Corporation (incorporated by reference to Exhibit 4.6 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 16, 2011).
10.1	Convertible Debenture Hedge Transaction Confirmation, dated April 28, 2009, by and between SunPower Corporation and Wachovia Bank, National Association (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by SunPower Corporation on April 30, 2009).
10.2	Convertible Debenture Hedge Transaction Confirmation, dated April 28, 2009, by and between SunPower Corporation and Credit Suisse International (incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K filed by SunPower Corporation on April 30, 2009).
10.3	Convertible Debenture Hedge Transaction Confirmation, dated April 28, 2009, by and between SunPower Corporation and Deutsche Bank AG, London Branch (incorporated by reference to Exhibit 10.3 to the Current Report on Form 8-K filed by SunPower Corporation on April 30, 2009).
10.4	Convertible Debenture Hedge Transaction Confirmation, dated March 25, 2010, by and between SunPower Corporation and Bank of America, N.A. (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on March 29, 2010).
10.5	Convertible Debenture Hedge Transaction Confirmation, dated March 25, 2010, by and between SunPower Corporation and Barclays Bank PLC (incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on March 29, 2010).
10.6	Convertible Debenture Hedge Transaction Confirmation, dated March 25, 2010, by and between SunPower Corporation and Credit Suisse International (incorporated by reference to Exhibit 10.4 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on March 29, 2010).
10.7	Convertible Debenture Hedge Transaction Confirmation, dated March 25, 2010, by and between SunPower Corporation and Deutsche Bank AG, London Branch (incorporated by reference to Exhibit 10.5 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on March 29, 2010).
10.8	Convertible Debenture Hedge Transaction Confirmation, dated April 5, 2010, by and between SunPower Corporation and Bank of America, N.A. (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on April 9, 2010).
10.9	Convertible Debenture Hedge Transaction Confirmation, dated April 5, 2010, by and between SunPower Corporation and Barclays Bank PLC (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on April 9, 2010).
10.10	Convertible Debenture Hedge Transaction Confirmation, dated April 5, 2010, by and between SunPower Corporation and Credit Suisse International (incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on April 9, 2010).

10.11	Convertible Debenture Hedge Transaction Confirmation, dated April 5, 2010, by and between SunPower Corporation and Deutsche Bank AG, London Branch (incorporated by reference to Exhibit 10.4 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on April 9, 2010).
10.12	Warrant Transaction Confirmation, dated April 28, 2009, by and between SunPower Corporation and Wachovia Bank, National Association (incorporated by reference to Exhibit 10.4 to the Current Report on Form 8-K filed by SunPower Corporation on April 30, 2009).
10.13	Warrant Transaction Confirmation, dated April 28, 2009, by and between SunPower Corporation and Credit Suisse International (incorporated by reference to Exhibit 10.5 to the Current Report on Form 8-K filed by SunPower Corporation on April 30, 2009).
10.14	Warrant Transaction Confirmation, dated April 28, 2009, by and between SunPower Corporation and Deutsche Bank AG, London Branch (incorporated by reference to Exhibit 10.6 to the Current Report on Form 8-K filed by SunPower Corporation on April 30, 2009).
10.15	Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Bank of America, N.A. (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 23, 2010).
10.16	Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Barclays Bank PLC (incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 23, 2010).
10.17	Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Credit Suisse International (incorporated by reference to Exhibit 10.4 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 23, 2010).
10.18	Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Deutsche Bank AG, London Branch (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 23, 2010).
10.19	Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Bank of America, N.A. (incorporated by reference to Exhibit 10.6 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 23, 2010).
10.20	Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Barclays Bank PLC (incorporated by reference to Exhibit 10.7 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 23, 2010).
10.21	Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Credit Suisse International (incorporated by reference to Exhibit 10.8 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 23, 2010).
10.22	Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Deutsche Bank AG, London Branch (incorporated by reference to Exhibit 10.5 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 23, 2010).
10.23	Share Lending Agreement, dated July 25, 2007, by and among SunPower Corporation and Credit Suisse International, through Credit Suisse Securities (USA) LLC (incorporated by reference to Exhibit 10.1 of Registrant’s Current Report on Form 8-K filed with the Securities and Exchange Commission on July 26, 2007).
10.24	Amended and Restated Share Lending Agreement, dated July 25, 2007, by and among SunPower Corporation and Lehman Brothers International (Europe) Limited, through Lehman Brothers Inc. (incorporated by reference to Exhibit 10.2 of Registrant’s Current Report on Form 8-K filed with the Securities and Exchange Commission on July 26, 2007).
10.25†	Warrant Adjustment Notice, dated August 26, 2011, from Wachovia Bank, National Association, regarding Warrant Transaction Confirmation, dated April 28, 2009, by and between SunPower Corporation and Wachovia Bank, National Association (incorporated by reference to Exhibit 10.4 to the Registrant’s Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 10, 2011).
10.26	Warrant Adjustment Notice, dated August 30, 2011, from Deutsche Bank AG, London Branch, regarding (1) Warrant Transaction Confirmation, dated April 28, 2009, by and between SunPower Corporation and Deutsche Bank AG, London Branch; (2) Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Deutsche Bank AG, London Branch; and (3) Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Deutsche Bank AG, London (incorporated by reference to Exhibit 10.5 to the Registrant’s Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 10, 2011).

10.27†	Warrant Adjustment Notice, dated August 31, 2011, from Credit Suisse International, regarding (1) Warrant Transaction Confirmation, dated April 28, 2009, by and between SunPower Corporation and Credit Suisse International; (2) Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Credit Suisse International; and (3) Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Credit Suisse International (incorporated by reference to Exhibit 10.6 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 10, 2011).
10.28	Warrant Adjustment Notice, dated September 21, 2011, from Bank of America, N.A., regarding (1) Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Bank of America, N.A.; and (2) Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Bank of America, N.A. (incorporated by reference to Exhibit 10.7 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 10, 2011).
10.29	Warrant Adjustment Notice, dated September 21, 2011, from Barclays Bank PLC, regarding (1) Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Barclays Bank PLC; and (2) Warrant Transaction Confirmation, dated December 22, 2010, by and between SunPower Corporation and Barclays Bank PLC (incorporated by reference to Exhibit 10.8 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 10, 2011).
10.30	Tender Offer Agreement, dated April 28, 2011, between SunPower Corporation and Total Gas & Power USA, SAS (incorporated by reference to Exhibit 99.2 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on May 12, 2011).
10.31	Amendment to Tender Offer Agreement, dated June 7, 2011, between SunPower Corporation and Total Gas & Power USA, SAS (incorporated by reference to Exhibit 2.1 of Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on June 7, 2011).
10.32	Tender Offer Agreement Guaranty, dated April 28, 2011, between SunPower Corporation and Total S.A. (incorporated by reference to Exhibit 99.4 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on May 12, 2011).
10.33	Credit Support Agreement, dated April 28, 2011, between SunPower Corporation and Total S.A. (incorporated by reference to Exhibit 99.5 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on May 12, 2011).
10.34	Amendment to Credit Support Agreement, dated June 7, 2011, between SunPower Corporation and Total S.A. (incorporated by reference to Exhibit 10.1 of Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on June 7, 2011).
10.35	Second Amendment to Credit Support Agreement, dated December 12, 2011, by and between Total S.A. and SunPower Corporation (incorporated by reference to Exhibit 10.3 of Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 23, 2011).
10.36	Affiliation Agreement, dated April 28, 2011, between SunPower Corporation and Total Gas & Power USA, SAS (incorporated by reference to Exhibit 99.6 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on May 12, 2011).
10.37	Amendment to Affiliation Agreement, dated June 7, 2011, between SunPower Corporation and Total Gas & Power USA, SAS (incorporated by reference to Exhibit 10.2 of Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on June 7, 2011).
10.38	Second Amendment to Affiliation Agreement, dated December 23, 2011, by and between Total G&P and SunPower Corporation (incorporated by reference to Exhibit 10.4 of Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 23, 2011).
10.39	Affiliation Agreement Guaranty, dated April 28, 2011, between SunPower Corporation and Total S.A. (incorporated by reference to Exhibit 99.7 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on May 12, 2011).
10.40	Research & Collaboration Agreement, dated April 28, 2011, between SunPower Corporation and Total Gas & Power USA, SAS (incorporated by reference to Exhibit 99.8 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on May 12, 2011).
10.41	Amendment to Research & Collaboration Agreement, dated June 7, 2011, between SunPower Corporation and Total Gas & Power USA, SAS (incorporated by reference to Exhibit 10.3 of Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on June 7, 2011).
10.42	Registration Rights Agreement, dated April 28, 2011, between SunPower Corporation and Total Gas & Power USA, SAS (incorporated by reference to Exhibit 99.9 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on May 12, 2011).
10.43	Private Placement Agreement, dated December 23, 2011, by and between Total Gas & Power USA, SAS and SunPower Corporation (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 23, 2011).

10.44	Master Agreement, dated December 23, 2011, by and among SunPower Corporation, Total Gas & Power USA, SAS, and Total S.A. (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 23, 2011).
10.45^	SunPower Corporation 1996 Stock Plan and form of agreements there under (incorporated by reference to Exhibit 10.3 to the Registrant's Registration Statement on Form S-1 filed with the Securities and Exchange Commission on August 25, 2005).
10.46^	SunPower Corporation 2005 Stock Unit Plan (incorporated by reference to Exhibit 10.28 to the Registrant's Registration Statement on Form S-1/A filed with the Securities and Exchange Commission on October 31, 2005).
10.47^	Third Amended and Restated SunPower Corporation 2005 Stock Incentive Plan and forms of agreements there under (incorporated by reference to Exhibit 4.1 to the Registrant's Registration Statement on Form S-8 filed with the Securities and Exchange Commission on November 17, 2011).
10.48^	PowerLight Corporation Common Stock Option and Common Stock Purchase Plan (incorporated by reference to Exhibit 4.3 to the Registrant's Registration Statement on Form S-8 filed with the Securities and Exchange Commission on January 25, 2007).
10.49^	Form of PowerLight Corporation Incentive/Non-Qualified Stock Option, Market Standoff and Stock Restriction Agreement (Employees) (incorporated by reference to Exhibit 4.4 to the Registrant's Registration Statement on Form S-8 filed with the Securities and Exchange Commission on January 25, 2007).
10.50^	Outside Director Compensation Policy, as amended on June 15, 2011 (incorporated by reference to Exhibit 10.17 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on August 9, 2011).
10.51^	Form of Employment Agreement for Executive Officers (incorporated by reference to Exhibit 10.16 to the Registrant's Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 19, 2010).
10.52^	SunPower Corporation Management Career Transition Plan (incorporated by reference to Exhibit 10.17 to the Registrant's Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 19, 2010).
10.53^	SunPower Corporation Executive Quarterly Key Initiative Bonus Plan (incorporated by reference to Exhibit 10.34 to the Registrant's Annual Report on Form 10-K filed with the Securities and Exchange Commission on February 28, 2011).
10.54^	SunPower Corporation Annual Executive Bonus Plan (incorporated by reference to Exhibit 10.19 to the Registrant's Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 19, 2010).
10.55^*	Form of Indemnification Agreement for Directors and Officers.
10.56^	Form of Retention Agreement, dated May 20, 2011, by and between SunPower Corporation and certain executive officers (incorporated by reference to Exhibit 10.13 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on August 9, 2011).
10.57^	Amended and Restated Employment Agreement, dated December 23, 2011, by and between SunPower Corporation and Dennis Arriola (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 23, 2011).
10.58^*	Amended and Restated Employment Agreement, dated October 27, 2011, by and between SunPower Corporation and Bruce Ledesma.
10.59†	Mortgage Loan Agreement, dated May 6, 2010, by and among SunPower Philippines Manufacturing Ltd., SPML Land, Inc. and International Finance Corporation (incorporated by reference to Exhibit 10.13 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on August 13, 2010).
10.6	Guarantee Agreement, dated May 6, 2010, by and between SunPower Corporation and International Finance Corporation (incorporated by reference to Exhibit 10.14 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on August 13, 2010).
10.61	Amendment No. 1 to Loan Agreement, dated November 2, 2010, by and between SunPower Philippines Manufacturing Ltd. and International Finance Corporation.
10.62	Loan Agreement, dated December 1, 2010, by and among California Enterprise Development Authority and SunPower Corporation, relating to $30,000,000 California Enterprise Development Authority Tax Exempt Recovery Zone Facility Revenue Bonds (SunPower Corporation - Headquarters Project) Series 2010.

10.63	First Supplement to Loan Agreement, dated June 1, 2011, by and between California Enterprise Development Authority and SunPower Corporation, relating to $30,000,000 California Enterprise Development Authority Tax Exempt Recovery Zone Facility Revenue Bonds (SunPower Corporation - Headquarters Project) Series 2010 (incorporated by reference to Exhibit 10.16 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on August 9, 2011).
10.64†	Letter of Credit Facility Agreement, dated August 9, 2011, by and among SunPower Corporation, Total S.A., the Subsidiary Applicants party thereto, the Banks party thereto, and Deutsche Bank AG New York Branch (incorporated by reference to Exhibit 10.3 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 10, 2011).
10.65*†	First Amendment to Letter of Credit Facility Agreement, dated December 20, 2011, by and among SunPower Corporation, Total S.A., the Subsidiary Applicants party thereto, the Banks party thereto, and Deutsche Bank AG New York Branch.
10.66	Revolving Credit Agreement, dated September 27, 2011, by and among SunPower Corporation, Credit Agricole Corporate and Investment Bank, and the financial institutions party thereto (incorporated by reference to Exhibit 10.9 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 10, 2011).
10.67*	First Amendment to Revolving Credit Agreement, dated December 21, 2011, by and among SunPower Corporation, Credit Agricole Corporate and Investment Bank, and the financial institutions party thereto.
10.68	Continuing Agreement for Standby Letters of Credit and Demand Guarantees, dated September 27, 2011, by and among SunPower Corporation, Deutsche Bank Trust Company Americas, and Deutsche Bank AG New York Branch (incorporated by reference to Exhibit 10.10 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 10, 2011).
10.69	Security Agreement, dated September 27, 2011, by and among SunPower Corporation, Deutsche Bank Trust Company Americas, and Deutsche Bank AG New York Branch (incorporated by reference to Exhibit 10.11 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 10, 2011).
10.70†	Joint Venture Agreement, dated May 27, 2010, by and among SunPower Technology, Ltd., AU Optronics Singapore Pte. Ltd., AU Optronics Corporation and AUO SunPower Sdn. Bhd. (formerly known as SunPower Malaysia Manufacturing Sdn. Bhd.) (incorporated by reference to Exhibit 10.15 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on August 13, 2010).
10.71	Amendment No. 1 to Joint Venture Agreement, dated June 29, 2010, by and among SunPower Technology, Ltd., AU Optronics Singapore Pte. Ltd., AU Optronics Corporation and AUO SunPower Sdn. Bhd. (formerly known as SunPower Malaysia Manufacturing Sdn. Bhd.) (incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 12, 2010).
10.72	Amendment No. 2 to Joint Venture Agreement, dated July 5, 2010, by and among SunPower Technology, Ltd., AU Optronics Singapore Pte. Ltd., AU Optronics Corporation and AUO SunPower Sdn. Bhd. (formerly known as SunPower Malaysia Manufacturing Sdn. Bhd.) (incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 12, 2010.
10.73†	Supply Agreement, dated July 5, 2010, by and among AUO SunPower Sdn. Bhd. (formerly known as SunPower Malaysia Manufacturing Sdn. Bhd.), SunPower Systems, Sarl and AU Optronics Singapore Pte. Ltd. (incorporated by reference to Exhibit 10.3 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 12, 2010).
1.74	License and Technology Agreement, dated July 5, 2010, by and among SunPower Technology, Ltd., AU Optronics Singapore Pte. Ltd. and AUO SunPower Sdn. Bhd. (formerly known as SunPower Malaysia Manufacturing Sdn. Bhd.) (incorporated by reference to Exhibit 10.4 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 12, 2010).
10.75†	Ingot Supply Agreement, dated December 22, 2006, by and between SunPower Corporation and Woongjin Energy Co., Ltd. (incorporated by reference to Exhibit 10.62 to the Registrant's Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 2, 2007).
10.76†	Amendment No. 1 to Ingot Supply Agreement, dated August 4, 2008, by and between SunPower Corporation and Woongjin Energy Co., Ltd. (incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 7, 2008).
10.77†	Amendment No. 2 to Ingot Supply Agreement, dated August 1, 2009, by and between SunPower Corporation and Woongjin Energy Co., Ltd. (incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 2, 2009).

10.78†	Amendment No. 3 to Ingot Supply Agreement, dated February 1, 2011, by and between SunPower Corporation and Woongjin Energy Co., Ltd. (incorporated by reference to Exhibit 10.7 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on May 12, 2011).
10.79†	Amendment No. 4 to Ingot Supply Agreement, dated July 5, 2011, by and between SunPower Corporation and Woongjin Energy Co., Ltd. (incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 10, 2011).
10.80*†	Amendment No. 5 to Ingot Supply Agreement, dated October 28, 2011, by and between SunPower Corporation and Woongjin Energy Co., Ltd.
10.81†	Wafering Supply and Sales Agreement, dated October 1, 2007, by and between SunPower Philippines Manufacturing Ltd. and First Philec Solar Corp. (incorporated by reference to Exhibit 10.12 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 9, 2007).
10.82*†	2011 Resolution Agreement to Wafering Supply and Sales Agreement, dated October 21, 2011, by and between SunPower Philippines Manufacturing Ltd. and First Philec Solar Corp.
10.83†	Polysilicon Supply Agreement, dated December 22, 2006, by and between SunPower Philippines Manufacturing, Ltd. and Woongjin Energy Co., Ltd. (incorporated by reference to Exhibit 10.61 to the Registrant's Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 2, 2007).
10.84†	Amendment to Polysilicon Supply Agreement, dated January 8, 2008, by and between SunPower Philippines Manufacturing, Ltd. and Woongjin Energy Co., Ltd. (incorporated by reference to Exhibit 10.4 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on May 9, 2008).
10.85†	Amendment No. 2 to Polysilicon Supply Agreement, dated August 4, 2008, by and between SunPower Philippines Manufacturing, Ltd. and Woongjin Energy Co., Ltd. (incorporated by reference to Exhibit 10.3 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 7, 2008).
10.86†	Amendment No. 3 to Polysilicon Supply Agreement, dated August 1, 2009, by and between SunPower Philippines Manufacturing, Ltd. and Woongjin Energy Co., Ltd. (incorporated by reference to Exhibit 10.3 to the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 2, 2009).
10.87	Tax Sharing Agreement, dated October 6, 2005, by and between SunPower Corporation and Cypress Semiconductor Corporation (incorporated by reference to Exhibit 10.16 to the Registrant's Registration Statement on Form S-1/A filed with the Securities and Exchange Commission on October 11, 2005).
10.88	Amendment No. 1 to Tax Sharing Agreement, dated August 12, 2008, by and between SunPower Corporation and Cypress Semiconductor Corporation (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on August 12, 2008).
10.89*	Liquidity Support Agreement, dated February 28, 2012, by and among SunPower Corporation, Total S.A. and the U.S. Department of Energy, acting by and through the Secretary of Energy
10.90*	Compensation and Funding Agreement, dated February 28, 2012, by and between SunPower Corporation and Total S.A.
10.91*	Amendment No. 3 to Affiliation Agreement, dated February 28, 2012, by and between Total Gas & Power USA, SAS and SunPower Corporation.
10.92*	Warrant to Purchase Common Stock, dated February 28, 2012, issued to Total Gas & Power USA, SAS.
10.93*†	Revolving Credit and Convertible Loan Agreement, dated February 28, 2012, by and between Total Gas & Power USA, SAS and SunPower Corporation.
10.94*	Private Placement Agreement, dated February 28, 2012, by and between Total Gas & Power USA, SAS and SunPower Corporation.
10.95*	Form of Warrant to Purchase Common Stock, issued by SunPower Corporation to Total Gas & Power USA, SAS.
10.96*	Form of Guarantee from Total S.A. and Bank.
10.97*	Form of Convertible Term Loan Note, issued by SunPower Corporation to Holder.
10.98*	Revolving Loan Note, dated February 28, 2012, issued by SunPower Corporation to Total Gas & Power USA, SAS.
10.99*	Form of Terms Agreement, between SunPower Corporation and Total Gas & Power USA, SAS.
21.1*	List of Subsidiaries.
23.1*	Consent of Independent Registered Public Accounting Firm.
24.1*	Power of Attorney.

31.1*	Certification by Chief Executive Officer Pursuant to Rule 13a-14(a)/15d-14(a).
31.2*	Certification by Chief Financial Officer Pursuant to Rule 13a-14(a)/15d-14(a).
32.1*	Certification Furnished Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS*+	XBRL Instance Document.
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Exhibits marked with a carrot (^) are director and officer compensatory arrangements.

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

Exhibits marked with a cross (†) are subject to a request for confidential treatment filed with the Securities and Exchange Commission.

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

SIGNATURES

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

SUNPOWER CORPORATION

Dated: February 29, 2012

By: /s/ DENNIS V. ARRIOLA

Dennis V. Arriola
Executive Vice President and
Chief Financial Officer

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

Signature	Title	Date
/S/ THOMAS H. WERNER Thomas H. Werner	President, Chief Executive Officer and Director (Principal Executive Officer)	February 29, 2012
/S/ DENNIS V. ARRIOLA Dennis V. Arriola	Executive Vice President and Chief Financial Officer (Principal Financial Officer)	February 29, 2012
/S/ ERIC BRANDERIZ Eric Branderiz	Vice President, Corporate Controller and Principal Accounting Officer (Principal Accounting Officer)	February 29, 2012
* W. Steve Albrecht	Director	February 29, 2012
* Betsy S. Atkins	Director	February 29, 2012
* Arnaud Chaperon	Director	February 29, 2012
* Bernard Clement	Director	February 29, 2012
* Denis Giorno	Director	February 29, 2012
* Thomas R. McDaniel	Director	February 29, 2012
* Jean-Marc Otero del Val	Director	February 29, 2012
* Jerome Schmitt	Director	February 29, 2012
* Humbert de Wendel	Director	February 29, 2012
* Patrick Wood III	Director	February 29, 2012

*By: /S/ DENNIS V. ARRIOLA
Dennis V. Arriola
Power of Attorney

Index to Exhibits

Exhibit Number	Description
4.1*	Specimen Common Stock Certificate.
10.55*^	Form of Indemnification Agreement for Directors and Officers.
10.58*^	Amended and Restated Employment Agreement, dated October 27, 2011, by and between SunPower Corporation and Bruce Ledesma.
10.65*†	First Amendment to Letter of Credit Facility Agreement, dated December 20, 2011, by and among SunPower Corporation, Total S.A., the Subsidiary Applicants party thereto, the Banks party thereto, and Deutsche Bank AG New York Branch.
10.67*	First Amendment to Revolving Credit Agreement, dated December 21, 2011, by and among SunPower Corporation, Credit Agricole Corporate and Investment Bank, and the financial institutions party thereto
10.80*†	Amendment No. 5 to Ingot Supply Agreement, dated October 28, 2011, by and between SunPower Corporation and Woongjin Energy Co., Ltd.
10.82*†	2011 Resolution Agreement to Wafering Supply and Sales Agreement, dated October 21, 2011, by and between SunPower Philippines Manufacturing Ltd. and First Philec Solar Corp.
10.89*	Liquidity Support Agreement, dated February 28, 2012, by and among SunPower Corporation, Total S.A. and the U.S. Department of Energy, acting by and through the Secretary of Energy.
10.90*	Compensation and Funding Agreement, dated February 28, 2012, by and between SunPower Corporation and Total S.A.
10.91*	Amendment No. 3 to Affiliation Agreement, dated February 28, 2012, by and between Total Gas & Power USA, SAS and SunPower Corporation.
10.92*	Warrant to Purchase Common Stock, dated February 28, 2012, issued to Total Gas & Power USA, SAS.
10.93*†	Revolving Credit and Convertible Loan Agreement, dated February 28, 2012, by and between Total Gas & Power USA, SAS and SunPower Corporation.
10.94*	Private Placement Agreement, dated February 28, 2012, by and between Total Gas & Power USA, SAS and SunPower Corporation.
10.95*	Form of Warrant to Purchase Common Stock, issued by SunPower Corporation to Total Gas & Power USA, SAS.
10.96*	Form of Guarantee from Total S.A. and Bank.
10.97*	Form of Convertible Term Loan Note, issued by SunPower Corporation to Holder.
10.98*	Revolving Loan Note, dated February 28, 2012, issued by SunPower Corporation to Total Gas & Power USA, SAS.
10.99*	Form of Terms Agreement, between SunPower Corporation and Total Gas & Power USA, SAS.
21.1*	List of Subsidiaries.
23.1*	Consent of Independent Registered Public Accounting Firm.
24.1*	Power of Attorney.
31.1*	Certification by Chief Executive Officer Pursuant to Rule 13a-14(a)/15d-14(a).
31.2*	Certification by Chief Financial Officer Pursuant to Rule 13a-14(a)/15d-14(a).
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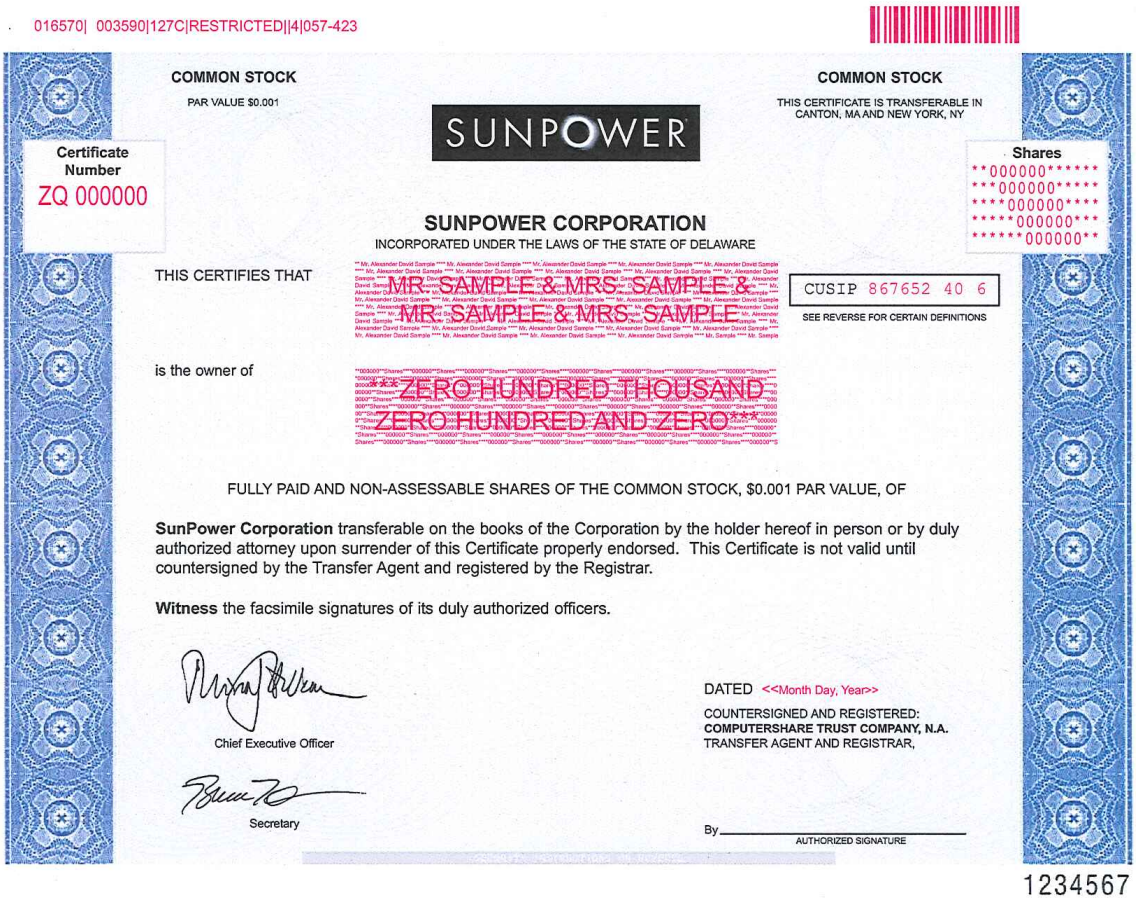
Exhibit 4.1


SUNPOWER
PO BOX 43004, Providence, RI 02940-3004
MR A SAMPLE
DESIGNATION (IF ANY)
ADD 1
ADD 2
ADD 3
ADD 4
CUSIP
Holder ID
Insurance Value
Number of Shares
DTC
12345678 12345678901234567
Certificate Numbers
Num/No. Denom. Total
1234567890/1234567890 1 1 1
1234567890/1234567890 2 2 2
1234567890/1234567890 3 3 3
1234567890/1234567890 4 4 4
1234567890/1234567890 5 5 5
1234567890/1234567890 6 6 6
Total Transaction 7


016570| 003590|127C|RESTRICTED||4|057-423
COMMON STOCK
PAR VALUE $0.001
COMMON STOCK
THIS CERTIFICATE IS TRANSFERABLE IN CANTON, MA AND NEW YORK, NY
SUNPOWER
Certificate Number
ZQ 000000
Shares
000000****
000000**
****000000****
*****000000***
******000000**
SUNPOWER CORPORATION
INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE
THIS CERTIFIES THAT
MR SAMPLE & MRS SAMPLE &
MR SAMPLE & MRS SAMPLE
CUSIP 867652 40 6
SEE REVERSE FOR CERTAIN DEFINITIONS
is the owner of
***ZERO HUNDRED THOUSAND
ZERO HUNDRED AND ZERO***
FULLY PAID AND NON-ASSESSABLE SHARES OF THE COMMON STOCK, $0.001 PAR VALUE, OF
SunPower Corporation transferable on the books of the Corporation by the holder hereof in person or by duly authorized attorney upon surrender of this Certificate properly endorsed. This Certificate is not valid until countersigned by the Transfer Agent and registered by the Registrar.
Witness the facsimile signatures of its duly authorized officers.
Chief Executive Officer
Secretary
DATED <<Month Day, Year>>
COUNTERSIGNED AND REGISTERED:
COMPUTERSHARE TRUST COMPANY, N.A.
TRANSFER AGENT AND REGISTRAR,
By
AUTHORIZED SIGNATURE
1234567

SUNPOWER CORPORATION

This Certificate also evidences and entitles the holder hereof to certain Rights as set forth in a Rights Agreement between SunPower Corporation and Computershare Trust Company, N.A., dated as of August 12, 2008, as amended (the "***Rights Agreement***"), the terms of which are hereby incorporated herein by reference and a copy of which is on file at the principal executive offices of SunPower Corporation. The Rights are not exercisable prior to the occurrence of certain events specified in the Rights Agreement. Under certain circumstances, as set forth in the Rights Agreement, such Rights may be redeemed, may be exchanged, may expire, may be amended, or may be evidenced by separate certificates and no longer be evidenced by this Certificate. SunPower Corporation will mail to the holder of this Certificate a copy of the Rights Agreement, as in effect on the date of mailing, without charge promptly after receipt of a written request therefor. Under certain circumstances as set forth in the Rights Agreement, Rights that are or were beneficially owned by an Acquiring Person or any Affiliate or Associate of an Acquiring Person (as such terms are defined in the Rights Agreement) may become null and void.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	- as tenants in common	UNIF GIFT MIN ACT- ..... (Cust) .....Custodian ..... (Minor)
TEN ENT	- as tenants by the entireties	under Uniform Gifts to Minors Act ..... (State)
JT TEN	- as joint tenants with right of survivorship and not as tenants in common	UNIF TRF MIN ACT ..... (Cust) .....Custodian (until age. . .). ..... (Minor) under Uniform Transfers to Minors Act. ..... (State)

Additional abbreviations may also be used though not in the above list.

For value received, _____ hereby sell, assign and transfer unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

_____

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING POSTAL ZIP CODE, OF ASSIGNEE)

_____

_____

_____ Shares

of the common stock represented by the within Certificate, and do hereby irrevocably constitute and appoint

_____ Attorney

to transfer the said stock on the books of the within-named Corporation with full power of substitution in the premises.

Dated: _____ 20____

Signature: _____

Signature: _____

Notice: The signature to this assignment must correspond with the name as written upon the face of the certificate, in every particular, without alteration or enlargement, or any change whatever.

Signature(s) Guaranteed: Medallion Guarantee Stamp

THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (Banks, Stockbrokers, Savings and Loan Associations and Credit Unions) WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM, PURSUANT TO S.E.C. RULE 17Ad-15.

The IRS requires that we report the cost basis of certain shares acquired after January 1, 2011. If your shares were covered by the legislation and you have sold or transferred the shares and requested a specific cost basis calculation method, we have processed as requested. If you did not specify a cost basis calculation method, we have defaulted to the first in, first out (FIFO) method. Please visit our website or consult your tax advisor if you need additional information about cost basis.

If you do not keep in contact with us or do not have any activity in your account for the time periods specified by state law, your property could become subject to state unclaimed property laws and transferred to the appropriate state.

1234567

Exhibit 10.55

SUNPOWER CORPORATION

FORM OF [SECOND AMENDED AND RESTATED] INDEMNIFICATION AGREEMENT

This [Second Amended and Restated] Indemnification Agreement (this "Agreement") is entered into as of [DATE] (the "Effective Date"), by and between SunPower Corporation, a Delaware corporation (the "Company"), and [DIRECTOR/OFFICER NAME] ("Indemnitee"). [This Agreement amends, restates and supersedes that certain Amended and Restated Indemnification Agreement, dated as of August 7, 2008, by and between the Indemnitee and the Company.]

RECITALS

A. Indemnitee is either a member of the board of directors of the Company (the "Board of Directors") or an officer of the Company, or both, and in such capacity or capacities, or otherwise as an Agent (as hereinafter defined) of the Company, is performing a valuable service for the Company.

B. Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that he or she be indemnified as herein provided.

C. It is intended that Indemnitee shall be paid promptly by the Company all amounts necessary to effectuate in full the indemnity provided herein.

NOW, THEREFORE, in consideration of the premises and the covenants in this Agreement, and of Indemnitee continuing to serve the Company as an Agent and intending to be legally bound hereby, the parties hereto agree as follows:

1. Services by Indemnitee. Indemnitee agrees to serve (a) as a director or an officer of the Company, or both, so long as Indemnitee is duly appointed or elected and qualified in accordance with the applicable provisions of the Certificate of Incorporation and bylaws of the Company, and until such time as Indemnitee resigns or fails to stand for election or is removed from Indemnitee's position, or (b) as an Agent of the Company. Indemnitee may from time to time also perform other services at the request or for the convenience of, or otherwise benefiting, the Company. Indemnitee may at any time and for any reason resign or be removed from such position (subject to any other contractual obligation or other obligation imposed by operation of law), in which event the Company shall have no obligation under this Agreement to continue Indemnitee in any such position.

2. Indemnification. Subject to the limitations set forth herein and in Section 7 hereof, the Company hereby agrees to indemnify Indemnitee as follows:

(a) Except as otherwise specifically provided herein, the Company shall, with respect to any Proceeding (as hereinafter defined) associated with Indemnitee's being an Agent of the Company, indemnify Indemnitee to the fullest extent permitted by applicable law and the Certificate of Incorporation of the Company in effect on the date hereof or as such law or Certificate of Incorporation may from time to time be amended (but, in the case of any such amendment, only to the extent such amendment permits the Company to provide broader indemnification rights than the law or Certificate of Incorporation permitted the Company to provide before such amendment).

(b) The Company shall indemnify Indemnitee if Indemnitee is or was a party or is threatened to be made a party to any threatened, pending or completed Proceeding (other than an action by or in the right of the Company) by reason of the fact that Indemnitee is or was a director, officer, employee or agent of the Company, or any subsidiary of the Company, or by reason of the fact that Indemnitee is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against Expenses (as hereinafter defined) or Liabilities (as hereinafter defined), actually and reasonably incurred by Indemnitee in connection with such Proceeding if Indemnitee acted in good faith and in a manner Indemnitee

reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe Indemnitee's conduct was unlawful.

(c) The Company shall indemnify Indemnitee if Indemnitee was or is a party or is threatened to be made a party to any threatened, pending or completed Proceeding by or in the right of the Company or any subsidiary of the Company to procure a judgment in its favor by reason of the fact that Indemnitee is or was a director, officer, employee or agent of the Company, or any subsidiary of the Company, or by reason of the fact that Indemnitee is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against Expenses and, to the fullest extent permitted by law, Liabilities if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, except that no indemnification shall be made in respect of any claim, issue or matter as to which Indemnitee shall have been adjudged to be liable to the Company unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery of the State of Delaware or such other court shall deem proper.

(d) The right to indemnification conferred herein and in the Certificate of Incorporation shall be presumed to have been relied upon by Indemnitee in serving or continuing to serve the Company as an Agent and shall be enforceable as a contract right.

3. Advancement of Expenses. All reasonable Expenses incurred by or on behalf of Indemnitee (including costs of enforcement of this Agreement) shall be advanced from time to time by the Company to Indemnitee within twenty (20) days after the receipt by the Company of a written request for an advance of Expenses, whether prior to or after final disposition of a Proceeding (except to the extent that there has been a Final Adverse Determination (as hereinafter defined) that Indemnitee is not entitled to be indemnified for such Expenses), including, without limitation, any Proceeding brought by or in the right of the Company. The written request for an advancement of any and all Expenses under this paragraph shall contain reasonable detail of the Expenses incurred by Indemnitee. In the event that such written request shall be accompanied by an affidavit of counsel to Indemnitee to the effect that such counsel has reviewed such Expenses and that such Expenses are reasonable in such counsel's view, then such expenses shall be deemed reasonable in the absence of clear and convincing evidence to the contrary. By execution of this Agreement, Indemnitee shall be deemed to have made whatever undertaking as may be required by law at the time of any advancement of Expenses with respect to repayment to the Company of such Expenses. In the event that the Company shall breach its obligation to advance Expenses under this Section 3, the parties hereto agree that Indemnitee's remedies available at law would not be adequate and that Indemnitee would be entitled to specific performance.

4. Surety Bond.

(a) In order to secure the obligations of the Company to indemnify and advance Expenses to Indemnitee pursuant to this Agreement, as soon as practicable, but in any event no later than thirty (30) days following the Effective Date, the Company shall obtain a surety bond for the sole benefit of Indemnitee (the “Bond”). The Bond shall be in an appropriate amount not less than $2,000,000 if Indemnitee is a Disinterested Director (as hereinafter defined) and $1,000,000 if Indemnitee is not a Disinterested Director (which amounts shall include the amount of any Bond already obtained by the Company), shall be issued by a commercial insurance company or other financial institution headquartered in the United States having assets in excess of $10 billion and capital according to its most recent published reports equal to or greater than the then applicable minimum capital standards promulgated by such entity's primary federal regulator and shall contain terms and conditions reasonably acceptable to Indemnitee. The Bond shall provide that Indemnitee may from time to time file a claim for payment under the Bond, upon written certification by Indemnitee to the issuer of the Bond that (i) Indemnitee has made written request upon the Company for an amount not less than the amount Indemnitee is drawing under the Bond and that the Company has failed or refused to provide Indemnitee with such amount in full within thirty (30) days after receipt of the request, and (ii) Indemnitee believes that he or she is entitled under the terms of this Agreement to the amount that Indemnitee is drawing upon under the Bond. For the avoidance of doubt, Indemnitee shall be entitled to receive payment under the Bond in connection with any proceeding against the Company to enforce Indemnitee's rights under Section 9. The issuance of the Bond shall not in any way diminish the Company's obligation to indemnify and advance

Expenses to Indemnitee and to indemnify Indemnitee against Liabilities to the full extent required by this Agreement.

(b) Once the Company has obtained the Bond, the Company shall maintain and renew the Bond or a substitute Bond meeting the criteria of Section 4(a) during the term of this Agreement so that the Bond shall have an initial term of five (5) years, be renewed for successive five-year terms, and always have at least one (1) year of its term remaining.

(c) Notwithstanding anything to the contrary in Section 4(a), the minimum amount of the Bond, if Indemnitee is a Disinterested Director, shall decrease to $1,000,000 effective upon the triggering of the "run-off" period of the insurance policies required under Section 11(a).

5. Presumptions and Effect of Certain Proceedings. Upon making a request for indemnification, Indemnitee shall be presumed to be entitled to indemnification under this Agreement and the Company shall have the burden of proof to overcome that presumption in reaching any contrary determination. The termination of any Proceeding by judgment, order, settlement, arbitration award or conviction, or upon a plea of nolo contendere or its equivalent shall not affect this presumption or, except as determined by a judgment or other final adjudication adverse to Indemnitee, establish a presumption with regard to any factual matter relevant to determining Indemnitee's rights to indemnification hereunder. If the person or persons so empowered to make a determination pursuant to Section 6 hereof shall have failed to make the requested determination within thirty (30) days after any judgment, order, settlement, dismissal, arbitration award, conviction, acceptance of a plea of nolo contendere or its equivalent, or other disposition or partial disposition of any Proceeding or any other event that could enable the Company to determine Indemnitee's entitlement to indemnification, the requisite determination that Indemnitee is entitled to indemnification shall be deemed to have been made.

6. Procedure for Determination of Entitlement to Indemnification.

(a) Whenever Indemnitee believes that Indemnitee is entitled to indemnification pursuant to this Agreement, Indemnitee shall submit a written request for indemnification to the Company. Any request for indemnification shall include sufficient documentation or information reasonably available to Indemnitee for the determination of entitlement to indemnification. In any event, Indemnitee shall submit Indemnitee's claim for indemnification within a reasonable time, not to exceed five (5) years after any judgment, order, settlement, dismissal, arbitration award, conviction, acceptance of a plea of nolo contendere or its equivalent, or final determination, whichever is the later date for which Indemnitee requests indemnification. The Secretary or other appropriate officer shall, promptly upon receipt of Indemnitee's request for indemnification, advise the Board of Directors in writing that Indemnitee has made such request. Determination of Indemnitee's entitlement to indemnification and, if so entitled, full payment of Indemnitee's claim for indemnification shall be made not later than thirty (30) days after the Company's receipt of Indemnitee's written request for such indemnification, provided that any request for indemnification for Liabilities, other than amounts paid in settlement, shall have been made after a determination thereof in a Proceeding.

(b) The Company shall be entitled to select the forum in which Indemnitee's entitlement to indemnification will be heard; provided, however, that if there is a Change in Control of the Company, Independent Legal Counsel (as hereinafter defined) shall determine whether Indemnitee is entitled to indemnification. The forum shall be any one of the following:

(i) a majority vote of Disinterested Directors (as hereinafter defined), even though less than a quorum;

(ii) by a committee of Disinterested Directors designated by majority vote of the Disinterested Directors, even though less than a quorum; or

(iii) Independent Legal Counsel, whose determination shall be made in a written opinion.

7. Specific Limitations on Indemnification. Notwithstanding anything in this Agreement to the contrary, the Company shall not be obligated under this Agreement to make any payment to Indemnitee with respect to any Proceeding:

(a) To the extent that payment is actually made to Indemnitee under any insurance policy, or is made to Indemnitee by the Company or an affiliate otherwise than pursuant to this Agreement. Notwithstanding the availability of such insurance, Indemnitee also may claim indemnification from the Company pursuant to this Agreement by assigning to the Company any claims under such insurance to the extent Indemnitee is paid by the Company;

(b) Provided there has been no Change in Control, for Liabilities in connection with Proceedings settled without the Company's consent, which consent, however, shall not be unreasonably withheld;

(c) For an accounting of profits made from the purchase or sale by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or similar provisions of any state statutory or common law;

(d) To the extent it would be otherwise prohibited by law, if so established by a judgment or other final adjudication adverse to Indemnitee; or

(e) In connection with a Proceeding commenced by Indemnitee (other than a Proceeding commenced by Indemnitee to enforce Indemnitee's rights under this Agreement) unless the commencement of such Proceeding was authorized by the Board of Directors.

8. Fees and Expenses of Independent Legal Counsel. The Company agrees to pay the reasonable fees and expenses of Independent Legal Counsel should such Independent Legal Counsel be retained to make a determination of Indemnitee's entitlement to indemnification pursuant to Section 6(b) of this Agreement, and to fully indemnify such Independent Legal Counsel against any and all expenses and losses incurred by it arising out of or relating to this Agreement or its engagement pursuant hereto.

9. Remedies of Indemnitee.

(a) In the event that (i) a determination pursuant to Section 6 hereof is made that Indemnitee is not entitled to indemnification, (ii) advances of Expenses are not made pursuant to this Agreement, (iii) payment has not been timely made following a determination of entitlement to indemnification pursuant to this Agreement, (iv) the Company fails to maintain the Policies required under Section 11 hereof or (v) Indemnitee otherwise seeks enforcement of this Agreement, Indemnitee shall be entitled to a final adjudication in the Court of Chancery of the State of Delaware of the remedy sought. Alternatively, unless court approval is required by law for the indemnification sought by Indemnitee, Indemnitee at Indemnitee's option may seek an award in arbitration to be conducted by a single arbitrator pursuant to the commercial arbitration rules of the American Arbitration Association now in effect, which award is to be made within thirty (30) days following the filing of the demand for arbitration. The Company shall not oppose Indemnitee's right to seek any such adjudication or arbitration award. In any such proceeding or arbitration, Indemnitee shall be presumed to be entitled to indemnification and advancement of Expenses under this Agreement and the Company shall have the burden of proof to overcome that presumption.

(b) In the event that a determination that Indemnitee is not entitled to indemnification, in whole or in part, has been made pursuant to Section 6 hereof, the decision in the judicial proceeding or arbitration provided in paragraph (a) of this Section 9 shall be made *de novo* and Indemnitee shall not be prejudiced by reason of a determination that Indemnitee is not entitled to indemnification.

(c) If a determination that Indemnitee is entitled to indemnification has been made pursuant to Section 6 hereof, or is deemed to have been made pursuant to Section 5 hereof or otherwise pursuant to the terms of this Agreement, the Company shall be bound by such determination in the absence of a misrepresentation or omission of a material fact by Indemnitee in connection with such determination.

(d) The Company shall be precluded from asserting that the procedures and presumptions of this Agreement are not valid, binding and enforceable. The Company shall stipulate in any such court or before any such arbitrator that the Company is bound by all of the provisions of this Agreement and is precluded from making any assertion to the contrary.

(e) Expenses reasonably incurred by Indemnitee in connection with Indemnitee's request for indemnification under, seeking enforcement of or to recover damages for breach of this Agreement shall be borne by the Company when and as incurred by Indemnitee irrespective of any Final Adverse Determination that Indemnitee is not entitled to indemnification.

10. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of the costs, judgments, penalties, fines, liabilities or Expenses actually and reasonably incurred in connection with any action, suit or proceeding (including an action, suit or proceeding brought by or on behalf of the Company), but not, however, for all of the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion of such costs, judgments, penalties, fines, liabilities and Expenses actually and reasonably incurred to which Indemnitee is entitled.

11. Maintenance of Insurance.

(a) Subject to Section 11(b), the Company shall obtain and maintain in effect for the benefit of Indemnitee until the earlier of (i) the end of the Indemnification Period (as hereinafter defined) or (ii) a Board Composition Change (as hereinafter defined) subject to the terms of Section 11(b), policies of insurance with insurance companies that permit resolution of all disputes in the United States and rated "A-" or higher by A.M. Best Company to provide Indemnitee with coverage for losses from wrongful acts and omissions and to ensure the Company's performance of its indemnification obligations under this Agreement (collectively, the "Policies"). The Policies shall, unless otherwise approved by at least four (4) of the Designated Individuals (as hereinafter defined), satisfy each of the following requirements: (i) be non-cancelable and non-rescindable; (ii) provide Indemnitee with rights and benefits that are at least as favorable as those provided to Indemnitee under the Company's directors and officers insurance policies existing on the Effective Date (which, for the avoidance of doubt, shall include Excess Side A and, if the Indemnitee is a Disinterested Director, Independent Director Liability policies); and (iii) provide for at least six (6) years of "run-off" coverage for Indemnitee, with such "run-off" period triggered upon a Board Composition Change. Indemnitee shall be covered by the Policies in accordance with their terms, with such coverage primary to any other coverage Indemnitee may have for the Company's obligations to Indemnitee under this Agreement. In all such Policies, Indemnitee shall be afforded rights and benefits at least as favorable as those accorded to the most favorably insured of the Company's directors and officers.

(b) Notwithstanding anything to the contrary in Section 11(a), the Company shall not be obligated to maintain the Policies following a Board Composition Change if, at the time of the Board Composition Change, such Policies include the "run-off" coverage described in clause (iii) of Section 11(a). For the avoidance of doubt, any Policies that do not include such "run-off" coverage must be maintained during the entire Indemnification Period.

(c) At the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company shall give prompt notice of the commencement of such proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all commercially reasonable actions to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such proceeding in accordance with the terms of such policies.

(d) As soon as practicable, but in any event no later than thirty (30) days following the Effective Date, the Company shall create a trust for the benefit of the Indemnitee (the "Trust") and shall fund the Trust in an amount sufficient to pay the premiums for, and obtain, the "run-off" coverage required under Section 11(a)(iii). The initial amount of the Trust shall be $1,057,399 provided that the Company shall fund additional amounts as appropriate to reflect any changes to the expected premiums and costs of acquiring the required "run-off" coverage. The Trust shall not be revoked or the principal thereof invaded without the written consent of the Indemnitee and the funds in the Trust shall be used to pay the premiums with respect to the "run-off" coverage. All unexpended funds in the Trust shall revert to the Company upon the earlier of (i) the acquisition of "run-off" coverage for Indemnitee in accordance with Section 11(a)(iii) and (ii) expiration of the Indemnification Period. The trustee of the Trust shall be chosen by the Indemnitee. Nothing in this Section 11(d) shall relieve the Company of any of its obligations under this Agreement. The Company shall pay all costs of establishing and maintaining the Trust and shall indemnify the trustee of the Trust against any and all expenses (including attorneys' fees), claims, liabilities, loss, and damages arising out of or relating to this Agreement or the establishment and maintenance of the Trust.

The Company may, at its option and expense, acquire a surety bond instead of establishing the Trust described in this Section 11(d) to secure the obligations described in Section 11(a)(iii); provided that such surety bond must comply with all of the requirements of Section 4 relating to the issuer of the Bond.

(e) As used herein, the following terms shall have the following meanings:

(i) "Indemnification Period" means the period for which Indemnitee may have any liability or potential liability by virtue of serving as a director or officer of the Company, or both, or as an Agent of the Company, including, without limitation, the final termination of all pending Proceedings in respect of which Indemnitee is granted rights of indemnification or advancement of Expenses hereunder and of any Proceeding commenced by Indemnitee pursuant to Section 9 hereof relating thereto.

(ii) A "Board Composition Change" shall occur at such time that none of the Disinterested Directors who serve on the Company's Board of Directors as of the Effective Date continue to serve in such capacity.

(iii) "Disinterested Director" means a member of the Company's Board of Directors who (i) was not designated for such position by Total S.A., a société anonyme organized under the laws of the Republic of France ("Total"), or its affiliates (other than the Company) and (ii) is not an officer of Total or any of its affiliates (other than the Company).

(iv) "Designated Individuals" means W. Steve Albrecht, Betsy Atkins, Uwe Bufe, Thomas McDaniel and Pat Wood III.

12. Modification, Waiver, Termination and Cancellation. No supplement, modification, termination, cancellation or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver.

13. Subrogation. In the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Company effectively to bring suit to enforce such rights.

14. Notice by Indemnitee and Defense of Claim. Indemnitee shall promptly notify the Company in writing upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any matter, whether civil, criminal, administrative or investigative, but the omission so to notify the Company will not relieve it from any liability that it may have to Indemnitee if such omission does not prejudice the Company's rights. If such omission does prejudice the Company's rights, the Company will be relieved from liability only to the extent of such prejudice. Notwithstanding the foregoing, such omission will not relieve the Company from any liability that it may have to Indemnitee otherwise than under this Agreement. With respect to any Proceeding as to which Indemnitee notifies the Company of the commencement thereof:

(a) The Company will be entitled to participate therein at its own expense; and

(b) The Company jointly with any other indemnifying party similarly notified will be entitled to assume the defense thereof, with counsel reasonably satisfactory to Indemnitee; provided, however, that the Company shall not be entitled to assume the defense of any Proceeding if there has been a Change in Control or if Indemnitee shall have reasonably concluded that there may be a conflict of interest between the Company and Indemnitee with respect to such Proceeding. After notice from the Company to Indemnitee of its election to assume the defense thereof, the Company will not be liable to Indemnitee under this Agreement for any Expenses subsequently incurred by Indemnitee in connection with the defense thereof, other than reasonable costs of investigation or as otherwise provided below. Indemnitee shall have the right to employ Indemnitee's own counsel in such Proceeding, but the fees and expenses of such counsel incurred after notice from the Company of its assumption of the defense thereof shall be at the expense of Indemnitee unless:

(i) the employment of counsel by Indemnitee has been authorized by the Company;

(ii) Indemnitee shall have reasonably concluded that counsel engaged by the Company may not adequately represent Indemnitee due to, among other things, actual or potential differing interests; or

(iii) the Company shall not in fact have employed counsel to assume the defense in such Proceeding or shall not in fact have assumed such defense and be acting in connection therewith with reasonable diligence; in each of which cases the fees and expenses of such counsel shall be at the expense of the Company.

(c) The Company shall not settle any Proceeding in any manner that would impose any penalty or limitation on Indemnitee without Indemnitee's written consent; provided, however, that Indemnitee will not unreasonably withhold his or her consent to any proposed settlement.

15. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if (a) delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, (b) delivered by facsimile with telephone confirmation of receipt or (c) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed:

(i) If to Indemnitee, to the address or facsimile number set forth on the signature page hereto.

(ii) If to the Company, to:

SunPower Corporation
77 Rio Robles
San Jose, California 95134
Attn: Corporate Secretary

or to such other address as may have been furnished to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

16. Nonexclusivity. The rights of Indemnitee hereunder shall not be deemed exclusive of any other rights to which Indemnitee may be entitled under applicable law, the Company's Certificate of Incorporation or bylaws, or any agreements, vote of stockholders, resolution of the Board of Directors or otherwise, and to the extent that during the Indemnification Period the rights of the then existing directors and officers are more favorable to such directors or officers than the right currently provided to Indemnitee thereunder or under this Agreement, Indemnitee shall be entitled to the full benefits of such more favorable rights.

17. Certain Definitions.

(a) "Agent" shall mean any person who is or was, or who has consented to serve as, a director, officer, employee, agent, fiduciary, joint venturer, partner, manager or other official of the Company or a subsidiary or an affiliate of the Company, or any other entity (including without limitation, an employee benefit plan) either at the request of, for the convenience of, or otherwise to benefit the Company or a subsidiary of the Company.

(b) "Change in Control" shall mean the occurrence of any of the following:

(i) Both (A) any "person" (as defined below) is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing at least twenty percent (20%) of the total voting power represented by the Company's then outstanding voting securities and (B) the beneficial ownership by such person of securities representing such percentage has not been approved by a majority of the "continuing directors" (as defined below);

(ii) Any "person" is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing at least fifty percent (50%) of the total voting power represented by the Company's then outstanding voting securities;

(iii) A change in the composition of the Board of Directors occurs, as a result of which fewer than two-thirds of the incumbent directors are directors who either (A) had been directors of the Company on the "look-back date" (as defined below) (the "Original Directors") or (B) were elected, or nominated for election, to the Board of Directors with the affirmative votes of at least a majority in the aggregate of the Original Directors who were still in office at the time of the election or nomination and directors whose election or nomination was previously so approved (the "continuing directors");

(iv) The stockholders of the Company approve a merger or consolidation of the Company with any other corporation, if such merger or consolidation would result in the voting securities of the Company outstanding immediately prior thereto representing (either by remaining outstanding or by being converted into voting securities of the surviving entity) fifty percent (50%) or less of the total voting power represented by the voting securities of the Company or such surviving entity outstanding immediately after such merger or consolidation; or

(v) The stockholders of the Company approve (A) a plan of complete liquidation of the Company or (B) an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets.

For purposes of Subsection (i) above, the term "person" shall have the same meaning as when used in Sections 13(d) and 14(d) of the Exchange Act, but shall exclude (x) a trustee or other fiduciary holding securities under an employee benefit plan of the Company or of a parent or subsidiary of the Company or (y) a corporation owned directly or indirectly by the stockholders of the Company in substantially the same proportions as their ownership of the common stock of the Company.

For purposes of Subsection (iii) above, the term "look-back date" shall mean the later of (x) the Effective Date and (y) the date twenty-four (24) months prior to the date of the event that may constitute a "Change in Control."

Any other provision of this Section 17(b) notwithstanding, the term "Change in Control" shall not include a transaction, if undertaken at the election of the Company, the result of which is to sell all or substantially all of the assets of the Company to another corporation (the "surviving corporation"); provided that the surviving corporation is owned directly or indirectly by the stockholders of the Company immediately following such transaction in substantially the same proportions as their ownership of the Company's common stock immediately preceding such transaction; and provided, further, that the surviving corporation expressly assumes this Agreement.

(c) "Disinterested Director" shall mean a director of the Company who is not or was not a party to or otherwise involved in the Proceeding in respect of which indemnification is being sought by Indemnitee.

(d) "Expenses" shall include all direct and indirect costs (including, without limitation, attorneys' fees, retainers, court costs, transcripts, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, all other disbursements or out-of-pocket expenses and reasonable compensation for time spent by Indemnitee for which Indemnitee is otherwise not compensated by the Company or any third party) actually and reasonably incurred in connection with either the investigation, defense, settlement or appeal of a Proceeding or establishing or enforcing a right to indemnification under this Agreement, applicable law or otherwise; provided, however, that "Expenses" shall not include any Liabilities.

(e) "Final Adverse Determination" shall mean that a determination that Indemnitee is not entitled to indemnification shall have been made pursuant to Section 6 hereof and either (1) a final adjudication in the Court of Chancery of the State of Delaware or decision of an arbitrator pursuant to Section 9(a) hereof shall have denied Indemnitee's right to indemnification hereunder, or (2) Indemnitee shall have failed to file a complaint in a Delaware court or seek an arbitrator's award pursuant to Section 9(a) for a period of one hundred twenty (120) days after the determination made pursuant to Section 6 hereof.

(f) "Independent Legal Counsel" shall mean a law firm or a member of a firm selected by the Company and approved by Indemnitee (which approval shall not be unreasonably withheld) or, if there has been a Change in Control, selected by Indemnitee and approved by the Company (which approval shall not be unreasonably withheld), that neither is presently nor in the past five (5) years has been retained to represent: (i) the Company or any of its subsidiaries or affiliates, or Indemnitee or any corporation of which Indemnitee was or is a director, officer,

employee or agent, or any subsidiary or affiliate of such a corporation, in any material matter, or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term “Independent Legal Counsel” shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's right to indemnification under this Agreement.

(g) “Liabilities” shall mean liabilities of any type whatsoever including, but not limited to, any judgments, fines, ERISA excise taxes and penalties, penalties and amounts paid in settlement (including all interest assessments and other charges paid or payable in connection with or in respect of such judgments, fines, penalties or amounts paid in settlement) of any Proceeding.

(h) “Proceeding” shall mean any threatened, pending or completed action, claim, suit, arbitration, alternate dispute resolution mechanism, investigation, administrative hearing or any other proceeding whether civil, criminal, administrative or investigative, that is associated with Indemnitee's being an Agent of the Company.

18. Binding Effect; Duration and Scope of Agreement. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), spouses, heirs and personal and legal representatives. This Agreement shall continue in effect during the Indemnification Period, regardless of whether Indemnitee continues to serve as an Agent.

19. Severability. If any provision or provisions of this Agreement (or any portion thereof) shall be held to be invalid, illegal or unenforceable for any reason whatsoever:

(a) the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby; and

(b) to the fullest extent legally possible, the provisions of this Agreement shall be construed so as to give effect to the intent of any provision held invalid, illegal or unenforceable.

20. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware, as applied to contracts between Delaware residents entered into and to be performed entirely within the State of Delaware, without regard to conflict of laws rules.

21. Consent to Jurisdiction. The Company and Indemnitee each irrevocably consent to the jurisdiction of the courts of the State of Delaware for all purposes in connection with any action or proceeding that arises out of or relates to this Agreement and agree that any action instituted under this Agreement shall be brought only in the state courts of the State of Delaware.

22. Entire Agreement. This Agreement represents the entire agreement between the parties hereto, and there are no other agreements, contracts or understandings between the parties hereto with respect to the subject matter of this Agreement, except as specifically referred to herein or as provided in Section 16 hereof.

23. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by a duly authorized officer and Indemnitee has executed this Agreement as of the date first above written.

SUNPOWER CORPORATION
a Delaware corporation

By: _____

Printed Name: Thomas H. Werner
Title: CEO

INDEMNITEE

Signature: _____

Printed Name:

Address:

Telephone:
Facsimile:
E-mail:

SUNPOWER CORPORATION

BRUCE R. LEDESMA

AMENDED AND RESTATED EMPLOYMENT AGREEMENT

This Employment Agreement (this "***Agreement***") is entered into as of October 27, 2011 by and between SunPower Corporation (the "***Company***") and Bruce R. Ledesma ("***Executive***"). This Agreement shall be effective as of the date hereof (the "***Effective Date***"), the date on which the existing Employment Agreement between the Company and Executive shall expire, be of no further force or effect, and be replaced in its entirety by terms of this Agreement.

WHEREAS, Executive and the Company entered into an Employment Agreement, dated August 28, 2008 and effective as of November 1, 2008 (the "***Employment Agreement***").

WHEREAS, the Company and Total Gas & Power USA S.A.S., a French *société par actions simplifiée* (the "***Acquiror***"), entered into a Tender Offer Agreement (the "***Tender Offer Agreement***") whereupon Acquiror acquired a majority of the outstanding shares of the Company's Class A Common Stock and the Company's Class B Common Stock pursuant to the terms of the Tender Offer Agreement, and such purchase constituted a "Change of Control" as defined in the Employment Agreement.

WHEREAS, Executive and the Company desire to acknowledge and agree that the Offer Closing (as that term is defined in the Tender Offer Agreement) does not impact Executive's and the Company's respective rights and obligations under the Employment Agreement, except as provided in this Agreement.

WHEREAS, Executive and the Company desire to effect a separation of Executive's service to the Company, while providing a period of transition whereby Executive continues full performance of Executive's duties and obligations in Executive's current role under the Employment Agreement.

NOW THEREFORE, in consideration of the promises made herein, the Parties hereby agree as follows:

1. Duties and Scope of Employment.

(a) Positions and Duties. Executive will continue to serve as Executive Vice President, General Counsel and Corporate Secretary or, at the option of the Chief Executive Officer, as Legal Counsel. Executive will render such business and professional services in the performance of his duties, consistent with Executive's position within the Company, as will reasonably be assigned to him by the Chief Executive Officer of the Company or such other individual as designated by the Chief Executive Officer (the "***Supervisor***"). The period of Executive's employment under this Agreement is referred to herein as the "***Employment Term***" and shall run from the Effective Date until March 5, 2012.

(b) Obligations. During the Employment Term, Executive will devote Executive's full business efforts and time to the Company and to the full and faithful performance and execution of the position of Executive Vice President, General Counsel and Corporate Secretary or Legal Counsel (as applicable). Executive acknowledges that the performance of his duties may require reasonable business travel. For the duration of the

Employment Term, Executive agrees not to actively engage in any other employment, occupation, or consulting activity for any direct or indirect remuneration without the prior approval of the Supervisor; provided, however, that Executive may, without the approval of the Supervisor, serve in any capacity with any civic, educational, or charitable organization, provided such services do not interfere with Executive's obligations to, or compliance with the policies of, the Company.

2. At-Will Employment. Executive and the Company agree that Executive's employment with the Company constitutes "at-will" employment. Executive and the Company acknowledge that, notwithstanding the Employment Term, this employment relationship may be terminated at any time, upon written notice to the other party, with or without good cause or for any or no cause, at the option either of the Company or Executive. Executive agrees to resign from all positions that he holds with the Company immediately following the termination of his employment if the Supervisor so requests.

3. Waiver of Good Reason. Executive hereby acknowledges and agrees to waive Executive's right to claim that any facts existing as of the Effective Date constitute grounds for a termination for "Good Reason," as defined in Section 10(f) of the Employment Agreement. The Parties hereby acknowledge and agree that by waiving this right, Executive is waiving the right, at any time within the twenty-four (24) month period following the Offer Closing, to voluntarily resign for "Good Reason" (as any such event is defined in the Employment Agreement) so as to become eligible for the benefits provided in this Agreement, except as otherwise expressly provided under the terms of this Agreement.

4. Compensation.

(a) Base Salary. The Company will pay Executive a base salary of $350,000 as compensation for Executive's services (the "***Base Salary***"). The Base Salary will be paid periodically in accordance with the Company's normal payroll practices and be subject to the usual, required withholdings and to deductions authorized by Executive.

(b) Annual Bonus. Executive's target bonus will be determined from time to time by the Board and/or its compensation committee ("***Target Bonus***"). The actual bonus paid may be higher or lower than the Target Bonus for over- or under-achievement of goals as determined by the Board and/or its compensation committee in its or their sole discretion.

(c) Equity Compensation. Executive will not participate further in the Company's equity incentive programs, other than in the vesting of equity incentive awards granted to Executive prior to the Effective Date.

5. Executive Benefits. During the Employment Term, Executive will be eligible to participate in accordance with the terms of all Benefit Plans that are applicable to other senior executives of the Company, as such Benefit Plans may exist from time to time.

6. Expenses. The Company will reimburse Executive for reasonable travel, entertainment, and other expenses incurred by Executive in the furtherance of the performance of Executive's duties hereunder, in accordance with the Company's expense reimbursement and other policies as in effect from time to time. Any such reimbursement under this Section 6 shall be for expenses incurred by Executive during his employment by the Company and such reimbursement shall be made not later than the last day of the calendar year following the

calendar year in which Executive incurs the expense. In no event will the amount of expenses so reimbursed by the Company in one year affect the amount of expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year.

7. Severance.

(a) Termination Without Cause or Resignation For Good Reason. If, prior to the end of the Employment Term, Executive's employment is terminated by the Company without Cause or by Executive for Good Reason, and the termination constitutes a "separation from service" within the meaning of Section 409A of the Code, then, subject to Section 9, Executive will receive: (i) a lump-sum payment equal to Executive's Base Salary at the monthly rate in effect on the Determination Date multiplied by twenty-four (24), (ii) in the event the Termination Date follows a completed fiscal year for which Executive's annual bonus relating to such prior completed fiscal year has not been paid as of the Termination Date, a lump-sum payment equal to the actual bonus that would have been paid for such completed fiscal year, (iii) a lump-sum payment equal to Executive's Target Bonus at the annual rate in effect on the Determination Date, (iv) continuation of Executive's and Executive's eligible dependents' coverage under the Company's Benefit Plans for twelve (12) months, or, if earlier, until Executive is eligible for similar benefits from another employer (provided Executive validly elects to continue coverage under applicable law and assumes the cost, on an after-tax basis, for such continuation coverage), (v) a lump-sum payment equal to Executive's accrued and unpaid Base Salary and paid time off earned by the Executive through the Termination Date, and (vi) except as provided in Section 7(e), on or about January 31 of the year following the year in which the Termination Date occurs and continuing on or about each January 31 until the year following the last year of Executive's Benefit Plans' coverage pursuant to this Section 7(a), a payment from the Company to Executive (the "***Benefit Plans Make-Up Payment***") such that after payment of all taxes incurred by Executive, Executive receives an amount equal to the amount Executive paid during the immediately preceding calendar year for the Benefit Plans' coverage described in this Section. The Company shall provide the reimbursement provided in clause (vi) no later than the last day of the third year following the year in which Executive's Termination Date occurs. Except as provided in Section 7(e), or as earlier required by applicable law, the Company shall pay the lump sum payments prescribed by Section 7(a) on no later than the third (3rd) business day following the Termination Date.

(b) Termination at the End of the Employment Term. Upon termination of Executive's employment at the end of the Employment Term, Executive will receive: (i) a lump-sum payment equal to Executive's Base Salary at the monthly rate in effect on the Effective Date multiplied by eighteen (18), (ii) a lump-sum payment equal to Executive's Target Bonus at the annual rate in effect on the Effective Date, (iii) continuation of Executive's and Executive's eligible dependents' coverage under the Company's Benefit Plans for twelve (12) months, or, if earlier, until Executive is eligible for similar benefits from another employer (provided Executive validly elects to continue coverage under applicable law and assumes the cost, on an after-tax basis, for such continuation coverage), (iv) a lump-sum payment equal to Executive's accrued and unpaid Base Salary and paid time off earned by the Executive through the Termination Date, and (v) except as provided in Section 7(e), on or about January 31, of the year following the year in which the Termination Date occurs and continuing on or about each January 31 until the year following the last year of Executive's Benefit Plans' coverage pursuant to this Section 7(b), the Company will make a Benefit Plans Make-Up Payment to Executive such that after payment of all taxes incurred by Executive, Executive receives an amount equal to

the amount Executive paid during the immediately preceding calendar year for the Benefit Plans' coverage described in this Section 7(b). Except as provided in Section 7(e), or as earlier required by applicable law, the Company shall pay the lump sum payments prescribed by Section 7(b) no later than the third (3rd) business day following the Termination Date. Prior to the end of the Employment Term the Company shall pay Executive all earned and unpaid amounts owed under the terms of cash bonus programs in which he participated during fiscal year 2011.

(c) Termination Pursuant to Section 10(b)(i). If, prior to the end of the Employment Term, Executive's employment is terminated by the Company for Cause within the meaning of Section 10(b)(i) following proper notice and failure to cure contemplated therein, and such termination constitutes a "separation from service" within the meaning of Section 409A of the Code, then, subject to Section 9, Executive will receive a pro rata portion of (1) the W-2 gross income which he would have otherwise received if he had been employed until March 5, 2012, with such amount paid on or before March 5, 2012, and (2) the severance amounts contemplated by Section 7(b), with such amounts paid at such times specified in Section 7(b). In such event the parties will work in good faith to mutually agree on such pro rata amount, which will be calculated by multiplying the amounts described in the preceding clauses (1) and (2) by a fraction, the numerator of which shall be the number of days from (but excluding) the Offer Closing to (and including) the date of Executive's "separation of service" and the denominator of which shall be the number of dates from (but excluding) the Offer Closing to (and including) March 5, 2012.

(d) Sole Right to Severance. This Agreement is intended to represent Executive's sole entitlement to severance payments and benefits in the event of a termination of his employment. Executive shall not be entitled to claim severance payments under any other agreement or policy, including without limitation under the SunPower Corporation Management Career Transition Plan.

(e) Timing of Payments. To the extent necessary to avoid taxes and penalties under Section 409A of the Code, if, as of the Termination Date, Executive is a "specified employee," within the meaning of Treasury Regulation §1.409A and using the identification methodology selected by the Company from time to time, the lump-sum payments specified in Sections 7(a), (b) and (c) and, if it would otherwise be paid before the date specified in this Section 7(e), the first Benefit Plans Make-Up Payment, shall be paid on the first business day of the seventh month after the Termination Date, or, if earlier, upon Executive's death. Any payments that are deferred pursuant to this Section 7(e) shall be credited with interest at the short-term Applicable Federal Rate with annual compounding, as announced by the Internal Revenue Service for the month in which the Termination Date occurs.

8. Acceleration of Vesting.

(a) If, prior to the end of the Employment Term, Executive's employment is terminated by the Company without Cause or by Executive for Good Reason, and the termination constitutes a "separation from service" within the meaning of Section 409A of the Code, then, subject to Section 9, (i) all of such Executive's unvested options, shares of restricted stock and restricted stock units will become fully vested and (as applicable) exercisable as of the Termination Date and remain exercisable for the time period otherwise applicable to such equity awards following such Termination Date pursuant to the applicable equity incentive plan and equity award agreement and (ii) all provisions regarding forfeiture, restrictions on transfer, and the Company's or its Affiliate's (as applicable) rights of repurchase, in each case otherwise

applicable to shares of restricted stock or restricted stock units held by such Executive, shall lapse as of the Termination Date.

(b) Section 280G Limitation. If any payment or benefit Executive would receive pursuant to Section 7 and/or Section 8(a) (collectively, the "***Payment***") would (i) constitute a "parachute payment" within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the "***Code***"), and (ii) be subject to the excise tax imposed by Section 4999 of the Code or any interest or penalties payable with respect to such excise tax (such excise tax, together with any such interest and penalties, are hereinafter collectively referred to as the "***Excise Tax***"), then Executive's benefits under this Agreement shall be either: (1) delivered in full, or (2) delivered as to such lesser extent which would result in no portion of such benefits being subject to the Excise Tax, whichever of the foregoing amounts, taking into account the applicable federal, state and local income taxes and the Excise Tax, results in the receipt by Executive on an after-tax basis, of the greatest amount of benefits, notwithstanding that all or some portion of such benefits may be taxable under Section 4999 of the Code. Any reduction under this Subsection (b) shall be applied first to Payments that constitute "deferred compensation" (within the meaning of Section 409A of the Code and the regulations thereunder). If there is more than one such Payment, then such reduction shall be applied on a *pro rata* basis to all such Payments.

(c) The accounting firm engaged by the Company for general audit purposes as of the day prior to the Termination Date shall perform the foregoing calculations. The Company shall bear all expenses with respect to the determinations by such accounting firm required to be made hereunder.

(d) The accounting firm engaged to make the determinations hereunder shall provide its calculations, together with detailed supporting documentation, to the Company and Executive within thirty (30) calendar days after the date on which such accounting firm has been engaged to make such determinations or such other time as requested by the Company or Executive. Any good faith determinations of the accounting firm made hereunder shall be final, binding, and conclusive upon the Company and Executive.

9. Conditions to Receipt of Severance; No Duty to Mitigate.

(a) Separation Agreement and Release of Claims. The receipt of any severance pursuant to Section 7 or acceleration of equity awards pursuant to Section 8 will be subject to Executive signing and not revoking a separation agreement and release of claims in the form attached as Annex A hereto, which separation agreement and release of claims must be delivered to Executive no later than the Termination Date. No severance will be paid or provided until the separation agreement and release of claims is signed and delivered by Executive to the Company.

(b) Nonsolicitation. In the event of a termination of Executive's employment that otherwise would entitle Executive to the receipt of severance pursuant to Section 7, Executive agrees that, during the one (1) year period following the Termination Date, Executive, directly or indirectly, whether as employee, owner, sole proprietor, partner, director, member, consultant, agent, founder, co-venturer or otherwise, will (i) not solicit, induce, or influence any person to modify his or her employment or consulting relationship with the Company or its Affiliates (the "***No-Inducement***"), and (ii) shall not use the Company's confidential or proprietary information to solicit business from any of the Company's or its Affiliates'

substantial customers and users (the "***No-Solicit***"). If Executive breaches the No-Inducement or the No-Solicit, all continuing payments and benefits (if any) to which Executive otherwise may be entitled pursuant to Section 7 and/or Section 8(a) will cease immediately and the Company and its Affiliates may pursue all other available remedies against Executive. As used in this Agreement, "***Affiliate***" means any entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the Company.

(c) Nondisparagement. In the event of a termination of Executive's employment that otherwise would entitle Executive to the receipt of severance pursuant to Section 7, Executive agrees to refrain from any disparagement, criticism, defamation, or slander of the Company or its Affiliates, or their respective directors, executive officers, or employees, and to refrain from tortious interference with the contracts and relationships of the Company or its Affiliates. The foregoing restrictions will not apply to any statements that are made truthfully in response to a subpoena or other compulsory legal process.

(d) Cool Down Period. In the event of a termination of Executive's employment that otherwise would entitle Executive to the receipt of severance pursuant to Section 7, Executive agrees that, during the one hundred and eighty (180) day period following the Termination Date, Executive will refrain from holding any position, directly or indirectly, whether as employee, owner, sole proprietor, partner, director, member, consultant, agent, founder, co-venturer or otherwise, with any company (other than the Company and its subsidiaries) involved in the sale, manufacturing, installation, financing, construction or operation of photovoltaic solar cells, modules, ribbons, panels, facilities or other photovoltaic business activities.

(e) No Duty to Mitigate. Executive will not be required to mitigate the amount of any payment contemplated by this Agreement, nor will any earnings that Executive may receive from any other source reduce any such payment.

10. Definitions.

(a) Benefit Plans. For purposes of this Agreement, "***Benefit Plans***" means plans, policies, or arrangements that the Company sponsors (or participates in) and that immediately prior to Executive's Termination Date provide Executive and Executive's eligible dependents with medical, dental, or vision benefits. Benefit Plans do not include any other type of benefit (including, but not by way of limitation, financial counseling, disability, life insurance, or retirement benefits). A requirement that the Company provide Executive and Executive's eligible dependents with (or reimburse for) coverage under the Benefit Plans will not be satisfied unless the coverage is no less favorable than that provided to Executive and Executive's eligible dependents immediately prior to Executive's Termination Date; provided, however, that the Company may reduce coverage under the Benefit Plans if such reduction is applicable to all other senior executives of the Company. Subject to the immediately preceding sentence, the Company may, at its option, satisfy any requirement that the Company provide (or reimburse for) coverage under any Benefit Plan by instead providing (or reimbursing for) coverage under a separate plan or plans providing coverage that is no less favorable.

(b) Cause. For purposes of this Agreement, "***Cause***" means the occurrence of any of the following, as determined by the Company in good faith: (i) failure on the part of Executive to fully perform his obligations under Section 1(b) hereof, (ii) acts or omissions constituting gross negligence or willful misconduct on the part of Executive with respect to

Executive's obligations or otherwise relating to the business of Company, (iii) Executive's conviction of, or plea of guilty or nolo contendere to, crimes involving fraud, misappropriation or embezzlement, or a felony crime of moral turpitude, (iv) Executive's violation or breach of any fiduciary duty (whether or not involving personal profit) to the Company, except to the extent that his violation or breach was reasonably based on the advice of the Company's outside counsel, or willful violation of a published policy of the Company governing the conduct of it executives or other employees, or (v) Executive's violation or breach of any contractual duty to the Company which duty is material to the performance of the Executive's duties or results in material damage to the Company or its business; provided that if any of the foregoing events is capable of being cured, the Company will provide written notice to Executive describing the nature of such event and Executive will thereafter have thirty (30) days to cure such event.

(c) Code. For purposes of this Agreement, "***Code***" means the Internal Revenue Code of 1986, as amended.

(d) Determination Date. For purposes of this Agreement, "***Determination Date***" means the date during the 12-month period preceding the Termination Date on which the sum of Executive's annual Base Salary plus his annual Target Bonus was highest.

(e) Good Reason. For purposes of this Agreement, "***Good Reason***" means the occurrence of any of the following without Executive's express prior written consent: (i) a material breach of this Agreement, (ii) a material reduction in the Executive's aggregate target compensation, including Executive's Base Salary and Target Bonus on a combined basis, excluding a reduction that is applied to substantially all of the Company's other senior executives; provided, however, that for purposes of this clause (ii) whether a reduction in Target Bonus has occurred shall be determined without any regard to any actual bonus payments made to Executive, or (iii) a relocation of Executive's primary place of business for the performance of his duties to the Company to a location that is more than forty-five (45) miles from the Company's current business location in Richmond, California. Executive shall be considered to have Good Reason hereunder only if, no later than ninety (90) days following an event otherwise constituting Good Reason under this Section 10(f), Executive gives written notice to the Company of the occurrence of such event and the Company fails to cure the event within thirty (30) days following its receipt of such notice from Executive.

(f) Termination Date. For purposes of this Agreement, "***Termination Date***" means the date on which Executive incurs a "separation from service" within the meaning of Section 409A of the Code.

11. Indemnification and Insurance. Executive will be covered under the Company's insurance policies and, subject to applicable law, will be provided indemnification to the maximum extent permitted by the Company's bylaws and certificate of incorporation, with such insurance coverage and indemnification to be in accordance with the Company's standard practices for senior executive officers but on terms no less favorable than provided to any other Company senior executive officer or director.

12. Confidential Information. Executive acknowledges that the Agreement Concerning Proprietary Information and Inventions between Executive and the Company (the "***Confidential Information Agreement***") will continue in effect. During the Employment Term, Executive agrees to execute any updated versions of the Company's form of Confidential Information Agreement (any such updated version also referred to as the "***Confidential***

Information Agreement") as may be required of substantially all of the Company's executive officers.

13. Assignment. This Agreement will be binding upon and inure to the benefit of (a) the heirs, executors, and legal representatives of Executive upon Executive's death, and (b) any successor of the Company. Any such successor of the Company will be deemed substituted for the Company under the terms of this Agreement for all purposes. For this purpose, "successor" means any person, firm, corporation, or other business entity which at any time, whether by purchase, merger, or otherwise, directly or indirectly acquires all or substantially all of the assets or business of the Company. None of the rights of Executive to receive any form of compensation payable pursuant to this Agreement may be assigned or transferred except by will or the laws of descent and distribution. Any other attempted assignment, transfer, conveyance, or other disposition of Executive's right to compensation or other benefits will be null and void.

14. Notices. All notices, requests, demands, and other communications called for hereunder will be in writing and will be deemed given (a) on the date of delivery if delivered personally, (b) one day after being sent by a well established commercial overnight service, or (c) four days after being mailed by registered or certified mail, return receipt requested, prepaid and addressed to the parties or their successors at the following addresses, or at such other addresses as the parties may later designate in writing:

If to the Company:

Attn: Chief Executive Officer
SunPower Corporation
3939 North First Street
San Jose, CA 95134

If to Executive, at the last known residential address on file with the Company.

15. Severability. If any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable, or void, this Agreement will continue in full force and effect without said provision.

16. Arbitration. The Parties agree that any and all disputes arising out of the terms of this Agreement, their interpretation, and any of the matters herein released, shall be subject to binding arbitration in San Francisco, California before a retired judge then employed by the Judicial Arbitration and Mediation Service (JAMS) under its employment arbitration rules and procedures, supplemented by the California Code of Civil Procedure. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. **The Parties hereby agree to waive their right to have any dispute between them resolved in a court of law by a judge or jury.** This paragraph will not prevent either party from seeking preliminary injunctive relief (or any other provisional remedy) in aid of arbitration from any court having jurisdiction over the Parties under applicable state laws.

17. Integration and Existing Agreement. This Agreement, together with the Confidential Information Agreement, Executive's equity award agreements and any indemnification agreement between Executive and the Company, represents the entire agreement and understanding between the parties as to the subject matter herein and supersedes all prior or

contemporaneous agreements, whether written or oral (but excluding the Confidential Information Agreement, Executive's equity award agreements and any indemnification agreement between Executive and the Company). In the event of any conflict between this Agreement, on the one hand, and the Confidential Information Agreement or Executive's equity award agreements, on the other hand, this Agreement shall prevail. No waiver, alteration, or modification of any of the provisions of this Agreement will be binding unless in writing that specifically references this Section and is signed by duly authorized representatives of the parties hereto. Notwithstanding the preceding sentence, both the Company and Executive agree to amend this Agreement with respect to the timing of payments if the Board determines that an amendment is necessary to prevent the imposition of additional tax liability under Section 409A of the Internal Revenue Code of 1986, as amended.

18. Waiver of Breach. The waiver of a breach of any term or provision of this Agreement, which must be in writing, will not operate as or be construed to be a waiver of any other previous or subsequent breach of this Agreement.

19. Survival. The Confidential Information Agreement, and the Company's and Executive's responsibilities under Sections 6 through 25 will survive the termination of this Agreement.

20. Headings. All captions and Section headings used in this Agreement are for convenient reference only and do not form a part of this Agreement.

21. Tax Withholding. All payments made pursuant to this Agreement will be subject to withholding of applicable taxes.

22. Governing Law. This Agreement will be governed by the laws of the State of California (with the exception of its conflict of laws provisions).

23. Acknowledgment. Executive acknowledges that he has had the opportunity to discuss this matter with and obtain advice from his private attorney, has had sufficient time to, and has carefully read and fully understands all the provisions of this Agreement, and is knowingly and voluntarily entering into this Agreement.

24. Counterparts. This Agreement may be executed in counterparts, and each counterpart will have the same force and effect as an original and will constitute an effective, binding agreement on the part of each of the undersigned.

25. Section 409A of the Code. Each payment and the provision of each benefit under this Agreement will be considered a separate payment and not one of a series of payments for purposes of Section 409A of the Code. It is intended that this Agreement comply with the provisions of Section 409A of the Code. This Agreement will be administered in a manner consistent with such intent.

* * * * *

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by a duly authorized officer, as of October 27, 2011.

COMPANY:		**EXECUTIVE:**	
SUNPOWER CORPORATION			
By:	/s/ Thomas H. Werner	/s/ Bruce Ledesma	
Name:	Thomas H. Werner	Print Name:	Bruce Ledesma
Its:	Chief Executive Officer		

SUNPOWER CORPORATION
SEPARATION AGREEMENT AND RELEASE OF CLAIMS

This Separation Agreement and Release of Claims (hereinafter referred to as "***Agreement***") is made and entered into by and between **Executive Name** (hereinafter referred to as "***Employee***"), and SunPower Corporation (hereinafter referred to as "Company"). It is hereby agreed by and between the parties as follows:

1. The last day of Employee's work for the Company and termination date will be [**DATE]**.

2. As separate consideration for this Agreement, the Company agrees to pay to Employee the amounts required pursuant to Section 7, accelerate the vesting of equity awards pursuant to Section 8 (if applicable) and provide the indemnification and insurance coverage pursuant to Section 11, in each case, of that certain Amended and Restated Employment Agreement between the Company and Employee in effect as of the date hereof (the "***Employment Agreement***").

Employee agrees that the foregoing shall constitute an accord and satisfaction and a full and complete settlement of Employee's claims, shall constitute the entire amount of monetary consideration provided to Employee under this Agreement except as provided herein, and that Employee will not seek any further compensation for any other claimed damage, costs or attorneys' fees in connection with the matters encompassed in this Agreement.

Employee acknowledges and agrees that the Company has made no representations to Employee regarding the tax consequences of any amounts received by Employee pursuant to this Agreement. Other than withholdings as provided for herein, Employee agrees to pay any additional federal or state taxes which are required by law to be paid with respect to this Agreement.

3. The Company agrees that Employee will receive any sums due and owing to Employee as unpaid wages, salary and/or computed commissions, as may be applicable to Employee, to the extent Employee is owed such compensation as of Employee's termination date, less legally required withholdings, as in effect for Employee on the termination date of Employee's employment.

4. The Company agrees that Employee will receive any sums due and owing to Employee under the Company's paid time off policy to the extent Employee is owed accrued paid time off pay as of Employee's termination date, less legally required withholdings as in effect for Employee on the termination date of Employee's employment.

5. Employee represents that Employee has not filed any complaint, claims or actions against the Company, its affiliated companies, or their officers, agents, directors, supervisors, employees or representatives with any state, federal or local agency or court and that Employee will not do so at any time hereafter.

6. Employee hereby agrees that all rights Employee may have under section 1542 of the Civil Code of the State of California are hereby waived by Employee. Section 1542 provides as follows:

A. "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

7. Notwithstanding the provisions of section 1542 of the Civil Code of the State of California, Employee without limitation hereby irrevocably and unconditionally releases and forever discharges the Company, and its affiliated companies, their officers, agents, directors, supervisors, employees, representatives, successors and assigns, and all persons acting by, through, under, or in concert with any of them from any and all charges, complaints, claims, causes of action, debts, sums of money, controversies, agreements, promises, damages and liabilities of any kind or nature whatsoever, both at law and equity, known or unknown, suspected or unsuspected (hereinafter referred to as "claim" or "claims"), arising from conduct occurring on or before the date of this Agreement, including without limitation any claims incidental to or arising out of Employee's employment with the Company or the termination thereof. It is expressly understood by Employee that among the various rights and claims being waived in this release are those arising under the Age Discrimination in Employment Act of 1967 (29 U.S.C. § 621. et seq.), including the Older Workers' Benefit Protection Act (29 U.S.C. § 626(f)). This provision is intended by the parties to be all encompassing and to act as a full and total release of any claim, whether specifically enumerated herein or not, that Employee might have or has had, that exists or ever has existed on or to the date of this Agreement, to the extent permitted by law. However, this Section 7 shall not apply to (a) any claim that may not be released under applicable law and (b) any claim to be indemnified for any losses, damages or costs arising from any action or omission as a director, officer or employee of the Company or a parent or subsidiary of the Company.

8. The parties understand the word "claim" or "claims" to include without limitation all actions, claims and grievances, whether actual or potential, known or unknown, related, incidental to or arising out of Employee's employment with the Company and the termination thereof. All such claims, including related attorneys' fees and costs, are forever barred by this Agreement and without regard to whether those claims are based on any alleged breach of a duty arising in contract or tort; any alleged unlawful act, any other claim or cause of action; and regardless of the forum in which it might be brought.

9. Employee agrees that Employee will now and forever keep the terms and monetary settlement amount of this Agreement completely confidential, and that Employee shall not disclose such to any other person directly or indirectly. As an exception to the foregoing, and the only exception, Employee may disclose the terms and monetary settlement amount of this Agreement to Employee's attorney, tax advisor, accountant and immediate family (defined as and limited to spouse and children) who shall be advised of its confidentiality. Notwithstanding the foregoing, Employee may make such disclosures of the terms and monetary settlement amount of this Agreement as are required by law or regulation or as necessary for legitimate enforcement or compliance purposes. Employee agrees that the failure to comply with the terms of this paragraph shall amount to a material breach of this Agreement which will subject Employee to the liability for all damages the Company might incur. In the event of such a breach,

the Company will be entitled to all legal and equitable remedies available, including, but not limited to, injunctive relief and its attorneys' fees to obtain said relief.

10. Employee has no recall to employment rights with respect to the Company or its affiliated companies, and this Agreement severs the employment relationship between Employee and the Company on Employee's termination date. While Employee may apply for future employment with the Company or its affiliated companies pursuant to employment policies then in effect, the Company and its affiliated companies may in their discretion without cause decline the re-employment of Employee.

11. No later than Employee's termination date, Employee will deliver to the Company all property of the Company, proprietary documents, proprietary data and proprietary information of any nature pertaining to the Company or its affiliated companies, and will not take from the Company or its affiliated companies any documents or data of any description or any reproduction containing or pertaining to any proprietary information nor utilize same.

12. Employee acknowledges and agrees to comply with the provisions of the Employment Agreement, including but not limited to Sections 9(b), (c) and (d) thereof.

13. Employee agrees that Employee will not hold Employee out as an agent of the Company or its affiliated companies, or as having any authority to bind the Company or its affiliated companies. Employee agrees to use reasonable efforts to respond to any questions or inquiries from the Company as necessary to facilitate the transition of work to his successor.

14. Employee understands and agrees that Employee:

(a) Has had the opportunity of a full twenty-one (21) days within which to consider this Agreement before signing it, and that if Employee has not taken that full time period that Employee has failed to do so knowingly and voluntarily.

(b) Has carefully read and fully understands all of the provisions of this Agreement.

(c) Is, through this Agreement, releasing the Company, its affiliated companies, and their officers, agents, directors, supervisors, employees, representatives, successors and assigns and all persons acting by, through, under, or in concert with any of them, from any and all claims Employee may have against the Company or such individuals.

(d) Knowingly and voluntarily agrees to all of the terms set forth in this Agreement.

(e) Knowingly and voluntarily intends to be legally bound by the same.

(f) Was advised and hereby is advised in writing to consider the terms of this Agreement and consult with an attorney of Employee's choice prior to signing this Agreement.

(g) Has a full seven (7) days following the execution of this Agreement to revoke this Agreement, and has been and hereby is advised in writing that this Agreement, all of its terms, and all of the obligations of the Company contained herein, shall not become effective or enforceable until the revocation period has expired.

(h) That rights or claims under the Age Discrimination in Employment Act of 1967 (29 U.S.C. § 621, et seq.) that may arise after the date this Agreement is signed are not waived.

15. Employee expressly acknowledges that Employee has had the opportunity of a full twenty-one (21) days within which to consider this Agreement before signing it, and that if Employee has not taken that full time period, that Employee expressly waives this time period and will not assert the invalidity of this Agreement or any portion thereof on this basis.

16. This Agreement and compliance with this Agreement shall not be construed as an admission by the Company of any liability whatsoever, or as admission by the Company of any violation of the rights of Employee, violation of any order, law, statute, duty or contract whatsoever.

17. The parties hereto represent and acknowledge that in executing this Agreement they do not rely and have not relied upon any representation or statement made by any of the parties or by any of the parties' agents, attorneys or representatives with regard to the subject matter or effect of this Agreement or otherwise, other than those specifically stated in this written Agreement.

18. This Agreement shall be binding upon the parties hereto and upon their heirs, administrators, representatives, executors, successors, and assigns, and shall inure to the benefit of said parties and each of them and to their heirs, administrators, representatives, executors, successors, and assigns. Employee expressly warrants that Employee has not transferred to any person or entity any rights or causes of action, or claims released by this Agreement.

19. Should any provision of this Agreement be declared or be determined by any court of competent jurisdiction to be illegal, invalid, or unenforceable, the legality, validity and enforceability of the remaining parts, terms or provisions shall not be effected thereby and said illegal, unenforceable, or invalid term, part or provision shall be deemed not to be a part of this Agreement.

20. With the exception of the Employment Agreement and any agreement with the Company or its affiliated companies pertaining to equity awards, indemnification, or proprietary, trade secret or other confidential information and/or the ownership of inventions, all of which shall remain in full force and effect and are unaffected by this Agreement, this Agreement sets forth the entire agreement between the parties hereto and fully supersedes any and all prior agreements and understandings, written or oral, between the parties hereto pertaining to the subject matter hereof. This Agreement may only be amended or modified by a writing signed by the parties hereto. Any waiver of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement unless expressly so indicated otherwise.

21. This Agreement shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the parties hereto.

22. The Parties agree that any and all disputes arising out of the terms of this Agreement, their interpretation, and any of the matters herein released, shall be subject to binding arbitration in San Francisco, California before a retired judge then employed by the Judicial Arbitration and

Mediation Service (JAMS) under its employment arbitration rules and procedures, supplemented by the California Code of Civil Procedure. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. **The Parties hereby agree to waive their right to have any dispute between them resolved in a court of law by a judge or jury.** This paragraph will not prevent either party from seeking preliminary injunctive relief (or any other provisional remedy) in aid of arbitration from any court having jurisdiction over the Parties under applicable state laws.

23. This Agreement may be executed in counterparts and each counterpart, when executed, shall have the efficacy of a second original. Photographic or facsimile copies of any such signed counterparts may be used in lieu of the original for any said purpose.

Employee:

Dated: _____ _____

SunPower Corporation:

Dated: _____ _____

CONFIDENTIAL TREATMENT REQUESTED

CONFIDENTIAL PORTIONS OF THIS DOCUMENT HAVE BEEN REDACTED AND HAVE BEEN SEPARATELY FILED WITH THE SECURITIES AND EXCHANGE COMMISSION

FIRST AMENDMENT TO LETTER OF CREDIT FACILITY AGREEMENT

This First Amendment to Letter of Credit Facility Agreement (this "Amendment"), is entered into as of December 20, 2011 (the "Amendment Effective Date"), by and among SunPower Corporation, a Delaware corporation (the "Company"), SunPower Corporation, Systems, a Delaware corporation (the "Subsidiary Applicant" and, together with the Company, the "Credit Parties" and individually, each a "Credit Party"), Total S.A., a société anonyme organized under the laws of the Republic of France (the "Parent Guarantor"), Deutsche Bank AG New York Branch, as issuing bank and as administrative agent for the Banks (as defined below) (in such capacity, the "Administrative Agent"), and the Required Banks (as defined below).

BACKGROUND

A. The Credit Parties and the Parent Guarantor entered into that certain Letter of Credit Facility Agreement, dated as of August 9, 2011 (as amended, modified, supplemented, extended or restated from time to time, the "Credit Agreement"), with the Administrative Agent and the several financial institutions from time to time a party thereto (the "Banks"). Each capitalized term used herein, that is not defined herein, shall have the meaning ascribed thereto in the Credit Agreement.

B. The Credit Parties, Deutsche Bank AG New York Branch and Deutsche Bank Trust Company Americas entered into that certain Continuing Agreement for Standby Letters of Credit and Demand Guarantees, dated as of September 27, 2011, providing for the issuance of letters of credit or demand guarantees at the request of each Credit Party (each, a "CVSR LOC").

C. The Credit Parties have requested that the Administrative Agent, the Required Banks and the Parent Guarantor amend the Credit Agreement, (i) to increase to $725,000,000 the amount set forth in clause (a) of the definition of "Maximum LOC Amount" in Section 1.01 of the Credit Agreement, and (ii) to add the CVSR LOCs to the definition of "Permitted LOCs" for the period beginning on the Amendment Effective Date and ending on January 15, 2013.

D. Although the Administrative Agent, the Parent Guarantor and those certain Banks defined as "Required Banks" under the Credit Agreement (the "Required Banks") are under no obligation to do so, the Administrative Agent, the Parent Guarantor and the Required Banks are willing to amend the Credit Agreement in accordance with the terms, and subject to the conditions, set forth herein.

AGREEMENT

The parties to this Amendment, intending to be legally bound, hereby agree as follows pursuant to Section 8.01 of the Credit Agreement:

1. Incorporation of Recitals. Each of the above recitals is incorporated herein as true and correct and is relied upon by the Administrative Agent and each Required Bank in agreeing to the terms of this Amendment.

2. Amendments to Credit Agreement.

a. Definitions. The following definitions are hereby added, in alphabetical order, to Section 1.01 of the Credit Agreement:

"'Amendment Effective Date' shall have the meaning given thereto in the First Amendment."

"'Continuing Agreement' means the Continuing Agreement for Standby Letters of Credit and Demand Guarantees dated September 27, 2011 among the Company, DB, Deutsche Bank Trust Company Americas and the other parties thereto from time to time, as the same may be amended, supplemented, or otherwise modified from time to time."

"'CVSR LOC' means any letter of credit that relates to the California Valley Solar Ranch project of the Company issued prior to the Amendment Effective Date not otherwise included in subsections (a), (b), (c), (d) or (f) of the definition of 'Permitted LOCs'."

"'First Amendment' means the First Amendment dated as of December 20, 2011 to this Agreement."

b. Permitted LOCs. The definition of "Permitted LOCs" in Section 1.01 of the Credit Agreement is hereby amended and restated in its entirety to read as follows:

"'Permitted LOCs' means LOCs that are classified as performance standby letters of credit by the Board of Governors of the Federal Reserve System or by the Office of the Comptroller of the Currency of the United States and constitute (a) performance guarantees (for a period of up to two (2) years after completion of the applicable project) and completion guarantees (until completion of the applicable project) of the Company or such Wholly-Owned Subsidiary with respect to engineering, procurement and construction services provided in connection with the Company's UPP and LComm businesses (including replacing Existing LOCs), (b) performance guarantees for engineered hardware packages not including engineering, procurement and construction services for UPP projects for a period of up to two (2) years after completion of the applicable project, (c) the Other Permitted Purposes for a period of up to two (2) years, (d) certain purchase, repayment and tax indemnity obligations of the Company or a Wholly-Owned Subsidiary existing as of the Closing Date supported by no more than three (3) LOCs (of which two (2) LOCs in an aggregate face amount of €10,675,609 relate to the Montalto Project and one (1) LOC in a face amount of $40,000,000 relates to the NorSun Supply Agreement) (which Existing LOCs will be replaced by LOCs issued under this Agreement), (e) for the period beginning on the Amendment Effective Date and ending on January 15, 2013, CVSR LOCs in an aggregate face amount outstanding at any time not to exceed $***, and (f) the Existing LOCs; provided, that, notwithstanding anything to the contrary in this definition but subject to the other terms and conditions of this Agreement, the Company will be permitted to have LOCs outstanding at any one time until the Termination Date for the purposes described in clauses (a) and (b) above with an expiry of between two (2) and three (3) years from the date of issuance thereof and for an aggregate initial face amount of up to fifteen per cent (15%) of the then-applicable Maximum LOC."

c. Maximum LOC Amount. Clauses (a) and (b) of the definition of "Maximum LOC Amount" in Section 1.01 of the Credit Agreement is hereby amended and restated in its entirety to read as follows:

"(a) for the period from the Closing Date through December 31, 2012, $725,000,000; (b) [removed and reserved];"

*** CONFIDENTIAL MATERIAL REDACTED AND SEPARATELY FILED WITH THE SECURITIES AND EXCHANGE COMMISSION.

d. A new Section 2.21 is hereby added to the Credit Agreement to read as follows:

"2.21 CVSR LOCs. Subject to the terms and conditions of this Agreement and the other Loan Documents, an Applicant may, from time to time during the period beginning on the Amendment Effective Date and ending on January 15, 2013, request that one or more CVSR LOCs issued by DB at the request of such Applicant pursuant to the Continuing Agreement be deemed to be LOCs issued under this Agreement. An Applicant shall make such a request by providing to the Administrative Agent three (3) Business Days' prior written notice and including with such notice a copy of the applicable CVSR LOC(s). Each such request shall be deemed to be a representation and warranty by the applicable Applicant that both on the date of such request and on the date that the applicable CVSR LOC(s) are deemed issued under this Agreement the statements set forth in Section 3.02 are true and correct and that the applicable CVSR LOC remains undrawn or to the extent it has been drawn, such drawn amount has been reimbursed to DB pursuant to the Continuing Agreement. The parties hereto agree that, so long as the terms and conditions specified herein and in the other Loan Documents are satisfied, each CVSR LOC specified in such request shall be deemed issued under this Agreement on the date that is three (3) Business Days after the date that the Administrative Agent receives the notice referred to above and DB in its capacity as Issuing Bank under the Continuing Agreement hereby agrees that on the effective date of such deemed issuance, such CVSR LOC shall be deemed to have been terminated under the Continuing Agreement and shall no longer be subject to the terms and conditions of the Continuing Agreement."

3. Confirmation of Guaranty. The Parent Guarantor ratifies and reaffirms its obligations under the Parent Guaranty and each and every term, condition, and provision of the Parent Guaranty. The Parent Guarantor further represents and warrants that it has no defenses or claims against the Administrative Agent or any Bank that would or might affect the enforceability of the Parent Guaranty and that the Parent Guaranty remains in full force and effect.

4. Ratification and Confirmation of Loan Documents. Except as expressly set forth herein, the execution, delivery, and performance of this Amendment shall not alter, modify, amend, or in any way affect any of the terms, conditions, obligations, covenants, or agreements contained in the Credit Agreement or any other Loan Document, and shall not operate as a waiver of any right, power, or remedy of the Administrative Agent or any Bank under the Credit Agreement or any other Loan Document. Except as expressly set forth herein, the Credit Agreement and all other instruments, documents and agreements entered into in connection with the Credit Agreement and each other Loan Document shall be and remain in full force and effect in accordance with their respective terms and hereby are ratified and confirmed by each Credit Party in all respects.

5. Representations and Warranties. The Parent Guarantor and each Credit Party hereby represents and warrants that:

a. the representations and warranties contained in each Loan Document to which the Parent Guarantor or such Credit Party is a party are true and correct in all material respects on and as of the date hereof;

b. no Block Notice is in effect; and

c. no Event of Default, or event or condition that would constitute an Event of Default described in Section 6.01(a), Section 6.01(f), or Section 6.01(g) of the Credit Agreement but for the requirement that notice be given or time elapse or both, has occurred and is continuing or would result immediately after giving effect to this Amendment and the transactions contemplated hereby.

6. Execution in Counterparts. This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Amendment by facsimile or e-mail (in a pdf or similar file) shall be as effective as delivery of an original executed counterpart of this Amendment.

7. Effect on Loan Documents. From and after the Amendment Effective Date, all references in any Loan Document to the Credit Agreement or any other Loan Document shall be deemed to be references to the Credit Agreement or such other Loan Document as amended by this Amendment and as the same may be further amended, supplemented or otherwise modified from time to time. This Amendment shall constitute a Loan Document for all purposes under the Credit Agreement and the other Loan Documents.

8. Governing Law. This Amendment shall be construed in accordance with and governed by the law of the State of New York.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the Company, the Subsidiary Applicant, the Parent Guarantor, the Administrative Agent and the Required Banks have caused this Amendment to be executed as of the date first written above.

The "Company"

SUNPOWER CORPORATION

By: /s/ Dennis V. Arriola
Name: Dennis V. Arriola
Title: EVP & CFO

The "Subsidiary Applicant"

SUNPOWER CORPORATION, SYSTEMS

By: /s/ Dennis V. Arriola
Name: Dennis V. Arriola
Title: SVP & CFO

The "Parent Guarantor"

TOTAL, S.A.

By: /s/ Patrick de la Chevardière
Name: Patrick de la Chevardière
Title: Chief Financial Officer

[Signature Page to Amendment to Letter of Credit Facility Agreement]

The “Administrative Agent”, the “Issuing Bank”, and a “Bank”

DEUTSCHE BANK AG NEW YORK BRANCH, individually,
as Administrative Agent, and as Issuing Bank

By: /s/ Andreas Neumeier
Name: Andreas Neumeier
Title: Managing Director

By: /s/ Yvonne Tilden
Name: Yvonne Tilden
Title: Director

[Signature Page to Amendment to Letter of Credit Facility Agreement]

BANCO SANTANDER, S.A., NEW YORK BRANCH, as a Bank

By: /s/Jorge Saavedra
Name: Jorge Saavedra
Title: Executive Director

By: /s/ Sen Louie
Name: Sen Louie
Title: Vice President

Signature Page to Amendment to Letter of Credit Facility Agreement]

CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK, as a Bank

By: /s/ Dianne Scott
Name: Dianne Scott
Title: Managing Director

By: /s/ Laure Duvernay
Name: Laure Duvernay
Title: Vice President

[Signature Page to Amendment to Letter of Credit Facility Agreement]

HSBC BANK USA, NATIONAL ASSOCIATION, as a Bank

By: /s/ Christopher Samms
Name: Christopher Samms
Title: Senior Vice President, #9426

[Signature Page to Amendment to Letter of Credit Facility Agreement]

LLOYDS TSB BANK PLC, as a Bank

By: /s/Julie R. Franklin
Name: Julie R. Franklin
Title: Vice President
F014

By: /s/ Candi Obrentz
Name: Candi Obrentz
Title: Vice President
Financial Institutions, North America
O013

[Signature Page to Amendment to Letter of Credit Facility Agreement]

THE BANK OF TOKYO - MITSUBISHI UFJ, LTD., PARIS BRANCH, as a Bank

By: /s/ Alain Guy Menoncin
Name: Alain Guy Menoncin
Title: Deputy General Manager

[Signature Page to Amendment to Letter of Credit Facility Agreement]

UNICREDIT BANK AG, as a Bank

By: /s/ Rudi Stuetzle
Name: Rudi Stuetzle
Title: Director

By: /s/ Patricia Mendoza
Name: Patricia Mendoza
Title: Director

[Signature Page to Amendment to Letter of Credit Facility Agreement]

FIRST AMENDMENT TO REVOLVING CREDIT AGREEMENT

This First Amendment to Revolving Credit Agreement (this "Amendment"), is entered into as of December 21, 2011, by and among SunPower Corporation, a Delaware corporation (the "Borrower"), Credit Agricole Corporate and Investment Bank, as administrative agent for the Lenders (as defined below) (in such capacity, the "Agent"), and the Lenders listed on the signature pages hereof.

RECITALS

A. The Borrower, the Agent and certain financial institutions (the "Lenders") are parties to that certain Revolving Credit Agreement, dated as of September 27, 2011 (as amended, modified, supplemented, extended or restated from time to time, the "Credit Agreement"), pursuant to which the Lenders have provided a revolving credit facility to the Borrower. Each capitalized term used herein, that is not defined herein, shall have the meaning ascribed thereto in the Credit Agreement.

B. The Borrower has notified the Agent and the Lenders that: (i) it intends to exercise its rights under the last two paragraphs of Article VII of the Credit Agreement and execute an equity cure in accordance with the terms thereof, and (ii) it wishes to amend the Credit Agreement as set forth below, but otherwise have the Credit Agreement remain in full force and effect.

C. The Lenders signatory hereto are willing to amend the Credit Agreement, in accordance with the terms, and subject to the conditions, set forth herein.

AGREEMENT

The parties to this Amendment, intending to be legally bound, hereby agree as follows:

1. Incorporation of Recitals. Each of the above recitals is incorporated herein as true and correct and is relied upon by the Agent and each Lender signatory hereto in agreeing to the terms of this Amendment.

2. Amendments to Credit Agreement.

a. Clause (j) of Article VII of the Credit Agreement is hereby amended and restated in its entirety to read as follows:

"(j) the Borrower fails to perform (A) the covenant contained in Section 5.02 for the fiscal quarter ending on January 1, 2012 ("2011 Q4") and fails to cure such non-performance pursuant to and in accordance with the last two paragraphs of this Article VII (it being understood that an immediate Event of Default shall occur (and be deemed to have occurred as of the last day of the fiscal period being tested) upon the earliest to occur of the Borrower (i) failing to cure such non-performance in a timely manner pursuant to and in accordance with such paragraphs, (ii) failing to elect to issue equity securities for cash prior to the last day of the Election Period (as defined in the penultimate paragraph of this Article VII) as required by the penultimate paragraph of this Article VII, or (iii) failing to receive such cash within thirty (30) days after such election as required by the penultimate paragraph of this Article VII), (B) the covenant contained in Section 5.02 for any quarter other than 2011 Q4, or (C) the covenant contained in Article VI;"

b. The Last Two Paragraphs of Article VII of the Credit Agreement are hereby amended and restated in their entirety to read as follows.

"Notwithstanding anything to the contrary contained in this Article VII, in the event that the Borrower fails to comply with the requirements of Section 5.02 as at the end of any fiscal quarter of the Borrower, the Borrower may within twenty (20) days subsequent to the date of such breach (the "Election Period"), by written notice delivered to the Agent, elect to issue equity securities for cash, and upon the receipt within thirty (30) days after such election by the Borrower of such cash (the "Cure Amount"), Section 5.02 shall be recalculated giving effect to the following pro forma adjustments:

(i) EBITDA shall be increased, solely for the purpose of measuring the performance under Section 5.02 with respect to any period of four consecutive fiscal quarters that includes the fiscal quarter in respect of which the Cure Amount was received and not for any other purpose under this Agreement, by an amount equal to the Cure Amount; and

(ii) if, after giving effect to the foregoing recalculation, the Borrower shall then be in compliance with the requirements of Section 5.02, the Borrower shall be deemed to have satisfied the requirements thereof as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach or default that had occurred shall be deemed cured for the purposes of this Agreement; provided that, on the date of the Borrower's receipt of the Cure Amount, the Borrower shall have delivered to the Agent a certificate of a Financial Officer (A) certifying the Borrower's receipt of the Cure Amount and (B) setting forth a pro forma calculation of EBITDA which demonstrates compliance with Section 5.02 after giving effect to such cure.

The Borrower's right to exercise the foregoing cure shall be limited as follows: (i) such cure may be exercised only three times after the Closing Date, (ii) Indebtedness repaid with the proceeds of any Cure Amount shall not be deemed repaid for purposes of determining compliance with Section 5.02 on the last day of the fiscal quarter in respect of which the Cure Amount was received, and (iii) the Cure Amount shall not increase EBITDA by an amount greater than the minimum amount required to cause the Borrower to be in compliance with Section 5.02 as of the last day of the fiscal quarter in respect of which the Cure Amount was received."

3. Representations and Warranties. The Borrower hereby represents and warrants, as of the date of this Amendment, for the benefit of the Agent and each Lender, that:

a. The representations and warranties set forth in Article III of the Credit Agreement and in each other Loan Document are true and correct in all material respects with the same effect as though made on and as of the date hereof, except to the extent such representations and warranties expressly relate to an earlier date, in which case they shall be true and correct in all material respects on and as of such earlier date; provided that, in each case, such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof;

b. The execution and delivery of this Amendment has been duly authorized by all necessary organizational action of the Borrower. This Amendment has been duly executed and delivered

by the Borrower and is a legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally and to general principles of equity;

c. The transactions contemplated by this Amendment (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect, except to the extent that any such failure to obtain such consent or approval or to take any such action, would not reasonably be expected to result in a Material Adverse Effect, (b) will not violate any Requirement of Law applicable to the Borrower, (c) will not violate or result in a default under any other material indenture, agreement or other instrument binding upon the Borrower its assets, or give rise to a right thereunder to require any payment to be made by the Borrower, and (d) will not result in the creation or imposition of any Lien on any asset of the Borrower; and

d. No Event of Default, or event or condition that would constitute an Event of Default but for the requirement that notice be given or time elapse or both, has occurred and is continuing.

4. Ratification and Confirmation of Loan Documents. Except as expressly set forth herein, the execution, delivery, and performance of this Amendment shall not alter, modify, amend, or in any way affect any of the terms, conditions, obligations, covenants, or agreements contained in the Credit Agreement or any other Loan Document, and shall not shall not operate as a waiver of any right, power, or remedy of the Agent or any Lender under the Credit Agreement or any other Loan Document. Except as expressly set forth herein, the Credit Agreement, all promissory notes and all other instruments, documents and agreements entered into in connection with the Credit Agreement and each other Loan Document shall be and remain in full force and effect in accordance with their respective terms and hereby are ratified and confirmed by the Borrower in all respects.

5. Effectiveness. This Amendment shall become effective on the date first written above (the "Effective Date") only upon satisfaction of the following conditions precedent on or prior to such date unless otherwise waived in writing by the Required Lenders:

a. The Agent (or its counsel) shall have received from each party hereto either (A) a counterpart of this Amendment signed on behalf of such party or (B) written evidence satisfactory to the Agent (which may include facsimile transmission of a signed signature page of this Amendment) that such party has signed a counterpart of this Amendment.

b. The representations and warranties of the Borrower set forth herein shall be true and correct in all material respects as of the Effective Date.

c. No Event of Default, or event or condition that would constitute an Event of Default but for the requirement that notice be given or time elapse or both, shall be continuing as of the Effective Date.

d. The Agent shall have received an officer's certificate from the Borrower, dated the Effective Date, certifying that (a) attached thereto are true, complete and correct copies of the certificate of incorporation and bylaws of the Borrower, (b) attached thereto is a true, complete and correct copy of the resolutions duly adopted by the Borrower authorizing the execution, delivery and performance of this Amendment and that such resolutions have not been amended, modified, revoked or rescinded, and (c) the Borrower is able to pay its debts as they become due and that no action has been taken by the Borrower, its directors or officers in contemplation of the liquidation or dissolution of the Borrower as of the Effective Date.

e. The Agent shall have received signature and incumbency certificates of the officers of the Borrower executing this Amendment, each dated as of the Effective Date.

f. The Agent shall have received payment from the Borrower of an amendment consent fee equal to 0.05% of the Total Revolving Credit Commitment as of the Effective Date, such fee to be allocated pro rata to each Lender that is a signatory to this Amendment based on such Lenders' respective Revolving Credit Commitments (disregarding, for purposes of allocation, the Revolving Credit Commitment of any Lender not a signatory hereto).

6. Miscellaneous. The Borrower acknowledges and agrees that the representations and warranties set forth herein are material inducements to the Agent and the Lenders to deliver this Amendment. This Amendment shall be binding upon and inure to the benefit of and be enforceable by the parties hereto, and their respective permitted successors and assigns. This Amendment is a Loan Document. Henceforth, this Amendment and the Credit Agreement shall be read together as one document and the Credit Agreement shall be modified accordingly. No course of dealing on the part of the Agent, the Lenders or any of their respective officers, nor any failure or delay in the exercise of any right by the Agent or the Lenders, shall operate as a waiver thereof, and any single or partial exercise of any such right shall not preclude any later exercise of any such right. The failure at any time to require strict performance by the Borrower of any provision of the Loan Documents shall not affect any right of the Agent or the Lenders thereafter to demand strict compliance and performance. Any suspension or waiver of a right must be in writing signed by an officer of the Agent, and or the Lenders, as applicable. No other person or entity, other than the Agent and the Lenders, shall be entitled to claim any right or benefit hereunder, including, without limitation, the status of a third party beneficiary hereunder. This Amendment shall be governed by and construed in accordance with the laws of the State of New York without reference to conflicts of law rules. If any provision of this Amendment or any of the other Loan Documents shall be determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, that portion shall be deemed severed therefrom, and the remaining parts shall remain in full force as though the invalid, illegal or unenforceable portion had never been a part thereof. This Amendment may be executed in any number of counterparts, including by electronic or facsimile transmission, each of which when so delivered shall be deemed an original, but all such counterparts taken together shall constitute but one and the same instrument.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the Borrower, the Agent and the Lenders signatory hereto have caused this Amendment to be executed as of the date first written above.

SUNPOWER CORPORATION

By: /s/ Dennis V. Arriola

Name: Dennis V. Arriola

Title: EVP & Chief Financial Officer

CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK, individually and as Agent

By: /s/Dianne M. Scott

Name: Dianne M. Scott

Title: Managing Director

By: /s/ Tess Jarmolkiewicz

Name: Tess Jarmolkiewicz

Title: Managing Director

CITICORP NORTH AMERICA, INC., as a Lender

By: /s/Alfred Griffin

Name: Alfred Griffin

Title: Vice President and Director

HSBC BANK USA, NATIONAL ASSOCIATION, as a lender

By: /s/ Christopher Samms

Name: Christopher Samms

Title: Senior Vice President, #9426

LLOYDS TSB BANK, plc, as a Lender

By: /s/ Julia R. Franklin

Name: Julia R. Franklin

Title: Vice President

F014

By: /s/ Candi Obrentz

Name: Candi Obrentz

Title: Vice President

Financial Institutions, North America

O013

ROYAL BANK OF SCOTLAND, plc, as a Lender

By: /s/ Tyler J. McCarthy

Name: Tyler J. McCarthy

Title: Director

SOVEREIGN BANK, as a Lender

By: /s/ Daniela Hofer-Gautschi

Name: Daniela Hofer-Gautschi

Title: Vice President

CONFIDENTIAL TREATMENT REQUESTED

CONFIDENTIAL PORTIONS OF THIS DOCUMENT HAVE BEEN REDACTED AND HAVE BEEN SEPARATELY FILED WITH THE SECURITIES AND EXCHANGE COMMISSION

AMENDMENT NO. 5 TO INGOT SUPPLY AGREEMENT

THIS AMENDMENT NO. 5 INGOT SUPPLY AGREEMENT (This "**Amendment No. 5**") is made this **28th day of October 2011** ("**Effective Date**") by and between Woongjin Energy Co., Ltd., a company organized and existing under the laws of the Republic of Korea with its office located at 1316 GwanPyeong-Dong, YuSung-Gu, DaeJeon, Korea ("**Supplier**"), and SunPower Corporation, a company organized under the laws of the State of Delaware, United States of America, with its principal office located at 3939 North First Street, San Jose, California 95134, United States of America ("**Sunpower**"), and SunPower Philippines Manufacturing Limited, a Cayman Islands business and wholly owned subsidiary of SunPower, with a branch office at 100 East Main Avenue, Phase 4, Special Economic Zone, Laguna Techno Park, Binan, Laguna, Philippines 4024 (together with SunPower, "**Purchaser**"). The Supplier and Purchaser is sometimes referred to herein as a "**Party**" and collectively, as the "**Parties**". Capitalized terms used in this Amendment No. 5 and not defined herein shall have the meaning given to such terms in the Agreement (as hereinafter defined).

RECITALS

(a) Supplier and Purchaser are parties to that certain Ingot Supply Agreement, dated as of December 22, 2006, as amended on August 4, 2008, August 1, 2009, February 1, 2011 and July 5, 2011 (the "**Agreement**"), pursuant to which Supplier agreed to manufacture and sell to Purchaser, and Purchaser agreed to purchase from Supplier, certain SP Polysilicon Based Products and Non-SP Polysilicon Based Products.

(b) The Parties desire to amend the Agreement to amend Ingot pricing and to amend certain other terms and conditions thereof.

NOW THEREFORE, in consideration of the promises set forth above, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, hereby agree as follows:

AGREEMENT

1. Purchaser and Supplier hereby agree to decrease Purchaser's target of purchasing up to *** MT Ingot (including wafer) during Q4'2011 to a new target of purchasing up to *** MT Ingot (including wafer) in Q4' 2011.

2. Purchaser and Supplier hereby agree to Purchaser's new target of purchasing up to *** MT Ingot (including wafer) during 2012. Purchaser shall use commercially reasonable efforts to reduce its commitments to Purchaser's other suppliers and redirect Purchaser's purchases from such suppliers to Supplier, in which case Purchaser and Supplier hereby agree to increase Purchaser's target of purchasing from up to *** MT Ingot (including wafer) to up to *** MT Ingot (including wafer) during 2012. The Supplier shall provide a maximum *** MT polysilicon towards the purchased quantities of Non-SP Polysilicon Based Products with all other polysilicon to provided by Purchaser for SP Polysilicon Based Products.

3. Schedule 3.1(a) of the Agreement is hereby amended and restated as follows:

Schedule 3.1(a)

The purchase price for SP Polysilicon Based Products and Non-SP Polysilicon Based Products received during Q4 2011 shall be

For the first ***MT - $*/kg**

*** CONFIDENTIAL MATERIAL REDACTED AND SEPARATELY FILED WITH THE SECURITIES AND EXCHANGE COMMISSION.

For the next ***MT - $*/kg**
For the last ***MT - $*/kg**

The purchase price for SP Polysilicon Based Products and Non-SP Polysilicon Based Products received during 2012 shall be

During Q1, 2012 - $*/kg**
During Q2, 2012 - $*/kg**
During Q3, 2012 - $*/kg**
During Q4, 2012 - $*/kg**

If the official foreign *-day average currency exchange rate, as published by the Wall Street Journal, falls below *** South Korean Won to $1US, the Parties shall negotiate in good faith a mutually acceptable adjustment to the pricing set forth above.**

If Purchaser receives a bona fide offer from a third party, who is qualified to satisfy Purchaser's applicable specifications, for the supply of similar products at a price equal to or less than *% of the applicable purchase price under this Agreement, Purchase shall deliver notice to Supplier and the parties shall negotiate in good faith to reduce the applicable purchase price under this Agreement, which price adjustment shall become effective *** days following delivery of Purchaser's notice initiating negotiations for price reductions. If the parties are unable to reach agreement regarding a reduced price for the remainder of the contract term, Supplier may elect, within *** days of receiving notice of the third party's proposal, to reduce the applicable purchase price for the same quantity of product as proposed by the third party. If Supplier is unwilling to sell such quantity of product to Purchaser at the same price as the third party, Purchaser, in its sole and absolute discretion, may reduce its outstanding obligation to purchase such products from Supplier by the quantity offered by the third party during the applicable time period and instead purchase such products from the third party.**

1. This Amendment No. 5 is effective from October 12th, 2011 until Dec. 31, 2016, or if earlier, until further amended by the parties.

2. All other provisions of the Agreement, except as specifically amended or waived hereby, shall remain in full force and effect and are incorporated herein.

3. If any part of this Amendment No. 5 or the Agreement as amended herein is found to be void or unenforceable for any reason, the remainder of this Amendment No. 5 and the Agreement as amended hereunder, shall be enforced, to the fullest extent possible, as if such void or unenforceable provision was not part of this Amendment No. 5.

4. This Amendment No. 5 may be executed in one or more counterparts, each of which shall be deemed to be an original and shall constitute one and the same instrument. This Amendment No. 5 may be executed by facsimile, and each such facsimile signature shall be deemed to be an original.

[SIGNATURE PAGE FOLLOWS]

*** CONFIDENTIAL MATERIAL REDACTED AND SEPARATELY FILED WITH THE SECURITIES AND EXCHANGE COMMISSION.

IN WITNESS THEREOF, the Parties hereto, intending to be legally bound, have executed this Amendment No. 5 as of the date first written above.

WOONJIN ENERGY CO., LTD

By: /s/ Hak Do Yoo

Name: Hak Do Yoo

Title: CEO

Date: Oct. 27, 2011

SUNPOWER CORPORATION

By: /s/ Paul Charrette

Name: Paul Charrette

Title: VP, Supply Chain

Date: Oct. 20, 2011

SUNPOWERPHILIPPINES MANUFACTURING LIMITED
By:/s/ Paul Charrette

Name: Paul Charrette

Title: VP, Supply Chain

Date: Oct. 20, 2011

CONFIDENTIAL TREATMENT REQUESTED

CONFIDENTIAL PORTIONS OF THIS DOCUMENT HAVE BEEN REDACTED AND HAVE BEEN SEPARATELY FILED WITH THE SECURITIES AND EXCHANGE COMMISSION

2011 RESOLUTION AGREEMENT TO WAFERING SUPPLY AND SALES AGREEMENT

This Resolution Agreement to the Wafering Supply and Sales Agreement (the "Resolution Agreement") is entered into by and between:

FIRST PHILEC SOLAR CORPORATION, a company organized under the laws of the Philippines and having its principal office located at the First Philippine Industrial Park, Tanauan City, Batangas (hereinafter referred to as "FPSC");

- and -

SUNPOWER PHILIPPINES MFG., LTD, a Cayman Islands corporation duly licensed to do business under the laws of the Philippines and having its principal office located at 100 East Main Avenue, Laguna Techno Park, Biñan, Laguna, Philippines (hereinafter referred to as "SunPower"),

(collectively referred to as "the Parties").

Whereas, FPSC and SunPower entered into a WAFERING SUPPLY AND SALES AGREEMENT (the "Supply Agreement") on November 5, 2007 and are in the process of negotiating an extension to said Supply Agreement; and

Whereas, the Parties would like to set forth their agreement regarding certain matters occurring in Q2 and Q3 of 2011 as relating to the Supply Agreement, as well as certain amendments to the Supply Agreement.

NOW, THEREFORE, in consideration of the mutual promises and undertakings of the Parties, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

1. Q2 2011 yield loss sharing will be retroactively adjusted to include an additional $650K adjustment, to be borne by SunPower, due to quality issues associated with *** ingots.

*** CONFIDENTIAL MATERIAL REDACTED AND SEPARATELY FILED WITH THE SECURITIES AND EXCHANGE COMMISSION.

2. The costs associated with the 16.5MT of ingot assigned to WIP in Q2 2011 will be borne by FPSC. To the extent that Q2 2011 yield loss compensated by SunPower included this material, SunPower will be credited by FPSC $810K in Q3 2011.
3. SunPower is not responsible for any claims from FPSC for additional yield loss related to Q2 2011 except for item #6 below.
4. SunPower agrees to fund ***% of the yield loss for the month of July 2011, where the minimum yield is not below ***%. Yield below ***% shall be entirely the responsibility of FPSC. All yield losses under the Supply Agreement from August 1, 2011 and beyond, except those reflected in item #6 below, are the financial responsibility of FPSC and not SunPower. For the avoidance of doubt, liability for ingot related defects shall be determined using the existing Material Review Board (MRB) process of FPSC with respect to incoming ingots and the existing MRB process of SunPower with respect to incoming wafers, in compliance with SunPower's technical specifications for ingots and wafers. FPSC will engage SunPower engineering and quality personnel in its MRB process and SunPower personnel will have the opportunity to provide input into ingot disposition decisions. Section 3.5 of the Supply Agreement is hereby superseded by this section.
5. From August 1, 2011 and onward, the wafers per kg for products under the Supply Agreement is fixed at *** wafers/kg for 170um wafer thickness. There will be no exceptions including any wafers in WIP prior to the month of August 2011.
6. For the approximate 1.073Million wafers currently being processed for slurry residue, the parties agree to cost share the loss up to a maximum of $322K per party.
7. SunPower agrees to compensate FPSC $420k for the month of July 2011 under Section 3.4 (Price True Up) of the Supply Agreement.

The parties have initiated discussions to consider fixed pricing for 2012 and both parties shall negotiate in good faith the formalization of these terms in the extension of the current Supply Agreement.

8. In order to maintain FPSC's competitiveness, the Parties agree that for Q4 2011, pricing for 170um wafer thickness shall be fixed at $*** per wafer if the volume ordered by, and delivered to, SunPower is at least *** million wafers in Q4 2011. The Parties further agree that for Q4 2011, pricing for 170um wafer thickness shall be fixed at $*** per wafer if the volume ordered by, and delivered to, SunPower is at least *** million wafers in Q4 2011. This pricing shall supersede the pricing set forth in the Supply Agreement for Q4 2011.

Sections 9.3, 9.4, 9.6-9.16 of the Supply Agreement shall apply to this Resolution Agreement to Wafering Supply and Sales Agreement.

*** CONFIDENTIAL MATERIAL REDACTED AND SEPARATELY FILED WITH THE SECURITIES AND EXCHANGE COMMISSION.

IN WITNESS WHEREOF, the Parties have executed this Resolution Agreement as the date last written below in duplicate originals, both of which will be deemed originals, and both of which taken together shall be deemed one and the same instrument.

FIRST PHILEC SOLAR CORPORATION

/s/ Danilo C. Lachica
Danilo C. Lachica
President
Date: 21 Oct 2011

SUNPOWER PHILIPPINES MFG LTD

/s/ Paul Charrette
VP, Supply Chain

Date: Oct 21, 2011

Exhibit 10.89

LIQUIDITY SUPPORT AGREEMENT

This LIQUIDITY SUPPORT AGREEMENT, dated as of February 28, 2012 (this "Agreement"), is entered into by and among SUNPOWER CORPORATION, a Delaware corporation ("SunPower"), TOTAL S.A., a société anonyme organized under the laws of the Republic of France ("Total"), and the U.S. DEPARTMENT OF ENERGY, acting by and through the Secretary of Energy ("DOE" and, together with SunPower and Total, the "Parties").

RECITALS

WHEREAS, Total Gas & Power USA, SAS, a société par actions simplifiée organized under the laws of the Republic of France and an indirect wholly owned subsidiary of Total, owns approximately 66.3% of the equity interests of SunPower;

WHEREAS, SunPower Corporation, Systems, a Delaware corporation and an indirect wholly owned subsidiary of SunPower (the "Contractor"), and High Plains Ranch II, LLC, a Delaware limited liability company ("HPR II" or "Borrower"), have entered into that certain Engineering, Procurement and Construction Agreement, dated as of September 30, 2011 (the "EPC Contract"), pursuant to which the Contractor has agreed to design, engineer, procure certain materials and equipment for, install, construct, test and commission a 250 MW AC design capacity photovoltaic power plant in San Luis Obispo County, California (the "PV Power Plant");

WHEREAS, SunPower has executed and delivered a Guaranty, dated as of September 30, 2011 (the "SunPower Guaranty"), in favor of HPR II, pursuant to which SunPower guarantees the payment and performance by the Contractor of its obligations and liabilities under the EPC Contract;

WHEREAS, in order to finance certain costs relating to the development and construction of the PV Power Plant and certain related expenses, HPR II and DOE entered into that certain Loan Guarantee Agreement, dated as of September 30, 2011 (as amended, restated, modified or otherwise supplemented from time to time, the "Loan Guarantee Agreement"), pursuant to which DOE will guarantee Advances (as defined under the Loan Guarantee Agreement) made to HPR II by the Federal Financing Bank, a body corporate and instrumentality of the United States of America ("FFB") (pursuant to that certain Note Purchase Agreement dated as of September 30, 2011, by and among HPR II, DOE and FFB), subject to the terms and conditions set forth in the Loan Guarantee Agreement;

WHEREAS, the obligation of DOE to guarantee any Advance under the Loan Guarantee Agreement is subject to, among other things, the condition that since the date of the Loan Guarantee Agreement (or, if later, since the date of the last Advance), no event has occurred or could reasonably be expected to occur that has had or could reasonably be expected to have a Material Adverse Effect (as defined in the Loan Guarantee Agreement);

WHEREAS, in SunPower's Form 10-Q for the quarterly period ended October 2, 2011 (the "SunPower 10-Q"), filed with the U.S. Securities and Exchange Commission ("SEC") on November 10, 2011, SunPower disclosed that, as of January 2, 2012, and potentially for one or

more subsequent quarters, SunPower might fail to meet a financial covenant under that certain Revolving Credit Agreement, dated September 27, 2011, by and among SunPower, Credit Agricole Corporate and Investment Bank, and the financial institutions party thereto, as amended by the First Amendment to Revolving Credit Agreement, dated as of December 21, 2011 (as so amended, and as may be further amended, modified or supplemented from time to time, the "Credit Agricole Facility");

WHEREAS, the obligation of DOE to guarantee any Advance under the Loan Guarantee Agreement is also subject to, among other things, the condition that each of the representations and warranties made by any Major Project Participant in any Transaction Document (in each case, as defined in the Loan Guarantee Agreement) is true and correct in all material respects as of the date of the relevant Master Advance Notice (as defined in the Loan Guarantee Agreement);

WHEREAS, SunPower and the Contractor are Major Project Participants;

WHEREAS, based upon its review of the SunPower 10-Q, DOE requested further information from SunPower regarding its liquidity position in order to determine whether SunPower's liquidity position constituted a "Material Adverse Effect" under the Loan Guarantee Agreement and whether the Contractor was capable of making the representations set forth in the EPC Contract;

WHEREAS, since the date of the SunPower 10-Q, no event of default has existed at any time under the Credit Agricole Facility due to a failure by SunPower to meet its financial covenants or any other reason;

WHEREAS, in order to mitigate any risk that the Contractor may have insufficient liquidity to perform its obligations under the EPC Contract in the future, at the request of DOE and on and subject to the terms and conditions described below, Total has agreed to provide, or cause to be provided, liquidity support to SunPower in an aggregate amount of up to $600 million;

WHEREAS, Total will derive indirect benefit from providing liquidity support to SunPower, and DOE has agreed that the provision of such liquidity support will (a) eliminate the risk that DOE will fail to approve the first Advance on the basis of the financial condition or liquidity of the Contractor or SunPower and (b) significantly reduce the risk that DOE will fail to approve any subsequent Advances on the basis of the financial condition or liquidity of the Contractor or SunPower; and

WHEREAS, the Parties understand that DOE will be making its decision of guaranteeing an Advance in reliance on, among other things, the liquidity support provided by Total under this Agreement;

NOW, THEREFORE, in consideration of the above recitals and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, DOE, SunPower and Total hereby agree as follows:

AGREEMENT

Section 1. Definitions. Capitalized terms used in this Agreement shall have the meanings set forth in this Section. All capitalized terms used but not otherwise defined in this Agreement shall have the meanings assigned to them in the Loan Guarantee Agreement.

(a) "Acceptable Affiliate" means, with respect to any Person, any Affiliate of such Person that is not a Prohibited Person, and (with respect to Affiliates of Total) as to which Total has certified to DOE that such Affiliate is not a Prohibited Person.

(b) "Affiliate" means with respect to any Person, any other Person that directly or indirectly Controls, is under common Control with, or is Controlled by, such Person.

(c) "Alternative Form" has the meaning set forth in Section 3(a).

(d) "Applicable Indebtedness" means and includes the aggregate amount of all Indebtedness of SunPower to third-party lenders, other than (i) Indebtedness that is non-recourse to SunPower, (ii) Indebtedness to Total and its Acceptable Affiliates, (iii) Indebtedness as to which Total or any of its Acceptable Affiliates has guaranteed the reimbursement obligations of SunPower, and (iv) letter of credit facilities of SunPower to the extent secured by cash collateral.

(e) "Authorized Officer" means the Chief Executive Officer, the Chief Financial Officer, the Principal Accounting Officer or the Treasurer of a Person.

(f) "Available Support Amount" means the difference between the Maximum Support Amount and the Drawn Support Amount.

(g) "Business Day" means a day, other than (i) a Saturday or Sunday, (ii) any other day on which either FFB or the Federal Reserve Bank of New York is not open for business or (iii) a public holiday, on which banks are generally not open for business in the State of California.

(h) "Cash Equivalents" means:

(i) direct obligations of the government of the United States or any agency or instrumentality thereof, or obligations unconditionally and fully guaranteed by the full faith and credit of the government of the United States, in each case maturing not more than one hundred eighty (180) days from the date of creation thereof;

(ii) securities issued by the United States or any agency or instrumentality thereof (provided that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than one (1) year from the date of acquisition thereof;

(iii) investments in commercial paper maturing within ninety (90) days from the date of acquisition thereof and having, at such date of acquisition, a rating of at least A-1 or P-1 from either S&P or Moody's (or, if at any time neither S&P nor Moody's shall be rating such obligations, an equivalent rating from another nationally recognized rating service);

(iv) investments in certificates of deposit and time deposits maturing within two hundred seventy (270) days from the date of acquisition thereof issued by any bank organized under the laws of the United States, any State thereof, any country that is a member of the Organization for Economic Co-Operation and Development or any political subdivision thereof, that has a combined capital and surplus of not less than five hundred million Dollars ($500,000,000) and having, on the date of purchase, a rating on its commercial paper of at least A-1 or the equivalent thereof by S&P, or at least P-1 or the equivalent thereof by Moody's;

(v) fully collateralized repurchase agreements with a term of not more than thirty (30) days for securities described in clause (ii) above and entered into with a financial institution satisfying the criteria of clause (iv) of this definition; and

(vi) investments in "money market funds" within the meaning of the Investment Company Act of 1940, as amended, substantially all of whose assets are invested in investments of the type described in clauses (i) and (ii) of this definition.

(i) "Control" (including with correlative meanings, the terms "Controlling," "Controlled by" and "under common Control with") means the power, directly or indirectly, to direct or cause the direction of the management or business or policies of a Person, whether through the ownership of voting securities or partnership or other ownership interests, by contract, or otherwise (other than through super-majority rights or negative control rights of members).

(j) "Debarment Regulations" means all of the following:

(i) the Government-wide Debarment and Suspension (Non-procurement) regulations (Common Rule), 53 Fed. Reg. 19204 (May 26, 1988);

(ii) Subpart 9.4 (Debarment, Suspension, and Ineligibility) of the Federal Acquisition Regulations, 48 C.F.R. 9.400 - 9.409; and

(iii) the revised Government-wide Debarment and Suspension Nonprocurement) regulations (Common Rule), 60 Fed. Reg. 33037 (June 26, 1995).

(k) "Dollar" and "$" mean lawful money of the United States of America.

(l) "Drawn Support Amount" means, as of any time, the difference, in Dollars, of (i) the aggregate amount of Liquidity Injections provided by Total and its

Acceptable Affiliates to SunPower pursuant to this Agreement minus (ii) the aggregate amount of all the Returned Liquidity Injections that have since been repaid, refunded, reimbursed or otherwise returned by SunPower to Total or its Acceptable Affiliates.

(m) "Final Completion Date" means the "Final Completion Date," as defined in the EPC Contract, provided, that the Final Completion Date hereunder shall not occur until DOE shall have consented to HPR II's issuance of a Final Completion Certificate (as defined in the EPC Contract) pursuant to Section 7.15(b) of the Loan Guarantee Agreement.

(n) "GAAP" means generally accepted accounting principles, consistently applied, as in effect from time to time.

(o) "Governmental Authority" means any federal, state, county, municipal, or regional authority or agency, or any other entity of a similar nature, exercising any executive, legislative, judicial, taxing, regulatory, or administrative function of government.

(p) "Governmental Judgment" means with respect to any Person, any judgment, order, decision, or decree, or any action of a similar nature, of or by a Governmental Authority having jurisdiction over such Person or any of its properties.

(q) "Indebtedness" means and includes the aggregate amount of, without duplication (i) all obligations for borrowed money, (ii) all obligations evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations to pay the deferred purchase price of property or services (other than accounts payable and accrued expenses incurred in the ordinary course of business determined in accordance with GAAP), (iv) all obligations with respect to capital leases, (v) all obligations created or arising under any conditional sale or other title retention agreement with respect to acquired property, (vi) all reimbursement and other payment obligations in respect of letters of credit and similar surety instruments (including construction performance bonds), contingent or otherwise, and (vii) all guaranty obligations with respect to the types of Indebtedness listed in clauses (i) through (vi) above.

(r) "Investment Company Act" means The United States Investment Company Act of 1940, as amended from time to time.

(s) "Knowledge" means (i) with respect to SunPower, the actual knowledge of any Authorized Officer of SunPower or any knowledge that should have been obtained by an Authorized Officer of SunPower after due inquiry, and (ii) with respect to Total, the actual knowledge of an Authorized Officer of Total or any knowledge that should have been obtained by such Person after due inquiry.

(t) "Law" means any federal, state, local and foreign statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, codes, directives, injunctions, permits, concessions, grants, franchises, licenses and governmental restrictions, whether now or hereafter in effect.

(u) "Liquidity Injection" means any combination of debt (secured, mezzanine or otherwise), repayment or purchase of debt owed by SunPower to a third party, equity (including any cash exercise of a warrant), preferred equity, convertible debt, convertible equity, guarantees of new debt or existing debt, or any other transaction that is approved or deemed approved by DOE pursuant to Section 3(a), in each case between SunPower and Total or its Acceptable Affiliates, that increases the amount of unrestricted cash on SunPower's balance sheet or otherwise satisfies Total's obligations pursuant to Section 3(c) or 3(d) of this Agreement, so long as such transaction is in compliance with all limitations or restrictions on such types of transactions then applicable to SunPower.

(v) "Liquidity Injection Certificate" means a certificate, substantially in the form of Exhibit B hereto.

(w) "Liquidity Support Event" means:

(i) SunPower's failure to deliver to DOE, within fifteen (15) Business Days after the end of each fiscal quarter of SunPower, a SunPower Quarterly Certificate from an Authorized Officer of SunPower confirming that, to the best knowledge of such Authorized Officer after due inquiry, SunPower's Reported Liquidity as of the last Business Day of the applicable fiscal quarter was equal to at least $100 million and SunPower's Projected Liquidity for the next fiscal quarter, determined as of the date of certification, is equal to at least $100 million; or

(ii) At any time during any fiscal quarter, SunPower's failure to satisfy any of its financial covenants under any Applicable Indebtedness (taking into account all cure periods under the Applicable Indebtedness and any forbearance periods during which (A) SunPower and the applicable lender are diligently working to cure such default and (B) the applicable lender has not accelerated any portion of the Applicable Indebtedness or commenced proceedings to foreclose on any collateral securing such Applicable Indebtedness, in each case, as certified by SunPower to DOE, on a weekly basis, after the occurrence of such failure and expiration of any applicable cure period); or

(iii) Failure by SunPower to provide the certification required in accordance with clause (ii) above.

(x) "Maximum Support Amount" means $600 million, calculated in Dollars.

(y) "Moody's" means Moody's Investors Service, Inc. and any successor thereto.

(z) "OFAC" means the Office of Foreign Assets Control, agency of the U.S. Department of the Treasury under the auspices of the Under Secretary of the Treasury for Terrorism and Financial Intelligence.

(aa) "Outside Termination Date" means December 31, 2015, as extended by the number of days that the PV Power Plant Substantial Completion Guaranteed Date (as

defined in the EPC Contract) is extended due to a Force Majeure Event (as defined in the EPC Contract) or an Excusable Event (as defined in the EPC Contract) pursuant to the EPC Contract; provided, that such date shall not, in any case, be extended by more than 180 days due to a Force Majeure Event or 365 days due to an Excusable Event, and in any event not beyond December 31, 2016.

(bb) "Person" means and includes an individual, firm, a partnership, a corporation, company (including a business trust), a joint stock company, a limited liability company, an unincorporated association, a joint venture or other entity or a governmental authority.

(cc) "Prohibited Person" means any Person that is:

(i) named, identified, or described on the list of "Specially Designated Nationals and Blocked Persons" (Appendix A to 31 CFR chapter V) as published by OFAC at its official website, http://www.treas.gov/offices/enforcement/ofac/sdn/, or at any replacement website or other replacement official publication of such list;

(ii) named, identified or described on any other blocked persons list, designated nationals list, denied persons list, entity list, debarred party list, unverified list, sanctions list or other list of individuals or entities with whom U.S. persons may not conduct business, including lists published or maintained by OFAC, lists published or maintained by the U.S. Department of Commerce, and lists published or maintained by the U.S. Department of State;

(iii) debarred or suspended from contracting with the U.S. government or any agency or instrumentality thereof;

(iv) debarred, suspended, proposed for debarment with a final determination still pending, declared ineligible or voluntarily excluded (as such terms are defined in any of the Debarment Regulations) from contracting with any U.S. federal government department or any agency or instrumentality thereof or otherwise participating in procurement or nonprocurement transactions with any U.S. federal government department or agency pursuant to any of the Debarment Regulations;

(v) indicted, convicted or had a Governmental Judgment rendered against it for any of the offenses listed in any of the Debarment Regulations;

(vi) subject to U.S. or multilateral economic or trade sanctions in which the U.S. participates;

(vii) owned or controlled by, or acting on behalf of, any governments, corporations, entities or individuals that are subject to U.S. or multilateral economic or trade sanctions in which the U.S. participates; or

(viii) an Affiliate of a Person listed above.

(dd) "Projected Liquidity" means, as of any date of determination, the projected amount of (i) SunPower's unrestricted cash and Cash Equivalents as of the last Business Day of the fiscal quarter in which such determination is made (after taking into account all obligations, including under Applicable Indebtedness, that are expected to come due in such fiscal quarter and any projected sales for such fiscal quarter) plus (ii) unused availability under any committed credit arrangement that will be available to SunPower to be used for general corporate purposes as of the last Business Day of the fiscal quarter in which such determination is made.

(ee) "Reported Liquidity" means, as of any date of determination, the amount of (i) SunPower's unrestricted cash and Cash Equivalents shown on SunPower's balance sheet (after payment of all Applicable Indebtedness that became due in the applicable quarter) plus (ii) unused availability under any committed credit arrangement that was available to SunPower to be used for general corporate purposes.

(ff) "Returned Liquidity Injections" has the meaning set forth in Section 4.

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

(hh) "SunPower Quarterly Certificate" means a certificate, substantially in the form of Exhibit A hereto.

(ii) "S&P" means Standard & Poor's Rating Services, a division of the McGraw & Hill Companies, Inc.

Section 2. SunPower Covenants.

(a) Quarterly Reporting. Commencing on the date hereof and continuing until the Final Completion Date, within fifteen (15) Business Days after the end of each fiscal quarter of SunPower, starting from the fiscal quarter ending on March 31, 2012, SunPower shall deliver to each of DOE and Total a duly completed SunPower Quarterly Certificate, signed by an Authorized Officer of SunPower, setting forth to the best knowledge of such Authorized Officer after due inquiry (i) SunPower's Reported Liquidity as of the last Business Day of the immediately preceding fiscal quarter and (ii) SunPower's Projected Liquidity determined as of the date of such certificate.

(b) Notice of Breach. Promptly upon obtaining Knowledge thereof, SunPower shall deliver notice to each of DOE and Total of any failure by SunPower to meet any

of its financial covenants under any Applicable Indebtedness (taking into account all cure periods under the Applicable Indebtedness). Thereafter, if applicable, SunPower shall deliver weekly notices to each of DOE and Total, each substantially in the form of Exhibit C hereto, during any forbearance period during which (i) SunPower and the applicable lender are diligently working to cure such default and (ii) the applicable lender has not accelerated any portion of the Applicable Indebtedness or commenced proceedings to foreclose on any collateral securing such Applicable Indebtedness.

Section 3. Liquidity Support.

(a) No Conditions Precedent; Form of Liquidity Injections. There shall be no conditions precedent to this Agreement or to Total's obligation to provide Liquidity Injections when required pursuant to clauses (c) and (d) of this Section 3, except those stated in clause (b) hereof, which may be waived in DOE's sole discretion. Liquidity Injections will be in the form(s) contemplated by the definition thereof; provided, that if Total wishes to provide a Liquidity Injection in a form other than as set forth in such definition (an "Alternative Form"), Total will provide a commercially reasonable written description of such proposed Alternative Form to DOE during the five (5) Business Day period described in Section 3(c) or (d), as applicable, and DOE will have three (3) Business Days after receipt of such description during which it may notify Total in writing of its rejection (for commercially reasonable reasons) of such proposed Alternative Form. For the avoidance of doubt, if DOE fails to notify Total of its rejection of the proposed Alternative Form within such three (3) Business Day period, DOE will be deemed to have accepted such Alternative Form and Total may utilize the Alternative Form to fulfill its obligations under this Agreement just as if such Alternative Form was specifically referenced in the definition of Liquidity Injection. If DOE rejects a proposed Alternative Form within three (3) Business Days as set forth above, Total will not use such Alternative Form, and will instead use any form contemplated by the definition of "Liquidity Injection". If Total notifies DOE of a proposed Alternative Form during the five (5) Business Day period described in Section 3(c) or (d), as applicable, then the date by which Total or an Acceptable Affiliate must provide a Liquidity Injection (whether in a form described in the definition of Liquidity Injection or in an Alternative Form accepted or deemed to have been accepted by DOE) will be extended by the lesser of (a) the time within which DOE notifies Total of such acceptance or rejection and (b) three (3) Business Days.

(b) Opinions. Each of Total and SunPower shall have provided an opinion from a law firm, reasonably acceptable to DOE, in a form reasonably acceptable to DOE, with respect to due authorization, due delivery, due execution and enforceability of this Agreement.

(c) Quarterly Liquidity Shortfalls. Within five (5) Business Days after the occurrence of a Liquidity Support Event described in clause (i) of the definition thereof (subject to extension of such period pursuant to the last sentence of Section 3(a)), Total shall make, or cause to be made through one or more of its Acceptable Affiliates, a Liquidity Injection into SunPower in such form as Total may choose in its sole discretion, and in an amount needed to cause both SunPower's Reported Liquidity and SunPower's Projected Liquidity to be equal to the amount of at least $100 million.

(d) Covenant Defaults. Within five (5) Business Days after obtaining Knowledge of the occurrence of a Liquidity Support Event described in clause (ii) of the definition thereof (subject to extension of such period pursuant to the last sentence of Section 3(a)), Total shall make, or cause to be made through one or more of its Acceptable Affiliates, a Liquidity Injection into SunPower in such form as Total may choose in its sole discretion, and in such amount as is necessary to enable SunPower to cure such breach and satisfy the applicable financial covenant after giving effect to, and as of the date of, such Liquidity Injection.

(e) Cap on Liquidity Support. Notwithstanding anything herein to the contrary, in no event shall Total be required to provide, or cause any of its Acceptable Affiliates to provide, any amount of Liquidity Injections that would cause the Drawn Support Amount to exceed the Maximum Support Amount.

(f) Evidence of Liquidity Injections. Promptly upon providing a Liquidity Injection pursuant to Section 3(c) or 3(d) of this Agreement, Total shall provide to DOE a Liquidity Injection Certificate, which shall (i) set forth (A) the identity of the Person providing the Liquidity Injection, and (B) a description of each Liquidity Support Event and the amount and form of the Liquidity Injection intended to cure such Liquidity Support Event, (ii) certify that (A) all Liquidity Support Events have been cured, after giving effect to, and determined as of the date of, such Liquidity Injection, (B) the Drawn Support Amount after giving effect to such Liquidity Injection and the Available Support Amount, (C) any agreements relating to the Liquidity Injection are in compliance with all limitations or restrictions on such types of transactions then applicable to SunPower, and (D) in the event that the Person providing the Liquidity Injection is not Total, (x) such Person is an Acceptable Affiliate and (y) Total has the power and authority to cause such Person to comply with all restrictions imposed on Acceptable Affiliates hereunder, and (iii) attach a statement of an Authorized Officer of SunPower confirming the amount of such Liquidity Injection and that such Liquidity Injection has cured the applicable Liquidity Support Event (subject to the restriction contained in Section 3(e)). If such Liquidity Injection is in the form of a guaranty of Indebtedness, such Liquidity Injection Certificate shall also attach a copy of the guaranty.

(g) Preemptive Cure Right. Total shall have the option, but not the obligation, at any time to provide, or to cause an Acceptable Affiliate to provide, Liquidity Injections into SunPower in order to prevent the occurrence of a Liquidity Support Event, to improve the liquidity of SunPower or for any other reason (for example, by replacing third-party debt with debt provided by Total or its Acceptable Affiliates, curing potential or actual defaults or making equity or quasi-equity investments in SunPower or exercising any warrant to purchase equity of SunPower), and, upon Total's delivery to DOE of a Liquidity Injection Certificate describing the applicable Liquidity Injection, the amount of such Liquidity Injections will be included in calculations of Reported Liquidity, Projected Liquidity and the Drawn Support Amount, as applicable.

(h) Effect of Liquidity Support Arrangements. In consideration of Total entering into this Agreement, DOE acknowledges and agrees that: (i) no Material Adverse Effect under the Loan Guarantee Agreement or breach of the "financial condition" representation made by the Contractor in Section 4.1.10 of the EPC Contract has occurred prior to the date hereof, and (ii) for so long as (A) this Agreement remains in effect and (B) Total is in compliance with

its obligations hereunder, DOE will not claim (x) the occurrence of a Material Adverse Effect under the Loan Guarantee Agreement pursuant to clause (ii) or (iii) of the definition of Material Adverse Effect (as in effect on the date hereof in the Loan Guarantee Agreement, or pursuant to corresponding or similar provisions of such definition if such definition is amended after the date of this Agreement) solely on the basis of the financial condition or liquidity of the Contractor and/or SunPower or (y) the breach of the "financial condition" representation made by the Contractor in Section 4.1.10 of the EPC Contract (and the resulting Potential Default under the Loan Guarantee Agreement that may be caused by such breach). Notwithstanding anything herein to the contrary, nothing in this Agreement shall prevent DOE from asserting the occurrence of a Material Adverse Effect under the Loan Guarantee Agreement or breach of any other representation or warranty, in each case, (a) for any other reason or (b) on the basis of the financial condition or liquidity of the Contractor and/or SunPower, if the conditions of this Section 3(h) are not met.

Section 4. **Total Covenants**. Each of Total and each Acceptable Affiliate shall not exercise, and shall not permit any of its Subsidiaries to exercise, any remedies against SunPower or the Contractor under any agreement pertaining to a Liquidity Injection or any other Indebtedness due to it or an Acceptable Affiliate from SunPower or the Contractor if (a) a Liquidity Support Event has occurred and has not been cured or (b) such exercise of remedies could reasonably be expected to cause a Liquidity Support Event or cause SunPower or the Contractor to become bankrupt, insolvent, unable to pay its debts as they become due or unable to perform its obligations under the EPC Contract; provided, that at any time after the end of any fiscal quarter during which Total or any of its Acceptable Affiliates has provided a Liquidity Injection, Total or its Acceptable Affiliate, as applicable (such returned Liquidity Injections, the "Returned Liquidity Injections"), may call, and SunPower will return to Total or its Acceptable Affiliate, as applicable, part or all of the Liquidity Injection previously provided to the extent that (i) no Liquidity Support Event has occurred and has not been cured and (ii) the return of such amount to Total or its Acceptable Affiliate, as applicable, could not reasonably be expected to cause a Liquidity Support Event or cause SunPower or the Contractor to become bankrupt, insolvent, unable to pay its debts as they become due or unable to perform its obligations under the EPC Contract.

Section 5. **Termination**. This Agreement shall terminate following the earliest to occur of (a) the Final Completion Date, (b) the Outside Termination Date, (c) the date on which all of the Secured Obligations (as defined under the Loan Guarantee Agreement) have been indefeasibly paid in full and all commitments to extend credit under the FFB Documents (as defined under the Loan Guarantee Agreement) have been terminated, and (d) the date on which the EPC Contract has been terminated by the Contractor pursuant to the terms thereof and subject to the Direct Consent Agreement, dated September 30, 2011, between the Contractor and DOE. For the avoidance of doubt, Total shall have no obligation to provide liquidity support to SunPower pursuant to this Agreement following the expiration or termination of this Agreement and may at any time after such date require return or repayment of previously provided liquidity support.

Section 6. **Specific Performance; Scope of Total Obligations; No Duty to Mitigate**.

(a) Specific Performance. The parties hereto agree that irreparable damage would occur in the event any provision of this Agreement is not performed in accordance with the terms hereof, this Agreement shall remain in full force and effect and the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity. If SunPower or DOE institutes any action or proceeding to specifically enforce the provisions hereof against Total, Total hereby waives any claim or defense that such party has an adequate remedy at law, and Total shall not offer in any such action or proceeding the claim of defense that such remedy at law exists. In addition to the remedy of specific performance, if Total breaches this Agreement and fails to cure a Liquidity Support Event on terms and conditions set forth in this Agreement, DOE will have a claim against Total for contractual breach of this Agreement; provided, that for the avoidance of doubt, any damages would be payable to SunPower. The Parties agree that in those circumstances neither SunPower nor DOE will be obligated to prove damages hereunder and that the full amount of damages shall be equal to the amount of Liquidity Injection required to be provided by Total to SunPower in connection with the applicable Liquidity Support Event.

(b) Limitation on Liabilities of Total. Total's aggregate liability for claims arising out of or relating to this Agreement shall in no event exceed an amount equal to the Maximum Support Amount minus the Drawn Support Amount. For the avoidance of doubt, nothing in this agreement shall make Total liable for SunPower's obligations under the SunPower Guaranty, the Contractor's obligations under the EPC Contract or HPR II's obligations under the Loan Guarantee Agreement, or for any other obligations.

(c) No Duty to Mitigate. SunPower will not be required to mitigate the amount of any Liquidity Injection that Total may be required to provide to SunPower pursuant to Section 3(c) or (d) of this Agreement at any time. Upon the occurrence of a Liquidity Support Event, SunPower shall have the right to, and shall be required to, obtain the required Liquidity Injection without any further consent of Total or any Acceptable Affiliate.

Section 7. Obligations Absolute. Total agrees that its obligations hereunder to provide Liquidity Injections when required pursuant to Section 3 of this Agreement are irrevocable, absolute, independent and unconditional and shall not be affected by any event, condition or circumstance whatsoever including any event, condition or circumstance which constitutes, or might be construed to constitute, a legal or equitable defense or discharge of Total. In furtherance of the foregoing and without limiting the generality thereof, Total hereby agrees as follows:

(a) This Agreement is a primary obligation of Total.

(b) DOE may enforce this Agreement notwithstanding the existence of any dispute between DOE and the Contractor or SunPower with respect to whether the Contractor or SunPower is in default or breach of any obligation.

(c) The obligations of Total hereunder to provide Liquidity Injections when required pursuant to Section 3 of this Agreement are exclusive and independent of (i) the obligations of SunPower under SunPower's Guaranty, or (ii) the Contractor's obligations under the EPC Contract; and a separate action or actions may be brought and prosecuted against Total

whether or not any action is brought against the Contractor or SunPower and whether or not either the Contractor or SunPower is joined in any such action or actions.

(d) Any provision by Total or an Acceptable Affiliate of a portion, but not all, of any Liquidity Injection required to be provided pursuant to Section 3 of this Agreement shall in no way limit, affect, modify or abridge Total's liability for any remaining portion of such required Liquidity Injection, subject to Section 3(e).

Section 8. Waivers. Total hereby waives, for the benefit of DOE:

(a) any right to require DOE, as a condition to Total or an Acceptable Affiliate providing any Liquidity Injection when required pursuant to Section 3 of this Agreement, to proceed against the Contractor under the EPC Contract or SunPower under the SunPower Guaranty; and

(b) (i) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms of this Agreement and any legal or equitable discharge of Total's or such Acceptable Affiliate's obligations hereunder, and (ii) the benefit of any statute of limitations affecting such Total's or such Acceptable Affiliate's liability hereunder or the enforcement hereof.

Section 9. Waiver of Subrogation. Until the Final Completion Date, Total hereby waives and agrees that, with respect to any guaranty of Applicable Indebtedness issued by Total or an Acceptable Affiliate, neither it nor any Acceptable Affiliate shall assert or seek or be entitled to any right or remedy relating to repayment or reimbursement that Total or such Acceptable Affiliate may have against SunPower in connection with such guaranty, in each case whether such right or remedy arises in equity, under contract, by statute, under common law or otherwise and including any right of subrogation, reimbursement, contribution or indemnification that Total or such Acceptable Affiliate now has or may hereafter have against SunPower, except as otherwise permitted by Section 4. Total further agrees that, to the extent the waiver or agreement to withhold the exercise of its rights of subrogation, reimbursement, indemnification and contribution as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement, contribution or indemnification Total or such Acceptable Affiliate may have against SunPower shall be junior and subordinate to any rights DOE may have against SunPower.

Section 10. Representations and Warranties.

(a) SunPower Representations and Warranties. On and as of the date of this Agreement, SunPower represents and warrants to Total and to DOE that:

(i) Due Incorporation, Qualification, etc. SunPower is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has the requisite corporate power and authority to conduct its business as it is presently being conducted.

(ii) Authority. The execution, delivery and performance by SunPower of this Agreement and the consummation of the transactions contemplated hereby (A) are

within the corporate power and authority of SunPower and (B) have been duly authorized by all necessary corporate actions on the part of SunPower.

(iii) Enforceability. This Agreement has been duly executed and delivered by SunPower and constitutes a legal, valid and binding obligation of SunPower, enforceable against SunPower in accordance with its terms, except as may be limited by bankruptcy, insolvency or other laws of general application relating to or affecting the enforcement of creditors' rights generally and general principles of equity.

(iv) Approvals. Other than those already obtained, no consent, approval, order or authorization of, or registration, declaration or filing with, any governmental authority or any other person or entity (including, without limitation, the shareholders of SunPower) is required in connection with the execution and delivery by SunPower of this Agreement or the performance and consummation by SunPower of the transactions contemplated hereby.

(v) Litigation. Except as set forth in Schedule 10(a)(v), there are no material actions, suits, proceedings or investigations pending against SunPower or its properties, nor has SunPower received notice of any threat thereof, and SunPower is not a party or, to its Knowledge, subject to the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality.

(vi) SEC Reports. As of its filing date (or, if amended or superseded by a filing prior to the date of this Agreement, on the date of such amended or superseding filing), no form, report and document filed by SunPower with the SEC since February 28, 2011, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(vii) Investment Company Act. SunPower is not required to register as an "investment company" and it is not "controlled" by a company required to register as an "investment company" under the Investment Company Act.

(viii) Non-Contravention. The execution and delivery by SunPower of this Agreement and the performance and consummation of the transactions contemplated hereby do not and will not (A) violate the articles or certificate of incorporation or bylaws of SunPower, (B) violate any judgment, order, writ, decree, statute, rule or regulation applicable to SunPower, (C) violate any provision of, or result in the breach or the acceleration of, or entitle any other person to accelerate (whether after the giving of notice or lapse of time or both), any material mortgage, indenture, agreement, instrument or contract to which SunPower is a party or by which it is bound, or (D) result in the creation or imposition of any lien upon any property or asset of SunPower (other than those in favor of Total that may be granted by SunPower as security for its obligations relating to any Liquidity Injection).

(b) Total Representations and Warranties. On and as of the date of this Agreement, Total represents and warrants to SunPower and to DOE that:

(i) Due Incorporation, Qualification, etc. Total is duly organized, validly existing and in good standing under the laws of the Republic of France and has requisite power and authority to conduct its business as it is presently being conducted.

(ii) Authority. The execution, delivery and performance by Total of this Agreement and the consummation of the transactions contemplated hereby (A) are within the corporate power and authority of Total and (B) have been duly authorized by all necessary corporate actions on the part of Total.

(iii) Enforceability. This Agreement has been duly executed and delivered by Total and constitutes a legal, valid and binding obligation of Total, enforceable against Total in accordance with its terms, except as may be limited by bankruptcy, insolvency or other laws of general application relating to or affecting the enforcement of creditors' rights generally and general principles of equity.

(iv) Approvals. Other than those already obtained, no consent, approval, order or authorization of, or registration, declaration or filing with, any governmental authority or any other person or entity is required in connection with the execution and delivery by Total of this Agreement and the performance and consummation by Total of the transactions contemplated hereby.

(v) Litigation. There are no actions, suits, proceedings or investigations pending against Total, nor has Total received notice of any threat thereof, and Total is not a party or to its knowledge subject to the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality, that question the validity of this Agreement, or the right of Total to enter into this Agreement, or to consummate the transactions contemplated hereby, nor is Total aware that there is any basis for any of the foregoing.

(vi) SEC Reports. As of its filing date (or, if amended or superseded by a filing prior to the date of this Agreement, on the date of such amended or superseding filing), no form, report and document filed by Total with the SEC since March 28, 2011, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(vii) Non-Contravention. The execution and delivery by Total of this Agreement and the performance and consummation of the transactions contemplated hereby do not and will not (A) violate the articles or certificate of incorporation or bylaws (or equivalent governing documents) of Total, (B) violate any judgment, order, writ, decree, statute, rule or regulation applicable to Total, (C) violate any provision of, or result in the breach or the acceleration of, or entitle any other person to accelerate (whether after the giving of notice or lapse of time or both), any mortgage, indenture, agreement, instrument or contract to which Total is a party or by which it is bound, or (D) result in the creation or imposition of any lien upon any property or asset of Total, except, in the case of each of clauses (B), (C) and (D) above , for such violations, or breaches or liens that could not reasonably be expected to (1) have a material adverse effect on (x) the

business, assets, operations or financial or other condition of Total, when taken as a whole, or (y) the ability of Total to perform its obligations in accordance with the terms of this Agreement or (2) materially impede or delay Total's performance of its obligations under this Agreement.

Section 11. Miscellaneous.

(a) Notices. Except as otherwise provided herein, all notices, requests, demands, consents, instructions or other communications to or upon SunPower, Total or DOE under this Agreement shall be in writing and delivered by electronic mail, facsimile, hand delivery, overnight courier service or certified mail, return receipt requested, to each party at the address set forth below (or to such other address most recently provided by such party to the other party). All such notices and communications shall be effective (i) when sent by Federal Express or other overnight service of recognized standing, on the Business Day following the deposit with such service, (ii) when mailed, by registered or certified mail, first class postage prepaid and addressed as aforesaid through the United States Postal Service, upon receipt, (iii) when delivered by hand, upon delivery, and (iv) when faxed or emailed, upon confirmation of receipt.

Total:

Total S.A.
2, place Jean Millier
La Défense 6
92400 Courbevoie
France
Attention: Olivier Devouassoux, VP Subsidiary Finance Operations
Telephone: +33 1 47 44 45 64
Facsimile: + 33 1 47 44 48 74
Email: olivier.devouassoux@total.com

With a copy to:

Total S.A.
2, place Jean Millier
La Défense 6
92400 Courbevoie
France
Attention: Christine Souchet, Subsidiary Finance Operations - Gas and Power
Telephone: +33 1 47 44 72 11
Facsimile: +33 1 47 44 47 92
Email: christine.souchet@total.com

With a copy to:

Total S.A.

2, place Jean Millier
La Défense 6
92400 Courbevoie
France
Attention: Jonathan Marsh, Vice President, Legal Director
Mergers, Acquisitions & Finance
Telephone: +33 (0) 1 47 44 74 70
Facsimile: +33 (0)1 47 44 43 05
Email: jonathan.marsh@total.com

SunPower:

SunPower Corporation
77 Rio Robles
San Jose, CA 95134
Attention: Dennis Arriola, Executive Vice President and Chief Financial Officer
Telephone: 408-240-5500
Facsimile: 408-240-5404
E-mail: dennis.arriola@sunpowercorp.com

With a copy to:

SunPower Corporation
77 Rio Robles
San Jose, CA 95134
Attention: Navneet Govil, Vice President and Treasury
Telephone: 408-457-2655
E-mail: navneet.govil@sunpowercorp.com

With a copy to:

SunPower Corporation
1414 Harbour Way South
Richmond, CA 94804
Attention: Christopher Jaap, General Counsel
Telephone: 408-240-5500
Facsimile: 408-240-5404
E-mail: christopher.jaap@sunpowercorp.com

DOE:

U.S. Department of Energy
Loan Programs Office, Loan Guarantee Program
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Attn: Director, Portfolio Management
Phone: (202) 287-6142
FAX: (202) 287-5816
Email: lpo.portfolio@hq.doe.gov
Re: California Valley Solar Ranch, LGPO Loan #1229

with a copy to the same address (which copy shall not constitute notice) to:

Attn: Chinwe Binitie
Phone: (202) 287-6646
FAX: (202) 287-6949
Email: chinwe.binitie@hq.doe.gov
Re: California Valley Solar Ranch, LGPO Loan #1229

and a copy (which copy shall not constitute notice) to:

Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036
Attn: Harold Moore
E-mail:harold.moore@skadden.com
Phone: (212) 735-3252
FAX: (917) 777-3252
Re: California Valley Solar Ranch

(b) Nonwaiver. No failure or delay by any Party in exercising any right hereunder shall operate as a waiver of such right of such Party or of any other right nor shall any single or partial exercise of any such right preclude any other further exercise thereof or of any other right by such Party or any other Party.

(c) Amendments and Waivers. This Agreement may not be amended or modified, nor may any of its terms be waived, except by a written instrument signed by SunPower, Total and DOE. Each waiver or consent under any provision hereof shall be effective only in the specific instances for the purpose for which given.

(d) Assignments.

(i) Assignment by SunPower. This Agreement may not be assigned by SunPower without the prior written consent of Total and DOE, which consent may be withheld in Total's or DOE's sole discretion.

(ii) Assignment by Total. This Agreement may not be assigned by Total without the prior written consent of SunPower and DOE, which, with respect to DOE, may be withheld in DOE's sole discretion and, with respect to SunPower, may not be unreasonably withheld, conditioned or delayed.

(iii) Successors and Assigns. No assignment of this Agreement shall be valid until all of the obligations of the assignor hereunder shall have been assumed by the assignee by written agreement delivered to the other Parties. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

(e) Partial Invalidity; Reinstatement. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law or any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

(f) Applicable Law; Jurisdiction; Etc.

(i) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA, WITHOUT REFERENCE TO CONFLICTS OF LAWS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

(ii) SUBMISSION TO JURISDICTION. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT SHALL AFFECT ANY RIGHT THAT ANY PARTY HERETO MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AGAINST ANY OTHER PARTY HERETO OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(iii) WAIVER OF VENUE. EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY COURT REFERRED TO IN SECTION 8(f)(ii). EACH OF THE PARTIES HERETO

HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(iv) Appointment of Process Agent and Service of Process. Total hereby appoints CT Corporation System, located on the date hereof at 111 Eighth Avenue, New York, New York 10011, as its agent (the "Process Agent") to receive services of copies of the summons and complaint and any other process that may be served in any such action or proceeding in the State of New York. Total shall provide written notice to SunPower and DOE at least ten (10) days prior to any change in address of the Process Agent and, if for any reason CT Corporation System shall cease to act as a Process Agent for Total or shall cease to maintain an office in New York State, Total shall promptly designate a new agent in New York City to act on the terms and for the purposes of this Section 11(f), which Person shall be reasonably satisfactory to SunPower and DOE, and Total shall deliver to SunPower and DOE an agreement with such Process Agent evidencing its designation as such and the payment of any fees related thereto throughout the term hereof. Service of process on Total under this Agreement may be made by mailing or delivering a copy of any such process to Total in care of the Process Agent at the Process Agent's above address, and Total hereby irrevocably authorizes and directs the Process Agent to receive such service on its behalf. As an alternative method of service, Total also irrevocably consents to the service of any and all process in any such action or proceeding by the certified mailing of copies of such process to Total at its then effective notice addresses pursuant to Section 11(a). Nothing in this Agreement shall affect any right that any party may otherwise have to bring any action or proceeding relating to this Agreement in the courts of any jurisdiction.

(v) WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (i) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (ii) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 11(f).

(g) Counterparts and Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The facsimile, email or other electronically delivered signatures of the parties shall be deemed to constitute original signatures, and facsimile or electronic copies hereof shall be deemed to constitute duplicate originals.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Liquidity Support Agreement to be executed as of the day and year first written above.

SUNPOWER CORPORATION

By: /s/ Thomas H. Werner
Name: Thomas H. Werner
Title: Chief Executive Officer

TOTAL S.A.

By: /s/ Patrick de la Chevardiere
Name: Patrick de la Chevardiere
Title: Chief Financial Officer

U.S. DEPARTMENT OF ENERGY

By: /s/ Francis I. Nwachuku
Name: Francis I. Nwachuku
Title: Director, Portfolio Management Division

Exhibit A

Form of SunPower Quarterly Certificate

To: Total S.A.
2, place Jean Millier
La Défense 6
92400 Courbevoie
France
Attention: Olivier Devouassoux, VP Subsidiary Finance Operations
Telephone: +33 1 47 44 45 64
Facsimile: + 33 1 47 44 48 74
Email: olivier.devouassoux@total.com

U.S. Department of Energy
Loan Programs Office, Loan Guarantee Program
1000 Independence Avenue, S.W.
Washington, D.C. 20585
Attention: Director, Portfolio Management
E-mail: lpo.portfolio@hq.doe.gov
Telephone: (202) 287-6738
Facsimile: (202) 287-5816

Date: _____

I, _____, an Authorized Officer of SunPower Corporation ("SunPower"), hereby deliver this report pursuant to Section 2(a) of the Liquidity Support Agreement, dated as of February 28, 2012 (the "Liquidity Support Agreement"), by and among Total S.A., SunPower and DOE, and certify as follows (capitalized terms used and not otherwise defined below have the meanings given them in the Liquidity Support Agreement):

1. This SunPower Quarterly Certificate is being delivered to Total and DOE within fifteen (15) Business Days after the end of the fiscal quarter ended [ ], 20[ ] (the "Reported Quarter").

2. Attached hereto as Schedule I is a statement setting forth, to the best of my knowledge after due inquiry, the amount of (x) SunPower's unrestricted cash and Cash Equivalents shown on SunPower's balance sheet (after payment of all Applicable Indebtedness that has come due in the Reported Quarter) plus (y) unused availability under any committed credit arrangement that was available to SunPower to be used for general corporate purposes, as of the last Business Day of the Reported Quarter.

3. Attached hereto as Schedule II is a statement setting forth, to the best of my knowledge after due inquiry, the projected amount as of the last Business Day of the current fiscal quarter, of (a) SunPower's unrestricted cash and Cash

Equivalents (after taking into account all obligations, including under Applicable Indebtedness, that are expected to come due in such fiscal quarter and any projected sales for such fiscal quarter) plus (b) unused availability under any committed credit arrangement that will be available to SunPower to be used for general corporate purposes.

4. [As of the date hereof, no Liquidity Support Event has occurred that has not been cured.]

Sincerely,

_____

[Authorized Officer]
SunPower Corporation

Schedule I to SunPower Quarterly Certificate

Reported Liquidity

Unrestricted Cash and Cash Equivalents	Unused Availability Under Committed Credit Arrangements	Total

Schedule II to SunPower Quarterly Certificate

Projected Liquidity

Unrestricted Cash and Cash Equivalents	Unused Availability Under Committed Credit Arrangements	Total

Source and date of projections: [ ]

Exhibit B

Form of Liquidity Injection Certificate

To: U.S. Department of Energy
Loan Programs Office, Loan Guarantee Program
1000 Independence Avenue, S.W.
Washington, D.C. 20585
Attention: Director, Portfolio Management
E-mail: lpo.portfolio@hq.doe.gov
Telephone: (202) 287-6738
Facsimile: (202) 287-5816

Date: _____

I, _____, [_____] of Total S.A. ("Total"), hereby deliver this report pursuant to Section 3[(f)][(g)] of the Liquidity Support Agreement, dated as of February 28, 2012 (the "Liquidity Support Agreement"), by and among Total, SunPower Corporation and DOE, and certify as follows (capitalized terms used and not otherwise defined below have the meanings given them in the Liquidity Support Agreement):

1. On [ ], 20[ ], pursuant to Section 3[(c)][(d)][(g)] of the Liquidity Support Agreement, [due to the occurrence of a Liquidity Support Event resulting from [describe Liquidity Support Event],][1] [Total][[name of Acceptable Affiliate (the "Applicable Acceptable Affiliate"], an Acceptable Affiliate of Total] made a Liquidity Injection into SunPower in an aggregate amount equal to $[ ] (the "Current Injection").

2. The form of the Current Injection was [description of transaction, e.g., equity, preferred equity, convertible debt, convertible equity, guarantees, etc.].

3. The Current Injection has increased SunPower's Reported Liquidity, as of the date hereof, to $[ ] and SunPower's Projected Liquidity to $[ ]. [Modify as appropriate to the extent that the amount of the Current Injection has been decreased by application of the $600 million cap.]

4. After giving effect to the Current Injection, as of the date hereof, the Drawn Support Amount is $[ ] and the Available Support Amount is $[ ].

5. All agreements relating to the Current Injection are in compliance with all limitations or restrictions on such types of transactions applicable to SunPower.

---

[1] Insert for Liquidity Injections made pursuant to Sections 3(c) or 3(d).

6. [The Applicable Acceptable Affiliate is not a Prohibited Person, and Total has the power and authority to cause the Applicable Acceptable Affiliate to comply with all restrictions imposed on Acceptable Affiliates under the Liquidity Agreement.][2]

7. [After giving effect to, and as of the date of, the Current Injection, all Liquidity Support Events have been cured (subject to Section 3(e) of the Liquidity Support Agreement).][3]

8. Attached hereto as Exhibit A is a statement from an Authorized Officer of SunPower confirming the amount of the Current Injection[and that the Current Injection has cured the applicable Liquidity Support Event (subject to the proviso in Section 3(e) of the Liquidity Support Agreement).][4]

9. [Attached hereto as Exhibit B is a copy of the guarantee pursuant to which the Liquidity Injection was effected.] [5]

Sincerely,

_____

Title:
Name:

[2] Insert to the extent that Total is not providing the Liquidity Injection.

[3] Insert for Liquidity Injections made pursuant to Sections 3(c) or 3(d).

[4] Insert for Liquidity Injections made pursuant to Sections 3(c) or 3(d).

[5] Insert if the form of the Liquidity Injection is a Guarantee.

Exhibit A to Liquidity Injection Certificate

To: Total S.A.
2, place Jean Millier
La Défense 6
92400 Courbevoie
France
Attention: Olivier Devouassoux, VP Subsidiary Finance Operations
Telephone: +33 1 47 44 45 64
Facsimile: + 33 1 47 44 48 74
Email: olivier.devouassoux@total.com

U.S. Department of Energy
Loan Programs Office, Loan Guarantee Program
1000 Independence Avenue, S.W.
Washington, D.C. 20585
Attention: Director, Portfolio Management
E-mail: lpo.portfolio@hq.doe.gov
Telephone: (202) 287-6738
Facsimile: (202) 287-5816

Date: _____

I, _____, an Authorized Officer of SunPower Corporation ("SunPower"), hereby deliver this report pursuant to Section 3(f) of the Liquidity Support Agreement, dated as of February 28, 2012 (the "Liquidity Support Agreement"), by and among Total S.A., SunPower and DOE, and certify as follows (capitalized terms used and not otherwise defined below have the meanings given them in the Liquidity Support Agreement):

1. I have reviewed the Liquidity Injection Certificate of Total, dated [ ], 20[ ], and hereby certify that the amount of the Liquidity Injection and calculation of the Reported Liquidity and Projected Liquidity expressed therein are true and correct.

2. As of the date hereof, no Liquidity Support Event has occurred that has not been cured.

Sincerely,

_____
[Authorized Officer]
SunPower Corporation

Exhibit C

Form of SunPower Forbearance Certificate

To: U.S. Department of Energy
Loan Programs Office, Loan Guarantee Program
1000 Independence Avenue, S.W.
Washington, D.C. 20585
Attention: Director, Portfolio Management
E-mail: lpo.portfolio@hq.doe.gov
Telephone: (202) 287-6738
Facsimile: (202) 287-5816

Total S.A.
2, place Jean Millier
La Défense 6
92400 Courbevoie
France
Attention: Olivier Devouassoux, VP Subsidiary Finance Operations
Telephone: +33 1 47 44 45 64
Facsimile: + 33 1 47 44 48 74
Email: olivier.devouassoux@total.com

Date: _____

I, _____, an Authorized Officer of SunPower Corporation ("SunPower"), hereby certify to the U.S. Department of Energy ("DOE") and Total S.A. ("Total") pursuant to Section 2(b) of the Liquidity Support Agreement, dated as of February 28, 2012 (the "Liquidity Support Agreement"), by and among Total, SunPower and DOE, as follows (capitalized terms used and not otherwise defined below have the meanings given them in the Liquidity Support Agreement):

1. This SunPower Forbearance Certificate is being delivered to DOE and Total in accordance with Section 2(b) of the Liquidity Support Agreement for the week ended [date].

2. As of [date], SunPower has failed to satisfy one or more financial covenants under [describe Applicable Indebtedness] (the "Applicable Facility").

3. As of the date of this SunPower Forbearance Certificate, [(a) SunPower and [insert applicable lender(s) or representative thereof] are diligently working to cure such default under the Applicable Facility and (b) the applicable lender(s) has not accelerated any portion of amounts outstanding under the Applicable Facility or commenced proceedings to foreclose on any collateral securing

amounts outstanding under the Applicable Facility] [or] [SunPower has cured the applicable default].

Sincerely,

_____

[Authorized Officer]
SunPower Corporation

Schedule 10(a)(v)

Three securities class action lawsuits were filed against SunPower and certain of its current and former officers and directors in the United States District Court for the Northern District of California on behalf of a class consisting of those who acquired SunPower's securities from April 17, 2008 through November 16, 2009. The cases were consolidated as In re SunPower Securities Litigation, Case No. CV-09-5473-RS (N.D. Cal.), and lead plaintiffs and lead counsel were appointed on March 5, 2010. Lead plaintiffs filed a consolidated complaint on May 28, 2010. The actions arise from the Audit Committee's investigation announcement on November 16, 2009 regarding certain unsubstantiated accounting entries. The consolidated complaint alleges that the defendants made material misstatements and omissions concerning SunPower's financial results for 2008 and 2009, seeks an unspecified amount of damages, and alleges violations of sections 10(b) and 20(a) of the Securities Exchange Act of 1934, and sections 11 and 15 of the Securities Act of 1933. SunPower believes it has meritorious defenses to these allegations and will vigorously defend itself in these matters. The court held a hearing on the defendants' motions to dismiss the consolidated complaint on November 4, 2010. The court dismissed the consolidated complaint with leave to amend on March 1, 2011. An amended complaint was filed on April 18, 2011. The amended complaint added two former employees as defendants. Defendants filed motions to dismiss the amended complaint on May 23, 2011. The motions to dismiss the amended complaint were heard by the court on August 11, 2011. On December 19, 2011, the court granted in part and denied in part the motions to dismiss, dismissing the claims brought pursuant to sections 11 and 15 of the Securities Act of 1933 and the claims brought against the two newly added former employees. SunPower is currently unable to determine if the resolution of these matters will have an adverse effect on SunPower's financial position, liquidity or results of operations.

Derivative actions purporting to be brought on SunPower's behalf have also been filed in state and federal courts against several of SunPower's current and former officers and directors based on the same events alleged in the securities class action lawsuits described above. The California state derivative cases were consolidated as In re SunPower Corp. S'holder Derivative Litig., Lead Case No. 1-09-CV-158522 (Santa Clara Sup. Ct.), and co-lead counsel for plaintiffs have been appointed. The complaints assert state-law claims for breach of fiduciary duty, abuse of control, unjust enrichment, gross mismanagement, and waste of corporate assets. Plaintiffs are scheduled to file a consolidated complaint on March 5, 2012. The federal derivative complaints were consolidated as In re SunPower Corp. S'holder Derivative Litig., Master File No. CV-09-05731-RS (N.D. Cal.), and lead plaintiffs and co-lead counsel were appointed on January 4, 2010. The federal complaints assert state-law claims for breach of fiduciary duty, waste of corporate assets, and unjust enrichment, and seek an unspecified amount of damages. Plaintiffs filed a consolidated complaint on May 13, 2011, in the Delaware Court of Chancery. A Delaware state derivative case, Brenner v. Albrecht, et al., C.A. No. 6514-VCP (Del Ch.), was filed on May 23, 2011. The complaint asserts state-law claims for breach of fiduciary duty and contribution and indemnification, and seeks an unspecified amount of damages. SunPower intends to oppose all the derivative plaintiffs' efforts to pursue this litigation on SunPower's behalf. Defendants moved to stay or dismiss the Delaware derivative action on July 5, 2011. The motion to stay was heard by the court on October 27, 2011, and on January 27, 2012 the court granted SunPower's motion and stayed the case indefinitely subject to plaintiff seeking to

lift the stay under specified conditions. SunPower is currently unable to determine if the resolution of these matters will have an adverse effect on SunPower's financial position, liquidity or results of operations.

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

Exhibit 10.90

COMPENSATION AND FUNDING AGREEMENT

This COMPENSATION AND FUNDING AGREEMENT, dated as of February 28, 2012 (this "Agreement"), is entered into by and between SUNPOWER CORPORATION, a Delaware corporation ("SunPower"), and TOTAL S.A., a société anonyme organized under the laws of the Republic of France ("Total").

RECITALS

WHEREAS, Total Gas & Power USA, SAS, a société par actions simplifiée organized under the laws of the Republic of France and an indirect wholly owned subsidiary of Total ("Total USA"), owns approximately 66.30% of the common stock of SunPower;

WHEREAS, SunPower Corporation, Systems, a Delaware corporation and a subsidiary of SunPower (the "Contractor"), and High Plains Ranch II, LLC, a Delaware limited liability company ("HPR II"), have entered into that certain Engineering, Procurement and Construction Agreement, dated as of September 30, 2011 (the "EPC Contract"), pursuant to which the Contractor has agreed to design, engineer, procure certain materials and equipment for, install, construct, test and commission a 250 MW AC design capacity photovoltaic power plant in San Luis Obispo County, California (the "PV Power Plant");

WHEREAS, in order to finance the cost of the development and construction of the PV Power Plant and certain related expenses, HPR II and the U.S. Department of Energy ("DOE") are parties to that certain Loan Guarantee Agreement, dated as of September 30, 2011 (as amended, restated, modified or otherwise supplemented from time to time, the "Loan Guarantee Agreement"), pursuant to which DOE will guarantee Advances (as defined under the Loan Guarantee Agreement) made to HPR II by the Federal Financing Bank, a body corporate and instrumentality of the United States of America ("FFB") pursuant to that certain Note Purchase Agreement dated as of September 30, 2011, by and among HPR II, DOE and FFB (the "Note Purchase Agreement"), subject to the terms and conditions set forth in the Loan Guarantee Agreement;

WHEREAS, the obligation of DOE to guarantee any Advance under the Loan Guarantee Agreement is subject to, among other things, the condition that since the date of the Loan Guarantee Agreement (or, if later, since the date of the last Advance), no event has occurred or could reasonably be expected to occur that has had or could reasonably be expected to have a Material Adverse Effect (as defined in the Loan Guarantee Agreement);

WHEREAS, the obligation of DOE to guarantee any Advance under the Loan Guarantee Agreement is also subject to, among other things, the condition that each of the representations and warranties made by any Major Project Participant in any Transaction Document (in each case, as defined in the Loan Guarantee Agreement) is true and correct in all material respects as of the date of the relevant Master Advance Notice (as defined in the Loan Guarantee Agreement);

WHEREAS, SunPower and the Contractor are Major Project Participants;

WHEREAS, at DOE's request, on or about the date hereof, Total will enter into a Liquidity Support Agreement with SunPower and DOE (the "Liquidity Support Agreement"), pursuant to which Total will have an obligation to provide, or cause to be provided, Liquidity Injections to SunPower upon the occurrence of Liquidity Support Events, subject to the terms and limitations described therein; and

WHEREAS, in order to induce Total to enter into the Liquidity Support Agreement, SunPower has agreed to (a) issue an upfront warrant and make certain payments to Total, (b) establish parameters for the terms of any Liquidity Injections that may be required to be provided by Total to SunPower pursuant to the Liquidity Support Agreement, as more fully set forth below, and (c) enter into Amendment No. 3 to the Affiliation Agreement, dated as of April 28, 2011, between SunPower and Total USA, as amended;

NOW, THEREFORE, in consideration of the above recitals and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, SunPower and Total hereby agree as follows:

AGREEMENT

Section 1. Definitions. Capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to such terms in the Liquidity Support Agreement, and the following terms have the meanings set forth below:

(a) "30-Day Volume Weighted Average Price" or "30-Day VWAP" means the volume weighted average price of SunPower common stock, from 9:30 a.m. (New York City time) on the Trading Day 30 Trading Days preceding the applicable issuance date to 4:00 p.m. (New York City time) on the Trading Day immediately preceding the applicable issuance date, as calculated pursuant to the heading "Bloomberg VWAP" on Bloomberg Page SPWR <Equity> VWAP, or if such volume weighted average price is not available, the Board of Directors' reasonable, good faith estimate of the volume weighted average price of the shares of SunPower common stock for such 30-Trading Day period.

(b) "Claim" means any claim, suit, demand, proceeding, complaint, assessment, lien, injunction, order, judgment, notice of non-compliance, notice of violation, investigation or other action by or before any Governmental Authority or any other Person.

(c) "Convertible Loans" has the meaning set forth in the Total Credit Facilities Agreement.

(d) "Credit Agricole Facility Agreement" means the Revolving Credit Agreement, dated September 27, 2011, by and among SunPower, Credit Agricole Corporate and Investment Bank, and the financial institutions party thereto, as amended by the First Amendment to Revolving Credit Agreement, dated as of December 21, 2011 and as may be further amended, modified or supplemented from time to time.

(e) "Drawn Support Amount" shall have the meaning given to it in the Liquidity Support Agreement, which meaning shall be interpreted in a manner consistent with Section 2(b) hereof.

(f) "EBITDA" means, for any period, the total of the following calculated for SunPower and its Subsidiaries on a consolidated basis and without duplication, with each component thereof determined in accordance with GAAP consistently applied by SunPower for such period (except as otherwise required by GAAP): (a) consolidated net income; plus (b) any deduction for (or less any gain from) income or franchise taxes included in determining such consolidated net income; plus (c) interest expense deducted in determining such consolidated net income; plus (d) amortization and depreciation expense deducted in determining such consolidated net income; plus (e) any non-recurring charges and any non-cash charges resulting from application of GAAP insofar as GAAP requires a charge against earnings for the impairment of goodwill and other acquisition related charges to the extent deducted in determining such consolidated net income and not added back pursuant to another clause of this definition; plus (f) any non-cash expenses that arose in connection with the grant of equity or equity-based awards to officers, directors, employees and consultants of SunPower and its Subsidiaries and were deducted in determining such consolidated net income; plus (g) non-cash restructuring charges; plus (h) non-cash charges related to negative mark-to-market valuation adjustments as may be required by GAAP from time to time; plus (i) non-cash charges arising from changes in GAAP occurring after the date hereof; less (j)(x) non-cash adjustments related to positive mark-to-market valuation adjustments as may be required by GAAP from time to time and (y) any non-recurring or extraordinary gains; less (k) other quarterly cash and non-cash adjustments that are deemed by the Chief Financial Officer of SunPower not to be part of the normal course of business and not necessary to reflect the regular, ongoing operations of SunPower and its Subsidiaries. As used in this definition, "non-cash charge" shall mean a charge in respect of which no cash is paid during the applicable period (whether or not cash is paid with respect to such charge in a subsequent period).

(g) "Equity Interests" means shares of capital stock, general or limited partnership interests, membership interests in a limited liability company, beneficial interests in a trust, or other equity ownership interests in a Person, and any warrants, options, or other rights entitling the holder thereof to purchase or acquire any such equity interest.

(h) "Exchange" means the Nasdaq Global Select Market.

(i) "Financial Indebtedness" of SunPower and any of its Subsidiaries shall mean, without duplication, all Indebtedness of such Person other than (i) all obligations to pay the deferred purchase price of property or services, (ii) all obligations created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person, (iii) Indebtedness in connection with the factoring of the accounts receivable of the Borrower or any Subsidiary in respect of rebates from U.S. Governmental Authorities pursuant to the Tech Credit Agreement in the ordinary course of business, (iv) intercompany liabilities (but including liabilities to a non-Subsidiary Affiliate) maturing within 365 days of the incurrence thereof, (v) non-recourse indebtedness, and (vi) all guaranty obligations with respect to the types of Indebtedness listed in clauses (i) through (v) above.

(j) "GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a

significant segment of the accounting profession of the United States of America as in effect from time to time.

(k) "Governmental Authority" means any supra-national body, the government of the United States of America, any other nation or any political subdivision of any thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

(l) "Gross Financial Indebtedness" means at any time the aggregate Financial Indebtedness of SunPower and its consolidated Subsidiaries at such time (other than Indebtedness of any consolidated subsidiary that is non-recourse to such subsidiary except for customary carve-outs (including environmental liability, gross negligence or willful misconduct, and similar matters)).

(m) "Guaranty" is defined in Section 3(a)(i).

(n) "Indebtedness" means the aggregate amount of, without duplication, (i) all obligations for borrowed money, (ii) all obligations evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations to pay the deferred purchase price of property or services (other than accounts payable and accrued expenses incurred in the ordinary course of business determined in accordance with GAAP), (iv) all obligations with respect to capital leases, (v) all obligations created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person, (vi) all reimbursement and other payment obligations in respect of letters of credit and similar surety instruments (contingent or otherwise and including construction performance bonds), and (vii) all guaranty obligations with respect to the types of Indebtedness listed in clauses (i) through (vi) above.

(o) "Joint Venture" means a joint venture, partnership or other similar arrangement, whether in corporate, partnership or other legal form.

(p) "LIBOR" means, as of any date of determination, the LIBO Rate as defined in the Total Credit Facilities Agreement.

(q) "LSA Effective Date" means the date on which the Liquidity Support Agreement is fully executed and delivered by all parties thereto.

(r) "Market Disruption Event" means, (1) a failure by the primary exchange or quotation system on which the SunPower common stock trades or is quoted to open for trading during its regular trading session, or (2) the occurrence or existence for more than one half hour period in the aggregate on any scheduled Trading Day for the SunPower common stock of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by such exchange or otherwise) in the SunPower common stock or in any options, contracts or future contracts relating to the SunPower common stock, and such suspension or limitation occurs or exists at any time before 1:00 p.m. (New York City time) on such day.

(s) "Material Adverse Effect" means a material adverse effect on (a) the business, financial condition, operations or properties of SunPower and its subsidiaries, taken as a whole, (b) the validity or enforceability of any of the Transaction Documents, or (c) the ability of SunPower to perform its obligations under the Transaction Documents.

(t) "Maximum Drawn Support Amount" means, from time to time, the greatest Drawn Support Amount that has been outstanding at any time prior to the date of determination plus, if applicable, the amount of the Liquidity Injection in connection with which the Maximum Drawn Support Amount is being calculated, but only to the extent that the total including such Liquidity Injection would exceed the greatest Drawn Support Amount that had been outstanding at any time prior to the date of determination; provided, that Guarantees that were previously issued but which are no longer outstanding (whether due to termination, expiration or otherwise) shall not be included in the Drawn Support Amount at any time for purposes of calculating the Maximum Drawn Support Amount. For the avoidance of doubt, (a) the Maximum Drawn Support Amount is expected to increase from time to time but, except as described in the proviso to the preceding sentence, will never decrease and (b) once a previously-issued Guaranty is no longer outstanding, the Maximum Drawn Support Amount will thereafter be calculated as though such Guaranty had never been in effect.

(u) "Person" means an individual, partnership, corporation, association, limited liability company, unincorporated organization, trust or Joint Venture, or a governmental agency or political subdivision thereof.

(v) "Private Placement Agreement" means the Private Placement Agreement, dated as of the date hereof, between the Total USA and SunPower.

(w) "Related Parties" means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, trustees, employees, agents and advisors of such Person and such Person's Affiliates.

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

(y) "Revolving Loans" has the meaning set forth in the Total Credit Facilities Agreement.

(z) "subsidiary" with respect to any Person, means:

(i) any corporation of which the outstanding Equity Interests having at least a majority of the votes entitled to be cast in the election of directors under ordinary circumstances shall at the time be owned, directly or indirectly by such Person; or

(ii) any other Person of which at least a majority of the voting interest under ordinary circumstances is at the time, directly or indirectly, owned by such Person.

(aa) "Subsidiary" means, unless the context otherwise requires, a subsidiary of SunPower.

(bb) "SunPower Debt Documents" means, as of any date, any agreement, contract or instrument relating to any Indebtedness of SunPower (excluding the Total Credit Facilities Agreement and any other Loan Documents), including any amendments to such documents.

(cc) "Tech Credit Agreement" means that certain First Amended and Restated Purchase Agreement, dated November 1, 2010, between SunPower North America LLC and Technology Credit Corporation, as amended on January 25, 2011 and April 18, 2011.

(dd) "Total Credit Facilities Agreement" means the Revolving Credit and Convertible Loan Agreement, dated as of the date hereof, between Total USA and SunPower.

(ee) "Trading Day" means a day on which (i) there is no Market Disruption Event and (ii) the Exchange or, if the Shares not listed on the Exchange, the principal other U.S. national or regional securities exchange on which the SunPower common stock is then listed, is open for trading or, if the SunPower common stock is not so listed, any Business Day. A "Trading Day" only includes those days that have a scheduled closing time of 4:00 p.m. (New York City time) or the then standard closing time for regular trading on the relevant exchange or trading system.

(ff) "Transaction Documents" means this Agreement, the Total Credit Facilities Agreement, the Liquidity Support Agreement, the Private Placement Agreement, any Warrant, any Guaranty, any promissory note evidencing a Revolving Loan or a Convertible Loan and any other agreements entered into between the Borrower and Total or its Affiliates pursuant to any of the foregoing agreements.

(gg) "Transactions" means, collectively, the execution, delivery and performance by the parties of the Transaction Documents in accordance with the terms thereof.

(hh) "Warrant" means a Warrant in the form of Exhibit A hereto.

Section 2. Fees, Warrant and Expenses.

(a) Upfront Obligations. In consideration for Total's agreement to enter into the Liquidity Support Agreement and for its commitments set forth in the Liquidity Support Agreement and in this Agreement, on the LSA Effective Date, SunPower shall issue to Total, or to an Acceptable Affiliate as directed by Total, a Warrant, in the form of Exhibit A hereto, which shall be exercisable to purchase an amount of stock equal to $75,000,000, divided by 30-Day VWAP as of the LSA Effective Date. The per share exercise price of the Warrant issued pursuant to this Section 2(a) shall be the 30-Day VWAP as of the LSA Effective Date.

(b) Determining Availability of Liquidity Support. As of the LSA Effective Date, an aggregate of $600,000,000 of liquidity support in the form of Liquidity Injections is available to SunPower under this Agreement and the other Transaction Documents. The amount of available liquidity support shall be decreased from time to time, upon any Liquidity Injection

by Total or an Acceptable Affiliate, by (i) the principal amount (plus capitalized interest, if any) of any Indebtedness issued by SunPower to Total or an Acceptable Affiliate pursuant to this Agreement and the Total Credit Facilities Agreement, (ii) the cash purchase price of any equity securities issued by SunPower to Total or an Acceptable Affiliate pursuant to this Agreement and the Private Placement Agreement (including the cash proceeds to SunPower upon the exercise of a Warrant issued hereunder), (iii) the principal amount of Indebtedness of SunPower covered by a guarantee issued by Total hereunder and (iv) the amount of any other Liquidity Injection as determined by mutual good faith agreement of Total and SunPower. The amount of available liquidity support shall be increased from time to time, upon the repayment, refund, reimbursement, return or release by SunPower of any Liquidity Injection made by Total or an Acceptable Affiliate, by (i) the principal amount of any Indebtedness repaid by SunPower to Total or an Acceptable Affiliate pursuant to this Agreement or the Total Credit Facilities Agreement, (ii) the principal amount of Indebtedness of SunPower covered by a guarantee issued by Total hereunder and subsequently released and (iii) the amount of any other Liquidity Injection that is repaid, refunded, reimbursed, returned or released by SunPower, as determined by mutual good faith agreement of Total and SunPower. For the avoidance of doubt, Liquidity Injections made in the form of purchases of equity securities of SunPower (including the exercise of Warrants for cash) and any other Liquidity Injections not specifically subject to repayment irrevocably reduce the amount of liquidity support available hereunder, and SunPower shall have no obligation to repay, refund, reimburse, return or release any such Liquidity Injection.

(c) Commitment and Guaranty Fees. Within thirty (30) days after the last day of each calendar quarter during the term of this Agreement, SunPower shall pay to or as directed by Total, in cash (and pro-rated as appropriate for partial quarters):

(i) a commitment fee in an amount equal to 0.25% of the difference between the Maximum Support Amount, minus the Drawn Support Amount, as of the end of such quarterly period; and

(ii) a guarantee fee in connection with each Guaranty issued in accordance with Section 3 of this Agreement and outstanding for all or any part of the preceding calendar quarter, calculated as follows:

X times Y times (Z/365)

where:

(A) X is the average daily amount of Indebtedness guaranteed pursuant to one or more Guaranties issued in accordance with Section 3 of this Agreement;

(B) Y is 2.75%; and

(C) Z is the number of days during such calendar quarter that a Guaranty was outstanding.

(d) Expenses. SunPower shall pay and reimburse Total for all reasonable out-of-pocket expenses (including the reasonable fees and expenses of outside counsel) incurred by

Total after the LSA Effective Date in enforcement of SunPower's obligations under this Agreement, the Liquidity Support Agreement and the other Transaction Documents.

(e) Interest on Overdue Amounts. Any payment obligations of SunPower to Total under this Agreement that are not paid when due shall accrue interest until paid in full at a rate equal to LIBOR as in effect from time to time plus 5.00% per annum.

Section 3. Form of Liquidity Support; Choice of Liquidity Support.

(a) Form of Liquidity Support. In the event that Total becomes obligated to provide a Liquidity Injection to SunPower pursuant to the Liquidity Support Agreement, subject to Section 3(c) of this Agreement, the Liquidity Injection shall (i) in the event that such Liquidity Injection is provided to address the occurrence of a Liquidity Support Event described in clause (i) of the definition thereof in the Liquidity Support Agreement, be in the minimum amount sufficient to cause both SunPower's Reported Liquidity and SunPower's Projected Liquidity to be equal to the amount of at least $100 million (the "Required Amount (i)"), but shall in no event be more than the Required Amount (i) plus the minimum amount necessary to comply with the minimum funding amounts specified for the applicable form of Liquidity Injection (for example, the $5 million minimum draw for Revolving Loans) without the written consent of SunPower, (ii) in the event that such Liquidity Injection is provided to address the occurrence of a Liquidity Support Event described in clause (ii) of the definition thereof in the Liquidity Support Agreement, be in the minimum amount sufficient to enable SunPower to cure the applicable breach and satisfy the applicable financial covenant after giving effect to, and as of the date of, such Liquidity Injection (the "Required Amount (ii)"), but shall in no event be more than the Required Amount (ii) plus the minimum amount necessary to comply with the minimum funding amounts specified for the applicable form of Liquidity Injection without the written consent of SunPower, and (iii) be in the applicable form prescribed below:

(i) Maximum Drawn Support Amount up to $60 Million. To the extent that, at the time Total becomes obligated to provide such Liquidity Injection, (A) the Maximum Drawn Support Amount (taking into account the amount of such Liquidity Injection) is equal to or less than $60,000,000 and (B) the ratio of Gross Financial Indebtedness at the end of the immediately preceding completed fiscal quarter to EBITDA for the four immediately preceding completed fiscal quarters of SunPower is not more than 3.5 to 1.0 (or, for the quarters in the fiscal year ending in 2012, 4.0 to 1.0), Total or an Acceptable Affiliate shall provide the applicable Liquidity Injection, and SunPower shall accept the Liquidity Injection, at Total's option (as to which Total shall notify SunPower promptly following Total's receipt of the documentation described in Section 3(e)), in the form of (1) a Revolving Loan pursuant to the Total Credit Facilities Agreement, (2) a guaranty by Total of Indebtedness of SunPower under any SunPower Debt Documents pursuant to a Guaranty substantially in the form of Exhibit B hereto (each such guaranty, a "Guaranty") or (3) any other form of Liquidity Injection permitted by the Liquidity Support Agreement and agreed to in writing by SunPower.

(A) Warrant Issuance in Connection with Revolving Loans. At the time of funding of each Revolving Loan pursuant to the Total Credit Facilities Agreement, at no cost to Total, and subject to the provisions of Section 3(a)(i)(B)

below, SunPower will issue to or as directed by Total a Warrant exercisable to purchase an amount of stock equal to 20% of the amount of such Revolving Loan divided by 30-Day VWAP as of the date of funding of such Revolving Loan. The per share exercise price of the Warrant issued pursuant to this Section 3(a)(i)(A) shall be the 30-Day VWAP as of the date of issuance of such Warrant.

(B) Limitation on Warrants in Connection with Revolving Loans. Notwithstanding the foregoing provisions of Section 3(a)(i)(A), the aggregate exercise price at issuance of Warrants issued in connection with Revolving Loans shall not exceed 20% of the maximum aggregate amount of Revolving Loans that has been outstanding at any time under the Total Credit Facilities Agreement (for example, if Total provides a $40,000,000 Revolving Loan pursuant to the Total Credit Facilities Agreement, SunPower shall issue a $8,000,000 Warrant; if SunPower repays $10,000,000 of such Revolving Loan and Total thereafter provides an additional Revolving Loan of $20,000,000, the Warrant issued in connection with the subsequent Revolving Loan would be $2,000,000, corresponding to the $10,000,000 incremental increase in the maximum aggregate amount of Revolving Loans outstanding).

(ii) Maximum Drawn Support Amount Over $60 Million up to $200 Million. To the extent that, at the time Total becomes obligated to provide such Liquidity Injection, (A) the Maximum Drawn Support Amount (taking into account the amount of such Liquidity Injection) is greater than $60,000,000 but not greater than $200,000,000 and (B) the ratio of Gross Financial Indebtedness at the end of the immediately preceding completed fiscal quarter to EBITDA for the four immediately preceding completed fiscal quarters of SunPower is not more than 3.5 to 1.0 (or, for the quarters in the fiscal year ending in 2012, 4.0 to 1.0), Total or an Acceptable Affiliate shall provide the applicable Liquidity Injection, and SunPower shall accept the Liquidity Injection, at Total's option (as to which Total shall notify SunPower promptly following Total's receipt of the documentation described in Section 3(e)), in the form of (1) a Convertible Loan pursuant to the Total Credit Facilities Agreement, (2) a Guaranty or (3) any other form of Liquidity Injection permitted by the Liquidity Support Agreement and agreed to in writing by SunPower.

(A) Conversion of Revolving Loan. If the Maximum Drawn Support Amount at any time exceeds $60,000,000 then any outstanding amount under a Revolving Loan (including unpaid or capitalized interest) shall be convertible, at Total's option, into a Convertible Loan under the Total Credit Facilities Agreement upon notice from Total to SunPower. No additional Warrants shall be issued in connection with any such conversion.

(B) Warrant Issuance in Connection with Convertible Loan. At the time of funding of each new Convertible Loan pursuant to the Total Credit Facilities Agreement (as opposed to conversions of Revolving Loans into Convertible Loans), at no cost to Total, and subject to the provisions of Section 3(a)(ii)(C) below, SunPower will issue to Total, or to an Acceptable Affiliate as directed by Total, a Warrant, exercisable to purchase an amount of stock equal to

(A) (x) to the extent that the Maximum Drawn Support Amount following the issuance of such Convertible Loan will not be in excess of $200 million, 25% of the amount of such Convertible Loan and (y) to the extent that the Maximum Drawn Support Amount following the issuance of such Convertible Loan will be in excess of $200 million, 35% of the amount of such Convertible Loan, in each case divided by (B) 30-Day VWAP as of the date of issuance of such Warrant. The per share exercise price of the Warrant issued pursuant to this Section 3(a)(ii)(B) shall be the 30-Day VWAP as of the date of issuance of such Warrant.

(C) Limitation on Warrants in Connection with Convertible Loans. Notwithstanding the foregoing provisions of Section 3(a)(ii)(B), (1) so long as the Maximum Drawn Support Amount is not in excess of $200,000,000, the aggregate exercise price at issuance of Warrants issued in connection with new Convertible Loans that are not the result of converting Revolving Loans shall not exceed 25% of the maximum aggregate amount of Convertible Loans that are not the result of converting Revolving Loans that has been outstanding at any time under the Total Credit Facilities Agreement (for example, if Total provides a $100,000,000 new Convertible Loan pursuant to the Total Credit Facilities Agreement (as opposed to conversions of Revolving Loans into Convertible Loans), SunPower shall issue a $25,000,000 Warrant; if SunPower repays $10,000,000 of such Convertible Loan and Total thereafter provides an additional Convertible Loan of $20,000,000, the Warrant issued in connection with the subsequent Convertible Loan would be $2,500,000); and (2) if the Maximum Drawn Support Amount is in excess of $200,000,000, the aggregate exercise price at issuance of Warrants issued in connection with new Convertible Loans that are not the result of converting Revolving Loans and that cause the Maximum Drawn Support Amount to be increased to any amount in excess of $200,000,000 shall not exceed 35% of the maximum aggregate amount of such Convertible Loans that has been outstanding at any time under the Total Credit Facilities Agreement (for example, if Total provides a new $240,000,000 Convertible Loan pursuant to the Total Credit Facilities Agreement (as opposed to conversions of Revolving Loans into Convertible Loans) at a time when no Convertible Loans have been yet been issued pursuant to the Total Credit Facilities Agreement, SunPower shall issue an $64,000,000 Warrant (representing a $50,000,000 Warrant in respect of the first $200,000,000 aggregate principal amount of such Convertible Loan and a $14,000,000 Warrant in respect of the remaining $40,000,000 aggregate principal amount); if SunPower repays $10,000,000 of that $240,000,000 amount and Total thereafter provides an additional Convertible Loan of $20,000,000 before any other portion of the outstanding Convertible Loan is repaid, the Warrant issued in connection with the subsequent Convertible Loan would be $3,500,000).

(iii) Maximum Drawn Support Amount Over $200 Million. To the extent that at the time Total becomes obligated to provide such Liquidity Injection (A) the Maximum Drawn Support Amount (taking into account the amount of such Liquidity Injection) is greater than $200,000,000 or (B) the ratio of Gross Financial Indebtedness at the end of the immediately preceding fiscal quarter to EBITDA for the four immediately preceding completed fiscal quarters of SunPower exceeds 3.5 to 1.0 (or, for the quarters

in the fiscal year ending in 2012, 4.0 to 1.0), Total or an Acceptable Affiliate shall provide, and SunPower shall accept, the applicable Liquidity Injection, at Total's option (as to which Total shall notify SunPower promptly following Total's receipt of the documentation described in Section 3(e)), in the form of (1) additional Revolving Loans, (2) additional Convertible Loans, (3) a purchase of equity securities of SunPower pursuant to the Private Placement Agreement (which purchase of equity securities may be rounded up, at Total's option, from the required amount of such Liquidity Injection to the next integral multiple of $25 million), (4) a Guaranty or (5) any other form of Liquidity Injection permitted by the Liquidity Support Agreement and agreed to in writing by SunPower. SunPower shall issue to Total, at no cost to Total, Warrants in connection with additional Revolving Loans and/or additional Convertible Loans in accordance with the preceding provisions of this Section 3(a). To the extent that such Liquidity Injection is provided in the form of a purchase of equity securities or in another form permitted by the Liquidity Support Agreement, then, at no cost to Total, SunPower will issue to or as directed by Total a Warrant, exercisable to purchase an amount of stock equal to 25% of the amount of such Liquidity Injection divided by 30-Day VWAP as of the date of such Liquidity Injection. The per share exercise price of the Warrant issued pursuant to this Section 3(a)(iii) shall be the 30-Day VWAP as of the date of issuance of such Warrant.

(b) Reimbursement for Draws on Guarantees. Within thirty (30) days after the date on which Total makes any payment to a lender under a Guaranty, SunPower shall pay to or as directed by Total (i) the full amount of such payment made by Total plus (ii) interest on such amount, for the period from and including the date of payment by Total to the lender to and including the date of payment by SunPower to Total, at a rate per annum equal to LIBOR as in effect from time to time plus 5.00%; provided, that, if SunPower fails to pay such amount when due, the amount of such payment obligation (including interest) shall be convertible, at Total's option, into a Revolving Loan, a Convertible Loan or a purchase of equity pursuant to the Private Placement Agreement, in each case upon notice from Total to SunPower and in each case with warrant coverage in accordance with Section 3(a).

(c) Effects on SunPower Debt Documents and Other Conflicts. Notwithstanding the foregoing, if (i) a Liquidity Injection in the form specified in this Agreement would trigger a default under any SunPower Debt Documents evidencing Indebtedness (actual or committed) of SunPower in an amount greater than $10 million, (ii) a Liquidity Injection in the form specified in this Agreement would not cure the breach, if any, of a financial covenant that triggered the requirement for such Liquidity Injection, or (iii) SunPower is otherwise unable to consummate a Liquidity Injection in the form specified in this Agreement (for example, if SunPower is unable to consummate a Convertible Loan under the circumstances contemplated in Section 3(a)(ii)), then Total shall have the option, in its reasonable discretion, to provide, and SunPower shall accept, such Liquidity Injection in an alternative form so as not to cause SunPower to be in breach or default of any SunPower Debt Documents evidencing Indebtedness of SunPower in an amount greater than $10 million, so as to enable the cure of the breach of the applicable financial covenant or otherwise so as to enable SunPower to consummate the Liquidity Injection (including via a transaction or series of transactions that amends or refinances the applicable facilities governed by the SunPower Debt Documents); provided, that the compensation provided by SunPower to Total in connection with such Liquidity Injection (if such Liquidity Injection is in an alternative form as to which compensation

has not already been agreed as set forth in this Agreement) shall be reasonably agreed in good faith by SunPower and Total.

(d) Liquidity Injections Not Required by Liquidity Support Agreement; Cure of Breaches of Credit Agricole Facility Agreement.

(i) Any Liquidity Injection that is not then required to be provided by Total pursuant to the Liquidity Support Agreement may be in such form (including the forms described above) as Total and SunPower may mutually agree; provided, that Total may provide a Guaranty at any time in any amount in its sole discretion.

(ii) Notwithstanding the foregoing, the following provisions shall apply to the provision of one or more Liquidity Injections the purpose of which is to pay, in whole or in part, any amount outstanding under the Credit Agricole Facility Agreement prior to or in connection with a breach by SunPower of its covenants under the Credit Agricole Facility Agreement (but prior to such event constituting a Liquidity Support Event):

(A) In addition to its obligations under Section 4(a) of this Agreement, SunPower shall immediately notify Total in writing of any breach by SunPower of its covenants contained in the Credit Agricole Facility Agreement, without regard to any otherwise-applicable cure periods or waivers by Credit Agricole, as well as at any time that any breach of such covenants is reasonably foreseeable. Any such notification shall identify the applicable covenants and include the date of breach or anticipated breach and the length of any applicable cure period.

(B) If, following Total's receipt of the notice described above, fewer than ten (10) calendar days remain in the applicable cure period and SunPower shall not have cured such breach or anticipated breach without Total's assistance, or if the breach or anticipated breach is of Section 5.02 of the Credit Agricole Facility Agreement, then an "RCF Trigger" shall be deemed to have occurred and Total may proceed immediately as described below.

(C) Following the occurrence of an RCF Trigger, Total may, at its option and without further notice to SunPower, provide one or more Liquidity Injections to SunPower in any form described in Section 3(a)(iii) (notwithstanding the requirements as to the form of liquidity support attributable to the then-applicable Maximum Drawn Support Amount) and may negotiate directly with Credit Agricole and the other lenders for the benefit of SunPower.

(D) Total shall receive the fee provided in Section 2(c) for any partial or whole Guaranty of the Credit Agricole Facility Agreement provided as described above.

(E) If Total determines to provide a Liquidity Injection in the form of an equity purchase pursuant to the Private Placement Agreement, then (1) the proceeds of such Liquidity Injection will be used to repay or otherwise

provide an "equity cure" under the Credit Agricole Facility Agreement, (2) the amount of such Liquidity Injection shall be at Total's determination but not greater than the next integral multiple of $25 million above the amount that is necessary to accomplish such "equity cure," and (3) Total shall receive the corresponding amount of Warrants described in Section 3(a)(iii). For the avoidance of doubt, the amount of any such Liquidity Injection shall increase the Drawn Support Amount and, if applicable, the Maximum Drawn Support Amount, and any subsequent Liquidity Injections (other than as provided in Section 3(d)(ii)(F)) shall be in the form prescribed in Section 3(a) after taking into account such increases. Total shall thereafter have the right to provide one or more additional Liquidity Injections in the form of debt described below, the proceeds of which will be used to repay any or all remaining amounts under the Credit Agricole Facility Agreement.

(F) If Total determines to provide a Liquidity Injection in the form of debt (at Total's option and whether or not Total shall previously have provided a Liquidity Injection in the form of an equity purchase as described above, provided that such debt will be in the form contemplated by Section 3(a), after taking into account the then-applicable Maximum Drawn Support Amount), (1) the proceeds of such Liquidity Injection will be used to repay in whole or in part the Credit Agricole Facility Agreement, (2) such Liquidity Injection shall bear interest at a rate of LIBOR plus 4.25% per annum until the maturity date of the Credit Agricole Facility Agreement and (3) thereafter, such Liquidity Injection shall bear interest at the rate then applicable to Revolving Loans or Convertible Loans, as the case may be, pursuant to the Total Credit Facilities Agreement and taking into account the then-applicable Maximum Drawn Support Amount, and shall be payable in full on the Maturity Date (as defined in the Total Credit Facilities Agreement). Any such Liquidity Injections shall also entitle Total to receive Warrants as provided in Section 3(a)(i) or (ii) depending on the then-applicable Maximum Drawn Support Amount.

(e) Process for Provision of Liquidity Support.

(i) Pursuant to Sections 4(a)(ix) and (x), SunPower is required to indicate to Total from time to time (i) whether an Authorized Officer of SunPower believes that a Liquidity Injection will be required to be made by Total in accordance with the terms of the Liquidity Support Agreement and Section 3(a) of this Agreement and (ii) whether it believes that the representations and warranties of SunPower contained in the Liquidity Support Agreement, this Agreement and any or all of the other Transaction Documents (to the extent such agreements are applicable to the form of such Liquidity Injection pursuant to the terms hereof, and as indicated in writing by Total) are true and correct, except as otherwise disclosed or modified by an attached disclosure schedule (the "Preliminary Disclosure Schedule").

(ii) Within three (3) Business Days following the delivery to Total of the Preliminary Disclosure Schedule (as such time period may be extended on a day-for-day basis corresponding to the additional time permitted in connection with Alternative

Forms of Liquidity Injections pursuant to the last sentence of Section 3(a) of the Liquidity Support Agreement), Total shall indicate in writing to SunPower the form and amount of Liquidity Injection it intends to pursue (the "Preliminary Liquidity Injection Indication"), and, in the event that the Liquidity Injection would be provided under the Total Credit Facilities Agreement, Total shall within the time periods specified in the Total Credit Facilities Agreement deliver to SunPower a Funding Notice (as defined in the Total Credit Facilities Agreement).

(iii) Within two (2) Business Days following the delivery of the Preliminary Liquidity Injection Indication to SunPower, and in any event not later than the date on which a Liquidity Injection is required pursuant to the Liquidity Support Agreement, SunPower shall deliver to Total a certification by an Authorized Officer, on behalf of SunPower, that the representations and warranties of SunPower contained in the Liquidity Support Agreement, this Agreement and any or all of the other Transaction Documents (to the extent such agreements are applicable to the form of such Liquidity Injection pursuant to the terms hereof, and as indicated in writing by Total) are true and correct on and as of the date of such Liquidity Injection, except as otherwise disclosed or modified by an attached disclosure schedule.

Section 4. Covenants of SunPower.

(a) Reporting Requirements. SunPower agrees to deliver to Total:

(i) on every other Thursday (or if such day is not a Business Day, the immediately succeeding Business Day), commencing with the first Thursday following the LSA Effective Date, a weekly cash forecast over the remaining portion of the then-current fiscal quarter, certified by an Authorized Officer of SunPower as being complete in all material respects and prepared in good faith;

(ii) within twenty-five (25) Business Days after the last day of each fiscal quarter ending with the third fiscal quarter of 2012, a cash forecast at each month-end covering the period of three fiscal quarters beginning with the first fiscal quarter following the then-current quarter, including a forecast of the lowest amount of cash at any point during each such quarter and the approximate date upon which such low point will occur, and also an updated cash forecast for the first month of the following fiscal quarter, delivered not later than the last Business Day of the second calendar month of the then-current fiscal quarter, in each case certified by an Authorized Officer of SunPower as being complete in all material respects and prepared in good faith;

(iii) within fifteen (15) Business Days after the last day of each fiscal month beginning with December 2012, a cash forecast at each month-end covering the period of three fiscal quarters beginning with the first fiscal quarter following the then-current quarter, including a forecast of the lowest amount of cash at any point during each such quarter and the approximate date upon which such low point will occur, certified by an Authorized Officer of SunPower as being complete in all material respects and prepared in good faith;

(iv) within fifteen (15) Business Days after the end of each fiscal quarter in 2012, and within ten (10) Business Days after the last day of each fiscal quarter thereafter, a statement setting forth a calculation of all financial ratios under all SunPower Debt Documents as of the last day of the immediately preceding fiscal quarter and forecasts of such ratios for the next three quarters, certified by an Authorized Officer of SunPower as being complete in all material respects and prepared in good faith;

(v) within fifteen (15) Business Days after the last day of each fiscal month that is not the last month of a quarter in 2012, and within ten (10) Business Days thereafter, a forecast setting forth a calculation of all financial ratios under all SunPower Debt Documents for the current fiscal quarter and for the next three quarters, certified by an Authorized Officer of SunPower as being complete in all material respects and prepared in good faith;

(vi) within fifteen (15) Business Days after the end of each fiscal month in 2012, and within ten (10) Business Days after the last day of each fiscal month thereafter, a report in a form to be agreed by SunPower and Total setting forth the terms of all (A) outstanding Indebtedness that is guaranteed by SunPower as of the end of the immediately preceding calendar month and (B) outstanding parent guarantees issued by SunPower and letters of credit issued to any Person for the account of SunPower (whether cash collateralized, guaranteed or otherwise) as of the end of such monthly period, and forecasts of such Indebtedness guaranteed by SunPower, parent guarantees issued by SunPower and letters of credit issued for the account of SunPower for the next eleven months, certified by an Authorized Officer of SunPower as being complete in all material respects and prepared in good faith;

(vii) promptly after SunPower's receipt thereof, a copy of any management letter or other material communications received by SunPower or the Contractor from any Person in relation to the PV Plant, including, without limitation, any weekly project report, management weekly dashboard report, executive bi-weekly report, SunPower-prepared progress report, Bechtel monthly progress report, and Beta monthly progress report;

(viii) within fifteen (15) Business Days after the end of each fiscal month in 2012, and within ten (10) Business Days after the last day of each fiscal month thereafter, a monthly business report in a form to be agreed between SunPower and Total covering the previous monthly period, which shall contain in reasonable detail (A) all actual expenses, capital expenditures and revenues of SunPower, (B) reported sales, and (C) such other information as Total may reasonably request, certified by an Authorized Officer of SunPower as being complete in all material respects and prepared in good faith;

(ix) promptly upon obtaining Knowledge thereof, and at least five (5) Business Days before it is required to provide similar notice to DOE, notice of the potential failure of SunPower to satisfy any financial covenants under any SunPower Debt Documents or to maintain a minimum of $100,000,000 in Reported Liquidity and Projected Liquidity as of any date, based in each case on estimated data;

(x) during fiscal 2012, at least three (3) Business Days prior to the date upon which delivery to DOE is required (and not later than twelve (12) Business Days after the end of each fiscal quarter of SunPower), and thereafter at least five (5) Business Days prior to the date upon which delivery to DOE is required (and not later than ten (10) Business Days after the end of each fiscal quarter of SunPower), draft copies of each SunPower Quarterly Certificate that is required to be delivered by SunPower to DOE pursuant to the Liquidity Support Agreement, based on estimated data, together with a certificate substantially in the form of Exhibit C hereto, signed by an Authorized Officer of SunPower, and any other additional documentation reasonably requested by Total, indicating whether SunPower believes that Total will have any funding obligation as a result of the delivery of such SunPower Quarterly Certificate to DOE and, if so, confirming that SunPower believes it will be able to make the required representations and warranties under the documents governing the Revolving Loan, Convertible Loan, Private Placement Agreement or other form of Liquidity Injection (or if there would be exceptions on a disclosure schedule);

(xi) within five (5) Business Days after the last day of each fiscal quarter, a report in a form to be agreed between SunPower and Total specifying, as of the end of such fiscal quarter: (A) the number of shares of SunPower capital stock that are outstanding; (B) the number of shares of SunPower capital stock that are reserved for issuance pursuant to any outstanding warrants, notes, options, restricted stock units, or any other rights to acquire SunPower capital stock or other equity or voting interest in SunPower; and (C) the difference between the authorized capital stock of SunPower and (A) and (B) above; and

(xii) such other information or reports as may be reasonably requested by Total in connection with its obligations pursuant to the Liquidity Support Agreement.

(b) Affirmative Covenants. SunPower agrees to:

(i) consult with Total prior to the release of any information to the DOE relating to the Liquidity Support Agreement or the PV Power Plant (including the financing thereof), including providing drafts of all written communications proposed to be delivered to DOE (A) in the case of communications required to be delivered pursuant to the express terms of the Liquidity Support Agreement, at least five (5) Business Days prior to delivery to DOE and (B) in the case of communications required to be delivered pursuant to the express terms of any other document to which SunPower and DOE are parties, or in response to any additional request from DOE to SunPower for information (as to which request SunPower shall notify Total immediately), as early as possible prior to delivery to DOE, including using best efforts to deliver such drafts at least five (5) Business Days prior to delivery to DOE when such time period is available between the time of DOE's request for such information and the deadline for DOE's receipt of such information;

(ii) use commercially reasonable efforts to assist Total in the performance of its obligations under the Liquidity Support Agreement and to conduct, and to act in good faith in conducting, its affairs in a manner such that Total's obligation

under the Liquidity Support Agreement to provide Liquidity Injections will not be triggered or, if triggered, will be minimized (provided that nothing in this Section 4(b)(ii) shall be construed to require SunPower to minimize the amount of a Liquidity Injection required to be provided by Total pursuant to the Liquidity Support Agreement following the occurrence of a Liquidity Support Event);

(iii) at all times that the Liquidity Support Agreement is in effect, utilize the investments, funds and accounts described in the definition of Cash Equivalents in the Liquidity Support Agreement for all cash that may be commercially reasonably invested or held in such investments, funds and accounts, and not to utilize any similar investments, funds or accounts of lesser quality that would not qualify for inclusion as Cash Equivalents for purposes of the Liquidity Support Agreement;

(iv) deposit and maintain as Cash Equivalents all cash proceeds of Liquidity Injections received by SunPower following (or provided in anticipation of) a shortfall in Projected Liquidity for so long as is necessary to ensure that (A) no new Liquidity Injection will be required to cure a shortfall of Reported Liquidity for the fiscal quarter that was the subject of the shortfall in Projected Liquidity and (B) no Liquidity Injection could reasonably be expected to be required to be provided in the future as a result of commercially unreasonable management and deployment of such cash proceeds;

(v) utilize all cash proceeds of Liquidity Injections received by SunPower following (or provided in anticipation of) any breach of a financial covenant of SunPower to cure or prevent such breach and thereafter to manage and deploy any remaining such cash proceeds in a commercially reasonable manner such that no Liquidity Injection could reasonably be expected to be required in the future as a result of a breach by SunPower of the same or similar financial covenants;

(vi) for so long as SunPower is in a forbearance period relating to a failure to meet a financial covenant under any Applicable Indebtedness as described in Section 2(b) of the Liquidity Support Agreement, keep Total actively apprised of the status of the forbearance discussions and provide as much notice as possible of an inability of SunPower to continue to deliver the weekly notice described in Section 2(b) of the Liquidity Support Agreement;

(vii) cause the Contractor to terminate the EPC Contract, pursuant to the terms of the EPC Contract and if and as permitted by SunPower's and the Contractor's written agreements with the DOE, upon the bankruptcy or insolvency of HPR II; and

(viii) as soon as reasonably practicable, but no later than 15 days, following the date of this Agreement, SunPower shall prepare and file with the Securities and Exchange Commission ("SEC") a preliminary information statement on Schedule 14C, and as promptly as possible thereafter, shall prepare and file with the SEC a definitive information statement on Schedule 14C (the "Information Statement"), notifying the stockholders of SunPower, including for purposes of and in accordance with Section 228 of the Delaware General Corporation Law, that Total USA has executed (and Total shall execute prior to the completion of the preliminary Information Statement) a

written consent of stockholders approving the issuance of any and all securities pursuant to the Agreement for purposes of the NASDAQ Stock Market Listing Rules. The Information Statement shall comply as to form in all material respects with the applicable provisions of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder. Total and SunPower will each cooperate with the other in the preparation of the Information Statement. SunPower shall promptly furnish the preliminary Information Statement and the definitive Information Statement, and any amendments or supplements thereto, to Total and give Total and its legal counsel a reasonable opportunity to review and comment on such preliminary and definitive Information Statements, or amendments or supplements thereto, prior to filing with the SEC, and SunPower shall consider in good faith all comments of Total in connection therewith. SunPower shall use its reasonable best efforts to respond as soon as reasonably practicable to any SEC comments with respect to the Information Statement. SunPower will use reasonable best efforts to have the Information Statement cleared by the SEC as promptly as practicable after the filing thereof, and to cause the definitive Information Statement to be mailed to the stockholders of SunPower as promptly as practicable after the Information Statement has been cleared by the SEC or after 10 calendar days have passed since the date of filing of the preliminary Information Statement with the SEC without notice from the SEC of its intent to review the Information Statement. Each of Total and SunPower agree to correct any information provided by it for use in the Information Statement which shall have become false or misleading. SunPower shall as soon as reasonably practicable notify Total of the receipt of any comments from the SEC with respect to the Information Statement and any request by the SEC for any amendment or supplement to the Information Statement or for additional information and shall provide Total with copies of all correspondence between SunPower and its representatives, on the one hand, and the SEC, on the other hand. Total shall be given a reasonable opportunity to participate in the response to any SEC comments and to provide comments on any response (to which reasonable and good faith consideration shall be given), including by participating in any discussions or meetings with the SEC.

Section 5. Representations and Warranties.

(a) SunPower Representations and Warranties. On and as of the date of this Agreement, and as of the date of each Liquidity Injection, SunPower represents and warrants to Total that:

(i) Organization; Powers. SunPower is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, has all requisite power and authority to own its property and assets and to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required.

(ii) Authorization; Enforceability. The Transactions are within SunPower's organizational powers and have been duly authorized by all necessary organizational action of SunPower. Each Transaction Document has been duly executed

and delivered by SunPower and is a legal, valid and binding obligation of SunPower, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally and to general principles of equity.

(iii) Governmental Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect, except to the extent that any such failure to obtain such consent or approval or to take any such action, would not reasonably be expected to result in a Material Adverse Effect, (b) will not violate any Requirement of Law applicable to SunPower, (c) will not violate or result in a default under any other material indenture, agreement or other instrument binding upon SunPower its assets, or give rise to a right thereunder to require any payment to be made by SunPower, and (d) except as contemplated under the Total Credit Facilities Agreement and other Loan Documents, will not result in the creation or imposition of any lien on any asset of SunPower.

(iv) Litigation. Except as disclosed in SunPower's filings with the SEC from time to time, there are no actions, suits, proceedings or investigations by or before any arbitrator or Governmental Authority pending against or, to the knowledge of SunPower, threatened against or affecting SunPower as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(v) Compliance with Laws and Agreements; Licenses and Permits. SunPower is in compliance with all Requirements of Law applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

(vi) Investment Company Status. SunPower is not an "investment company" as defined in, and is not required to be registered under, the Investment Company Act of 1940.

(vii) Taxes. SunPower has timely filed or caused to be filed all tax returns and reports required to have been filed and has paid or caused to be paid all taxes required to have been paid by it, except (a) taxes that are being contested in good faith by appropriate proceedings and for which it has set aside on its books adequate reserves in accordance with GAAP or (b) to the extent that the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

(viii) Material Agreements. SunPower is not in default in any material respect in the performance, observance or fulfillment of any of its obligations contained in any material agreement to which it is a party, except where such default would not reasonably be expected to have a Material Adverse Effect.

(ix) Disclosure. The exhibits, reports and other writings furnished by or on behalf of SunPower to Total in connection with the negotiation of this Agreement or pursuant to the terms of the Transaction Documents (as modified or supplemented by other information so furnished), taken as a whole, do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, SunPower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

(b) Total Representations and Warranties. On and as of the date of this Agreement, Total represents and warrants to SunPower that:

(i) Due Incorporation, Qualification, etc. Total is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or formation and has requisite power and authority to conduct its business as it is presently being conducted.

(ii) Authority. The execution, delivery and performance by Total of this Agreement and the consummation of the transactions contemplated hereby (A) are within the corporate power and authority of Total and (B) have been duly authorized by all necessary corporate actions on the part of Total.

(iii) Enforceability. This Agreement has been duly executed and delivered by Total and constitutes a legal, valid and binding obligation of Total, enforceable against Total in accordance with its terms, except as limited by bankruptcy, insolvency or other laws of general application relating to or affecting the enforcement of creditors' rights generally and general principles of equity.

Section 6. Indemnification; Limitation on Liability.

(a) Indemnification. SunPower hereby agrees to indemnify Total and each Related Party of Total (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, Claims, damages, liabilities and related expenses (including all reasonable fees, costs and expenses of outside counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee directly caused by:

(i) the breach by SunPower of any covenant or agreement contained in this Agreement, the Liquidity Support Agreement, any other Transaction Document or any agreement or instrument contemplated hereby or thereby (including without limitation any Guaranty or any Warrant); and

(ii) any actual or prospective Claim, litigation, investigation or proceeding relating to any foregoing breach, whether based on contract, tort or any other theory, regardless of whether any Indemnitee is a party thereto and whether or not any of the transactions contemplated hereunder, under the Liquidity Support Agreement or under any other Transaction Document is consummated, in all cases, whether or not

caused by or arising, in whole or in part, out of the comparative, contributory or sole negligence of the Indemnitee;

provided, that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee, or (y) arise out of any action, suit or proceeding brought by SunPower against an Indemnitee for such Indemnitee's gross negligence or willful misconduct, including without limitation any derivative claim brought against an Indemnitee on behalf of SunPower.

(b) Limitation on Liability. Total's aggregate liability for Claims by SunPower or DOE arising out of or relating to this Agreement and the Liquidity Support Agreement shall in no event exceed an amount equal to the Maximum Support Amount minus the Drawn Support Amount.

Section 7. Termination. This Agreement shall continue in full force and effect for so long as any obligations of SunPower remain outstanding under the Total Credit Facilities Agreement or Private Placement Agreement, any obligations of Total remain outstanding under any Guaranty, or Total has any obligation to provide Liquidity Injections pursuant to the Liquidity Support Agreement.

Section 8. Miscellaneous.

(a) Notices. Except as otherwise provided herein, all notices, requests, demands, consents, instructions or other communications to or upon SunPower or Total under this Agreement shall be in writing and delivered by electronic mail, facsimile, hand delivery, overnight courier service or certified mail, return receipt requested, to each party at the address set forth below (or to such other address most recently provided by such party to the other party). All such notices and communications shall be effective (i) when sent by Federal Express or other overnight service of recognized standing, on the Business Day following the deposit with such service, (ii) when mailed, by registered or certified mail, first class postage prepaid and addressed as aforesaid through the United States Postal Service, upon receipt, (iii) when delivered by hand, upon delivery, and (iv) when faxed or emailed, upon confirmation of receipt.

Total:

Total S.A.
2, place Jean Millier
La Défense 6
92400 Courbevoie
France
Attention: Olivier Devouassoux, VP Subsidiary Finance Operations
Telephone: +33 1 47 44 45 64
Facsimile: + 33 1 47 44 48 74
Email: olivier.devouassoux@total.com

With a copy to:

Total S.A.
2, place Jean Millier
La Défense 6
92400 Courbevoie
France
Attention: Christine Souchet, Subsidiary Finance Operations - Gas and Power
Telephone: +33 1 47 44 72 11
Facsimile: +33 1 47 44 47 92
Email: christine.souchet@total.com

With a copy to:

Total S.A.
2, place Jean Millier
La Défense 6
92400 Courbevoie
France
Attention: Jonathan Marsh, Vice President, Legal Director
Mergers, Acquisitions & Finance
Telephone: +33 (0) 1 47 44 74 70
Facsimile: +33 (0)1 47 44 43 05
Email: jonathan.marsh@total.com

SunPower:

SunPower Corporation
77 Rio Robles
San Jose, CA 95134
Attention: Dennis Arriola, Executive Vice President and Chief Financial Officer
Telephone: 408-240-5500
Facsimile: 408-240-5404
E-mail: dennis.arriola@sunpowercorp.com

With a copy to:

SunPower Corporation
77 Rio Robles Street
San Jose, CA 95134
Attention: Navneet Govil, Vice President and Treasurer
Telephone: 408-457-2655
E-mail: navneet.govil@sunpowercorp.com

With a copy to:

SunPower Corporation
1414 Harbour Way South
Richmond, CA 94804
Attention: General Counsel
Telephone: 408-240-5550
Facsimile: 408-240-5404
Email: cjaap@sunpowercorp.com

(b) Nonwaiver. No failure or delay on a party's part in exercising any right hereunder shall operate as a waiver thereof or of any other right nor shall any single or partial exercise of any such right preclude any other further exercise thereof or of any other right.

(c) Amendments and Waivers. This Agreement may not be amended or modified, nor may any of its terms be waived, except by written instruments signed by SunPower and Total. Each waiver or consent under any provision hereof shall be effective only in the specific instances for the purpose for which given.

(d) Assignments.

(i) Assignment by SunPower. This Agreement may not be assigned by SunPower without the prior written consent of Total, which may be withheld in Total's sole discretion.

(ii) Assignment by Total. This Agreement may not be assigned by Total without the prior written consent of SunPower, which consent may not be unreasonably withheld, conditioned or delayed.

(iii) Successors and Assigns. No assignment of this Agreement shall be valid until all of the obligations of the assignor hereunder shall have been assumed by the assignee by written agreement delivered to the other party. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

(e) Partial Invalidity; Reinstatement. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law or any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

(f) Conflicts with Liquidity Support Agreement. In the event of a conflict between the terms of the Liquidity Support Agreement on the one hand, and this Agreement and/or any other Transaction Document on the other hand, this Agreement and/or such Transaction Agreement shall control as between Total (and its Acceptable Affiliates) and SunPower.

(g) Applicable Law; Jurisdiction; Etc.

(i) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA, WITHOUT REFERENCE TO CONFLICTS OF LAWS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

(ii) SUBMISSION TO JURISDICTION. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT SHALL AFFECT ANY RIGHT THAT ANY PARTY HERETO MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AGAINST ANY OTHER PARTY HERETO OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(iii) WAIVER OF VENUE. EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY COURT REFERRED TO IN SECTION 8(g)(ii). EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(iv) WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (i) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS

REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (ii) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 8(g).

(h) Counterparts and Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The facsimile, email or other electronically delivered signatures of the parties shall be deemed to constitute original signatures, and facsimile or electronic copies hereof shall be deemed to constitute duplicate originals.

(i) Entire Agreement. The Transaction Documents integrate all of the terms and conditions mentioned therein or incidental to the Transactions and supersede all written or oral negotiations, correspondence, term sheets, summaries and prior agreements of the parties to the Transaction Documents in respect of the subject matter of the Transaction Documents.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Compensation and Funding Agreement to be executed as of the day and year first written above.

SUNPOWER CORPORATION

By: /s/ Thomas H. Werner
Name: Thomas H. Werner
Title: Chief Executive Officer

TOTAL S.A.

By: /s/ Patrick de la Chevardiere
Name: Patrick de la Chevardiere
Title: Chief Financial Officer

Exhibit A

Form of Warrant

THIS SECURITY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF THE COMPANY THAT THIS SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, INCLUDING RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (II) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (III) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, IN EACH OF CASES (I) THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES.

SUNPOWER CORPORATION

WARRANT

TO PURCHASE COMMON STOCK

Certificate Number: Dated:

For value received, Total Gas & Power USA, SAS, a société par actions simplifiée organized under the laws of the Republic of France (the "***Investor***" and, together with any transferee of the Warrant in accordance with the terms of this Warrant, the "***Holder***"), is entitled to purchase from SunPower Corporation, a Delaware corporation (together with its successors and assigns, the "***Company***"), at any time and from time to time after the date set forth above, subject to the conditions set forth in Sections 1.2(f) and 1.2(g), and prior to 5:00 p.m., New York time, on the Expiration Date (as defined below), at the purchase price of $[●][1] per share (as such price may be adjusted pursuant to Section 2, the "***Exercise Price***") an aggregate of [●][2] fully-paid and nonassessable shares of the Company's common stock, par value $0.001 per share ("***Common Stock***") (as such shares may be adjusted pursuant to Section 2, the "***Warrant Shares***").

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1 Exercise Price to be equal to the 30-Day VWAP (as defined in the Compensation and Funding Agreement) as of the LSA Effective Date (for the warrant specified in Section 2(a) of the Compensation and Funding Agreement) or as of the date of issuance of such Warrant (for the warrants specified in Section 3 of the Compensation and Funding Agreement), as applicable.

2 Warrant Shares to equal amounts specified in Section 2(a) or Section 3, as applicable, as set forth in the Compensation and Funding Agreement.

This Warrant (this "***Warrant***") is being initially issued to the Investor pursuant to a Private Placement Agreement dated [●] (the "***Purchase Agreement***") by and between the Company and the Investor, together with a related Terms Agreement, as each may be amended, restated, modified or supplemented from time to time.

Section 1. Term and Exercise of Warrant.

1.1 Term of Warrant. The Holder shall have the right, subject to the conditions set forth in Sections 1.2(f) and 1.2(g), at any time before 5:00 p.m., New York time, on the seventh anniversary of the date hereof, or, if such date is not a Business Day (as defined below), the next Business Day (the "***Expiration Date***") to exercise this Warrant in accordance with the terms of this Warrant.

1.2 Exercise of Warrant.

(a) Cash Exercise. Subject to Sections 1.2(f) and 1.2(g), this Warrant may be exercised at any time prior to the Close of Business on the Expiration Date (or if the Expiration Date is not a Business Day, the next Business Day) and from time to time, in whole or in part, upon surrender to the Company, together with the duly completed and signed form of notice of exercise (designating thereon the Holder's election to cash exercise ("***Cash Exercise***")) in the form attached (the "***Notice of Exercise***"), and payment to the Company of the Exercise Price in effect on the date of such exercise for the number of Warrant Shares in respect of which this Warrant is then being exercised; provided, that the Holder may not elect to Cash Exercise this Warrant unless there is available an effective registration statement to cover such transaction or such Holder checks the box on the Notice of Exercise thereby representing to the Private Placement Representations (as defined in the Notice of Exercise). Payment of the aggregate Exercise Price upon exercise pursuant to this Section 1.2(a) shall be made by delivery of a check to the principal executive offices of the Company as provided in Section 7 or, at the Holder's discretion, by wire transfer of immediately available funds in accordance with written wire transfer instructions to be provided by the Company at the Holder's request.

(b) Net-Issue Exercise. Subject to Sections 1.2(f) and 1.2(g), in lieu of exercising this Warrant on a cash basis pursuant to Section 1.2(a), the Holder may elect to exercise this Warrant at any time prior to the Expiration Date and from time to time, in whole or in part, on a net-issue basis by electing to receive the number of Warrant Shares which are equal in value to the value of this Warrant (or any portion thereof to be canceled in connection with such Net-Issue Exercise) at the time of any such Net-Issue Exercise, by surrender of this Warrant, together with the duly completed and signed Notice of Exercise (designating the Holder's election to Net-Issue Exercise ("***Net-Issue Exercise***")), to the Company at the principal executive offices of the Company as provided in Section 7. The Notice of Exercise shall be properly marked to indicate (A) the number of Warrant Shares to be delivered to the Holder in connection with such Net-Issue Exercise, (B) the number of Warrant Shares in respect of which this Warrant is being surrendered in payment of the aggregate Exercise Price for the Warrant Shares to be delivered to the Holder in connection with such Net-Issue Exercise, calculated as of the Determination Date (as defined below) and (C) the number of Warrant Shares which remain subject to this Warrant after such Net-Issue Exercise, if any (each as determined in accordance with this Section 1.2(b)). In the event that the Holder elects to exercise this Warrant in whole or

in part on a net-issue basis pursuant to this Section 1.2(b), the Company will issue to the Holder the number of Warrant Shares determined in accordance with the following formula:

$$X = [Y \times (A-B)] / A$$

where:

- "***X***" is the number of Warrant Shares to be issued to the Holder in connection with such Net-Issue Exercise;
- "***Y***" is the number of Warrant Shares to be exercised, up to the number of Warrant Shares subject to this Warrant;
- "***A***" is the Closing Sale Price (as defined below) as of the Determination Date (as defined below) of one share of Common Stock; and
- "***B***" is the Exercise Price in effect as of the date of such Net-Issue Exercise (as adjusted pursuant to Section 2).

The "***Determination Date***" will be the date the Notice of Exercise is given to the Company (determined in accordance with Section 7), or if such date is not a Trading Day, the next succeeding Trading Day.

(c) Fractional Interests. No fractional shares of Common Stock will be issued upon the exercise of this Warrant, but in lieu thereof the Company shall pay therefor in cash an amount equal to the product obtained by multiplying the Closing Sale Price of one share of Common Stock on the Trading Day immediately preceding the date of exercise of the Warrant times such fraction (rounded to the nearest cent).

(d) Deemed Issuance. Subject to 1.2(c), upon such surrender of the Warrant, delivery of the Notice of Exercise and, in the case of a Cash Exercise pursuant to Section 1.2(a), payment of the Exercise Price, the Company will with all reasonable dispatch (and in no event more than three Business Days from delivery of the Notice of Exercise), in the sole discretion of the Holder and as reflected on the Notice of Exercise, either (i) issue and cause to be delivered a certificate or certificates to and in the name of the Holder, or in the name of such other Person as designated by the Holder, or (ii) establish an electronic book entry at the Transfer Agent in a segregated account established by the Transfer Agent for the Holder's benefit and registered in the name of Holder, or in the name of such other Person as designated by the Holder, in either case of (i) or (ii), for the number of full shares of Common Stock so purchased upon the exercise of this Warrant, together with a check or cash in respect of any fraction of a share of Common Stock otherwise deliverable upon such exercise, as provided in Section 1.2(c). Such certificate or certificates shall be deemed to have been issued, or such electronic book entry shall be deemed to have been established, and the Person in whose name any such certificates will be issuable, or in whose name the electronic book entry has been registered, upon exercise of this Warrant (as indicated in the applicable Notice of Exercise) will be deemed to have become a holder of record of such Warrant Shares as of the date of the

surrender of this Warrant and, in the case of a Cash Exercise pursuant to Section 1.2(a), payment of the Exercise Price.

(e) Warrant Exercisable in Whole or in Part. The rights of purchase represented by this Warrant shall be exercisable, at the election of the Holder, either in full or from time to time in part. If this Warrant is exercised in respect of less than all of the Warrant Shares purchasable on such exercise at any time prior to the Expiration Date, a new Warrant of like tenor exercisable for the remaining Warrant Shares may be issued and delivered to the Holder by the Company. This Warrant or any part thereof surrendered in the exercise of the rights thereby evidenced shall thereupon be cancelled by the Company and retired.

(f) Stockholder Approval Condition to Exercise Warrant. The Warrant shall not be exercisable by Holder prior to the date the Company obtains stockholder approval ("Stockholder Approval") with respect to the issuance of Warrant Shares upon exercise of the Warrant in the manner set forth in the Compensation and Funding Agreement, dated February 28, 2012, between the Company and the Investor.

(g) Holder's Exercise Limitations. So long as the Company has at least $25 million aggregate principal amount of Convertible Notes outstanding, the Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, to the extent that after giving effect to such issuance after exercise as set forth on the Notice of Exercise, the Holder would, directly or indirectly, including through one or more wholly-owned subsidiaries, become the "beneficial owner" (as these terms are defined in Rule 13d-3 and Rule 13d-5 under the Exchange Act), of more than 74.99% of the voting power of the Company's capital stock that is at the time entitled to vote by the holder thereof in the election of the Board of Directors (or comparable body). Upon request by Holder, the Company shall obtain a written statement from its Transfer Agent setting forth the number of shares of Common Stock outstanding.

(h) Listing and Reservation Covenants. On and after the date of such Stockholder Approval, the Company shall (i) cause the Warrant Shares to be approved for listing on the NASDAQ Global Select Market or such other securities exchange or market as the Common Stock is listed from time to time, subject to official notice of issuance and (ii) for as long as this Warrant remains outstanding, at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock or shares of Common Stock held in treasury by the Company, for the purpose of effecting the exercise of this Warrant, the number of Warrant Shares then issuable upon the exercise hereof (after giving effect to all anti-dilution adjustments provided for herein). All Warrant Shares delivered upon exercise of this Warrant shall be newly issued shares or shares held in treasury by the Company, shall have been duly authorized and validly issued and shall be fully paid and nonassessable, and shall be free from preemptive rights and free of any lien or adverse claim (except for liens or adverse claims arising from the action or inaction of Holder).

Section 2. **Adjustment of Exercise Price and Warrant Shares**.

The Exercise Price and the number of Warrant Shares purchasable upon the exercise of this Warrant shall be subject to adjustment from time to time as set forth below.

2.1 **Adjustment for Change in Capital Stock**. If, after the Issue Date of the Warrant, the Company:

(a) pays a dividend or makes a distribution payable exclusively in shares of Common Stock on all or substantially all shares of the Company's Common Stock;

(b) subdivides the outstanding shares of Common Stock into a greater number of shares; or

(c) combines the outstanding shares of Common Stock into a smaller number of shares;

then the Exercise Price will be decreased (or increased with respect to an event in clause (c)) based on the following formula:

$$R' = R \times \frac{OS'}{OS}$$

where,

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such dividend or distribution, or immediately after the Open of Business on the effective date of such subdivision or combination, as the case may be;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such dividend or distribution, or immediately prior to the Open of Business on the effective date of such subdivision or combination, as the case may be;

OS'= the number of shares of Common Stock outstanding immediately prior to the Open of Business on the record date for such dividend or distribution, or immediately prior to the Open of Business on the effective date of such subdivision or combination, as the case may be; and

OS = the number of shares of Common Stock outstanding immediately after the Open of Business on the record date for such dividend or distribution, or immediately after the Open of Business on the effective date of such subdivision or combination, as the case may be.

Such adjustment shall become effective immediately after the Open of Business on the record date for such dividend or distribution, or the effective date for such subdivision or combination, as the case may be. If any dividend or distribution of the type described in this Section 2.1 is declared but not so paid or made, or the outstanding shares of Common Stock are not split or combined, as the case may be, the Exercise Price shall be immediately readjusted, effective as of the date the Company's board of directors or a duly appointed committee thereof

(the "***Board of Directors***") determines not to pay such dividend or distribution, or split or combine the outstanding shares of Common Stock, as the case may be, to the Exercise Price that would then be in effect if such dividend, distribution, share split or share combination had not been declared or announced.

2.2 Adjustment for Rights Issue. If, after the Issue Date of the Warrant, the Company distributes any rights, options or warrants (other than pursuant to a Shareholders' Rights Plan (defined below)) to all or substantially all holders of the Company's Common Stock entitling them to purchase (for a period not more than 45 days from the record date for such distribution) shares of Common Stock at a price per share less than the average of the Closing Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including the Trading Day immediately preceding the record date for such distribution, the Exercise Price shall be decreased in accordance with the formula:

$$R' = R \times \frac{O + \left(\frac{N \times P}{M}\right)}{(O + N)}$$

where:

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such distribution;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such distribution;

O = the number of shares of Common Stock outstanding immediately prior to the Open of Business on the record date for such distribution;

N = the number of additional shares of Common Stock issuable pursuant to such rights, options or warrants;

P = the per-share offering price payable to exercise such rights, options or warrants for the additional shares plus the per-share consideration (if any) the Company receives for such rights, options or warrants; and

M = the average of the Closing Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the record date with respect to the distribution.

Such adjustment shall be successively made whenever any such rights, options or warrants are distributed and shall become effective immediately after the Open of Business on the record date for such distribution. To the extent that shares of the Common Stock are not delivered after the expiration of such rights, options or warrants, the Exercise Price shall be increased to the Exercise Price that would then be in effect had the adjustments made upon the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are

not so issued, the Exercise Price shall be increased promptly to be the Exercise Price that would then be in effect if such record date for such distribution had not been fixed.

For purposes of this Section 2.2, in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase Common Stock at less than the average of the Closing Sale Prices of Common Stock for each Trading Day in the applicable 10 consecutive Trading Day period, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

2.3 Adjustment for Other Distributions. If, after the Issue Date of the Warrant, the Company distributes to all or substantially all holders of its Common Stock any of its debt or other assets or property (including cash, rights, options or warrants to acquire capital stock of the Company or other securities, but excluding (a) dividends or distributions (including subdivisions) referred to in Section 2.1 and distributions of rights, warrants or options referred to in Section 2.2, (b) rights issued to all holders of Common Stock pursuant to a Shareholders' Rights Plan, where such rights are not presently exercisable, continue to trade with Common Stock and holders will receive such rights together with Common Stock upon exercise of the Warrant), (c) dividends or other distributions paid exclusively in cash (to which Section 2.4 shall apply) and (d) any Spin-off to which the provisions set forth below in this Section 2.3 shall apply) ("***Distributed Property***"), the Exercise Price shall be decreased, in accordance with the formula:

$$R' = R \times \frac{M - F}{M}$$

where:

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such distribution;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such distribution;

M = the average of the Closing Sale Prices of Common Stock for the 10 consecutive Trading Day period ending on, and including, the record date for such distribution; and

F = the fair market value, as determined by the Board of Directors, of the portion of the Distributed Property to be distributed in respect of each share of Common Stock immediately as of the Open of Business on the record date for such distribution.

Such adjustment shall become effective immediately prior to the Open of Business on the record date for such distribution. Notwithstanding the foregoing, if "F" as set forth above is equal to or greater than "M" as set forth above, in lieu of the foregoing adjustment, the Holder shall receive, at the same time and up on the same terms as holders of Common Stock, the amount and kind of Distributed Property the Holder would have received had the Holder owned a number of shares of Common Stock issued upon such exercise immediately prior to the record date for such distribution. If such distribution is not so paid or made, the Exercise Price shall

again be adjusted to be the Exercise Price that would then be in effect if such dividend or distribution had not been declared. If the Board of Directors or a committee thereof determines "F" for purposes of this Section 2.3 by reference to the actual or when issued trading market for any Common Stock, it must in doing so consider the prices in such market over the same period used in computing the Closing Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the record date for such distribution.

With respect to an adjustment pursuant to this Section 2.3 where there has been a payment of a dividend or other distribution on the Common Stock in shares of capital stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit, where such capital stock or similar equity interest is listed or quoted (or will be listed or quoted upon consummation of the Spin-off) on a national securities exchange or reasonably comparable non-U.S. equivalent, which is referred to herein as a "***Spin-off***," the Exercise Price will be decreased based on the following formula:

$$R' = R \times \frac{MP}{F + MP}$$

R' = the Exercise Price in effect immediately after the end of the Valuation Period (as defined below);

R = the Exercise Price in effect immediately prior to the end of the Valuation Period;

F = the average of the Closing Sale Prices of the capital stock or similar equity interest distributed to holders of the Common Stock applicable to one share of the Common Stock over the first 10 consecutive Trading Day period immediately following, and including, the effective date for the Spin-off (such period, the "***Valuation Period***"); and

MP = the average of the Closing Sale Prices of the Common Stock over the Valuation Period.

The adjustment to the Exercise Price under the preceding paragraph of this Section 2.3 will be made immediately after the Close of Business on the last day of the Valuation Period, but will be given effect as of the Open of Business on the effective date for the Spin-off. For purposes of determining the Exercise Price in respect of any exercise during the 10 Trading Days commencing on the effective date for any Spin-off, references within the portion of this Section 2.3 related to "Spin-offs" to 10 consecutive Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the effective date for such Spin-off to, but excluding, the relevant Determination Date.

For purposes of this Section 2.3, in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of the Common Stock at less than the average of the Closing Sale Prices of the Common Stock for each Trading Day in the applicable 10 consecutive Trading Day period, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

If, prior to a Determination Date, a record date for a Spin-off has been set but the relevant dividend or distribution has not yet resulted in an adjustment to the Exercise Price and an exercising Holder is not entitled to participate in the dividend or distribution with respect to the shares of Common Stock the Holder receives upon exercise (whether because the Holder was not a holder of such shares of Common Stock on the effective date for such dividend or distribution or otherwise), then as promptly as practicable following the Determination Date, the Company will deliver to the Holder a number of additional shares of Common Stock that reflects the increase to the number of Warrant Shares deliverable as a result of the Spin-off.

2.4 Adjustment for Cash Distributions. If, after the Issue Date of the Warrant, the Company makes a distribution to all or substantially all holders of its Common Stock consisting exclusively of cash, the Exercise Price shall be adjusted in accordance with the formula:

$$R' = R \times \frac{SP - C}{SP}$$

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such distribution;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such distribution;

SP = the average of the Closing Sale Prices of Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the record date for such distribution; and

C = the amount in cash per share the Company distributes to holders of Common Stock.

The adjustment shall become effective immediately after the Open of Business on the record date with respect to the distribution.

Notwithstanding the foregoing, if "C" as set forth above is equal to or greater than "SP" as set forth above, in lieu of the foregoing adjustment, adequate provision shall be made so that the Holder shall have the right to receive on the date on which the relevant cash dividend or distribution is distributed to holders of Common Stock, the amount of cash the Holder would have received had the Holder owned a number of shares exercisable from the Exercise Price on the record date for such distribution. If such dividend or distribution is not so paid or made, the Exercise Price shall again be adjusted to be the Exercise Price that would then be in effect if such dividend or distribution had not been declared.

2.5 Adjustment for Company Tender Offer. If, after the Issue Date of the Warrant, the Company or any Subsidiary makes a payment to holders of the shares of Common Stock in respect of a tender or exchange offer, other than an odd-lot offer, by the Company or any of its Subsidiaries for shares of Common Stock, to the extent that the cash and value of any other consideration included in the payment per share of Common Stock exceeds the average of the Closing Sale Prices over the 10 consecutive Trading Day period commencing on, and

including the Trading Day immediately following the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer (the "***Expiration Date***"), the Exercise Price shall be decreased based on the following formula:

$$R' = R \times \frac{OS' \times SP}{F + (SP \times OS')}$$

R' = the Exercise Price in effect immediately after the Open of Business on the Trading Day immediately following the Expiration Date;

R = the Exercise Price in effect immediately prior to the Open of Business on the Trading Day immediately following the Expiration Date;

F = the aggregate fair market value, as determined by the Board of Directors, of all cash and other consideration payable in such tender or exchange offer for shares purchased in such tender or exchange offer, such value to be measured as of the expiration time of the tender or exchange offer (the "***Expiration Time***");

OS = the number of shares of Common Stock outstanding immediately prior to the Expiration Time (prior to giving effect to such tender offer or exchange offer);

OS'= the number of shares of Common Stock outstanding immediately after the Expiration Time (after giving effect to such tender offer or exchange offer); and

SP = the average of the Closing Sale Prices of Common Stock over the 10 consecutive Trading Day period commencing on, and including, the Trading Day immediately following the Expiration Date.

The adjustment to the Exercise Price under this Section 2.5 will be made immediately after the Open of Business on the 11th Trading Day following the Expiration Date but will be given effect at the Open of Business on the Trading Day following the Expiration Date. For purposes of determining the Exercise Price, in respect of any exercise during the 10 Trading Days commencing on the Trading Day immediately following the Expiration Date, references within this Section 2.5 to 10 Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Trading Day following the Expiration Time to, but excluding, the relevant Determination Date.

2.6 When No Adjustment Required. No adjustment need be made as a result of:

(a) the issuance of the rights pursuant to the Company's adoption of a stockholders rights plan that provides that each share of Common Stock issued upon exercise of the Warrant at any time prior to the distribution of separate certificates representing rights will be entitled to receive the right (a "***Stockholder Rights Plan***");

(b) the distribution of separate certificates representing the rights under a Stockholder Rights Plan;

(c) the exercise or redemption of the rights in accordance with any rights agreement under a Stockholder Rights Plan;

(d) the termination or invalidation of the rights under a Stockholder Rights Plan;

(e) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on securities of the Company and the investment of additional optional amounts in Common Stock under any plan;

(f) upon the issuance of any shares of Common Stock or options or rights to purchase or be issued those shares pursuant to any present or future employee, director or consultant benefit plan or program of, or assumed by, the Company or any of its Subsidiaries;

(g) ordinary course of business stock repurchases, including structured or derivative transactions pursuant to a stock repurchase program approved by the Board of Directors (but, for the avoidance of doubt, excluding transactions described in Section 2.5);

(h) upon the issuance of any shares of Common Stock or any securities convertible into, or exchangeable for shares of Common Stock, or the right to purchase shares of Common Stock or such convertible or exchangeable securities other than as described in Sections 2.2 or 2.3; or

(i) for a change in the par value of Common Stock.

If any event described in Section 2.6 (a) through (d) occurs, the Holder will receive the rights upon exercise, unless, prior to any exercise, the rights have separated from the Common Stock. If the rights have separated, the Exercise Price will be decreased at the time of separation as provided by Section 2.2 or 2.3, as applicable, subject to readjustment in the event of expiration, termination or redemption of such rights.

Notwithstanding the foregoing, no adjustment need be made to the Exercise Price pursuant to Section 2.1, 2.2, 2.3, 2.4 or 2.5 if the Holder is entitled to participate (as a result of holding this Warrant, and at substantially the same time as Common Stock holders participate), subject to notice of such entitlement to the Holder, in the transaction that would otherwise trigger the applicable adjustment, as if the Holder held a number of shares of Common Stock issuable upon exercise of this Warrant. No adjustment need be made if the Common Stock to be issued upon exercise will actually receive the consideration provided in, or be subject to, the transaction that would otherwise trigger the adjustment.

2.7 Effect of Reclassification, Consolidation, Merger or Sale.

(a) Upon the occurrence of (i) any reclassification of the outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a split, subdivision or combination covered by Section 2.1), (ii) any consolidation, merger, sale of all or substantially all of the Company's assets (other than a sale of all or substantially all of the assets of the Company in a transaction in

which the holders of Common Stock immediately prior to such transaction do not receive securities, cash or other assets of the Company or any other Person), or (iii) a binding share exchange which reclassifies or changes the outstanding shares of Common Stock, in each case as a result of which the holders of Common Stock shall be entitled to receive cash, securities or other property or assets with respect to or in exchange for such Common Stock (any such event, a "***Merger Event***"), then at the effective time of the Merger Event, the right to exercise this Warrant will be changed into a right to exercise this Warrant into the type and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) that a holder of a number of shares of Common Stock issuable upon exercise of this Warrant immediately prior to such Merger Event would have owned or been entitled to receive (the "***Reference Property***") upon such Merger Event. If the Merger event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), the Reference Property to be received upon exercise will be deemed to be the weighted average of the types and amounts of Reference Property to be received by the holders of Common Stock that affirmatively make such election).

(b) If the Company consummates a Merger Event, the Company shall promptly provide notice to the Holder briefly describing the Merger Event and stating the type or amount of cash, securities, property or other assets that will comprise the Reference Property after any such Merger Event and any adjustment to be made with respect thereto.

(c) The above provisions of this Section shall similarly apply to successive Merger Events.

2.8 Simultaneous Adjustments. In the event that this Section 2 requires simultaneous adjustments to the Exercise Price under more than one of Sections 2.1, 2.2, 2.3 or 2.4 of this warrant then the Board of Directors of the Company shall make such adjustments to the Exercise Price in good faith and in a commercially reasonable manner.

2.9 Successive Adjustments. After an adjustment to the Exercise Price under this Section 2, any subsequent event requiring an adjustment under this Section 2 shall cause an adjustment to the Exercise Price as so adjusted.

2.10 Limitation on Adjustments. The Company shall not take any action that would result in an adjustment pursuant to the foregoing provisions in this Section 2 if that adjustment would reduce the Exercise Price below the then par value of the shares of Common Stock issuable upon exercise of the Warrant. In no event will the Exercise Price be increased other than as a result of a transaction described in Section 2.1(c).

2.11 Adjustment of Number of Warrant Shares. Upon each adjustment of the Exercise Price pursuant to this Section 2, each Warrant outstanding prior to the making of the adjustment in the Exercise Price shall thereafter evidence the right to receive upon payment of the adjusted Exercise Price that number of shares of Common Stock (calculated to the nearest hundredth) obtained from the following formula:

$$N' = N \times (E / E')$$

where:

N' = the adjusted number of Warrant Shares issuable upon exercise of a Warrant by payment of the adjusted Exercise Price.

N = the number of Warrant Shares previously issuable upon exercise of a Warrant by payment of the Exercise Price prior to adjustment.

E' = the adjusted Exercise Price.

E = the Exercise Price prior to adjustment.

2.12 No Avoidance. If the Company shall enter into any transaction for the purpose of avoiding the provisions of this Section 2, the benefits provided by such provisions shall nevertheless apply and be preserved.

2.13 Notices.

(a) Promptly after any adjustment of the Exercise Price or the number of Warrant Shares issuable hereunder, the Company shall give written notice thereof to the Holder, setting forth in reasonable detail the calculation of such adjustment.

(b) The Company shall give written notice to the Holder at least five (5) Business Days prior to the date on which the Company (I) closes its books or takes a record (a) with respect to any dividend or distribution on the Common Stock, (b) with respect to any pro rata subscription offer to holders of Common Stock, (c) with respect to any pro rata redemption or similar offer to holders of the Common Stock or (d) for determining rights to vote with respect to any Merger Event, dissolution or liquidation or (II) enters into any transaction that will result in an adjustment of the Exercise Price or the number of Warrant Shares issuable hereunder.

Section 3. Restriction on Transfer of Warrant and Warrant Shares.

(a) On or after the Issue Date, the Holder may transfer this Warrant or the Warrant Shares to any Person:

(i) pursuant to a registration statement that is, at the time of such transfer, effective under the Securities Act;

(ii) pursuant to Rule 144 promulgated under the Securities Act; or

(iii) in a transaction otherwise exempt from the registration requirements of the Securities Act (subject to the requirements of such exemption).

(b) Notwithstanding the foregoing, the following terms and conditions will apply to each transfer provided for in Section 3(a):

(i) in the case of a transfer pursuant to Section 3(a)(ii) or (iii), as a condition precedent to such transfer, unless otherwise agreed by the Company in writing, the transferor must deliver an opinion of counsel reasonably satisfactory to the Company to the effect that the proposed transfer is exempt from registration under the Securities Act and applicable state securities laws; and

(ii) no Holder that is subject to the Company's then-applicable insider trading policy may transfer any of the Warrants or any Warrant Shares except to the extent permitted under such trading policy.

(c) By its acceptance of this Warrant, each Holder (i) shall be deemed to have acknowledged and agreed to the restrictions on transfer described in this Section, and to have acknowledged that the Company will rely upon the truth and accuracy of such acknowledgement and agreement and (ii) agrees to the imprinting of the following legend on any certificate or book-entry evidencing this Warrant and the Warrant Shares:

THIS SECURITY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF THE COMPANY THAT THIS SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, INCLUDING RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (II) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (III) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, IN EACH OF CASES (I) THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES.

(d) Except as provided in Section 3(a) and (b) above, this Warrant, the rights represented hereby and the Warrant Shares may not be transferred in whole or in part by the Holder. In order to effect any transfer or partial transfer of this Warrant, the Holder shall deliver this Warrant to the Company with the notice of transfer in the form attached (the "***Notice of Transfer***") completed and duly executed. Upon receipt of Notice of Transfer and the opinion of counsel required by this Section, if any, the Company shall promptly (i) issue to the transferee a new Warrant for the number of Warrant Shares assigned by the Holder, and (ii) to the extent the transfer contemplated by the Notice of Transfer is not for the entire number of Warrant Shares represented by this Warrant, issue to the Holder a replacement Warrant representing the balance of such Warrant.

(e) The Company shall not be required to register any transfer of the Warrants or the Warrant Shares in violation of this Section or applicable securities laws. The

Company may, and may instruct any transfer or warrant agent for the Company to, place such stop transfer orders as may be required on the transfer books of the Company in order to ensure compliance with the provisions of this Section and applicable securities laws.

Section 4. **Taxes**. The issuance of certificates for Warrant Shares or the establishment of an electronic book entry upon the exercise of the rights represented by this Warrant will be made without charge to the Holder for any issuance tax in respect thereof; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate or establishment of an electronic book entry in a name other than that of the Holder.

Section 5. **Mutilated or Missing Warrant**. If this Warrant shall be mutilated, lost, stolen or destroyed and the Company shall receive evidence thereof and (except with respect to mutilated Warrants returned to the Company) indemnity reasonably satisfactory to it, then the Company shall issue and deliver in exchange and substitution for and upon cancellation of the mutilated Warrant, or in lieu of and substitution for the Warrant lost, stolen or destroyed, a new Warrant of like tenor and representing an equivalent right or interest. An applicant for such a substitute Warrant shall comply with such other reasonable requirements and pay such reasonable charges as the Company may prescribe, including, without limitation, the execution and delivery of a lost Warrant affidavit and indemnification agreement in a form reasonably satisfactory to the Company and its counsel.

Section 6. **No Rights as Stockholder until Exercise**. Except as provided in Section 1.2(d), nothing contained in this Warrant shall be construed as conferring upon the Holder the right to vote or to receive dividends or to consent or to receive notice as stockholders in respect of any meeting of stockholders for the election of directors of the Company or any other matter, or any rights whatsoever as stockholders of the Company.

Section 7. **Notices**. All notices and other communications required or permitted to be given with respect to the Warrant shall be in writing signed by the sender, and shall be considered given: (w) on the date delivered, if personally delivered during normal business hours, or on the next Business Day if delivered after normal business hours of the recipient; (x) on the date sent by telecopier with automatic confirmation of the transmitting machine showing the proper number of pages were transmitted without error, if sent during normal business hours of the recipient, or on the next Business Day if sent after normal business hours; (y) on the Business Day after being sent by Federal Express or another recognized overnight delivery service in time for and specifying next day or next business day delivery; or (z) five (5) Business Days after mailing, if mailed by United States postage-paid certified or registered mail, return receipt requested, in each instance referred to in the preceding clauses (y) and (z) only if all delivery charges are pre-paid. Each such notice or other communication shall be given to the Holder at the address in a Warrant register to be created and maintained by the Company and to the Company at its principal executive offices.

Section 8. **No Waivers; Remedies; No Impairment**. Prior to the Expiration Date, no failure or delay by the Holder in exercising any right, power or privilege with respect to the Warrant shall operate as a waiver of the right, power or privilege. A single or partial exercise of any right, power or privilege shall not preclude any other or further exercise of the right, power

or privilege or the exercise of any other right, power or privilege. The rights and remedies provided in the Warrant shall be cumulative and not exclusive of any rights or remedies provided by law. The Company will not, by amendment of its charter or by-laws or through any other means, directly or indirectly, avoid or seek to avoid the observance or performance of any of the terms of this Warrant and will at all time in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate in order to protect the rights of the Holder against impairment.

Section 9. **Amendments**. No amendment, modification, termination or waiver of any provision of the Warrant, and no consent to any departure from any provision of the Warrant, shall be effective unless it shall be in writing and signed and delivered by the Company and the Holder. Notwithstanding the foregoing, neither Sections 1.2(f) or 1.2(g), nor this sentence, may be amended.

Section 10. **Governing Law**. This Warrant shall be governed by and construed in accordance with the laws of the State of New York that apply to contracts made and performed entirely within such state.

Section 11. **Severability of Provisions: Successors**. Any provision of this Warrant that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions of the Warrant or affecting the validity or enforceability of the provision in any other jurisdiction. This Warrant shall be binding upon any entity succeeding the Company by merger, consolidation or otherwise. All of the covenants and agreements of the Company shall inure to the benefit of successors and permitted assigns of the Holder.

Section 12. **Titles and Subtitles; Section References**. The titles and subtitles used in this Warrant are used for convenience only and are not to be considered in construing or interpreting this Warrant. Unless otherwise stated, references to Sections are to the Sections of this Warrant.

Section 13. **Purchase Agreement**. The Company will provide any Holder with a copy of the Purchase Agreement upon request.

Section 14. **Definitions**. For purposes of this Warrant, the following terms have the following meanings:

(a) "***Business Day***" means any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in such state are authorized or required by law or other governmental action to close.

(b) "***Close of Business***" means 5:00 p.m. (New York City time).

(c) "***Closing Sale Price***" of the Common Stock on any date means the closing per-share sale price (or if no closing per-share sale price is reported, the average of the last bid and ask prices or, if more than one in either case, the average of the average last bid and the average last ask prices) on that date as reported the principal other national or regional

securities exchange on which the shares of the Common Stock are then traded. The Closing Sale Price will be determined without reference to after-hours or extended market trading. If the Common Stock is not so listed for trading on the relevant date, then the "Closing Sale Price" of the Common Stock will be the last quoted bid price for Common Stock in the over-the-counter market on the relevant date as reported by Pink OTC Markets Inc. or a similar organization. If the Common Stock is not so quoted, then the "Closing Sale Price" of the Common Stock will be determined by a U.S. nationally recognized independent investment banking firm selected by the Company for this purpose.

(d) "***Convertible Notes***" means the Company's 4.75% Senior Convertible Debentures due 2014 and 4.5% Senior Convertible Debentures due 2015.

(e) "***Exchange Act***" means the Securities Exchange Act of 1934, as amended.

(f) "***Issue Date***" means the date on which the Warrant was originally issued or deemed issued as set forth on the face of the Warrant.

(g) "***Market Disruption Event***" means the occurrence or existence on any Scheduled Trading Day for the Common Stock of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the stock exchange or otherwise) in the Common Stock or in any options contracts or futures contracts relating to the Common Stock, and such suspension or limitation occurs or exists at any time within the 30 minutes prior to the closing time of the relevant exchange on such Scheduled Trading Day.

(h) "***Open of Business***" means 9:00 a.m. (New York City time).

(i) "***Person***" means any individual, corporation, partnership, company, trust, unincorporated organization or any other form of entity.

(j) "***Scheduled Trading Day***" means any day that is scheduled by the applicable exchange to be a Trading Day, provided that if the Common Stock is not listed or traded, then a "Scheduled Trading Day" shall have the same meaning as Business Day.

(k) "***Securities Act***" means the Securities Act of 1933, as amended.

(l) "***Subsidiary***" means a Person more than 50% of the outstanding voting stock of which is owned, directly or indirectly, by the Company or by one or more other Subsidiaries of the Company, or by the Company and one or more other Subsidiaries of the Company.

(m) "***Trading Day***" means a day on which (i) there is no Market Disruption Event and (ii) trading in the Company's securities generally occurs on the NASDAQ Global Select Market, or if shares of Common Stock are not listed on the NASDAQ Global Select Market, then as reported by the principal other national or regional securities exchange on which the shares of Common Stock are then traded, or if the Common Stock is not listed or approved for trading on another national or regional securities exchange, on the principal market

on which shares of the Common Stock are then traded, provided that if the Common Stock is not so listed or traded, then a "Trading Day" shall have the same meaning as Business Day.

(n) "***Transfer Agent***" means Computershare Trust Company, N.A., or any successor transfer agent for the Company.

[The next page is the signature page]

The Company has executed and delivered this Warrant as of the date set forth above.

SUNPOWER CORPORATION

By: _____
Name:
Title:

Accepted:

TOTAL GAS & POWER USA, SAS

By: _____
Name:
Title:

NOTICE OF EXERCISE
(To Be Completed Only Upon Exercise)

TO: SunPower Corporation
77 Rio Robles
San Jose, California 95134

1. The undersigned hereby irrevocably elects to exercise the Warrant with respect to _____ Warrant Shares pursuant to the terms of the Warrant.

2. If **Cash Exercise**, check this box ☐: The undersigned tenders herewith full payment of the aggregate cash exercise price equal to $_____ U.S. Dollars for such shares in accordance with the terms of the Warrant.

3. If **Cash Exercise** and there is no effective registration statement under the Securities Act to cover the issuance of the Warrant Shares upon such Cash Exercise, check this box ☐: The undersigned hereby makes the representations and warranties set forth in Section 3.2 of the Purchase Agreement as if it were the "Investor" and the Warrant Shares to be issued upon this exercise were the "Securities" (the "**Private Placement Representations**").

4. If **Net-Issue Exercise**, check this box ☐: The undersigned exercises the Warrant on a net-issue basis pursuant to the terms set forth in the Warrant. Net-Issue Information:

(a) Number of Warrant Shares to be Issued to Holder:
(b) Number of Warrant Shares Subject to Warrant Surrendered:
(c) Number of Warrant Shares Remaining Subject to Warrant, if any:

5. (Select one option below):

Please issue a certificate or certificates representing said Warrant Shares in such name or names as specified below:

(Name and Address)

Please establish an electronic book entry at the Transfer Agent in a segregated account established by the Transfer Agent for the benefit of and registered in the name of such name or names as specified below:

(Name and Address)

Determination Date: _____ By: _____

(Signature must conform in all respects to name of the Holder as set forth on the face of the Warrant)

NOTICE OF TRANSFER
(To Be Completed Only Upon Transfer)

TO: SunPower Corporation
77 Rio Robles
San Jose, California 95134

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ the right represented by this Warrant, to purchase _____ Warrant Shares.

Please issue a Warrant representing the right to purchase such Warrant Shares in such name or names as specified below:

(Name and Address)

The undersigned requests the Company, by written order to exchange or register the transfer of a Warrant or Warrants, and, to the extent the transfer contemplated by this notice is not for the entire number of Warrant Shares represented by this Warrant, to issue a replacement Warrant in the name of the undersigned representing the balance of such Warrant Shares.

By executing and delivering this Notice of Transfer, the undersigned represents and warrants that transfer contemplated hereby is being made in accordance with Section 3 of this Warrant.

Dated: _____ By: _____

(Signature must conform in all respects to name of the Holder as set forth on the face of the Warrant)

Exhibit B

Form of Guaranty

GUARANTY

This **GUARANTY** (the "Guaranty"), dated _____, is between Total S.A., a société anonyme organized under the laws of the Republic of France (the "Guarantor"), and **[BANK]**, a _____, having its registered office at _____ (the "Bank").

RECITALS

WHEREAS, SunPower Corporation (the "Obligor") is a party to that certain [Credit Agreement, dated as of [ ]] with the Bank (the "Contract");

WHEREAS, the Guarantor owns a portion of the equity interest in the Obligor and will receive direct and indirect benefits from the Bank's performance of the Contract;

NOW, THEREFORE, in consideration of the above recitals and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Guarantor and the Bank hereby agree as follows:

AGREEMENT

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree as follows:

1. Guaranty. (a) The Guarantor unconditionally guarantees and promises to pay to the Bank, in accordance with the payment instructions contained in the Contract, on demand after the default by the Obligor in the performance of its payment obligations under the Contract, in lawful money of the United States, any and all Obligations (as hereinafter defined) consisting of payments due to the Bank; provided, however, that the monetary liability of the Guarantor under this Guaranty shall not at any time exceed $_. For purposes of this Guaranty the term "Obligations" shall mean and include all payments, liabilities and obligations owed by the Obligor to the Bank (whether or not evidenced by any note, instrument or agreement and whether or not for the payment of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising pursuant to the terms of the Contract or otherwise, including without limitation all interest, late fees, charges, expenses, attorneys' fees and other professionals' fees chargeable to the Obligor or payable by the Obligor thereunder and any costs of collection hereunder.

(b) Subject to Section 1(f) hereof, this Guaranty is absolute, unconditional, continuing and irrevocable, constitutes an independent guaranty of payment, and is in no way conditioned on or contingent upon any attempt to enforce in whole or in part any of the Obligor's Obligations to the Bank, the existence or continuance of the Obligor as a legal entity, the

consolidation or merger of the Obligor with or into any other entity, the sale, lease or disposition by the Obligor of all or substantially all of its assets to any other entity, or the bankruptcy or insolvency of the Obligor, the admission by the Obligor of its inability to pay its debts as they mature, or the making by the Obligor of a general assignment for the benefit of, or entering into a composition or arrangement with, creditors. If the Obligor fails to pay any Obligations to the Bank that are subject to this Guaranty as and when they are due, the Guarantor shall, subject to any limitation set forth in Section 1(a) hereof, forthwith pay to the Bank all such liabilities or obligations in immediately available funds. Each failure by the Obligor to pay any such liabilities or obligations shall give rise to a separate cause of action, and separate suits may be brought hereunder as each cause of action arises.

(c) The Bank, may at any time and from time to time, without the consent of or notice to the Guarantor, except such notice as may be required by applicable statute which cannot be waived, without incurring responsibility to the Guarantor, and without impairing or releasing the obligations of the Guarantor hereunder, (i) exercise or refrain from exercising any rights against the Obligor or others (including the Guarantor) or otherwise act or refrain from acting, (ii) settle or compromise any Obligations hereby guaranteed and/or any other obligations and liabilities (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any obligations and liabilities which may be due to the Bank or others, and (iii) sell, exchange, release, surrender, realize upon or otherwise deal with in any manner or in any order any property pledged or mortgaged by anyone to secure or in any manner securing the Obligations hereby guaranteed.

(d) The Bank may not, without the prior written consent of the Guarantor, (i) change the manner, place and terms of payment or change or extend the time of payment of, renew, or alter any Obligation hereby guaranteed, or in any manner modify, amend or supplement the terms of the Contract or any documents, instruments or agreements executed in connection therewith, (ii) take and hold security or additional security for any or all of the obligations or liabilities covered by this Guaranty, or (iii) assign its rights and interests under this Guaranty, in whole or in part.

(e) No invalidity, irregularity or unenforceability of the Obligations hereby guaranteed shall affect, impair, or be a defense to this Guaranty.

(f) This Guaranty may be terminated by the Guarantor at any time and for any reason, at its sole option, upon delivery by the Guarantor to the Bank of a notice of the Guarantor's election to terminate this Guaranty. Unless terminated earlier, this Guaranty will remain in full force and effect until termination of the Contract. Such expiration or termination of this Guaranty will not, however, affect or reduce the Guarantor's obligation hereunder for any liability incurred prior to such expiration or termination.

2. Representations and Warranties. The Guarantor represents and warrants to the Bank that (a) the Guarantor is a **[**société anonyme**]** duly organized, validly, existing and in good standing under the laws of its jurisdiction of incorporation or formation; (b) the execution, delivery and performance by the Guarantor of this Guaranty are within the power of the Guarantor and have been

duly authorized by all necessary actions on the part of the Guarantor; (c) this Guaranty has been duly executed and delivered by the Guarantor and constitutes a legal, valid and binding obligation of the Guarantor, enforceable against it in accordance with its terms, except as limited by bankruptcy, insolvency or other laws of general application relating to or affecting the enforcement of creditors' rights generally; (d) the execution, delivery and performance of this Guaranty do not (i) violate any law, rule or regulation of any governmental authority, or (ii) result in the creation or imposition of any material lien, charge, security interest or encumbrance upon any property, asset or revenue of the Guarantor; (e) no consent, approval, order or authorization of, or registration, declaration or filing with, any governmental authority or other person (including, without limitation, the shareholders of the Guarantor) is required in connection with the execution, delivery and performance of this Guaranty, except such consents, approvals, orders, authorizations, registrations, declarations and filings that are so required and which have been obtained and are in full force and effect; (f) the Guarantor is not in violation of any law, rule or regulation other than those the consequences of which cannot reasonably be expected to have material adverse effect on the ability of the Guarantor to perform its obligations under this Guaranty; and (g) no litigation, investigation or proceeding of any court or other governmental tribunal is pending or, to the knowledge of the Guarantor, threatened against the Guarantor which, if adversely determined, could reasonably be expected to have a material adverse effect on the ability of the Guarantor to perform its obligations under this Guaranty.

3. Waivers. (a) The Guarantor, to the extent permitted under applicable law, hereby waives any right to require the Bank to (i) proceed against the Obligor or any other guarantor of the Obligor's obligations under the Contract, (ii) proceed against or exhaust any security received from the Obligor or any other guarantor of the Obligor's Obligations under the Contract, or (iii) pursue any other right or remedy in the Bank's power whatsoever.

(b) The Guarantor further waives, to the extent permitted by applicable law, (i) any defense resulting from the absence, impairment or loss of any right of reimbursement, subrogation, contribution or other right or remedy of the Guarantor against the Obligor, any other guarantor of the Obligations or any security; (ii) any setoff or counterclaim of the Obligor or any defense which results from any disability or other defense of the Obligor or the cessation or stay of enforcement from any cause whatsoever of the liability of the Obligor (including, without limitation, the lack of validity or enforceability of the Contract); (iii) any right to exoneration of sureties that would otherwise be applicable; (iv) any right of subrogation or reimbursement and, if there are any other guarantors of the Obligations, any right of contribution, and right to enforce any remedy that the Bank now has or may hereafter have against the Obligor, and any benefit of, and any right to participate in, any security now or hereafter received by the Bank; (v) all presentments, demands for performance, notices of non-performance, notices delivered under the Contract, protests, notice of dishonor, and notices of acceptance of this Guaranty and of the existence, creation or incurring of new or additional Obligations and notices of any public or private foreclosure sale; (vi) the benefit of any statute of limitations; (vii) any appraisement, valuation, stay, extension, moratorium redemption or similar law or similar rights for marshalling; and (viii) any right to be informed by the Bank of the financial condition of the Obligor or any other guarantor of the Obligations or any change therein or any other circumstances bearing upon the risk of nonpayment or nonperformance of the Obligations.

The Guarantor has the ability to and assumes the responsibility for keeping informed of the financial condition of the Obligor and any other guarantors of the Obligations and of other circumstances affecting such nonpayment and nonperformance risks.

4. Notice of Advances or Defaults. Within ten (10) days after each advance of a loan under the Contract, the Bank will notify the Guarantor of (a) the amount of such loan and (b) the aggregate amount loans that are outstanding under the Contract, after giving effect to such loan. In addition, the Bank will promptly notify the Guarantor of any default under the Contract.

5. Miscellaneous.

(a) Notices. All notices, requests, demands and other communications that are required or may be given under this Guaranty shall be in writing and shall be personally delivered or sent by certified or registered mail. If personally delivered, notices, requests, demands and other communications will be deemed to have been duly given at time of actual receipt. If delivered by certified or registered mail, deemed receipt will be at time evidenced by confirmation of receipt with return receipt requested. In each case notice shall be sent:

if to the Bank, to:

_____

_____

_____

Attention: _____

if to the Guarantor, to:

_____

_____

_____

Attention: _____

or to such other place and with such other copies as the Bank or the Guarantor may designate as to itself by written notice to the other pursuant to this Section 5(a).

(b) Nonwaiver. No failure or delay on the Bank's part in exercising any right hereunder shall operate as a waiver thereof or of any other right nor shall any single or partial exercise of any such right preclude any other further exercise thereof or of any other right.

(c) Amendments and Waivers. This Guaranty may not be amended or modified, nor may any of its terms be waived, except by written instruments signed by the Guarantor and the Bank. Each waiver or consent under any provision hereof shall be effective only in the specific instances for the purpose for which given.

(d) Assignments. This Guaranty shall be binding upon and inure to the benefit of the Bank and the Guarantor and their respective successors and permitted assigns. This Guaranty may not be assigned by the Guarantor without the express written approval of the Bank, which may not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the Guarantor may, without approval of the Bank, assign this Guaranty to any entity that **[**minimum credit standards for assignee to be agreed**]**.

(e) Cumulative Rights, etc. The rights, powers and remedies of the Bank under this Guaranty shall be in addition to all rights, powers and remedies given to the Bank by virtue of any applicable law, rule or regulation, the Contract or any other agreement, all of which rights, powers, and remedies shall be cumulative and may be exercised successively or concurrently without impairing the Bank's rights hereunder.

(f) Partial Invalidity. If at any time any provision of this Guaranty is or becomes illegal, invalid or unenforceable in any respect under the law or any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Guaranty nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

(g) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA, WITHOUT REFERENCE TO CONFLICTS OF LAWS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

(h) JURISDICTION. EACH PARTY (A) IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF AND (B) WAIVES ANY OBJECTION WHICH SUCH PARTY MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY SUCH COURT.

(i) Jury Trial. EACH OF THE GUARANTOR AND THE BANK, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AS TO ANY ISSUE RELATING HERETO IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS GUARANTY.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Guaranty to be executed as of the day and year first written above.

TOTAL S.A.

By: _____
Name:
Title:

[BANK]

By: _____
Name:
Title:

Exhibit C

Form of SunPower Certificate

To: Total S.A.
2, place Jean Millier
La Défense 6
92400 Courbevoie
France
Attention: Olivier Devouassoux, VP Subsidiary Finance Operations
Telephone: +33 1 47 44 45 64
Facsimile: + 33 1 47 44 48 74
Email: olivier.devouassoux@total.com

Date: _____

I, _____, an Authorized Officer of SunPower Corporation ("SunPower"), hereby deliver this certificate pursuant to Section 4(a)(viii) of the Compensation and Funding Agreement, dated as of _____ (the "CFA"), by and between SunPower and Total S.A., and certify as follows (capitalized terms used and not otherwise defined below have the meanings given them in the CFA):

1. This certificate is being delivered to Total in connection with the attached draft SunPower Quarterly Certificate to be delivered in final form to Total and DOE pursuant to the Liquidity Support Agreement within fifteen (15) Business Days after the end of the fiscal quarter ended [ ], 20[ ] (the "Reported Quarter").

2. Schedule I to the attached SunPower Quarterly Certificate is a statement setting forth my good faith estimate of the amount of (x) SunPower's unrestricted cash and Cash Equivalents as of the last Business Day of the Reported Quarter (after payment of all Applicable Indebtedness that has come due in the Reported Quarter) plus (y) unused availability under any committed credit arrangement that was available to SunPower to be used for general corporate purposes, as of the last Business Day of the Reported Quarter.

3. Schedule II to the attached SunPower Quarterly Certificate is a statement setting forth my good faith estimate of the projected amount as of the last Business Day of the current fiscal quarter, of (a) SunPower's unrestricted cash and Cash Equivalents (after taking into account all obligations, including under Applicable Indebtedness, that are expected to come due in such fiscal quarter and any projected sales for such fiscal quarter) plus (b) unused availability under any committed credit arrangement that will be available to SunPower to be used for general corporate purposes.

4. [As of the date hereof, I do not believe that any Liquidity Support Event has occurred that has not been cured.] OR [As of the date hereof, following delivery of the SunPower Quarterly Certificate to Total and DOE pursuant to the Liquidity Support Agreement, I believe that a Liquidity Injection in an estimated amount of $_____ will be required to be made by Total to SunPower in accordance with the terms of the Liquidity Support Agreement and Section 3(a) of the CFA.]

5. As of the date hereof, and as of the date of the Liquidity Injection described above, I believe that the representations and warranties of SunPower contained in the Liquidity Support Agreement, the CFA and any other Transaction Document (to the extent such agreements are applicable to the form of such Liquidity Injection as provided herein and as indicated in writing by Total) are and will be true and correct, except as otherwise disclosed or modified by the disclosure schedule attached hereto (the "Disclosure Schedule" and, together with the representations and warranties, the "Representations"). I believe that the Representations and the SEC Documents (as defined in the Private Placement Agreement), when considered together, do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

6. To my knowledge, SunPower has no knowledge of any material nonpublic information regarding SunPower, except as disclosed on the Disclosure Schedule.

Sincerely,

_____

[Authorized Officer]
SunPower Corporation

Exhibit 10.91

AMENDMENT NO. 3 TO AFFILIATION AGREEMENT

This AMENDMENT NO. 3 (this "Amendment") to the Affiliation Agreement, dated as of April 28, 2011 (the "Affiliation Agreement"), by and between Total Gas & Power USA, SAS, a *société par actions simplifiée* organized under the laws of the Republic of France ("Parent"), and SunPower Corporation, a Delaware corporation (the "Company"), is made and entered into as of February 28, 2012 by and between Parent and the Company. Capitalized terms used in this Amendment and not otherwise defined shall have the meaning given to them in the Affiliation Agreement.

W I T N E S S E T H:

WHEREAS, Parent and the Company desire to amend certain terms of the Affiliation Agreement in connection with the entry into of the Compensation and Funding Agreement and the Liquidity Support Agreement (each as defined below) as set forth below.

NOW, THEREFORE, in consideration of the foregoing premises and the matters set forth herein, as well as other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged and accepted, and intending to be legally bound, Parent and the Company hereby agree as follows:

1. Amendments.

(a) Article I of the Affiliation Agreement is amended to include the following definitions:

"**Compensation and Funding Agreement**" shall mean that certain Compensation and Funding Agreement by and between Parent and the Company dated as of February 28, 2012.

"**Liquidity Support Agreement**" shall mean that certain Liquidity Support Agreement by and among Parent, the Company and the U.S. Department of Energy dated as of February 28, 2012.

(b) The definition of "Excluded Debt Incurrence" in Article I of the Affiliation Agreement is amended and restated in its entirety as follows: " "**Excluded Debt Incurrence**" shall mean Non-Recourse Debt."

(c) Section 2.2(a)(iii) of the Affiliation Agreement is amended and restated in its entirety as follows:

To the extent that Excess Shares result solely from any increase in the aggregate percentage of Beneficial Ownership of Voting Stock held by the Terra Group that results from: (i) a recapitalization of the Company, a repurchase of securities by the Company or

other actions taken by the Company or any Company Controlled Corporation (which recapitalization, repurchase or other actions shall have received Disinterested Board Approval, if a majority of the members of the Company Board are then Terra Directors) that have the effect of reducing the number of shares of Voting Stock then outstanding; (ii) the issuance of Voting Stock to Terra in connection with the acquisition by the Company of Tenesol; (iii) the issuance of Voting Stock to Terra, including from the conversion into Voting Stock of Convertible Securities, in connection with the Compensation and Funding Agreement or the Liquidity Support Agreement; or (iv) the rights specified in any "poison pill" share purchase rights plan of the Company having separated from the Company Common Stock and a member of the Terra Group having exercised such rights (such Excess Shares resulting from the circumstances described in this Section 2.2(a)(iii), the "Exempt Excess Shares").

(d) Section 3.3 of the Affiliation Agreement is amended and restated in its entirety as follows:

Board Committee Composition. Subject to the listing requirements of the principal securities exchange on which the Company's Common Stock is listed, until the first time that Terra, together with the Terra Controlled Corporations, owns (or is deemed pursuant to Section 3.1(f) to own) less than thirty percent (30%) of the Total Current Voting Power of the Company then in effect:

(a) the Audit Committee of the Company Board shall solely comprise three (3) Disinterested Directors;

(b) the Compensation Committee of the Company Board shall solely comprise two (2) Disinterested Directors and two (2) Terra Directors;

(c) the Nominating and Governance Committee of the Company Board shall solely comprise two (2) Disinterested Directors and two (2) Terra Directors; and

(d) any other standing or ad hoc committee of the Company Board shall solely comprise two (2) Disinterested Directors and two (2) Terra Directors;

provided that, a Terra Director shall not be included in the membership of any such committee the sole purpose of which is to consider any transaction for which there exists an actual conflict of interest between any member of the Terra Group, on the one hand, and the Company or its Affiliates, on the other hand, in the reasonable judgment of the Disinterested Directors.

(e) Clause (y) of the definition of "Terra Stockholder Approval Period" in Section 4.3 of the Affiliation Agreement is amended and restated in its entirety as follows: "(y) forty percent (40%) or less of the Total Current Voting Power of the Company then in effect (A) when at least $100 Million of Guarantees are outstanding or (B) for so long as the Liquidity Support Agreement remains in effect and, thereafter, for so long as (1) any loan by Parent or any of its Affiliates to the Company remains outstanding, (2) any guarantee by Parent or any of its Affiliates of any of the

Company's indebtedness remains outstanding, or (3) any other continuing obligation of Parent or any of its Affiliates to or for the benefit of the Company (other than the portion of any transaction pursuant to which Parent or any of its Affiliates purchases or receives equity of the Company) remains outstanding, in each case resulting from a Liquidity Injection (as defined in the Liquidity Support Agreement).".

(f) Section 4.3 of the Affiliation Agreement is amended to add a new clause (i) to read as follows: "any repurchase of Company Common Stock, other than any such repurchase in connection with a tax withholding obligation arising from the grant or exercise of an award under a Company Equity Plan."

(g) Article V of the Affiliation Agreement is amended to add a new Section 5.6 to read as follows:

"**CVSR Deputy Project Manager.** At all times during the Terra Stockholder Approval Period prior to the Final Completion Date (as defined in the Liquidity Support Agreement), Terra shall have the right to appoint a CVSR Deputy Project Manager, who shall have responsibilities to be agreed by Total and the Company."

2. Agreement. All references to the "Agreement" set forth in the Affiliation Agreement shall be deemed to be references to the Affiliation Agreement as amended through the date of this Amendment.

3. Headings. The headings set forth in this Amendment are for convenience of reference purposes only and shall not affect or be deemed to affect in any way the meaning or interpretation of this Amendment or any term or provision hereof.

4. Confirmation of the Affiliation Agreement. Other than as expressly modified pursuant to this Amendment, all provisions of the Affiliation Agreement, as amended prior to the date of this Amendment, remain unmodified and in full force and effect. The applicable provisions of Section 6.1 through and including Section 6.14 of the Affiliation Agreement shall apply to this Amendment *mutatis mutandis*.

[*Execution page follows*.]

IN WITNESS WHEREOF, the undersigned have caused this Amendment No. 3 to be executed by their respective duly authorized officers to be effective as of the date first above written.

TOTAL GAS & POWER USA, SAS

By: /s/ Arnaud Chaperon
Name: Arnaud Chaperon
Title: President

SUNPOWER CORPORATION

By: /s/ Thomas H. Werner
Name: Thomas H. Werner
Title: Chief Executive Officer

Exhibit 10.92

THIS SECURITY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF THE COMPANY THAT THIS SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, INCLUDING RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (II) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (III) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, IN EACH OF CASES (I) THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES.

SUNPOWER CORPORATION

WARRANT

TO PURCHASE COMMON STOCK

Certificate Number: T-1 Dated: February 28, 2012

For value received, Total Gas & Power USA, SAS, a société par actions simplifiée organized under the laws of the Republic of France (the "***Investor***" and, together with any transferee of the Warrant in accordance with the terms of this Warrant, the "***Holder***"), is entitled to purchase from SunPower Corporation, a Delaware corporation (together with its successors and assigns, the "***Company***"), at any time and from time to time after the date set forth above, subject to the conditions set forth in Sections 1.2(f) and 1.2(g), and prior to 5:00 p.m., New York time, on the Expiration Date (as defined below), at the purchase price of $7.8685 per share (as such price may be adjusted pursuant to Section 2, the "***Exercise Price***") an aggregate of 9,531,677 fully-paid and nonassessable shares of the Company's common stock, par value $0.001 per share ("***Common Stock***") (as such shares may be adjusted pursuant to Section 2, the "***Warrant Shares***").

This Warrant (this "***Warrant***") is being initially issued to the Investor pursuant to a Private Placement Agreement dated February 28, 2012 (the "***Purchase Agreement***") by and between the Company and the Investor, together with a related Terms Agreement, as each may be amended, restated, modified or supplemented from time to time.

Section 1. **Term and Exercise of Warrant**.

1.1 **Term of Warrant**. The Holder shall have the right, subject to the conditions set forth in Sections 1.2(f) and 1.2(g), at any time before 5:00 p.m., New York time,

on the seventh anniversary of the date hereof, or, if such date is not a Business Day (as defined below), the next Business Day (the "***Expiration Date***") to exercise this Warrant in accordance with the terms of this Warrant.

1.2 Exercise of Warrant.

(a) Cash Exercise. Subject to Sections 1.2(f) and 1.2(g), this Warrant may be exercised at any time prior to the Close of Business on the Expiration Date (or if the Expiration Date is not a Business Day, the next Business Day) and from time to time, in whole or in part, upon surrender to the Company, together with the duly completed and signed form of notice of exercise (designating thereon the Holder's election to cash exercise ("***Cash Exercise***")) in the form attached (the "***Notice of Exercise***"), and payment to the Company of the Exercise Price in effect on the date of such exercise for the number of Warrant Shares in respect of which this Warrant is then being exercised; provided, that the Holder may not elect to Cash Exercise this Warrant unless there is available an effective registration statement to cover such transaction or such Holder checks the box on the Notice of Exercise thereby representing to the Private Placement Representations (as defined in the Notice of Exercise). Payment of the aggregate Exercise Price upon exercise pursuant to this Section 1.2(a) shall be made by delivery of a check to the principal executive offices of the Company as provided in Section 7 or, at the Holder's discretion, by wire transfer of immediately available funds in accordance with written wire transfer instructions to be provided by the Company at the Holder's request.

(b) Net-Issue Exercise. Subject to Sections 1.2(f) and 1.2(g), in lieu of exercising this Warrant on a cash basis pursuant to Section 1.2(a), the Holder may elect to exercise this Warrant at any time prior to the Expiration Date and from time to time, in whole or in part, on a net-issue basis by electing to receive the number of Warrant Shares which are equal in value to the value of this Warrant (or any portion thereof to be canceled in connection with such Net-Issue Exercise) at the time of any such Net-Issue Exercise, by surrender of this Warrant, together with the duly completed and signed Notice of Exercise (designating the Holder's election to Net-Issue Exercise ("***Net-Issue Exercise***")), to the Company at the principal executive offices of the Company as provided in Section 7. The Notice of Exercise shall be properly marked to indicate (A) the number of Warrant Shares to be delivered to the Holder in connection with such Net-Issue Exercise, (B) the number of Warrant Shares in respect of which this Warrant is being surrendered in payment of the aggregate Exercise Price for the Warrant Shares to be delivered to the Holder in connection with such Net-Issue Exercise, calculated as of the Determination Date (as defined below) and (C) the number of Warrant Shares which remain subject to this Warrant after such Net-Issue Exercise, if any (each as determined in accordance with this Section 1.2(b)). In the event that the Holder elects to exercise this Warrant in whole or in part on a net-issue basis pursuant to this Section 1.2(b), the Company will issue to the Holder the number of Warrant Shares determined in accordance with the following formula:

$$X = [Y \times (A-B)] / A$$

where:

- "***X***" is the number of Warrant Shares to be issued to the Holder in connection with such Net-Issue Exercise;

- "***Y***" is the number of Warrant Shares to be exercised, up to the number of Warrant Shares subject to this Warrant;

- "***A***" is the Closing Sale Price (as defined below) as of the Determination Date (as defined below) of one share of Common Stock; and

- "***B***" is the Exercise Price in effect as of the date of such Net-Issue Exercise (as adjusted pursuant to Section 2).

The "***Determination Date***" will be the date the Notice of Exercise is given to the Company (determined in accordance with Section 7), or if such date is not a Trading Day, the next succeeding Trading Day.

(c) Fractional Interests. No fractional shares of Common Stock will be issued upon the exercise of this Warrant, but in lieu thereof the Company shall pay therefor in cash an amount equal to the product obtained by multiplying the Closing Sale Price of one share of Common Stock on the Trading Day immediately preceding the date of exercise of the Warrant times such fraction (rounded to the nearest cent).

(d) Deemed Issuance. Subject to 1.2(c), upon such surrender of the Warrant, delivery of the Notice of Exercise and, in the case of a Cash Exercise pursuant to Section 1.2(a), payment of the Exercise Price, the Company will with all reasonable dispatch (and in no event more than three Business Days from delivery of the Notice of Exercise), in the sole discretion of the Holder and as reflected on the Notice of Exercise, either (i) issue and cause to be delivered a certificate or certificates to and in the name of the Holder, or in the name of such other Person as designated by the Holder, or (ii) establish an electronic book entry at the Transfer Agent in a segregated account established by the Transfer Agent for the Holder's benefit and registered in the name of Holder, or in the name of such other Person as designated by the Holder, in either case of (i) or (ii), for the number of full shares of Common Stock so purchased upon the exercise of this Warrant, together with a check or cash in respect of any fraction of a share of Common Stock otherwise deliverable upon such exercise, as provided in Section 1.2(c). Such certificate or certificates shall be deemed to have been issued, or such electronic book entry shall be deemed to have been established, and the Person in whose name any such certificates will be issuable, or in whose name the electronic book entry has been registered, upon exercise of this Warrant (as indicated in the applicable Notice of Exercise) will be deemed to have become a holder of record of such Warrant Shares as of the date of the surrender of this Warrant and, in the case of a Cash Exercise pursuant to Section 1.2(a), payment of the Exercise Price.

(e) Warrant Exercisable in Whole or in Part. The rights of purchase represented by this Warrant shall be exercisable, at the election of the Holder, either in full or from time to time in part. If this Warrant is exercised in respect of less than all of the Warrant Shares purchasable on such exercise at any time prior to the Expiration Date, a new Warrant of like tenor exercisable for the remaining Warrant Shares may be issued and delivered to the Holder by the Company. This Warrant or any part thereof surrendered in the exercise of the rights thereby evidenced shall thereupon be cancelled by the Company and retired.

(f) Stockholder Approval Condition to Exercise Warrant. The Warrant shall not be exercisable by Holder prior to the date the Company obtains stockholder approval ("Stockholder Approval") with respect to the issuance of Warrant Shares upon exercise of the Warrant in the manner set forth in the Compensation and Funding Agreement, dated February 28, 2012, between the Company and the Investor.

(g) Holder's Exercise Limitations. So long as the Company has at least $25 million aggregate principal amount of Convertible Notes outstanding, the Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, to the extent that after giving effect to such issuance after exercise as set forth on the Notice of Exercise, the Holder would, directly or indirectly, including through one or more wholly-owned subsidiaries, become the "beneficial owner" (as these terms are defined in Rule 13d-3 and Rule 13d-5 under the Exchange Act), of more than 74.99% of the voting power of the Company's capital stock that is at the time entitled to vote by the holder thereof in the election of the Board of Directors (or comparable body). Upon request by Holder, the Company shall obtain a written statement from its Transfer Agent setting forth the number of shares of Common Stock outstanding.

(h) Listing and Reservation Covenants. On and after the date of such Stockholder Approval, the Company shall (i) cause the Warrant Shares to be approved for listing on the NASDAQ Global Select Market or such other securities exchange or market as the Common Stock is listed from time to time, subject to official notice of issuance and (ii) for as long as this Warrant remains outstanding, at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock or shares of Common Stock held in treasury by the Company, for the purpose of effecting the exercise of this Warrant, the number of Warrant Shares then issuable upon the exercise hereof (after giving effect to all anti-dilution adjustments provided for herein). All Warrant Shares delivered upon exercise of this Warrant shall be newly issued shares or shares held in treasury by the Company, shall have been duly authorized and validly issued and shall be fully paid and nonassessable, and shall be free from preemptive rights and free of any lien or adverse claim (except for liens or adverse claims arising from the action or inaction of Holder).

Section 2. Adjustment of Exercise Price and Warrant Shares.

The Exercise Price and the number of Warrant Shares purchasable upon the exercise of this Warrant shall be subject to adjustment from time to time as set forth below.

2.1 Adjustment for Change in Capital Stock. If, after the Issue Date of the Warrant, the Company:

(a) pays a dividend or makes a distribution payable exclusively in shares of Common Stock on all or substantially all shares of the Company's Common Stock;

(b) subdivides the outstanding shares of Common Stock into a greater number of shares; or

(c) combines the outstanding shares of Common Stock into a smaller number of shares;

then the Exercise Price will be decreased (or increased with respect to an event in clause (c)) based on the following formula:

$$R' = R \times \frac{OS'}{OS}$$

where,

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such dividend or distribution, or immediately after the Open of Business on the effective date of such subdivision or combination, as the case may be;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such dividend or distribution, or immediately prior to the Open of Business on the effective date of such subdivision or combination, as the case may be;

OS'= the number of shares of Common Stock outstanding immediately prior to the Open of Business on the record date for such dividend or distribution, or immediately prior to the Open of Business on the effective date of such subdivision or combination, as the case may be; and

OS = the number of shares of Common Stock outstanding immediately after the Open of Business on the record date for such dividend or distribution, or immediately after the Open of Business on the effective date of such subdivision or combination, as the case may be.

Such adjustment shall become effective immediately after the Open of Business on the record date for such dividend or distribution, or the effective date for such subdivision or combination, as the case may be. If any dividend or distribution of the type described in this Section 2.1 is declared but not so paid or made, or the outstanding shares of Common Stock are not split or combined, as the case may be, the Exercise Price shall be immediately readjusted, effective as of the date the Company's board of directors or a duly appointed committee thereof (the "***Board of Directors***") determines not to pay such dividend or distribution, or split or combine the outstanding shares of Common Stock, as the case may be, to the Exercise Price that would then be in effect if such dividend, distribution, share split or share combination had not been declared or announced.

2.2 Adjustment for Rights Issue. If, after the Issue Date of the Warrant, the Company distributes any rights, options or warrants (other than pursuant to a Shareholders' Rights Plan (defined below)) to all or substantially all holders of the Company's Common Stock entitling them to purchase (for a period not more than 45 days from the record date for such distribution) shares of Common Stock at a price per share less than the average of the Closing Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including the Trading Day immediately preceding the record date for such distribution, the Exercise Price shall be decreased in accordance with the formula:

$$R' = R \times \frac{O + \left(\frac{N \times P}{M} \right)}{(O + N)}$$

where:

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such distribution;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such distribution;

O = the number of shares of Common Stock outstanding immediately prior to the Open of Business on the record date for such distribution;

N = the number of additional shares of Common Stock issuable pursuant to such rights, options or warrants;

P = the per-share offering price payable to exercise such rights, options or warrants for the additional shares plus the per-share consideration (if any) the Company receives for such rights, options or warrants; and

M = the average of the Closing Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the record date with respect to the distribution.

Such adjustment shall be successively made whenever any such rights, options or warrants are distributed and shall become effective immediately after the Open of Business on the record date for such distribution. To the extent that shares of the Common Stock are not delivered after the expiration of such rights, options or warrants, the Exercise Price shall be increased to the Exercise Price that would then be in effect had the adjustments made upon the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are not so issued, the Exercise Price shall be increased promptly to be the Exercise Price that would then be in effect if such record date for such distribution had not been fixed.

For purposes of this Section 2.2, in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase Common Stock at less than the average of the Closing Sale Prices of Common Stock for each Trading Day in the applicable 10 consecutive Trading Day period, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

2.3 Adjustment for Other Distributions. If, after the Issue Date of the Warrant, the Company distributes to all or substantially all holders of its Common Stock any of its debt or other assets or property (including cash, rights, options or warrants to acquire capital stock of the Company or other securities, but excluding (a) dividends or distributions (including

subdivisions) referred to in Section 2.1 and distributions of rights, warrants or options referred to in Section 2.2, (b) rights issued to all holders of Common Stock pursuant to a Shareholders' Rights Plan, where such rights are not presently exercisable, continue to trade with Common Stock and holders will receive such rights together with Common Stock upon exercise of the Warrant), (c) dividends or other distributions paid exclusively in cash (to which Section 2.4 shall apply) and (d) any Spin-off to which the provisions set forth below in this Section 2.3 shall apply) ("***Distributed Property***"), the Exercise Price shall be decreased, in accordance with the formula:

$$R' = R \times \frac{M - F}{M}$$

where:

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such distribution;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such distribution;

M = the average of the Closing Sale Prices of Common Stock for the 10 consecutive Trading Day period ending on, and including, the record date for such distribution; and

F = the fair market value, as determined by the Board of Directors, of the portion of the Distributed Property to be distributed in respect of each share of Common Stock immediately as of the Open of Business on the record date for such distribution.

Such adjustment shall become effective immediately prior to the Open of Business on the record date for such distribution. Notwithstanding the foregoing, if "F" as set forth above is equal to or greater than "M" as set forth above, in lieu of the foregoing adjustment, the Holder shall receive, at the same time and up on the same terms as holders of Common Stock, the amount and kind of Distributed Property the Holder would have received had the Holder owned a number of shares of Common Stock issued upon such exercise immediately prior to the record date for such distribution. If such distribution is not so paid or made, the Exercise Price shall again be adjusted to be the Exercise Price that would then be in effect if such dividend or distribution had not been declared. If the Board of Directors or a committee thereof determines "F" for purposes of this Section 2.3 by reference to the actual or when issued trading market for any Common Stock, it must in doing so consider the prices in such market over the same period used in computing the Closing Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the record date for such distribution.

With respect to an adjustment pursuant to this Section 2.3 where there has been a payment of a dividend or other distribution on the Common Stock in shares of capital stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit, where such capital stock or similar equity interest is listed or quoted (or will be listed or quoted upon consummation of the Spin-off) on a national securities exchange or reasonably comparable non-U.S. equivalent, which is referred to herein as a "***Spin-off***," the Exercise Price will be decreased based on the following formula:

$$R' = R \times \frac{MP}{F + MP}$$

R' = the Exercise Price in effect immediately after the end of the Valuation Period (as defined below);

R = the Exercise Price in effect immediately prior to the end of the Valuation Period;

F = the average of the Closing Sale Prices of the capital stock or similar equity interest distributed to holders of the Common Stock applicable to one share of the Common Stock over the first 10 consecutive Trading Day period immediately following, and including, the effective date for the Spin-off (such period, the "***Valuation Period***"); and

MP = the average of the Closing Sale Prices of the Common Stock over the Valuation Period.

The adjustment to the Exercise Price under the preceding paragraph of this Section 2.3 will be made immediately after the Close of Business on the last day of the Valuation Period, but will be given effect as of the Open of Business on the effective date for the Spin-off. For purposes of determining the Exercise Price in respect of any exercise during the 10 Trading Days commencing on the effective date for any Spin-off, references within the portion of this Section 2.3 related to "Spin-offs" to 10 consecutive Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the effective date for such Spin-off to, but excluding, the relevant Determination Date.

For purposes of this Section 2.3, in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of the Common Stock at less than the average of the Closing Sale Prices of the Common Stock for each Trading Day in the applicable 10 consecutive Trading Day period, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

If, prior to a Determination Date, a record date for a Spin-off has been set but the relevant dividend or distribution has not yet resulted in an adjustment to the Exercise Price and an exercising Holder is not entitled to participate in the dividend or distribution with respect to the shares of Common Stock the Holder receives upon exercise (whether because the Holder was not a holder of such shares of Common Stock on the effective date for such dividend or distribution or otherwise), then as promptly as practicable following the Determination Date, the Company will deliver to the Holder a number of additional shares of Common Stock that reflects the increase to the number of Warrant Shares deliverable as a result of the Spin-off.

2.4 Adjustment for Cash Distributions. If, after the Issue Date of the Warrant, the Company makes a distribution to all or substantially all holders of its Common Stock consisting exclusively of cash, the Exercise Price shall be adjusted in accordance with the formula:

$$R' = R \times \frac{SP - C}{SP}$$

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such distribution;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such distribution;

SP = the average of the Closing Sale Prices of Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the record date for such distribution; and

C = the amount in cash per share the Company distributes to holders of Common Stock.

The adjustment shall become effective immediately after the Open of Business on the record date with respect to the distribution.

Notwithstanding the foregoing, if "C" as set forth above is equal to or greater than "SP" as set forth above, in lieu of the foregoing adjustment, adequate provision shall be made so that the Holder shall have the right to receive on the date on which the relevant cash dividend or distribution is distributed to holders of Common Stock, the amount of cash the Holder would have received had the Holder owned a number of shares exercisable from the Exercise Price on the record date for such distribution. If such dividend or distribution is not so paid or made, the Exercise Price shall again be adjusted to be the Exercise Price that would then be in effect if such dividend or distribution had not been declared.

2.5 Adjustment for Company Tender Offer. If, after the Issue Date of the Warrant, the Company or any Subsidiary makes a payment to holders of the shares of Common Stock in respect of a tender or exchange offer, other than an odd-lot offer, by the Company or any of its Subsidiaries for shares of Common Stock, to the extent that the cash and value of any other consideration included in the payment per share of Common Stock exceeds the average of the Closing Sale Prices over the 10 consecutive Trading Day period commencing on, and including the Trading Day immediately following the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer (the "***Expiration Date***"), the Exercise Price shall be decreased based on the following formula:

$$R' = R \times \frac{OS \times SP}{F + (SP \times OS')}$$

R' = the Exercise Price in effect immediately after the Open of Business on the Trading Day immediately following the Expiration Date;

R = the Exercise Price in effect immediately prior to the Open of Business on the Trading Day immediately following the Expiration Date;

F = the aggregate fair market value, as determined by the Board of Directors, of all cash and other consideration payable in such tender or exchange offer for shares purchased in such tender or exchange offer, such value to be measured as of the expiration time of the tender or exchange offer (the "***Expiration Time***");

OS = the number of shares of Common Stock outstanding immediately prior to the Expiration Time (prior to giving effect to such tender offer or exchange offer);

OS'= the number of shares of Common Stock outstanding immediately after the Expiration Time (after giving effect to such tender offer or exchange offer); and

SP = the average of the Closing Sale Prices of Common Stock over the 10 consecutive Trading Day period commencing on, and including, the Trading Day immediately following the Expiration Date.

The adjustment to the Exercise Price under this Section 2.5 will be made immediately after the Open of Business on the 11th Trading Day following the Expiration Date but will be given effect at the Open of Business on the Trading Day following the Expiration Date. For purposes of determining the Exercise Price, in respect of any exercise during the 10 Trading Days commencing on the Trading Day immediately following the Expiration Date, references within this Section 2.5 to 10 Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Trading Day following the Expiration Time to, but excluding, the relevant Determination Date.

2.6 When No Adjustment Required. No adjustment need be made as a result of:

(a) the issuance of the rights pursuant to the Company's adoption of a stockholders rights plan that provides that each share of Common Stock issued upon exercise of the Warrant at any time prior to the distribution of separate certificates representing rights will be entitled to receive the right (a "***Stockholder Rights Plan***");

(b) the distribution of separate certificates representing the rights under a Stockholder Rights Plan;

(c) the exercise or redemption of the rights in accordance with any rights agreement under a Stockholder Rights Plan;

(d) the termination or invalidation of the rights under a Stockholder Rights Plan;

(e) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on securities of the Company and the investment of additional optional amounts in Common Stock under any plan;

(f) upon the issuance of any shares of Common Stock or options or rights to purchase or be issued those shares pursuant to any present or future employee, director or consultant benefit plan or program of, or assumed by, the Company or any of its Subsidiaries;

(g) ordinary course of business stock repurchases, including structured or derivative transactions pursuant to a stock repurchase program approved by the Board of Directors (but, for the avoidance of doubt, excluding transactions described in Section 2.5);

(h) upon the issuance of any shares of Common Stock or any securities convertible into, or exchangeable for shares of Common Stock, or the right to purchase shares of Common Stock or such convertible or exchangeable securities other than as described in Sections 2.2 or 2.3; or

(i) for a change in the par value of Common Stock.

If any event described in Section 2.6 (a) through (d) occurs, the Holder will receive the rights upon exercise, unless, prior to any exercise, the rights have separated from the Common Stock. If the rights have separated, the Exercise Price will be decreased at the time of separation as provided by Section 2.2 or 2.3, as applicable, subject to readjustment in the event of expiration, termination or redemption of such rights.

Notwithstanding the foregoing, no adjustment need be made to the Exercise Price pursuant to Section 2.1, 2.2, 2.3, 2.4 or 2.5 if the Holder is entitled to participate (as a result of holding this Warrant, and at substantially the same time as Common Stock holders participate), subject to notice of such entitlement to the Holder, in the transaction that would otherwise trigger the applicable adjustment, as if the Holder held a number of shares of Common Stock issuable upon exercise of this Warrant. No adjustment need be made if the Common Stock to be issued upon exercise will actually receive the consideration provided in, or be subject to, the transaction that would otherwise trigger the adjustment.

2.7 Effect of Reclassification, Consolidation, Merger or Sale.

(a) Upon the occurrence of (i) any reclassification of the outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a split, subdivision or combination covered by Section 2.1), (ii) any consolidation, merger, sale of all or substantially all of the Company's assets (other than a sale of all or substantially all of the assets of the Company in a transaction in which the holders of Common Stock immediately prior to such transaction do not receive securities, cash or other assets of the Company or any other Person), or (iii) a binding share exchange which reclassifies or changes the outstanding shares of Common Stock, in each case as a result of which the holders of Common Stock shall be entitled to receive cash, securities or other property or assets with respect to or in exchange for such Common Stock (any such event, a "***Merger Event***"), then at the effective time of the Merger Event, the right to exercise this Warrant will be changed into a right to exercise this Warrant into the type and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) that a holder of a number of shares of Common Stock issuable upon exercise of this Warrant immediately prior to such Merger Event would have owned or been entitled to receive (the

"***Reference Property***") upon such Merger Event. If the Merger event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), the Reference Property to be received upon exercise will be deemed to be the weighted average of the types and amounts of Reference Property to be received by the holders of Common Stock that affirmatively make such election).

(b) If the Company consummates a Merger Event, the Company shall promptly provide notice to the Holder briefly describing the Merger Event and stating the type or amount of cash, securities, property or other assets that will comprise the Reference Property after any such Merger Event and any adjustment to be made with respect thereto.

(c) The above provisions of this Section shall similarly apply to successive Merger Events.

2.8 Simultaneous Adjustments. In the event that this Section 2 requires simultaneous adjustments to the Exercise Price under more than one of Sections 2.1, 2.2, 2.3 or 2.4 of this warrant then the Board of Directors of the Company shall make such adjustments to the Exercise Price in good faith and in a commercially reasonable manner.

2.9 Successive Adjustments. After an adjustment to the Exercise Price under this Section 2, any subsequent event requiring an adjustment under this Section 2 shall cause an adjustment to the Exercise Price as so adjusted.

2.10 Limitation on Adjustments. The Company shall not take any action that would result in an adjustment pursuant to the foregoing provisions in this Section 2 if that adjustment would reduce the Exercise Price below the then par value of the shares of Common Stock issuable upon exercise of the Warrant. In no event will the Exercise Price be increased other than as a result of a transaction described in Section 2.1(c).

2.11 Adjustment of Number of Warrant Shares. Upon each adjustment of the Exercise Price pursuant to this Section 2, each Warrant outstanding prior to the making of the adjustment in the Exercise Price shall thereafter evidence the right to receive upon payment of the adjusted Exercise Price that number of shares of Common Stock (calculated to the nearest hundredth) obtained from the following formula:

$$N' = N \times (E / E')$$

where:

N' = the adjusted number of Warrant Shares issuable upon exercise of a Warrant by payment of the adjusted Exercise Price.

N = the number of Warrant Shares previously issuable upon exercise of a Warrant by payment of the Exercise Price prior to adjustment.

E' = the adjusted Exercise Price.

E = the Exercise Price prior to adjustment.

2.12 **No Avoidance**. If the Company shall enter into any transaction for the purpose of avoiding the provisions of this Section 2, the benefits provided by such provisions shall nevertheless apply and be preserved.

2.13 **Notices**.

(a) Promptly after any adjustment of the Exercise Price or the number of Warrant Shares issuable hereunder, the Company shall give written notice thereof to the Holder, setting forth in reasonable detail the calculation of such adjustment.

(b) The Company shall give written notice to the Holder at least five (5) Business Days prior to the date on which the Company (I) closes its books or takes a record (a) with respect to any dividend or distribution on the Common Stock, (b) with respect to any pro rata subscription offer to holders of Common Stock, (c) with respect to any pro rata redemption or similar offer to holders of the Common Stock or (d) for determining rights to vote with respect to any Merger Event, dissolution or liquidation or (II) enters into any transaction that will result in an adjustment of the Exercise Price or the number of Warrant Shares issuable hereunder.

Section 3. **Restriction on Transfer of Warrant and Warrant Shares**.

(a) On or after the Issue Date, the Holder may transfer this Warrant or the Warrant Shares to any Person:

(i) pursuant to a registration statement that is, at the time of such transfer, effective under the Securities Act;

(ii) pursuant to Rule 144 promulgated under the Securities Act; or

(iii) in a transaction otherwise exempt from the registration requirements of the Securities Act (subject to the requirements of such exemption).

(b) Notwithstanding the foregoing, the following terms and conditions will apply to each transfer provided for in Section 3(a):

(i) in the case of a transfer pursuant to Section 3(a)(ii) or (iii), as a condition precedent to such transfer, unless otherwise agreed by the Company in writing, the transferor must deliver an opinion of counsel reasonably satisfactory to the Company to the effect that the proposed transfer is exempt from registration under the Securities Act and applicable state securities laws; and

(ii) no Holder that is subject to the Company's then-applicable insider trading policy may transfer any of the Warrants or any Warrant Shares except to the extent permitted under such trading policy.

(c) By its acceptance of this Warrant, each Holder (i) shall be deemed to have acknowledged and agreed to the restrictions on transfer described in this Section, and to

have acknowledged that the Company will rely upon the truth and accuracy of such acknowledgement and agreement and (ii) agrees to the imprinting of the following legend on any certificate or book-entry evidencing this Warrant and the Warrant Shares:

> THIS SECURITY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF THE COMPANY THAT THIS SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, INCLUDING RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (II) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (III) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, IN EACH OF CASES (I) THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES.

(d) Except as provided in Section 3(a) and (b) above, this Warrant, the rights represented hereby and the Warrant Shares may not be transferred in whole or in part by the Holder. In order to effect any transfer or partial transfer of this Warrant, the Holder shall deliver this Warrant to the Company with the notice of transfer in the form attached (the "***Notice of Transfer***") completed and duly executed. Upon receipt of Notice of Transfer and the opinion of counsel required by this Section, if any, the Company shall promptly (i) issue to the transferee a new Warrant for the number of Warrant Shares assigned by the Holder, and (ii) to the extent the transfer contemplated by the Notice of Transfer is not for the entire number of Warrant Shares represented by this Warrant, issue to the Holder a replacement Warrant representing the balance of such Warrant.

(e) The Company shall not be required to register any transfer of the Warrants or the Warrant Shares in violation of this Section or applicable securities laws. The Company may, and may instruct any transfer or warrant agent for the Company to, place such stop transfer orders as may be required on the transfer books of the Company in order to ensure compliance with the provisions of this Section and applicable securities laws.

Section 4. **Taxes**. The issuance of certificates for Warrant Shares or the establishment of an electronic book entry upon the exercise of the rights represented by this Warrant will be made without charge to the Holder for any issuance tax in respect thereof; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate or establishment of an electronic book entry in a name other than that of the Holder.

Section 5. **Mutilated or Missing Warrant**. If this Warrant shall be mutilated, lost, stolen or destroyed and the Company shall receive evidence thereof and (except with respect to

mutilated Warrants returned to the Company) indemnity reasonably satisfactory to it, then the Company shall issue and deliver in exchange and substitution for and upon cancellation of the mutilated Warrant, or in lieu of and substitution for the Warrant lost, stolen or destroyed, a new Warrant of like tenor and representing an equivalent right or interest. An applicant for such a substitute Warrant shall comply with such other reasonable requirements and pay such reasonable charges as the Company may prescribe, including, without limitation, the execution and delivery of a lost Warrant affidavit and indemnification agreement in a form reasonably satisfactory to the Company and its counsel.

Section 6. **No Rights as Stockholder until Exercise**. Except as provided in Section 1.2(d), nothing contained in this Warrant shall be construed as conferring upon the Holder the right to vote or to receive dividends or to consent or to receive notice as stockholders in respect of any meeting of stockholders for the election of directors of the Company or any other matter, or any rights whatsoever as stockholders of the Company.

Section 7. **Notices**. All notices and other communications required or permitted to be given with respect to the Warrant shall be in writing signed by the sender, and shall be considered given: (w) on the date delivered, if personally delivered during normal business hours, or on the next Business Day if delivered after normal business hours of the recipient; (x) on the date sent by telecopier with automatic confirmation of the transmitting machine showing the proper number of pages were transmitted without error, if sent during normal business hours of the recipient, or on the next Business Day if sent after normal business hours; (y) on the Business Day after being sent by Federal Express or another recognized overnight delivery service in time for and specifying next day or next business day delivery; or (z) five (5) Business Days after mailing, if mailed by United States postage-paid certified or registered mail, return receipt requested, in each instance referred to in the preceding clauses (y) and (z) only if all delivery charges are pre-paid. Each such notice or other communication shall be given to the Holder at the address in a Warrant register to be created and maintained by the Company and to the Company at its principal executive offices.

Section 8. **No Waivers; Remedies; No Impairment**. Prior to the Expiration Date, no failure or delay by the Holder in exercising any right, power or privilege with respect to the Warrant shall operate as a waiver of the right, power or privilege. A single or partial exercise of any right, power or privilege shall not preclude any other or further exercise of the right, power or privilege or the exercise of any other right, power or privilege. The rights and remedies provided in the Warrant shall be cumulative and not exclusive of any rights or remedies provided by law. The Company will not, by amendment of its charter or by-laws or through any other means, directly or indirectly, avoid or seek to avoid the observance or performance of any of the terms of this Warrant and will at all time in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate in order to protect the rights of the Holder against impairment.

Section 9. **Amendments**. No amendment, modification, termination or waiver of any provision of the Warrant, and no consent to any departure from any provision of the Warrant, shall be effective unless it shall be in writing and signed and delivered by the Company and the Holder. Notwithstanding the foregoing, neither Sections 1.2(f) or 1.2(g), nor this sentence, may be amended.

Section 10. **Governing Law**. This Warrant shall be governed by and construed in accordance with the laws of the State of New York that apply to contracts made and performed entirely within such state.

Section 11. **Severability of Provisions: Successors**. Any provision of this Warrant that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions of the Warrant or affecting the validity or enforceability of the provision in any other jurisdiction. This Warrant shall be binding upon any entity succeeding the Company by merger, consolidation or otherwise. All of the covenants and agreements of the Company shall inure to the benefit of successors and permitted assigns of the Holder.

Section 12. **Titles and Subtitles; Section References**. The titles and subtitles used in this Warrant are used for convenience only and are not to be considered in construing or interpreting this Warrant. Unless otherwise stated, references to Sections are to the Sections of this Warrant.

Section 13. **Purchase Agreement**. The Company will provide any Holder with a copy of the Purchase Agreement upon request.

Section 14. **Definitions**. For purposes of this Warrant, the following terms have the following meanings:

(a) "***Business Day***" means any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in such state are authorized or required by law or other governmental action to close.

(b) "***Close of Business***" means 5:00 p.m. (New York City time).

(c) "***Closing Sale Price***" of the Common Stock on any date means the closing per-share sale price (or if no closing per-share sale price is reported, the average of the last bid and ask prices or, if more than one in either case, the average of the average last bid and the average last ask prices) on that date as reported the principal other national or regional securities exchange on which the shares of the Common Stock are then traded. The Closing Sale Price will be determined without reference to after-hours or extended market trading. If the Common Stock is not so listed for trading on the relevant date, then the "Closing Sale Price" of the Common Stock will be the last quoted bid price for Common Stock in the over-the-counter market on the relevant date as reported by Pink OTC Markets Inc. or a similar organization. If the Common Stock is not so quoted, then the "Closing Sale Price" of the Common Stock will be determined by a U.S. nationally recognized independent investment banking firm selected by the Company for this purpose.

(d) "***Convertible Notes***" means the Company's 4.75% Senior Convertible Debentures due 2014 and 4.5% Senior Convertible Debentures due 2015.

(e) "***Exchange Act***" means the Securities Exchange Act of 1934, as amended.

(f) "***Issue Date***" means the date on which the Warrant was originally issued or deemed issued as set forth on the face of the Warrant.

(g) "***Market Disruption Event***" means the occurrence or existence on any Scheduled Trading Day for the Common Stock of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the stock exchange or otherwise) in the Common Stock or in any options contracts or futures contracts relating to the Common Stock, and such suspension or limitation occurs or exists at any time within the 30 minutes prior to the closing time of the relevant exchange on such Scheduled Trading Day.

(h) "***Open of Business***" means 9:00 a.m. (New York City time).

(i) "***Person***" means any individual, corporation, partnership, company, trust, unincorporated organization or any other form of entity.

(j) "***Scheduled Trading Day***" means any day that is scheduled by the applicable exchange to be a Trading Day, provided that if the Common Stock is not listed or traded, then a "Scheduled Trading Day" shall have the same meaning as Business Day.

(k) "***Securities Act***" means the Securities Act of 1933, as amended.

(l) "***Subsidiary***" means a Person more than 50% of the outstanding voting stock of which is owned, directly or indirectly, by the Company or by one or more other Subsidiaries of the Company, or by the Company and one or more other Subsidiaries of the Company.

(m) "***Trading Day***" means a day on which (i) there is no Market Disruption Event and (ii) trading in the Company's securities generally occurs on the NASDAQ Global Select Market, or if shares of Common Stock are not listed on the NASDAQ Global Select Market, then as reported by the principal other national or regional securities exchange on which the shares of Common Stock are then traded, or if the Common Stock is not listed or approved for trading on another national or regional securities exchange, on the principal market on which shares of the Common Stock are then traded, provided that if the Common Stock is not so listed or traded, then a "Trading Day" shall have the same meaning as Business Day.

(n) "***Transfer Agent***" means Computershare Trust Company, N.A., or any successor transfer agent for the Company.

[The next page is the signature page]

The Company has executed and delivered this Warrant as of the date set forth above.

SUNPOWER CORPORATION

By: /s/ Thomas H. Werner
Name: Thomas H. Werner
Title: Chief Executive Officer

Accepted:

TOTAL GAS & POWER USA, SAS
By: /s/ Arnaud Chaperon
Name: Arnaud Chaperon
Title: President

NOTICE OF EXERCISE
(To Be Completed Only Upon Exercise)

TO: SunPower Corporation
77 Rio Robles
San Jose, California 95134

1. The undersigned hereby irrevocably elects to exercise the Warrant with respect to _____ Warrant Shares pursuant to the terms of the Warrant.

2. If **Cash Exercise**, check this box o: The undersigned tenders herewith full payment of the aggregate cash exercise price equal to $_____ U.S. Dollars for such shares in accordance with the terms of the Warrant.

3. If **Cash Exercise** and there is no effective registration statement under the Securities Act to cover the issuance of the Warrant Shares upon such Cash Exercise, check this box o: The undersigned hereby makes the representations and warranties set forth in Section 3.2 of the Purchase Agreement as if it were the "Investor" and the Warrant Shares to be issued upon this exercise were the "Securities" (the "**Private Placement Representations**").

4. If **Net-Issue Exercise**, check this box o: The undersigned exercises the Warrant on a net-issue basis pursuant to the terms set forth in the Warrant. Net-Issue Information:

(a) Number of Warrant Shares to be Issued to Holder: _____
(b) Number of Warrant Shares Subject to Warrant Surrendered: _____
(c) Number of Warrant Shares Remaining Subject to Warrant, if any: _____

5. (Select one option below):

Please issue a certificate or certificates representing said Warrant Shares in such name or names as specified below:

_____
(Name and Address)
_____
_____

Please establish an electronic book entry at the Transfer Agent in a segregated account established by the Transfer Agent for the benefit of and registered in the name of such name or names as specified below:

_____
(Name and Address)
_____
_____

Determination Date: _____ By: _____

(Signature must conform in all respects to name of the Holder as set forth on the face of the Warrant)

NOTICE OF TRANSFER
(To Be Completed Only Upon Transfer)

TO: SunPower Corporation
77 Rio Robles
San Jose, California 95134

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ the right represented by this Warrant, to purchase _____ Warrant Shares.

Please issue a Warrant representing the right to purchase such Warrant Shares in such name or names as specified below:

_____

(Name and Address)

_____

_____

The undersigned requests the Company, by written order to exchange or register the transfer of a Warrant or Warrants, and, to the extent the transfer contemplated by this notice is not for the entire number of Warrant Shares represented by this Warrant, to issue a replacement Warrant in the name of the undersigned representing the balance of such Warrant Shares.

By executing and delivering this Notice of Transfer, the undersigned represents and warrants that transfer contemplated hereby is being made in accordance with Section 3 of this Warrant.

By: _____

Dated: _____

(Signature must conform in all respects to name of the Holder as set forth on the face of the Warrant)

Exhibit 10.93

CONFIDENTIAL TREATMENT REQUESTED

CONFIDENTIAL PORTIONS OF THIS DOCUMENT HAVE BEEN REDACTED AND HAVE BEEN SEPARATELY FILED WITH THE SECURITIES AND EXCHANGE COMMISSION

REVOLVING CREDIT AND CONVERTIBLE LOAN AGREEMENT

Dated as of February 28, 2012

Between

TOTAL GAS & POWER USA, SAS,
as Lender,

and

SUNPOWER CORPORATION,
as Borrower

TABLE OF CONTENTS

REVOLVING CREDIT AND CONVERTIBLE LOAN AGREEMENT

This REVOLVING CREDIT AND CONVERTIBLE LOAN AGREEMENT (this "Agreement") dated as of February 28, 2012 is made by and between SunPower Corporation, a Delaware corporation (the "Borrower") and Total Gas & Power USA, SAS, a *société par actions simplifiée* organized under the laws of France (the "Lender").

RECITALS

WHEREAS, Total, S.A., a société anonyme organized under the laws of France and an Affiliate of the Lender ("Total"), and the Borrower have entered into the Liquidity Support Agreement dated February 28, 2012 with the U.S. Department of Energy pursuant to which the Lender has agreed to provide liquidity support to the Borrower in connection with the California Valley Solar Ranch project (the "Liquidity Support Agreement");

WHEREAS, pursuant to the Compensation and Funding Agreement dated as of February 28, 2012 between Total and the Borrower (the "Funding Agreement"), Total and the Borrower have agreed to various forms of equity and debt liquidity support (which in the case of Total, may be entered into by Total or any of its Affiliates, including the Lender), including extensions of credit hereunder in the form of Revolving Loans and Convertible Loans at any time and from time to time prior to the Maturity Date in an aggregate principal amount at any time outstanding not in excess of $600,000,000;

WHEREAS, subject to Sections 3(d)(ii)(F) and 4(b)(ii)-(v) of the Funding Agreement, the proceeds of the Loans are to be used for general corporate purposes; and

WHEREAS, the Lender is willing to extend such credit to the Borrower on the terms and subject to the conditions set forth herein and in the Funding Agreement;

NOW, THEREFORE, in consideration of the above recitals and for other good and valuable consideration, the receipt and adequacy are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

Definitions

SECTION 1.01. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"30-Day VWAP" has the meaning assigned to such term in the Funding Agreement.

"Affiliate" means, with respect to any specified Person, any other Person who directly or indirectly through one or more intermediaries controls, or is controlled

by, or is under common control with, such specified Person. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Applicable Rate" means, as for any day with respect to any Loan, the applicable rate per annum set forth below under the caption "Applicable Spread".

Maximum Drawn Support Amount	Applicable Spread
Equal to or less than $60,000,000	5.00%
Greater than $60,000,000 and less than or equal to $200,000,000	7.00%
Greater than $200,000,000	8.00%

"Authorized Officer" has the meaning assigned to such term in the Liquidity Support Agreement.

"Board" means the Board of Governors of the Federal Reserve System of the United States of America.

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

"Business Day" has the meaning assigned to such term in the Liquidity Support Agreement; provided, that when used in connection with determining the LIBO Rate, the term "Business Day" shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

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

"Cash Equivalents" has the meaning assigned to such term in the Liquidity Support Agreement.

"Closing Date" means the date on which the conditions specified in Article IV are satisfied (or waived in accordance with Section 9.02).

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and any references to any Code section shall include references to the Treasury Regulations promulgated thereunder.

"Commitment" means the commitment of the Lender to make Revolving Loans and Convertible Loans hereunder, as the same may be reduced from time to time pursuant to Section 2.05. The initial amount of the Commitment is $600,000,000.

"Convertible Loan Note" means a convertible promissory note evidencing a Convertible Loan substantially in the form of Exhibit B.

"Convertible Loans" means the convertible loans (a) extended by the Lender to the Borrower pursuant to Section 2.01 or (b) into which Revolving Loans are converted pursuant to Section 2.08(c).

"Credit Agricole Facility Maturity Date" means September 27, 2013.

"Credit Exposure" means the outstanding amount of Loans (including unpaid interest accrued thereon) at such time.

"Dollars" or "$" refers to lawful money of the United States of America.

"Drawn Support Amount" has the meaning assigned to such term in the Funding Agreement.

"Equity Interests" means shares of capital stock, general or limited partnership interests, membership interests in a limited liability company, beneficial interests in a trust, or other equity ownership interests in a Person, and any warrants, options, or other rights entitling the holder thereof to purchase or acquire any such equity interest.

"Event of Default" has the meaning assigned to such term in Article VII.

"Excluded Taxes" means, with respect to the Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) income or franchise Taxes imposed on (or measured by) its net income by the jurisdiction under the laws of which such recipient is organized or in which its principal office is located or, in the case of the Lender, in which its applicable lending office is located, or (b) any branch profits Taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which such recipient is located.

"Fees" means the commitment and guarantee fees required to be paid by the Borrower pursuant to Section 2(c) of the Funding Agreement and all other fees payable by the Borrower under the Funding Agreement.

"Funding Agreement" has the meaning assigned to such term in the recitals to this Agreement.

"Funding Notice" means a notice delivered by the Lender to the Borrower pursuant to Section 2.03 setting out the terms and conditions, including the mix of

Revolving Loans and Convertible Loans (as determined pursuant to Section 3 of the Funding Agreement), applicable to the Loans to be made at any time hereunder.

"GAAP" has the meaning assigned to such term in the Funding Agreement.

"Governmental Authority" has the meaning assigned to such term in the Funding Agreement.

"Indebtedness" has the meaning assigned to such term in the Funding Agreement.

"Indemnified Taxes" means Taxes other than Excluded Taxes.

"Interest Payment Date" means each Interest Reset Date; provided, that if any Interest Reset Date occurs on a date other than a Business Day, the applicable Interest Payment Date shall be the next succeeding Business Day.

"Interest Period" means each period from (and including) each Interest Reset Date and ending on (but excluding) the next succeeding Interest Reset Date.

"Interest Reset Date" means each January 1, April 1, July 1, and October 1 during the term of this Agreement.

"Joint Venture" has the meaning assigned to such term in the Funding Agreement.

"Knowledge" has the meaning assigned to such term in the Liquidity Support Agreement.

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

"LIBO Rate" means the rate that is quoted on the relevant page on Bloomberg L.P.'s (the "Service") Page BBAM1/(Official BBA USD Dollar Libor Fixings) (or on any successor or substitute page of such Service, or any successor to or substitute for such Service) at or about 11.00 a.m. (London time) on the designated funding date in the relevant Funding Notice as being the interest rate offered in the London Interbank Market for deposits in Dollars for a period of six months; provided, that to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions of this definition, the "LIBO Rate" shall be the interest rate per annum reasonably determined by the Lender to be the average of the rates per annum at which deposits in Dollars are offered for a period of six months by the Reference Banks at approximately 11:00 a.m. (London time) on the applicable determination date (or, if not a Business Day, the immediately preceding Business Day). If the LIBO Rate (as determined pursuant to the foregoing provisions of this definition) is less than 0.50%, then the LIBO Rate shall be deemed to be 0.50%.

"Lien" means, with respect to any asset, (i) any mortgage, deed of trust, lien (statutory or other), pledge, hypothecation, collateral assignment, encumbrance, deposit arrangement, charge or security interest in, on or of such asset, (ii) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset, and (iii) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

"Liquidity Injection" has the meaning assigned to such term in the Liquidity Support Agreement.

"Liquidity Support Agreement" has the meaning assigned to such term in the recitals to this Agreement.

"Liquidity Support Event" has the meaning assigned to such term in the Liquidity Support Agreement.

"Loans" means, collectively, the Convertible Loans and the Revolving Loans.

"Loan Documents" means this Agreement and any promissory notes issued pursuant to this Agreement. Any reference in this Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements or other modifications thereto.

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

"Material Adverse Effect" has the meaning assigned to such term in the Funding Agreement.

"Maturity Date" means the first Business Day following termination of the Liquidity Support Agreement.

"Maximum Drawn Support Amount" has the meaning assigned to such term in the Funding Agreement.

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

"Permitted Encumbrances" means:

(i) Liens imposed by law for taxes that are not yet due or are being contested in good faith;

(ii) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of

business and securing obligations that are not overdue by more than thirty (30) days or are being contested in good faith;

(iii) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance, and other social security laws or regulations;

(iv) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance and return of money bonds, bids, leases, government contracts, trade contracts, and other obligations of a like nature (including letters of credit in lieu of any such bonds or to support the issuance thereof), including those incurred pursuant to any law primarily concerning the environment,

(v) preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters, in each case in the ordinary course of business as conducted from time to time;

(vi) judgment liens in respect of judgments that do not constitute an Event of Default;

(vii) easements, zoning restrictions, rights-of-way, and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower or any Subsidiary;

(viii) Liens on property or assets of the Borrower or any Subsidiary existing on the Closing Date granted pursuant to agreements existing on the Closing Date and listed on Schedule 1; provided, that such Liens shall secure only those obligations that they secure on the Closing Date and any obligations arising under such agreements after the Closing Date (and permitted extensions, renewals, and refinancings thereof to the extent that the amount of such obligations secured by such Liens is not increased, except in accordance with the then current terms of such agreements);

(ix) purchase money security interests in equipment or other property or improvements thereto hereafter acquired (or, in the case of improvements, constructed) by the Borrower or any Subsidiary (including the interests of vendors and lessors under conditional sale and title retention agreements and similar arrangements for the sale of goods entered into by the Borrower or any Subsidiary in the ordinary course of business as conducted from time to time);

(x) Liens arising out of Capital Lease Obligations, so long as such Liens attach only to the property being leased in such transaction and any accessions thereto or proceeds thereof and related property;

(xi) any interest or title of a lessor under any leases or subleases entered into by the Borrower or any Subsidiary in the ordinary course of business as conducted from time to time;

(xii) Liens that are contractual rights of set-off (A) relating to the establishment of depository relations with banks not given in connection with the issuance or incurrence of Indebtedness, (B) relating to pooled deposit or sweep accounts of the Borrower or any Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower or any Subsidiary or (C) relating to purchase orders and other agreements entered into with customers of the Borrower or any Subsidiary in the ordinary course of business;

(xiii) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights;

(xiv) licenses of intellectual property granted in the ordinary course of business;

(xv) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(xvi) Liens solely on any cash earnest money deposits made by the Borrower or any Subsidiary in connection with any letter of intent or purchase agreement permitted hereunder;

(xvii) the prior rights of consignees and their lenders under consignment arrangements entered into in the ordinary course of business;

(xviii) Liens arising from precautionary UCC financing statements regarding operating leases;

(xix) Liens on Equity Interests in Joint Ventures held by the Borrower or a Subsidiary securing obligations of such Joint Venture;

(xx) Liens on securities that are the subject of fully collateralized repurchase agreements with a term of not more than 30 days for direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, Japan or the European Union {or by any agency of any thereof to the extent such obligations are backed by the full faith and credit of such jurisdiction), in each case maturing within one year from the date of acquisition thereof, and entered into with any commercial bank organized under the laws of the United States of America or any State thereof which has a combined capital and surplus and undivided profits of not less than $500,000,000;

(xxi) Liens in favor of customers or suppliers of the Borrower or any Subsidiary on equipment, supplies and inventory purchased with the proceeds of advances made by such customers or suppliers under or securing obligations in connection with supply agreements;

(xxii) Liens that arise by operation of law for amounts not yet due;

(xxiii) existing and future Liens related to or arising from the sale, transfer, or other disposition of rights to solar power rebates in the ordinary course of business as conducted from time to time;

(xxiv) existing and future Liens in favor of the. Borrower's bonding company covering materials, contracts, receivables, and other assets which are related to, or arise out of, contracts which are bonded by that bonding company in the ordinary course of the Borrower's business as conducted from time to time;

(xxv) Liens on Equity Interests in and assets of project finance Subsidiaries of the Borrower or Subsidiaries of the Borrower to secure project finance related Indebtedness;

(xxvi) customary Liens on securities accounts of the Borrower in favor of the securities broker with whom such accounts are maintained, provided that (A) such Liens arise in the ordinary course of business of the Borrower, as applicable, and such broker pursuant to such broker's standard form of brokerage agreement; (B) such securities accounts are not subject to restrictions against access by the Borrower; (C) such Liens secure only the payment of standard fees for brokerage services charged by, but not financing made available by, such broker and such Liens do not secure Indebtedness for borrowed money; and (D) such Liens are not intended by the Borrower to provide collateral to such broker;

(xxvii) cash collateral securing reimbursement obligations with respect to letters of credit issued to secure liabilities of the Borrower or any Subsidiary incurred in the ordinary course of business; and

(xxviii) other Liens so long as the outstanding principal amount of the obligations secured by such Liens does not exceed (in the aggregate) $10,000,000 at any one time.

"Person" has the meaning assigned to such term in the Funding Agreement.

"Private Placement Agreement" has the meaning assigned to such term in the Funding Agreement.

"Reference Banks" means Deutsche Bank AG, The Bank of Tokyo – Mitsubishi UFJ, Ltd., and JPMorgan Chase Bank, N.A. or such other leading banks as may be appointed by the Lender and approved by the Borrower.

"Related Parties" means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, trustees, employees, agents and advisors of such Person and such Person's Affiliates.

"Regulation T" means Regulation T of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof, and any successor provision thereto.

"Regulation U" means Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof, and any successor provision thereto.

"Regulation X" means Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof, and any successor provision thereto.

"Reported Liquidity" has the meaning assigned to such term in the Liquidity Support Agreement.

"Requirement of Law" has the meaning assigned to such term in the Funding Agreement.

"Revolving Loan Note" means a promissory note evidencing Revolving Loans substantially in the form attached hereto as Exhibit A.

"Revolving Loans" means the revolving loans made by the Lender to the Borrower pursuant to Section 2.01.

"SEC" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all of its functions.

"subsidiary" has the meaning assigned to such term in the Funding Agreement.

"Subsidiary" has the meaning assigned to such term in the Funding Agreement.

"SunPower Debt Documents" has the meaning assigned to such term in the Funding Agreement.

"Taxes" means any and all present or future taxes, levies, imposts, duties, deductions, similar charges or withholdings imposed by any Governmental Authority.

"Tech Credit Agreement" has the meaning assigned to such term in the Funding Agreement.

"Total" has the meaning assigned to such term in the recitals to this Agreement.

"Transaction Documents" has the meaning assigned to such term in the Funding Agreement.

"Transactions" has the meaning assigned to such term in the Funding Agreement.

SECTION 1.02. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". Unless otherwise specifically indicated, the term "consolidated" with respect to any Person refers to such Person consolidated with its Subsidiaries. The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

ARTICLE II

The Loans

SECTION 2.01. Commitments. Subject to the terms and conditions set forth herein and in the Funding Agreement, the Lender agrees to make, at any time and from time to time after the Closing Date, and until the earlier of the Maturity Date and the termination of the Commitment in accordance with the terms hereof, Revolving Loans and Convertible Loans to the Borrower in an aggregate principal amount (including capitalized interest, if any) at any time outstanding that will not result in the Credit Exposure exceeding the Commitment. Within the limits set forth in the preceding sentence and subject to the terms, conditions and limitations set forth herein, the Borrower may borrow, pay or prepay and reborrow Revolving Loans or Convertible Loans.

SECTION 2.02. Loans.

(a) All Revolving Loans shall be in an initial principal amount that is (i) an integral multiple of $1,000,000 and not less than $5,000,000 (unless a lesser

amount is specified by Total in the applicable Funding Notice) or (ii) equal to the remaining available balance of the Commitment.

(b) All Convertible Loans shall be in an initial principal amount that is (i) an integral multiple of $1,000,000 and not less than $10,000,000 (unless a lesser amount is specified by Total in the applicable Funding Notice) or (ii) equal to the remaining available balance of the Commitment.

SECTION 2.03. Funding Notices.

(a) In the event that the Lender elects to provide a Loan to the Borrower pursuant to the Funding Agreement (whether because it is obligated to provide a Liquidity Injection or otherwise), it shall send to the Borrower a Funding Notice (by hand, electronic mail, or facsimile) signed by the Lender or by telephone (to be confirmed promptly by hand delivery, electronic mail, or facsimile of written notice), within four (4) Business Days after the occurrence of the Liquidity Support Event giving rise to the Loan pursuant to Section 3 of the Funding Agreement. The Funding Notice shall contain the following information:

(i) a statement from the Lender that a Liquidity Support Event has occurred and that it is obligated to make a Liquidity Injection into the Borrower in accordance with the terms and conditions of the Liquidity Support Agreement;

(ii) the amount of the Loan to be made by the Lender;

(iii) the initial interest rate applicable to such Loan (as determined pursuant to Section 2.04(a));

(iv) the date that funding of the Loan is required pursuant to the Liquidity Support Agreement (or will otherwise be provided pursuant to the Funding Agreement); and

(v) whether the Loan is to be a Revolving Loan or a Convertible Loan.

(b) Within one (1) Business Day after receipt of such Funding Notice, the Borrower shall confirm to the Lender such receipt either in writing by a confirmation (by hand, electronic mail, or facsimile) signed by the Borrower or by telephone (to be confirmed promptly by hand delivery, electronic mail, or facsimile). Each such confirmation shall either confirm the information contained in the Funding Notice or correct such information as may be necessary to facilitate the making of Loans hereunder. For the avoidance of doubt, the failure of the Borrower to deliver such confirmation will not prevent, delay or otherwise affect the funding of the applicable Loan described in such Funding Notice.

(c) The Lender will deposit the amount of any Loan hereunder directly into the account specified below or to such other account as is specified from time to time by the Borrower to the Lender:

Bank:	Bank of America
ABA Routing Number:	026009593
Account Number:	***
Reference:	SunPower Corporation

SECTION 2.04. Interest Rates; Continuation of Loans.

(a) During the Interest Period in which any Loan is made, such Loan shall bear interest at a rate per annum during the period from and including the date of the funding of such Loan to (and including) the last day of such Interest Period equal to the sum of the LIBO Rate plus the Applicable Rate; provided, that to the extent that an increase in the Maximum Drawn Support Amount pursuant to the Funding Agreement at any time during such Interest Period would cause an increase in the Applicable Rate, the interest rate from and after such time to (and including) the last day of such Interest Period shall equal the sum of the LIBO Rate plus the Applicable Rate (after taking into account such increase in the Maximum Drawn Support Amount during such period); provided, further, that, in the case of any Loan made pursuant to Section 3(d)(ii)(F) of the Funding Agreement, such Loan shall bear interest (i) at a rate per annum during the period from and including the date of funding of such Loan to (but excluding) the Credit Agricole Facility Maturity Date equal to the sum of the LIBO Rate plus 4.25% and (ii) if the Credit Agricole Facility Maturity Date occurs during the Interest Period during which such Loan is made, at a rate per annum during the period from and including the Credit Agricole Facility Maturity Date to (and including) the last day of such Interest Period equal to the sum of the LIBO Rate plus the Applicable Rate.

(b) At the end of each Interest Period, each Convertible Loan or Revolving Loan, as applicable, outstanding as of such date shall automatically continue as a Convertible Loan or Revolving Loan, as applicable, until the end of the next succeeding Interest Period, and shall bear interest from and including the first day of the applicable Interest Period to (and including) the last day of such Interest Period at a rate per annum equal to the sum of the LIBO Rate plus the Applicable Rate; provided, that to the extent that an increase in the Maximum Drawn Support Amount at any time during any Interest Period would cause an increase in the Applicable Rate, the interest rate from and after such time to (and including) the last day of such Interest Period shall equal the sum of the LIBO Rate plus the Applicable Rate (after taking into account such increase in the Maximum Drawn Support Amount during such period); provided, further, that, in the case of any Loan made pursuant to Section 3(d)(ii)(F) of the Funding Agreement, until the Credit Agricole Facility Maturity Date, such Loan shall continue to bear interest at the interest rate specified in Section 2.04(a).

(c) Notwithstanding the foregoing, upon the occurrence and during the continuance of an Event of Default referred to in paragraphs (a), (b), (e), (f) and (g) of Article VII, all payment obligations of the Borrower (whether for principal, interest, fees,

*** CONFIDENTIAL MATERIAL REDACTED AND SEPARATELY FILED WITH THE SECURITIES AND EXCHANGE COMMISSION.

costs, expenses or otherwise) shall bear interest, from and after the date when due until paid in full, at a rate per annum equal at all times to 2% above the interest rate otherwise applicable to such obligations, in each case payable on demand. Payment or acceptance of the increased rates of interest provided for in this Section 2.04(c) is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of the Lender.

(d) Accrued interest on each Loan shall be payable to the Lender in arrears on each Interest Payment Date for such Loan; provided, that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment, and (iii) in lieu of paying accrued interest on each Interest Payment Date, the Borrower shall have the option, upon notice to the Lender on or before such Interest Payment Date, to capitalize the amount of interest payable on such Interest Payment Date by increasing (A) if the Maximum Drawn Support Amount at such time (together with the aggregate amount of interest capitalized prior to such time and the amount of such interest to be capitalized) is equal to or less than $60,000,000, the outstanding principal amount of Revolving Loans or (B) if the Maximum Drawn Support Amount at such time (together with the aggregate amount of interest capitalized prior to such time and the amount of such interest to be capitalized) is greater than $60,000,000, the outstanding principal amount of Convertible Loans, in each case, on the relevant Interest Payment Date by the amount of interest payable on such Interest Payment Date; provided, that if the Borrower exercises its option to capitalize the amount of interest payable on any Interest Payment Date, at no additional cost to the Lender, the Borrower shall promptly upon such exercise, issue to the Lender a Warrant, in the form of Exhibit A to the Funding Agreement, which shall be exercisable to purchase an amount of stock of the Borrower equal to (x) if the Maximum Drawn Support Amount at such time (together with the aggregate amount of interest capitalized prior to such time, including the amount capitalized on such Interest Payment Date) is equal to or less than $60,000,000, 20% of the amount of such capitalized interest, or (y) if the Maximum Drawn Support Amount at such time (together with the aggregate amount of interest capitalized prior to such time, including the amount capitalized on such Interest Payment Date) is greater than $60,000,000, 25% of the amount of such capitalized interest, in each case, divided by 30-Day VWAP as of the applicable Interest Payment Date.

(e) All interest hereunder shall be computed on the basis of a year of 360 days. The applicable LIBO Rate shall be determined by the Lender, and such determination shall be conclusive absent manifest error.

SECTION 2.05. Termination and Reduction of Commitment. i) The Commitment shall automatically terminate on the Maturity Date.

(b) The Commitment shall be reduced by an amount equal to the sum of, without duplication: (i) the principal amount (plus capitalized interest, if any) of any Indebtedness issued by the Borrower to the Lender or any of its Affiliates pursuant to this Agreement and the Funding Agreement, (ii) the cash purchase price of any equity

securities issued by the Borrower to the Lender or any of its Affiliates pursuant to the Funding Agreement and the Private Placement Agreement (including the cash proceeds to the Borrower upon the exercise of a Warrant issued under the Funding Agreement), (iii) the principal amount of Indebtedness of the Borrower covered by a guarantee issued by Total or any of its Affiliates under the Funding Agreement and (iv) the amount of any other Liquidity Injection.

(c) The Borrower shall pay to the Lender on the date of termination of the Commitment all accrued and unpaid Fees relating to the same but excluding the date of such termination.

SECTION 2.06. Repayment of Loans; Evidence of Debt. (a) The Borrower hereby unconditionally promises to pay to the Lender the then unpaid principal amount (including capitalized interest, if any) of each Loan on the Maturity Date.

(b) The Lender shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder and the Interest Period applicable thereto, and (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to the Lender hereunder.

(c) The entries made in the accounts maintained pursuant to paragraph (b) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of the Lender to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(d) The Borrower agrees that in addition to the accounts and records maintained pursuant to Section 2.06(b), the Revolving Loans shall be evidenced by a Revolving Loan Note, duly executed on behalf of the Borrower and dated as of the Closing Date. Each Convertible Loan shall be evidenced by a Convertible Loan Note, and promptly upon the funding of any Convertible Loan (or increase in the outstanding amount of Convertible Loans pursuant to Section 2.04(d), the Borrower shall prepare, execute and deliver to the Lender a Convertible Loan Note, dated as of the applicable funding date or Interest Payment Date, as applicable. The Lender may attach schedules to each such note and endorse thereon the amount, date and interest rate of any Loan and any payments with respect thereto.

SECTION 2.07. Optional Prepayment of Revolving Loans. (a) Upon prior notice in accordance with paragraph (b) of this Section, but not more than once per calendar month, so long as (i) the Borrower maintains as of the last day of each fiscal quarter Reported Liquidity of at least $125,000,000, and (ii) no Liquidity Support Event could reasonably be expected to result by reason of this Section 2.07, the Borrower shall have the right at any time and from time to time to prepay any Revolving Loan in whole or in part without premium or penalty; provided that each partial prepayment of a Revolving Loan shall be in an amount that is an integral multiple of $1,000,000 and not less than $5,000,000, and each partial prepayment of a Convertible Loan shall be in an amount that is an integral multiple of $1,000,000 and not less than $10,000,000.

(b) The Borrower shall notify the Lender by telephone (confirmed by facsimile) of any prepayment hereunder not later than 10:00 a.m., New York City time, on the day of prepayment. Each such notice shall be irrevocable (except in the case of a repayment in full of all of the obligations of the Borrower hereunder, which may be conditioned upon the effectiveness of a new financing) and shall specify the prepayment date and the principal amount of each Loan or portion thereof to be prepaid. Prepayments shall be accompanied by accrued interest as required by Section 2.04.

SECTION 2.08. Mandatory Prepayment; Conversion of Revolving Loans. (a) In the event of any termination of the Commitment, the Borrower shall, on the date of such termination, repay or prepay all its outstanding Loans, together with accrued interest thereon, accrued Fees and all other amounts payable to the Lender hereunder.

(b) If as a result of any partial reduction of the Commitment, the Credit Exposure would exceed the Commitment after giving effect thereto, then the Borrower shall, on the date of such reduction, repay or prepay Loans in an amount sufficient to eliminate such excess.

(c) During any time after the Maximum Drawn Support Amount exceeds $60,000,000, the Lender may, by delivery of written notice to the Borrower, elect to convert all or a portion of the outstanding amount of Revolving Loans into Convertible Loans. Upon exercise of such election, (A) the Lender shall update its accounts and records, including the schedule to the Revolving Loan Note, to reflect the reduction in the outstanding amount of the Revolving Loans and any corresponding increase in the outstanding amount of Convertible Loans, (B) the principal outstanding amount of Revolving Loans so reduced shall be deemed prepaid or repaid, and (C) the Borrower shall issue to the Lender a Convertible Loan Note evidencing any Convertible Loan into which a Revolving Loan has been converted.

(d) The Lender may, at any time and for any reason, demand prepayment of all or any portion of any Loans outstanding as of any date by delivering to the Borrower a request for prepayment that specifies the amount of such requested prepayment and the requested date of such prepayment (which shall be at least ten (10) Business Days after the date of such notice), and the Borrower shall prepay the amount specified in such notice on the date specified in such notice to the extent that after giving effect to, and as of the date of, such requested prepayment the Borrower would maintain Reported Liquidity of at least $150,000,000.

SECTION 2.09. Fees. The Borrower agrees to pay to the Lender the Fees set forth in Section 2(c) of the Funding Agreement.

SECTION 2.10. Taxes. (a) Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document shall be made free and clear of and without deduction for any Indemnified Taxes or Other Taxes; provided that if the Borrower shall be required to deduct any Indemnified Taxes or Other Taxes from such payments, then (i) the sum payable shall be increased as necessary so

that after making all such required deductions (including such deductions applicable to additional sums payable under this Section), the Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall timely pay the full amount so deducted to the relevant Governmental Authority in accordance with applicable law. If at any time the Borrower is required by applicable law to make any deduction or withholding from any sum payable hereunder, the Borrower shall promptly notify the Lender upon becoming aware of the same. In addition, the Lender shall promptly notify the Borrower upon becoming aware of any circumstances as a result of which the Borrower is or would be required to make any deduction or withholding from any sum payable hereunder.

(b) In addition, the Borrower shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) The Borrower shall indemnify the Lender, within ten (10) days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid by the Lender on or with respect to any payment by or on account of any obligation of the Borrower hereunder or under any other Loan Document (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes (or related penalties, interest, or additions to tax) were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by the Lender shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Lender the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Lender.

(e) If the Lender determines, in its reasonable discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.10, it shall reimburse to the Borrower such amount as the Lender determines to be the proportion (but not more than 100%) of such refund as will leave the Lender (after that reimbursement) in no better or worse position in respect of the worldwide liability for Taxes or Other Taxes of the Lender (including in each case its Affiliates) than it would have been if no such indemnity had been required under this Section.

SECTION 2.11. Payments Generally.

(a) Unless otherwise specified, the Borrower shall make each payment required to be made by it hereunder and under any other Loan Document (whether of principal, interest or fees, or of amounts payable under Section 2.10 or otherwise) prior to

12:00 (noon), New York City time, on the date when due, in immediately available funds, without set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Lender, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Lender to the applicable account designated to the Borrower by the Lender, except that payments pursuant to Section 2.10 shall be made directly to the Persons entitled thereto. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in Dollars. Any payment required to be made by the Lender hereunder shall be deemed to have been made by the time required if the Lender shall, at or before such time, have taken the necessary steps to make such payment in accordance with the regulations or operating procedures of the clearing or settlement system used by the Lender to make such payment.

(b) All payments made by the Borrower hereunder shall be applied (i) first, to pay fees, costs and expenses then due and payable under the Loan Documents, (ii) second, to pay any accrued and unpaid interest with respect to any Revolving Loans, (iii) third, to pay the outstanding principal amount (including capitalized interest, if any) of any Revolving Loans, (iv) fourth, to pay any accrued and unpaid interest with respect to any Convertible Loans (provided, that in the event that two or more Convertible Loan Notes are outstanding at any time, payments shall be applied against accrued and unpaid interest under each Convertible Loan Note in reverse order of the dates on which such Convertible Notes were issued), and (v) fifth, to pay the outstanding principal amount (including capitalized interest, if any) of any Convertible Loans (provided, that in the event that two or more Convertible Loan Notes are outstanding at any time, payments shall be applied against the outstanding principal amount of each Convertible Loan Note in reverse order of the dates on which such Convertible Notes were issued).

ARTICLE III

Representations and Warranties

The Borrower makes the representations and warranties set forth in Section 5(a) of the Funding Agreement with the same force and effect as if the same were stated and set forth in this Agreement. In addition, the Borrower represents and warrants to the Lender that:

SECTION 3.01. Ranking. The obligations of the Borrower under the Loan Documents constitute direct, unconditional and unsubordinated obligations of the Borrower, rank and will rank at least pari passu in priority of payment with all other Indebtedness of the Borrower, and are secured to the fullest extent permitted under the SunPower Debt Documents.

ARTICLE IV

Conditions

The obligations of the Lender to make Loans hereunder are subject to the satisfaction of the following conditions on the Closing Date:

(a) Credit Agreement and other Loan Documents. The Lender (or its counsel) shall have received (i) from each party hereto either (A) a counterpart of this Agreement signed on behalf of such party or (B) written evidence satisfactory to the Lender (which may include facsimile transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement, and (ii) a Revolving Loan Note, duly executed by the Borrower.

(b) Funding Agreement and Related Documents. The Lender (or Total, as applicable) and the Borrower shall have entered into the Liquidity Support Agreement, the Funding Agreement and the Private Placement Agreement, and the Borrower shall have issued to Total the warrant specified in Section 2(a) of the Funding Agreement.

(c) Fees. The Lender shall have received all fees required to be paid on or before the Closing Date.

ARTICLE V

Affirmative Covenants

The Borrower covenants and agrees that, until the Commitment has expired or been terminated and the Loans have been repaid in full:

SECTION 5.01. Funding Agreement and Related Documents. The Borrower will perform such obligations and comply with such covenants, including the provision of notices, certificates and other obligations, as set forth in the Funding Agreement and the other Transaction Documents.

SECTION 5.02. Existence; Conduct of Business. The Borrower will do or cause to be done all things reasonably necessary to preserve and keep in full force and effect its legal existence and the rights, licenses, permits, privileges, authorizations, qualifications and accreditations material to the conduct of its business, in each case if the failure to do so, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect; provided, that the foregoing shall not prohibit any merger, consolidation or other transaction.

SECTION 5.03. Payment of Taxes, Etc. The Borrower will pay and discharge, before the same shall become delinquent, (i) all material taxes, assessments and governmental charges or levies imposed upon it or upon its property or assets or in respect of any of its income, business or franchises before any penalty accrues thereon and (ii) all lawful claims that, if unpaid, might by law become a lien upon its property or

assets or in respect of any of its income, business or franchises before any penalty accrues thereon; provided, however, that Borrower shall not be required to pay or discharge any such tax, assessment, charge or claim that is being contested in good faith and by proper proceedings and as to which appropriate reserves are being maintained, unless and until any lien resulting therefrom attaches to its property and becomes enforceable against its other creditors.

SECTION 5.04. Notice of Default. The Borrower shall furnish to the Lender notice of the occurrence of an Event of Default, which notice shall be given within five (5) Business Days after the Knowledge of an Authorized Officer of the Borrower of such occurrence, specifying the nature and extent thereof and, if continuing, the action the Borrower is taking or proposes to take in respect thereof.

SECTION 5.05. Compliance with Laws. The Borrower will comply in all material respects with all Requirements of Law applicable to it or its property, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.06. Use of Proceeds. The proceeds of the Loans will be used only for the purposes specified in the introductory statement to this Agreement. No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that would entail a violation of Regulation T, U or X.

SECTION 5.07. Ranking. The Borrower will ensure that its payment obligations under this Agreement and the Loans will at all times (a) rank at least pari passu in priority of payment with all other Indebtedness of the Borrower and (b) be secured to the fullest extent permitted under the SunPower Debt Documents.

ARTICLE VI

Limitation on Liens

The Borrower covenants and agrees that, until the Commitment has expired or been terminated and the Loans have been repaid in full, the Borrower shall not create or suffer to exist any Lien on (a) any of its accounts receivable or the resulting credit balances arising from the factoring of accounts receivables, except for Liens granted under the Tech Credit Agreement, on accounts receivable in an aggregate amount not to exceed $50,000,000 at any time and the resulting credit balances arising from the factoring of such accounts receivable, or (b) any of its other assets or properties, except in any case for Permitted Encumbrances.

ARTICLE VII

Events of Default

If any of the following events (each, an "Event of Default") shall occur and be continuing:

(a) the Borrower shall fail to pay any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or by acceleration thereof or otherwise;

(b) the Borrower shall fail to pay any interest, fee or other amount (other than an amount referred to in clause (a) of this Article VII) payable under this Agreement or any other Transaction Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of three Business Days (or in the case of interest, the Borrower shall have failed to exercise its option pursuant to Section 2.04(d) to capitalize the amount of overdue interest or convert the amount of such overdue interest into equity within three Business Days after the applicable Interest Payment Date);

(c) any representation or warranty made by the Borrower (or any of its officers or other representatives) under or in connection with any Transaction Document shall prove to have been incorrect in any material respect when made or deemed to have been made (unless, if the circumstances giving rise to such misrepresentation or breach of warranty are capable of being remedied, the Borrower remedies such circumstances within thirty (30) days after receipt of notice to the Borrower from the Lender or Total specifying such inaccuracy);

(d) the Borrower shall fail to perform or observe any material term, covenant, or agreement contained in any Transaction Document on its part to be performed or observed if such failure shall remain unremedied for thirty (30) days after written notice thereof shall have been given to the Borrower by the Lender or Total, except where such default cannot be reasonably cured within 30 days but can be cured within 60 days, the Borrower has (i) during such 30-day period commenced and is diligently proceeding to cure the same and (ii) such default is cured within 60 days after the earlier of becoming aware of such failure and receipt of notice to the Borrower from the Lender or Total specifying such failure;

(e) the entry by a court having jurisdiction in the premises of (i) a decree or order for relief in respect of the Borrower in an involuntary case or proceeding under any applicable United States federal, state, or foreign bankruptcy, insolvency, reorganization, or other similar law or (ii) a decree or order adjudging the Borrower bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable United States federal, state, or foreign law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Borrower, or ordering the winding up or liquidation of the affairs of the Borrower, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of sixty (60) consecutive days;

(f) the commencement by the Borrower of a voluntary case or proceeding under any applicable United States federal, state, or foreign bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by the Borrower to the entry of a

decree or order for relief in respect of the Borrower in an involuntary case or proceeding under any applicable United States federal, state, or foreign bankruptcy, insolvency, reorganization, or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by the Borrower of a petition or answer or consent seeking reorganization or relief under any applicable United States federal, state, or foreign law, or the consent by the Borrower to the filing of such petition or the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator, or similar official of the Borrower or of any substantial part of the property of, or the making by the Borrower of an assignment for the benefit of creditors, or the admission by the Borrower in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Borrower in furtherance of any such action; or

(g) failure by the Borrower to pay final non-appealable judgments, which (i) remain unpaid, undischarged and unstayed for a period of more than sixty (60) days after such judgment becomes final, and (ii) would have a Material Adverse Effect;

then, and in every such event (other than an event described in clause (e) or (f) of this Article VII), and at any time thereafter during the continuance of such event, the Lender may, by notice to the Borrower, take any of the following actions, at the same or different times: (i) terminate the Commitment and thereupon the Commitment shall terminate immediately, (ii) convert the amount of any outstanding Loans (including interest accrued thereon) into equity of the Borrower at a conversion price equal to the amount of such outstanding Loans, divided by the 30-Day VWAP as of the applicable conversion date, or (iii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; provided, that upon the occurrence of an event described in clause (e) or (f) of this Article VII, (A) the Commitment shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower, without further action of the Lender, and (B) the Lender shall have the option to convert the amount of any outstanding Loans (including interest accrued thereon) into equity of the Borrower at a conversion price equal to the amount of such outstanding Loans, divided by the 30-Day VWAP as of the applicable conversion date. Upon the occurrence and the continuance of an Event of Default, the Lender may exercise any rights and remedies provided to the Lender under the Loan Documents or at law or equity.

ARTICLE VIII

[Reserved]

ARTICLE IX

Miscellaneous

SECTION 9.01. Notices. Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered in accordance with the provisions of Section 8(a) of the Funding Agreement (including method of delivery, recipients, copies and effectiveness); provided that the foregoing shall not apply to notices pursuant to Article II, unless otherwise agreed by the Lender.

SECTION 9.02. Waivers; Amendments. (a) No failure or delay by the Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Lender hereunder and under any other Loan Document are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, to the extent permitted by law, the making of a Loan shall not be construed as a waiver of any Event of Default, regardless of whether the Lender may have had notice or knowledge of such Event of Default at the time.

(b) Neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified except (i) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrower and the Lender.

SECTION 9.03. [Reserved].

SECTION 9.04. Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby. Notwithstanding anything to the contrary, this Agreement may not be assigned by the Borrower without the prior written consent of the Lender, which may be withheld in its sole discretion. This Agreement may not be assigned by the Lender without the prior written consent of the Borrower, which consent may not be unreasonably withheld, conditioned or delayed; provided, that any Loan hereunder may be made by the Lender or any Affiliate of the Lender or Total.

SECTION 9.05. Survival. All covenants, agreements, representations and warranties made by the Borrower in the Loan Documents shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid and so long as the Commitment has not expired or terminated. The provisions of Section 2.10 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Commitment or the termination of this Agreement or any provision hereof.

SECTION 9.06. Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. The facsimile, email or other electronically delivered signatures of the parties shall be deemed to constitute original signatures, and facsimile or electronic copies hereof shall be deemed to constitute duplicate originals.

SECTION 9.07. Severability. To the extent permitted by law, any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08. Governing Law; Jurisdiction; Consent to Service of Process; Waiver of Jury Trial.

(a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA, WITHOUT REFERENCE TO CONFLICTS OF LAWS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

(b) SUBMISSION TO JURISDICTION. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL

JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT SHALL AFFECT ANY RIGHT THAT ANY PARTY HERETO MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AGAINST ANY OTHER PARTY HERETO OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY COURT REFERRED TO IN SECTION 9.08(b). EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (i) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (ii) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 9.08.

SECTION 9.09. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.10. [Reserved].

SECTION 9.11. Nonreliance; Violation of Law. The Lender hereby represents that (a) it is not relying on or looking to any Margin Stock for the repayment of the Loans provided for herein and (b) it is not and will not become a "creditor" as defined in Regulation T or a "foreign branch of a broker-dealer" within the meaning of Regulation X. Anything contained in this Agreement to the contrary notwithstanding, the Lender shall not be obligated to extend credit to the Borrower in violation of any Requirement of Law.

SECTION 9.12. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively, the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender in accordance with applicable law, the rate of interest payable in respect of such Loan, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan or participation but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to the Lender in respect of other Loans or participations or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, shall have been received by the Lender.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

SUNPOWER CORPORATION

by

/s/ Thomas H. Wemer

Name: Thomas H. Wemer
Title: Chief Executive Officer

TOTAL GAS & POWER USA, SAS

by

/s/ Arnaud Chaperon

Name: Arnaud Chaperon
Title: President

EXHIBIT A

FORM OF REVOLVING LOAN NOTE

$60,000,000 February 28, 2012
San Jose, California

FOR VALUE RECEIVED, SunPower Corporation, a Delaware corporation (the "Borrower"), hereby promises to pay to the order of Total Gas & Power USA, SAS, a *société par actions simplifiée* organized under the laws of France (the "Lender") the principal sum of sixty million Dollars ($60,000,000) or, if less, the then unpaid principal amount of all Revolving Loans (such term and each other capitalized term used herein without definition shall have the meanings ascribed thereto in the Credit Agreement referred to below) made by the Lender to the Borrower pursuant to the Credit Agreement, in Dollars and in immediately available funds, at the office of the Lender designated for payment (the "Payment Office"), on the dates and in the amounts specified in the Credit Agreement.

The Borrower also promises to pay interest in like currency and funds at the Payment Office on the unpaid principal amount of each Revolving Loan made by the Lender from the date of such Revolving Loan until paid at the rates and at the times provided in the Credit Agreement.

This Note is issued pursuant to and is entitled to the benefits of the Revolving Credit and Convertible Loan Agreement, dated as of February 28, 2012, by and between the Borrower and the Lender (as the same may be amended, restated or otherwise modified from time to time, the "Credit Agreement"). As provided in the Credit Agreement, this Note is subject to mandatory repayment prior to the Maturity Date, in whole or in part.

In case an Event of Default shall occur and be continuing, the principal of and accrued interest on this Note may be declared to be due and payable in the manner and with the effect provided in the Credit Agreement.

The Borrower hereby waives diligence, presentment, demand, protest and notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder, except as expressly set forth in the Credit Agreement. No failure to exercise, or delay in exercising, any rights hereunder on the part of the holder hereof shall operate as a waiver of any such rights.

The Lender is authorized to indorse on the schedules annexed hereto and made a part hereof an appropriate notation evidencing the date and amount of the Revolving Loans evidenced hereby and the date and amount of each payment or prepayment of principal with respect thereto. Each such indorsement shall constitute prima facie evidence of the accuracy of the information indorsed. The failure to make any such indorsement or any error in any such indorsement shall not affect the obligations of the Borrower in respect of the Revolving Loans.

THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THAT WOULD REQUIRE APPLICATION OF ANOTHER LAW.

SUNPOWER CORPORATION

By:

Name:
Title:

Schedule to
Note

LOANS AND PAYMENTS OF PRINCIPAL

Date	Amount of Revolving Loan	Amount of Principal Paid or Prepaid	Unpaid Principal Balance	Notation Made By

EXHIBIT B

THIS NOTE WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, (THE "SECURITIES ACT"), AND THIS NOTE MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. THE HOLDER OF THIS NOTE AGREES FOR THE BENEFIT OF THE COMPANY THAT THIS NOTE MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, INCLUDING RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (II) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (III) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, IN EACH OF CASES (I) THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES.

SUNPOWER CORPORATION

CONVERTIBLE TERM LOAN NOTE

Certificate Number: _____ U.S. $_____

Issue Date: _____ (the "Issue Date")

1. Note.

This Convertible Term Loan Note (this "Note") is being issued by SunPower Corporation, a Delaware corporation (including any successor corporation, the "Company" or "Issuer") in favor of the Holder (as defined below) pursuant to the Credit Agreement. Capitalized terms used shall have the respective meanings given to those terms in Section 7 hereof or in the Credit Agreement.

2. Principal and Interest.

(a) The Company, for value received, hereby promises to pay to Total Gas & Power USA, SAS, a société par actions simplifiéé organized under the laws of the Republic of France, or its registered permitted assigns that constitute Permitted Holders (the "Holder"), the principal sum of U.S. $_____ on the Maturity Date, and to pay interest thereon on this Note from the Issue Date at the interest rate and at the times set forth in the Credit Agreement, until repayment in full at the Maturity Date or upon earlier conversion or prepayment.

(b) This Note shall bear interest payable in cash at the rate set forth in the Credit Agreement. Interest on this Note shall be paid in the manner and times set forth in the Credit Agreement.

(c) Payment of the principal of this Note shall be made upon the surrender of

this Note to the Company, at its chief executive office (or such other office within the United States as shall be designated by the Company to the Holder hereof) (the "Designated Office"), in U.S. dollars to the Holder in immediately available funds to such bank account or bank accounts as the Holder may from time to time designate in writing prior to such payment date.

3. Conversion.

(a) (1) Subject to the conditions set forth in Section 4 hereof, the Holder of this Note may convert the principal amount of and any accrued and unpaid interest on this Note in whole or in part into Common Stock at any time prior to the close of business on the Maturity Date at the applicable Conversion Price.

The number of shares of Common Stock issuable upon conversion of this Note shall be determined by dividing the principal amount of this Note or portion hereof surrendered for conversion plus any accrued and unpaid interest thereon to the date of conversion by the Conversion Price in effect on the Conversion Date. To convert this Note, the Holder hereof shall: (i) send by facsimile (or otherwise deliver in accordance herewith) a copy of the fully executed conversion notice in the form attached as Exhibit A hereto (the "Conversion Notice") to the Company and (ii) surrender or cause to be surrendered this Note, duly endorsed or assigned to the Company or in blank, along with a copy of the Conversion Notice as soon as practicable thereafter to the Company. Upon receipt by the Company of a facsimile copy of a Conversion Notice from the Holder, the Company shall as soon as practicable send, via facsimile, a confirmation to the Holder stating that the Conversion Notice has been received, the date upon which the Company expects to deliver the Common Stock issuable upon such conversion and the name and telephone number of a contact person at the Company regarding the conversion. The Company shall not be obligated to issue shares of Common Stock upon a conversion unless either this Note is delivered to the Company as provided above, or the Holder notifies the Company or the transfer agent for the Common Stock that this Note has been lost, stolen or destroyed, delivers the documentation to the Company required by Section 8 hereof and provides sufficient indemnity as may be reasonably required by the Company to save the Company harmless for any loss, liability, cost or expense associated with any such loss, stolen or destroyed certificate. Upon conversion, all principal of and unpaid and accrued interest on this Note shall be deemed to be paid in full (rather than cancelled, extinguished or forfeited).

Subject to the above requirements, as promptly as practicable on or after the Conversion Date and in any event within three (3) Business Days of the Conversion Date, the Company shall issue and deliver to the Holder (i) that number of shares of Common Stock issuable upon conversion of the portion of this Note being converted, in the sole discretion of the Holder and as reflected on the Conversion Notice, either (A) in a certificate or certificates to and in the name of the Holder, or in the name of such other Person as designated by the Holder, or (B) through confirmation of the establishment of an electronic book entry at the Transfer Agent in a segregated account established by the Transfer Agent for the Holder's benefit and registered in the name of Holder, or in the name of such other Person as designated by the Holder, (ii) a new note in the form hereof representing the balance of the principal amount hereof not being converted, if any, and (iii) cash in lieu of any fractional shares pursuant to Section 3(a)(5).

(2) The Holder is not entitled to any rights of a holder of Common Stock until the Holder has converted this Note into Common Stock, and only to the extent this Note is deemed to have been converted into Common Stock pursuant to this Section 3.

(3) This Note shall be deemed to have been converted immediately prior to the close of business on the day of delivery of the Conversion Notice in accordance with the foregoing provisions (such day, the "Conversion Date"), and at such time the rights of the Holder of this Note as the Holder hereof shall cease, and the Person or Persons entitled to receive the shares of Common Stock issuable upon conversion shall be deemed to be a stockholder of record on the Conversion Date; provided, however, that no surrender of this Note on any date that is not a Business Day shall be effective to constitute the Person or Persons entitled to receive the shares of Common Stock upon such conversion as the record holder or holders of such shares of Common Stock on such date, but such surrender shall be effective to constitute the Person or Persons entitled to receive such shares of Common Stock as the record holder or holders thereof for all purposes at the close of business on the next succeeding Business Day.

(4) If this Note is converted in part, the Company shall execute and deliver to the Holder a new note equal in principal amount to the unconverted portion of this Note.

(5) The Company will not issue fractional shares of Common Stock upon conversion of this Note. In lieu thereof, the Company will pay an amount in cash for the Current Market Value of the fractional shares. The Current Market Value of a fractional share shall be determined (calculated to the nearest 1/100th of a share) by multiplying the Trading Price of the Common Stock on the Trading Day immediately prior to the Conversion Date by such fractional share and rounding the product to the nearest whole cent.

(b) In case at any time after the date hereof:

(1) the Company shall declare a dividend (or any other distribution) on its Common Stock;

(2) the Company shall authorize the granting to all holders of its Common Stock of rights or warrants to subscribe for or purchase any shares of Capital Stock of any class (or of securities convertible into shares of Capital Stock of any class) or of any other rights (other than pursuant to a Stockholder Rights Plan);

(3) there shall occur any reclassification of the Common Stock of the Company (other than a subdivision or combination of its outstanding Common Stock, a change in par value, a change from par value to no par value or a change from no par value to par value), or any merger, consolidation, statutory share exchange or combination to which the Company is a party and for which approval of any stockholders of the Company is required, or the sale, transfer or conveyance of all or substantially all of the assets of the Company; or

(4) there shall occur the voluntary or involuntary dissolution, liquidation or winding up of the Company,

the Company shall cause to be provided to the Holder of this Note in accordance with the provisions of the Credit Agreement at least twenty (20) days (or ten (10) days in any case specified in clause (1) or (2) above) prior to the applicable record or effective date hereinafter specified, a notice stating:

(A) the date on which a record is to be taken for the purpose of such dividend, distribution, rights or warrants, or, if a record is not to be taken, the date as of which the holders of shares of Common Stock of record to be entitled to such dividend, distribution, rights or warrants are to be determined; or

(B) the date on which such reclassification, merger, consolidation, statutory share exchange, combination, sale, transfer, conveyance, dissolution, liquidation or winding up is expected to become effective, and the date as of which it is expected that holders of shares of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities, cash or other property deliverable upon such reclassification, merger, consolidation, statutory share exchange, sale, transfer, dissolution, liquidation or winding up.

(c) On and after the date of the Stockholder Approval, the Company shall at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, for the purpose of effecting the conversion of this Note, the full number of shares of Common Stock then issuable upon the conversion of this Note. The Company covenants that all shares of Common Stock that may be issued upon conversion of this Note will upon issue be fully paid and nonassessable. On and after the date of such Stockholder Approval, the Company shall also cause the shares of Common Stock issuable upon conversion of this Note to be approved for listing on the NASDAQ Global Select Market or such other securities exchange or market as the Common Stock is listed from time to time, subject to official notice of issuance.

(d) Except as provided in the next sentence, the Company will pay any and all taxes (other than taxes on income) and duties that may be payable in respect of the issue or delivery of Common Stock upon conversion of this Note. The Company shall not, however, be required to pay any tax or duty that may be payable in respect of any transfer involved in the issue and delivery of Common Stock in a name other than that of the Holder of this Note, and no such issue or delivery shall be made unless and until the Person requesting such issue has paid to the Company the amount of any such tax or duty, or has established to the satisfaction of the Company that such tax or duty has been paid.

(e) If any of following events occur:

(1) any reclassification or change of the outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination), as a result of which holders of Common Stock shall be entitled to receive Capital Stock, securities or other property or assets (including cash) with respect to or in exchange for such Common Stock;

(2) any merger, consolidation, statutory share exchange or combination of the Company with another Person as a result of which holders of Common Stock shall be entitled to receive stock, securities or other property or assets (including cash) with respect to or in exchange for such Common Stock; or

(3) any sale or conveyance of the properties and assets of the Company as, or substantially as, an entirety to any other Person as a result of which holders of Common Stock shall be entitled to receive stock, securities or other property or assets (including cash) with respect to or in exchange for such Common Stock,

then this Note shall be convertible into the kind and amount of shares of capital stock and other securities or property or assets (including cash) that the Holder would have been entitled to receive upon such reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance had this Note been converted into Common Stock immediately prior to such reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance assuming the Holder, as a holder of Common Stock, did not exercise its rights of election, if any, as to the kind or amount of securities, cash or other property receivable upon such reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance.

The above provisions of this Section shall apply to successive or series of related reclassifications, changes, mergers, consolidations, statutory share exchanges, combinations, sales and conveyances.

4. Conditions to Conversion.

(a) Conversion Triggers. The Holder may convert this Note at the option of the Holder at any time after the first to occur of any of the following conversion triggering events (the "Conversion Triggering Event Date"):

(i) the entire principal amount of this Note (including accrued interest) is not repaid within six months after the Issue Date;

(ii) the ratio of Gross Financial Indebtedness at the end of any completed fiscal quarter following the Issue Date to EBITDA for the four completed fiscal quarters immediately preceding such quarter of the Company exceeds 3.5 to 1.0 (or, for the quarters in the fiscal year ending in 2012, 4.0 to 1.0); or

(iii) the Maximum Drawn Support Amount exceeds $200 million (each of (i), (ii) or (iii), a "Conversion Triggering Event");

in each case, subject to the terms and conditions of the Credit Agreement and Sections 4(c) and (d) hereof. On or after the Conversion Triggering Event Date, the Holder may convert this Note at any time without regard to any of the Conversion Trigger Events, subject to the terms and conditions of the Credit Agreement and Sections 4(c) and (d) hereof.

(b) Conversion Related to Reborrowed Amounts. Without limiting the foregoing, but subject to Sections 4(c) and (d) hereof, if this Note was issued within six months after another Convertible Loan Note was repaid in full prior to the date that was six months after its date of issuance (such other Convertible Loan Note, the "Applicable Repaid Note"), and if such Applicable Repaid Note was not otherwise converted in full, then an amount up to (i) the principal amount of the Applicable Repaid Note that has been repaid, minus (ii) the principal amount of any other Convertible Loan Note that was converted by operation of this paragraph with respect to the Applicable Repaid Note (but not in excess of the principal amount of this Note), may be converted at the option of the Holder at any time on and after the date that is the number of days after the Issue Date that equals the number of days less than 180 days after the date of issuance of the Applicable Repaid Note that the Applicable Repaid Note was repaid.

(c) Stockholder Approval Condition to Convert Note. This Note shall not be convertible by Holder prior to the date the Company obtains stockholder approval ("Stockholder Approval") with respect to the issuance of shares of Common Stock upon conversion of this Note in the manner set forth in the Funding Agreement.

(d) Holder's Conversion Limitations. So long as the Company has at least $25 million aggregate principal amount of Convertible Notes outstanding, the Company shall not effect any conversion of this Note, and a Holder shall not have the right to convert any portion of this Note, to the extent that after giving effect to such issuance after conversion as set forth on the Conversion Notice, the Holder would, directly or indirectly, including through one or more wholly-owned subsidiaries, become the "beneficial owner" (as these terms are defined in Rule 13d-3 and Rule 13d-5 under the Exchange Act), of more than 74.99% of the voting power of the Company's capital stock that is at the time entitled to vote by the holder thereof in the election of the Board of Directors (or comparable body). Upon request by Holder, the Company shall obtain a written statement from its Transfer Agent setting forth the number of shares of Common Stock outstanding.

5. Events of Default.

(a) If an Event of Default occurs and is continuing, the Holder, by written notice to the Company, may declare due and payable the principal of this Note plus any accrued and unpaid interest to the date of payment in the manner set forth in the Credit Agreement. Upon a declaration of acceleration, such principal and accrued and unpaid interest to the date of payment shall be immediately due and payable.

(b) If an Event of Default with respect to this Note occurs and is continuing, the Holder may pursue any available remedy by proceeding at law or in equity to collect the defaulted payment or interest due and payable on this Note or to enforce the performance of any provision of this Note.

(c) Notwithstanding any other provision in this Note, the Holder of this Note shall have the right, which is absolute and unconditional, (i) to receive payment of the principal, or interest in respect of this Note, on or after the respective due dates, (ii) except as provided in Section 4(d), to convert this Note in accordance with Section 3, or (iii) to bring suit for the enforcement of any such payment on or after such respective dates or the right to convert, and

such rights shall not be impaired or affected adversely without the consent of the Holder.

(d) If the Holder has instituted any proceeding to enforce any right or remedy under this Note and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Holder, then and in every such case, subject to any determination in such proceeding, the Company and the Holder shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Holder shall continue as though no such proceeding had been instituted.

(e) Except as otherwise provided herein, no right or remedy conferred in this Note upon the Holder is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

(f) No delay or omission of the Holder of this Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or any acquiescence therein. Every right and remedy given by this Section 5 or by law to the Holder may be exercised from time to time, and as often as may be deemed expedient, by the Holder.

(g) The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim to take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Note; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Holder hereof, but will suffer and permit the execution of every such power as though no such law had been enacted.

6. Consolidation, Merger, Etc.

Upon any consolidation of the Company with, or merger of the Company into, any other Person or any conveyance, transfer, sale or lease of all or substantially all of the properties and assets of the Company, the successor Person formed by such consolidation or into which the Company is merged or to which such conveyance, transfer, sale or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Note with the same effect as if such successor Person had been named as the Company herein, and thereafter, except in the case of a lease, the predecessor Person shall be relieved of all obligations and covenants under this Note in accordance with the provisions of the Credit Agreement.

7. Definitions. Unless otherwise defined in the Credit Agreement, the following capitalized terms shall have the following respective meanings when used herein:

"Applicable Repaid Note" has the meaning set forth in Section 4(b) hereof.

"Common Stock" means any stock of any class of the Company which has no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company and which is not subject to redemption by the Company. However, subject to the provisions of Section 3(e) hereof, shares assumable on conversion of the Securities shall include only shares of the class designated as Common Stock, par value U.S. $0.001 per share, of the Company at the date of execution of this Note or shares of any class or classes resulting from any reclassification or reclassifications thereof and which have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company and which are not subject to redemption by the Company, provided that if at any time there shall be more than one such resulting class, the shares of each such class then so assumable shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.

"Conversion Date" means the date on which the Holder has satisfied all the requirements to convert this Note pursuant to Section 3(a).

"Conversion Notice" has the meaning set forth in Section 3(a)(1) hereof.

"Conversion Price" shall mean the Trading Price of the Company's Common Stock on the Trading Day immediately preceding the Conversion Date.

"Conversion Shares" means those shares of Common Stock issuable upon conversion of this Note.

"Convertible Notes" means the Company's 4.75% Senior Convertible Debentures due 2014 and 4.5% Senior Convertible Debentures due 2015.

"Conversion Triggering Event" has the meaning set forth in Section 4(a) hereof.

"Conversion Triggering Event Date" has the meaning set forth in Section 4(a) hereof.

"Credit Agreement" means that certain Revolving Credit and Convertible Loan Agreement dated February 28, 2012, between the Company and Total Gas & Power USA, SAS, as amended from time to time.

"Current Market Value" means the average of the Trading Prices of the Common Stock on the applicable measurement date.

"Designated Office" has the meaning set forth in Section 2(c) hereof.

"EBITDA" has the meaning set forth in the Funding Agreement.

"Event of Default" has the meaning set forth in the Credit Agreement.

"Exchange Act" means the Securities Exchange Act of 1934, as amended and the rules and regulations promulgated thereunder.

"Gross Financial Indebtedness" has the meaning set forth in the Funding Agreement.

"Holder" has the meaning set forth in Section 2(a).

"Issue Date" has the meaning set forth in the heading of this Note.

"Permitted Holders" means any Affiliates of the Holder.

"Securities Act" means the Securities Act of 1933, as amended and the rules and regulations promulgated thereunder.

"Security Register" means the register or other ledger maintained by the Company that records the record owners of the Securities.

"Stockholder Approval" has the meaning set forth in Section 4(c).

"Trading Day" means:

(i) if the applicable security is listed on the NASDAQ Global Select Market, a day on which the NASDAQ Global Select Market is open for business;

(ii) if that security is not listed on the NASDAQ Global Select Market, a day on which trades may be made on the New York State Exchange;

(iii) if that security is not so listed on the NASDAQ Global Select Market and not listed on the New York Stock Exchange, a day on which the principal U.S. securities exchange on which the securities are listed is open for business; or

(iv) if the applicable security is not so listed, admitted for trading or quoted, any Business Day.

"Trading Price" of a security on any date of determination means:

(i) the closing sales price (or if not closing sales price is reported, the average of the bid and ask prices or, if more than once in either case, the average of the average bid and the average ask prices) as reported by the NASDAQ Global Select Market on such date;

(ii) if such security is not so reported, the closing sale price (or, if no closing sale price is reported, the last reported sale price) of such security (regular way) on the New York Stock Exchange on such date;

(iii) if such security is not listed for trading on the NASDAQ Global Select Market or the New York Stock Exchange on any such date, the closing sale price as reported in the composite transactions for the principal U.S. securities exchange on which such security is so listed;

(iv) if such security is not listed on a U.S. national or regional securities exchange, the last price quoted by OTC Markets Group Inc. for such security on such date or, if

OTC Markets Group Inc. is not quoting such price, a similar quotation service selected by the Company;

(v) if such security is not so quoted, the average of the mid-point of the last bid and ask prices for such security on such date from at least two dealers recognized as market-makers for such security selected by the Company for this purpose; or

(vi) if such security is not so quoted, the average of that last bid and ask prices for such security on such date from a dealer engaged in the trading of convertible securities selected by the Company for this purpose.

"Transfer Agent" means Computershare Trust Company, N.A. or any successor transfer agent for the Company.

8. Miscellaneous.

(a) No provision of this Note shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and interest, if any, on this Note at the times, places and rate, and in the coin or currency, herein prescribed or to convert this Note as herein provided.

(b) The Company will give prompt written notice to the Holder of this Note of any change in the location of the Designated Office. Any notice to the Company or to the holder of this Note shall be given in the manner set forth in the Credit Agreement.

(c) Unless otherwise permitted herein, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

(d) (1) The transfer of this Note is registrable on the Security Register upon surrender of this Note for registration of transfer at the Designated Office, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder hereof or the Holder's attorney duly authorized in writing, and thereupon one or more new Securities, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees. No service charge shall be made for any such registration of transfer, but the Company may require payment of a sum sufficient to recover any tax or other governmental charge payable in connection therewith. Prior to due presentation of this Note for registration of transfer, the Company and any agent of the Company may treat the Person in whose name this Note is registered as the owner thereof for all purposes, whether or not this Note be overdue, and neither the Company nor any such agent shall be affected by notice to the contrary.

(2) On or after the Issue Date, the Holder may transfer this Note or the Conversion Shares to any Person:

(A) pursuant to a registration statement that is, at the time of such transfer, effective under the Securities Act;

(B) pursuant to Rule 144 promulgated under the Securities Act; or

(C) in a transaction otherwise exempt from the registration requirements of the Securities Act (subject to the requirements of such exemption).

(3) Notwithstanding the foregoing, the following terms and conditions will apply to each transfer provided for in Section 8(e)(2) above:

(A) in the case of a transfer pursuant to Section 8(d)(2)(A) or (B), as a condition precedent to such transfer, unless otherwise agreed by the Company in writing, the transferor must deliver an opinion of counsel reasonably satisfactory to the Company to the effect that the proposed transfer is exempt from registration under the Securities Act and applicable state securities laws; and

(B) no Holder that is subject to the Company's then-applicable insider trading policy may transfer any of the Securities or any Conversion Shares except to the extent permitted under such trading policy.

(4) By its acceptance of this Note, each Holder (i) shall be deemed to have acknowledged and agreed to the restrictions on transfer described in this Section, and to have acknowledged that the Company will rely upon the truth and accuracy of such acknowledgement and agreement and (ii) agrees to the imprinting of the following legend on any certificate or book-entry evidencing this Note and the Conversion Shares:

THIS NOTE WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, (THE "SECURITIES ACT"), AND THIS NOTE MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. THE HOLDER OF THIS NOTE AGREES FOR THE BENEFIT OF THE COMPANY THAT THIS NOTE MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, INCLUDING RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (II) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (III) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, IN EACH OF CASES (I) THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES.

(5) Upon presentation of this Note for registration of transfer at the Designated Office accompanied by (i) certification by the transferor that such transfer is in compliance with the terms hereof and (ii) by a written instrument of transfer in a form approved by the Company executed by the Holder, in person or by the Holder's attorney thereunto duly authorized in writing, and including the name, address and telephone and fax numbers of the transferee and name of the contact person of the transferee, this Note shall be transferred on the Security Register, and a new note of like tenor and bearing the same legends shall be issued in the name of the transferee and sent to the transferee at the address and c/o the contact person so

indicated. Transfers and exchanges of Securities shall be subject to such additional restrictions as are set forth in the legends on the Securities.

(6) Upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Note, and in the case of loss, theft or destruction, receipt of indemnity reasonably satisfactory to the Company and upon surrender and cancellation of this Note, if mutilated, the Company will deliver a new note of like tenor and dated as of such cancellation, in lieu of such note.

(7) Neither this Note nor any term hereof may be amended or waived orally or in writing, except that any term of this Note may be amended and the observance of any term of this Note may be waived (either generally or in a particular instance and either retroactively or prospectively), upon the approval of the Company and the Holders. Each Holder of this Note by its acceptance hereof acknowledges and agrees that the subordination provisions of this instrument are for the benefit of the holders of the Senior Indebtedness and that, accordingly, no provision of Section 9 hereof may be amended or otherwise modified without the prior written consent of each holder of Senior Indebtedness at such time outstanding.

(e) **THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK**.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed.
Dated: _____, 20[ ]

SUNPOWER CORPORATION

By: _____

Name: _____

Title: _____

EXHIBIT A

CONVERSION NOTICE

The undersigned holder of this Note hereby warrants and represents that the holder is not currently in possession of any material non-public information in violation of the Company's Insider Trading policy and irrevocably exercises the option to convert this Note, or any portion of the principal amount hereof below designated, into Common Stock in accordance with the terms of this Note, and directs that such shares, together with a check in payment for any fractional share and any Note representing any unconverted principal amount hereof, be delivered to and be registered in the name of the undersigned unless a different name has been indicated below. If shares of Common Stock are to be registered in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto.

Dated: _____

[Holder]

By: _____
Name:
Title:

If shares are to be registered in the name of a Person other than the holder, please print such Person's name and address:

_____
Name

_____
Address

_____
Social Security or other Taxpayer Identification Number, if any

If only a portion of the Securities is to be converted, please indicate:

1. Principal amount to be converted: U.S. $_____

2. Principal amount and denomination of Note representing unconverted principal amount to be issued:

Amount: U.S. $_____

Denominations: U.S. $_____ (any integral multiple of U.S. $1,000)

3. (Select one option below):

Please issue a certificate or certificates representing Conversion Shares in such name or names as specified below:

(Name and Address)

Please establish an electronic book entry at the Transfer Agent in a segregated account established by the Transfer Agent for the benefit of and registered in the name of such name or names as specified below:

(Name and Address)

SCHEDULE 1

EXISTING LIENS

1. Continuing Agreement for Standby Letters of Credit and Demand Guarantees, dated September 27, 2011, by and among the Company, Deutsche Bank Trust Company Americas, and Deutsche Bank AG New York Branch.

2. Security Agreement, dated September 27, 2011, by and among the Company, Deutsche Bank Trust Company Americas, and Deutsche Bank AG New York Branch.

3. Mortgage Loan Agreement, dated May 6, 2010, by and among SunPower Philippines Manufacturing Ltd., SPML Land, Inc. and International Finance Corporation, as amended on November 2, 2010.

4. First Amended and Restated Purchase Agreement, dated November 1, 2010, between SunPower North America LLC and Technology Credit Corporation, as amended on January 25, 2011 and April 18, 2011.

5. Term Lease Master Agreement, dated June 14, 2007, between IBM Global Financing and SunPower Philippines Manufacturing, Ltd., as amended on January 15, 2011.

6. Master Agreement to Lease Equipment, dated July 25, 2007, by and between Cisco Systems Capital Corporation and the Company, and Schedules 001-000 and 002-000 thereto.

7. Master Installment Payment Agreement, dated July 20, 2010, between the Company and Banc of America Leasing & Capital, LLC.

8. Value Agreements, between the Company and U.S. Bank, dated each of October 5, 2006, March 13, 2007, September 5, 2008, April 16, 2008 and April 22, 2008.

9. Amended and Restated Master Lease Agreement, dated December 14, 2011, among WF-SPWR I Solar Statutory Trust, Whippletree Solar LLC, certain other designated subsidiaries of Master Lessee and the Lessors party thereto (the “Master Lease”).

10. Security Agreement, dated December 3, 2009, between Solar Star California XII, LLC and Wells Fargo Bank Northwest, N.A. as collateral agent.

11. Security Agreement, dated December 22, 2009, between Solar Star California, VII, LLC and Wells Fargo Bank Northwest, N.A. as collateral agent.

12. Security Agreement, dated July 7, 2010, between Solar Star New Jersey IV, LLC and Wells Fargo Bank Northwest, N.A. as collateral agent.

13. Security Agreement, dated September 28, 2010, between Solar Star YC, LLC and Wells Fargo Bank Northwest, N.A. as collateral agent.

14. Security Agreement, dated April 13, 2011, between Solar Star Arizona I, LLC and Wells Fargo Bank Northwest, N.A. as collateral agent.

15. Security Agreement, dated June 30, 2011, between Solar Star California XVII, LLC and Wells Fargo Bank Northwest, N.A. as collateral agent.

16. Amended and Restated Security Agreement, dated December 23, 2011, between Solar Star California XXI, LLC and Wells Fargo Bank Northwest, N.A. as collateral agent.

17. Amended and Restated Participation Agreement, dated December 14, 2011, among Whippletree Solar LLC, WF-SPWR I Solar Statutory Trust, Wells Fargo Bank Northwest, NA and Wells Fargo Equipment Finance, Inc.

18. WF-SPWR I Solar Statutory Trust, Declaration of Statutory Trust, dated June 24, 2009, between Wells Fargo Bank Northwest, NA, and Wells Fargo Equipment Finance, Inc.

19. Assignment Agreement, dated as of December 21, 2011, between Solar Star California XXII, LLC in favor of PNC Energy Capital, LLC

20. Assignment Agreement, dated as of December 21, 2011, between Solar Star California XXIV, LCC in favor of PNC Energy Capital, LLC

21. Depositary, Collateral Agency and Notice Agency Agreement, dated as of November 9, 2011, among Metropolitan Life Insurance Company, MetLife Capital Credit L.P., Solar Star California XV, LLC, China Lake OL Trust and Wells Fargo Delaware Trust Company, National Association

22. Pledge Agreement, dated November 9, 2011, between Solar Star California SV Parent, LLC and Wells Fargo Delaware Trust Company, National Association

23. Security Agreement, dated November 9, 2011, between Solar Star California SC, LLC and Wells Fargo Delaware Trust Company, National Association

24. Security Agreement, dated July 22, 2011, between SunPower SolarProgram I, LLC and Solar Energy Leasing, LLC.

25. Financing Agreement for the Development or Rehabilitation of Property in Milpitas California for Specified Solar Panel Manufacturing Purposes, dated February 1, 2011, between The Redevelopment Agency of the City of Milpitas and the Company.

26. Capital Equipment and Assistance Agreement, dated as of March 28, 2011, by and between The Redevelopment Agency of the City of San Jose, the City of San Jose and the Company.

27. Escrow Agreement for Security Deposits in Lieu of Retention, dated as of March 24, 2011, by and among SunPower Corporation, Systems, the *** and Wells Fargo Bank, National Association, as escrow agent.

28. Escrow Agreement, dated as of 2010, among SunPower Corporation, Systems, *** and Wells Fargo Bank, National Association, as escrow agent.

29. Agreement, dated April 27, 2009, by and between the Company and Addison Avenue Federal Credit Union (now known as First Technology Federal Credit Union), as amended on January 28, 2011.

30. Reserve Account Agreement, dated January 11, 2012, between SunPower Corporation, First Technology Federal Credit Union and Wells Fargo Bank, N.A.

*** CONFIDENTIAL MATERIAL REDACTED AND SEPARATELY FILED WITH THE SECURITIES AND EXCHANGE COMMISSION.

Exhibit 10.94

PRIVATE PLACEMENT AGREEMENT

This PRIVATE PLACEMENT AGREEMENT (this "***Agreement***"), dated as of February 28, 2012, by and between Total Gas & Power USA, SAS, a *société par actions simplifiée* organized under the laws of the Republic of France ("***Investor***"), and SunPower Corporation, a Delaware corporation (the "***Company***").

BACKGROUND

A. The Company and Investor are parties to that certain Compensation and Funding Agreement dated as of February 28, 2012, which provides that in certain circumstances the Investor shall make Liquidity Injections (as defined in the Compensation and Funding Agreement) to the Company.

B. The Company and Investor are executing and delivering this Agreement in reliance upon the exemption from registration afforded by Section 4(2) of the Securities Act of 1933, (the "***Securities Act***"), and Rule 506 of Regulation D ("***Regulation D***") as promulgated by the United States Securities and Exchange Commission (the "***SEC***") under the Securities Act.

C. Pursuant to the Liquidity Support Agreement, Investor may from time to time be required to purchase, and the Company may from time to time be required to sell, upon the terms and conditions stated in this Agreement, (i) Common Shares (as defined below) in the amount set forth from time to time on a Terms Agreement with respect to a particular Closing, together with the preferred stock purchase rights appurtenant thereto issued under the Rights Plan and/or (ii) warrants, in substantially the form attached hereto as Exhibit A (the "***Warrants***"), to acquire a number of shares of Common Stock (as defined below) in the amount set forth from time to time on a Terms Agreement with respect to a particular Closing (the shares of Common Stock issuable upon exercise or pursuant to the Warrants, together with the preferred stock purchase rights appurtenant thereto issued under the Rights Plan, the "***Warrant Shares***"), for an aggregate Purchase Price set forth from time to time on a Terms Agreement with respect to a particular Closing.

D. The Common Shares, the Warrants and the Warrant Shares are collectively referred to herein as the "***Securities***".

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and Investor agree as follows:

ARTICLE I

DEFINITIONS

1.1 Definitions. In addition to the terms defined elsewhere in this Agreement, the following terms have the meanings indicated:

"***Affiliate***" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 144 under the Securities Act.

"***Affiliation Agreement***" means that certain Affiliation Agreement dated April 28, 2011, by and among the parties hereto, as the same has and may be amended from time to time.

"***Agreement***" has the meaning set forth in the Preamble.

"Board" shall mean the Board of Directors of the Company or any authorized committee thereof.

"***Business Day***" means any day other than Saturday, Sunday, any day which shall be a federal legal holiday in the United States or any day on which banking institutions in The State of New York are authorized or required by law or other governmental action to close.

"***Capital Stock***" means Common Stock and Preferred Stock.

"***Capitalization Date***" has the meaning set forth in Section 3.1(e)(i).

"***CFA***" means the Compensation and Funding Agreement dated as of the date hereof by and between the Company and Total.

"***Closing***" means each closing of the purchase and sale of the Securities pursuant to Section 2.1.

"***Closing Date***" has the meaning set forth in Section 2.1.

"***Company***" has the meaning set forth in the Preamble.

"***Common Shares***" means that number of shares of Common Stock to be issued at a particular Closing as set forth on a Terms Agreement with respect to a particular Closing, together with the preferred stock purchase rights appurtenant thereto issued under the Rights Plan.

"***Common Stock***" means the common stock, $0.001 par value, of the Company.

"***Company Securities***" has the meaning set forth in Section 3.1(e)(iii).

"***Control***" means, as to any Person, the possession of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. The verb "***Control***" and the term "***Controlled***" have the correlative meanings.

"***Convertible Debentures***" has the meaning set forth in Section 3.1(e)(i).

"***Convertible Securities***" means any stock or securities (other than Options) directly or indirectly convertible into or exercisable or exchangeable for Common Stock.

"***DOE***" means the U.S. DEPARTMENT OF ENERGY, acting by and through the Secretary of Energy.

"***DTC***" has the meaning set forth in Section 3.2(k).

"***Environmental Laws***" has the meaning set forth in Section 3.1(k).

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

"***FINRA***" has the meaning set forth in Section 3.2(c).

"***Hazardous Materials***" has the meaning set forth in Section 3.1(w).

"***Investor***" has the meaning set forth in the Preamble.

"***Intellectual Property Rights***" has the meaning set forth in Section 3.1(v).

"***Knowledge***" or "***knowledge***" shall mean, with respect to the Company, the actual knowledge of the executive officers (as defined in Rule 405 under the Securities Act) of the Company after due inquiry.

"***Lien***" means any lien, charge, claim, security interest, encumbrance, right of first refusal or other restriction.

"***Liquidity Support Agreement***" means the Liquidity Support Agreement dated as of the date hereof by and among Total, the Company and DOE.

"***Material Adverse Effect***" means any effect that either alone or in combination with any other effect has, or would reasonably be expected to have, a materially adverse effect in relation to the condition (financial or otherwise), properties, assets, liabilities, business, operations, or results of operations of the Company and its Subsidiaries, taken as a whole or the ability of the Company and its Subsidiaries to perform their respective obligations hereunder or to consummate the Transactions.

"***Options***" means any outstanding rights, warrants or options to subscribe for or purchase Common Stock or Convertible Securities.

"***Person***" means any natural person, general or limited partnership, corporation, limited liability company, joint venture, trust, firm, association or other legal or governmental entity.

"***Plans***" means the 1996 Stock Plan, the Third Amended and Restated 2005 SunPower Corporation Stock Incentive Plan, and the PowerLight Corporation Common Stock Option and Common Stock Repurchase Plan.

"***Preferred Stock***" means the Preferred Stock, par value $0.001 per share, of the Company.

"***Principal Market***" means the Nasdaq Global Select Market.

"***Purchase Price***" for any Security shall be the amount set forth on a Terms Agreement with respect to a particular Closing with respect to such Security.

"***Registration Rights Agreement***" means that certain Registration Rights Agreement dated April 28, 2011, by and among the parties hereto, as the same may be amended from time to time.

"***Rights Plan***" means the Amended and Restated Rights Agreement, dated November 16, 2011, by and between the Company and Computershare Trust Company, N.A., as Rights Agent, including the form of Certificate of Designation of Series A Junior Participating Preferred Stock and the forms of Right Certificates, Assignment and Election to Purchase and the Summary of Rights attached thereto as Exhibits A, B and C, respectively.

"***Regulation D***" has the meaning set forth in the Preamble.

"***Reporting Period***" has the meaning set forth in Section 3.1(j).

"***Restricted Stock***" means shares of Common Stock that constitute unvested restricted stock or are otherwise subject to a right of repurchase or redemption by the Company.

"***Restricted Stock Unit***" means a bookkeeping entry representing the equivalent of a share of Common Stock.

"***Rule 144," "Rule 415," and "Rule 424" means Rule 144, Rule 415 and Rule 424,*** respectively, promulgated by the SEC pursuant to the Securities Act, as such rules may be amended from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same effect as such rule.

"***SEC***" has the meaning set forth in the Preamble.

"***SEC Documents***" have the meaning set forth in Section 3.1(j).

"***Securities***" has the meaning set forth in the Preamble.

"***Securities Act***" has the meaning set forth in the Preamble.

"***Shares***" means shares of the Company's Common Stock.

"***Solar SPE***" means any directly or indirectly owned special purpose vehicles established to facilitate solar system sales in the ordinary course of the Company's utility and power plant or large commercial business lines.

"***Stock Awards***" means Options, Restricted Stock and Restricted Stock Units.

"***Subsidiary***" of any Person means any other Person (a) of which the first Person owns directly or indirectly fifty (50) percent or more of the equity interest in the other Person or (b) of which (or in which) an amount of the voting securities, other voting ownership or voting partnership interests of which is sufficient to elect at least a majority of its board of directors or other governing body (or, if there are no such voting interests, more than 50 percent of the equity interests of which) is directly or indirectly owned or Controlled by the first Person, by such Person with one or more of its Subsidiaries or by one or more of such Person's other Subsidiaries or (c) in which the first Person has the contractual or other power to designate a majority of the board of directors or other governing body.

"***Terms Agreement***" for any Security for any Closing shall specify the terms, amount, purchase price and any other pricing term for the issuance of a Security in a Closing in connection with any Liquidity Injection in the form attached hereto as Schedule 1. Each Terms Agreement for a Closing shall be attached hereto as part of Schedule 1.

"***Total***" means TOTAL S.A., a société anonyme organized under the laws of the Republic of France.

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

"***Trading Market***" means whichever of the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Select Market, the NASDAQ Global Market, the NASDAQ Capital Market or OTC Bulletin Board on which the Common Stock is listed or quoted for trading on the date in question.

"***Transactions***" means those transactions contemplated by the Transaction Documents.

"***Transaction Documents***" means (1) this Agreement, including the schedules, annexes and exhibits attached hereto, and the Transfer Agent Instructions and each of the other agreements or instruments entered into or executed by the parties hereto in connection with the transactions contemplated by this Agreement, (2) the Warrants, (3) the Liquidity Support Agreement and (4) all other agreements entered into between the parties, or between the Company and Total, in connection with the Liquidity Support Agreement.

"***Transfer Agent***" means Computershare Trust Company, N.A., or any successor transfer agent for the Company.

"***Transfer Agent Instructions***" means, with respect to the Company, the Company Transfer Agent Instructions, in substantially the form of Exhibit B, executed by the Company and delivered to and acknowledged in writing by the Transfer Agent.

"***Warrant Shares***" has the meaning set forth in the Preamble.

"***Warrants***" has the meaning set forth in the Preamble.

ARTICLE II
PURCHASE AND SALE

2.1 Closing. Subject to the terms and conditions set forth in this Agreement, upon the issuance of the warrant specified in Section 2(a) of the CFA, and in connection with each Liquidity Injection (as defined in the Liquidity Support Agreement) in which Securities are to be issued, the Company shall issue and sell to Investor, and Investor shall purchase from the Company, the Securities set forth in a Terms Agreement with respect to such Closing, which Terms Agreement shall be prepared by the parties and attached for each Closing, for the Purchase Price set forth on the Terms Agreement for such Closing. The date and time of the Closing shall be at 1:00 p.m., New York City Time, on the date upon which such Liquidity Injection is required to occur pursuant to the Liquidity Support Agreement (a "**Closing Date**"). The Closing shall take place at the offices of the Company's counsel.

2.2 Closing Deliverables.

(a) At each Closing, the Company shall deliver or cause to be delivered to Investor the following:

(i) a Terms Agreement for such Closing;

(ii) a copy of the Company's irrevocable instructions to the Transfer Agent instructing the Transfer Agent to establish and credit, on an expedited basis, a restricted book entry at such Transfer Agent evidencing any Common Shares to be issued at such Closing in a segregated account established by the Transfer Agent for the Investor's benefit and registered in the name of Investor;

(iii) duly executed Transfer Agent Instructions acknowledged by the Company's transfer agent;

(iv) an opinion of Jones Day, counsel for the Company ("**Company Counsel**"), dated as of such Closing Date, in substantially the form agreed to between the Investor and the Company;

(v) any Warrant to be issued at such Closing, issued in the name of such Investor, pursuant to which the Investor shall have the right to acquire such number of Warrant Shares set forth on a Terms Agreement for such Closing;

(vi) a Disclosure Schedule with respect to such Closing; and

(vii) such other documents relating to the transactions contemplated by this Agreement as Investor or its counsel may reasonably request.

The Company agrees to deliver to the Investor each item required to be delivered to Investor under this Agreement on or prior to the Closing Date, and such obligation to deliver each item shall survive the purchase by the Investor of Securities on the Closing Date pursuant to the terms of this Agreement and the Terms Agreement.

(b) At each Closing, Investor shall deliver or cause to be delivered to the Company the following:

(i) The Purchase Price, by wire transfer to an account designated in writing to such Investor by the Company for such purpose.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Company. Except as otherwise disclosed or modified by a disclosure schedule set forth as Exhibit C hereto (which shall be prepared by the Company and delivered to the Investor concurrently with each Closing), Company hereby represents and warrants to Investor as of the date hereof and as of each Closing as follows:

(a) Organization and Qualification. The Company and each Subsidiary is an entity duly organized and validly existing, and the Company is in good standing under the laws of the jurisdiction of its incorporation, with the requisite legal authority to own and use its properties and assets and to carry on its business as currently conducted. Each Subsidiary is in good standing under the laws of the jurisdiction of its incorporation or organization, as applicable, with the requisite legal authority to own and use its properties and assets and to carry on its business as currently conducted, except where the failure to be so in good standing would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any Subsidiary is in violation of any of the provisions of its certificate or articles of incorporation, bylaws or other organizational or charter documents, as applicable. The Company and each Subsidiary is duly qualified to do business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect.

(b) Authorization; Enforcement. The Company has the requisite corporate authority to enter into the Transaction Documents to which it is a party and to consummate the Transactions contemplated by each of the Transaction Documents to which it is a party and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of each of the Transaction Documents to which it is a party by the Company and the consummation by it of the transactions contemplated hereby and thereby including, without limitation, the issuance of the Securities, have been duly authorized by all necessary corporate action on the part of the Company and no further consent or action is required by the Company, its Board or its stockholders. Each of the Transaction Documents to which it is a party has been (or upon delivery will be) duly executed by the Company and is, or when delivered in accordance with the terms hereof, will constitute, the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive

relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(c) No Conflicts; Consents. The execution, delivery and performance of the Transaction Documents to which it is a party by the Company, the issuance of the Securities, and the consummation by the Company of the Transactions do not, and will not, (i) conflict with or violate any provision of the Company's or any Subsidiary's certificate or articles of incorporation, bylaws or other organizational or charter documents, as applicable, (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound, or affected, except to the extent that such conflict, default, termination, amendment, acceleration or cancellation right would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect, or (iii) result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or any Subsidiary is subject (including, assuming the accuracy of the representations and warranties of Investor set forth in Section 3.2 hereof, federal and state securities laws and regulations and the rules and regulations of any self-regulatory organization to which the Company or its securities are subject, including all applicable Trading Markets), or by which any property or asset of the Company or any Subsidiary is bound or affected, except to the extent that such violation would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any of its Subsidiaries is required to obtain any consent, authorization or order of, or make any filing or registration with, any court, governmental agency or any regulatory or self-regulatory agency or any other Person in order for it to execute, deliver or perform any of its obligations at the Closing under or contemplated by the Transaction Documents, including without limitation the issuance of the Securities, in each case in accordance with the terms hereof or thereof, except for the following consents, authorizations, orders, filings and registrations (none of which is required to be filed or obtained before the Closing): (x) the filing of a Form D with the SEC and any applicable state securities authorities, (y) the filing of a Form 8-K with the SEC announcing the entry into the Transaction Documents and the issuance of the Securities and (z) the shareholder consent to be signed by Investor, the filing of a preliminary and definitive information statement each on Schedule 14C with the SEC, and satisfaction of the requirements of the Principal Market. The Company and its Subsidiaries are unaware of any facts or circumstances that would reasonably be expected to prevent the Company from obtaining or effecting any of the registration, application or filings pursuant to the preceding sentence.

(d) The Common Shares; The Warrant Shares. The Common Shares are duly authorized and, when issued and paid for in accordance with this Agreement, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens, except for customary and required restrictions on transfer under U.S. federal and state securities laws and will not be subject to preemptive or similar rights of stockholders (other than those rights set forth in the Affiliation Agreement). The Warrant Shares are duly authorized and, when issued upon exercise of the Warrants in accordance with the terms of the Warrants, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens, except for customary and required restrictions on transfer under U.S. federal and state securities laws and will not be subject to preemptive or similar rights of stockholders (other than those rights set forth in the Affiliation Agreement).

(e) Capitalization. The Disclosure Schedule for each Closing shall set forth substantially the information called for by the following subsections (i) through (iii) as of a date within one week prior to such Closing:

(i) The authorized capital stock of the Company consists of (A) 367,500,000 shares of Common Stock and (B) 10,000,000 shares of Preferred Stock. As of the close of business on February 14, 2012 (the "***Capitalization Date***"): (1) 119,161,631 shares of Common Stock were issued and outstanding, of which none were unvested and subject to a right of repurchase as of such date, (2) no shares of Preferred Stock were issued and outstanding and (3) there were 1,402,205 shares of Capital Stock held by the Company as treasury shares. As of the close of business on the Capitalization Date, with respect to the Plans, (x) there were outstanding Options to purchase or otherwise acquire (I) 481,354 shares of Common Stock, of which 438,854 were exercisable or vested as of such date and (II) there were outstanding Restricted Stock Units covering 7,087,700 shares of Common Stock (including performance based Restricted Stock Units). As of the close of business on the Capitalization Date, there were 14,917,846 shares of Common Stock reserved for issuance pursuant to the convertible debentures disclosed in the SEC Documents ("***Convertible Debentures***"), 0 shares of Common Stock reserved for issuance pursuant to any convertible notes issued to Investor, and 19,808,441 shares of Common Stock reserved for issuance pursuant to warrants. All outstanding shares of Common Stock have been duly authorized and validly issued and are fully paid, nonassessable and free of any preemptive rights.

(ii) The Company has reserved 14,296,667 shares of Common Stock under Plans.

(iii) Except as set forth in clauses (i) and (ii) above or on Schedule 3.1(e)(iii), as of the close of business on the Capitalization Date, there are (A) no outstanding shares of capital stock of, or other equity or voting interest in, the Company, (B) no outstanding securities issued by the Company that are convertible into or exchangeable for shares of capital stock of, or other equity or voting interest in, the Company, (C) no outstanding options, warrants, rights or other commitments or agreements to acquire from the Company, or that obligates the Company to issue, any capital stock of, or other equity or voting interest in, or any securities convertible into or exchangeable for shares of capital stock of, or other equity or voting interest in, the Company, (D) no obligations of the Company to grant, extend or enter into any subscription, warrant, right, convertible or exchangeable security or other similar agreement or commitment relating to any capital stock of, or other equity or voting interest (including any voting debt) in, the Company (the items in clauses (A), (B), (C) and (D), together with the capital stock of the Company, being referred to collectively as "***Company Securities***") and (E) no other obligations of the Company or any of its Subsidiaries or Solar SPEs to make any payments based on the price or value of any Company Securities. There are no outstanding agreements of any kind which obligate the Company or any of its Subsidiaries or Solar SPEs to repurchase, redeem or otherwise acquire any Company Securities.

(f) Absence of Litigation. There are no actions, suits, claims, investigations or proceedings pending or, to the Company's knowledge, threatened or contemplated to which the Company or any of its Subsidiaries is or would be a party or of which any of their respective properties is or would be subject at law or in equity, before or by any federal, state, local or foreign governmental or regulatory commission, board, body, authority or agency, or before or by any self-regulatory organization or other non-governmental regulatory authority (including, without limitation, the Principal Market), except any such action, suit, claim, investigation or proceeding

which, if resolved adversely to the Company or any Subsidiary, would not, individually or in the aggregate, have a Material Adverse Effect.

(g) No General Solicitation. Neither the Company, nor any of its affiliates, nor any Person acting on its or their behalf, has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with the offer or sale of the Securities.

(h) No Integrated Offering under Securities Act. Assuming the accuracy of the Investor's representations and warranties set forth in Section 3.2 hereof, none of the Company, any of its affiliates, and any Person acting on their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would require registration of the issuance of any of the Securities under the Securities Act, whether through integration with prior offerings or otherwise. None of the Company, its affiliates and any Person acting on their behalf will take any action or steps referred to in the preceding sentence that would require registration of the issuance of any of the Securities under the Securities Act.

(i) Application of Takeover Protections; Rights Agreement. The Company and its Board have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under The Rights Agreement) or other similar anti-takeover provision under the Company's certificate of incorporation or the laws of the State of Delaware which is or could become applicable to the Investor as a result of the transactions contemplated by this Agreement, including, without limitation, the Company's issuance of the Securities and the Issuer's ownership of the Securities. The Rights Plan has not been amended, rescinded or modified since the date it was entered into. The resolutions set forth on Schedule D of the Affiliation Agreement have not been amended, rescinded or modified since their adoption, and no further action is necessary in connection with the issuance of the Securities to waive the implications of Section 203 of the DGCL to Parent, Terra, any Terra Controlled Corporation and any Transferee (as such terms are defined in the Affiliation Agreement).

(j) SEC Documents; Financial Statements. Since January 2, 2011 (the "**Reporting Period**"), the Company has timely filed all reports, schedules, forms, statements and other documents required to be filed by it with the SEC pursuant to the reporting requirements of the Exchange Act (all of the foregoing filed during the Reporting Period or prior to the date of the Closing and all exhibits included therein and financial statements, notes and schedules thereto and documents incorporated by reference therein being hereinafter referred to as the "**SEC Documents**"). The Company has delivered or made available to the Investor or their respective representatives true, correct and complete copies of the SEC Documents to the extent such documents are not available on the EDGAR system, if any, and that have been requested by the Investor. As of their respective filing dates (or, if amended or superseded by a filing prior to the date of this Agreement, on the date of such amended or superseded filing), the SEC Documents complied in all material respects with the requirements of the Exchange Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC (or, if amended or superseded by a filing prior to the date of this Agreement, on the date of such amended or superseded filing), contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they

were made, not misleading. As of their respective filing dates (or, if amended or superseded by a filing prior to the date of this Agreement, on the date of such amended or superseded filing), the financial statements of the Company included in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles, consistently applied, during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto, or (ii) in the case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments). No other information provided by or on behalf of the Company to the Investor which is not included in the SEC Documents or in any disclosure schedules, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstance under which they are or were made not misleading.

(k) Absence of Certain Changes. Since the date of the most recent balance sheet included in the SEC Documents, there has been no Material Adverse Effect on the Company. The Company has not taken any steps to seek protection pursuant to any bankruptcy law nor does the Company have any knowledge or reason to believe that its creditors intend to initiate involuntary bankruptcy proceedings or any actual knowledge of any fact that would reasonably lead a creditor to do so. The Company is not as of the date hereof, and after giving effect to the transactions contemplated hereby to occur at the Closing, will not be Insolvent (as defined below). For purposes of this Section 3.1(k), "Insolvent" means, with respect to any Person, (i) the present fair saleable value of such Person's assets is less than the amount required to pay such Person's total Indebtedness, (ii) such Person is unable to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured, (iii) such Person intends to incur or believes that it will incur debts that would be beyond its ability to pay as such debts mature or (iv) such Person has unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is currently proposed to be conducted.

(l) Conduct of Business; Regulatory Permits. The Company is not in material violation of any term of or in default under its certificate of incorporation, any certificate of designations of any outstanding series of preferred stock of the Company or its bylaws. The Company is not in violation of any judgment, decree or order or any statute, ordinance, rule or regulation applicable to the Company, and the Company will not conduct its business in violation of any of the foregoing, except for possible violations which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Company is not in material violation of any of the rules, regulations or requirements of the Principal Market and has no knowledge of any facts or circumstances that would reasonably lead to delisting of the Common Stock by the Principal Market in the foreseeable future. Since January 2, 2011, (i) the Common Stock has been designated for quotation or included for listing on the Principal Market, (ii) trading in the Common Stock has not been suspended by the SEC or the Principal Market and (iii) the Company has received no communication, written or oral, from the SEC or the Principal Market regarding the suspension or delisting of the Common Stock from the Principal Market. The Company possess all certificates, authorizations and permits issued by the appropriate regulatory authorities necessary to its business, except where the failure to possess such certificates, authorizations or permits could not, individually

or in the aggregate, reasonably be expected to have a Material Adverse Effect, and the Company has not received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit.

(m) Principal Market Approval. The Company has obtained or will obtain all required shareholder approvals under the rules, regularities or requirements of the Principal Market with respect to the issuance and sale of the Securities to the Investor prior to the Closing Date.

(n) Foreign Corrupt Practices. As of the date of the filing of the Company's most recent periodic report on either Form 10-Q or Form 10-K with the SEC, neither the Company nor any director or officer, nor to the Company's knowledge, any Subsidiary, any agent, employee or other Person acting on behalf of the Company has, in the course of its actions for, or on behalf of, the Company (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; (iii) violated or is in violation in any material respect of any provision of the U.S. Foreign Corrupt Practices Act of 1977, as amended; or (iv) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any foreign or domestic government official or employee.

(o) Sarbanes-Oxley Act. The Company is in material compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the SEC thereunder that are effective as of the date hereof.

(p) Insurance. The Company is insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as management of the Company believes to be prudent and customary in the businesses in which the Company is engaged. The Company has not been refused any insurance coverage sought or applied for and the Company does not have any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would, individually or in the aggregate, not have a Material Adverse Effect.

(q) Employee Relations.

(i) Except as disclosed in the SEC Documents, no executive officer of the Company is in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement, non-competition agreement, or any other contract or agreement or any restrictive covenant, and the continued employment of each such executive officer does not subject the Company to any liability with respect to any of the foregoing matters.

(ii) The Company, to its knowledge, is in compliance with all federal, state, local and foreign laws and regulations respecting labor, employment and employment practices and benefits, terms and conditions of employment and wages and hours, except where failure to be in compliance would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(r) Title. The Company has good and marketable title in fee simple to all real property and good and marketable title to all personal property owned by them which is material to the

business of the Company, in each case free and clear of all liens, encumbrances and defects except such as do not materially affect the value of such property and do not interfere with the use made and proposed to be made of such property by the Company. Any real property and facilities held under lease by the Company are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property and buildings by the Company.

(s) Intellectual Property Rights. The Company owns or possesses adequate rights or licenses to use or could obtain on commercially reasonable terms all trademarks, service marks and all applications and registrations therefor, trade names, patents, patent rights, copyrights, original works of authorship, inventions, trade secrets and other intellectual property rights ("**Intellectual Property Rights**") necessary to conduct its business as conducted on the date of this Agreement, except for such Intellectual Property Rights, the inability to use would not, individually or in the aggregate, have a Material Adverse Effect. To the knowledge of the Company, no product or service of the Company infringes the Intellectual Property Rights of others which would reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect. There is no claim, action or proceeding being made or brought, or to the knowledge of the Company, being threatened, against the Company regarding (i) its Intellectual Property Rights, or (ii) that the products or services of the Company infringe the Intellectual Property Rights of others. The Company has taken reasonable security measures to protect the secrecy, confidentiality and value of all of its Intellectual Property Rights.

(t) Environmental Laws. The Company (i) is in compliance with any and all Environmental Laws (as hereinafter defined), (ii) has received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct its business and (iii) is in compliance with all terms and conditions of any such permit, license or approval where, in each of the foregoing clauses (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect. The term "**Environmental Laws**" means all federal, state, local or foreign laws relating to pollution or protection of human health or the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata), including, without limitation, laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "**Hazardous Materials**") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations issued, entered, promulgated or approved thereunder.

(u) Tax Status. Except for matters that would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect, the Company (i) has made or filed all foreign, federal and state income and all other tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations, except those being contested in good faith and (iii) has set aside on its books provision reasonably adequate for the payment of all taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to

be due by the taxing authority of any jurisdiction, and the officers of the Company know of no basis for any such claim.

(v) Internal Accounting and Disclosure Controls. Except as described in the SEC Documents, the Company maintains a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset and liability accountability, (iii) access to assets or incurrence of liabilities is permitted only in accordance with management's general or specific authorization and (iv) the recorded accountability for assets and liabilities is compared with the existing assets and liabilities at reasonable intervals and appropriate action is taken with respect to any difference. Except as disclosed in the SEC Documents, the Company maintains disclosure controls and procedures (as such term is defined in Rule 13a-14 under the Exchange Act) that are effective in ensuring that are designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the rules and forms of the SEC including, without limitation, controls and procedures designed in to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the Company's management, including its principal executive officer or officers and its principal financial officer or officers, as appropriate, to allow timely decisions regarding required disclosure.

(w) Off Balance Sheet Arrangements. There is no transaction, arrangement, or other relationship between the Company and an unconsolidated or other off balance sheet entity that is required to be disclosed by the Company in its 1934 Act filings and is not so disclosed or that otherwise would be reasonably likely to, individually or in the aggregate, have a Material Adverse Effect.

(x) Investment Company Status. The Company is not, and upon consummation of the sale of the Securities will not be, an "investment company," a company controlled by an "investment company" or an "affiliated person" of, or "promoter" or "principal underwriter" for, an "investment company" as such terms are defined in the Investment Company Act of 1940, as amended.

(y) Form S-3 Eligibility. The Company is eligible to register the Common Shares and the Warrant Shares for resale by the Investor using Form S-3 promulgated under the Securities Act in accordance with the provisions of the Registration Rights Agreement.

(z) Manipulation of Price. The Company has not, and to its knowledge (assuming the accuracy of the Investor's representations and warranties set forth in Section 3.2 hereof) no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any person any compensation for soliciting another to purchase any other securities of the Company.

3.2 Representations and Warranties of Investor. Investor hereby represents and warrants to the Company as of the date hereof and as of each Closing as follows:

(a) Organization; Authority. Investor is an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization with the requisite corporate, partnership or other power and authority to enter into the Transaction Documents to which it is a party and to consummate the Transactions and otherwise to carry out its obligations hereunder and thereunder. The purchase by Investor of the Securities hereunder and the consummation of the Transactions have been duly authorized by all necessary corporate, partnership or other action on the part of Investor. This Agreement and the Transaction Documents to which Investor is a party or has or will execute have been duly executed and delivered by Investor and constitutes the valid and binding obligation of Investor, enforceable against it in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(b) No Public Sale or Distribution. Investor is acquiring the Securities for its own account and not with a view towards, or for resale in connection with, the public sale or distribution thereof, except pursuant to sales registered under the Securities Act or under an exemption from such registration and in compliance with applicable federal and state securities laws, and Investor does not have a present arrangement to effect any distribution of the Securities to or through any person or entity.

(c) Investor Status. Investor is an “accredited investor” as defined in Rule 501(a) under the Securities Act or a “qualified institutional buyer” as defined in Rule 144A(a) under the Securities Act. Investor is not a registered broker dealer registered under Section 15(a) of the Exchange Act, or a member of the Financial Industry Regulatory Authority, Inc. (“***FINRA***”) or an entity engaged in the business of being a broker dealer. Investor is not affiliated with any broker dealer registered under Section 15(a) of the Exchange Act, or a member of the FINRA or an entity engaged in the business of being a broker dealer. Investor is a resident of the following jurisdiction: France.

(d) General Solicitation. Investor is not purchasing the Securities as a result of any advertisement, article, notice or other communication regarding the Securities published in any newspaper, magazine or similar media, broadcast over television or radio, disseminated over the Internet or presented at any seminar or any other general solicitation or general advertisement.

(e) Experience of Investor. Investor, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. Investor understands that it must bear the economic risk of this investment in the Securities indefinitely, and is able to bear such risk and is able to afford a complete loss of such investment.

(f) Access to Information. Investor acknowledges that it has been afforded: (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information (other than material non-public information) about the Company and each Subsidiary and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its

investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment. Investor acknowledges receipt of copies of the SEC Documents.

(g) No Governmental Review. Such Investor understands that no United States federal or state agency or any other government or governmental agency has passed on or made any recommendation or endorsement of the Securities or the fairness or suitability of the investment in the Securities nor have such authorities passed upon or endorsed the merits of the offering of the Securities.

(h) No Conflicts. The execution, delivery and performance by Investor of this Agreement and the consummation by Investor of the transactions contemplated hereby will not (i) result in a violation of the organizational documents of Investor or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which Investor is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws) applicable to Investor, except in the case of clauses (ii) and (iii) above, for such that would not result in a Material Adverse Effect and do not otherwise affect the ability of such Investor to consummate the transactions contemplated hereby or perform its obligations hereunder.

(i) Reliance on Exemptions. Investor understands that the Securities are being offered and sold to it in reliance on specific exemptions from the registration requirements of United States federal and state securities laws and that the Company is relying in part upon the truth and accuracy of, and Investor's compliance with, the representations, warranties, agreements, acknowledgments and understandings of Investor set forth herein and in the other Transaction Documents in order to determine the availability of such exemptions and the eligibility of Investor to acquire the Securities.

(j) Transfer or Resale. Investor understands that: (i) the Securities have not been and are not being registered under the Securities Act or any state securities laws, and may not be offered for sale, sold, assigned or transferred unless (A) subsequently registered thereunder, (B) Investor shall have delivered to the Company an opinion of counsel, in a form reasonably acceptable to the Company, to the effect that such Securities to be sold, assigned or transferred may be sold, assigned or transferred pursuant to an exemption from such registration, or (C) Investor provides the Company with reasonable assurance that such Securities can be sold, assigned or transferred pursuant to Rule 144 promulgated under the Securities Act (or a successor rule thereto); (ii) any sale of the Securities made in reliance on Rule 144 may be made only in accordance with the terms of Rule 144 and further, if Rule 144 is not applicable, any resale of the Securities under circumstances in which the seller (or the Person through whom the sale is made) may be deemed to be an underwriter (as that term is defined in the Securities Act) may require compliance with some other exemption under the Securities Act or the rules and regulations of the SEC thereunder; and (iii) except as set forth in the Registration Rights Agreement, neither the Company nor any other Person is under any obligation to register the Common Shares or the Warrant Shares under the Securities Act or any state securities laws or to comply with the terms and conditions of any exemption thereunder.

(k) Restrictions. Investor understands and agrees that the book entry representing the Common Shares shall initially be restricted as required by the "blue sky" laws of any state. Investor understands that such book entry restrictions shall be removed and the Company shall issue a certificate without legend to the holder of the Common Shares, or establish and credit a Direct Registration System entry representing the Common Shares to a segregated account established by the Transfer Agent for the Investor's benefit, or issue to such holder by electronic delivery at the applicable balance account at The Depository Trust Company ("***DTC***"), if, unless otherwise required by state securities laws, (i) such Common Shares are registered for resale under the Securities Act, (ii) in connection with a sale, assignment or other transfer, such holder provides the Company with an opinion of a law firm reasonably acceptable to the Company, in a form reasonably acceptable to the Company, to the effect that such sale, assignment or transfer of the Common Shares may be made without registration under the applicable requirements of the Securities Act, (iii) such holder provides the Company with reasonable assurance that the Common Shares can be sold, assigned or transferred pursuant to Rule 144, or (iv) otherwise provided in the Transfer Agent Instructions.

(l) Manipulation of Price. Investor has not, and to its knowledge (assuming the accuracy of the Company's representations and warranties set forth in Section 3.1 hereof) no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any person any compensation for soliciting another to purchase any other securities of the Company.

ARTICLE IV
OTHER AGREEMENTS OF THE PARTIES

4.1 Transfer Restrictions.

(a) Investor covenants that the Securities will only be disposed of pursuant to an effective registration statement under, and in compliance with the requirements of, the Securities Act or pursuant to an available exemption from the registration requirements of the Securities Act, and in compliance with any applicable state securities laws. In connection with any transfer of Securities other than pursuant to an effective registration statement or to the Company, or any transfer of Securities pursuant to Rule 144, the Company may require the transferor to provide to the Company an opinion of counsel selected by the transferor, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration under the Securities Act.

(b) Investor agrees that the book entry evidencing any of the Common Shares shall initially be restricted.

(c) Certificates evidencing the Common Shares shall not be required to contain any restrictive legend, and the book entry evidencing the Common Shares shall not be required to be restricted (i) while a registration statement covering the resale of the Common Shares is effective under the Securities Act, (ii) following any sale of such Common Shares pursuant to Rule 144 if the holder provides the Company with a legal opinion (and the documents upon which the legal opinion is based) reasonably acceptable to the Company to the effect that the Common Shares can be sold under Rule 144, (iii) if the Common Shares are eligible for sale under Rule 144, or (iv) if the holder provides the Company with a legal opinion (and the documents upon which the legal opinion is based) reasonably acceptable to the Company to the effect that a legend or book entry restriction is

not required under applicable requirements of the Securities Act (including controlling judicial interpretations and pronouncements issued by the Staff of the SEC). The Company covenants and agrees that restrictive legends and book entry restrictions shall be removed and the Company shall issue a certificate without legend to the holder of the Common Shares or establish and credit a Direct Registration System entry representing the Common Shares to a segregated account established by the Transfer Agent for the Investor's benefit, or issue to such holder by electronic delivery at the applicable balance account at DTC, if, unless otherwise required by state securities laws, (w) it is so provided in the Transfer Agent Instructions, (x) such Common Shares are registered for resale under the Securities Act, (y) in connection with a sale, assignment or other transfer, such holder provides the Company with an opinion of a law firm reasonably acceptable to the Company, in a form reasonably acceptable to the Company, to the effect that such sale, assignment or transfer of the Common Shares may be made without registration under the applicable requirements of the Securities Act, or (z) such holder provides the Company with reasonable assurance that the Common Shares can be sold, assigned or transferred pursuant to Rule 144. Any transfer or sale of the Warrants will be subject to the restrictions on transfer set forth in the Warrant.

4.2 **Furnishing of Information**. Until the date that the Investor owning Securities has sold the Securities, the Company covenants to use its best efforts to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act.

4.3 **Integration**. The Company shall not, and shall use its best efforts to ensure that no Affiliate thereof shall, sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2 of the Securities Act) that would be integrated with the offer or sale of the Securities in a manner that would require the registration under the Securities Act of the sale of the Securities to Investor or that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market.

4.4 **Securities Laws Disclosure; Publicity**. The Company shall timely file any filings and notices required by the SEC or applicable law with respect to the transactions contemplated hereby.

4.5 **Use of Proceeds**. The Company intends to use the net proceeds from the sale of the Securities to for general corporate purposes, including working capital, the retirement of outstanding debt or for potential acquisitions. Pending these uses, the Company intends to invest the net proceeds from this offering in short-term, interest-bearing, investment-grade securities, or as otherwise pursuant to the Company's customary investment policies.

4.6 **Form D and Blue Sky**. The Company agrees to file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof to the Investor promptly after such filing. The Company, on or before the Closing Date, shall take such action as the Company shall reasonably determine is necessary in order to obtain an exemption for or to qualify the Securities for sale to the Investor at the Closing pursuant to this Agreement under applicable securities or "Blue Sky" laws of the states of the United States (or to obtain an exemption from such qualification), and shall provide evidence of any such action so taken to the Investor on or prior to the Closing Date. The Company shall make all filings and reports relating to the offer and sale of the Securities required under applicable securities or "Blue Sky" laws of the states of the United States following the Closing Date.

4.7 **Listing**. The Company shall promptly secure the listing of all of the Common Shares, once they have been issued, upon each Trading Market upon which shares of Common Stock are then listed (subject to official notice of issuance) and shall maintain, so long as any other shares of Common Stock shall be so listed, such listing of all Common Shares from time to time issuable under the terms of the Transaction Documents. The Company shall maintain the Common Stock's authorization for listing on the Principal Market. The Company shall not take any action which would be reasonably expected to result in the delisting or suspension of the Common Stock on the Principal Market.

4.8 **Reservation of Shares**. The Company shall to at all times reserve and keep available, free of preemptive rights, contractual preemptive rights, resale rights, rights of first refusal and similar rights, shares of Common Stock in an amount sufficient to satisfy the Company's obligations to issue Warrant Shares upon exercise of the Warrants.

ARTICLE V
MISCELLANEOUS

5.1 **Incorporation of Miscellaneous Provisions**. Sections 2(d), 8(b), (c), (d)(iii), (e), (f), (g) and (h) of the CFA are incorporated by reference herein and shall apply to this Agreement *mutatis mutandis; provided*, *however*, that where applicable, any references to "Total" in such sections of the CFA shall be deemed to be references to Investor under this Agreement.

5.2 **Notices**. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of (a) the date of transmission and electronic or mechanical confirmation of receipt, if such notice or communication is delivered via facsimile or email at the facsimile number or email address specified in this Section prior to 12:30 p.m. (New York City time) on a Trading Day, (b) the next Trading Day after the date of transmission and electronic or mechanical confirmation of receipt, if such notice or communication is delivered via facsimile or email at the facsimile number or email address specified in this Section on a day that is not a Trading Day or later than 12:30 p.m. (New York City time) on any Trading Day, (c) the Trading Day following the date of deposit with a nationally recognized overnight courier service, or (d) upon actual receipt by the party to whom such notice is required to be given. The addresses, facsimile numbers and email addresses for such notices and communications are those set forth on the signature pages hereof, or such other address or facsimile number as may be designated in writing hereafter, in the same manner, by any such Person.

5.3 **Assignments**. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of Investor; provided, however this Agreement shall be assigned to any corporation or association into which the Company may be merged or converted or with which it may be consolidated, or any corporation, association or other similar entity resulting from any merger, conversion or consolidation to which the Company shall be a party without the execution or filing of any paper with any partner hereto or any further act on the part of any of the parties to this Agreement except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding. Investor may not assign this Agreement or any rights or obligations hereunder to any transferee of Investor that is a Total G&P Controlled Corporation (as defined in the Affiliation Agreement).

5.4 **Survival**. With the exception of the representations and warranties set forth in Sections 3.1(a), (b), (c), (d) and (e), which shall survive indefinitely, the representations and warranties contained herein shall not survive any Closing Date.

5.5 **Replacement of Securities**. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof, or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction and the execution by the holder thereof of a customary lost certificate affidavit of that fact and an agreement to indemnify and hold harmless the Company for any losses in connection therewith. The applicants for a new certificate or instrument under such circumstances shall also pay any reasonable third-party costs associated with the issuance of such replacement Securities.

5.6 **Remedies**. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, Investor and the Company will be entitled to seek specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations described in the foregoing sentence and hereby agree to waive in any action for specific performance of any such obligation (other than in connection with any action for a temporary restraining order) the defense that a remedy at law would be adequate.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Private Placement Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

COMPANY

SUNPOWER CORPORATION

By: /s/ Thomas H. Werner

Name: Thomas H. Werner

Title: Chief Executive Officer

77 Rio Robles Street
San Jose, CA 95134
Attention: Chief Financial Officer
Telephone: 408-240-5500
Facsimile: 408-240-5404

With a copy to:

SunPower Corporation
77 Rio Robles Street
San Jose, CA 95134
Attention: Navneet Govil, Vice President and Treasurer
Telephone: 408-457-2655
E-mail: navneet.govil@sunpowercorp.com

With a copy to:

SunPower Corporation
1414 Harbour Way South
Richmond, CA 94804
Attention: General Counsel
Telephone: 510-540-0550
Facsimile: 510-540-0552

With a copy to:

Jones Day
1755 Embarcadero Road
Palo Alto, CA 94303
Facsimile No.: (650) 739-3900
Telephone No.: (650) 739-3999
Attn: R. Todd Johnson
Attn: Steve Gillette

INVESTOR

TOTAL GAS & POWER USA, SAS

By: /s/ Arnaud Chaperon

Name: Arnaud Chaperon
Title: President

Total Gas & Power USA, SAS
2, place Jean Millier
La Défense 6
92400 Courbevoie
France
Attention: Arnaud Chaperon, President
Facsimile: +33 1 47 44 27 90

with copies (which shall not constitute notice) to:

Total S.A.
2, place Jean Millier
La Défense 6
92400 Courbevoie
France
Attention: Olivier Devouassoux, VP Subsidiary Finance Operations
Facsimile: + 33 1 47 44 48 74

Total S.A.
2, place Jean Millier
La Défense 6
92400 Courbevoie
France
Attention: Jonathan Marsh, Vice President, Legal Director Mergers, Acquisitions & Finance
Facsimile: +33 1 47 44 43 05

with copies (which shall not constitute notice) to:

Wilson Sonsini Goodrich & Rosati
Professional Corporation
650 Page Mill Road
Palo Alto, CA 94304
Attn: David Segre
Attn: Richard Cameron Blake
Attn: Michael Occhiolini
Telephone: (650) 493-9300
Facsimile: (650) 493-6811

Schedule 1

Form of Terms Agreement

SunPower Corporation
Private Placement Agreement
Terms Agreement

[Closing Date]

SunPower Corporation
77 Rio Robles Street
San Jose, CA 95134

Attention: [insert names]

Re: Private Placement Agreement dated February 28, 2012 (the "Agreement")

Reference is hereby made to that certain Private Placement Agreement (the "Agreement"), dated as of February 28, 2012, by and between Total Gas & Power USA, SAS, a société par actions simplifiée organized under the laws of the Republic of France ("Investor"), and SunPower Corporation, a Delaware corporation (the "Company"). Capitalized terms used herein and not otherwise defined herein have the respective meanings ascribed to them in the Agreement.

Investor agrees to purchase, and the Company agrees to sell, upon the terms and conditions stated in the Agreement, the following Securities on the following terms on the date hereof:

Common Shares:	[Insert number of shares equal to (i) aggregate amount of relevant Liquidity Injection divided by (ii) Purchase Price per Common Share below, rounded up to the nearest share]
Purchase Price per Common Share:	[Insert price equal to 17% discount to the 30-Day VWAP as defined in the Compensation and Funding Agreement as of the date of issuance]
Aggregate Purchase Price:	[Insert aggregate amount of relevant Liquidity Injection]
Warrant Shares:	[Insert number as calculated pursuant to the Compensation and Funding Agreement]
Exercise Price of Warrant:	[Insert price as calculated pursuant to the Compensation and Funding Agreement]

The Company hereby certifies that (i) each of the representations and warranties of the Company made in the Agreement are true and correct as of the Closing, except as otherwise disclosed or modified by the Disclosure Schedule, and (ii) the Company has no knowledge of any material nonpublic information regarding the Company, except as disclosed on the Disclosure Schedule.

IN WITNESS WHEREOF, the parties hereto have caused this Terms Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

COMPANY

SUNPOWER CORPORATION

By: _____

Name:

Title:

INVESTOR

TOTAL GAS & POWER USA, SAS

By: _____

Name:

Title:

Exhibit A

Form of Warrant

THIS SECURITY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF THE COMPANY THAT THIS SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, INCLUDING RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (II) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (III) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, IN EACH OF CASES (I) THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES.

SUNPOWER CORPORATION

WARRANT

TO PURCHASE COMMON STOCK

Certificate Number: Dated:

For value received, Total Gas & Power USA, SAS, a société par actions simplifiée organized under the laws of the Republic of France (the "***Investor***" and, together with any transferee of the Warrant in accordance with the terms of this Warrant, the "***Holder***"), is entitled to purchase from SunPower Corporation, a Delaware corporation (together with its successors and assigns, the "***Company***"), at any time and from time to time after the date set forth above, subject to the conditions set forth in Sections 1.2(f) and 1.2(g), and prior to 5:00 p.m., New York time, on the Expiration Date (as defined below), at the purchase price of $[•][1] per share (as such price may be adjusted pursuant to Section 2, the "***Exercise Price***") an aggregate of [•][2] fully-paid and nonassessable shares of the Company's common stock, par value $0.001 per share ("***Common Stock***") (as such shares may be adjusted pursuant to Section 2, the "***Warrant Shares***").

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1 Exercise Price to be equal to the 30-Day VWAP (as defined in the Compensation and Funding Agreement) as of the LSA Effective Date (for the warrant specified in Section 2(a) of the Compensation and Funding Agreement) or as of the date of issuance of such Warrant (for the warrants specified in Section 3 of the Compensation and Funding Agreement), as applicable.

2 Warrant Shares to equal amounts specified in Section 2(a) or Section 3, as applicable, as set forth in the Compensation and Funding Agreement.

This Warrant (this "***Warrant***") is being initially issued to the Investor pursuant to a Private Placement Agreement dated [•] (the "***Purchase Agreement***") by and between the Company and the Investor, together with a related Terms Agreement, as each may be amended, restated, modified or supplemented from time to time.

Section 1.Term and Exercise of Warrant.

1.1 Term of Warrant. The Holder shall have the right, subject to the conditions set forth in Sections 1.2(f) and 1.2(g), at any time before 5:00 p.m., New York time, on the seventh anniversary of the date hereof, or, if such date is not a Business Day (as defined below), the next Business Day (the "***Expiration Date***") to exercise this Warrant in accordance with the terms of this Warrant.

1.2 Exercise of Warrant.

(a) Cash Exercise. Subject to Sections 1.2(f) and 1.2(g), this Warrant may be exercised at any time prior to the Close of Business on the Expiration Date (or if the Expiration Date is not a Business Day, the next Business Day) and from time to time, in whole or in part, upon surrender to the Company, together with the duly completed and signed form of notice of exercise (designating thereon the Holder's election to cash exercise ("***Cash Exercise***")) in the form attached (the "***Notice of Exercise***"), and payment to the Company of the Exercise Price in effect on the date of such exercise for the number of Warrant Shares in respect of which this Warrant is then being exercised; provided, that the Holder may not elect to Cash Exercise this Warrant unless there is available an effective registration statement to cover such transaction or such Holder checks the box on the Notice of Exercise thereby representing to the Private Placement Representations (as defined in the Notice of Exercise). Payment of the aggregate Exercise Price upon exercise pursuant to this Section 1.2(a) shall be made by delivery of a check to the principal executive offices of the Company as provided in Section 7 or, at the Holder's discretion, by wire transfer of immediately available funds in accordance with written wire transfer instructions to be provided by the Company at the Holder's request.

(b) Net-Issue Exercise. Subject to Sections 1.2(f) and 1.2(g), in lieu of exercising this Warrant on a cash basis pursuant to Section 1.2(a), the Holder may elect to exercise this Warrant at any time prior to the Expiration Date and from time to time, in whole or in part, on a net-issue basis by electing to receive the number of Warrant Shares which are equal in value to the value of this Warrant (or any portion thereof to be canceled in connection with such Net-Issue Exercise) at the time of any such Net-Issue Exercise, by surrender of this Warrant, together with the duly completed and signed Notice of Exercise (designating the Holder's election to Net-Issue Exercise ("***Net-Issue Exercise***")), to the Company at the principal executive offices of the Company as provided in Section 7. The Notice of Exercise shall be properly marked to indicate (A) the number of Warrant Shares to be delivered to the Holder in connection with such Net-Issue Exercise, (B) the number of Warrant Shares in respect of which this Warrant is being surrendered in payment of the aggregate Exercise Price for the Warrant Shares to be delivered to the Holder in connection with such Net-Issue Exercise, calculated as of the Determination Date (as defined below) and (C) the number of Warrant Shares which remain subject to this Warrant after such Net-Issue Exercise, if any (each as determined in accordance with this Section 1.2(b)). In the event that the Holder elects to exercise this Warrant in whole or

in part on a net-issue basis pursuant to this Section 1.2(b), the Company will issue to the Holder the number of Warrant Shares determined in accordance with the following formula:

$$X = [Y \times (A-B)] / A$$

where:

- "***X***" is the number of Warrant Shares to be issued to the Holder in connection with such Net-Issue Exercise;
- "***Y***" is the number of Warrant Shares to be exercised, up to the number of Warrant Shares subject to this Warrant;
- "***A***" is the Closing Sale Price (as defined below) as of the Determination Date (as defined below) of one share of Common Stock; and
- "***B***" is the Exercise Price in effect as of the date of such Net-Issue Exercise (as adjusted pursuant to Section 2).

The "***Determination Date***" will be the date the Notice of Exercise is given to the Company (determined in accordance with Section 7), or if such date is not a Trading Day, the next succeeding Trading Day.

(c) Fractional Interests. No fractional shares of Common Stock will be issued upon the exercise of this Warrant, but in lieu thereof the Company shall pay therefor in cash an amount equal to the product obtained by multiplying the Closing Sale Price of one share of Common Stock on the Trading Day immediately preceding the date of exercise of the Warrant times such fraction (rounded to the nearest cent).

(d) Deemed Issuance. Subject to 1.2(c), upon such surrender of the Warrant, delivery of the Notice of Exercise and, in the case of a Cash Exercise pursuant to Section 1.2(a), payment of the Exercise Price, the Company will with all reasonable dispatch (and in no event more than three Business Days from delivery of the Notice of Exercise), in the sole discretion of the Holder and as reflected on the Notice of Exercise, either (i) issue and cause to be delivered a certificate or certificates to and in the name of the Holder, or in the name of such other Person as designated by the Holder, or (ii) establish an electronic book entry at the Transfer Agent in a segregated account established by the Transfer Agent for the Holder's benefit and registered in the name of Holder, or in the name of such other Person as designated by the Holder, in either case of (i) or (ii), for the number of full shares of Common Stock so purchased upon the exercise of this Warrant, together with a check or cash in respect of any fraction of a share of Common Stock otherwise deliverable upon such exercise, as provided in Section 1.2(c). Such certificate or certificates shall be deemed to have been issued, or such electronic book entry shall be deemed to have been established, and the Person in whose name any such certificates will be issuable, or in whose name the electronic book entry has been registered, upon exercise of this Warrant (as indicated in the applicable Notice of Exercise) will be deemed to have become a holder of record of such Warrant Shares as of the date of the

surrender of this Warrant and, in the case of a Cash Exercise pursuant to Section 1.2(a), payment of the Exercise Price.

(e) Warrant Exercisable in Whole or in Part. The rights of purchase represented by this Warrant shall be exercisable, at the election of the Holder, either in full or from time to time in part. If this Warrant is exercised in respect of less than all of the Warrant Shares purchasable on such exercise at any time prior to the Expiration Date, a new Warrant of like tenor exercisable for the remaining Warrant Shares may be issued and delivered to the Holder by the Company. This Warrant or any part thereof surrendered in the exercise of the rights thereby evidenced shall thereupon be cancelled by the Company and retired.

(f) Stockholder Approval Condition to Exercise Warrant. The Warrant shall not be exercisable by Holder prior to the date the Company obtains stockholder approval ("Stockholder Approval") with respect to the issuance of Warrant Shares upon exercise of the Warrant in the manner set forth in the Compensation and Funding Agreement, dated February 28, 2012, between the Company and the Investor.

(g) Holder's Exercise Limitations. So long as the Company has at least $25 million aggregate principal amount of Convertible Notes outstanding, the Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, to the extent that after giving effect to such issuance after exercise as set forth on the Notice of Exercise, the Holder would, directly or indirectly, including through one or more wholly-owned subsidiaries, become the "beneficial owner" (as these terms are defined in Rule 13d-3 and Rule 13d-5 under the Exchange Act), of more than 74.99% of the voting power of the Company's capital stock that is at the time entitled to vote by the holder thereof in the election of the Board of Directors (or comparable body). Upon request by Holder, the Company shall obtain a written statement from its Transfer Agent setting forth the number of shares of Common Stock outstanding.

(h) Listing and Reservation Covenants. On and after the date of such Stockholder Approval, the Company shall (i) cause the Warrant Shares to be approved for listing on the NASDAQ Global Select Market or such other securities exchange or market as the Common Stock is listed from time to time, subject to official notice of issuance and (ii) for as long as this Warrant remains outstanding, at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock or shares of Common Stock held in treasury by the Company, for the purpose of effecting the exercise of this Warrant, the number of Warrant Shares then issuable upon the exercise hereof (after giving effect to all anti-dilution adjustments provided for herein). All Warrant Shares delivered upon exercise of this Warrant shall be newly issued shares or shares held in treasury by the Company, shall have been duly authorized and validly issued and shall be fully paid and nonassessable, and shall be free from preemptive rights and free of any lien or adverse claim (except for liens or adverse claims arising from the action or inaction of Holder).

Section 2. Adjustment of Exercise Price and Warrant Shares.

The Exercise Price and the number of Warrant Shares purchasable upon the exercise of this Warrant shall be subject to adjustment from time to time as set forth below.

2.1 Adjustment for Change in Capital Stock. If, after the Issue Date of the Warrant, the Company:

(a) pays a dividend or makes a distribution payable exclusively in shares of Common Stock on all or substantially all shares of the Company's Common Stock;

(b) subdivides the outstanding shares of Common Stock into a greater number of shares; or

(c) combines the outstanding shares of Common Stock into a smaller number of shares;

then the Exercise Price will be decreased (or increased with respect to an event in clause (c)) based on the following formula:

$$R' = R \times \frac{OS'}{OS}$$

where,

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such dividend or distribution, or immediately after the Open of Business on the effective date of such subdivision or combination, as the case may be;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such dividend or distribution, or immediately prior to the Open of Business on the effective date of such subdivision or combination, as the case may be;

OS'= the number of shares of Common Stock outstanding immediately prior to the Open of Business on the record date for such dividend or distribution, or immediately prior to the Open of Business on the effective date of such subdivision or combination, as the case may be; and

OS = the number of shares of Common Stock outstanding immediately after the Open of Business on the record date for such dividend or distribution, or immediately after the Open of Business on the effective date of such subdivision or combination, as the case may be.

Such adjustment shall become effective immediately after the Open of Business on the record date for such dividend or distribution, or the effective date for such subdivision or combination, as the case may be. If any dividend or distribution of the type described in this Section 2.1 is declared but not so paid or made, or the outstanding shares of Common Stock are not split or combined, as the case may be, the Exercise Price shall be immediately readjusted, effective as of the date the Company's board of directors or a duly appointed committee thereof

(the "***Board of Directors***") determines not to pay such dividend or distribution, or split or combine the outstanding shares of Common Stock, as the case may be, to the Exercise Price that would then be in effect if such dividend, distribution, share split or share combination had not been declared or announced.

2.2 Adjustment for Rights Issue. If, after the Issue Date of the Warrant, the Company distributes any rights, options or warrants (other than pursuant to a Shareholders' Rights Plan (defined below)) to all or substantially all holders of the Company's Common Stock entitling them to purchase (for a period not more than 45 days from the record date for such distribution) shares of Common Stock at a price per share less than the average of the Closing Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including the Trading Day immediately preceding the record date for such distribution, the Exercise Price shall be decreased in accordance with the formula:

$$R' = R \times \frac{O + \left(\frac{N \times P}{M}\right)}{(O + N)}$$

where:

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such distribution;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such distribution;

O = the number of shares of Common Stock outstanding immediately prior to the Open of Business on the record date for such distribution;

N = the number of additional shares of Common Stock issuable pursuant to such rights, options or warrants;

P = the per-share offering price payable to exercise such rights, options or warrants for the additional shares plus the per-share consideration (if any) the Company receives for such rights, options or warrants; and

M = the average of the Closing Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the record date with respect to the distribution.

Such adjustment shall be successively made whenever any such rights, options or warrants are distributed and shall become effective immediately after the Open of Business on the record date for such distribution. To the extent that shares of the Common Stock are not delivered after the expiration of such rights, options or warrants, the Exercise Price shall be increased to the Exercise Price that would then be in effect had the adjustments made upon the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are

not so issued, the Exercise Price shall be increased promptly to be the Exercise Price that would then be in effect if such record date for such distribution had not been fixed.

For purposes of this Section 2.2, in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase Common Stock at less than the average of the Closing Sale Prices of Common Stock for each Trading Day in the applicable 10 consecutive Trading Day period, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

2.3 Adjustment for Other Distributions. If, after the Issue Date of the Warrant, the Company distributes to all or substantially all holders of its Common Stock any of its debt or other assets or property (including cash, rights, options or warrants to acquire capital stock of the Company or other securities, but excluding (a) dividends or distributions (including subdivisions) referred to in Section 2.1 and distributions of rights, warrants or options referred to in Section 2.2, (b) rights issued to all holders of Common Stock pursuant to a Shareholders' Rights Plan, where such rights are not presently exercisable, continue to trade with Common Stock and holders will receive such rights together with Common Stock upon exercise of the Warrant), (c) dividends or other distributions paid exclusively in cash (to which Section 2.4 shall apply) and (d) any Spin-off to which the provisions set forth below in this Section 2.3 shall apply) ("***Distributed Property***"), the Exercise Price shall be decreased, in accordance with the formula:

$$R' = R \times \frac{M - F}{M}$$

where:

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such distribution;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such distribution;

M = the average of the Closing Sale Prices of Common Stock for the 10 consecutive Trading Day period ending on, and including, the record date for such distribution; and

F = the fair market value, as determined by the Board of Directors, of the portion of the Distributed Property to be distributed in respect of each share of Common Stock immediately as of the Open of Business on the record date for such distribution.

Such adjustment shall become effective immediately prior to the Open of Business on the record date for such distribution. Notwithstanding the foregoing, if "F" as set forth above is equal to or greater than "M" as set forth above, in lieu of the foregoing adjustment, the Holder shall receive, at the same time and up on the same terms as holders of Common Stock, the amount and kind of Distributed Property the Holder would have received had the Holder owned a number of shares of Common Stock issued upon such exercise immediately prior to the record date for such distribution. If such distribution is not so paid or made, the Exercise Price shall

again be adjusted to be the Exercise Price that would then be in effect if such dividend or distribution had not been declared. If the Board of Directors or a committee thereof determines "F" for purposes of this Section 2.3 by reference to the actual or when issued trading market for any Common Stock, it must in doing so consider the prices in such market over the same period used in computing the Closing Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the record date for such distribution.

With respect to an adjustment pursuant to this Section 2.3 where there has been a payment of a dividend or other distribution on the Common Stock in shares of capital stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit, where such capital stock or similar equity interest is listed or quoted (or will be listed or quoted upon consummation of the Spin-off) on a national securities exchange or reasonably comparable non-U.S. equivalent, which is referred to herein as a "***Spin-off***," the Exercise Price will be decreased based on the following formula:

$$R' = R \times \frac{MP}{F + MP}$$

R' = the Exercise Price in effect immediately after the end of the Valuation Period (as defined below);

R = the Exercise Price in effect immediately prior to the end of the Valuation Period;

F = the average of the Closing Sale Prices of the capital stock or similar equity interest distributed to holders of the Common Stock applicable to one share of the Common Stock over the first 10 consecutive Trading Day period immediately following, and including, the effective date for the Spin-off (such period, the "***Valuation Period***"); and

MP = the average of the Closing Sale Prices of the Common Stock over the Valuation Period.

The adjustment to the Exercise Price under the preceding paragraph of this Section 2.3 will be made immediately after the Close of Business on the last day of the Valuation Period, but will be given effect as of the Open of Business on the effective date for the Spin-off. For purposes of determining the Exercise Price in respect of any exercise during the 10 Trading Days commencing on the effective date for any Spin-off, references within the portion of this Section 2.3 related to "Spin-offs" to 10 consecutive Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the effective date for such Spin-off to, but excluding, the relevant Determination Date.

For purposes of this Section 2.3, in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of the Common Stock at less than the average of the Closing Sale Prices of the Common Stock for each Trading Day in the applicable 10 consecutive Trading Day period, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

If, prior to a Determination Date, a record date for a Spin-off has been set but the relevant dividend or distribution has not yet resulted in an adjustment to the Exercise Price and an exercising Holder is not entitled to participate in the dividend or distribution with respect to the shares of Common Stock the Holder receives upon exercise (whether because the Holder was not a holder of such shares of Common Stock on the effective date for such dividend or distribution or otherwise), then as promptly as practicable following the Determination Date, the Company will deliver to the Holder a number of additional shares of Common Stock that reflects the increase to the number of Warrant Shares deliverable as a result of the Spin-off.

2.4 Adjustment for Cash Distributions. If, after the Issue Date of the Warrant, the Company makes a distribution to all or substantially all holders of its Common Stock consisting exclusively of cash, the Exercise Price shall be adjusted in accordance with the formula:

$$R' = R \times \frac{SP - C}{SP}$$

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such distribution;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such distribution;

SP = the average of the Closing Sale Prices of Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the record date for such distribution; and

C = the amount in cash per share the Company distributes to holders of Common Stock.

The adjustment shall become effective immediately after the Open of Business on the record date with respect to the distribution.

Notwithstanding the foregoing, if “C” as set forth above is equal to or greater than “SP” as set forth above, in lieu of the foregoing adjustment, adequate provision shall be made so that the Holder shall have the right to receive on the date on which the relevant cash dividend or distribution is distributed to holders of Common Stock, the amount of cash the Holder would have received had the Holder owned a number of shares exercisable from the Exercise Price on the record date for such distribution. If such dividend or distribution is not so paid or made, the Exercise Price shall again be adjusted to be the Exercise Price that would then be in effect if such dividend or distribution had not been declared.

2.5 Adjustment for Company Tender Offer. If, after the Issue Date of the Warrant, the Company or any Subsidiary makes a payment to holders of the shares of Common Stock in respect of a tender or exchange offer, other than an odd-lot offer, by the Company or any of its Subsidiaries for shares of Common Stock, to the extent that the cash and value of any other consideration included in the payment per share of Common Stock exceeds the average of the Closing Sale Prices over the 10 consecutive Trading Day period commencing on, and

including the Trading Day immediately following the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer (the "***Expiration Date***"), the Exercise Price shall be decreased based on the following formula:

$$R' = R \times \frac{OS \times SP}{F + (SP \times OS')}$$

R' = the Exercise Price in effect immediately after the Open of Business on the Trading Day immediately following the Expiration Date;

R = the Exercise Price in effect immediately prior to the Open of Business on the Trading Day immediately following the Expiration Date;

F = the aggregate fair market value, as determined by the Board of Directors, of all cash and other consideration payable in such tender or exchange offer for shares purchased in such tender or exchange offer, such value to be measured as of the expiration time of the tender or exchange offer (the "***Expiration Time***");

OS = the number of shares of Common Stock outstanding immediately prior to the Expiration Time (prior to giving effect to such tender offer or exchange offer);

OS'= the number of shares of Common Stock outstanding immediately after the Expiration Time (after giving effect to such tender offer or exchange offer); and

SP = the average of the Closing Sale Prices of Common Stock over the 10 consecutive Trading Day period commencing on, and including, the Trading Day immediately following the Expiration Date.

The adjustment to the Exercise Price under this Section 2.5 will be made immediately after the Open of Business on the 11th Trading Day following the Expiration Date but will be given effect at the Open of Business on the Trading Day following the Expiration Date. For purposes of determining the Exercise Price, in respect of any exercise during the 10 Trading Days commencing on the Trading Day immediately following the Expiration Date, references within this Section 2.5 to 10 Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Trading Day following the Expiration Time to, but excluding, the relevant Determination Date.

2.6 When No Adjustment Required. No adjustment need be made as a result of:

(a) the issuance of the rights pursuant to the Company's adoption of a stockholders rights plan that provides that each share of Common Stock issued upon exercise of the Warrant at any time prior to the distribution of separate certificates representing rights will be entitled to receive the right (a "***Stockholder Rights Plan***");

(b) the distribution of separate certificates representing the rights under a Stockholder Rights Plan;

(c) the exercise or redemption of the rights in accordance with any rights agreement under a Stockholder Rights Plan;

(d) the termination or invalidation of the rights under a Stockholder Rights Plan;

(e) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on securities of the Company and the investment of additional optional amounts in Common Stock under any plan;

(f) upon the issuance of any shares of Common Stock or options or rights to purchase or be issued those shares pursuant to any present or future employee, director or consultant benefit plan or program of, or assumed by, the Company or any of its Subsidiaries;

(g) ordinary course of business stock repurchases, including structured or derivative transactions pursuant to a stock repurchase program approved by the Board of Directors (but, for the avoidance of doubt, excluding transactions described in Section 2.5);

(h) upon the issuance of any shares of Common Stock or any securities convertible into, or exchangeable for shares of Common Stock, or the right to purchase shares of Common Stock or such convertible or exchangeable securities other than as described in Sections 2.2 or 2.3; or

(i) for a change in the par value of Common Stock.

If any event described in Section 2.6 (a) through (d) occurs, the Holder will receive the rights upon exercise, unless, prior to any exercise, the rights have separated from the Common Stock. If the rights have separated, the Exercise Price will be decreased at the time of separation as provided by Section 2.2 or 2.3, as applicable, subject to readjustment in the event of expiration, termination or redemption of such rights.

Notwithstanding the foregoing, no adjustment need be made to the Exercise Price pursuant to Section 2.1, 2.2, 2.3, 2.4 or 2.5 if the Holder is entitled to participate (as a result of holding this Warrant, and at substantially the same time as Common Stock holders participate), subject to notice of such entitlement to the Holder, in the transaction that would otherwise trigger the applicable adjustment, as if the Holder held a number of shares of Common Stock issuable upon exercise of this Warrant. No adjustment need be made if the Common Stock to be issued upon exercise will actually receive the consideration provided in, or be subject to, the transaction that would otherwise trigger the adjustment.

2.7 Effect of Reclassification, Consolidation, Merger or Sale.

(a) Upon the occurrence of (i) any reclassification of the outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a split, subdivision or combination covered by Section 2.1), (ii) any consolidation, merger, sale of all or substantially all of the Company's assets (other than a sale of all or substantially all of the assets of the Company in a transaction in

which the holders of Common Stock immediately prior to such transaction do not receive securities, cash or other assets of the Company or any other Person), or (iii) a binding share exchange which reclassifies or changes the outstanding shares of Common Stock, in each case as a result of which the holders of Common Stock shall be entitled to receive cash, securities or other property or assets with respect to or in exchange for such Common Stock (any such event, a "***Merger Event***"), then at the effective time of the Merger Event, the right to exercise this Warrant will be changed into a right to exercise this Warrant into the type and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) that a holder of a number of shares of Common Stock issuable upon exercise of this Warrant immediately prior to such Merger Event would have owned or been entitled to receive (the "***Reference Property***") upon such Merger Event. If the Merger event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), the Reference Property to be received upon exercise will be deemed to be the weighted average of the types and amounts of Reference Property to be received by the holders of Common Stock that affirmatively make such election).

(b) If the Company consummates a Merger Event, the Company shall promptly provide notice to the Holder briefly describing the Merger Event and stating the type or amount of cash, securities, property or other assets that will comprise the Reference Property after any such Merger Event and any adjustment to be made with respect thereto.

(c) The above provisions of this Section shall similarly apply to successive Merger Events.

2.8 Simultaneous Adjustments. In the event that this Section 2 requires simultaneous adjustments to the Exercise Price under more than one of Sections 2.1, 2.2, 2.3 or 2.4 of this warrant then the Board of Directors of the Company shall make such adjustments to the Exercise Price in good faith and in a commercially reasonable manner.

2.9 Successive Adjustments. After an adjustment to the Exercise Price under this Section 2, any subsequent event requiring an adjustment under this Section 2 shall cause an adjustment to the Exercise Price as so adjusted.

2.10 Limitation on Adjustments. The Company shall not take any action that would result in an adjustment pursuant to the foregoing provisions in this Section 2 if that adjustment would reduce the Exercise Price below the then par value of the shares of Common Stock issuable upon exercise of the Warrant. In no event will the Exercise Price be increased other than as a result of a transaction described in Section 2.1(c).

2.11 Adjustment of Number of Warrant Shares. Upon each adjustment of the Exercise Price pursuant to this Section 2, each Warrant outstanding prior to the making of the adjustment in the Exercise Price shall thereafter evidence the right to receive upon payment of the adjusted Exercise Price that number of shares of Common Stock (calculated to the nearest hundredth) obtained from the following formula:

$$N' = N \times (E / E')$$

where:

N' = the adjusted number of Warrant Shares issuable upon exercise of a Warrant by payment of the adjusted Exercise Price.

N = the number of Warrant Shares previously issuable upon exercise of a Warrant by payment of the Exercise Price prior to adjustment.

E' = the adjusted Exercise Price.

E = the Exercise Price prior to adjustment.

2.12 No Avoidance. If the Company shall enter into any transaction for the purpose of avoiding the provisions of this Section 2, the benefits provided by such provisions shall nevertheless apply and be preserved.

2.13 Notices.

(a) Promptly after any adjustment of the Exercise Price or the number of Warrant Shares issuable hereunder, the Company shall give written notice thereof to the Holder, setting forth in reasonable detail the calculation of such adjustment.

(b) The Company shall give written notice to the Holder at least five (5) Business Days prior to the date on which the Company (I) closes its books or takes a record (a) with respect to any dividend or distribution on the Common Stock, (b) with respect to any pro rata subscription offer to holders of Common Stock, (c) with respect to any pro rata redemption or similar offer to holders of the Common Stock or (d) for determining rights to vote with respect to any Merger Event, dissolution or liquidation or (II) enters into any transaction that will result in an adjustment of the Exercise Price or the number of Warrant Shares issuable hereunder.

Section 3. Restriction on Transfer of Warrant and Warrant Shares.

(a) On or after the Issue Date, the Holder may transfer this Warrant or the Warrant Shares to any Person:

(i) pursuant to a registration statement that is, at the time of such transfer, effective under the Securities Act;

(ii) pursuant to Rule 144 promulgated under the Securities Act; or

(iii) in a transaction otherwise exempt from the registration requirements of the Securities Act (subject to the requirements of such exemption).

(b) Notwithstanding the foregoing, the following terms and conditions will apply to each transfer provided for in Section 3(a):

(i) in the case of a transfer pursuant to Section 3(a)(ii) or (iii), as a condition precedent to such transfer, unless otherwise agreed by the Company in writing, the transferor must deliver an opinion of counsel reasonably satisfactory to the Company to the effect that the proposed transfer is exempt from registration under the Securities Act and applicable state securities laws; and

(ii) no Holder that is subject to the Company's then-applicable insider trading policy may transfer any of the Warrants or any Warrant Shares except to the extent permitted under such trading policy.

(c) By its acceptance of this Warrant, each Holder (i) shall be deemed to have acknowledged and agreed to the restrictions on transfer described in this Section, and to have acknowledged that the Company will rely upon the truth and accuracy of such acknowledgement and agreement and (ii) agrees to the imprinting of the following legend on any certificate or book-entry evidencing this Warrant and the Warrant Shares:

THIS SECURITY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF THE COMPANY THAT THIS SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, INCLUDING RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (II) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (III) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, IN EACH OF CASES (I) THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES.

(d) Except as provided in Section 3(a) and (b) above, this Warrant, the rights represented hereby and the Warrant Shares may not be transferred in whole or in part by the Holder. In order to effect any transfer or partial transfer of this Warrant, the Holder shall deliver this Warrant to the Company with the notice of transfer in the form attached (the "***Notice of Transfer***") completed and duly executed. Upon receipt of Notice of Transfer and the opinion of counsel required by this Section, if any, the Company shall promptly (i) issue to the transferee a new Warrant for the number of Warrant Shares assigned by the Holder, and (ii) to the extent the transfer contemplated by the Notice of Transfer is not for the entire number of Warrant Shares represented by this Warrant, issue to the Holder a replacement Warrant representing the balance of such Warrant.

(e) The Company shall not be required to register any transfer of the Warrants or the Warrant Shares in violation of this Section or applicable securities laws. The

Company may, and may instruct any transfer or warrant agent for the Company to, place such stop transfer orders as may be required on the transfer books of the Company in order to ensure compliance with the provisions of this Section and applicable securities laws.

Section 4. **Taxes**. The issuance of certificates for Warrant Shares or the establishment of an electronic book entry upon the exercise of the rights represented by this Warrant will be made without charge to the Holder for any issuance tax in respect thereof; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate or establishment of an electronic book entry in a name other than that of the Holder.

Section 5. **Mutilated or Missing Warrant**. If this Warrant shall be mutilated, lost, stolen or destroyed and the Company shall receive evidence thereof and (except with respect to mutilated Warrants returned to the Company) indemnity reasonably satisfactory to it, then the Company shall issue and deliver in exchange and substitution for and upon cancellation of the mutilated Warrant, or in lieu of and substitution for the Warrant lost, stolen or destroyed, a new Warrant of like tenor and representing an equivalent right or interest. An applicant for such a substitute Warrant shall comply with such other reasonable requirements and pay such reasonable charges as the Company may prescribe, including, without limitation, the execution and delivery of a lost Warrant affidavit and indemnification agreement in a form reasonably satisfactory to the Company and its counsel.

Section 6. **No Rights as Stockholder until Exercise**. Except as provided in Section 1.2(d), nothing contained in this Warrant shall be construed as conferring upon the Holder the right to vote or to receive dividends or to consent or to receive notice as stockholders in respect of any meeting of stockholders for the election of directors of the Company or any other matter, or any rights whatsoever as stockholders of the Company.

Section 7. **Notices**. All notices and other communications required or permitted to be given with respect to the Warrant shall be in writing signed by the sender, and shall be considered given: (w) on the date delivered, if personally delivered during normal business hours, or on the next Business Day if delivered after normal business hours of the recipient; (x) on the date sent by telecopier with automatic confirmation of the transmitting machine showing the proper number of pages were transmitted without error, if sent during normal business hours of the recipient, or on the next Business Day if sent after normal business hours; (y) on the Business Day after being sent by Federal Express or another recognized overnight delivery service in time for and specifying next day or next business day delivery; or (z) five (5) Business Days after mailing, if mailed by United States postage-paid certified or registered mail, return receipt requested, in each instance referred to in the preceding clauses (y) and (z) only if all delivery charges are pre-paid. Each such notice or other communication shall be given to the Holder at the address in a Warrant register to be created and maintained by the Company and to the Company at its principal executive offices.

Section 8. **No Waivers; Remedies; No Impairment**. Prior to the Expiration Date, no failure or delay by the Holder in exercising any right, power or privilege with respect to the Warrant shall operate as a waiver of the right, power or privilege. A single or partial exercise of any right, power or privilege shall not preclude any other or further exercise of the right, power

or privilege or the exercise of any other right, power or privilege. The rights and remedies provided in the Warrant shall be cumulative and not exclusive of any rights or remedies provided by law. The Company will not, by amendment of its charter or by-laws or through any other means, directly or indirectly, avoid or seek to avoid the observance or performance of any of the terms of this Warrant and will at all time in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate in order to protect the rights of the Holder against impairment.

Section 9. **Amendments**. No amendment, modification, termination or waiver of any provision of the Warrant, and no consent to any departure from any provision of the Warrant, shall be effective unless it shall be in writing and signed and delivered by the Company and the Holder. Notwithstanding the foregoing, neither Sections 1.2(f) or 1.2(g), nor this sentence, may be amended.

Section 10. **Governing Law**. This Warrant shall be governed by and construed in accordance with the laws of the State of New York that apply to contracts made and performed entirely within such state.

Section 11. **Severability of Provisions: Successors**. Any provision of this Warrant that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions of the Warrant or affecting the validity or enforceability of the provision in any other jurisdiction. This Warrant shall be binding upon any entity succeeding the Company by merger, consolidation or otherwise. All of the covenants and agreements of the Company shall inure to the benefit of successors and permitted assigns of the Holder.

Section 12. **Titles and Subtitles; Section References**. The titles and subtitles used in this Warrant are used for convenience only and are not to be considered in construing or interpreting this Warrant. Unless otherwise stated, references to Sections are to the Sections of this Warrant.

Section 13. **Purchase Agreement**. The Company will provide any Holder with a copy of the Purchase Agreement upon request.

Section 14. **Definitions**. For purposes of this Warrant, the following terms have the following meanings:

(a) "***Business Day***" means any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in such state are authorized or required by law or other governmental action to close.

(b) "***Close of Business***" means 5:00 p.m. (New York City time).

(c) "***Closing Sale Price***" of the Common Stock on any date means the closing per-share sale price (or if no closing per-share sale price is reported, the average of the last bid and ask prices or, if more than one in either case, the average of the average last bid and the average last ask prices) on that date as reported the principal other national or regional

securities exchange on which the shares of the Common Stock are then traded. The Closing Sale Price will be determined without reference to after-hours or extended market trading. If the Common Stock is not so listed for trading on the relevant date, then the "Closing Sale Price" of the Common Stock will be the last quoted bid price for Common Stock in the over-the-counter market on the relevant date as reported by Pink OTC Markets Inc. or a similar organization. If the Common Stock is not so quoted, then the "Closing Sale Price" of the Common Stock will be determined by a U.S. nationally recognized independent investment banking firm selected by the Company for this purpose.

(d) "***Convertible Notes***" means the Company's 4.75% Senior Convertible Debentures due 2014 and 4.5% Senior Convertible Debentures due 2015.

(e) "***Exchange Act***" means the Securities Exchange Act of 1934, as amended.

(f) "***Issue Date***" means the date on which the Warrant was originally issued or deemed issued as set forth on the face of the Warrant.

(g) "***Market Disruption Event***" means the occurrence or existence on any Scheduled Trading Day for the Common Stock of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the stock exchange or otherwise) in the Common Stock or in any options contracts or futures contracts relating to the Common Stock, and such suspension or limitation occurs or exists at any time within the 30 minutes prior to the closing time of the relevant exchange on such Scheduled Trading Day.

(h) "***Open of Business***" means 9:00 a.m. (New York City time).

(i) "***Person***" means any individual, corporation, partnership, company, trust, unincorporated organization or any other form of entity.

(j) "***Scheduled Trading Day***" means any day that is scheduled by the applicable exchange to be a Trading Day, provided that if the Common Stock is not listed or traded, then a "Scheduled Trading Day" shall have the same meaning as Business Day.

(k) "***Securities Act***" means the Securities Act of 1933, as amended.

(l) "***Subsidiary***" means a Person more than 50% of the outstanding voting stock of which is owned, directly or indirectly, by the Company or by one or more other Subsidiaries of the Company, or by the Company and one or more other Subsidiaries of the Company.

(m) "***Trading Day***" means a day on which (i) there is no Market Disruption Event and (ii) trading in the Company's securities generally occurs on the NASDAQ Global Select Market, or if shares of Common Stock are not listed on the NASDAQ Global Select Market, then as reported by the principal other national or regional securities exchange on which the shares of Common Stock are then traded, or if the Common Stock is not listed or approved for trading on another national or regional securities exchange, on the principal market

on which shares of the Common Stock are then traded, provided that if the Common Stock is not so listed or traded, then a "Trading Day" shall have the same meaning as Business Day.

(n) "***Transfer Agent***" means Computershare Trust Company, N.A., or any successor transfer agent for the Company.

[The next page is the signature page]

The Company has executed and delivered this Warrant as of the date set forth above.

SUNPOWER CORPORATION

By: _____
Name:
Title:

Accepted:

TOTAL GAS & POWER USA, SAS

By: _____
Name:
Title:

NOTICE OF EXERCISE
(To Be Completed Only Upon Exercise)

TO: SunPower Corporation
77 Rio Robles
San Jose, California 95134

1. The undersigned hereby irrevocably elects to exercise the Warrant with respect to _____ Warrant Shares pursuant to the terms of the Warrant.

2. If **Cash Exercise**, check this box o: The undersigned tenders herewith full payment of the aggregate cash exercise price equal to $_____ U.S. Dollars for such shares in accordance with the terms of the Warrant.

3. If **Cash Exercise** and there is no effective registration statement under the Securities Act to cover the issuance of the Warrant Shares upon such Cash Exercise, check this box o: The undersigned hereby makes the representations and warranties set forth in Section 3.2 of the Purchase Agreement as if it were the "Investor" and the Warrant Shares to be issued upon this exercise were the "Securities" (the "**Private Placement Representations**").

4. If **Net-Issue Exercise**, check this box o: The undersigned exercises the Warrant on a net-issue basis pursuant to the terms set forth in the Warrant. Net-Issue Information:

(a) Number of Warrant Shares to be Issued to Holder: _____
(b) Number of Warrant Shares Subject to Warrant Surrendered: _____
(c) Number of Warrant Shares Remaining Subject to Warrant, if any: _____

5. (Select one option below):

Please issue a certificate or certificates representing said Warrant Shares in such name or names as specified below:

_____
(Name and Address)

_____

_____

Please establish an electronic book entry at the Transfer Agent in a segregated account established by the Transfer Agent for the benefit of and registered in the name of such name or names as specified below:

_____
(Name and Address)

_____

_____

Determination Date:_____ By: _____

(Signature must conform in all respects to name of the Holder as set forth on the face of the Warrant)

NOTICE OF TRANSFER
(To Be Completed Only Upon Transfer)

TO: SunPower Corporation
77 Rio Robles
San Jose, California 95134

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ the right represented by this Warrant, to purchase _____ Warrant Shares.

Please issue a Warrant representing the right to purchase such Warrant Shares in such name or names as specified below:

_____

(Name and Address)

_____

_____

The undersigned requests the Company, by written order to exchange or register the transfer of a Warrant or Warrants, and, to the extent the transfer contemplated by this notice is not for the entire number of Warrant Shares represented by this Warrant, to issue a replacement Warrant in the name of the undersigned representing the balance of such Warrant Shares.

By executing and delivering this Notice of Transfer, the undersigned represents and warrants that transfer contemplated hereby is being made in accordance with Section 3 of this Warrant.

Determination Date:_____ By: _____

(Signature must conform in all respects to name of the Holder as set forth on the face of the Warrant)

Exhibit B

COMPANY TRANSFER AGENT INSTRUCTIONS

[ISSUER LETTERHEAD]

Computershare Trust Company, N.A.
250 Royall Street
Canton, Massachusetts 02021
Attention: Dan Glennon, Account Representative

Ladies and Gentlemen:

Reference is made to that certain Private Placement Agreement, dated as of [Date] (the "***Agreement***"), by and among SunPower Corporation (the "***Company***"), and Total Gas & Power USA, SAS, a *société par actions simplifiée* organized under the laws of the Republic of France (the "***Holder***"), and that certain Terms Agreement dated as of [Date], pursuant to which the Company is issuing to the Holder [insert number] shares (the "***Common Shares***") of Common Stock of the Company, $0.001 par value (the "***Common Stock***").

In connection with the consummation of the transactions contemplated by the Agreement and the Terms Agreement, this letter shall serve as our irrevocable authorization and direction to Computershare Trust Company, N.A., transfer agent for the Company, and its service agent Computershare Inc. (collectively, Computershare"):

(i) to issue an aggregate of _____ shares of our Common Stock to _____. Establish and credit, on an expedited basis, a restricted book entry evidencing the Common Shares in a segregated account for such party's benefit using the following registration:

[To be provided]

The book entry shall be restricted and "**stop transfer**" instructions should be placed against the subsequent transfer of the Common Stock evidenced by such book entry. We confirm that the Common Shares will be validly issued, fully paid and non-assessable upon issuance; and

(ii) to issue (provided that Computershare Trust Company, N.A. is the transfer agent of the Company at such time), and all subject to compliance with Computershare's requirements at such time, certificate(s) or book entry position(s) for shares of Common Stock upon registration by Computershare on the Company's books and records of a transfer or resale of the Common Shares and receipt by Computershare of all documentation required by Computershare in connection with such transfer or resale, including but not limited to duly endorsed documents or stock powers duly endorsed, in each case with signatures guaranteed and otherwise in form eligible for transfer in accordance with Computershare's requirements.

Computershare acknowledges and agrees that so long as Computershare has previously received (a) a written opinion from the Company's legal counsel that either (i) a registration statement covering resales of the Common Shares has been declared effective by the Securities and Exchange Commission (the "***SEC***") under the Securities Act of 1933, as amended (the "***Securities Act***"), or (ii) the Common Shares are eligible for sale in conformity with Rule 144 under the Securities Act ("***Rule 144***"), (b) if applicable, a copy of such registration statement, and (c) all

additional documentation as may be required by Computershare at such time in order to process the requested transaction, then, unless otherwise required by law, following Computershare's receipt of certificates representing the Common Shares or a letter of instruction relating to the Common Shares, Computershare shall either, as directed by the Holder or its duly authorized representative (x) issue the certificates representing the Common Shares to the Holder or its transferees, as the case may be, registered in the names of the Holder or transferees, as the case may be, and such certificates shall not bear any legend restricting transfer of the Common Shares thereby and should not be subject to any stop-transfer restriction, (y) establish and credit a Direct Registration System entry representing the Common Shares to a segregated account established by you for the Holder's benefit, or (z) issue to such Holder by electronic delivery at the applicable balance account at The Depository Trust Company ("***DTC***"). Any certificates tendered for transfer shall be endorsed or with stock powers attached, signatures guaranteed, and otherwise in form necessary to affect transfer, in accordance with Computershare's requirements.

Please be advised that the Holder is relying upon this letter as an inducement to enter into the Agreement and the Terms Agreement.

Please execute this letter in the space indicated to acknowledge your agreement to act in accordance with these instructions. Should you have any questions concerning this matter, please contact our counsel, R. Todd Johnson, Esq., at (650) 739-3999.

Very truly yours,

SUNPOWER CORPORATION

By: _____
Name: Thomas H. Werner
Title: Chief Executive Officer

THE FOREGOING INSTRUCTIONS ARE
ACKNOWLEDGED AND AGREED TO
this ___ day of [Month, Year]

COMPUTERSHARE TRUST COMPANY, N.A.
and COMPUTERSHARE INC.

By: _____
Name: _____
Title: _____

Enclosures

Exhibit 10.95

THIS SECURITY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF THE COMPANY THAT THIS SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, INCLUDING RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (II) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (III) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, IN EACH OF CASES (I) THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES.

SUNPOWER CORPORATION

WARRANT

TO PURCHASE COMMON STOCK

Certificate Number: Dated:

For value received, Total Gas & Power USA, SAS, a société par actions simplifiée organized under the laws of the Republic of France (the "***Investor***" and, together with any transferee of the Warrant in accordance with the terms of this Warrant, the "***Holder***"), is entitled to purchase from SunPower Corporation, a Delaware corporation (together with its successors and assigns, the "***Company***"), at any time and from time to time after the date set forth above, subject to the conditions set forth in Sections 1.2(f) and 1.2(g), and prior to 5:00 p.m., New York time, on the Expiration Date (as defined below), at the purchase price of $[•][1] Exercise Price to be equal to the 30-Day VWAP (as defined in the Compensation and Funding Agreement) as of the LSA Effective Date (for the warrant specified in Section 2(a) of the Compensation and Funding Agreement) or as of the date of issuance of such Warrant (for the warrants specified in Section 3 of the Compensation and Funding Agreement), as applicable. per share (as such price may be adjusted pursuant to Section 2, the "***Exercise Price***") an aggregate of [•][2] Warrant Shares to equal amounts specified in Section 2(a) or Section 3, as applicable, as set forth in the Compensation and Funding Agreement. fully-paid and nonassessable shares of the Company's common stock, par value $0.001 per share ("***Common Stock***") (as such shares may be adjusted pursuant to Section 2, the "***Warrant Shares***").

1. Exercise Price to be equal to the 30-Day VWAP (as defined in the Compensation and Funding Agreement) as of the LSA Effective Date (for the warrant specified in Section 2(a) of the Compensation and Funding Agreement) or as of the date of issuance of such Warrant (for the warrants specified in Section 3 of the Compensation and Funding Agreement), as applicable.

2. Warrant Shares to equal amounts specified in Section 2(a) or Section 3, as applicable, as set forth in the Compensation and Funding Agreement.

This Warrant (this "***Warrant***") is being initially issued to the Investor pursuant to a Private Placement Agreement dated [•] (the "***Purchase Agreement***") by and between the Company and the Investor, together with a related Terms Agreement, as each may be amended, restated, modified or supplemented from time to time.

Section 1. **Term and Exercise of Warrant**.

1.1 **Term of Warrant**. The Holder shall have the right, subject to the conditions set forth in Sections 1.2(f) and 1.2(g), at any time before 5:00 p.m., New York time, on the seventh anniversary of the date hereof, or, if such date is not a Business Day (as defined below), the next Business Day (the "***Expiration Date***") to exercise this Warrant in accordance with the terms of this Warrant.

1.2 **Exercise of Warrant**.

(a) Cash Exercise. Subject to Sections 1.2(f) and 1.2(g), this Warrant may be exercised at any time prior to the Close of Business on the Expiration Date (or if the Expiration Date is not a Business Day, the next Business Day) and from time to time, in whole or in part, upon surrender to the Company, together with the duly completed and signed form of notice of exercise (designating thereon the Holder's election to cash exercise ("***Cash Exercise***")) in the form attached (the "***Notice of Exercise***"), and payment to the Company of the Exercise Price in effect on the date of such exercise for the number of Warrant Shares in respect of which this Warrant is then being exercised; provided, that the Holder may not elect to Cash Exercise this Warrant unless there is available an effective registration statement to cover such transaction or such Holder checks the box on the Notice of Exercise thereby representing to the Private Placement Representations (as defined in the Notice of Exercise). Payment of the aggregate Exercise Price upon exercise pursuant to this Section 1.2(a) shall be made by delivery of a check to the principal executive offices of the Company as provided in Section 7 or, at the Holder's discretion, by wire transfer of immediately available funds in accordance with written wire transfer instructions to be provided by the Company at the Holder's request.

(b) Net-Issue Exercise. Subject to Sections 1.2(f) and 1.2(g), in lieu of exercising this Warrant on a cash basis pursuant to Section 1.2(a), the Holder may elect to exercise this Warrant at any time prior to the Expiration Date and from time to time, in whole or in part, on a net-issue basis by electing to receive the number of Warrant Shares which are equal in value to the value of this Warrant (or any portion thereof to be canceled in connection with such Net-Issue Exercise) at the time of any such Net-Issue Exercise, by surrender of this Warrant, together with the duly completed and signed Notice of Exercise (designating the Holder's election to Net-Issue Exercise ("***Net-Issue Exercise***")), to the Company at the principal executive offices of the Company as provided in Section 7. The Notice of Exercise shall be properly marked to indicate (A) the number of Warrant Shares to be delivered to the Holder in connection with such Net-Issue Exercise, (B) the number of Warrant Shares in respect of which this Warrant is being surrendered in payment of the aggregate Exercise Price for the Warrant Shares to be delivered to the Holder in connection with such Net-Issue Exercise, calculated as of the Determination Date (as defined below) and (C) the number of Warrant Shares which remain subject to this Warrant after such Net-Issue Exercise, if any (each as determined in accordance with this Section 1.2(b)). In the event that the Holder elects to exercise this Warrant in whole or

in part on a net-issue basis pursuant to this Section 1.2(b), the Company will issue to the Holder the number of Warrant Shares determined in accordance with the following formula:

$$X = [Y \times (A-B)] / A$$

where:

- "***X***" is the number of Warrant Shares to be issued to the Holder in connection with such Net-Issue Exercise;
- "***Y***" is the number of Warrant Shares to be exercised, up to the number of Warrant Shares subject to this Warrant;
- "***A***" is the Closing Sale Price (as defined below) as of the Determination Date (as defined below) of one share of Common Stock; and
- "***B***" is the Exercise Price in effect as of the date of such Net-Issue Exercise (as adjusted pursuant to Section 2).

The "***Determination Date***" will be the date the Notice of Exercise is given to the Company (determined in accordance with Section 7), or if such date is not a Trading Day, the next succeeding Trading Day.

(c) Fractional Interests. No fractional shares of Common Stock will be issued upon the exercise of this Warrant, but in lieu thereof the Company shall pay therefor in cash an amount equal to the product obtained by multiplying the Closing Sale Price of one share of Common Stock on the Trading Day immediately preceding the date of exercise of the Warrant times such fraction (rounded to the nearest cent).

(d) Deemed Issuance. Subject to 1.2(c), upon such surrender of the Warrant, delivery of the Notice of Exercise and, in the case of a Cash Exercise pursuant to Section 1.2(a), payment of the Exercise Price, the Company will with all reasonable dispatch (and in no event more than three Business Days from delivery of the Notice of Exercise), in the sole discretion of the Holder and as reflected on the Notice of Exercise, either (i) issue and cause to be delivered a certificate or certificates to and in the name of the Holder, or in the name of such other Person as designated by the Holder, or (ii) establish an electronic book entry at the Transfer Agent in a segregated account established by the Transfer Agent for the Holder's benefit and registered in the name of Holder, or in the name of such other Person as designated by the Holder, in either case of (i) or (ii), for the number of full shares of Common Stock so purchased upon the exercise of this Warrant, together with a check or cash in respect of any fraction of a share of Common Stock otherwise deliverable upon such exercise, as provided in Section 1.2(c). Such certificate or certificates shall be deemed to have been issued, or such electronic book entry shall be deemed to have been established, and the Person in whose name any such certificates will be issuable, or in whose name the electronic book entry has been registered, upon exercise of this Warrant (as indicated in the applicable Notice of Exercise) will be deemed to have become a holder of record of such Warrant Shares as of the date of the

surrender of this Warrant and, in the case of a Cash Exercise pursuant to Section 1.2(a), payment of the Exercise Price.

(e) Warrant Exercisable in Whole or in Part. The rights of purchase represented by this Warrant shall be exercisable, at the election of the Holder, either in full or from time to time in part. If this Warrant is exercised in respect of less than all of the Warrant Shares purchasable on such exercise at any time prior to the Expiration Date, a new Warrant of like tenor exercisable for the remaining Warrant Shares may be issued and delivered to the Holder by the Company. This Warrant or any part thereof surrendered in the exercise of the rights thereby evidenced shall thereupon be cancelled by the Company and retired.

(f) Stockholder Approval Condition to Exercise Warrant. The Warrant shall not be exercisable by Holder prior to the date the Company obtains stockholder approval ("Stockholder Approval") with respect to the issuance of Warrant Shares upon exercise of the Warrant in the manner set forth in the Compensation and Funding Agreement, dated February 28, 2012, between the Company and the Investor.

(g) Holder's Exercise Limitations. So long as the Company has at least $25 million aggregate principal amount of Convertible Notes outstanding, the Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, to the extent that after giving effect to such issuance after exercise as set forth on the Notice of Exercise, the Holder would, directly or indirectly, including through one or more wholly-owned subsidiaries, become the "beneficial owner" (as these terms are defined in Rule 13d-3 and Rule 13d-5 under the Exchange Act), of more than 74.99% of the voting power of the Company's capital stock that is at the time entitled to vote by the holder thereof in the election of the Board of Directors (or comparable body). Upon request by Holder, the Company shall obtain a written statement from its Transfer Agent setting forth the number of shares of Common Stock outstanding.

(h) Listing and Reservation Covenants. On and after the date of such Stockholder Approval, the Company shall (i) cause the Warrant Shares to be approved for listing on the NASDAQ Global Select Market or such other securities exchange or market as the Common Stock is listed from time to time, subject to official notice of issuance and (ii) for as long as this Warrant remains outstanding, at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock or shares of Common Stock held in treasury by the Company, for the purpose of effecting the exercise of this Warrant, the number of Warrant Shares then issuable upon the exercise hereof (after giving effect to all anti-dilution adjustments provided for herein). All Warrant Shares delivered upon exercise of this Warrant shall be newly issued shares or shares held in treasury by the Company, shall have been duly authorized and validly issued and shall be fully paid and nonassessable, and shall be free from preemptive rights and free of any lien or adverse claim (except for liens or adverse claims arising from the action or inaction of Holder).

Section 2. **Adjustment of Exercise Price and Warrant Shares**.

The Exercise Price and the number of Warrant Shares purchasable upon the exercise of this Warrant shall be subject to adjustment from time to time as set forth below.

2.1 **Adjustment for Change in Capital Stock**. If, after the Issue Date of the Warrant, the Company:

(a) pays a dividend or makes a distribution payable exclusively in shares of Common Stock on all or substantially all shares of the Company's Common Stock;

(b) subdivides the outstanding shares of Common Stock into a greater number of shares; or

(c) combines the outstanding shares of Common Stock into a smaller number of shares;

then the Exercise Price will be decreased (or increased with respect to an event in clause (c)) based on the following formula:

$$R' = R \times \frac{OS'}{OS}$$

where,

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such dividend or distribution, or immediately after the Open of Business on the effective date of such subdivision or combination, as the case may be;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such dividend or distribution, or immediately prior to the Open of Business on the effective date of such subdivision or combination, as the case may be;

OS'= the number of shares of Common Stock outstanding immediately prior to the Open of Business on the record date for such dividend or distribution, or immediately prior to the Open of Business on the effective date of such subdivision or combination, as the case may be; and

OS = the number of shares of Common Stock outstanding immediately after the Open of Business on the record date for such dividend or distribution, or immediately after the Open of Business on the effective date of such subdivision or combination, as the case may be.

Such adjustment shall become effective immediately after the Open of Business on the record date for such dividend or distribution, or the effective date for such subdivision or combination, as the case may be. If any dividend or distribution of the type described in this Section 2.1 is declared but not so paid or made, or the outstanding shares of Common Stock are not split or combined, as the case may be, the Exercise Price shall be immediately readjusted, effective as of the date the Company's board of directors or a duly appointed committee thereof

(the "***Board of Directors***") determines not to pay such dividend or distribution, or split or combine the outstanding shares of Common Stock, as the case may be, to the Exercise Price that would then be in effect if such dividend, distribution, share split or share combination had not been declared or announced.

2.2 Adjustment for Rights Issue. If, after the Issue Date of the Warrant, the Company distributes any rights, options or warrants (other than pursuant to a Shareholders' Rights Plan (defined below)) to all or substantially all holders of the Company's Common Stock entitling them to purchase (for a period not more than 45 days from the record date for such distribution) shares of Common Stock at a price per share less than the average of the Closing Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including the Trading Day immediately preceding the record date for such distribution, the Exercise Price shall be decreased in accordance with the formula:

$$R' = R \times \frac{O + \left(\frac{N \times P}{M}\right)}{(O + N)}$$

where:

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such distribution;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such distribution;

O = the number of shares of Common Stock outstanding immediately prior to the Open of Business on the record date for such distribution;

N = the number of additional shares of Common Stock issuable pursuant to such rights, options or warrants;

P = the per-share offering price payable to exercise such rights, options or warrants for the additional shares plus the per-share consideration (if any) the Company receives for such rights, options or warrants; and

M = the average of the Closing Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the record date with respect to the distribution.

Such adjustment shall be successively made whenever any such rights, options or warrants are distributed and shall become effective immediately after the Open of Business on the record date for such distribution. To the extent that shares of the Common Stock are not delivered after the expiration of such rights, options or warrants, the Exercise Price shall be increased to the Exercise Price that would then be in effect had the adjustments made upon the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are

not so issued, the Exercise Price shall be increased promptly to be the Exercise Price that would then be in effect if such record date for such distribution had not been fixed.

For purposes of this Section 2.2, in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase Common Stock at less than the average of the Closing Sale Prices of Common Stock for each Trading Day in the applicable 10 consecutive Trading Day period, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

2.3 Adjustment for Other Distributions. If, after the Issue Date of the Warrant, the Company distributes to all or substantially all holders of its Common Stock any of its debt or other assets or property (including cash, rights, options or warrants to acquire capital stock of the Company or other securities, but excluding (a) dividends or distributions (including subdivisions) referred to in Section 2.1 and distributions of rights, warrants or options referred to in Section 2.2, (b) rights issued to all holders of Common Stock pursuant to a Shareholders' Rights Plan, where such rights are not presently exercisable, continue to trade with Common Stock and holders will receive such rights together with Common Stock upon exercise of the Warrant), (c) dividends or other distributions paid exclusively in cash (to which Section 2.4 shall apply) and (d) any Spin-off to which the provisions set forth below in this Section 2.3 shall apply) ("***Distributed Property***"), the Exercise Price shall be decreased, in accordance with the formula:

$$R' = R \times \frac{M - F}{M}$$

where:

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such distribution;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such distribution;

M = the average of the Closing Sale Prices of Common Stock for the 10 consecutive Trading Day period ending on, and including, the record date for such distribution; and

F = the fair market value, as determined by the Board of Directors, of the portion of the Distributed Property to be distributed in respect of each share of Common Stock immediately as of the Open of Business on the record date for such distribution.

Such adjustment shall become effective immediately prior to the Open of Business on the record date for such distribution. Notwithstanding the foregoing, if "F" as set forth above is equal to or greater than "M" as set forth above, in lieu of the foregoing adjustment, the Holder shall receive, at the same time and up on the same terms as holders of Common Stock, the amount and kind of Distributed Property the Holder would have received had the Holder owned a number of shares of Common Stock issued upon such exercise immediately prior to the record date for such distribution. If such distribution is not so paid or made, the Exercise Price shall

again be adjusted to be the Exercise Price that would then be in effect if such dividend or distribution had not been declared. If the Board of Directors or a committee thereof determines "F" for purposes of this Section 2.3 by reference to the actual or when issued trading market for any Common Stock, it must in doing so consider the prices in such market over the same period used in computing the Closing Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the record date for such distribution.

With respect to an adjustment pursuant to this Section 2.3 where there has been a payment of a dividend or other distribution on the Common Stock in shares of capital stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit, where such capital stock or similar equity interest is listed or quoted (or will be listed or quoted upon consummation of the Spin-off) on a national securities exchange or reasonably comparable non-U.S. equivalent, which is referred to herein as a "***Spin-off***," the Exercise Price will be decreased based on the following formula:

$$R' = R \times \frac{MP}{F + MP}$$

R' = the Exercise Price in effect immediately after the end of the Valuation Period (as defined below);

R = the Exercise Price in effect immediately prior to the end of the Valuation Period;

F = the average of the Closing Sale Prices of the capital stock or similar equity interest distributed to holders of the Common Stock applicable to one share of the Common Stock over the first 10 consecutive Trading Day period immediately following, and including, the effective date for the Spin-off (such period, the "***Valuation Period***"); and

MP = the average of the Closing Sale Prices of the Common Stock over the Valuation Period.

The adjustment to the Exercise Price under the preceding paragraph of this Section 2.3 will be made immediately after the Close of Business on the last day of the Valuation Period, but will be given effect as of the Open of Business on the effective date for the Spin-off. For purposes of determining the Exercise Price in respect of any exercise during the 10 Trading Days commencing on the effective date for any Spin-off, references within the portion of this Section 2.3 related to "Spin-offs" to 10 consecutive Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the effective date for such Spin-off to, but excluding, the relevant Determination Date.

For purposes of this Section 2.3, in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of the Common Stock at less than the average of the Closing Sale Prices of the Common Stock for each Trading Day in the applicable 10 consecutive Trading Day period, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

If, prior to a Determination Date, a record date for a Spin-off has been set but the relevant dividend or distribution has not yet resulted in an adjustment to the Exercise Price and an exercising Holder is not entitled to participate in the dividend or distribution with respect to the shares of Common Stock the Holder receives upon exercise (whether because the Holder was not a holder of such shares of Common Stock on the effective date for such dividend or distribution or otherwise), then as promptly as practicable following the Determination Date, the Company will deliver to the Holder a number of additional shares of Common Stock that reflects the increase to the number of Warrant Shares deliverable as a result of the Spin-off.

2.4 Adjustment for Cash Distributions. If, after the Issue Date of the Warrant, the Company makes a distribution to all or substantially all holders of its Common Stock consisting exclusively of cash, the Exercise Price shall be adjusted in accordance with the formula:

$$R' = R \times \frac{SP - C}{SP}$$

R' = the Exercise Price in effect immediately after the Open of Business on the record date for such distribution;

R = the Exercise Price in effect immediately prior to the Open of Business on the record date for such distribution;

SP = the average of the Closing Sale Prices of Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the record date for such distribution; and

C = the amount in cash per share the Company distributes to holders of Common Stock.

The adjustment shall become effective immediately after the Open of Business on the record date with respect to the distribution.

Notwithstanding the foregoing, if “C” as set forth above is equal to or greater than “SP” as set forth above, in lieu of the foregoing adjustment, adequate provision shall be made so that the Holder shall have the right to receive on the date on which the relevant cash dividend or distribution is distributed to holders of Common Stock, the amount of cash the Holder would have received had the Holder owned a number of shares exercisable from the Exercise Price on the record date for such distribution. If such dividend or distribution is not so paid or made, the Exercise Price shall again be adjusted to be the Exercise Price that would then be in effect if such dividend or distribution had not been declared.

2.5 Adjustment for Company Tender Offer. If, after the Issue Date of the Warrant, the Company or any Subsidiary makes a payment to holders of the shares of Common Stock in respect of a tender or exchange offer, other than an odd-lot offer, by the Company or any of its Subsidiaries for shares of Common Stock, to the extent that the cash and value of any other consideration included in the payment per share of Common Stock exceeds the average of the Closing Sale Prices over the 10 consecutive Trading Day period commencing on, and

including the Trading Day immediately following the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer (the "***Expiration Date***"), the Exercise Price shall be decreased based on the following formula:

$$R' = R \times \frac{OS \times SP}{F + (SP \times OS')}$$

R' = the Exercise Price in effect immediately after the Open of Business on the Trading Day immediately following the Expiration Date;

R = the Exercise Price in effect immediately prior to the Open of Business on the Trading Day immediately following the Expiration Date;

F = the aggregate fair market value, as determined by the Board of Directors, of all cash and other consideration payable in such tender or exchange offer for shares purchased in such tender or exchange offer, such value to be measured as of the expiration time of the tender or exchange offer (the "***Expiration Time***");

OS = the number of shares of Common Stock outstanding immediately prior to the Expiration Time (prior to giving effect to such tender offer or exchange offer);

OS'= the number of shares of Common Stock outstanding immediately after the Expiration Time (after giving effect to such tender offer or exchange offer); and

SP = the average of the Closing Sale Prices of Common Stock over the 10 consecutive Trading Day period commencing on, and including, the Trading Day immediately following the Expiration Date.

The adjustment to the Exercise Price under this Section 2.5 will be made immediately after the Open of Business on the 11th Trading Day following the Expiration Date but will be given effect at the Open of Business on the Trading Day following the Expiration Date. For purposes of determining the Exercise Price, in respect of any exercise during the 10 Trading Days commencing on the Trading Day immediately following the Expiration Date, references within this Section 2.5 to 10 Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Trading Day following the Expiration Time to, but excluding, the relevant Determination Date.

2.6 When No Adjustment Required. No adjustment need be made as a result of:

(a) the issuance of the rights pursuant to the Company's adoption of a stockholders rights plan that provides that each share of Common Stock issued upon exercise of the Warrant at any time prior to the distribution of separate certificates representing rights will be entitled to receive the right (a "***Stockholder Rights Plan***");

(b) the distribution of separate certificates representing the rights under a Stockholder Rights Plan;

(c) the exercise or redemption of the rights in accordance with any rights agreement under a Stockholder Rights Plan;

(d) the termination or invalidation of the rights under a Stockholder Rights Plan;

(e) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on securities of the Company and the investment of additional optional amounts in Common Stock under any plan;

(f) upon the issuance of any shares of Common Stock or options or rights to purchase or be issued those shares pursuant to any present or future employee, director or consultant benefit plan or program of, or assumed by, the Company or any of its Subsidiaries;

(g) ordinary course of business stock repurchases, including structured or derivative transactions pursuant to a stock repurchase program approved by the Board of Directors (but, for the avoidance of doubt, excluding transactions described in Section 2.5);

(h) upon the issuance of any shares of Common Stock or any securities convertible into, or exchangeable for shares of Common Stock, or the right to purchase shares of Common Stock or such convertible or exchangeable securities other than as described in Sections 2.2 or 2.3; or

(i) for a change in the par value of Common Stock.

If any event described in Section 2.6 (a) through (d) occurs, the Holder will receive the rights upon exercise, unless, prior to any exercise, the rights have separated from the Common Stock. If the rights have separated, the Exercise Price will be decreased at the time of separation as provided by Section 2.2 or 2.3, as applicable, subject to readjustment in the event of expiration, termination or redemption of such rights.

Notwithstanding the foregoing, no adjustment need be made to the Exercise Price pursuant to Section 2.1, 2.2, 2.3, 2.4 or 2.5 if the Holder is entitled to participate (as a result of holding this Warrant, and at substantially the same time as Common Stock holders participate), subject to notice of such entitlement to the Holder, in the transaction that would otherwise trigger the applicable adjustment, as if the Holder held a number of shares of Common Stock issuable upon exercise of this Warrant. No adjustment need be made if the Common Stock to be issued upon exercise will actually receive the consideration provided in, or be subject to, the transaction that would otherwise trigger the adjustment.

2.7 Effect of Reclassification, Consolidation, Merger or Sale.

(a) Upon the occurrence of (i) any reclassification of the outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a split, subdivision or combination covered by Section 2.1), (ii) any consolidation, merger, sale of all or substantially all of the Company's assets (other than a sale of all or substantially all of the assets of the Company in a transaction in

which the holders of Common Stock immediately prior to such transaction do not receive securities, cash or other assets of the Company or any other Person), or (iii) a binding share exchange which reclassifies or changes the outstanding shares of Common Stock, in each case as a result of which the holders of Common Stock shall be entitled to receive cash, securities or other property or assets with respect to or in exchange for such Common Stock (any such event, a "***Merger Event***"), then at the effective time of the Merger Event, the right to exercise this Warrant will be changed into a right to exercise this Warrant into the type and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) that a holder of a number of shares of Common Stock issuable upon exercise of this Warrant immediately prior to such Merger Event would have owned or been entitled to receive (the "***Reference Property***") upon such Merger Event. If the Merger event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), the Reference Property to be received upon exercise will be deemed to be the weighted average of the types and amounts of Reference Property to be received by the holders of Common Stock that affirmatively make such election).

(b) If the Company consummates a Merger Event, the Company shall promptly provide notice to the Holder briefly describing the Merger Event and stating the type or amount of cash, securities, property or other assets that will comprise the Reference Property after any such Merger Event and any adjustment to be made with respect thereto.

(c) The above provisions of this Section shall similarly apply to successive Merger Events.

2.8 Simultaneous Adjustments. In the event that this Section 2 requires simultaneous adjustments to the Exercise Price under more than one of Sections 2.1, 2.2, 2.3 or 2.4 of this warrant then the Board of Directors of the Company shall make such adjustments to the Exercise Price in good faith and in a commercially reasonable manner.

2.9 Successive Adjustments. After an adjustment to the Exercise Price under this Section 2, any subsequent event requiring an adjustment under this Section 2 shall cause an adjustment to the Exercise Price as so adjusted.

2.10 Limitation on Adjustments. The Company shall not take any action that would result in an adjustment pursuant to the foregoing provisions in this Section 2 if that adjustment would reduce the Exercise Price below the then par value of the shares of Common Stock issuable upon exercise of the Warrant. In no event will the Exercise Price be increased other than as a result of a transaction described in Section 2.1(c).

2.11 Adjustment of Number of Warrant Shares. Upon each adjustment of the Exercise Price pursuant to this Section 2, each Warrant outstanding prior to the making of the adjustment in the Exercise Price shall thereafter evidence the right to receive upon payment of the adjusted Exercise Price that number of shares of Common Stock (calculated to the nearest hundredth) obtained from the following formula:

$$N' = N \times (E / E')$$

where:

N' = the adjusted number of Warrant Shares issuable upon exercise of a Warrant by payment of the adjusted Exercise Price.

N = the number of Warrant Shares previously issuable upon exercise of a Warrant by payment of the Exercise Price prior to adjustment.

E' = the adjusted Exercise Price.

E = the Exercise Price prior to adjustment.

2.12 No Avoidance. If the Company shall enter into any transaction for the purpose of avoiding the provisions of this Section 2, the benefits provided by such provisions shall nevertheless apply and be preserved.

2.13 Notices.

(a) Promptly after any adjustment of the Exercise Price or the number of Warrant Shares issuable hereunder, the Company shall give written notice thereof to the Holder, setting forth in reasonable detail the calculation of such adjustment.

(b) The Company shall give written notice to the Holder at least five (5) Business Days prior to the date on which the Company (I) closes its books or takes a record (a) with respect to any dividend or distribution on the Common Stock, (b) with respect to any pro rata subscription offer to holders of Common Stock, (c) with respect to any pro rata redemption or similar offer to holders of the Common Stock or (d) for determining rights to vote with respect to any Merger Event, dissolution or liquidation or (II) enters into any transaction that will result in an adjustment of the Exercise Price or the number of Warrant Shares issuable hereunder.

Section 3. Restriction on Transfer of Warrant and Warrant Shares.

(a) On or after the Issue Date, the Holder may transfer this Warrant or the Warrant Shares to any Person:

(i) pursuant to a registration statement that is, at the time of such transfer, effective under the Securities Act;

(ii) pursuant to Rule 144 promulgated under the Securities Act; or

(iii) in a transaction otherwise exempt from the registration requirements of the Securities Act (subject to the requirements of such exemption).

(b) Notwithstanding the foregoing, the following terms and conditions will apply to each transfer provided for in Section 3(a):

(i) in the case of a transfer pursuant to Section 3(a)(ii) or (iii), as a condition precedent to such transfer, unless otherwise agreed by the Company in writing, the transferor must deliver an opinion of counsel reasonably satisfactory to the Company to the effect that the proposed transfer is exempt from registration under the Securities Act and applicable state securities laws; and

(ii) no Holder that is subject to the Company's then-applicable insider trading policy may transfer any of the Warrants or any Warrant Shares except to the extent permitted under such trading policy.

(c) By its acceptance of this Warrant, each Holder (i) shall be deemed to have acknowledged and agreed to the restrictions on transfer described in this Section, and to have acknowledged that the Company will rely upon the truth and accuracy of such acknowledgement and agreement and (ii) agrees to the imprinting of the following legend on any certificate or book-entry evidencing this Warrant and the Warrant Shares:

THIS SECURITY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF THE COMPANY THAT THIS SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, INCLUDING RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (II) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (III) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, IN EACH OF CASES (I) THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES.

(d) Except as provided in Section 3(a) and (b) above, this Warrant, the rights represented hereby and the Warrant Shares may not be transferred in whole or in part by the Holder. In order to effect any transfer or partial transfer of this Warrant, the Holder shall deliver this Warrant to the Company with the notice of transfer in the form attached (the "***Notice of Transfer***") completed and duly executed. Upon receipt of Notice of Transfer and the opinion of counsel required by this Section, if any, the Company shall promptly (i) issue to the transferee a new Warrant for the number of Warrant Shares assigned by the Holder, and (ii) to the extent the transfer contemplated by the Notice of Transfer is not for the entire number of Warrant Shares represented by this Warrant, issue to the Holder a replacement Warrant representing the balance of such Warrant.

(e) The Company shall not be required to register any transfer of the Warrants or the Warrant Shares in violation of this Section or applicable securities laws. The

Company may, and may instruct any transfer or warrant agent for the Company to, place such stop transfer orders as may be required on the transfer books of the Company in order to ensure compliance with the provisions of this Section and applicable securities laws.

Section 4. **Taxes**. The issuance of certificates for Warrant Shares or the establishment of an electronic book entry upon the exercise of the rights represented by this Warrant will be made without charge to the Holder for any issuance tax in respect thereof; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate or establishment of an electronic book entry in a name other than that of the Holder.

Section 5. **Mutilated or Missing Warrant**. If this Warrant shall be mutilated, lost, stolen or destroyed and the Company shall receive evidence thereof and (except with respect to mutilated Warrants returned to the Company) indemnity reasonably satisfactory to it, then the Company shall issue and deliver in exchange and substitution for and upon cancellation of the mutilated Warrant, or in lieu of and substitution for the Warrant lost, stolen or destroyed, a new Warrant of like tenor and representing an equivalent right or interest. An applicant for such a substitute Warrant shall comply with such other reasonable requirements and pay such reasonable charges as the Company may prescribe, including, without limitation, the execution and delivery of a lost Warrant affidavit and indemnification agreement in a form reasonably satisfactory to the Company and its counsel.

Section 6. **No Rights as Stockholder until Exercise**. Except as provided in Section 1.2(d), nothing contained in this Warrant shall be construed as conferring upon the Holder the right to vote or to receive dividends or to consent or to receive notice as stockholders in respect of any meeting of stockholders for the election of directors of the Company or any other matter, or any rights whatsoever as stockholders of the Company.

Section 7. **Notices**. All notices and other communications required or permitted to be given with respect to the Warrant shall be in writing signed by the sender, and shall be considered given: (w) on the date delivered, if personally delivered during normal business hours, or on the next Business Day if delivered after normal business hours of the recipient; (x) on the date sent by telecopier with automatic confirmation of the transmitting machine showing the proper number of pages were transmitted without error, if sent during normal business hours of the recipient, or on the next Business Day if sent after normal business hours; (y) on the Business Day after being sent by Federal Express or another recognized overnight delivery service in time for and specifying next day or next business day delivery; or (z) five (5) Business Days after mailing, if mailed by United States postage-paid certified or registered mail, return receipt requested, in each instance referred to in the preceding clauses (y) and (z) only if all delivery charges are pre-paid. Each such notice or other communication shall be given to the Holder at the address in a Warrant register to be created and maintained by the Company and to the Company at its principal executive offices.

Section 8. **No Waivers; Remedies; No Impairment**. Prior to the Expiration Date, no failure or delay by the Holder in exercising any right, power or privilege with respect to the Warrant shall operate as a waiver of the right, power or privilege. A single or partial exercise of any right, power or privilege shall not preclude any other or further exercise of the right, power

or privilege or the exercise of any other right, power or privilege. The rights and remedies provided in the Warrant shall be cumulative and not exclusive of any rights or remedies provided by law. The Company will not, by amendment of its charter or by-laws or through any other means, directly or indirectly, avoid or seek to avoid the observance or performance of any of the terms of this Warrant and will at all time in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate in order to protect the rights of the Holder against impairment.

Section 9. **Amendments**. No amendment, modification, termination or waiver of any provision of the Warrant, and no consent to any departure from any provision of the Warrant, shall be effective unless it shall be in writing and signed and delivered by the Company and the Holder. Notwithstanding the foregoing, neither Sections 1.2(f) or 1.2(g), nor this sentence, may be amended.

Section 10. **Governing Law**. This Warrant shall be governed by and construed in accordance with the laws of the State of New York that apply to contracts made and performed entirely within such state.

Section 11. **Severability of Provisions: Successors**. Any provision of this Warrant that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions of the Warrant or affecting the validity or enforceability of the provision in any other jurisdiction. This Warrant shall be binding upon any entity succeeding the Company by merger, consolidation or otherwise. All of the covenants and agreements of the Company shall inure to the benefit of successors and permitted assigns of the Holder.

Section 12. **Titles and Subtitles; Section References**. The titles and subtitles used in this Warrant are used for convenience only and are not to be considered in construing or interpreting this Warrant. Unless otherwise stated, references to Sections are to the Sections of this Warrant.

Section 13. **Purchase Agreement**. The Company will provide any Holder with a copy of the Purchase Agreement upon request.

Section 14. **Definitions**. For purposes of this Warrant, the following terms have the following meanings:

(a) "***Business Day***" means any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in such state are authorized or required by law or other governmental action to close.

(b) "***Close of Business***" means 5:00 p.m. (New York City time).

(c) "***Closing Sale Price***" of the Common Stock on any date means the closing per-share sale price (or if no closing per-share sale price is reported, the average of the last bid and ask prices or, if more than one in either case, the average of the average last bid and the average last ask prices) on that date as reported the principal other national or regional

securities exchange on which the shares of the Common Stock are then traded. The Closing Sale Price will be determined without reference to after-hours or extended market trading. If the Common Stock is not so listed for trading on the relevant date, then the "Closing Sale Price" of the Common Stock will be the last quoted bid price for Common Stock in the over-the-counter market on the relevant date as reported by Pink OTC Markets Inc. or a similar organization. If the Common Stock is not so quoted, then the "Closing Sale Price" of the Common Stock will be determined by a U.S. nationally recognized independent investment banking firm selected by the Company for this purpose.

(d) "***Convertible Notes***" means the Company's 4.75% Senior Convertible Debentures due 2014 and 4.5% Senior Convertible Debentures due 2015.

(e) "***Exchange Act***" means the Securities Exchange Act of 1934, as amended.

(f) "***Issue Date***" means the date on which the Warrant was originally issued or deemed issued as set forth on the face of the Warrant.

(g) "***Market Disruption Event***" means the occurrence or existence on any Scheduled Trading Day for the Common Stock of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the stock exchange or otherwise) in the Common Stock or in any options contracts or futures contracts relating to the Common Stock, and such suspension or limitation occurs or exists at any time within the 30 minutes prior to the closing time of the relevant exchange on such Scheduled Trading Day.

(h) "***Open of Business***" means 9:00 a.m. (New York City time).

(i) "***Person***" means any individual, corporation, partnership, company, trust, unincorporated organization or any other form of entity.

(j) "***Scheduled Trading Day***" means any day that is scheduled by the applicable exchange to be a Trading Day, provided that if the Common Stock is not listed or traded, then a "Scheduled Trading Day" shall have the same meaning as Business Day.

(k) "***Securities Act***" means the Securities Act of 1933, as amended.

(l) "***Subsidiary***" means a Person more than 50% of the outstanding voting stock of which is owned, directly or indirectly, by the Company or by one or more other Subsidiaries of the Company, or by the Company and one or more other Subsidiaries of the Company.

(m) "***Trading Day***" means a day on which (i) there is no Market Disruption Event and (ii) trading in the Company's securities generally occurs on the NASDAQ Global Select Market, or if shares of Common Stock are not listed on the NASDAQ Global Select Market, then as reported by the principal other national or regional securities exchange on which the shares of Common Stock are then traded, or if the Common Stock is not listed or approved for trading on another national or regional securities exchange, on the principal market

on which shares of the Common Stock are then traded, provided that if the Common Stock is not so listed or traded, then a "Trading Day" shall have the same meaning as Business Day.

(n) "***Transfer Agent***" means Computershare Trust Company, N.A., or any successor transfer agent for the Company.

[The next page is the signature page]

The Company has executed and delivered this Warrant as of the date set forth above.

SUNPOWER CORPORATION

By:_____
Name:
Title:

Accepted:
Total Gas & Power USA, SAS
By:_____
Name
Title:

NOTICE OF EXERCISE
(To Be Completed Only Upon Exercise)

TO: SunPower Corporation
77 Rio Robles
San Jose, California 95134

1. The undersigned hereby irrevocably elects to exercise the Warrant with respect to _____ Warrant Shares pursuant to the terms of the Warrant.

2. If **Cash Exercise**, check this box o: The undersigned tenders herewith full payment of the aggregate cash exercise price equal to $_____ U.S. Dollars for such shares in accordance with the terms of the Warrant.

3. If **Cash Exercise** and there is no effective registration statement under the Securities Act to cover the issuance of the Warrant Shares upon such Cash Exercise, check this box o: The undersigned hereby makes the representations and warranties set forth in Section 3.2 of the Purchase Agreement as if it were the "Investor" and the Warrant Shares to be issued upon this exercise were the "Securities" (the "**Private Placement Representations**").

4. If **Net-Issue Exercise**, check this box o: The undersigned exercises the Warrant on a net-issue basis pursuant to the terms set forth in the Warrant. Net-Issue Information:

(a) Number of Warrant Shares to be Issued to Holder: _____
(b) Number of Warrant Shares Subject to Warrant Surrendered: _____
(c) Number of Warrant Shares Remaining Subject to Warrant, if any: _____

5. (Select one option below):

Please issue a certificate or certificates representing said Warrant Shares in such name or names as specified below:

_____
(Name and Address)

_____

_____

Please establish an electronic book entry at the Transfer Agent in a segregated account established by the Transfer Agent for the benefit of and registered in the name of such name or names as specified below:

_____
(Name and Address)

_____

_____

Determination Date:_____ By:_____

(Signature must conform in all respects to name of the Holder as set forth on the face of the Warrant)

NOTICE OF TRANSFER
(To Be Completed Only Upon Transfer)

TO: SunPower Corporation
77 Rio Robles
San Jose, California 95134

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ the right represented by this Warrant, to purchase _____ Warrant Shares.

Please issue a Warrant representing the right to purchase such Warrant Shares in such name or names as specified below:

_____

(Name and Address)

_____

_____

The undersigned requests the Company, by written order to exchange or register the transfer of a Warrant or Warrants, and, to the extent the transfer contemplated by this notice is not for the entire number of Warrant Shares represented by this Warrant, to issue a replacement Warrant in the name of the undersigned representing the balance of such Warrant Shares.

By executing and delivering this Notice of Transfer, the undersigned represents and warrants that transfer contemplated hereby is being made in accordance with Section 3 of this Warrant.

Dated: _____ By: _____

(Signature must conform in all respects to name of the Holder as set forth on the face of the Warrant)

Exhibit 10.96

GUARANTY

This **GUARANTY** (the "Guaranty"), dated _____, is between Total S.A., a société anonyme organized under the laws of the Republic of France (the "Guarantor"), and **[BANK]**, a _____, having its registered office at _____ (the "Bank").

RECITALS

WHEREAS, SunPower Corporation (the "Obligor") is a party to that certain [Credit Agreement, dated as of [ ]] with the Bank (the "Contract");

WHEREAS, the Guarantor owns a portion of the equity interest in the Obligor and will receive direct and indirect benefits from the Bank's performance of the Contract;

NOW, THEREFORE, in consideration of the above recitals and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Guarantor and the Bank hereby agree as follows:

AGREEMENT

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree as follows:

1. Guaranty. (a) The Guarantor unconditionally guarantees and promises to pay to the Bank, in accordance with the payment instructions contained in the Contract, on demand after the default by the Obligor in the performance of its payment obligations under the Contract, in lawful money of the United States, any and all Obligations (as hereinafter defined) consisting of payments due to the Bank; provided, however, that the monetary liability of the Guarantor under this Guaranty shall not at any time exceed $_. For purposes of this Guaranty the term "Obligations" shall mean and include all payments, liabilities and obligations owed by the Obligor to the Bank (whether or not evidenced by any note, instrument or agreement and whether or not for the payment of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising pursuant to the terms of the Contract or otherwise, including without limitation all interest, late fees, charges, expenses, attorneys' fees and other professionals' fees chargeable to the Obligor or payable by the Obligor thereunder and any costs of collection hereunder.

(b) Subject to Section 1(f) hereof, this Guaranty is absolute, unconditional, continuing and irrevocable, constitutes an independent guaranty of payment, and is in no way conditioned on or contingent upon any attempt to enforce in whole or in part any of the Obligor's Obligations to the Bank, the existence or continuance of the Obligor as a legal entity, the

consolidation or merger of the Obligor with or into any other entity, the sale, lease or disposition by the Obligor of all or substantially all of its assets to any other entity, or the bankruptcy or insolvency of the Obligor, the admission by the Obligor of its inability to pay its debts as they mature, or the making by the Obligor of a general assignment for the benefit of, or entering into a composition or arrangement with, creditors. If the Obligor fails to pay any Obligations to the Bank that are subject to this Guaranty as and when they are due, the Guarantor shall, subject to any limitation set forth in Section 1(a) hereof, forthwith pay to the Bank all such liabilities or obligations in immediately available funds. Each failure by the Obligor to pay any such liabilities or obligations shall give rise to a separate cause of action, and separate suits may be brought hereunder as each cause of action arises.

(c) The Bank, may at any time and from time to time, without the consent of or notice to the Guarantor, except such notice as may be required by applicable statute which cannot be waived, without incurring responsibility to the Guarantor, and without impairing or releasing the obligations of the Guarantor hereunder, (i) exercise or refrain from exercising any rights against the Obligor or others (including the Guarantor) or otherwise act or refrain from acting, (ii) settle or compromise any Obligations hereby guaranteed and/or any other obligations and liabilities (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any obligations and liabilities which may be due to the Bank or others, and (iii) sell, exchange, release, surrender, realize upon or otherwise deal with in any manner or in any order any property pledged or mortgaged by anyone to secure or in any manner securing the Obligations hereby guaranteed.

(d) The Bank may not, without the prior written consent of the Guarantor, (i) change the manner, place and terms of payment or change or extend the time of payment of, renew, or alter any Obligation hereby guaranteed, or in any manner modify, amend or supplement the terms of the Contract or any documents, instruments or agreements executed in connection therewith, (ii) take and hold security or additional security for any or all of the obligations or liabilities covered by this Guaranty, or (iii) assign its rights and interests under this Guaranty, in whole or in part.

(e) No invalidity, irregularity or unenforceability of the Obligations hereby guaranteed shall affect, impair, or be a defense to this Guaranty.

(f) This Guaranty may be terminated by the Guarantor at any time and for any reason, at its sole option, upon delivery by the Guarantor to the Bank of a notice of the Guarantor's election to terminate this Guaranty. Unless terminated earlier, this Guaranty will remain in full force and effect until termination of the Contract. Such expiration or termination of this Guaranty will not, however, affect or reduce the Guarantor's obligation hereunder for any liability incurred prior to such expiration or termination.

2. Representations and Warranties. The Guarantor represents and warrants to the Bank that (a) the Guarantor is a **[**société anonyme**]** duly organized, validly, existing and in good standing under the laws of its jurisdiction of incorporation or formation; (b) the execution, delivery and performance by the Guarantor of this Guaranty are within the power of the Guarantor and have been

duly authorized by all necessary actions on the part of the Guarantor; (c) this Guaranty has been duly executed and delivered by the Guarantor and constitutes a legal, valid and binding obligation of the Guarantor, enforceable against it in accordance with its terms, except as limited by bankruptcy, insolvency or other laws of general application relating to or affecting the enforcement of creditors' rights generally; (d) the execution, delivery and performance of this Guaranty do not (i) violate any law, rule or regulation of any governmental authority, or (ii) result in the creation or imposition of any material lien, charge, security interest or encumbrance upon any property, asset or revenue of the Guarantor; (e) no consent, approval, order or authorization of, or registration, declaration or filing with, any governmental authority or other person (including, without limitation, the shareholders of the Guarantor) is required in connection with the execution, delivery and performance of this Guaranty, except such consents, approvals, orders, authorizations, registrations, declarations and filings that are so required and which have been obtained and are in full force and effect; (f) the Guarantor is not in violation of any law, rule or regulation other than those the consequences of which cannot reasonably be expected to have material adverse effect on the ability of the Guarantor to perform its obligations under this Guaranty; and (g) no litigation, investigation or proceeding of any court or other governmental tribunal is pending or, to the knowledge of the Guarantor, threatened against the Guarantor which, if adversely determined, could reasonably be expected to have a material adverse effect on the ability of the Guarantor to perform its obligations under this Guaranty.

3. Waivers. (a) The Guarantor, to the extent permitted under applicable law, hereby waives any right to require the Bank to (i) proceed against the Obligor or any other guarantor of the Obligor's obligations under the Contract, (ii) proceed against or exhaust any security received from the Obligor or any other guarantor of the Obligor's Obligations under the Contract, or (iii) pursue any other right or remedy in the Bank's power whatsoever.

(b) The Guarantor further waives, to the extent permitted by applicable law, (i) any defense resulting from the absence, impairment or loss of any right of reimbursement, subrogation, contribution or other right or remedy of the Guarantor against the Obligor, any other guarantor of the Obligations or any security; (ii) any setoff or counterclaim of the Obligor or any defense which results from any disability or other defense of the Obligor or the cessation or stay of enforcement from any cause whatsoever of the liability of the Obligor (including, without limitation, the lack of validity or enforceability of the Contract); (iii) any right to exoneration of sureties that would otherwise be applicable; (iv) any right of subrogation or reimbursement and, if there are any other guarantors of the Obligations, any right of contribution, and right to enforce any remedy that the Bank now has or may hereafter have against the Obligor, and any benefit of, and any right to participate in, any security now or hereafter received by the Bank; (v) all presentments, demands for performance, notices of non-performance, notices delivered under the Contract, protests, notice of dishonor, and notices of acceptance of this Guaranty and of the existence, creation or incurring of new or additional Obligations and notices of any public or private foreclosure sale; (vi) the benefit of any statute of limitations; (vii) any appraisement, valuation, stay, extension, moratorium redemption or similar law or similar rights for marshalling; and (viii) any right to be informed by the Bank of the financial condition of the Obligor or any other guarantor of the Obligations or any change therein or any other circumstances bearing upon the risk of nonpayment or nonperformance of the Obligations.

The Guarantor has the ability to and assumes the responsibility for keeping informed of the financial condition of the Obligor and any other guarantors of the Obligations and of other circumstances affecting such nonpayment and nonperformance risks.

4. Notice of Advances or Defaults. Within ten (10) days after each advance of a loan under the Contract, the Bank will notify the Guarantor of (a) the amount of such loan and (b) the aggregate amount loans that are outstanding under the Contract, after giving effect to such loan. In addition, the Bank will promptly notify the Guarantor of any default under the Contract.

5. Miscellaneous.

(a) Notices. All notices, requests, demands and other communications that are required or may be given under this Guaranty shall be in writing and shall be personally delivered or sent by certified or registered mail. If personally delivered, notices, requests, demands and other communications will be deemed to have been duly given at time of actual receipt. If delivered by certified or registered mail, deemed receipt will be at time evidenced by confirmation of receipt with return receipt requested. In each case notice shall be sent:

if to the Bank, to: _____
_____
_____
Attention: _____

if to the Guarantor, to: _____
_____
_____
Attention: _____

or to such other place and with such other copies as the Bank or the Guarantor may designate as to itself by written notice to the other pursuant to this Section 5(a).

(b) Nonwaiver. No failure or delay on the Bank's part in exercising any right hereunder shall operate as a waiver thereof or of any other right nor shall any single or partial exercise of any such right preclude any other further exercise thereof or of any other right.

(c) Amendments and Waivers. This Guaranty may not be amended or modified, nor may any of its terms be waived, except by written instruments signed by the Guarantor and the Bank. Each waiver or consent under any provision hereof shall be effective only in the specific instances for the purpose for which given.

(d) Assignments. This Guaranty shall be binding upon and inure to the benefit of the Bank and the Guarantor and their respective successors and permitted assigns. This Guaranty may not be assigned by the Guarantor without the express written approval of the Bank, which may not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the Guarantor may, without approval of the Bank, assign this Guaranty to any entity that **[**minimum credit standards for assignee to be agreed**]**.

(e) Cumulative Rights, etc. The rights, powers and remedies of the Bank under this Guaranty shall be in addition to all rights, powers and remedies given to the Bank by virtue of any applicable law, rule or regulation, the Contract or any other agreement, all of which rights, powers, and remedies shall be cumulative and may be exercised successively or concurrently without impairing the Bank's rights hereunder.

(f) Partial Invalidity. If at any time any provision of this Guaranty is or becomes illegal, invalid or unenforceable in any respect under the law or any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Guaranty nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

(g) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA, WITHOUT REFERENCE TO CONFLICTS OF LAWS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

(h) JURISDICTION. EACH PARTY (A) IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF AND (B) WAIVES ANY OBJECTION WHICH SUCH PARTY MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY SUCH COURT.

(i) Jury Trial. EACH OF THE GUARANTOR AND THE BANK, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AS TO ANY ISSUE RELATING HERETO IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS GUARANTY.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Guaranty to be executed as of the day and year first written above.

TOTAL S.A.

By _____
Name:
Title:

[BANK]

By _____
Name:
Title:

Exhibit 10.97

THIS NOTE WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, (THE "SECURITIES ACT"), AND THIS NOTE MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. THE HOLDER OF THIS NOTE AGREES FOR THE BENEFIT OF THE COMPANY THAT THIS NOTE MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, INCLUDING RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (II) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (III) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, IN EACH OF CASES (I) THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES.

SUNPOWER CORPORATION

CONVERTIBLE TERM LOAN NOTE

Certificate Number: _____ U.S. $_____

Issue Date: _____ (the "Issue Date")

1. Note.

This Convertible Term Loan Note (this "Note") is being issued by SunPower Corporation, a Delaware corporation (including any successor corporation, the "Company" or "Issuer") in favor of the Holder (as defined below) pursuant to the Credit Agreement. Capitalized terms used shall have the respective meanings given to those terms in Section 7 hereof or in the Credit Agreement.

2. Principal and Interest.

(a) The Company, for value received, hereby promises to pay to Total Gas & Power USA, SAS, a société par actions simplifiéé organized under the laws of the Republic of France, or its registered permitted assigns that constitute Permitted Holders (the "Holder"), the principal sum of U.S. $_____ on the Maturity Date, and to pay interest thereon on this Note from the Issue Date at the interest rate and at the times set forth in the Credit Agreement, until repayment in full at the Maturity Date or upon earlier conversion or prepayment.

(b) This Note shall bear interest payable in cash at the rate set forth in the Credit Agreement. Interest on this Note shall be paid in the manner and times set forth in the Credit Agreement.

(c) Payment of the principal of this Note shall be made upon the surrender of

this Note to the Company, at its chief executive office (or such other office within the United States as shall be designated by the Company to the Holder hereof) (the "Designated Office"), in U.S. dollars to the Holder in immediately available funds to such bank account or bank accounts as the Holder may from time to time designate in writing prior to such payment date.

3. Conversion.

(a) (1) Subject to the conditions set forth in Section 4 hereof, the Holder of this Note may convert the principal amount of and any accrued and unpaid interest on this Note in whole or in part into Common Stock at any time prior to the close of business on the Maturity Date at the applicable Conversion Price.

The number of shares of Common Stock issuable upon conversion of this Note shall be determined by dividing the principal amount of this Note or portion hereof surrendered for conversion plus any accrued and unpaid interest thereon to the date of conversion by the Conversion Price in effect on the Conversion Date. To convert this Note, the Holder hereof shall: (i) send by facsimile (or otherwise deliver in accordance herewith) a copy of the fully executed conversion notice in the form attached as Exhibit A hereto (the "Conversion Notice") to the Company and (ii) surrender or cause to be surrendered this Note, duly endorsed or assigned to the Company or in blank, along with a copy of the Conversion Notice as soon as practicable thereafter to the Company. Upon receipt by the Company of a facsimile copy of a Conversion Notice from the Holder, the Company shall as soon as practicable send, via facsimile, a confirmation to the Holder stating that the Conversion Notice has been received, the date upon which the Company expects to deliver the Common Stock issuable upon such conversion and the name and telephone number of a contact person at the Company regarding the conversion. The Company shall not be obligated to issue shares of Common Stock upon a conversion unless either this Note is delivered to the Company as provided above, or the Holder notifies the Company or the transfer agent for the Common Stock that this Note has been lost, stolen or destroyed, delivers the documentation to the Company required by Section 8 hereof and provides sufficient indemnity as may be reasonably required by the Company to save the Company harmless for any loss, liability, cost or expense associated with any such loss, stolen or destroyed certificate. Upon conversion, all principal of and unpaid and accrued interest on this Note shall be deemed to be paid in full (rather than cancelled, extinguished or forfeited).

Subject to the above requirements, as promptly as practicable on or after the Conversion Date and in any event within three (3) Business Days of the Conversion Date, the Company shall issue and deliver to the Holder (i) that number of shares of Common Stock issuable upon conversion of the portion of this Note being converted, in the sole discretion of the Holder and as reflected on the Conversion Notice, either (A) in a certificate or certificates to and in the name of the Holder, or in the name of such other Person as designated by the Holder, or (B) through confirmation of the establishment of an electronic book entry at the Transfer Agent in a segregated account established by the Transfer Agent for the Holder's benefit and registered in the name of Holder, or in the name of such other Person as designated by the Holder, (ii) a new note in the form hereof representing the balance of the principal amount hereof not being converted, if any, and (iii) cash in lieu of any fractional shares pursuant to Section 3(a)(5).

(2) The Holder is not entitled to any rights of a holder of Common Stock until the Holder has converted this Note into Common Stock, and only to the extent this Note is deemed to have been converted into Common Stock pursuant to this Section 3.

(3) This Note shall be deemed to have been converted immediately prior to the close of business on the day of delivery of the Conversion Notice in accordance with the foregoing provisions (such day, the "Conversion Date"), and at such time the rights of the Holder of this Note as the Holder hereof shall cease, and the Person or Persons entitled to receive the shares of Common Stock issuable upon conversion shall be deemed to be a stockholder of record on the Conversion Date; provided, however, that no surrender of this Note on any date that is not a Business Day shall be effective to constitute the Person or Persons entitled to receive the shares of Common Stock upon such conversion as the record holder or holders of such shares of Common Stock on such date, but such surrender shall be effective to constitute the Person or Persons entitled to receive such shares of Common Stock as the record holder or holders thereof for all purposes at the close of business on the next succeeding Business Day.

(4) If this Note is converted in part, the Company shall execute and deliver to the Holder a new note equal in principal amount to the unconverted portion of this Note.

(5) The Company will not issue fractional shares of Common Stock upon conversion of this Note. In lieu thereof, the Company will pay an amount in cash for the Current Market Value of the fractional shares. The Current Market Value of a fractional share shall be determined (calculated to the nearest 1/100th of a share) by multiplying the Trading Price of the Common Stock on the Trading Day immediately prior to the Conversion Date by such fractional share and rounding the product to the nearest whole cent.

(b) In case at any time after the date hereof:

(1) the Company shall declare a dividend (or any other distribution) on its Common Stock;

(2) the Company shall authorize the granting to all holders of its Common Stock of rights or warrants to subscribe for or purchase any shares of Capital Stock of any class (or of securities convertible into shares of Capital Stock of any class) or of any other rights (other than pursuant to a Stockholder Rights Plan);

(3) there shall occur any reclassification of the Common Stock of the Company (other than a subdivision or combination of its outstanding Common Stock, a change in par value, a change from par value to no par value or a change from no par value to par value), or any merger, consolidation, statutory share exchange or combination to which the Company is a party and for which approval of any stockholders of the Company is required, or the sale, transfer or conveyance of all or substantially all of the assets of the Company; or

(4) there shall occur the voluntary or involuntary dissolution, liquidation or winding up of the Company,

the Company shall cause to be provided to the Holder of this Note in accordance with the provisions of the Credit Agreement at least twenty (20) days (or ten (10) days in any case specified in clause (1) or (2) above) prior to the applicable record or effective date hereinafter specified, a notice stating:

(A) the date on which a record is to be taken for the purpose of such dividend, distribution, rights or warrants, or, if a record is not to be taken, the date as of which the holders of shares of Common Stock of record to be entitled to such dividend, distribution, rights or warrants are to be determined; or

(B) the date on which such reclassification, merger, consolidation, statutory share exchange, combination, sale, transfer, conveyance, dissolution, liquidation or winding up is expected to become effective, and the date as of which it is expected that holders of shares of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities, cash or other property deliverable upon such reclassification, merger, consolidation, statutory share exchange, sale, transfer, dissolution, liquidation or winding up.

(c) On and after the date of the Stockholder Approval, the Company shall at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, for the purpose of effecting the conversion of this Note, the full number of shares of Common Stock then issuable upon the conversion of this Note. The Company covenants that all shares of Common Stock that may be issued upon conversion of this Note will upon issue be fully paid and nonassessable. On and after the date of such Stockholder Approval, the Company shall also cause the shares of Common Stock issuable upon conversion of this Note to be approved for listing on the NASDAQ Global Select Market or such other securities exchange or market as the Common Stock is listed from time to time, subject to official notice of issuance.

(d) Except as provided in the next sentence, the Company will pay any and all taxes (other than taxes on income) and duties that may be payable in respect of the issue or delivery of Common Stock upon conversion of this Note. The Company shall not, however, be required to pay any tax or duty that may be payable in respect of any transfer involved in the issue and delivery of Common Stock in a name other than that of the Holder of this Note, and no such issue or delivery shall be made unless and until the Person requesting such issue has paid to the Company the amount of any such tax or duty, or has established to the satisfaction of the Company that such tax or duty has been paid.

(e) If any of following events occur:

(1) any reclassification or change of the outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination), as a result of which holders of Common Stock shall be entitled to receive Capital Stock, securities or other property or assets (including cash) with respect to or in exchange for such Common Stock;

(2) any merger, consolidation, statutory share exchange or combination of the Company with another Person as a result of which holders of Common Stock shall be entitled to receive stock, securities or other property or assets (including cash) with respect to or in exchange for such Common Stock; or

(3) any sale or conveyance of the properties and assets of the Company as, or substantially as, an entirety to any other Person as a result of which holders of Common Stock shall be entitled to receive stock, securities or other property or assets (including cash) with respect to or in exchange for such Common Stock,

then this Note shall be convertible into the kind and amount of shares of capital stock and other securities or property or assets (including cash) that the Holder would have been entitled to receive upon such reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance had this Note been converted into Common Stock immediately prior to such reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance assuming the Holder, as a holder of Common Stock, did not exercise its rights of election, if any, as to the kind or amount of securities, cash or other property receivable upon such reclassification, change, merger, consolidation, statutory share exchange, combination, sale or conveyance.

The above provisions of this Section shall apply to successive or series of related reclassifications, changes, mergers, consolidations, statutory share exchanges, combinations, sales and conveyances.

4. Conditions to Conversion.

(a) Conversion Triggers. The Holder may convert this Note at the option of the Holder at any time after the first to occur of any of the following conversion triggering events (the "Conversion Triggering Event Date"):

(i) the entire principal amount of this Note (including accrued interest) is not repaid within six months after the Issue Date;

(ii) the ratio of Gross Financial Indebtedness at the end of any completed fiscal quarter following the Issue Date to EBITDA for the four completed fiscal quarters immediately preceding such quarter of the Company exceeds 3.5 to 1.0 (or, for the quarters in the fiscal year ending in 2012, 4.0 to 1.0); or

(iii) the Maximum Drawn Support Amount exceeds $200 million (each of (i), (ii) or (iii), a "Conversion Triggering Event");

in each case, subject to the terms and conditions of the Credit Agreement and Sections 4(c) and (d) hereof. On or after the Conversion Triggering Event Date, the Holder may convert this Note at any time without regard to any of the Conversion Trigger Events, subject to the terms and conditions of the Credit Agreement and Sections 4(c) and (d) hereof.

(b) Conversion Related to Reborrowed Amounts. Without limiting the foregoing, but subject to Sections 4(c) and (d) hereof, if this Note was issued within six months after another Convertible Loan Note was repaid in full prior to the date that was six months after its date of issuance (such other Convertible Loan Note, the "Applicable Repaid Note"), and if such Applicable Repaid Note was not otherwise converted in full, then an amount up to (i) the principal amount of the Applicable Repaid Note that has been repaid, minus (ii) the principal amount of any other Convertible Loan Note that was converted by operation of this paragraph with respect to the Applicable Repaid Note (but not in excess of the principal amount of this Note), may be converted at the option of the Holder at any time on and after the date that is the number of days after the Issue Date that equals the number of days less than 180 days after the date of issuance of the Applicable Repaid Note that the Applicable Repaid Note was repaid.

(c) Stockholder Approval Condition to Convert Note. This Note shall not be convertible by Holder prior to the date the Company obtains stockholder approval ("Stockholder Approval") with respect to the issuance of shares of Common Stock upon conversion of this Note in the manner set forth in the Funding Agreement.

(d) Holder's Conversion Limitations. So long as the Company has at least $25 million aggregate principal amount of Convertible Notes outstanding, the Company shall not effect any conversion of this Note, and a Holder shall not have the right to convert any portion of this Note, to the extent that after giving effect to such issuance after conversion as set forth on the Conversion Notice, the Holder would, directly or indirectly, including through one or more wholly-owned subsidiaries, become the "beneficial owner" (as these terms are defined in Rule 13d-3 and Rule 13d-5 under the Exchange Act), of more than 74.99% of the voting power of the Company's capital stock that is at the time entitled to vote by the holder thereof in the election of the Board of Directors (or comparable body). Upon request by Holder, the Company shall obtain a written statement from its Transfer Agent setting forth the number of shares of Common Stock outstanding.

5. Events of Default.

(a) If an Event of Default occurs and is continuing, the Holder, by written notice to the Company, may declare due and payable the principal of this Note plus any accrued and unpaid interest to the date of payment in the manner set forth in the Credit Agreement. Upon a declaration of acceleration, such principal and accrued and unpaid interest to the date of payment shall be immediately due and payable.

(b) If an Event of Default with respect to this Note occurs and is continuing, the Holder may pursue any available remedy by proceeding at law or in equity to collect the defaulted payment or interest due and payable on this Note or to enforce the performance of any provision of this Note.

(c) Notwithstanding any other provision in this Note, the Holder of this Note shall have the right, which is absolute and unconditional, (i) to receive payment of the principal, or interest in respect of this Note, on or after the respective due dates, (ii) except as provided in Section 4(d), to convert this Note in accordance with Section 3, or (iii) to bring suit for the enforcement of any such payment on or after such respective dates or the right to convert, and

such rights shall not be impaired or affected adversely without the consent of the Holder.

(d) If the Holder has instituted any proceeding to enforce any right or remedy under this Note and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Holder, then and in every such case, subject to any determination in such proceeding, the Company and the Holder shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Holder shall continue as though no such proceeding had been instituted.

(e) Except as otherwise provided herein, no right or remedy conferred in this Note upon the Holder is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

(f) No delay or omission of the Holder of this Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or any acquiescence therein. Every right and remedy given by this Section 5 or by law to the Holder may be exercised from time to time, and as often as may be deemed expedient, by the Holder.

(g) The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim to take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Note; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Holder hereof, but will suffer and permit the execution of every such power as though no such law had been enacted.

6. Consolidation, Merger, Etc.

Upon any consolidation of the Company with, or merger of the Company into, any other Person or any conveyance, transfer, sale or lease of all or substantially all of the properties and assets of the Company, the successor Person formed by such consolidation or into which the Company is merged or to which such conveyance, transfer, sale or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Note with the same effect as if such successor Person had been named as the Company herein, and thereafter, except in the case of a lease, the predecessor Person shall be relieved of all obligations and covenants under this Note in accordance with the provisions of the Credit Agreement.

7. Definitions. Unless otherwise defined in the Credit Agreement, the following capitalized terms shall have the following respective meanings when used herein:

"Applicable Repaid Note" has the meaning set forth in Section 4(b) hereof.

“Common Stock” means any stock of any class of the Company which has no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company and which is not subject to redemption by the Company. However, subject to the provisions of Section 3(e) hereof, shares assumable on conversion of the Securities shall include only shares of the class designated as Common Stock, par value U.S. $0.001 per share, of the Company at the date of execution of this Note or shares of any class or classes resulting from any reclassification or reclassifications thereof and which have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company and which are not subject to redemption by the Company, provided that if at any time there shall be more than one such resulting class, the shares of each such class then so assumable shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.

“Conversion Date” means the date on which the Holder has satisfied all the requirements to convert this Note pursuant to Section 3(a).

“Conversion Notice” has the meaning set forth in Section 3(a)(1) hereof.

“Conversion Price” shall mean the Trading Price of the Company's Common Stock on the Trading Day immediately preceding the Conversion Date.

“Conversion Shares” means those shares of Common Stock issuable upon conversion of this Note.

“Convertible Notes” means the Company's 4.75% Senior Convertible Debentures due 2014 and 4.5% Senior Convertible Debentures due 2015.

“Conversion Triggering Event” has the meaning set forth in Section 4(a) hereof.

“Conversion Triggering Event Date” has the meaning set forth in Section 4(a) hereof.

“Credit Agreement” means that certain Revolving Credit and Convertible Loan Agreement dated February 28, 2012, between the Company and Total Gas & Power USA, SAS, as amended from time to time.

“Current Market Value” means the average of the Trading Prices of the Common Stock on the applicable measurement date.

“Designated Office” has the meaning set forth in Section 2(c) hereof.

“EBITDA” has the meaning set forth in the Funding Agreement.

“Event of Default” has the meaning set forth in the Credit Agreement.

“Exchange Act” means the Securities Exchange Act of 1934, as amended and the rules and regulations promulgated thereunder.

"Gross Financial Indebtedness" has the meaning set forth in the Funding Agreement.

"Holder" has the meaning set forth in Section 2(a).

"Issue Date" has the meaning set forth in the heading of this Note.

"Permitted Holders" means any Affiliates of the Holder.

"Securities Act" means the Securities Act of 1933, as amended and the rules and regulations promulgated thereunder.

"Security Register" means the register or other ledger maintained by the Company that records the record owners of the Securities.

"Stockholder Approval" has the meaning set forth in Section 4(c).

"Trading Day" means:

(i) if the applicable security is listed on the NASDAQ Global Select Market, a day on which the NASDAQ Global Select Market is open for business;

(ii) if that security is not listed on the NASDAQ Global Select Market, a day on which trades may be made on the New York State Exchange;

(iii) if that security is not so listed on the NASDAQ Global Select Market and not listed on the New York Stock Exchange, a day on which the principal U.S. securities exchange on which the securities are listed is open for business; or

(iv) if the applicable security is not so listed, admitted for trading or quoted, any Business Day.

"Trading Price" of a security on any date of determination means:

(i) the closing sales price (or if not closing sales price is reported, the average of the bid and ask prices or, if more than once in either case, the average of the average bid and the average ask prices) as reported by the NASDAQ Global Select Market on such date;

(ii) if such security is not so reported, the closing sale price (or, if no closing sale price is reported, the last reported sale price) of such security (regular way) on the New York Stock Exchange on such date;

(iii) if such security is not listed for trading on the NASDAQ Global Select Market or the New York Stock Exchange on any such date, the closing sale price as reported in the composite transactions for the principal U.S. securities exchange on which such security is so listed;

(iv) if such security is not listed on a U.S. national or regional securities exchange, the last price quoted by OTC Markets Group Inc. for such security on such date or, if

OTC Markets Group Inc. is not quoting such price, a similar quotation service selected by the Company;

(v) if such security is not so quoted, the average of the mid-point of the last bid and ask prices for such security on such date from at least two dealers recognized as market-makers for such security selected by the Company for this purpose; or

(vi) if such security is not so quoted, the average of that last bid and ask prices for such security on such date from a dealer engaged in the trading of convertible securities selected by the Company for this purpose.

"Transfer Agent" means Computershare Trust Company, N.A. or any successor transfer agent for the Company.

8. Miscellaneous.

(a) No provision of this Note shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and interest, if any, on this Note at the times, places and rate, and in the coin or currency, herein prescribed or to convert this Note as herein provided.

(b) The Company will give prompt written notice to the Holder of this Note of any change in the location of the Designated Office. Any notice to the Company or to the holder of this Note shall be given in the manner set forth in the Credit Agreement.

(c) Unless otherwise permitted herein, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

(d) (1) The transfer of this Note is registrable on the Security Register upon surrender of this Note for registration of transfer at the Designated Office, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by, the Holder hereof or the Holder's attorney duly authorized in writing, and thereupon one or more new Securities, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees. No service charge shall be made for any such registration of transfer, but the Company may require payment of a sum sufficient to recover any tax or other governmental charge payable in connection therewith. Prior to due presentation of this Note for registration of transfer, the Company and any agent of the Company may treat the Person in whose name this Note is registered as the owner thereof for all purposes, whether or not this Note be overdue, and neither the Company nor any such agent shall be affected by notice to the contrary.

(2) On or after the Issue Date, the Holder may transfer this Note or the Conversion Shares to any Person:

(A) pursuant to a registration statement that is, at the time of such transfer, effective under the Securities Act;

(B) pursuant to Rule 144 promulgated under the Securities Act; or

(C) in a transaction otherwise exempt from the registration requirements of the Securities Act (subject to the requirements of such exemption).

(3) Notwithstanding the foregoing, the following terms and conditions will apply to each transfer provided for in Section 8(e)(2) above:

(A) in the case of a transfer pursuant to Section 8(d)(2)(A) or (B), as a condition precedent to such transfer, unless otherwise agreed by the Company in writing, the transferor must deliver an opinion of counsel reasonably satisfactory to the Company to the effect that the proposed transfer is exempt from registration under the Securities Act and applicable state securities laws; and

(B) no Holder that is subject to the Company's then-applicable insider trading policy may transfer any of the Securities or any Conversion Shares except to the extent permitted under such trading policy.

(4) By its acceptance of this Note, each Holder (i) shall be deemed to have acknowledged and agreed to the restrictions on transfer described in this Section, and to have acknowledged that the Company will rely upon the truth and accuracy of such acknowledgement and agreement and (ii) agrees to the imprinting of the following legend on any certificate or book-entry evidencing this Note and the Conversion Shares:

THIS NOTE WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, (THE “SECURITIES ACT”), AND THIS NOTE MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. THE HOLDER OF THIS NOTE AGREES FOR THE BENEFIT OF THE COMPANY THAT THIS NOTE MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, INCLUDING RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (II) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (III) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, IN EACH OF CASES (I) THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES.

(5) Upon presentation of this Note for registration of transfer at the Designated Office accompanied by (i) certification by the transferor that such transfer is in compliance with the terms hereof and (ii) by a written instrument of transfer in a form approved by the Company executed by the Holder, in person or by the Holder's attorney thereunto duly authorized in writing, and including the name, address and telephone and fax numbers of the transferee and name of the contact person of the transferee, this Note shall be transferred on the Security Register, and a new note of like tenor and bearing the same legends shall be issued in the name of the transferee and sent to the transferee at the address and c/o the contact person so

indicated. Transfers and exchanges of Securities shall be subject to such additional restrictions as are set forth in the legends on the Securities.

(6) Upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Note, and in the case of loss, theft or destruction, receipt of indemnity reasonably satisfactory to the Company and upon surrender and cancellation of this Note, if mutilated, the Company will deliver a new note of like tenor and dated as of such cancellation, in lieu of such note.

(7) Neither this Note nor any term hereof may be amended or waived orally or in writing, except that any term of this Note may be amended and the observance of any term of this Note may be waived (either generally or in a particular instance and either retroactively or prospectively), upon the approval of the Company and the Holders. Each Holder of this Note by its acceptance hereof acknowledges and agrees that the subordination provisions of this instrument are for the benefit of the holders of the Senior Indebtedness and that, accordingly, no provision of Section 9 hereof may be amended or otherwise modified without the prior written consent of each holder of Senior Indebtedness at such time outstanding.

(e) **THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK**.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed.
Dated: _____, 20[ ]

SUNPOWER CORPORATION
By:_____
Name:_____
Title:_____

EXHIBIT A

CONVERSION NOTICE

The undersigned holder of this Note hereby warrants and represents that the holder is not currently in possession of any material non-public information in violation of the Company's Insider Trading policy and irrevocably exercises the option to convert this Note, or any portion of the principal amount hereof below designated, into Common Stock in accordance with the terms of this Note, and directs that such shares, together with a check in payment for any fractional share and any Note representing any unconverted principal amount hereof, be delivered to and be registered in the name of the undersigned unless a different name has been indicated below. If shares of Common Stock are to be registered in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto.

Date:_____

[Holder]

By:_____
Name:
Title:

If shares are to be registered in the name of a Person other than the holder, please print such Person's name and address:

_____
Name

_____
Address

_____
Social Security or other Taxpayer Identification Number, if any

If only a portion of the Securities is to be converted, please indicate:

1. Principal amount to be converted: U.S. $_____

2. Principal amount and denomination of Note representing unconverted principal amount to be issued:

Amount: U.S. $_____

Denominations: U.S. $_____ (any integral multiple of U.S. $1,000)

3. (Select one option below):

Please issue a certificate or certificates representing Conversion Shares in such name or names as specified below:

(Name and Address)

Please establish an electronic book entry at the Transfer Agent in a segregated account established by the Transfer Agent for the benefit of and registered in the name of such name or names as specified below:

(Name and Address)

Exhibit 10.98

REVOLVING LOAN NOTE

$60,000,000 February 28, 2012
San Jose, California

FOR VALUE RECEIVED, SunPower Corporation, a Delaware corporation (the "Borrower"), hereby promises to pay to the order of Total Gas & Power USA, SAS, a *société par actions simplifiée* organized under the laws of France (the "Lender") the principal sum of sixty million Dollars ($60,000,000) or, if less, the then unpaid principal amount of all Revolving Loans (such term and each other capitalized term used herein without definition shall have the meanings ascribed thereto in the Credit Agreement referred to below) made by the Lender to the Borrower pursuant to the Credit Agreement, in Dollars and in immediately available funds, at the office of the Lender designated for payment (the "Payment Office"), on the dates and in the amounts specified in the Credit Agreement.

The Borrower also promises to pay interest in like currency and funds at the Payment Office on the unpaid principal amount of each Revolving Loan made by the Lender from the date of such Revolving Loan until paid at the rates and at the times provided in the Credit Agreement.

This Note is issued pursuant to and is entitled to the benefits of the Revolving Credit and Convertible Loan Agreement, dated as of February 28, 2012, by and between the Borrower and the Lender (as the same may be amended, restated or otherwise modified from time to time, the "Credit Agreement"). As provided in the Credit Agreement, this Note is subject to mandatory repayment prior to the Maturity Date, in whole or in part.

In case an Event of Default shall occur and be continuing, the principal of and accrued interest on this Note may be declared to be due and payable in the manner and with the effect provided in the Credit Agreement.

The Borrower hereby waives diligence, presentment, demand, protest and notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder, except as expressly set forth in the Credit Agreement. No failure to exercise, or delay in exercising, any rights hereunder on the part of the holder hereof shall operate as a waiver of any such rights.

The Lender is authorized to indorse on the schedules annexed hereto and made a part hereof an appropriate notation evidencing the date and amount of the Revolving Loans evidenced hereby and the date and amount of each payment or prepayment of principal with respect thereto. Each such indorsement shall constitute prima facie evidence of the accuracy of the information indorsed. The failure to make any such indorsement or any error in any such indorsement shall not affect the obligations of the Borrower in respect of the Revolving Loans.

THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THAT WOULD REQUIRE APPLICATION OF ANOTHER LAW.

SUNPOWER CORPORATION

By: /S/ Thomas H. Werner

Name: Thomas H. Werner

Title: Chief Executive Officer

Schedule to
Note

LOANS AND PAYMENTS OF PRINCIPAL

Date	Amount of Revolving Loan	Amount of Principal Paid or Prepaid	Unpaid Principal Balance	Notation Made By

Exhibit 10.99

Form of Terms Agreement

SunPower Corporation
Private Placement Agreement
Terms Agreement

[Closing Date]

SunPower Corporation
77 Rio Robles Street
San Jose, CA 95134

Attention: [insert names]

Re: Private Placement Agreement dated February 28, 2012 (the "Agreement")

Reference is hereby made to that certain Private Placement Agreement (the "Agreement"), dated as of February 28, 2012, by and between Total Gas & Power USA, SAS, a société par actions simplifiée organized under the laws of the Republic of France ("Investor"), and SunPower Corporation, a Delaware corporation (the "Company"). Capitalized terms used herein and not otherwise defined herein have the respective meanings ascribed to them in the Agreement.

Investor agrees to purchase, and the Company agrees to sell, upon the terms and conditions stated in the Agreement, the following Securities on the following terms on the date hereof:

Common Shares:	[Insert number of shares equal to (i) aggregate amount of relevant Liquidity Injection divided by (ii) Purchase Price per Common Share below, rounded up to the nearest share]
Purchase Price per Common Share:	[Insert price equal to 17% discount to the 30-Day VWAP as defined in the Compensation and Funding Agreement as of the date of issuance]
Aggregate Purchase Price:	[Insert aggregate amount of relevant Liquidity Injection]
Warrant Shares:	[Insert number as calculated pursuant to the Compensation and Funding Agreement]
Exercise Price of Warrant:	[Insert price as calculated pursuant to the Compensation and Funding Agreement]

The Company hereby certifies that (i) each of the representations and warranties of the Company made in the Agreement are true and correct as of the Closing, except as otherwise disclosed or modified by the Disclosure Schedule, and (ii) the Company has no knowledge of any material nonpublic information regarding the Company, except as disclosed on the Disclosure Schedule.

IN WITNESS WHEREOF, the parties hereto have caused this Terms Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

COMPANY

SUNPOWER CORPORATION

By: _____

Name:

Title:

INVESTOR

TOTAL GAS & POWER USA, SAS

By: _____

Name:

Title:

EXHIBIT 21.1

Subsidiaries of SunPower Corporation

Subsidiary Name	**Jurisdiction**
Pluto Acquisition Company LLC	Delaware
SunPower Corporation Malta Holdings Limited	Malta
SunPower Corporation, Systems	Delaware
SunPower Corporation UK Limited	United Kingdom
SunPower Energy Systems Spain, SL	Spain
SunPower France SAS	France
Sunpower GmbH	Germany
SunPower Italia S.r.l.	Italy
SunPower North America, LLC	Delaware
SunPower Philippines Manufacturing Ltd.	Cayman Islands
SunPower Systems Sarl	Switzerland
SunPower Technology Ltd.	Cayman Islands

SunPower Corporation does business under the following names

Company	**dba**
SunPower Corporation	SunPower Solar Corporation (Texas), Inc.
SunPower Corporation	SPWR Solar Corporation
SunPower Corporation	SPWR Solar
SunPower Corporation	SPWR Energy

SunPower Corporation, Systems does business under the following names

Subsidiary	**dba**
SunPower Corporation, Systems	SunPower Energy Systems (Texas), Inc.
SunPower Corporation, Systems	SunPower Energy Corporation

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form S-3 (Nos. 333-140198, 333-140272, and 333-153409) and Form S-8 (Nos. 333-130340, 333-140197, 333-142679, 333-150789, 333-172477, and 333-178027) of SunPower Corporation of our report dated February 29, 2012 relating to the financial statements and the effectiveness of internal control over financial reporting, which appears in this Form 10-K.

/s/ PricewaterhouseCoopers LLP

San Jose, California
February 29, 2012

EXHIBIT 24.1

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENT: That the undersigned officers and directors of SunPower Corporation do hereby constitute and appoint Thomas H. Werner, Dennis V. Arriola, Eric Branderiz, and Christopher Jaap, and any one of them, the lawful attorney and agent or attorneys and agents with power and authority to do any and all acts and things and to execute any and all instruments which said attorneys and agents, or either of them, determine may be necessary or advisable or required to enable SunPower Corporation to comply with the Securities and Exchange Act of 1934, as amended, and any rules or regulations or requirements of the Securities and Exchange Commission in connection with its annual report on Form10-K for the fiscal year ended January 1, 2012 (the "Report"). Without limiting the generality of the foregoing power and authority, the powers granted include the power and authority to sign the names of the undersigned officers and directors in the capacities indicated below to the Report or amendments or supplements thereto, and each of the undersigned hereby ratifies and confirms all that said attorneys and agents, or either of them, shall do or cause to be done by virtue hereof. This Power of Attorney may be signed in several counterparts.

IN WITNESS WHEREOF, each of the undersigned has executed this Power of Attorney as of the date indicated opposite the name.

Signature	Title	Date
/S/ THOMAS H. WERNER Thomas H. Werner	President, Chief Executive Officer and Director (Principal Executive Officer)	February 29, 2012
/S/ DENNIS V. ARRIOLA Dennis V. Arriola	Executive Vice President and Chief Financial Officer (Principal Financial Officer)	February 29, 2012
/S/ ERIC BRANDERIZ Eric Branderiz	Vice President, Corporate Controller and Principal Accounting Officer (Principal Accounting Officer)	February 29, 2012
/S/ W. STEVE ALBRECHT W. Steve Albrecht	Director	February 24, 2012
/S/ BETSY S. ATKINS Betsy S. Atkins	Director	February 27, 2012
/S/ ARNAUD CHAPERON Arnaud Chaperon	Director	February 28, 2012
/S/ BERNARD CLEMENT Bernard Clement	Director	February 28, 2012
/S/ DENIS GIORNO Denis Giorno	Director	February 28, 2012
/S/ THOMAS R. MCDANIEL Thomas R. McDaniel	Director	February 25, 2012
/S/ JEAN-MARC OTERO DEL VAL Jean-Marc Otero del Val	Director	February 28, 2012
/S/ JEROME SCHMITT Jerome Schmitt	Director	February 29, 2012
/S/ HUMBERT DE WENDEL Humbert de Wendel	Director	February 27, 2012
/S/ PATRICK WOOD III Patrick Wood III	Director	February 25, 2012

EXHIBIT 31.1

CERTIFICATIONS

I, Thomas H. Werner, certify that:

1 I have reviewed this Annual Report on Form 10-K of SunPower Corporation;

2 Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3 Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4 The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5 The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 29, 2012

/S/ THOMAS H. WERNER

Thomas H. Werner

President, Chief Executive Officer and Director

(Principal Executive Officer)

EXHIBIT 31.2

CERTIFICATIONS

I, Dennis V. Arriola, certify that:

1 I have reviewed this Annual Report on Form 10-K of SunPower Corporation;

2 Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3 Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4 The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5 The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 29, 2012

/S/ DENNIS V. ARRIOLA

Dennis V. Arriola

Executive Vice President and Chief Financial Officer

(Principal Financial Officer)

EXHIBIT 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of SunPower Corporation (the "Company") on Form 10-K for the period ended January 1, 2012 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), each of Thomas H. Werner and Dennis V. Arriola certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge and belief:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: February 29, 2012

/S/ THOMAS H. WERNER

Thomas H. Werner
President, Chief Executive Officer and Director
(Principal Executive Officer)

/S/ DENNIS V. ARRIOLA

Dennis V. Arriola
Executive Vice President and Chief Financial Officer
(Principal Financial Officer)

The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of the Report or as a separate disclosure statement.